



**Western Australian Planning Commission
Minutes**

Meeting No. 36
Friday, 19 April, 2024

- Members:** David Caddy - Chairman WAPC
Jane Bennett - Professions Representative
Helen Brookes - Coastal Planning and Management Representative
Liam Gobbert - Deputy Metropolitan Local Government Representative
Alistair Jones - A/Director General, Department of Water and Environmental Regulation
Caroline Knight - Local government representative – non-metropolitan
Gene Koltasz - Professions Representative
Lisette Traves - Portfolio Agency Representative
- Apologies:** Rebecca Brown - Director General, Department of Jobs, Tourism, Science and Innovation
Lynne Craigie - Nominee of the Regional Minister
Anthony Kannis - Director General, Department of Planning, Lands and Heritage
Barry McGuire - Professions Representative
Mike Rowe - Director General, Department of Communities
Peter Woronzow - Director General, Department of Transport
- Observers:** Damien Hills – Department of Water and Environmental Regulation
- Others present:** Sam Boucher - Manager Commission Business
Inga Butefisch - Principal Medica Advisor, Communications
Alex Campbell - Senior Planner, State Development Assessment Unit
Michael Daymond - Strategic Advisor WAPC
Paola Di Perna - Planning Director, State Development Assessment Unit
Shane Downes - Principal Planning Officer, State Development Assessment Unit
Cate Gustavsson - Executive Planning Director, Land Use Planning
Damien Martin - Executive Director Infrastructure and Policy, Strategy and Engagement
Belinda Sleaf - Commission Support Officer
Rebecca Waghorne - Director Communications and Engagement, Business and Corporate Services

Applicants and Submitters: Luke Atkins – Robinsons Yarranup Pty Ltd

Adrian Bilney – Local Resident
Will Carrington–Jones – Current neighbours to MHWF
Hide Shigeyoshi - GHD

There were 28 members of the public in attendance.

1. Declaration of opening

The Chairman declared the meeting open at 9:31am, acknowledged the peoples of the Goreng Noongar people as the traditional owners and custodians of the land on which the meeting is taking place and welcomed members. The Chairman paid respect to elders past and present, and extended solidarity and hope for a just and dignified future for us all.

The Chairman provided an introductory statement as follows:

This morning's meeting of the Commission is to determine a Form 17B application seeking approval to a development application received by the Commission as a **significant development** under Part 17 of the *Planning and Development Act 2005*.

Part 17 grants the Commission decision-making powers to determine proposals that can generate investment in the State to assist with economic recovery as we respond to the global COVID-19 pandemic.

A major premise of Part 17 of the legislation is that it bestows upon the Commission a perceived unlimited level of discretion with respect to an application. I wish to point out that today, with respect to the application, the Commission is not being asked to exercise a discretion that would not normally be available to a decision maker.

As with any planning application, the Commission has the option to:

- approve the applications;
- defer determination pending further information; or
- refuse the applications.

I wish to advise observers that Commission members may refer to technical devices, such as phones and laptops, throughout the meeting to assist them in considering the information before them.

This meeting is not being recorded and I advise all participants that you are not permitted to use any electronic, visual or audio recording device or instrument to record this meeting.

On behalf of the Commission, the Department of Planning, Lands and Heritage will respond to any media enquiries relating to this application, or the process, in consultation with the Minister for Planning's office.

I also wish to acknowledge that the Commission met yesterday with the proponent and then the adjoining and surrounding landowners and we thank all parties for the respectful and courteous interactions which will assist the Department and the Commission in the current and future deliberations on renewable energy projects.

2. Apologies

Rebecca Brown - Director General, Department of Jobs, Tourism, Science and Innovation

Lynne Craigie - Nominee of the Regional Minister

Anthony Kannis - Director General, Department of Planning, Lands and Heritage

Barry McGuire - Professions Representative

Mike Rowe - Director General, Department of Communities

Peter Woronzow - Director General, Department of Transport

3. Disclosure of interests

Ms Bennett declared a Perceived Impartiality Interest on Item 7.1 - Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm. Ms Bennett advised that she has friends that run a cropping / sheep farm between Kojonup and Katanning on a property on a short term lease and they have not lodged a submission in relation to the Wind Farm. Members agreed that Ms Bennett is permitted to be present during the discussion and/or decision-making procedure on the item as it is unlikely to influence Ms Bennett's conduct in relation to the matter.

4. Declaration of due consideration

All members indicated that they had received and considered the agenda items prior to the Western Australian Planning Commission Part 17 meeting.

4.1 Questions from Members and Responses from DPLH Staff

5. Deputations and presentations

5.1 Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm.

Presenter: Adrian Bilney – Local Resident

Mr Bilney a local resident addressed the Western Australian Planning Commission (WAPC) speaking against the Development Application of Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm and answered questions from members.

5.2 Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm.

Presenter: Will Carrington-Jones - Current Neighbour to the MHWF

Mr Carrington-Jones a current neighbour to the MHWF addressed the Western Australian Planning Commission speaking neither in support or against the Development Application of Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm.

5.3 Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm.

