

Attachment 1 - IPC Submission for the Bowmans Creek Wind Farm Project (SSD – 10315).

I Nigel Wood am making a submission that objects to this proposed development going ahead.

The Department of Planning and Environment (the department) have not adequately assessed the Bowmans Creek wind Generation project.

The Department have not ensured that Ark Energy have complied with the relevant planning legislation and associated requirements.

The Department have knowingly misled the community during the period Ark Energy were preparing the EIS and in subsequent actions after the release of the EIS.

The Department have conducted work on behalf of Ark Energy and then allowed Ark Energy to present this work as their own.

The Department have knowingly recommended Consent conditions based on the misinformation provided by Ark Energy and their refusal to acknowledge the misinformation provided by Ark Energy

The Department have ignored their own specialist consultants (OHD) and directive from other Government departments for example the Rural Fire Service (RFS).

The Department have provided information in the Assessment report to the IPC that contains information they know is False and Misleading.

Issues I would like to raise where Ark energy have not met the requirements of the relevant planning legislation and associated requirements. And the Department have not ensured these requirements have been met.

Consultation

There are requirements for three foundation levels of consultation:

- Formal Community consultation
 - Community Consultation Committee (CCC)
 - Meetings in local halls
- Targeted groups
 - Consultation to meet the requirements of the Wind Energy Visual Assessment Bulletin Dec 2016
- Consultation with individual families
 - Associated with the project.
 - Not associated with the project but impacted within 4.4Kkm distance.

There has been minimal formal community consultation.

Meetings in local halls – The last meetings were two years and eight months ago, held on 15th and 16th April 2021 between 2.00pm and 6.00pm. The dates coincided with the NSW school holidays and the times made it very hard for people who work to attend.

Community Consultation Committee (CCC) – The last CCC meeting was held in October 2021, two years and two months ago.

The Department contrary to the requirements of the Wind Energy Guidelines December 2016 Clause 5.3 disbanded the CCC on 7th April 2022.

The CCC was supposed to work within the requirements of the “Community Consultative Committee Guideline for State Significant Projects January 2019”. However, Ark energy did not work within the guidelines, including publishing the CCC minutes on their web site within four weeks of any meetings. The Department was made aware of the shortfalls, but no actions were taken. Of note a CCC meeting held on April 14, 2021, to consult about the then recently released EIS, the minutes for this meeting were not published on the Ark Energy web site until October 27, 2021, 196 days (28 weeks) after the meeting.

There has been no formal community consultation in any format for over 2 years.

Clause 5.3 of the Wind Energy Guidelines includes a table, which identifies the “Project Stage” - EIS preparation and **assessment** and evaluation of impacts, the table includes the following:

- Establish and operate a Community Consultative Committee (CCC).
- Further collaborate with the community regarding solutions and management options for any key issues raised.
- Seek to reach an agreed position with relevant landholders.

By its actions the Department has ensured that the community could not collaborate and reach agreed positions with Ark energy.

Clause A8 of the recommended consent conditions is particularly concerning it reads.

UPGRADING OF WIND TURBINES AND ANCILLARY INFRASTRUCTURE

A8. The Applicant may upgrade the wind turbines and ancillary infrastructure on site provided these upgrades remain within the approved development disturbance area. Prior to carrying out any such upgrades, the Applicant must provide revised layout plans and project details of the development to the Planning Secretary incorporating the proposed upgrades.

This is an ambiguous consent condition which even in isolation could not be considered acceptable.

However, there is a major concern regarding the wording of the clause in particular the following: *provided these upgrades remain within the approved development disturbance area.*

The EIS contains specific reference to the Wind Turbine Pad dimensions being 70m x 30m (Figure 12 of the EIS - conceptual Wind Turbine components).

In October 2021 Ark Energy advise, the Department the Disturbance footprint will be reduced by 98ha compared to the EIS because of the revised layout for the project, including the removal of four wind turbines.

This advice includes a reduction in disturbed area of 0.6ha for the Wind turbine footing and pad with the parameters still being 70m x 30m for each turbine pad and a reduction in disturbed area for the access tracks of 54.8ha with the parameters being a variable width of 7m -50m.

The 98ha reduction in the disturbance footprint has been included in the advice the Department has provided to the IPC. This advice includes the introductory letter to Prof Mary O’Kane dated 20/11/2023 and signed by Iwan Davies and Clause 51 of the Bowmans Creek Wind Farm Assessment report November 2023 includes the following: *Development footprint: an overall reduction of approximately 98 ha.*

Rebecca Riggs – Project Manager Ark Energy also informed the IPC at the Public Meeting held on December 7, 2023, that there would be a reduction in the disturbance area of 98ha.

Ark energy included this advice in their meeting and presentation held on 28th November 2023 with the IPC.

However, this does not align with the information Ms Riggs provided to the Department on October 28, 2022. In the information provided Ms Riggs informed the Department the wind turbine pads would now be 70m x 220m each and the access roads would be 7m – 100m wide.

It’s amazing how in October 2021 Ark Energy were able to calculate a reduction of 0.6ha in the amended area of the turbine pad area, giving a total area of 12.4ha.

BUT

In October 2022 they are not capable of calculating that the disturbance area for the 56 WTG will be 86.24ha giving an extra disturbance area for the turbine pad area of **73.84ha**.

In October 2021 Ark Energy advised the DPE the revised length of the access tracks would be 51.6km and would disturb 240.2ha. This gives an average track width of 46.5m which is 93% of their nominated maximum width of 50m.

Being conservative let’s assume only 50% of the access tracks will be wider based on the application to now go up to 100m wide and use the 93% factor.

$51.6 \times 50\% = 25.8\text{km}$

$25.8\text{km} \times \text{the additional } 50\text{m width @ a } 93\% \text{ factor} = 25.8\text{km} \times 46.5 = \mathbf{120\text{ha}}$.

$73.84\text{ha} + 120\text{ha} = 193.84\text{ha}$

The total disturbance for the project area will be 417ha + 193.84ha = 610ha

This is 95ha or nearly 19% above the 515ha of disturbance area indicated in the EIS and 193ha or nearly 47% above the area they are currently advising will be disturbed.

I forwarded an email to Iwan Davies – Director DPE, Clay Preshaw – Executive Director DPE and Nicole Brewer - Director DPE on November 15, 2022, regarding the anomaly in the disturbance area.

Ark Energy have not to date provided any updates on the proposed disturbance area that was identified on October 28, 2022.

Along with clause A8, it appears there is only one reason to increase the turbine pad size and the width of the access roads to allow the construction of wind turbines taller than the 220m indicated.

The Department have included Clause A8 for one reason to allow the height of the wind turbines and the blade length to be increased without a Modification to the consent.

The Department and Ark Energy are trying to deceive the IPC and the community regarding A8 recommended consent condition.

It is interesting to note the Liverpool range wind project owned by Tilt renewables. Tilt have included in their modification to increase the size of their wind turbines too 250m tip height. They have indicated the Turbine foundation and crane hardstand would be 80m x 30m for the modifications. Just how high could you go on a 220m x 70m wind turbine pad?? Also included in the modification for the Liverpool range wind farm is an increase in their access road width. They have nominated a maximum width of 34.7m being enough to accommodate a pavement/road and multiple underground cables each in its own trench.

The Department have chosen not to conduct a sanity check on the modifications Ark Energy have proposed unless there is a different end game that would not require the scrutiny of a modification.

Project Boundary changes

In their advice to the Department on October 28, 2022, Ark Energy also advised the Department that the project boundary has been amended and is 15,388ha compared to being 16,720Ha in the EIS.

Ark Energy also attached various Appendix including Appendix B – Up dated figures and Appendix “C” – Schedule of land. When you reference Appendix B some of the original project areas has been removed however new areas have been added to the project including two substantial areas being:

1. An area North of wind turbine #57
2. An area South of wind turbine #66

625ha has been added to the project footprint North of wind turbine # 57. This is Lot 1 DP 1084779 which was identified in the original EIS schedule of land but only a portion of the block was identified in any figures outlining the project boundary.

220ha has been added to the project footprint South of wind turbine #66. This is Lot 401 DP 1122889; this lot was not identified in the original EIS.

Appendix "C" – Schedule of land, contained approximately 318-line items indicating Lot and DP numbers for each lot of the 318 lots of land included in the project. Lot 1 DP 1084779 and Lot 401 DP 1122889 were now included.

Ark Energy did not include any written information regarding Lot 1 DP 1084779 and Lot 401 DP 1122889 in their written report. **The information was hidden if you like, Ark Energy were being deceptive by not including new information in an open and honest way.**

I forwarded an email to Iwan Davies – Director DPE, Clay Preshaw – Executive Director DPE and Nicole Brewer - Director DPE on November 11, 2022, regarding the way this information has been hidden to the community due to the way it was presented.

On October 26, 2023, Ark Energy informed the Department the project boundary would now be 15,333ha. Ark Energy also informed them that of the land required for the Project 8 lots of private land have been removed. No mention of the lots that had been added.

Of the 15,333ha now identified for the project boundary 845ha has been included in a deceptive way, the EIS did not evaluate this land and subsequent work has not included this land, the variance is so great a new EIS should be conducted and submitted. The 845ha is 5.5% of the total project boundary.

In their correspondence to Ark energy dated 15/10/21 the Department advised Ark energy that: *Any changes to the project should be documented in an Amended Report. If you propose to lodge an Amended Report, please write to the Department providing an overview of the likely changes and scope of additional assessment so that the proposed amendments can be considered as per the requirements of the Environmental Planning and Assessment Regulation 2000.*

Ark energy did not and have not provide an amended report advising of the change to the project boundaries regarding the addition of an extra 845ha that was not included in the EIS. Nor did they provide an amended report regarding the additional disturbance for the wind turbine pads and internal access roads. No additional assessment has been conducted on these changes.

Ark energy have failed to consult with the local community or the wider community regarding these substantial changes.

