



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF PROCEEDINGS

RE: BOWMANS CREEK WIND FARM (SSD-10315)

MUSWELLBROOK SHIRE COUNCIL MEETING

COMMISSION PANEL: ALICE CLARK (PANEL CHAIR)
ADRIAN PILTON
RICHARD PEARSON

OFFICE OF THE IPC: JANE ANDERSON
OLIVER COPE

MUSWELLBROOK CR STEVE REYNOLDS
SHIRE COUNCIL DEREK FINNIGAN
REPRESENTATIVES: SHARON POPE
KELLIE SCHOLES
THERESA FOLPP

LOCATION: VIA ZOOM VIDEO CONFERENCE

DATE: 12.00PM ON TUESDAY, 28 NOVEMBER 2023

TRANSCRIBED AND RECORDED BY APT TRANSCRIPT

PROF. CLARK: Before we begin, I would like to acknowledge that I'm speaking to you from the traditional lands of the Arakwal People of the Bundjalung Nations and I acknowledge the traditional owners of all country from which we virtually meet today and pay my respects to their Elders past and present.

Welcome to the meeting today to discuss the Bowmans Creek Wind Farm project SSD-10315 currently before the Commission for determination. The applicant, Ark Energy Project Pty Limited proposes to develop a 347 megawatt wind farm in the
10 Hunter-Central Coast Renewable Energy Zone. The proposed project involves the development of up to 56 turbines up to 220 metres high and associated ancillary infrastructure including a new 330 kilovolt transmission line to connect the TransGrid's existing network at the Liddell Substation.

My name is Professor Alice Clark. I am the Chair of this Commission Panel I'm joined by my fellow Commissioners Adrian Pilton and Richard Pearson. We are also joined today by Jane Anderson and Oliver Cope from the Office of the Independent Planning Commission. In the interests of openness and transparency and to ensure the full capture of information, today's meeting is being recorded and a complete
20 transcript will be produced and made available on the Commission's website.

This meeting is one part of the Commission's consideration of this matter and it will form one of several sources of information upon which the Commission will base its determination. It's important for Commissioners to ask questions of attendees and to clarify issues whenever it is considered appropriate. If you are asked a question and are not in a position to answer, please feel free to take the question on notice and to provide any additional information in writing which we will then put on our website. I request all members here today introduce themselves before speaking for the first time and for all members to ensure that they do not speak over the top of each other to
30 ensure the accuracy of the transcript. We will now begin. I'd like to hand over to Council for your opening statement and to kick the meeting off there, thank you.

MR REYNOLDS: Thank you, Ms Clark. My name's Steve Reynolds, I'm the Mayor of Muswellbrook joined here by the Council staff and colleagues. Basically, yes, we're just here in relation to the Bowman Park Wind Farm and to discuss a few items and there are still some major concerns that we have in relation to that application. As you know, three years ago when this application was put forward, since then a number of new - sorry, the environment has completely changed with red zones being declared across the state and we do have concerns that staff will speak to, mainly around the
40 bond for decommissioning the wind turbines.

I see that there's a significant issue moving forward given that when it comes to the end of life with these turbines who will bear the brunt, although it seemed to be accumulative that they have the funds available, most state significant and big developers like mining and the likes require a bond upfront so as the turbines or the land around it can be reestablished.

The deed for the road is another that Council staff will speak to and, indeed, itself and we've been speaking about the land connectivity in the Shire and the break in the wildlife habitat corridor and those natural parts as the offset currently at the moment is outside of our Shire and to make way for these wind - wind turbines the removal of habitat is actually breaking that natural corridor for the wildlife.

10 We have, of course, significant concerns around the road safety, the current state of the roads that vehicles will be traversing on and just with regards to the housing as well. You know, the housing strategy is going to be required and an independent study for the workforce accommodation for construction. There's a bit of an issue there that we would be speaking in relation to our current pressure on our housing market as everywhere as opposed to our permanent residents that are already financially strained and for Council to be a part of leading that conversation but our specific area in relation to what - what the possibilities are for accommodation for workers temporary and as we try to promote growth in our community. So on that note I'll hand it over to - sorry, was there any questions or - - -

20 PROF. CLARK: No, I think that's a great set of notes there to start with so please - please continue, thank you.

MR REYNOLDS: Thank you. I'll hand over to Sharon Pope.

