

Your ref
Our ref 277342-10
File ref

ARUP

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Dear Ms Abou Abdallah

**Hawkesdale Wind Energy Facility
Planning Permit No. 20060221-A
Audit of Pre-construction Environmental Noise Assessment**

I refer to the request to provide my view on the validity of the audit of the Pre-construction Environmental Noise Assessment of the proposed Hawkesdale Wind Energy Facility (WEF), undertaken in July 2021 under the *Environment Protection Act 1970* (1970 Act) (July 2021 Audit). Specifically, the question is as to whether the audit would have substantially the same findings and recommendations if it were undertaken under the *Environment Protection Act 2017* (2017 Act), if it was based on the same documents and directions as when I undertook the audit in July 2021 under the 1970 Act.

The following is provided in response to this request.

Background

1. I refer to the environmental audit of the pre-construction environmental noise assessment undertaken by Marshall Day Acoustics (MDA) of the proposed Hawkesdale WEF, to be located near Hawkesdale, Victoria. A copy of the July 2021 Audit report, dated 7 July 2021, is attached.
2. The July 2021 Audit was prepared under section 53V of the 1970 Act. Specifically, the auditor was engaged on 10 June 2021, with formal notification of the statutory audit made to EPA (EPA CARMS No 78660-3 issued).
3. Consistent with its own internal quality processes, the July 2021 Audit report was reviewed by EPA for both regulatory and technical content before it is made publicly available. No issues were raised with the audit.
4. The audit was prepared to accompany a planning permit amendment application prepared under S97I of the *Planning and Environment Act 1987* (Vic).
5. The 2017 Act and *Environment Protection Regulations 2021* (Vic) commenced on 1 July 2021, replacing the 1970 Act and its regulations. This change occurred during the period in which the July 2021 Audit was conducted.

6. Part 16.4 of the 2017 Act provides transitional provisions to address environmental audits where an auditor has notified EPA that they have been engaged to conduct an audit under the provisions of the 1970 Act, but the audit has not been completed by 01 July 2021. Specifically, audits can be completed under the 1970 Act and there is no time period for audits that are in progress as of 01 July 2021, and the audit scope can remain as developed under S53V of the 1970 Act (Transition guidance of environmental auditors, EPA Publication 1978, dated June 2021).
7. I have subsequently been requested for my opinion on whether my audit would reach the same conclusions today if I was to conduct an environmental audit under Part 8.3, Division 3 of the 2017 Act, based upon the same documents and directions as applied when I conducted the July 2021 Audit.
8. This request raises a basic issue – the above section of the 2017 Act refers to a statutory audit (similar to the S53V audit conducted under the 1970 Act). However, the Environment Protection Regulations 2021 (Vic) as amended 01 August 2021 do not include a requirement to undertake an equivalent regulatory audit of a pre-construction noise assessment, although requires an “environmental auditor review” of Post-Construction Noise Assessment (Reg 131D) and Noise Management Plan (Reg 131E). Recent discussions with EPA indicate that they would term these audits as non-regulatory verification audits.
9. The EPA has not issued any guidance on WEF verification audits to be conducted under the 2017 Act, as a verification audit does not need to be notified or submitted to EPA. I am informed by EPA that if guidance were to be provided, they would expect the process to be largely the same as that conducted within an audit as previously defined under the old guidelines (Wind Energy Facility Noise Auditor Guidelines - EPA Publication 1692).
10. The DELWP has issued a guideline (New Regulations for wind farm noise, July 2021), to support the guideline Development of Wind Farm Facilities in Victoria – Policy and Planning Guidelines (DELWP Guidelines), that states in part “... the requirement to conduct a pre-construction (predictive) noise assessment to demonstrate that the facility can comply with the New Zealand Standard.” It is understood that Clause 52.32-4 of the Victorian Planning Provisions and the Moyne Planning Scheme, upon which the DELWP Guidelines are based, was amended on 03 August 2021 and does require an environmental audit report of the pre-construction (predictive) noise assessment report prepared under Part 8.3, Division 3 of the 2017 Act by an environmental auditor appointed under Part 8.3, Division 1 of the 2017 Act to accompany a new application. I understand that this apparent misalignment between DELWP and EPA has yet to be resolved.

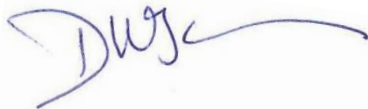
Conclusions

11. An environmental audit conducted by me under Part 8.3, Division 3 of the 2017 Act today, based upon the same documents and instructions as the July 2021 Audit, would involve substantially the same objectives as the July 2021 Audit. Specifically, it would assess compliance of the Pre-construction Noise Assessment undertaken by MDA with the New Zealand Standard NZS 6808-2010 Acoustics - Wind Farm Noise (Standard), including that:
 - (a) The assessment has been conducted in accordance with the Standard
 - (b) The predicted noise impacts comply with the limits set in the Standard.

These objectives are the same as the noise standards required by Condition 42 of Planning Permit No 20060221-A.

12. In lieu of any EPA guidance on conduct of verification audits under the 2017 Act, and consistent with preliminary EPA advice provided above (9), I would expect the audit methodology under the 2017 Act to be largely consistent with Section 2.4.1 of Wind Energy Facility Noise Auditor Guidelines (EPA Publication 1692) used previously for the July 2021 Audit.
13. The form of the audit report would need to be amended if conducted under the 2017 Act, allowing for the new terminology and reference to relevant new sections of the Act and associated regulations and/or guidelines introduced under the 2017 Act.
14. Accordingly, I confirm that if I was to conduct a new audit today under the 2017 Act briefed with the same documents and directions as for when I conducted the July 2021 Audit, I would reach substantially the same findings and recommendations as I reached in the July 2021 Audit. However, note that one of the recommendations is for development of a Noise Management Plan (NMP) for the operational phase of the WEF, given that Planning Permit 200060221-A does not require a NMP - this recommendation is now redundant with the introduction of the Environment Protection Regulations 2021 (Vic) as amended 01 August 2021, specifically Reg 131E that provides for a Noise Management Plan, effective from 01 January 2022.
15. Please contact me if you have any queries in relation to the above matters or require any further information.

Yours Sincerely



David Spink
Director
Environmental Strategies Pty Ltd
EPA Appointed Environmental Auditor (2017 Act)



Dr Kym Burgemeister
Principal
Arup Pty Ltd

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