The department advised the IPC in the Assessment report Clause 51 *As the project amendments would not increase the impacts of the project as a whole, the Department did not exhibit the amendment report. The Department published the submissions report and amendment report on the NSW planning portal and provided it to government agencies and local councils for comment.*

The Department was aware of the changes to the project boundary, and the increase in disturbance area however they have not ensured that Ark energy have complied with the requirements of the Environmental Planning and Assessment Act 1979 nor the requirements of the Environmental Planning and Assessment Regulation 2000. And despite the massive changes the Department made the decision not to exhibit the amended report.

The Department and Ark energy have provided False and Misleading information to the IPC.

The requirements of the NSW Wind Energy Visual Assessment Bulletin December 2016 (VAB).

During the exhibition period of the EIS, the Department received 131 submissions from the public, which objected to the project.

The most common matter raised in submissions objecting to the project was visual impacts on the surrounding landscape and family homes, including shadow flicker and night lighting. Of the 131 submissions 117 raised this as an issue.

The project must comply with the requirements of the NSW Wind Energy Visual Assessment Bulletin December 2016 (VAB).

The requirements of the VAB have been ignored and abused by both Ark Energy and the Department.

The Bulletin states it will apply to all new development applications for State Significant Development (SSD) wind energy projects.

The visual assessment will include:

- a baseline study that includes analysis of the landscape character, scenic quality and visibility from viewpoints of different sensitivity levels;
- establish visual influences zones from viewpoints using data collected in the baseline study;
- assessment of the proposed layout against visual performance objectives; and
- justification for the final proposed layout and identification of mitigation and management measures.

The VAB refers to the Land and Environment Court Planning Principles on View sharing. However, the VAB does not include all the findings from the Land and Environment Court.

The Land and Environment Court Planning Principles on View sharing refers to the case **Tenacity Consulting v Waringah [2004] NSWLEC 140**

In his findings Dr John Roseth Senior Commissioner adopted a four-step assessment.

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

The VAB includes the following:

The relative position of the viewpoints in relation to a dwelling is also an important consideration that should be outlined in the EIS. For example, views to the turbines from the primary living areas of the dwelling would be considered more important than views from non-habitable areas 4.

4 See the Land and Environment Court Planning Principles on view sharing.

This point is trying to imply that this is the only content of the Land and Environment Court that is relevant, when it clearly isn't.

Representatives from the Department Clay Preshaw, Nicole Brewer and Iwan Davies, along with their Independent Expert from O'Hanlon Design Pty Ltd (OHD) visited my home on April 27. During the visit I asked Ms. Brewer what she considered to be the curtilage for our home, when she advised me, I disagreed, in response Ms. Brewer told me in no uncertain terms I will tell you where your curtilage is, and it is in the VAB.

After the meeting I sent Ms. Brewer an email asking where the VAB referred to the curtilage of a home because I couldn't find it.

On May 12, 2022, Ms. Brewer replied to my email as follows:

"Nigel

The guideline refers throughout to consideration of impacts at dwellings (see for example page 8 of Visual Bulletin)

Curtilage is considered and defined in recent consents in relation to further mitigation measures) as *The land immediately surrounding any form of residential accommodation, including any courtyard, garden, yard and adjacent buildings or structures that are incidental to the accommodation*

Regards

Nicole"

There are a couple of issues with the advice provided by Ms. Brewer:

- Page 8 refers to the *Land and Environment Court Planning Principles on view sharing*.
- The VAB is contradicting the decision of the Land and Environment Court
- Recent consent conditions can not be used in lieu of a shortfall in the VAB. The Bulletin states it will apply to all new development applications for State Significant Development (SSD) wind energy projects. It doesn't say and any recent consent conditions will be considered when evaluating other new projects.

The advice provided to me by Ms. Brewer was False and Misleading.

The Independent Expert from O'Hanlon Design Pty Ltd (OHD) was engaged to review and comment on the quality and accuracy of the Landscape and Visual Impact Assessment (LVIA) report for the Bowmans Creek wind farm.

The expert also visited my home on April 27, 2022.

The VAB has not been followed on so many levels Ark Energy and the Department should be hanging their collective heads in shame.

Ark Energy have failed to comply with or have provided misleading information regarding the requirements of The NSW Wind Energy Visual Assessment Bulletin, The Department have failed to follow up the noncompliance with the VAB and have evaluated the project on the incorrect information provided by Ark Energy.

Ark Energy have failed to comply with the NSW Wind Energy Visual Assessment Bulletin (Visual Bulletin) in the following areas:

Clause 1 Purpose. The purpose of the Visual Bulletin is to establish an assessment framework for the assessment of visual impacts associated with wind energy.

It can be shown that Ark Energy have not assessed the visual impacts associated with the proposed wind farm as required by the Visual Bulletin. Ark Energy have totally disregarded some requirements of the Visual Bulletin, they have Cherry Picked through the Visual Bulletin and then understated the impacts of the proposed wind farm. This has concluded with them providing false and misleading advice to the Department regarding the impacts on family homes in any assessments.

Clause 2 Objectives. The objectives of the Bulletin are to:

- provide the community, industry and decision-makers with a framework for visual impact analysis and assessment that is focused on minimising and managing the most significant impacts;
- facilitate improved wind turbine and ancillary infrastructure siting and design during the pre-lodgement phase of a project, and encourage early consideration of visual impacts to minimise conflicts and delays where possible, and provide for a better planning outcome;
- provide the community and other stakeholders with greater clarity on the process along with an opportunity to integrate community landscape values into the assessment process; and

- provide greater consistency in assessment by outlining appropriate assessment terminology and methodologies.

The objectives of the VAB cannot be met because Ark Energy have not followed the requirements of the VAB.

Clause 3 Background. Includes the following commentary:

Generally, the visual impact of a wind energy project will depend upon the characteristics and values of the existing landscape, the extent to which the existing landscape is changed by the project and how these changes are perceived by individuals and the broader community.

Provide a transparent framework of performance objectives to assess the project against. It is important that proponents engage with the community and potentially affected landholders early to establish landscape values and appropriate design responses that avoid impacts.

The consent authority will assess and confirm overall acceptability of landscape and visual impacts by reviewing the information required by this document.

Ark Energy did not prior to the release of the EIS nor since, consulted with any of the non-associated neighbours regarding their perception of the proposed changes to the existing landscape, nor have they consulted with the broader community. The evidence Ark Energy have provided regarding consultation includes sessions at the local halls where Ark Energy **TOLD** people what they were going to do and mis informed people of the requirements of the planning process including visual impacts. This is not consultation, this is deception.

At no stage in the process have Ark Energy engaged with affected non associated landholders to establish landscape values

Clause 4 Preliminary Environmental Assessment (Pre-lodgement) Includes the following requirement:

At the scoping and design phase the proponent must undertake a preliminary environmental assessment that undertake a preliminary environmental assessment that considers the landscape in which a proposed wind energy project will be located. The analysis must include:

- undertaking community consultation to establish key landscape features valued by the community, key viewpoints in the area (both public and private) along with information about the relative scenic quality of the area.

Consultation with the community at this early stage may be broad, but should include discussions about the proposed project area, likely corridors for development, or preliminary turbine layouts and must involve people from the visual catchment. The purpose of early communications is to:

- establish the key landscape features, areas of scenic quality and key public viewpoints valued by that community.
- allow the community to have input into the ranking of those features and scenic quality into high, moderate, or low visual significance.

- inform landholders about the proposed project area, likely corridors for development, preliminary turbine layouts and access routes; and
- inform the community about the proposed project, listen to the community's concerns and suggestions for alternative siting and location designs, and discuss potential visual impacts.

Ark Energy did not conduct adequate consultation with the community and did not allow the community to have input into the ranking of those features and scenic quality into high, moderate, or low visual significance. Ark Energy did not raise this at any of the CCC meetings prior to or after the EIS was released despite the fact the CCC was established over eight months prior to the release of the EIS. Ark Energy did not consult with the non-associated landowners allowing them to have input into the ranking of those features and scenic quality into high, moderate, or low visual significance.

The Department have not ensured Ark Energy followed the VAB regarding the ranking of the scenic quality for the area. Ark Energy have ranked every area and non-associated family home "moderate scenic quality". They have done this to manipulate the VAB and their subsequent reports.

To rub salt into the wound they included reference to and a photo of the Bayswater power station and ranked the Bayswater power station as having a scenic quality of Moderate.

It should be noted that 43% of the Muswellbrook Shire area is national parks. On websites promoted by Muswellbrook Shire Council, NSW National Parks and Tourism Information, visitors are encouraged to take in the natural beauty of the surrounding wilderness. The area is also described as a paradise for outdoor enthusiasts and advises visitors to discover the hidden beauty of the area with stunning views. This is indicative of the area that will be devastated by and surrounds the proposed Bowmans Creek wind farm, "hidden beauty with stunning views".

My wife Sandra and I own the second largest non-associated aggregation of properties neighbouring the proposed Bowmans Creek wind farm. We have approximately 6.5km of property boundary alongside the project. All our properties will be negatively impacted by the project. Despite the aggregation having three homes Ark Energy did not consult with us regarding the impact on two of our homes being at Arkana and Happy Valley and we have had minimal consultation regarding our home at Diamond T. These homes have been identified by Ark Energy as

H7 – 1 (Happy Valley)

H8 – 1 (Arkana)

H12 – 1 (Diamond T) Note: Sandra and I live at Diamond T.

Ark Energy did not consult with us at any stage to allow us to have input into the scenic quality ranking, despite our home being surrounded by escarpments, containing numerous water features including magnificent waterfalls prominent hills, steep wooded valleys and contrasting landscapes. These are all identified as High-Ranking scenic qualities in the VAB.

Our homes at Happy Valley and Arkana

Ark Energy did not consult with us about Happy Valley and Arkana or the fact Native Dog Hill was identified as a key landscape feature in the EIS. Please note part of the Native Dog Hill is owned by us.