MR PEARSON: Sorry, Alice, can I just - - -

PROF. CLARK: Yes, I was just thinking I better check with my other Commissioners.

30 MR PEARSON: No, I was just going to say it would be good to know as you go through the issues the extent to which you think any conditions recommended by the Department are addressing concerns that you have or if you think there are inadequacies, I guess, in those conditions it would be interesting to get your - at least your preliminary views on that as well. So thanks for that.

MR REYNOLDS: Yes.

PROF. CLARK: And the question I was going to ask was do you mind if we interrupt and ask questions as you go along or would you prefer to - for us to let you get through what you would like to present first?

40 MR REYNOLDS: I'm happy for questions to be asked as are the staff. That was just the opening statement so Mr Pearson, yeah, by all means there will be strategies that the Council staff will speak of too at the end, assist or issues that they've had and what they see as ways that we can assist to alleviate the concerns. So, no, that was just an opening, I apologise for that.

PROF. CLARK: Thank you. And, Adrian, any comments at this stage or happy to continue?

MR PILTON: Happy to continue, yes.

PROF. CLARK: Go ahead, Sharon, sorry.

MS POPE: O.K. My name's Sharon Pope, I'm the Director of Environment and Planning at Muswellbrook Shire Council.

MR PEARSON: Sorry, can I - yes, if we can project a bit because it's a little bit echoey in your room there and a little bit hard to hear so the louder the better please.

10 MS POPE: So I'm Sharon Pope, the Director of Environment and Planning at Muswellbrook Shire Council. Staff have been through the report prepared by the Department of Planning and the draft conditions that they have proposed and Council will put a written submission to the Commission elaborating on the issues we have with some of those conditions. So the conditions relate very much to the issues that Mr Mayor has raised. The run through things like the Voluntary Planning Agreement. The condition that is proposed doesn't adequately address all the matters that Council's previously asked to be included. The dollar amount per megawatt is something that has been agreed in general terms between Council and the proponent.

20 Our legal advice is that there should be a range of matters regarding road upgrade, the transmission infrastructure within the road corridor, the decommissioning of infrastructure in the road corridor, a corrected reference to the letter between Council and the proponent where the general terms of the VPA were agreed. These - these things have been removed or not included in the conditions of consent. So our submission will provide you with the wording that we have requested be included in those conditions to cover off on our concerns.

The second point with regard to road upgrades. Condition B2 - I'm sorry, that
30 previous condition was condition A18 that we had concerns with. Condition B2 with regard to road upgrades, again reference in the condition of consent is to a letter that's incorrect and we would like the letter date changed. It would be the 14th of February, 2023 and at appendix 5 that we're referring to. It just makes the condition of consent make more sense that those corrections occur.

We have an issue with, I suppose, the haulage routes and the road upgrades. If the information is not included in the conditions of consent we are concerned from our past experiences with mining development in the Shire that it puts in a Council in a position where we need to engage further legal services and we have ongoing disputes with the proponent. So our legal advisors are definitely keen that we include as much
40 as possible into the conditions of consent so that things are not left for interpretation and for ongoing dispute. Yes. Being a council area where we have lots of SSD development which impacts on local roads, these are issues that we've had to face previously.

Condition B4 refers to dilapidation surveys occurring at the beginning of the project and at the end of construction of the turbines. Council would like an additional point in time when there's a dilapidation survey. There should be a dilapidation survey before any work commence so that we know what the state of roads were. Because

there will be significant upgrades to Albano Road and some upgrades to Scrumo Road we would like a dilapidation report or a condition assessment at completion of those roadworks and before the turbine commence construction. So that gives us an idea of the road conditions for the upgraded roads, not the roads before they were upgraded which we know are quite - very much a rural standard that would not be able to cope with heavy traffic and then a dilapidation survey at the end when the turbines have been constructed.