Presenters: Luke Atkins - Robinsons Yarranup Pty Ltd

Mr Atkins from Robinsons Yarranup Pty Ltd and a local resident addressed the Western Australian Planning Commission speaking against the Development Application of Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm and answered questions from members.

5.4 Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm.

Presenters: Hide Shigeyoshi - GHD

Mr Shigeyoshi from GHD addressed the Western Australian Planning Commission speaking in support of the Development Application of Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm.

Mr Shigeyoshi gave a brief outline of the proposal and project status and requested modifications to the following conditions:

Condition 1: that the condition is modified to add an additional advice note that clarifies that wind farm operation / commencement will be the date upon which the Australian Energy Market Operator (AEMO) / Western Power grant final HP testing approval and when the system can operate at 100% capacity / speed, grid connected and running with no restrictions.

Condition 4f: that the condition is deleted for the following reasons: Vestas has in the past had the IntelLight System but this system was not reliable and having limited range in practise discontinued the system. Vestas is currently conducting trials in other plants / jurisdictions in this technology and also trialling aviation light dimming/ intensity adjustments. Use of aircraft detection lighting system (ADLS) generally in industry requires location investigation / assessment and terrain mapping, engagement / endorsement from aviation authorities, procurement of infrastructure and installation.

It was noted that an alternative advice note that requires the applicant to investigate the advancement of this technology within 12 months of operation would be agreeable and this could also be captured as Part of Condition 9 – Operational Management Plan.

Condition 12c: that the condition is deleted as the condition is not applicable to this application and the requirement to undertake annual noise monitoring is considered to be onerous. Mr Shigeyoshi cited a similar Victorian case study as a point of reference.

Mr Shigeyoshi answered questions form members.

5.5 Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm.

Written Deputation - Eileen O'Neill

Members noted the written submission at Item 5.5.

6. Presentation of key issues by the Department of Planning, Lands and Heritage

Presenter: Paola Di Perna - Planning Director, State Development Assessment Unit

Ms Di Perna, Planning Director of the State Development Assessment Unit presented the key issues and considerations of the application at Item 7.1.

Ms Di Perna responded to a question from members relating to Condition 12 and the publication of the noise monitoring report. Ms Di Perna advised members that existing approvals through the relevant local government and Great Southern Regional Joint Development Panel (Regional JDAP), do not include any conditions relating to ongoing noise monitoring and advised the Commission may include an additional of condition requiring the publication of a noise monitoring report.

Ms Di Perna responded to a question from members relating to condition 4f and the timeframe of 90 days for the implementation of radar activated lighting. Ms Di Perna advised members the timeframe could be extended to 180 days to provide additional time for ongoing investigations and implementation on different products that have been recommended by the Civil Aviation Safety Authority (CASA).

Ms Di Perna responded to a question from members relating to condition 8b and the arrangement with nearby landowners to facilitate the construction of dwellings on neighbouring land and who is involved with the approval process. Ms Di Perna advised members that the creation of new dwellings to adjoining lots will be resolved through approval of any development application.

7. Item/s for decision

7.1 Multiple Lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale – Renewable Energy Facility - Wind Farm.

The Chairman invited discussion from members on the recommendation at Item 7.1.

Ms Bennett provided a statement and acknowledged the challenging process involving two Local Governments, the DAP and the State Administrative Tribunal (SAT) and now a scheme amendment. Ms Bennett advised she supports the development based on the conditions imposed and the modifications and additions to conditions that differ from the current approval.

Ms Bennett acknowledges the discomfort and concern this development has caused within the community including the generational farming practices. Ms Bennett noted having been on site and meeting with the proponent and adjoining landowners after reviewing the officer's report, conditions and technical advice, she is satisfied that with the conditions imposed and that the impacts can be managed to a reasonable level and in line with State policy requirements.

Ms Bennett recognises the thorough assessment by the Department of Planning, Lands and Heritage, including the review of interstate policies as well as regulatory advice. Ms Bennett noted that this development

has demonstrated a need for reviews of State policies and reference to setbacks within this area to keep up to date with advancement in science and technology and noted the policy differences across the country. She noted that a State policy should be considered to consolidate the requirements as a local scheme amendment or land owner agreement is not appropriate.

Ms Bennett discussed the Shire of William's Local Planning Policy (LPP) and Scheme amendment.

Ms Bennett recognises the proponent has a valid approval and could continue to operate regardless of the decision of the Western Australian Planning Commission and recognises SAT case law and the need for decision makers to take into consideration of previous decisions.

Ms Bennett recognises the focus needs to be on conditions and compliance and the revised conditions require ongoing monitoring including noise. She noted that making no changes to the condition requiring annual monitoring is not satisfactory to development approval and relying solely on notifications and outlined that the need for publication of the noise monitoring report is important.

Ms Bennett supports the use of a condition to manage landowner impacts and mitigation by the applicant and not the use of private agreements that may contain other obligations on the 'non stakeholder landowner'. She noted concerns for impact on farming operations including aerial spraying, agricultural value and farming practises that are critical for the States local food production and exports. Ms Bennett strongly encourages the applicant to seriously consider compliance with the conditions imposed and working together with landowners.