The EIS recommends that vegetative screening would be offered for the home at Arkana. The home at Happy Valley was basically ignored because Ark Energy nominated it was over 4.4km away from the closest wind turbine, it is 4.314km away from the closest wind turbine. Ark Energy did not consult with us regarding any plans we have for future subdivision or the construction of new homes on these properties or our other property Snake Gully.

Diamond T

Ark Energy have not consult with us at any stage to discuss the vegetative screening options they have proposed despite the fact we will see a total of 20 wind turbines from our home. We will see a total of 20 wind turbines in **three** 60-degree segments. Ark Energy have manipulated the Photomontage provided to the Department for our home and have advised the Department, we will only see wind turbines in two 60-degree segments.

Ark Energy have not addressed the fact we will see wind turbines in three 60-degree segments in any of their advice to the Department.

Ark Energy and the Department have not taken into consideration the Land and Environment Court decision *Tenacity Consulting v Waringah* [2004] NSWLEC 140 Where Dr John Roseth found *Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The view of the landscape from our family home is a whole of view landscape, there is a natural half amphitheatre shape to the landscape to the East of our home, the amphitheatre is bookend by escarpments at either end. To the west of our home is a protective hill, minimising the views from our home in that direction. The eye is naturally drawn to the East, this whole skyline will be dominated by wind turbines.

Ark Energy have indicated the landform and partial tree cover beyond the dwelling offer some filtering toward wind turbines southeast from the dwelling. Ark Energy have not consulted with us about our plans for the trees close to our home, we are in the process of removing the trees that could pose a threat in the event of a bush fire. We are using the Rural Fire service guidelines for bush fire prone land and are clearing 100m around our home. When the trees are removed the views from our home will be dominated by 20 wind turbines.

Ark Energy have indicated there are no specific key landscape features within our field of view. We can see numerous escarpments from our home with two prominent escarpments. One being "Darky Hill" which is 1.4km away from our home, in a Southerly direction with an elevation of 530m rising nearly vertically from the valley floor 240m below. Please refer to the photograph below of the view from our garden toward "Darky Hill". The other escarpments are in an Easterly direction 1.7km away from our home with an elevation of 600m, rising 200m from the valley below. Despite Ark Energy making the claims there are no specific key landscape features the escarpments to the East of our home are clearly visible in three locations on the photomontage they have provided to the Department. Some wind turbines are located directly above the escarpment.

Ark Energy have provided false and misleading information on the escarpments because the acknowledgment of the escarpments will change the criteria outcomes of the visual assessment, they will not be able to meet the performance objectives as applicable for our view location.



View of Darky Hill and smaller escarpments from our home garden

There will be Key Feature Disruption. The turbines will disrupt the central line of sight and the central focal viewing fields surrounding identified key features of the landscape view from our family home. These impacts have not been minimised.

Visual Magnitude

The VAB includes the following criteria: in the initial stages by mapping the dwellings, and proposed turbines at scale, the potential visual magnitude of a turbine relative to that dwelling can be established. This is based on the height of the proposed wind turbines to the tip of the blade and distance from dwellings shown in the graphs Figure 2. The VAB then goes into more detailed requirements, and references figure 5. The line depicted in the graph at Figure 2 provides an indication of where proponents should give detailed consideration to the visual impacts on dwellings from turbines located below the black line. Figure 5 provides an indication of the respective threshold lines and indicate where turbines may potentially have significant visual magnitude impacts based on their **relative height** and their distance from a viewpoint. The key words here are “relative height” not the height of the wind turbine structures. Ark energy have not used the wind turbines relative height and their distance from a viewpoint they have continued to use the reference to figure 2 which is for initial stages of a project.

The Department have not ensured these criteria have been met.

The Visual Magnitude also includes the need to give further consideration due to topography or other landscape features for dwellings above the black line.

Ark Energy did not give further consideration due to topography for any non-associated family homes. Even though numerous families will have wind turbines towering over their homes the Department has not pursued this requirement with Ark Energy.

For our family’s home at Diamond T (H12-1) 1661 Sandy Creek Road, Muswellbrook built at 330m AHD the impact is best illustrated in the table below. The table includes some of the wind turbines visible from our home.

Turbine No	Turbine Tip elevation	Base elevation of the turbine	Turbine height above our home
Wind monitoring mast	782m	672m	452m
#36	894m	674m	564m
#35	904m	684m	574m
#37	877m	657m	547m
#47	908m	688m	578m
#40	893m	673m	563m
#34	836m	616m	506m
#52	837m	617m	507m
#51	826m	606m	496m
#46	911m	691m	581m
#42	809m	589m	479m

These examples are all within 4.0km of our home.

Note: Not a single turbine is only 220m above the height of our home, they are all well and truly more than twice this height.

The VAB also includes the requirement for the photomontages which shall be prepared in accordance with the *Scottish Natural Heritage Visual Representation of Wind Farms, Version 2.1 December 2014* guidelines, noting they are generally consistent with the Land and Environment Court’s Photomontage Policy. The visual assessment needs to include a concise description of the complete methodology used to create any photomontages presented in the visual assessment.

However, the photomontages have not been prepared in accordance with the *Scottish Natural Heritage Visual Representation of Wind Farms, Version 2.1 December 2014* guidelines.

The Independent Expert from O’Hanlon Design Pty Ltd (OHD) provided a report for the Department the report contained the following regarding the photomontages provided by Ark Energy to the Department.

In regard to “The LVIA nominates a methodology for the preparation of the photomontages and discusses the limitations of the provided photomontages. Generally, the background photographs are taken using a 50mm fixed focal length camera. The LVIA public viewpoint photomontages describe use of a 50mm prime lens camera. The residential photomontages do not note the type of lens used.

The *Scottish Natural Heritage Visual Representation of Wind Farms, Version 2.1 December 2014 guidelines* document the horizontal field of view as 53.5 degrees and the vertical field of view as 18.2 degrees. The LVIA photomontages do not note a vertical field of view and present a range of horizontal fields of view. These parameters present significant variability in the scale of the turbines when montaged into the landscape.

Residential photomontages (LVIA figure 18 to 37): with horizontal field of view ranging from approximately 95 degrees to 115 degrees. The horizontal field of view is double the guideline and presumedly has been presented this way to capture the proposal across the landscape.

Public viewpoint photomontages (LVIA figure 39 to 41): are presented with horizontal field of view range of approximately 55 to 60 degrees. This is considered to be close enough to the guideline (53.5 degrees) that the photomontage is a reasonably accurate render of the view with the naked eye.

Public viewpoint photomontages (LVIA figure 41 to 46): are presented with horizontal field of view range of approximately 80 to 90 degrees. The horizontal field of view is nearly double the guideline and presumedly has been presented this way to capture the proposal across the landscape.

For analysis we have compared LVIA photomontage figure 25 and 40 to understand the effect or difference between compliant or near compliant and increased horizontal field of views. Comparison:

- Figure 25: G17-1
 - o has a horizontal field of view of approximately 112 degrees
 - o the most obvious turbines are at distances of around 2.04 km to 2.50km.
- Figure 40: PM1B
 - o has a horizontal field of view of approximately 55 degrees
 - o the most obvious turbines are at distances of around 4.70km to 5.30km.

In these two examples above, the turbines appear at a similar scale within the landscape despite the distance from the viewer to the turbines being approximately double. This comparison demonstrates that by increasing the horizontal field of view, the scale and impact of the turbines is visually diminished. In our opinion, for the reason demonstrated above we consider the photomontages (excluding figures 39 to 41) are non-compliant with the requirements of the VAB, whilst providing an understanding of the layout of the turbine array they should not be used for assessing the scale and magnitude of the impacts as the impact of the turbines is visually diminished."

The main point in this section of the report is:

The photomontages are non-compliant with the requirements of the VAB, whilst providing an understanding of the layout of the turbine array they should not be used for assessing the scale and magnitude of the impacts as the impact of the turbines is visually diminished.

A photomontage of our home (H12-1) was not included in the EIS however a photomontage for our home was provided to the Department. Our photomontage is not compliant it has a horizontal field of view, of more than 115 degrees. The horizontal field of view is more than double the guideline; the impact of the turbines is visually diminished; they appear a lot smaller than they will be.

The Department have provided These photomontages to the IPC they have been included in the Bowmans Creek Wind Farm State Significant Development Assessment Report (SSD 10315) November 2023. There is no explanation in the report that the photomontages are not compliant with the requirements of the VAB. Nor that the photomontages should not be used for assessing the scale and magnitude of the impacts as the impact of the turbines is visually diminished.

Our home is included in the Assessment report Figure 9 - Photomontage for H12-1 (looking east). This photomontage does not represent the degree of impact the wind turbines will have on our home.

The department have included the photomontages in the Assessment Report to deceive the IPC regarding the true impacts on our home and all the other homes included in the report.

Below is a photo taken from our home, of the wind monitoring mast Ark energy constructed and which could be seen from our home. The wind monitoring masts was 110m tall and 3.5km away from our home. They are mature trees on the skyline, this photo has not been manipulated and gives an indication of the impact 220m tall wind turbines located 3.0km away will have on our home. Please compare this to the photomontage of our home the Department provide in their assessment report. The wind monitoring mast is a relatively slim webbing frame structure not a massive solid structure like a wind turbine.



I also requested from Ark Energy and the Department nighttime photomontages be provided to indicate how we would be impacted by the wind turbine lighting at night. Ark Energy refused and the Department said it is not a requirement of the VAB.

This is not the case one of the stated Purposes of the VAB is to allow the assessment of visual impacts associated with wind energy. The VAB doesn't say only during daylight hours. My wife Sandra and I live at our home and on our properties and the visual impacts, our views and visual amenity associated with the proposed wind farm will be 24/7.

I am aware the numerous other families requested nighttime photomontages they were all refused.

