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Statement to Senate Estimates Committee - National Wind Farm '66 Affixi<,mer.;.0. t

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It is with pleasure that I submit this Statement to the Committee for its consideration.

The role of the National Wind Farm Commissioner was established by the Australian Government to help address the concerns of residents and community who live in proximity to wind turbine facilities by:

- facilitating the resolution of complaints received from concerned residents
- providing greater transparency to the community about wind farm activity in Australia
- drawing on the work of the Independent Scientific Committee on Wind Turbines
- promoting best practices related to the planning, development and operation of wind farms, including community engagement and relations.

The role is independent, and I report directly to the Minister for the Environment. There are no formal powers associated with the role, and I do not displace the responsibilities of state jurisdictions. Rather, I operate based on the effectiveness of my relationships with a wide and diverse range of stakeholders from all levels of government, industry and the community.

My Office is supported by the Department of the Environment, which provides the infrastructure and funding for our operations.

The Commissioner's terms of reference is attached to this Statement.

Start-up Activities

I commenced the role in November last year, and would like to take the opportunity today to outline to Committee members the progress made so far in establishing the Office and its functions, as well as provide some initial reflections from the many conversations I have had in my capacity as Commissioner so far.

In the first two and a half months in the role, I have focussed my efforts on the following:

- Stakeholder identification and consultations
- Establishment of the complaint handling process and policy
- Recruitment of the Office staff
- Office infrastructure

I will now touch on each of these areas of focus.

1. Stakeholder and community consultations

I have met and have scheduled meetings with approximately 100 stakeholders since my appointment to the role. These discussions have been essential to obtain an initial understanding of the perspectives of people and organisations that are engaged in (or have views on) the wind farm sector. Meetings and discussions have been held with:

- Members of State and Federal parliaments
- State and Federal government departments and agencies
- Industry associations
- Community associations
- Concerned residents
- Industry operators and developers
- Ombudsmen
- Experts, such as acousticians and the Independent Scientific Committee
- Media

Meetings have included visits to resident's homes to experience first-hand the proximity and impact of the wind farm - and to better understand the resident's situation and primary concerns. While I have made a solid start in commencing stakeholder consultations, there are many more people and organisations to meet with.

2. Complaint handling

We have developed and published a draft complaint handling policy, including the complaint handling process. The policy will be used by the Commissioner and the Office for dealing with complaints raised by concerned residents and complainants. The policy will be available on the Commissioner's web-site to ensure full transparency and to allow all stakeholders and the community to be familiar with how complaints will be handled.

Feed-back is welcome on the draft policy. A copy of the policy is attached to this Statement. We have requested that feedback be provided to my Office by 29 February 2016. We will operate under this draft policy until such time as it is finalised. The current draft policy will be updated after reviewing any feed-back received.

It is imperative that the complaint handling process is supported by an effective information and reporting system designed for the management of complaints. We have investigated potential solutions and taken advice from other Ombudsman/Dispute Resolution schemes. Such systems exist and are commercially available and readily implemented.

The Department has requested that we use existing technology already deployed within the Department, known as a "Customer Relationship Management" system. We are currently evaluating this option on the basis that we would have access to a separate configuration of the system to ensure our complaint handling processes to be properly supported and our data kept secure and separate from other Department functions and staff.

To date, we are assisting with a number of matters raised by concerned residents related to proposed wind farm developments, as well as operating wind farms. We expect this activity to grow as knowledge of the Commissioner's role and access to our Office increases coupled with the potential increase in deployment of new wind farm projects going forward.

3. Office Staff

There will be a small core team of staff to support the Commissioner's duties and activities.

To date, we have recruited a Chief of Staff, who commenced on 9 December 2015, and I am supported by an Administrative Assistant on a temporary basis.

We are in the process of recruiting a Complaints Manager, who will manage the day to day handling of complaints received by the Office, and a Research Officer, who will support the Office on a wide range of research requirements, from researching complaint issues to best practices, providing content and supporting the web-site as well as helping coordinate the research interfaces with the Independent Scientific Committee and NHMRC.

4. Office infrastructure

We have established an initial office location, for the time being, by co-locating with another Department agency in the Melbourne CBD. I am advised that this is a temporary arrangement only, and we are likely to be required to move during 2016. We are currently seeking alternative accommodation in that regard.

As at the time of writing, we have established a toll-free telephone number, email address and Post Office Box to enable access to our Office by the community and stakeholders.