10 This project will require the transport of a lot of heavy items. So the wind turbine blades themselves may not be very heavy but there will be a lot of concrete, a lot of water and because they need to construct substations some of the electrical equipment for those substations is quite heavy as well. So we're concerned if we don't have an accurate idea about the roads before those heavy movements pass along them the condition assessment at the end - the dilapidation survey at the end has no point in time or reference. That's why we're asking for some changes.

20 Conditions - we are proposing conditions B5 and B6 which refer to the applicant developing an maintenance management plan for the roads in accordance with Transport for NSW M3 specifications and prior to commencing construction of the development that the applicant upgrade site access from Scrumlo Road in accordance with Council's standard drawings for rural property access. The proposed driveway access off Scrumlo Road is very tight at the moment. They would need to upgrade it anyway to get blades to move through there but we have some concerns with site distances and these upgrades would improve site distance and hopefully eliminate risk for vehicle accidents as vehicles are turning.

30 Our major point raised by Mr Mayor is we are in a different position to Department of Planning on the decommissioning bond. All of the mines in the area have security bonds held by the Natural Resource Regulator so that if for some reason at the end of mine life the mine operator declares themselves bankrupt there is money held for the decommissioning of infrastructure and rehabilitation of site. The Department of Planning has a position that wind farms and solar farms are profitable enterprises and as a result there will be sufficient funds held at the end of the life of the project to do the decommissioning.

40 From our personal experiences we don't believe it is appropriate to rely on the goodwill of the proponent to actually do the decommissioning, it does expose Council and the landowners to considerable risk if they declare themselves bankrupt and say they don't have funds. 25 years is a long period of time for the economic environment to change, for the technological environment to change so while the wind farm might be profitable for the first five or 10 years it may no longer be profitable by 25 years which may be one of the reasons why they decide to cease the development and not get a modification to extend the lifetime of the development but there's just all sorts of reasons as to why it might be more conducive to a proponent to not do the decommissioning and there is going to be various items in the landscape that are quite tall and significant. If they're not removed and decommissioned they create a hazard for landowners, in particular, but potentially for the community as well and for Council there will be infrastructure in our road corridors that can impact on our ability

to upgrade roads, may impact on other infrastructure providers who may wish to put say water pipelines or gas pipelines in those road corridors. So we feel it is important that they be required to put money aside into a bond.

Our preference would be that that bond is calculated as the development is constructed so that we know how many turbines we're dealing with. If they're only construct in stages and only build half of the development the bond would only need to cover half of the development, say. I know the Department of Planning's position is if there was going to be a bond maybe it could be calculated five years out from the end of the life of the project but I think the staff feel that that still creates too much risk and we need to probably have the bond calculated much earlier in the life of the project.

Other matters that we will be raising, condition A8. We would like additional words inserted that the upgrades or changes to development over the life of the timeframe needs to be within the approved wind turbine height just to clarify that for the proponent or anyone acting upon the consent. Condition A13 requires subdivision of the land to create the substations. We would like a restrictive covenant or an 88B on the title of those lots making it clear that they have no dwelling house entitlement.

Condition B6 requires - that's our new condition requiring a traffic management plan. Condition B42 requires the preparation of accommodation and an employment strategy. Mr Mayor mentioned that three years ago when this project was first presented to Council the landscape was very different, we didn't have a renewable energy zone declared for the Hunter, nor for the Central West, Orana or the New England. We didn't have set timeframes for the construction of the Muswellbrook Bypass. We didn't have notification from Energy Co that they required construction of three additional 500 kilovolt transmission lines through the Shire to connect the New England and the Central West, Orana.

We also were only in the motions of an approval for the Maxwell Underground Mine. Mount Arthur mine hadn't yet identified that they were doing a modification to extend the life of their mine. Mount Pleasant mine hadn't yet had approval to extend the lifetime of their mine. All of these projects have construction workforces and then operational workforces and the cumulative impact of all of those projects is an approximate need of 2,000 dwellings to accommodate people during the construction phase and this unfortunately is part of an issue we've identified that all of the projects are saying they need to construct their projects at the same time over a short window of tow years and it is not easily accommodated within a town of the size of Muswellbrook where we have approximately 8,000 dwellings.