Ms Brookes outlined that she agrees with the statement of Ms Bennett and acknowledged the attendance of the community at the meeting. She highlighted that the situation has been a long and intense and noted that the Western Australian Planning Commission is trying to improve the situation. Ms Brookes supports the need for monitoring and the introduction of publication of the noise monitoring report.

REPORT RECOMMENDATION:

Moved by Ms Bennett
Seconded by Ms Brookes

That the Western Australian Planning Commission resolves to APPROVE application reference SDAU-060-23 and accompanying plans date stamped 24 April 2023 for the existing Renewable Energy Facility - Wind Farm across 35 lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale in accordance with s.274

of the Planning and Development Act 2005, subject to the following conditions:

Conditions:

Approval Timeframe

1. *Within 90 days of the notice of development approval being issued, the Applicant is to advise the Western Australian Planning Commission in writing that this approval is being acted upon and provide the date on which the operation of the Flat Rocks Wind Farm commenced. If written confirmation is not provided within the specified period, the approval shall lapse and be of no further effect.*

Clearance of Conditions of Approval

2. *Copies of any required plans, reports and information that address the conditions of approval are to be submitted to and approved by the Western Australian Planning Commission.*

Conformity with Plans

3. *Within 90 days of the commencement of operations, final as-constructed plans of the development are to be submitted to the satisfaction of the Western Australian Planning Commission. The plans shall include details of all below ground infrastructure.*
4. *All development is to be constructed in accordance with the approved plans (date stamped 24 April 2023) attached to this approval, subject to any modifications required to meet the following requirements;*
 - a) *The maximum height of each wind turbine shall be 200 metres, measured from the base of the tower to the rotor tip at its maximum elevation;*
 - b) *Wind turbines shall be setback a minimum distance of at least one kilometre from any dwelling existing at the time of this approval;*
 - c) *Transformers shall be located beside each tower or enclosed within the tower;*
 - d) *Wind turbines and rotors are to be constructed utilising a light grey colour;*
 - e) *Wind turbine towers are to be fully enclosed to prevent birds perching or nesting; and*
 - f) *Wind turbine towers are to be fitted with radar activated lighting (200 candela minimum) that will only activate when an aircraft is detected in close proximity to a wind turbine.*

5. *Within 90 days of the commencement of operations, certification from a suitably qualified professional demonstrating requirements a) to f) set out in Condition 3 above have been implemented, is to be submitted to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup and the Shire of Broomehill-Tambellup.*
6. *Electricity reticulation transmission powerlines between groups of wind turbine towers shall be placed underground, unless it is demonstrated to the satisfaction of the Western Australian Planning Commission that is not practical to do so.*
7. *Within 90 days of the commencement of operations, any damage to public roads or infrastructure as a result of construction works, is to be rectified at the developer's cost to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup and the Shire of Broomehill-Tambellup.*
8. *Within 90 days of the commencement of operations, an Operational Management Plan is to be submitted to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup and the Shire of Broomehill Tambellup, which includes but is not limited to the following;*
 - a) *Details of a suitable arrangement with nearby landowners to enable aerial spraying to be undertaken on any areas of land that cannot be accessed by conventional fixed wing aircraft;*
 - b) *Details of a suitable arrangement with nearby landowners to facilitate the construction of dwellings on neighbouring land;*
 - c) *A maintenance program of all wind turbine components;*
 - d) *Reporting any bird strikes;*
 - e) *Public liability and any other insurance necessary to cover any damage to public land or neighbouring properties caused by wind turbines and supporting infrastructure;*
 - f) *A process to manage and respond to any complaints related to wind farm operations;*
 - g) *The management of any biosecurity risks; and*
 - h) *Provisions to the review the Operational and Management Plan every two years.*
9. *Within 90 days of commencement of operations, the recommended measures included in the approved Operational and Management Plan shall be implemented to the satisfaction of the Western Australian Planning Commission, on the advice from the Shire of Kojonup and the Shire of Broomehill Tambellup. The Flat Rocks Wind Farm shall thereafter operate in accordance with the approved Operational Management*

Plan (as amended from time to time) to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup and the Shire of Broomehill Tambellup.

10. *Within 90 days of commencement of operations, the Airspace Assessment prepared for Moonies Hill Energy Pty Ltd and dated May 2011 is to be updated to reflect the final location of the wind turbines, to the satisfaction of the Western Australian Planning Commission.*
11. *Within 30 days of the notice of development approval being issued, the coordinates and estimated survey heights of each turbine must be reported to the Airservices Australia Vertical Obstacle Database (VOD) to ensure that the location of the wind farm can be mapped for the information of pilots.*

