

6 November 2012

Committee Secretary  
Senate Standing Committees on Environment and Communications  
PO Box 6100  
Parliament House  
Canberra ACT 2600

## **Inquiry into the proposed Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012**

Hepburn Wind welcomes the opportunity to provide a submission to the Senate Inquiry into the proposed amendment to the Renewable Energy (Electricity) Act 2000.

### **Overview**

Hepburn Wind is the community co-operative that has built Australia's first community-owned wind farm. Almost 2000 people, most of whom are local, have pooled almost \$10m to build a two turbine, 4.1 MW wind farm at Leonards Hill, in Central Victoria. The wind farm produces more energy on average than the houses in nearby Daylesford and much of the surrounding area.

At the project's core is the shared desire to take constructive action against climate change and in the process directly benefit the community. The project has demonstrated that, under the right conditions, communities will overwhelmingly support renewable energy and the benefits can be spread widely throughout a community.

We note that the report of the Senate Economics Legislation Committee stated that the 2011 Senate Community Affairs Committee Inquiry into rural wind farms received over 1000 submissions. It should be noted that the actual number was over 2000 as the total referenced did not include more than 1070 supporters of Hepburn Wind who individually made submissions.

Within our local community we enjoy overwhelmingly strong support, however we acknowledge that there are a number in our community who object to our project – some since well before the project was built.<sup>1</sup>

On 26 September 2012 the Hepburn Shire Council, as the responsible authority, declared that the Hepburn Community Wind Farm was fully compliant with the relevant noise standards. The final report can be found at [tinyurl.com/hwnoise](http://tinyurl.com/hwnoise). Noise monitoring is a necessarily complex area with which we now have considerable experience.

There are approximately 65 homes within 2.5 km of our wind farm. We currently have outstanding noise complaints at three of these homes. There is no relationship between distance to the wind farm and these complaints. In each case we are patiently awaiting the co-operation of the complainants. Managing complaints is also a necessarily complex area and, to be successful, it requires openness and honesty on all sides. We are committed to compassionately working through any concerns raised in relation to our project.

### **Commentary on the Bill**

This bill seeks compel, without adequate justification, an authority with no relevant expertise to impose a new and arbitrary environmental noise standard that cannot reasonably be enforced.

No-one would disagree with the proposition that all infrastructure (generation, transport, etc) should be compliant with all applicable standards. In the particular case of wind farms, the public has a valid expectation that any given wind farm be compliant with relevant noise standards.

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<sup>1</sup> <http://www.theaustralian.com.au/news/nation/baillieu-policy-bodes-ill-for-victorian-wind-farmers/story-e6fgr6nf-1225964780956>

The proposed legislation suffers from being drafted without full understanding of the issues it would attempt to address. Had the proponents taken the usual step of genuinely engaging with all relevant stakeholders (including but not limited to wind farm operators, regulators and acousticians with relevant experience) we believe a very different path would have been chosen.

We are surprised that no consultation was made with our co-operative given that our wind farm is practically in Senator Madigan's backyard.

In considering this Bill, we request that the committee consider the following questions, many of which would have been raised had a genuine consultation taken place.

### **Where is the rationale for implementing a new, retroactive noise standard?**

Expert groups have developed the applicable noise standards over many years. Projects have been designed to comply with these noise standards and regulators have enforced compliance. In the rare case where non-compliance has been identified, operators have addressed these issues and, to our knowledge, there are no known, verified instances of ongoing non-compliance at any wind farm in Australia.

Australia already has among the strictest noise standards in the world. The proposed Bill seeks to impose, retroactively, an ill-defined standard without any consensus that there are any issues with the existing noise standards. If, and only if, such a consensus were to be formed, it would be incumbent upon Government to engage acoustical experts to develop replacement standards to ensure that new standards were both practical and improved.

### **Who is the correct authority to impose environmental noise standards?**

Currently, wind farm noise emissions are regulated under the planning system. There are compelling arguments for this responsibility to rest with the various Environmental Protection Agencies. It is difficult to see how the Clean Energy Regulator could be considered an appropriate agency for managing environmental noise.

### **How to resolve state vs federal compliance?**

Wind farms are required to comply with state-based noise regulations. The proposed amendment could create a perverse situation where a wind farm is compliant with the relevant state noise standard (for which it was designed) but not compliant with a federal standard – or vice versa.

What justification is there for having both federal and state standards?

### **What is the process for demonstrating compliance/non-compliance?**

How is non-compliance to be demonstrated? Is the onus on the complainant to show non-compliance? What if the generator demonstrates compliance? Is the Regulator compelled to arbitrate, and if so what is the process for the arbitration?