An interim web-site has been launched on the Department's web-site, for the time being. I have requested that the Commissioner's function, as an independent role, have a separate web-site "url". We are currently working with the government to establish www.nwfc.gov.au as the Commissioner's official web-site address.

The interim web-site contains contact information along with information about the role of the Commissioner and our complaint handling policy. Once staff are in place, we will commence an activity to design a more extensive web-site that will provide a wider range of information about the wind turbine industry, including proposed and current wind farm developments.

Initial Observations

My role and appointment has been well received by stakeholders, and I have been afforded appropriate access by stakeholders to conduct consultation discussions.

While it is still early days, some key themes of matters raised with me from my discussions include:

- Audible Noise. There is an ongoing concern amongst some residents that the noise generated by a wind farm will impact sleep and may therefore be detrimental to health. Concerns have been raised by neighbours to both operating and planned wind farms.
- Low frequency and infrasound. Residents in the vicinity of planned and operating wind farms have raised concerns regarding the potential health impacts of other noise and vibration emissions from wind farms. Most jurisdictions do not have standards for these measures and levels are more difficult and costly to measure.
- Standards. The current noise and related standards used for permitting wind farms vary by jurisdiction, in both quantum and definitions, and there are also measures for which there are no standards. The current situation can cause confusion and make it difficult to reassure the community of what the appropriate standards should be for the

acoustical environment and health impacts. The application of noise standards will directly affect the set-back distance between a turbine and a resident's dwelling. Some jurisdictions have minimum set-back distances regardless of the noise set-back requirements - again these default set-back standards vary by jurisdiction.

- Turbine separation and micro-siting. Concerns have been raised regarding the minimum distance between turbine placements and whether or not such distances are compliant with manufacturer's specifications and/or could lead to compounding effects of turbine noise and related emissions if the separation distance is insufficient.
- Compliance. There may be opportunities to increase or confirm independent assurance to determine/confirm compliance of a wind farm with its planning permit which could improve community and stakeholder confidence in the process.
- Transparency. There have been instances of planning processes whereby planning information has not been transparent to the general public, increasing anxiety and mistrust with certain stakeholders surrounding the developer's project and intentions.
- Economics. Some residents adjacent to projects are concerned that their property values will drop as a consequence of a wind farm development. Such residents may also feel they have missed out on potential revenue streams by not being selected as a host landowner for turbine placement. These scenarios, be they real or perceived, can lead to division in a community.
- Amenity. The placement of wind turbines will affect the visual aspects of the landscape. Some stakeholders are concerned that insufficient work is being done on the "elevation" aspects of a wind farm lay-out design in the design/planning process.
- Engagement and Complaint Handling. There appears to be material variance in how industry members engage with the community and local council during the planning, construction and operational phases of a wind farm. Industry and government are seeking further improvements in this important area and best practice community engagement will be an area of focus for our Office.

I should stress that the above observations are largely based on anecdotal information provided by stakeholders to me in discussions to date. Our formal complaint process will seek structured evidence in support of issues raised and will allow me to develop more informed views over time on systemic issues to address.

Looking ahead, I plan to continue ongoing engagement with the extensive group of stakeholders, further establish our Office and the commencement of our complaint handling process. I also look forward to commencing our research activities and the promotion of best practices for consideration and adoption by industry and government.

In conclusion, I would like to thank the Committee for the opportunity to provide this statement and welcome any feedback or suggestions you may have at this stage.

I would also like to thank the Department for its continued support to establish our Office and operations. In particular Rhondda Dickson, Lesley Dowling and Janet Matthews.

Andrew Dyer

National Wind Farm Commissioner

Terms of Reference

The negotiated settlement of the Renewable Energy Target in mid 2015 is expected to lead to increased construction of wind turbines in the next five years.

The Senate Select Committee on Wind Turbines, held during 2015, identified many issues of concern relating to the standards, monitoring and operation of wind farms.

The Government responded positively to the recommendations of the Committee's Interim Report, including creation of the role of a National Wind Farm Commissioner.

The Commissioner will work collaboratively with all levels of government, scientists, industry and the community to resolve complaints from communities about the operations of wind farms.

The Commissioner will refer complaints about wind farms to relevant state authorities and help ensure that they are properly addressed.

The Commissioner will work with stakeholders to identify needs and priorities for monitoring wind farms.

The Commissioner will lead efforts to promote information availability, providing a central, trusted source for dissemination of information.

The Commissioner, sitting within the Australian Government Department of the Environment, will report to the Minister for the Environment and provide an Annual Report to the Australian Parliament on delivering against these Terms of Reference.