Noise

12. *Within 90 days of commencement of operations, a final acoustic report is to be submitted to the satisfaction of the Western Australian Planning Commission on the advice of the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Environmental Noise Branch of the Department of Biodiversity and Attractions. The final acoustic report is to be prepared by an independent suitably qualified person and include the following;*
 - a) *Post-commissioning testing which demonstrates compliance with the Environmental Protection (Noise) Regulations 1997, including testing at existing dwellings, based upon the testing procedures and analysis contained in the South Australian EPA Wind Farms Environmental Noise Guidelines;*
 - b) *Measures and/or procedures to address any areas of non-compliance with the maximum permitted noise levels specified in the Environmental Protection (Noise) Regulations 1997; and*
 - c) *An annual noise monitoring program that demonstrates the wind farm is operating in compliance with the Environmental Protection (Noise) Regulations 1997 in a range of wind conditions and at different times of the day and night.*
13. *Within twelve (12) months of the notice of development approval being issued, certification shall be provided by a suitably qualified person which demonstrates that any measures identified in Condition 12 (c) have been implemented in full to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Department of Water, Environment and Regulation.*

14. *This approval is for Vestas V150 4.2MW wind turbine with serrated trailing edges mounted on the blades. Where the use of an alternative wind turbine is proposed the Applicant must prepare and lodge a revised Noise Impact Assessment based upon the proposed alternative turbine, which demonstrates to the satisfaction of the Western Australian Planning Commission that the alternative turbine will comply with the Environmental Protection (Noise) Regulations 1997.*

Bushfire Management

15. *Within 90 days of the commencement of operations, the Bushfire Management Plan prepared by Envision Bushfire Protection date stamped 24 April 2023 is to be updated to the satisfaction of the Western Australian Planning Commission on the advice of the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Department of Fire and Emergency Services. The updated Bushfire Management Plan shall be prepared by a suitably qualified consultant and should address, but not be limited to the following;*
 - a) *A statement against the acceptable solutions of Elements 1-4 in the Guidelines for Planning in Bushfire Prone Areas.*
 - b) *The identification and clear mapping of firebreaks, emergency ingress and egress points, water points, turnaround areas for fire trucks, water sources, on site fire-fighting equipment;*
 - c) *Identification of on-site tracks for access by emergency fire vehicles, and the requirement for these tracks to be maintained to a trafficable standard at all times;*
 - d) *Emergency procedures and personnel contacts;*
 - e) *Consideration of activities on fire ban days; and*
 - f) *Notification for other agencies.*
16. *The approved Bushfire Management Plan is to be implemented at all times to the satisfaction of the Western Australian Planning Commission.*
17. *Within twelve (12) months of the notice of development approval being issued, certification by a qualified Bushfire Consultant is to be provided to demonstrate that the measures included in the updated bushfire management plan have been implemented in full to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Department of Fire and Emergency Services.*
18. *All access roads and tracks for access by emergency fire vehicles are to be constructed and maintained to minimise the impact on local drainage systems, landscape and farming activities, to the satisfaction of the Western Australian Planning*

Commission on advice from the Shire of Kojonup, the Shire of Broomehill-Tambellup.

Landscaping

19. *Within 90 days of the commencement of operations, a landscaping strategy and final landscape plans and specifications for the development site, adjoining properties and the public realm prepared by a suitably qualified landscape architect are to be submitted to and approved by the Western Australian Planning Commission. The landscaping strategy and final landscape plan is to incorporate the recommendations contained in the Landscape and Visual Assessment prepared by William James Landscape Architect in 2021.*
20. *Within six (6) months of the notice of development approval being issued, the approved landscaping strategy and landscaping plan shall be implemented and thereafter maintained by the owners or operators of the development, to the satisfaction of the Western Australian Planning Commission on advice from the Shire of Kojonup and the Shire of Broomehill-Tambellup.*

Utilities and Services

21. *Within 90 days of the commencement of operations, suitable arrangements shall be made to remedy any electromagnetic interference to pre-construction signal quality directly attributable to the operation of the windfarm, to the satisfaction of the Western Australian Planning Commission.*

Decommissioning

22. *Within 90 days of the commencement of operations, any temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, administration and construction activities are to be removed from the site and the area returned to its predevelopment condition, to the satisfaction of the Western Australian Planning Commission, on advice from the Shire's of Kojonup and Broomehill-Tambellup.*
23. *Prior to the wind farm being decommissioned, the applicant is to submit a Decommissioning and Rehabilitation Management Plan to the satisfaction of the Western Australian Planning Commission, on advice from the Shire's of Kojonup and Broomehill-Tambellup. The Decommissioning and Rehabilitation Management Plan shall include but is not limited to the following:*
 - a) *A detailed decommissioning schedule of works with timeframes for each stage;*
 - b) *Temporary fencing, hoardings, gantries, and signage;*
 - c) *Management of site generated noise;*
 - d) *Management of vibration, dust, wind, and erosion;*

- e) *Management of any stormwater discharge;*
- f) *Deep ripping of any compacted soil areas;*
- g) *The rehabilitation of development area with native vegetation or the restoration of the development area to its previous agricultural potential;*
- h) *Waste management, recycling and safe off-site removal of any above ground wind turbine infrastructure and materials;*
- i) *Protection and repair of any damage to public realm infrastructure;*
- j) *Public communication and complaint handling procedures;*
- k) *A Traffic Management Plan which includes haulage routes, heavy vehicle movements and the impact on any school bus routes; and*
- l) *Notifications on certificates of title prepared at the applicant's expense which alert prospective purchasers of retention of any below ground infrastructure which may affect future development or farming operations.*