We already experience extreme shortage of short term accommodation when Bayswater Power Station upgrades and shutdowns are occurring or when construction activity has been occurring with say the Maxwell Underground Mine while they put their mine infrastructure in place. So having all of these other projects proposed all around the same time we think is going to create a critical issue. So we feel that the condition at the moment needs to identify - that the accommodation strategy needs to consider all of these projects but we also have concern that the condition as constructed at the moment doesn't set in place what will happen if the accommodation

strategy says there's no issue and no need to do anything; yet, Council has an opinion that there is a need to do something. Does the Secretary of the Department have a role in adjudicating? Would there be the potential for an independent audit of that accommodation strategy? It's an issue that's new and it's new because so much has changed within the three-year period.

10 We would like for condition C21 requires the applicant to have a website with various information contained. We'd like that to also include information on the energy output that is commissioned on the site so if they construct in stages how many turbines are being built per year and it would be also useful for a range of reasons to know what the energy output is on average each year so as kind of an annual report that they could include that on their website. I don't know, I think I may have covered everything. So perhaps questions.

20 Sorry, biodiversity and one of the issues Mr Mayor raised. The project is going to remove approximately 100 hectares of vegetation. The properties are farming properties where extensive clearing has already occurred. So the remaining vegetation on those farms is limited and form, I suppose, a very limited corridor but the only corridor for a lot of wildlife, particularly birds and bat species. The proponent knows and has acknowledged that they're going to do offsetting for endangered and threatened species and those offset sites may not be within our Shire at all but it doesn't really address the issue we have of local biodiversity issues, connectivity and corridors.

30 In our original submission we did ask that the proponent plan to do some additional plantings on those properties where vegetation's being removed to provide a replacement corridor and they've been silent on - in their documents on doing that. It could be partly because they're operating on somebody else's property and that that property owner's not terribly keen to have trees plants in another location but I think it's an issue that does need to be addressed during the assessment but whilst some of those trees may not come across as being threatened species or, you know, they should have hollows in them, some of them are quite old but they might not currently have hollows but in 20 years time would have hollows and just the fact that they're providing habitats that allow birds and bats to move across the landscape without predators or other birds trying to attack them. Yes, it is a consideration from us at a local level and we think it should be addressed.

PROF. CLARK: Thank you, Sharon. Any questions there, Richard or Adrian?

40 MR PILTON: Just wondering if Council have any knowledge of any local wildlife studies that have been done rather than the stuff that's in the EIS?

MS POPE: So, Commissioners, in that section of the Shire we wouldn't have detailed studies. We've got studies on the land more to the south and to the west of Muswellbrook where the mining sites are. We could extrapolate from those. We do know some of the vegetation through there is endangered but that has been identified in the consultant's work. So the problem is the consultants are looking from the lens

of endangered species and habitat, not necessarily addressing our local connectivity issues.

MR PILTON: O.K. Thank you.

PROF. CLARK: Thank you, Adrian. Richard, any points that you'd like to come back to or discuss?

10 MR PEARSON: Yes. Thanks, Alice. Yes, thanks for that, Sharon. So look, I suppose my - talking through that list of issues I think from what my perception is a lot of it can be addressed potentially through amendments or elaboration on conditions of consent and obviously we'll have regard to any written submission you make in that regard. The areas where you seem to have a fundamental difference and correct me if I'm wrong, is on decommissioning, for one thing, where you think there should be a bond rather than the Department's recommended approach but I do - maybe the - maybe the accommodation and employment strategy and how you deal with this peak of workforce requirements in the area, that obviously seems like a significant challenged.

20 I'm trying to, if you like, tease out things that might be the big issues that we might have a fundamental difference with the Department's Assessment Report. They're two that I sort of had. Obviously we'll look all the other issues when you've made your written submission but am I right in characterising it that way or maybe the biodiversity issue as well? Is there anything else that you - where you're kind of really not on the same page as the Department?

MR REYNOLDS: (not transcribable) (12.29.25).