The work of the Commissioner will not seek to duplicate or override the important statutory responsibilities of other jurisdictions.

The Commissioner is to draw on the work of the Independent Scientific Committee on Wind Turbines.

The role of the National Wind Farm Commissioner will be established for an initial period of three years and will be reviewed by the Australian Government.



Office of the National Wind Farm Commissioner

DRAFT COMPLAINTS HANDLING POLICY

Introduction and principles

1. The National Wind Farm Commissioner (the "Commissioner" or "we" or "our") is an independent role appointed by the Australian Government, reporting to the Minister for the Environment. A primary role of the Commissioner is to receive complaints from concerned residents ("you") regarding proposed or operating wind farm facilities.
2. In seeking to address resident complaints, the Commissioner will not seek to duplicate or override the statutory responsibilities of other jurisdictions.
3. This document outlines the policy and procedure for receiving and handling such complaints. Further background on the role of the Commissioner is provided in the [Terms of Reference](#) issued by the Australian Government on 9 October 2015. Complaints received and accepted by the Commissioner will be handled by the Commissioner and staff in the Office assigned to manage complaints.
4. The Commissioner is guided by best practice principles in the approach for receiving and handling complaints and this Policy has been developed based on best practices employed by other complaint and dispute resolution schemes.
5. Core principles of the Policy are:
 - We are independent
 - Our role is to use best efforts to find acceptable and agreed outcomes for the parties
 - We seek fact and evidence based information to inform our approach and any recommendations that we may make
 - We consider each matter on its merits
 - We expect that the parties involved in a matter brought to the Commissioner will act with integrity and respect and be genuinely seeking an outcome to the issues raised.
6. While the Commissioner will use best efforts to help resolve complaints accepted by the Office, the Commissioner accepts no liability for any consequence of a complaint that is not resolved.

Our procedures for handling complaints

7. The Commissioner will receive complaints from concerned residents who reside in a dwelling within proximity to a proposed or operating wind farm facility. The concerned resident may be represented by an appropriate nominee acceptable to the Commissioner.
8. When we receive a complaint, we will look at the date that the resident first raised a concern about a particular issue associated with a wind farm. If it has been less than 2 years since that date, we can handle the complaint. If it has been between 2 and 6 years since that date, we will decide whether or not to handle the complaint. If it has been more than 6 years since that date, we will not handle the complaint, as the prospects for gathering relevant and valid evidence are very limited. If we decide not to handle a complaint, the Commissioner may suggest other ways the resident could try to resolve the issue.
9. Our procedures enable us to provide an independent, objective and consistent process for responding to enquiries and for handling complaints from concerned residents. There are six main steps in our complaint resolution process, namely:

- i. Enquiry**
- ii. Complaint**
- iii. Referral**
- iv. Conciliation**
- v. Recommendation**
- vi. Resolution**

Enquiry

10. Your initial contact to the Commissioner will be treated as an enquiry if you are:
 - requesting or providing information only
 - choose to remain anonymous
 - have lodged an initial complaint and need to provide more information before the matter can be classified as a Complaint
 - not a resident within proximity to a proposed or operating wind farm facility.

You may contact us initially by letter, email or telephone.

Complaint

11. If you would like to make a formal complaint with regard to a proposed or operating wind farm facility, we may firstly request the following information from you in writing, via letter or email:
- your name
 - your address
 - your contact details, including telephone and email
 - the name of the proposed or operating wind farm facility
 - the complaint you wish to make about the wind farm facility
 - the basis of the complaint
 - evidence in support of the complaint
 - a summary of any current or previous attempts to resolve the complaint, including relevant correspondence from you and other parties to the complaint
 - the outcome you are seeking in a resolution to the complaint
 - other information we may deem necessary to assist us in attempting to understand the complaint and approaches for its resolution.

Registering your complaint

12. When we have received all of the requested information from you to file a complaint, we will formally register your complaint, confirm with you that your complaint has been received and provide you with a complaint reference number.
13. The Commissioner will review the materials provided and may contact you to discuss the matter. The Commissioner may also contact other parties to the complaint and assess their willingness to work to resolve the complaint.
14. Based on the review of the information and subsequent discussions, the Commissioner will, in consultation with you, decide the next steps in the complaint handling process, specifically whether the complaint should be referred, conciliated or be subject to a recommendation by the Commissioner.