Ark Energy have notified the Department that irrespective of the number of lights fitted to the wind turbines they are more likely to be noticeable from outside family homes rather than from rooms within a home. Ark Energy told the Department that lights inside homes would reflect the views inside the home onto the windows, and curtains and blinds would obscure the view when they are closed.

This evaluation is wrong people do not move to the country to be shut inside their homes with the windows closed and curtains/blinds closed we move to the country to embrace the countryside.

Sandra and I do not go to bed at night leaving the lights on, closing the windows, and pulling closed the curtains/blinds. We go to bed with the lights off, the windows open and the curtains/blinds open. We rely on the cooling night air to cool the house down and listen to the calming nighttime noises of nature. Even prisoners in jail are allowed to turn their lights off at night, Ark Energy want to make the conditions in our home worse than jail and the Department is supporting this position. We would be living in conditions worse than lock down for the rest of our lives.

Ark Energy have continuously dodged the facts on nighttime lighting, previously they have indicated that even under the worst-case scenario the Aviation Lighting would conform with the Visual Performance Objectives.

Ark Energy have not provided any details of their definition of the worst-case scenario, and how they reached this conclusion. The CASA guidelines indicate each, and every wind turbine will require a minimum of two lighting units per nacelle and one unit in the midway point of the tower. I am not sure how Ark energy can make the claim that the Aviation Lighting would conform with the Visual Performance Objectives whether in a worst-case scenario or their proposal indicated in the draft lighting plan.

In some submissions Ark energy have informed the Department that two lights will be required on a nacelle to ensure that at least one light is visible as the turbine blades rotate. In this scenario whilst the lights fitted may not be strobe lights they will effectively flash as the turbine blades rotate.

In other submissions Ark energy have informed the Department that lighting will not be required at night.

At the Public IPC hearing Rebecca Riggs from Ark energy was skirting around the issue when asked a direct question by the IPC.

Ark energy directly lied in the EIS regarding nighttime lighting, and to the IPC.

The Department refer to CASA requirements and Ark energy submissions.
Both the Department and Ark energy can not reach a position on the requirements on nighttime lighting for the wind turbines.

Despite this the Department have supported the claims made by Ark energy that even under the worst-case scenario the Aviation Lighting would conform with the Visual Performance Objectives.

Ark energy have informed the Department the lighting associated with the wind farm will not impact on the families in the area nor the public at large, this is wrong.
There is a Telstra tower located on the eastern side of Scone, the coordinates for this tower are Lat -32.044877 Lon 150.90914. The tower is 50m tall and the elevation of the site is 572m AHD. The tower is fitted with aircraft warning light, the light is a red light. This light is visible from 500 Sandy Creek Road Muswellbrook. 500 Sandy Creek Road is at an elevation of 180m AHD and is 20km from the Telstra tower. The height difference between 500 sandy Creek Road and the light on the tower is 442m, this is in the same range as the wind turbine lights above our home. The light is not a faded spot but is extremely visible drawing your eye to it as you drive along the road.

Sandra and I will be subject to a minimum of 30 lights if not more from the 15 wind turbine hubs we will see well within 4.4km from our home. They will be extremely visible. This does not include the lights on the distant towers that will be visible or the refraction against any cloud cover. Our night sky does not currently incur any light pollution the contrasting lights against the black sky will exacerbate the light pollution from the turbines. Please refer to the photo below looking out to where the wind farm would be located if approved. Just stars in the night sky no other lights as far as the eye can see.



Photo taken from our garden directly in front of our home just before the moon rises.
No light pollution in sight – multiple wind turbines will be visible on this skyline fitted with lighting.

The Department identified 47 non-associated receivers located within 4.4 km of the nearest turbine.

The Department has informed the IPC it is satisfied that the project would not fundamentally change the broader landscape characteristics of the area or result in any significant visual impacts on the surrounding non-associated residences, except for one residence.

The department has made these comments and decisions about the visual impacts on family homes based on photomontages that do not comply with the VAB, no nighttime photomontages, advice from Ark energy and contrary to advice provided by their expert.

The IPC must ask why the Department have not asked Ark energy to comply with this requirement of the VAB. If there is nothing to hide complying photomontages should have been requested and provided to show the full impact on family homes during day light and at nighttime.

The Department have not ensured Ark energy have complies with this section of the VAB.

The Department have provided False and Misleading information to the IPC.

Ark Energy did inform me our family home would be adversely impacted by visual impact from the wind farm. Because of this impact they offered me a Neighbour Agreement (copy attached). The agreement clearly states that one or more turbines Wind turbines would be within 3.0km of our home "Diamond T". It should be noted the correspondence around the neighbour agreement did not mention the fact we would be adversely impacted by the visual impact from the wind farm. The correspondence said *The Company is proposing to offer a "Neighbour Agreement" in order to enable the financial benefits of the Project to be shared with nearby neighbours.*

They did not make the offer out of the goodness of their hearts, they made it to shut us up because they knew we would be adversely impacted.

The neighbour agreement offered was rejected, since the neighbour agreement was rejected Ark Energy have continued to downplay the impact on our home with false and misleading information and lies, they now indicate the closest wind turbine will be more than 3km from our home and we will hardly see the turbines. Despite the fact the turbines will be towering 500m higher than our home. The Department have gone along with this charade.

Ark energy have used the offer of a neighbour agreement on numerous occasions in advice to the Department. This approach is obnoxious the Department know the terms of the neighbour agreement do not align with the recommendations made by the wind farm commissioner for neighbour agreements it doesn't include one clause the commissioner recommends.

We have not entered into a Neighbour agreement because the terms of the proposed agreement provided by Ark energy were not palatable, it contained numerous unfair contract terms. The unfair contract terms do not align with the requirements on federal legislation regarding contracts.

The term “Neighbour agreement” is a very loose description of the proposed agreement offered, which if agreed to would be described as a BURDEN on my properties title. There was a requirement for it be a **Registered visual amenity easement on the property title**.

The Easement was offered to the me the landowner who had to agree to acknowledge that the Project will be visible from the property.

The easement consideration was based around the number of turbines installed within 3km of the existing residence (**Our home**).

If the offer had been signed, we would have to undertake not to directly or indirectly oppose or object to the Project.

Despite the easement considerations being based around the number of turbines installed, within 3km of our home the definition included in the offer was based on “Wind farm” with the following being included in the definitions for the document:

Wind Farm means the

1. Wind Turbines,
2. underground and
3. aboveground powerlines,
4. towers,
5. poles,
6. battery storage,
7. substations,
8. switchyards,
9. transformers,
10. control buildings and facilities,
11. communications cabling and equipment,
12. laydown areas,
13. access tracks,
14. roads,
15. gates and
16. grids,
17. fences,
18. public information areas and
19. all associated works, structures and facilities used for their safe and efficient construction, operation, maintenance and decommissioning, whether actual or proposed (as the context requires) on or in the vicinity of the Land and
20. includes any future technology which may supplement or replace wind energy generation and electricity supply maintenance technology.

Wind Turbine means:

- 1 a wind turbine generator comprising:
- 2 a foundation,
- 3 tower,
- 4 nacelle,
- 5 hub,
- 6 blades and
- 7 wind turbine transformer, designed for the purpose of generating electrical energy from the wind.

The company could terminate the agreement however as the landowner I could not terminate the agreement.

The site layout could be subject to change by the Company without consultation we would just be provided with an update.

Mortgagee consent: Within three months of entering into this Agreement, and prior to granting a mortgage (if the land is not mortgaged at the date of this Agreement), the Landowner must secure the consent of any mortgagee or proposed mortgagee (and any other person having any interest in the Land) to this Agreement substantively in the form of Schedule 4.

If the Landowner fails to obtain consent, it must promptly inform the Company, and the Landowner authorises the Company to seek to obtain that consent, and if need be to seek to arrange an alternative mortgage on substantially the same terms.

We the Landowner may sell, transfer or otherwise dispose of any part of the Land, but only after:

providing the Company with at least 30 days' notice of intention to enter into a contract for that proposed sale, transfer or disposal; and,

making the purchaser or transferee aware of the Agreement and using reasonable endeavours to procure that the purchaser or transferee enters into an agreement between the parties and the purchaser, transferee or disponee (the 'Proposed Transferee') under which the Proposed Transferee agrees to be bound by the Landowner's obligations under this Agreement, and the Company agrees to make future annual payments of Easement Consideration to the Proposed Transferee with effect from the date of completion of the proposed sale, transfer or disposal.

AND

For all of this we were offered Legal Fee Reimbursement - Reasonable legal fees incurred in negotiating and executing this Agreement of up to \$2,000 plus GST.

I raised the terms of the "Neighbour agreement" as an issue with the Wind Farm commissioner because the offer did not include any of the recommendations he had made. The Wind Farm commissioner has also commented in one of his Annual Reports that the Office has observed some proposed neighbour agreements that contain clauses which may not be fair and reasonable to the neighbour.

The Wind Farm Commissioner made representation to Ark Energy however the response I received from Ark Energy was it is a voluntary agreement take it or leave it. Ark energy told me the wind farm would be approved and I would be impacted I should sign the agreement and at least get some money, because the offer would be off the table when the project was approved. This was conveyed in a very aggressive bullying manner.

Ark energy have not contacted me in any format for over two years.

In the Assessment report clause 66 informs the IPC that Ark also responded to concerns raised by the Department during its assessment of the project by securing neighbour agreements with six landowners, bringing the total to 23 associated residences (including 17 host landowners).

The concerns raised by the Department were included in their request for additional information from Ark energy dated 10/06/2022. The request was addressed to Mr Wilson from Ark energy.

Dear Mr Wilson

I refer to the assessment of the Bowmans Creek Wind Farm. The Department is requesting that you provide additional information to assist in the assessment of the application following its recent visit of the project site and surrounds and additional information provided by (Epuron):

Visual: as per the Department's request of 15 October 2021, provide justification of visual impacts on potentially significantly impacted non-associated residences and public viewpoints.