30 PROF. CLARK: I'm sorry, Mr Mayor, we can't hear you.

MR REYNOLDS: Sorry about that. Yes, Steve Reynolds again. Just we've - we will be flagging it and it's something that I don't think has been addressed with these developments. They're naturally very - - - crossing the natural areas of hilly landscape and the Rural Fire Service. Now, I'm not talking about the potential for a fire on the wind turbines, I'm talking about the contamination of an oil spill that could happen below and if there was a fire that took place our Rural Fire Services that would be attending these across New South Wales they only carry water, there's no other method to - and especially when we're talking about electrical and chemical fires, I think there should be - needs to be something these developments takes a focus off the community and the state government in relation to the suppression of the fires given
40 that they won't typically be just an ordinary fire as such that can be put out with water and having worked in that space in the mining industry it could further spread the fire and then like I said, those areas are like a timebomb once they go off but it's just more around that safety of the landscape and the animals and also residents that are nearby but a big focus on the biodiversity and the land connectivity especially for the bird life and animals we will be focusing on but just that Rural Fire Service, I just - it hasn't been something that's been discussed through any of the meetings I've been at, it's just something that we've flagged, the trucks aren't equipped to deal with those.

PROF. CLARK: Thank you.

MS POPE: So coming back to Commissioner Pearson's questions. I think it's correct, our main concern is managing accommodation needs when you think of the cumulative impact of all of the projects. It's our concern - very strong concern about decommissioning and placing too much trust in a proponent doing the right thing rather than specifying in the conditions of consent that these things shall occur so that the right thing does - does happen and - and it's certainly a lot of additional words, you know, in there about managing the road upgrades, road maintenance during the construction period and I suppose just also managing some of the construction impacts and traffic management impacts on the wider road network and other road users. So things that could be addressed through conditions of consent but we don't probably think the conditions of consent currently are adequate.

PROF. CLARK: Sharon, thank you for that. I did have one question about the upgrading and the - I guess, the dilapidation surveys and I just wanted to make sure I understood what you were outlining there correctly. Obviously the written submission will probably answer this question but is it the intention that you would have the second survey conducted on the upgraded road in that now new condition so that at the end any repairs that were needed to be done would revert back to that new condition as opposed to the current condition, is that - is that the intention of that?

MS POPE: That's correct, yes.

PROF. CLARK: Thank you. O.K. I don't think we have any other questions. You did anticipate a number of them in your presentation so thank you for that. I don't think we have anymore questions from my end. I'll just do a check here. Adrian, anything - - -

MR PILTON: No, nothing from me, thank you.

PROF. CLARK: Richard?

MR PEARSON: Yes. No, I'm good, I'm just wondering when you're going to make your written submission. Is that in train or have you got to go to a Council meeting with that?

MS POPE: Sorry, I was just looking at Mr Mayor. The staff were intending to have this submission to you by the 6th of December.

MR PEARSON: Thank you.

MS POPE: We weren't intending to go to Council. The original submission and the response - the response to submission and the general terms on the VPA have all previously been to Council.

MR PEARSON: O.K. Thank you.

PROF. CLARK: So 6th of December we should see that - sorry. 6th of December you're anticipating at this stage?

MR REYNOLDS: Has there been an extension? We're anticipating the 6th of December, is there an extension?

10 MS POPE: Sorry, Mr Mayor, just because we need to move on to responding to the draft energy policy and other matters and other SSDs. We sort of don't really want to hang around.

PROF. CLARK: O.K. No, that's wonderful. We'll just keep an eye out for it. I wanted to make sure I heard correctly there. I understand that you have a number of things on the board there. I don't think we have anything else from our end. I'm looking for shakings of heads here across New South Wales. No. Do you have anything else that you'd like to add - - - or please, yes, we have some times. Do you have anything else to add from the Council?

20 MR REYNOLDS: No, nothing at this stage.

MS POPE: No.

MR REYNOLDS: We'll send the submission to you, Commissioners.

PROF. CLARK: All right. Well, thank you very much for your time this afternoon and we've got a lot of really good notes and lead-ins there but that written submission will be very useful for us so thank you. Thank you. I have nothing further from our end, I think. O.K.

30 MR PEARSON: Thanks everybody.

MR PILTON: Thank you.

PROF. CLARK: Bye.

MEETING CONCLUDED