24. *Within twelve (12) months of the wind farm ceasing to operate, the approved Decommissioning and Rehabilitation Management Plan shall be implemented to the satisfaction of the Western Australian Planning Commission in consultation with the Shire's of Kojonup and Broomehill-Tambellup, with all lots returned to their pre-development state.*

Advice Notes

- a) *This is a development approval only. It is the landowner/applicant's responsibility to ensure that the proposed development complies with all other applicable legislation, local laws and licence or permit requirements that may relate to the development. The Shire of Kojonup and the Shire of Broomehill-Tambellup should be approached for advice on any building, health, engineering and traffic requirements.*
- b) *If the landowner/applicant is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 17 of the Planning and Development Act 2005.*
- c) *With regard to Condition 2, the final as constructed drawings are to comply with all of the relevant conditions of development approval, with any variations from the approved plans clearly identified.*
- d) *The applicant is advised that:*
 - i) *This decision does not override the noise control provisions of the Environmental Protection (Noise)*

Regulations 1997, which applies to all wind farms in Western Australia;

- ii) There is potential for lots adjacent to the wind farm to be further developed with dwellings; and*
 - iii) The applicant takes the commercial risk that future wind farm operations may need to be altered or modified to comply with Environmental Protection (Noise) Regulations 1997.*
- e) With regard to Condition 8, any arrangements with nearby landowners to facilitate the construction of dwellings on neighbouring land should include allowances for the installation of noise attenuation and landscaping to screen views of turbines.*
- f) With regard to Condition 10, the updated Airspace Assessment is to be based on the final location and wind turbine specifications and clearly indicate any area that cannot be accessed by conventional fixed-wing aircraft for aerial spraying of crops.*
- g) With regard to Condition 12, a suitably qualified person is defined in the Department of Water and Environmental Regulation Guidelines for the Assessment of Environmental Noise Emissions.*

In the event that access for undertaking noise measurements from a dwelling is denied by a landowner, the applicant must demonstrate in writing to the satisfaction of the Western Australian Planning Commission that all reasonable steps have been taken to obtain access and advise the affected property owners of the reason for undertaking the noise measurements and that these steps have failed.

- h) With regard to Condition 19 and 20, the Landscape Strategy and Landscape Plan is to include (but not be limited to):*
- i) full plans and specifications of any landscaping within the site, adjoining properties and the public realm which includes the consent of the*
 - ii) relevant landowner;*
 - iii) details of the how the landscape design and plantings will provide effective screening of the wind turbines from key viewpoints;*
 - iv) species, sizes, and types of plantings, with a preference for endemic species such as jarrah, marri and wandoo, York gum salmon gum and Sheoaks;*
 - v) reticulation to plantings;*
 - vi) paving, kerbs, and other hard infrastructure;*
 - vii) details of ongoing management and maintenance. This is to be include provision for replacement for any failed*

- plant establishment in the first two planting seasons following implementation;*
- viii) *a procedure for the monitoring and replacement of screen trees over specific time intervals; and*
- ix) *be an appropriate scale of either 1:100, 1:200 or 1:500.*

- i) *The Applicant is advised to contact the Department of Water and Environment Regulation should any modifications to the proposal have implications on aspects of the environment and/or water management.*

AMENDING MOTION

REASON:

Members discussed Condition 5 and amending the timeframe from 90 days to 180 days of the commencement of operations.

Moved by Mr Caddy

Seconded by Mr Koltasz

5. *Within 180 days of the commencement of operations, certification from a suitably qualified professional demonstrating requirements a) to f) set out in Condition 3 above have been implemented, is to be submitted to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup and the Shire of Broomehill-Tambellup.*

The amending motion was put and carried

AMENDING MOTION

REASON:

Members discussed and amendment to Condition 12 to include an additional point which requires the publication of annual noise monitoring data to be made publicly available.

Moved by Ms Bennett

Seconded by Ms Brookes

12.

- d) *Annual noise monitoring data shall be published and made publicly available.*

The amending motion was put and carried

AMENDING MOTION

REASON:

Members noted that Condition 12, includes a reference to the Department of Biodiversity and Attractions and agreed to amend the recommendation to correctly reference the Department of Water and Environmental Regulation.

Members also discussed an amendment to Condition 12b to replace the words "maximum permitted" with the word "assigned".

Moved by Mr Caddy

Seconded by Ms Brookes

12. Within 90 days of commencement of operations, a final acoustic report is to be submitted to the satisfaction of the Western Australian Planning Commission on the advice of the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Environmental Noise Branch of the Department of Water and Environmental Regulation. The final acoustic report is to be prepared by an independent suitably qualified person and include the following;

- b) Measures and/or procedures to address any areas of non-compliance with the assigned noise levels specified in the Environmental Protection (Noise) Regulations 1997;*

The amending motion was put and carried

AMENDING MOTION

REASON:

Members noted that Condition 13 has the incorrect reference to the Department of Water and Environmental Regulation and agreed to correct this through an amendment.