Information handling

15. All information received by the Office for the purposes of handling these complaints will be managed by the Commissioner and staff in accordance with *The National Wind Farm Commissioner Information Handling Policy* available at www.environment.gov.au/climate-change/national-wind-farm-commissioner/making-a-complaint.

Referral

16. If, in the Commissioner's opinion, the complaint may be resolved by a discussion between you and the other party to the complaint, the Commissioner will request that you meet with the other party. The Commissioner will seek representation from the other party authorised to make decisions or take actions that could lead to a resolution of the complaint.
17. Following that meeting, the Commissioner will contact you and the other party to be debriefed from the meeting and determine if the complaint is, or likely to be, resolved.
18. There may be instances where the complaint is best handled by referral to a State or Local Government department or agency. The Commissioner will assist in facilitating the referral where possible and may contact you to follow up on the outcome of the referral.
19. When referring a complaint, the Commissioner may need to pass on information that you have provided to the other party, department or agency. We will advise you if this sharing of information is required and make our best efforts to seek your approval before providing information to the other party.

Conciliation

20. In the event that the complaint has not been resolved by referral, the Commissioner may decide to conciliate the complaint between you and the other party. The Commissioner will invite you and the other party to engage with the Commissioner to discuss the complaint and relevant documentation. The complaint may be resolved as a result of the discussion or may require further discussions between the parties and the Commissioner to achieve an agreement.

Recommendation

21. In the event that the complaint has not been resolved by referral or conciliation, the Commissioner may decide to recommend a resolution to the parties. Typically, before making any recommendations, the Commissioner may require additional information and undertake a more detailed review of the evidence provided, including relevant legislation, policies, planning codes and previous correspondence. As such, the recommendation process may take some time before a final recommendation is made by the Commissioner.

Fair and reasonable assessment

22. When assessing any evidence and in making a recommendation the Commissioner will have regard to what is fair and reasonable. The Commissioner will assess the individual circumstances of the complaint by asking the following questions:

- In which ways has the other party or resident contributed to the problem and to its resolution?
- Has the other party or resident acted in a reasonable manner, for example:
 - did the resident follow reasonable advice from the other party?
 - did the other party give clear and reasonable advice to the resident?

- Has the other party behaved in a way that is not reasonably necessary for the protection of its legitimate interests?
 - What are the particular perspectives, actions and needs of the other party and the resident?
 - Have the direct and indirect costs and benefits - financial or otherwise - to the other party and the resident been considered?
 - Has all the available evidence been considered?
 - Would a typical member of the public in possession of all the relevant facts regard the outcome as fair and reasonable?
23. When the other party or resident does not supply all relevant information to a complaint, we may not be able to determine if a recommended resolution to resolve the complaint is fair and reasonable.
24. Once the recommendation is made, it will be communicated to the relevant parties. The parties may accept the Commissioner's recommendations and resolve the complaint. The parties may respond to the Commissioner's recommendations and such response may also lead to a resolution of the complaint.
25. The Commissioner does not have power to direct any government or agency, resident or other party. Recommendations may however lead to either a resolution between the parties and/or improvements in procedures and practices that may prevent the complaint in question from re-occurring.

Resolution

26. The Commissioner will consider a complaint is resolved and/or may close the file when:
- you confirm that you have accepted the other party's offered resolution
 - the other party has offered a resolution which, in our opinion, is fair and reasonable and consistent either with our recommendations or agreed outcomes of conciliation
 - you do not accept a proposed resolution, and we consider that further time and effort in handling the complaint is not warranted
 - the Commissioner had provided a formal Recommendation to the parties
 - you advise us that you no longer wish to pursue the complaint
 - despite our best efforts, you cannot be contacted by us to discuss the complaint.
27. We may also stop handling a complaint if it is fair and reasonable to do so. Examples of this include where:
- we have asked you to give us documents or evidence that we think may be relevant to the complaint by a stated time, and the resident has not done so
 - your behaviour has been unreasonable and detrimental to the objective of reaching a resolution to the complaint.

When we close the file on a complaint we will advise you that the matter will not be considered further, and explain this decision. We will also inform the other party.

Respect

28. We expect that all parties to a complaint will communicate with us and with each other in a professional, comieous and non-threatening manner. We take a serious view of communications that contain offensive, rude, abusive or threatening material. In these cases we may take a number of steps, including:

- requiring the party to communicate only in writing
- editing information that we have received to remove offensive or abusive comments
- not responding to such communications
- stop handling the complaint, or
- reporting issues of concern to a higher level of management or to an external agency or regulator, the police or a law enforcement agency.