There is a case in Victoria where Dr Bob Thorne has prepared a report asserting non-compliance of the Waubra Wind Farm. Dr Thorne's report has been presented to the media by Senator Madigan who has publicly endorsed the findings of the report. Unfortunately, Dr Thorne and Senator Madigan have chosen to keep the report confidential, such that neither the wind farm operator nor the public has had the opportunity to review the claims. The wind farm operator, Acciona, asserts compliance. How would the Regulator respond to this situation?

By withholding the report, Thorne and Madigan are keeping the issue very much alive and in conflict. It would be fair to ask whether this is in the interests of the community at large, or in particular, the residents claiming non-compliance.

If non-compliance was determined and subsequently addressed, what would be the process of asserting compliance?

## **Who is eligible to challenge the compliance of a wind farm?**

There is a case in Australia of a resident claiming to be 'affected' by a wind farm 35 km from his home. The same resident claims that wind farms could affect residents up to 100 km away – almost 30% of Australians live within 100km of a wind farm.<sup>2</sup> Needless to say, these claims are scientifically implausible.

At what distance from the wind farm would the Regulator be *required* to investigate alleged non-compliance?

## **How are background noise levels to be determined?**

Without background noise levels at a residence, it is not possible to determine noise levels attributable to a wind farm with absolute certainty. Therefore, great care is taken before the construction of a wind farm to monitor background noise levels at houses deemed (by the planning authority) to be relevant.

It is therefore possible that a complainant house far from the wind farm would have no background noise data to rely upon. Given the significance of the consequences of a finding of non-compliance, how would the Regulator ascertain background noise levels with certainty?

It is possible to obtain background noise levels by shutting down the wind farm temporarily, however, should the complaint turn out to be unfounded, who would compensate the wind farm for the lost revenue?

## **How reasonable are the Section 30E(3) amendments?**

The proposed amendment would compel the regulator to suspend a generator's accreditation for any contravention of law, whether the law was related to generation or not. In addition it is proposed to open up the definition of law to include unwritten laws.

Clearly there are many contraventions of law that have nothing to do with renewable energy generation and are of no relevance to the Clean Energy Regulator.

The concept of basing a provision in a law on 'unwritten laws' appears to be perverse. Furthermore, imposing punishment on an entity in relation an adverse finding in a civil suit would effectively result in punishing the entity twice.

The provisions related to Section 30E(3) would appear to be inconsistent with good regulatory practice.

## **Have the implementation costs really been considered?**

The explanatory notes state that the Bill will have limited financial impact on the Regulator and that the proposals contained in the Bill are expected to be met from the existing resources of the Regulator.

Is it really conceivable that the Clean Energy Regulator could take on the additional responsibilities outlined in this Bill without any additional resources?

## **Is the proposed Bill fair?**

Wind farms are only one of very many forms of infrastructure that make noise. Many sources, such as transport infrastructure, water pumping equipment and agricultural machinery are common in rural areas and make significant noise.

Why should noise standards for wind farms be significantly tighter for wind farms than other infrastructure?

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<sup>2</sup> <http://etwasluft.blogspot.com.au/2012/10/the-range-of-wind-turbine-syndrome.html>

## Some context

We respect the senators' dedication to their constituents – which include most of our members.

That said, in considering this legislation, the dispassionate observer should be aware of some context.

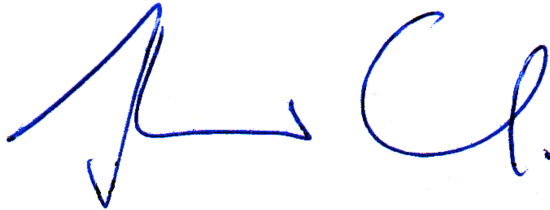
Senator Madigan's party is strongly opposed to wind farming<sup>3</sup>. Despite his party's stance being full of emotive and factually incorrect information, Madigan's office has confirmed his full support of these views. His own website recently referred to "John Madigan's fight against wind farm developments" and described the wind industry as "sinister, powerful and dangerous".

When approached to discuss this legislation, both sponsoring senators' offices referred us to the other's office, and neither would provide a contact willing to discuss the legislation. We would have much preferred to provide this feedback in a local, collaborative atmosphere.

We have experienced first-hand the effect of anti-wind lobbying in our community. Purveyors of misinformation and distrust have the potential to create great division and unintended negative outcomes for the very people they purportedly seek to assist.

Objection to wind farms is much more complex than the level of noise emissions.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'S' followed by 'H à C'.

Simon Holmes à Court  
Founding Chairman

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<sup>3</sup> see <http://www.dlp.org.au/policies/energy/wind-farms/>