Moved by Mr Caddy

Seconded by Ms Brookes

13. Within twelve (12) months of the notice of development approval being issued, certification shall be provided by a suitably qualified person which demonstrates that any measures identified in Condition 12 (c) have been implemented in full to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Department of Water and Environmental Regulation.

The amending motion was put and carried

SUBSTANTIVE RESOLUTION:

That the Western Australian Planning Commission resolves to APPROVE application reference SDAU-060-23 and accompanying plans date stamped 24 April 2023 for the existing Renewable Energy Facility - Wind Farm across 35 lots on Bilney Road, Graham's Well Road, Nookanellup Road South, Yarranup Road and Warrenup Road in Broomehill West, Lumeah and Borderdale in accordance with s.274 of the Planning and Development Act 2005, subject to the following conditions:

Conditions:

Approval Timeframe

1. *Within 90 days of the notice of development approval being issued, the Applicant is to advise the Western Australian Planning Commission in writing that this approval is being acted upon and provide the date on which the operation of the Flat Rocks Wind Farm commenced. If written confirmation is not provided within the specified period, the approval shall lapse and be of no further effect.*

Clearance of Conditions of Approval

2. *Copies of any required plans, reports and information that address the conditions of approval are to be submitted to and approved by the Western Australian Planning Commission.*

Conformity with Plans

3. *Within 90 days of the commencement of operations, final as-constructed plans of the development are to be submitted to the satisfaction of the Western Australian Planning Commission. The plans shall include details of all below ground infrastructure.*
4. *All development is to be constructed in accordance with the approved plans (date stamped 24 April 2023) attached to this approval, subject to any modifications required to meet the following requirements;*
 - a) *The maximum height of each wind turbine shall be 200 metres, measured from the base of the tower to the rotor tip at its maximum elevation;*
 - b) *Wind turbines shall be setback a minimum distance of at least one kilometre from any dwelling existing at the time of this approval;*

- c) *Transformers shall be located beside each tower or enclosed within the tower;*
 - d) *Wind turbines and rotors are to be constructed utilising a light grey colour;*
 - e) *Wind turbine towers are to be fully enclosed to prevent birds perching or nesting; and*
 - f) *Wind turbine towers are to be fitted with radar activated lighting (200 candela minimum) that will only activate when an aircraft is detected in close proximity to a wind turbine.*
5. *Within 180 days of the commencement of operations, certification from a suitably qualified professional demonstrating requirements a) to f) set out in Condition 3 above have been implemented, is to be submitted to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup and the Shire of Broomehill-Tambellup.*
6. *Electricity reticulation transmission powerlines between groups of wind turbine towers shall be placed underground, unless it is demonstrated to the satisfaction of the Western Australian Planning Commission that is not practical to do so.*
7. *Within 90 days of the commencement of operations, any damage to public roads or infrastructure as a result of construction works, is to be rectified at the developer's cost to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup and the Shire of Broomehill-Tambellup.*
8. *Within 90 days of the commencement of operations, an Operational Management Plan is to be submitted to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup and the Shire of Broomehill Tambellup, which includes but is not limited to the following;*
- a) *Details of a suitable arrangement with nearby landowners to enable aerial spraying to be undertaken on any areas of land that cannot be accessed by conventional fixed wing aircraft;*
 - b) *Details of a suitable arrangement with nearby landowners to facilitate the construction of dwellings on neighbouring land;*
 - c) *A maintenance program of all wind turbine components;*
 - d) *Reporting any bird strikes;*
 - e) *Public liability and any other insurance necessary to cover any damage to public land or neighbouring properties caused by wind turbines and supporting infrastructure;*
 - f) *A process to manage and respond to any complaints related to wind farm operations;*

- g) *The management of any biosecurity risks; and*
 - h) *Provisions to the review the Operational and Management Plan every two years.*
9. *Within 90 days of commencement of operations, the recommended measures included in the approved Operational and Management Plan shall be implemented to the satisfaction of the Western Australian Planning Commission, on the advice from the Shire of Kojonup and the Shire of Broomehill Tambellup. The Flat Rocks Wind Farm shall thereafter operate in accordance with the approved Operational Management Plan (as amended from time to time) to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup and the Shire of Broomehill Tambellup.*
10. *Within 90 days of commencement of operations, the Airspace Assessment prepared for Moonies Hill Energy Pty Ltd and dated May 2011 is to be updated to reflect the final location of the wind turbines, to the satisfaction of the Western Australian Planning Commission.*
11. *Within 30 days of the notice of development approval being issued, the coordinates and estimated survey heights of each turbine must be reported to the Airservices Australia Vertical Obstacle Database (VOD) to ensure that the location of the wind farm can be mapped for the information of pilots.*