You are requested to consider and justify proposed impacts from (but not necessarily limited to) the following turbines and measures to manage impacts as far as practicable.

Turbine	Cluster
6, 7, 8, 18, 20	South east
22, 23, 24, 25	South east
59, 64, 66, 67, 68, 69, 70	South west
34, 36, 37, 40, 51, 52, 57	North west
12, 17	North east

There is no evidence regarding the Department asking Ark energy for proof of neighbour agreements for just one group of families and one cluster of turbines.

The request for additional information identifies five separate clusters of turbines and ask ark energy to provide justification of visual impacts on potentially significantly impacted non-associated residences.

Ark energy have responded to the request by downplaying the impacts on non-associated neighbours. And have not provided adequate information in response to the Departments request.

For our family home despite wind turbine 51 still being on the same coordinates the distance to our home keeps moving out. In their latest response to the Department dated 26th October 2023 Ark energy have informed the Department our home is now 3.030km or 3.015 away from turbine 51 depending which part of the report you are reading.

Ark energy have indicated that:

- The wind farm is compliant with all performance objectives as applicable to a VIZ2 view location.
- **Ma** Landform and partial tree cover beyond the dwellings offer some filtering toward wind turbines southeast from the dwelling.
- **L:** Turbines are not dominant in the visual catchment
- **AL:** The Aviation Assessment concluded that night lighting is not required.
- **KF:** there are no specific key landscape features within the field of view.
- **F:** Blades will be finished with a low reflective surface.
- **Mu:** Turbines are only visible in 2 60-degree sectors

Ark energy have proposed the following mitigation measures:

- Five turbines (T62, T56, T55, T53, T54) within 3km have been removed.
- Neighbour agreement has been offered.

Residual Impacts

- Photomontages from the dwelling shows a small number of visible turbines in the northwest portion of the project site.

It has been shown that the wind farm is not compliant with all performance objectives as applicable to a VIZ2 view location.

Ark Energy have indicated the landform and partial tree cover beyond the dwelling offer some filtering toward wind turbines southeast from the dwelling. Ark Energy have not consulted with us about our plans for the trees close to our home, we are in the process of removing the trees that could pose a threat in the event of a bush fire. We are using the Rural Fire service guidelines for bush fire prone land and are clearing 100m around our home. When the trees are removed the views from our home will be dominated by 20 wind turbines.

As previously covered 20 turbines will dominate the landscape and our visual catchment towering up to 580m above our home.

Ark energy have indicated their Aviation Assessment concluded that night lighting is not required. This issue has already been covered in my submission.

Ark energy have indicated that there are no specific key landscape features within the field of view. Except there are two major escarpments, as previously covered in my submission.

Ark energy have continued to advise the Department turbines are only visible in 2 60-degree sectors. This is not correct we will see turbines in three 60-degree sectors.

Ark Energy have indicated Five turbines (T62, T56, T55, T53, T54) withing 3km of our home have been removed. The five turbines identified by Ark Energy were not included nor identified in the EIS.

- They have not been removed; these turbines were not included in the EIS.

Ark Energy have indicated a Neighbour agreement has been offered.

As previously included in my submission we have not entered into a Neighbour agreement because the terms of the proposed original agreement provided were not palatable, it contained numerous unfair contract terms.

Ark energy have referred to the Photomontages from the dwelling indicating they show a small number of visible turbines in the northwest portion of the project site. As previously included in my submission the photomontages do not comply with the VAB and 20 turbines towering over our home is not a small number of visible turbines.

For more than three years Ark energy have recommended vegetative screening for our home however in their latest advice October 26, 2023, this recommendation has been removed. The departments independent expert OHD indicated vegetative screening would be required for our home in the report they supplied to the Department.

The department have knowingly taken this false and misleading information from Ark energy and turned it around advising the IPC that Ark energy have met all the VAB requirements by obtaining neighbour agreements with six landowners.

The Department are providing the IPC with false and misleading information.

Regarding the other homes at Happy Valley (H7-1) and Arkana (H8-1) they have largely been ignored except for the allocation of identification numbers and a reference where Ark Energy informed the Department, they had conducted site inspections to confirm and record the landscape characteristics for these homes.

This is a LIE Ark energy did not conduct any site inspections of our homes at Arkana nor Happy Valley, these properties are locked up and Ark energy have not visited them unless they broke in and trespassed onto the sites.

Photomontages for all they are worth were not provided to the Department, the Department has not included these two homes in any of the documents supplied to the IPC except for a reference to H8-1 in the report prepared by OHD. OHD advises that H8-1 is located to the northwest of the northern part of the large western turbine array. A desktop study indicates vegetative screening to the south of the residence and is assumed to screen turbines below the blue line. This should be confirmed post construction with additional screening or spot planting provided if required.

It should be noted the home at Happy Valley is within 625m of the project boundary and the home at Arkana is within 820m of the project boundary.

In the Assessment report (Clause 116) the Department have advised the IPC To minimise and manage the residual visual and lighting impacts as far as practicable, the Department has recommended conditions requiring Ark to:

Offer visual impact mitigation measures, such as landscaping and/or vegetation screening, to all non-associated residences within 4.4 km of any approved turbine.

In the recommended consent conditions the Department have provide to the IPC condition B13 includes - VISUAL

Visual Impact Mitigation

B13. For a period of 5 years of the commencement of construction, the owner of any non-associated residence within 4.4 km of any wind turbine identified in the Final Layout Plan may ask the Applicant to implement visual impact mitigation measures on their land to minimise the visual impacts of the development on their residence (including its curtilage). Upon receiving such a written request from the owner of these residences, the Applicant must implement appropriate mitigation measures (such as landscaping and vegetation screening) in consultation with the owner.

The mitigation measures must:

- (a) be reasonable and feasible;
- (b) be aimed at reducing the visibility of the wind turbines from the residence and its curtilage and commensurate with the level of visual impact on the residence;
- (c) consider bushfire risk (including the provisions of *Planning for Bushfire Protection 2019*); and
- (d) be implemented within 12 months of receiving the written request, unless the Planning Secretary agrees otherwise.

If the Applicant and the owner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Planning Secretary for resolution.

Notes:

- *To avoid any doubt, mitigation measures are not required to be implemented to reduce the visibility of wind turbines from any other locations on the property other than the residence and its curtilage.*
- *The identification of appropriate visual impact mitigation measures will be more effective following the construction of the wind turbines. While owners may ask for the implementation of visual impact mitigation measures shortly after the commencement of construction, it is recommended owners consider whether there is benefit in delaying such a request until the relevant wind turbines are visible from their residence or its curtilage.*

For our family home identified in his report as H12 -1 the visual expert from OHD has reported that the *proposed vegetation screening from the East through to the southeast around the existing Dam between the residence and Sandy Creek Road could be successful in mitigating visual impacts. Note the proposed screening may take some time before becoming effective. Anticipated in excess of a decade, species and location dependent. Advanced species with associated establishment management plans could be conditioned for this residence.*

Regarding the proposed vegetation screening I am not sure who and how the screening would be maintained. We have a licenced bore close to our home, but it is licenced stock and domestic bore. It is not licenced to water a wood lot. We are also extremely busy and would not have time to maintain a wood lot.

Also, the planting of vegetation and considering bush fire risks do not add up. And do not align with advice provided to the Department by the RFS, or the provisions of *Planning for Bushfire Protection 2019*).

To further complicate matters in the public hearing Iwan Davies when asked the following by PROF. CLARK: *Thank you. And I'm just looking to the back, do we have time for one more question? Thank you. I'm interested in the approach of screening using vegetation and the consideration that's been raised by a number of sites that we visited was around bushfires where there's a conflict between how close this vegetation can be, I guess, grown to the residences but the introduction of an additional hazard. Can you make some comment on whether or not that was considered?*

The reply from MR DAVIES: *Thank you. That is a matter that the Department considers. Now, ultimately this is based on - that recommendation is based on, I suppose, additional screening that the Department does not consider is warranted to reduce the visual 40 impacts of the project, it's simply optional to landowners. However, there are one or two residences that the Department considers that screening is requires and that includes G17-1. That would need to be a matter - a post-approval matter to be discussed between the Applicant and the residents and any - any dispute or discussion there can be - can be referred to the Department for resolution.*

The comments provided by Mr Davies do not reflect the commentary in the Consent recommendations, the assessment report or the OHD report provided to the IPC. The decisions and commentary by the Department is being made up on the run. How can the Department seriously inform the IPC they have considered all the factors when recommending approval for the project?

Regarding our home consent conditions B13 is not reasonable and feasible.

It has been shown Ark Energy have failed to comply with or have provided false and misleading information regarding the requirements of the VAB. Despite this the Department have failed to follow up the noncompliance with the VAB and have evaluated the project on the incorrect information provided by Ark Energy

To make matters worse the Department have also chosen to disregard the findings of The Land and Environment Court Planning Principles on View sharing **Tenacity Consulting v Waringah [2004] NSWLEC 140**

The Department have cherry picked the findings only referencing one sentence of the third step in the court's findings being:

The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them).

The Department has dismissed the following findings from the Land and Environment Court **The first step** which finds and includes that: Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

This area has been included earlier in my submission. I am also aware of other families whose whole views will be impacted.

The second step which finds and includes that: Have to consider from what part of the property the views are obtained.

The third step which finds and includes that: The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. Including it is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe, or devastating.

Regarding the second and third step the VAB does not cover or take into consideration from what part of a property the views are obtained from or assessing the extent of the impact for the whole property.

For our properties, the properties are described on our rates notices. The rates notices include the words "Property Details" and include all the Lot numbers for our properties. This is relevant because the closest wind turbine is only 1.6km away from my property boundary and the wind turbines will dominate the sky from a large portion of the properties.

The Department have not assessed the impacts of the view from the wind turbines on the whole of the property.