Noise

12. *Within 90 days of commencement of operations, a final acoustic report is to be submitted to the satisfaction of the Western Australian Planning Commission on the advice of the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Environmental Noise Branch of the Department of Water and Environmental Regulation. The final acoustic report is to be prepared by an independent suitably qualified person and include the following;*
- a) *Post-commissioning testing which demonstrates compliance with the Environmental Protection (Noise) Regulations 1997, including testing at existing dwellings, based upon the testing procedures and analysis contained in the South Australian EPA Wind Farms Environmental Noise Guidelines;*
 - b) *Measures and/or procedures to address any areas of non-compliance with the assigned noise levels specified in the Environmental Protection (Noise) Regulations 1997; and*
 - c) *An annual noise monitoring program that demonstrates the wind farm is operating in compliance with the Environmental Protection (Noise) Regulations 1997 in*

- a range of wind conditions and at different times of the day and night.*
- d) *Annual noise monitoring data shall be published and made publicly available*
13. *Within twelve (12) months of the notice of development approval being issued, certification shall be provided by a suitably qualified person which demonstrates that any measures identified in Condition 12 (c) have been implemented in full to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Department of Water and Environmental and Regulation.*
14. *This approval is for Vestas V150 4.2MW wind turbine with serrated trailing edges mounted on the blades. Where the use of an alternative wind turbine is proposed the Applicant must prepare and lodge a revised Noise Impact Assessment based upon the proposed alternative turbine, which demonstrates to the satisfaction of the Western Australian Planning Commission that the alternative turbine will comply with the Environmental Protection (Noise) Regulations 1997.*

Bushfire Management

15. *Within 90 days of the commencement of operations, the Bushfire Management Plan prepared by Envision Bushfire Protection date stamped 24 April 2023 is to be updated to the satisfaction of the Western Australian Planning Commission on the advice of the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Department of Fire and Emergency Services. The updated Bushfire Management Plan shall be prepared by a suitably qualified consultant and should address, but not be limited to the following;*
- a) *A statement against the acceptable solutions of Elements 1-4 in the Guidelines for Planning in Bushfire Prone Areas.*
 - b) *The identification and clear mapping of firebreaks, emergency ingress and egress points, water points, turnaround areas for fire trucks, water sources, on site fire-fighting equipment;*
 - c) *Identification of on-site tracks for access by emergency fire vehicles, and the requirement for these tracks to be maintained to a trafficable standard at all times;*
 - d) *Emergency procedures and personnel contacts;*
 - e) *Consideration of activities on fire ban days; and*
 - f) *Notification for other agencies.*
16. *The approved Bushfire Management Plan is to be implemented at all times to the satisfaction of the Western Australian Planning Commission.*

17. *Within twelve (12) months of the notice of development approval being issued, certification by a qualified Bushfire Consultant is to be provided to demonstrate that the measures included in the updated bushfire management plan have been implemented in full to the satisfaction of the Western Australian Planning Commission, on advice from the Shire of Kojonup, the Shire of Broomehill-Tambellup and the Department of Fire and Emergency Services.*
18. *All access roads and tracks for access by emergency fire vehicles are to be constructed and maintained to minimise the impact on local drainage systems, landscape and farming activities, to the satisfaction of the Western Australian Planning Commission on advice from the Shire of Kojonup, the Shire of Broomehill-Tambellup.*

Landscaping

19. *Within 90 days of the commencement of operations, a landscaping strategy and final landscape plans and specifications for the development site, adjoining properties and the public realm prepared by a suitably qualified landscape architect are to be submitted to and approved by the Western Australian Planning Commission. The landscaping strategy and final landscape plan is to incorporate the recommendations contained in the Landscape and Visual Assessment prepared by William James Landscape Architect in 2021.*
20. *Within six (6) months of the notice of development approval being issued, the approved landscaping strategy and landscaping plan shall be implemented and thereafter maintained by the owners or operators of the development, to the satisfaction of the Western Australian Planning Commission on advice from the Shire of Kojonup and the Shire of Broomehill-Tambellup.*

Utilities and Services

21. *Within 90 days of the commencement of operations, suitable arrangements shall be made to remedy any electromagnetic interference to pre-construction signal quality directly attributable to the operation of the windfarm, to the satisfaction of the Western Australian Planning Commission.*

Decommissioning

22. *Within 90 days of the commencement of operations, any temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate*

- storage, administration and construction activities are to be removed from the site and the area returned to its predevelopment condition, to the satisfaction of the Western Australian Planning Commission, on advice from the Shire's of Kojonup and Broomehill-Tambellup.*
23. *Prior to the wind farm being decommissioned, the applicant is to submit a Decommissioning and Rehabilitation Management Plan to the satisfaction of the Western Australian Planning Commission, on advice from the Shire's of Kojonup and Broomehill-Tambellup. The Decommissioning and Rehabilitation Management Plan shall include but is not limited to the following:*
- a) A detailed decommissioning schedule of works with timeframes for each stage;*
 - b) Temporary fencing, hoardings, gantries, and signage;*
 - c) Management of site generated noise;*
 - d) Management of vibration, dust, wind, and erosion;*
 - e) Management of any stormwater discharge;*
 - f) Deep ripping of any compacted soil areas;*
 - g) The rehabilitation of development area with native vegetation or the restoration of the development area to its previous agricultural potential;*
 - h) Waste management, recycling and safe off-site removal of any above ground wind turbine infrastructure and materials;*
 - i) Protection and repair of any damage to public realm infrastructure;*
 - j) Public communication and complaint handling procedures;*
 - k) A Traffic Management Plan which includes haulage routes, heavy vehicle movements and the impact on any school bus routes; and*
 - l) Notifications on certificates of title prepared at the applicant's expense which alert prospective purchasers of retention of any below ground infrastructure which may affect future development or farming operations.*
24. *Within twelve (12) months of the wind farm ceasing to operate, the approved Decommissioning and Rehabilitation Management Plan shall be implemented to the satisfaction of the Western Australian Planning Commission in consultation with the Shire's of Kojonup and Broomehill-Tambellup, with all lots returned to their pre-development state.*

Advice Notes

- a) This is a development approval only. It is the landowner/applicant's responsibility to ensure that the proposed development complies with all other applicable legislation, local laws and licence or permit requirements that may relate to the*

development. The Shire of Kojonup and the Shire of Broomehill-Tambellup should be approached for advice on any building, health, engineering and traffic requirements.

- b) *If the landowner/applicant is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 17 of the Planning and Development Act 2005.*
- c) *With regard to Condition 2, the final as constructed drawings are to comply with all of the relevant conditions of development approval, with any variations from the approved plans clearly identified.*
- d) *The applicant is advised that:*
 - i) *This decision does not override the noise control provisions of the Environmental Protection (Noise) Regulations 1997, which applies to all wind farms in Western Australia;*
 - ii) *There is potential for lots adjacent to the wind farm to be further developed with dwellings; and*
 - iii) *The applicant takes the commercial risk that future wind farm operations may need to be altered or modified to comply with Environmental Protection (Noise) Regulations 1997.*
- e) *With regard to Condition 8, any arrangements with nearby landowners to facilitate the construction of dwellings on neighbouring land should include allowances for the installation of noise attenuation and landscaping to screen views of turbines.*
- f) *With regard to Condition 10, the updated Airspace Assessment is to be based on the final location and wind turbine specifications and clearly indicate any area that cannot be accessed by conventional fixed-wing aircraft for aerial spraying of crops.*
- g) *With regard to Condition 12, a suitably qualified person is defined in the Department of Water and Environmental Regulation Guidelines for the Assessment of Environmental Noise Emissions.*

In the event that access for undertaking noise measurements from a dwelling is denied by a landowner, the applicant must demonstrate in writing to the satisfaction of the Western Australian Planning Commission that all reasonable steps have been taken to obtain access and advise the affected property owners of the reason for undertaking the noise measurements and that these steps have failed.

- h) *With regard to Condition 19 and 20, the Landscape Strategy and Landscape Plan is to include (but not be limited to):*
- i) *full plans and specifications of any landscaping within the site, adjoining properties and the public realm which includes the consent of the*
 - ii) *relevant landowner;*
 - iii) *details of the how the landscape design and plantings will provide effective screening of the wind turbines from key viewpoints;*
 - iv) *species, sizes, and types of plantings, with a preference for endemic species such as jarrah, marri and wandoo, York gum salmon gum and Sheoaks;*
 - v) *reticulation to plantings;*
 - vi) *paving, kerbs, and other hard infrastructure;*
 - vii) *details of ongoing management and maintenance. This is to be include provision for replacement for any failed plant establishment in the first two planting seasons following implementation;*
 - viii) *a procedure for the monitoring and replacement of screen trees over specific time intervals; and*
 - ix) *be an appropriate scale of either 1:100, 1:200 or 1:500.*
- i) *The Applicant is advised to contact the Department of Water and Environment Regulation should any modifications to the proposal have implications on aspects of the environment and/or water management.*

8. State Administrative Tribunal applications

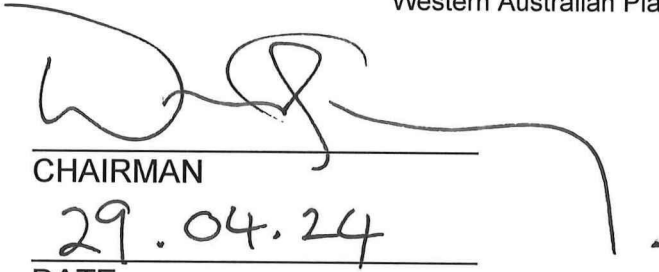
The Chairman noted that State Administrative Tribunal applications have been lodged for the Recreation Facility and Restaurant - Lots 253 (120), 254 (78) Esplanade and Lot 3128 Birdwood Parade, Dalkeith and the Residential and Commercial Building - Lot 50 (22) St Quentin Avenue, Claremont.

9. General business

Nil.

10. Meeting closure

There being no further business before the Board, the Chairman thanked members and local residents from the community for their attendance and everyone's involvement in the site visit and meetings yesterday. He acknowledged the challenging circumstances and acknowledged the toll that this development has had on the local community and declared the meeting closed at 10.39 am.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke that extends to the right and then curves downwards.

CHAIRMAN

29.04.24

DATE