The Department have not assessed the impacts of the views taking into consideration whole views. They have relied on manipulated photomontages taken by Ark energy from behind trees.

The fourth step which finds and includes that: to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Regarding the fourth step it has been shown the development does not comply with one or more planning controls.

The findings of the Land and Environment Court cannot be overruled by the clauses and content of the VAB. Despite this the Department have not ensured that the project complies with the findings of the court.

Regarding the vegetation screening recommended for a lot of the non-associated family homes including ours the Department have ignored advice from the Rural Fire Service (RFS). The Department have relied on a letter addressed to Iwan Davies from the RFS dated October 29, 2021, and signed by Timothy Carroll. The letter was written for Timothy Carroll by Alan Bawden from the RFS.

On the back of this letter/advice I wrote an email to the NSW Rural Fire Service Commissioner Rob Rogers on March 23, 2022. I enquired about the advice contained in the letter; I have attached part of my email below:

Attention: NSW Rural Fire Services Commissioner Rob Rogers

Dear Rob

I am writing to make you aware of increased bush fire risks associated with the proposed Bowmans Creek wind farm in the Hunter Valley and advice given to the proponent by representatives of NSW Rural Fire Brigade.

The proposed Bowmans Creek Wind Farm is in the Hunter Valley approximately 10km East of Muswellbrook and 120km North-West of Newcastle. The proponent for this wind farm is Epuron, a renewables company based in North Sydney.

The area identified for the wind farm is in an area that is classified Bush Fire prone land with most of the area containing Category 1 Vegetation.

I am contacting you regarding some of the submissions Epuron have received from the NSW Rural Fire Brigade supporting the proposed wind farm. I have attached a submission "Appendix G" provided by Timothy Carroll, Manager Planning & Environment Services Built & Natural Environment, dated Friday 29 October 2021 to Iwan Davies Team Leader, Energy Assessments Planning and Assessment, Department of Planning and Environment.

The submission includes the following "*The NSW RFS has no objection to the development proposal and supports the applicants 'Response to Submissions' (RTS) recommendations with respect to bush fire*".

I am concerned that Timothy has reached this conclusion without knowing all the facts. As part of the EIS Epuron must provide information to the NSW DPIE. One component of the information provided to NSW DPIE includes visual assessments for properties and homes that will be impacted by the wind farm. In the visual assessment, Epuron have identified and propose that most family homes will require vegetative screen planting. The screen planting is to reduce the visual impact of the wind turbines. Epuron have identified 53 homes that are not associated with the project and of the 53 homes propose that 51 will require screen planting. Due to the height of the wind turbines and the topography Epuron are proposing the screen planting is located between 10m and 30m from family homes. To meet the screening requirements Epuron have described their vegetative screening would include trees and vegetation up to 10m in height, 30m from dwellings, this along with additional plantings 6m in height 10m from homes.

This does not meet the recommendations made by NSW Rural Fire Service in their 2019 publication "*Planning for Bush Fire Protection 2019*".

It must be recognised that a lot of the family homes were built prior to August 2002 and may have no bush fire protection measures (BPM's) built into their homes a lot of families do try to reduce the amount of vegetation growing around their homes. This is effectively an Asset Protection Zone (APZ), with a defensible space within the APZ. The defensible space is an area within the Inner Protection Area (IPA) of an APZ adjoining a building. This space provides a safe working environment in which efforts can be undertaken to defend the structure, before and after the passage of a bush fire.

The proposal for visual screen planting as described by Epuron will impact on the APZ and the defensible space. A safe working environment cannot be maintained to allow families to protect their homes. It effectively becomes a death zone because people do choose to stay and try to protect their family home.

I believe the NSW Rural Fire Service has only assessed the proposed Bowmans Creek wind farm by looking at the structures associated with the actual project and not any of the bigger picture issues associated with wind farms. This is supported an earlier submission from Timothy Carroll dated Monday 10 May 2021 to Jess Fountain at the NSW Department of Planning and Environment. I assume the submission is based around the operation of the wind farm not any associated risks.

My Assumption is supported by section 8.3.5 of the NSW "Planning for Bush Fire Protection 2019" guidelines.

In reply to my email, I received a letter attached below from Commissioner Rob Rogers.



NSW RURAL FIRE SERVICE

Mr Nigel Wood

Our reference: DOC22/20598

Dear Mr Wood

Bowmans Creek Wind Farm

Thank you for your email dated 23 March 2022, regarding the NSW Rural Fire Service (NSW RFS) advice to NSW Department of Planning and Environment (DPE) with respect to Bowmans Creek Wind Farm - State Significant Development (SSD_10315).

I understand Mr Alan Bawden, Development Assessment and Planning Supervisor - Planning and Environment Services (North), spoke with you over the phone on Friday 25 March 2022 to discuss your concerns.

As an outcome of this conversation, I can advise the NSW RFS has written to the DPE advising of the need for a bush fire report be prepared with respect to any proposed voluntary vegetation visual screens being planted within 100 meters of any residence.

Further Mr Bawden advised you that asset protection zone (APZ) requirements for the approved temporary telemetry masts are a matter for Council to address.

With respect to the following matters, as discussed, the NSW RFS while acknowledging your concern of the potential risk, does not believe any further action is necessary:

- > Single road access into the locality – increased bush fire risk created by additional vegetation plantings (visual screens) - <1% of total fuel load in the locality;
- > There are Guidelines regarding aerial firefighting and safe operation of aircraft around obstacles;
- > Fires started by turbine mal-functions – the risk is low due to telemetry monitoring and fire suppression systems within the turbines. Access roads created and maintained to each wind turbine tower will provide fire fighting vehicle access.

If you require further clarification, please contact Planning and Environment Services (North), Development Assessment and Planning Supervisor Alan Bawden via 6691 0400 or email pes@rfs.nsw.gov.au in the first instance.

Regards

Rob Rogers AFSM
Commissioner

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NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

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NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

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As you can see the commissioner advised the RFS wrote to the Department about the RFS requirements around vegetation plantings. These requirements have not been included in the recommended consent conditions or the assessment report.

I have recently sent another email letter to Rob Rogers over my concerns with the recommended consent conditions, particularly that they don't include the recommendations he advised the Department of in March 2022.

Other areas of concern are:

Noise.

The noise modelling in the EIS was conducted by Sonus on wind turbine model – Vesta V162-5.6 with serrated trailing edge blades and a hub height of 140m. This model was chosen because it is a representative example of the type of generation and size of the Wind Turbine Generator propose for the project. This model has a capacity of up to 5.6MW per turbine.

However, Ark Energy have notified the Department that the hub height will now be 150m and with a capacity of up to 6.2 MW per turbine.

Ark energy did not and have not provide an amended report advising of the change to the project regarding the hub height or the increase in capacity for each turbine from 5.6MW to 6.2MW.

The increase in hub height compared to the modelling is a 7% increase and the capacity is a 12% increase.

No additional assessment has been conducted on these changes. The Department have not asked for an additional assessment report as required.

As a result, the project does not comply with the requirements of the Environmental Planning and Assessment Act 1979 nor the requirements of the Environmental Planning and Assessment Regulation 2000.

Other issues with consent recommendations regarding noise: There are no controls and a minimum amount of monitoring. This is an issue because the noise modelling was only conducted up to a maximum wind speed of 9m/s however the cut-out wind speed for the wind turbines as advised by Vesta is 25m/s.

Vesta advises that their 6.2MW models have a maximum sound power of 104.8dB(A), this is 0.8dB(A) above the maximum sound power level reported in the modelling presented by Sonus. Note a 1dB change in sound equates to about a 26% increase in sound energy.

The serrated trailing edge blades wear and fail quickly, this will increase the noise generated by the wind turbines.

Ark Energy have indicated they will only use predictive noise modelling to review the impacts of wind turbine noise on the community. The Department has not challenged this approach.

This is not industry leading practice; industry leading practice is to install strategically placed real time noise monitors and evaluate the noise levels 24/7. Without a real-time continuous noise monitoring systems wind farm operations cannot be modified in response to changing meteorological conditions particularly noise enhancing conditions for example temperature inversions. The NSW EPA have the expectation that noise is being managed under all meteorological conditions. This is not possible without a real-time noise monitoring network.

To ensure compliance the consent conditions must include continuous noise monitoring stations are to be placed at strategic locations. A review into the effectiveness of the noise monitoring locations should be conducted every six months after consultation with non-associated home and landowners.

This requirement would then allow the project to react to and modify operations to ensure compliance including shutting down the operations if needed. This condition is now seen as standard for new projects that are approved regardless of the industry.

Decommissioning

During the public IPC hearing and in direct advice provided to the IPC Rebecca Riggs has indicated that Ark energy will set up a decommissioning fund. Ms. Riggs indicated that the fund would fully fund the decommissioning and rehabilitation of the site whilst not placing any value on the components that could be recycled. The details provided were very sketchy and did not indicate a dollar value for the fund or how the fund would maintain relativity with rising costs.

In relation to decommissioning costs the IPC requested additional information from Ark energy. In response Ark energy have provided the IPC with a decommissioning report for the "Paling Yards Wind Farm" and indicated they have used this to understand the decommissioning costs.

The Paling Yards Wind Farm decommissioning report is not a decommissioning calculator, and its accuracy can be challenged at multiple levels. The Palings Yard Wind Farm decommissioning report indicates the total costs per wind turbine is \$190,567 per turbine this includes all site rehabilitation. Using these parameters Ark energy would work out the full decommissioning costs would be in the order of \$10,671,752. However, a couple of simple sanity checks can be utilised:

- In his 2022 report the Australian Energy Infrastructure Commissioner (AEIC), reported the decommissioning cost were between \$400,000 and \$600,000 per wind turbine which does not include site rehabilitation. At \$500,000 per turbine the costs would be \$28m without site rehabilitation which conservatively would be another \$10m to give a total of \$38m.
- Iwan Davies has also replied to the IPC and in his advice has advised half the decommissioning costs for a wind farm would be \$21.5m to give a total of \$43m.

Both the AEIC and Iwans calculations are very similar and are approximately four times the costs provided by Ark energy.

I am concerned because Ark energy during 2021 community forums indicated that it costs between \$400,000 and \$500,000 to decommission a single wind turbine and are now advising the IPC that the costs will be \$190,567 per turbine for all costs.

Ark energy have provided the IPC with false and misleading information.

I am concerned that Ark energy have not provided a breakdown of decommissioning and rehabilitation costs for the project. The costs need to include all the costs as required to meet all their obligations including meeting the requirements of the National Waste Policy Action Plan 2019 and offset costs into the future.

Ark energy have indicated that the total steel used in each turbine is 667 tonnes, with a further 60 tonnes of steel as reinforcing in the foundations. Ark energy have indicated the total mass of the foundations will be 1,500 tonnes.

Recommended consent condition B43 makes recommendations for decommissioning and Rehabilitation. The recommendations include that the wind turbine pads can be left in situ and covered with soil and/rock and revegetated.

Recommended consent condition B43 does not align with the Australian Governments waste reduction policy and action plan, "National Waste Policy Action Plan 2019" (Action plan). The action plan includes demolition waste streams.

In the action plan 80 per cent of all waste streams are expected to be recycled by 2030, and companies are being called to identify solutions now. The total mass for each wind turbine as constructed is approximately 2,232 tonnes. The scenario proposed by Ark energy is to recycle 667 tonnes. This indicates only 30% of the waste stream will be recycled and does not align with the action plan. The foundations will need to be recycled to meet the requirements of the Australian Government policy.

The foundations contain valuable resources including 60 tonnes of reinforcing steel and 1,440 tonnes of concrete. This material is recyclable and there is a concrete recycle plant located in the Hunter Valley.

To support the 80% recycling target the Federal Government has an objective to "Significantly increase the use of recycled content by governments and industry" and is in the process of mandating minimum recycled content in their projects including road construction. Leading industries are also adopting a similar approach.

The action plan also includes sustainable design, Ark energy have indicated the wind turbine blades cannot be recycled. This approach by Ark energy does not align with the action plan for companies to promote the circular economy in developing their project.

Recommended consent condition B43 needs to be modified to ensure it aligns with the Federal Governments 80% recycling target.

An additional consent condition needs to be included. The new consent condition should be “sustainable design” and be robust enough to ensure all the products and components including the wind turbine blades can be recycled.

An additional consent condition needs to be included. The new consent condition needs to include a minimum recycled content be included in the project to align with industry best practice and environmental sustainability.

It should be noted in NSW ultimately the host farmer is liable for all the decommissioning and rehabilitation costs.

Koala's

The EIS identified flora species requiring further assessment, koalas were assessed in this section of the EIS. The EIS justified not retaining the koala in the ecological survey for the following reason *“Microhabitats within the subject land are degraded, such that the species is unlikely to utilise the habitat. Subject land occurs in highly cleared agricultural landscape with limited occurrence of preferred food trees.”*

This decision was made despite evidence to the contrary including annual biodiversity reports from the neighbouring Mount Owen and Liddell mines. Their annual reports included koalas which have been detected in the Mitchell Hills and Hill Crest offsets. It was reported that koala scats were discovered in the Mitchell Hills offsets. The location of the scats is right on project boundary! Koalas have also been seen on the Hillcrest Offset, which is also on the boundary of the project area. The annual biodiversity reports are available on the Departments own web sites and are easily accessible.

There is also anecdotal evidence that koalas are present on the Clydesdale, McDougal and Clendinning associated properties. In fact, Ross Clydesdale confirmed this position in a local newspaper article published in the Hunter River Times on June 19, 2020.

Another neighbouring landholder has an ecological report that was prepared on her behalf. The report indicates there is evidence of koala's within the surveyed area. This landholder's property adjoins the project.

All these facts were available before the EIS was submitted to the NSW Department of Planning.

Cumberland ecology also indicated in the EIS that “1,052Ha out of a project area of 16,720Ha has been surveyed as part of the biodiversity assessment. On face value the total area surveyed for the biodiversity assessment is only 6.3% of the project area”

However, the surveyed area did not actually include the whole of the 1,052Ha reported. As noted in their Appendix L Section 3.10.1 Limitations and Adjustments, survey coverage includes the following:

Coverage of the entire survey area was not possible due to limited access constraints from the existing terrain (very steep slopes, areas with no access tracks), land access permissions and safety concerns over exposure to water in Lake Liddell. Therefore, due to the size of the survey area and access restrictions, not all vegetation patches or areas of fauna habitat within the survey areas could be surveyed in detail in the time allowed. Therefore, representative areas were surveyed in detail with vegetation patches that could not be accessed being assessed from the roadside or nearest ridgeline/vantage point where possible, including use of binoculars to estimate dominant canopy trees and community structure (e.g., open forest, shrubby woodland, grassy woodland) where feasible. Condition for these areas was then extrapolated from other known areas of similar vegetation that had been surveyed in detail following review of aerial imagery. Field data collected during the 2019 – 2020 and 2020 – 2021 surveys, combined with database records, background research and aerial photography analysis, is considered to provide an adequately detailed assessment of the biodiversity values that occur and are likely to occur within the survey area.

Despite Cumberland Ecology describing the disturbance area to be cleared grass land or open woodlands, they have indicated there were limitations to their field work, coverage of the entire survey area was not possible due to limited access constraints from the existing terrain (very steep slopes, areas with no access tracks),

Cumberland Ecology have been derelict in their duties by excluding the information that was available to them regarding koalas within and adjoining the project boundary from the EIS. Cumberland Ecology did not conduct an adequate field evaluation of the project. It could even be concluded they chose not to look thus allowing them to justify not including koalas in their assessment and the restrictions that would be installed for the project if koalas were reported.

It should also be noted that the following flora that are identified and listed under the EPBC Act were also not retained in the EIS assessment for similar reasons:

- Brush -tailed rock wallaby
- Long-nosed Potoroo
- Grey Headed Flying-fox

This despite these also being sighted within the project boundary and surrounding areas. I have seen Potoroo's and Grey Headed Flying foxes on my property adjoining the project boundary. Spotted Quoll are also present in the area I have also seen Spotted Quoll on my property adjoining the project boundary, spotted quoll were dismissed in the report as not being significant.

The threat is exacerbated if the wind farm is approved and built, we live in a bush fire prone area, the topography is steep with areas that are heavily vegetated. In the event of a bush fire ground access is restricted and aerial firefighting would be extremely limited because the wind turbines and power lines.

The EIS was published with a provision to allow for public submissions. The public submissions included an extensive number of submissions regarding the presence of koalas within and adjoining the project boundary.

In October 2021 Ark energy responded to the submissions submitted by the public, they included a response to the submissions regarding koalas within the project boundary and indicated that no further action needed to be undertaken.

The project area of the wind farm is identified as part of the Greater Eastern Ranges Initiative – Barrington to Muswellbrook. This is an initiative to link existing habitats between Cairns and Melbourne, any removal of habitat from these areas may impact on the connectivity of the linkage.

My thinking, along with many of my neighbours, is that this is not industry best practice. It is environmental vandalism. The proposed Bowmans Creek Wind Farm project and surrounding area does contain core habitat which has the potential to be expanded and improved. Ark energy obviously does not think koalas should have any bearing or impact on building wind turbines and destroying the koala populations in the area.

The decline in koala populations is also exacerbated by the loss and fragmentation of their habitat and home ranges by roads. Ark energy and the Department have decided it is acceptable to accelerate the demise of the koala population in the region by destroying their habitat and causing the fragmentation of the remaining small areas of habitat and home range by proposing to build up to 52km of access roads, up to 100m wide.

Ark Energy's advice has not been challenged by the Department of Planning and as a result, if the proposed wind farm is built, a critical turning point for the NSW koala population will have been reached. The Greater Eastern Ranges Initiative – Barrington to Muswellbrook becomes nonsensical. A critical link between the Hunter Valley floor area and the Mount Royal National Park, is severed. It should be noted the Mount Royal National Park is seen as a natural Koala Ark. However, it still depends on crucial links to maintain species genetics and prevent isolated colonies reverting to inbreeding.

The Department has allowed Ark energy to provide false and misleading information and have not ensured that Ark energy have complied with the requirements of the the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

The project does not meet the requirements of the EPBC Act

Water and Transport of Water

The recommended consent conditions contain the following:

The definition of a Heavy vehicle – As defined under the *Heavy Vehicle National Law (NSW)*, but excluding medium rigid trucks and buses no more than 8 tonnes and with not more than 2 axles.

Transport Access route

Clause B1 - Includes the following:

Unless the Planning Secretary agrees otherwise, the Applicant must ensure that:

- (a) All vehicles associated with the development access the site via:
 - (i) for light vehicles: New England Highway, Hebden Road (north) or Hebden Road (south), Scrumlo Road and the site access point off Scrumlo Road, as identified in the figure in Appendix 5;
 - (ii) for heavy vehicles: New England Highway, Hebden Road (south), Scrumlo Road and the site access point off Scrumlo Road, as identified in the figure in Appendix 5; and
 - (iii) for heavy vehicles requiring escort: New England Highway, Hebden Road (south), Scrumlo Road and the site access point off Scrumlo Road, as identified in the figure in Appendix 5; and
- (b) Albano Road and Bowmans Creek Road are not used by vehicles associated with the development, except at the locations identified in the figure in Appendix 5 to allow access between portions of the site.

Clause B5 – includes the following.

Operating Conditions the Applicant must ensure:

- (a) heavy vehicles and heavy vehicles requiring escort are scheduled to avoid AM (5 am to 6 am) and PM (4 pm to 5 pm) peak southbound traffic at the New England Highway and Hebden Road (north and south) intersections.

Clause B17 – includes the following.

Noise and Vibration Construction Hours

Road upgrades, construction, commissioning, demolition, upgrading or decommissioning activities (excluding blasting) may only be undertaken between:

- (a) 7 am to 6 pm Monday to Friday;
- (b) 8 am to 1 pm Saturdays; and
- (c) at no time on Sundays and NSW public holidays:

unless the Planning Secretary agrees otherwise.

Clause B29 – includes the following.

Water Supply the Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply.

Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain the necessary water licenses before commencing any works which intercept or extract groundwater or surface water (unless an exemption applies).

The advice provided to the IPC in the Assessment report contains the following information.

Traffic Volumes

Clause 126 - Construction traffic would span the 18-month construction period. Light and heavy vehicle movements would peak at up to 75 light vehicles and 66 heavy vehicles per day.

Clause 127 - Five hundred and sixty (560) heavy vehicles requiring escort would be required for the delivery of wind turbine components to the site during construction (10 per turbine).

The definition of Heavy Vehicle has been modified in the recommended consent conditions to allow heavy vehicles to use and access the site using Hebden Road North. This has been done whilst not identifying the number of these heavy vehicles expected to use this road. Hebden Road North goes under the railway line it has restricted visibility for both approaches and is extremely narrow. This is not consistent with NSW Occupational Health and Safety legislation to manage risks As Low as Reasonably Possible.

The definition in the recommended consent conditions needs to reflect the definition in the *Heavy Vehicle National Law (NSW)*.

Clause B5 is not consistent with the change over times for the mining operations and power station employees using the New England Highway and Hebden roads North and South. The recommended consent condition does not align with the data supplied by Cardno in the EIS regarding peak traffic movements. The restriction of hours does not consider the school buses that use Hebden roads North and South.

Clause B5 needs to be modified to reflect the reality on the movement of traffic using these roads.

During presentation to the IPC on Tuesday November 28, 2023, by Ark energy Rebecca Riggs responded to a question from Commissioner Adrian Pilton.

Mr. Pilton asked Ms. Riggs I'd like to ask a question about the construction process. Just firstly about water. Where will you get the water and so on to make the concrete on the roads and such like?

Ms. Riggs responded, Yeah. So we have proposed that the water will be brought in. Most of the landowners have asked that obviously the water on site is not used. Obviously there are some exceptions but in general the water will be trucked in from various locations.

The advice from Ms. Riggs is inconsistent with the contents of the EIS, this is the first time the availability of water has been raised in any forum available to the public.

To deliver the 95,000,000 litres of water to site nominated in the EIS a best-case scenario would be to engage trucks that could cart approximately 15,000litres per truck (as nominated by Cardno in the EIS). This would equate to a total of 6,400 truckloads of water being hauled into the site during the 18-month construction period.

This would require a minimum of fourteen loads per day for water deliveries with a load of water required on average every 40 minutes during the nominated work hours. The nominated work hours do not take into consideration the restricted travel movements for heavy vehicles.

The number of water truck deliveries are 1,800 more than nominated in the EIS and is an extra 5 truck movements per day on average. Being heavy vehicles, these trucks will need to access the site via Hebden Road South. This is an increase of 7.8% above the advice contained in the Assessment report provided to the IPC.

The Department have not interrogated or understood the ramifications of these extra truck movements. The source of the water has not been identified this is inconsistent with the EIS.

The Department have provided False and misleading information to the IPC in this area.

Blasting

The recommended consent conditions contain the following:

Clause B23 – includes the following. Blasting may only be carried out on site between 9 am and 5 pm Monday to Friday and between 9 am to 1 pm on Saturday. No blasting is allowed on Sundays or public holidays.

Clause B23 does not restrict the number of blast/shots per day or per week. Clause B23 does not ensure the developer gives neighbours any notification prior to a blast/shot. Remember some neighbouring property boundaries are very close to the project, mobile phones don't work in the area, the neighbours could be injured by fly rock events, fume events and over pressure events. Clause B23 does not set limit criteria for fume events and the reporting of fume events.

Clause B23 needs to include these provisions, the number of blast/shots per day must be limited to one and the number of blast/shots per week need to be limited to three. Neighbours need to be notified a minimum of 24 hours prior to every blast/shot and the neighbours need to acknowledge they have received the advice. Any fume event needs to be reported to the EPA, straight away, operations need to be suspended until there is an understanding into the cause of the fume event.

Road maintenance costs

At the public IPC hearing in response to a question from Richard Pearson regarding road maintenance costs, Rebecca Riggs told him:

the VPAs generally are sufficient addition to be able to help with the maintenance of the road. If the Council have a different opinion we would be happy to hear that and understand it with them.

I am sure this is not the relevant councils understanding of the VPA's and this is not what has been portrayed to the community.

The local councils have also raised a lot of other concerns regarding the ongoing issues they are having with Ark energy, and I am aware they are raising these issues in their submissions to the IPC. These issues need to be resolved before the IPC approves the project, rate payers should not be paying ongoing costs because of the project or legal costs to reach a position with the developer.

It was interesting to read that the VPA term were calculated using 1% of the projected project capital spend. In March 2021 Ark energy advised in the EIS that the Capital Investment Value for the project would be \$569m. In November 2023 the Department in the Assessment report still has the project Capital Investment Value for the project as \$569m. Nearly three years after the EIS was released after a period of supply chain shortfalls leading to massive construction cost inflation the project Capital Investment Value has not increased. The VPA payments for the relevant councils need to be calculated based on the true Capital Investment Value for the project with CPI increases from the date of approval. The councils need to have signed off on the VPA calculations before the project can be approved.

Wind monitoring masts

The recommended consent conditions the assessment report and the EIS do not adequately indicate where the permanent and temporary wind monitoring mast will be located. Different figures have different locations for these structures. The VAB has not mentioned the wind monitoring masts. The impacts on local family's visual impact have not been assessed and families have not been consulted regarding their locations. The different figures do not even indicate any road construction or land disturbance associated with these structures. The indicated height for the permanent structures is not insignificant they are 150m tall and will need to be fitted with obstacle lighting. There has been no assessment of any description conducted regarding the wind monitoring masts.

A full assessment for the wind monitoring masts needs to be conducted to assess their impacts. Recommendations need to be updated and the IPC needs to be notified before the project can be approved.

Wind turbine number 37

I am aware that Ark energy and the Department have advised the IPC that all associated landowners have signed contracts regarding the construction of the wind turbines. This is not correct Cathy Ball has been in touch with me in and informed me she owns a portion of the property where wind turbine number 37 is supposed to be constructed. Cathy has not signed an agreement to allow the construction of wind turbine 37. Cathy told me she has come under intense pressure during the last couple of weeks because of wind turbine number 37 and the threat to the trees along the road outside her home.

The Department and Ark energy have provided the IPC with false and misleading information.

The department is too close to the Developer (Ark Energy)

It is apparent the Department are too close to the developer being Ark energy. An example of this is Iwan Davies conducting work for the developer.

On October 15, 2021, Nicole Brewer from the Department sent Ark energy a request for additional information. Ms Brewer was requesting that Ark energy provide additional information on certain matters. Included in the request Ms. Brewer asked Ark energy to provide evidence of consultation and feedback from RFS regarding the possibility of night aerial firefighting operations, noting that the Submissions Report and Amendment Report commit to additional consultation with RFS regarding aerial firefighting.

By way of response to Ms Brewers request Ark energy submitted a letter dated February 25, 2022.

The letter indicates Ark energy have been in consultation with NSW RFS and includes the following commentary:

*The proponent has consulted with NSW Rural Fire Services (NSW RFS) over the potential for night aerial fighting operations (refer to **Appendix G**). NSW RFS have confirmed that night aerial fire-fighting operations is not an approved activity currently undertaken by the NSW RFS. The NSW RFS has no objection to the proposed development and supports the recommendations made in the Submissions Report with regards to bushfire management.*

When reference is made to Appendix G it is evident that Ark energy have not been in consultation with the NSW RFS, however, Mr. Davies Team Leader Energy Assessments has been in consultation with the NSW RFS. The advice received from the RFS is a letter addressed to Mr. Davies who at the time was the Team Leader assessing the proposed Bowmans Creek wind farm. At the time Mr. Davies reported to Ms. Brewer.

These letters and emails are available on the Departments web site.

A member of Ms. Brewers assessment team was conducting work for the Developer. The same team member “Iwan Davies” has then assessed his own work as part of the development approval process.

Another example of the Department being too close to Ark energy is in Iwan Davies response to Questions on Notice from the IPC. In his response regarding decommissioning and rehabilitation of the project, Iwan has informed the IPC that *the only option is to requires a bond or bank guarantee prior to construction and to hold that bond for the full life of the project.*

This would come at significant cost to the industry, estimated at \$21.5m for a typical wind energy project (or at least half the cost of decommissioning itself) and would not be proportionate to the risk.

It is not the Departments role to make commercial decisions for any project. It is the Departments role to protect the community from any risks from the project now and into the future including decommissioning.

The Department is willing to allow Ark energy to set up an arrangement that is not transparent and uses figures for decommissioning that are incorrect but not make a bond or bank guarantee a consent condition.

The Department are continuing to be negligent in the duties.

The Department have been negligent in their duty, they have not ensured Ark energy have complied with the requirements of the relevant NSW legislation, guidelines, and bulletins for this project. The Department have misled the community and undermined the planning process in NSW by their actions and inactions.

The Department have knowingly provided false and misleading information to the IPC. The Department are not complying with the purpose of their Organisational Compliance Policy. The policy states.

“This policy establishes that the Department of Planning and Environment (department) is committed to complying with all legislative and regulatory obligations in the performance of its functions”.

The Department must be held accountable for their actions.

There should be an enquiry into the Department to investigate their conduct which at best could be described as incompetent and at worst could prove to be corrupt.

