

Wind Farm Living Submission - Wind Farm Lease activities: Complaints Procedures

A wind companies takes out a commercial lease to set up a wind power generating plant on a host farmer's land.

It is a landlord tenant arrangement in a wind farm industry that is largely unregulated.

The nature of this wind facility on agricultural land will inevitably result in damage and harm to neighbours. Unless the host farmer can contain the nuisance or damage within the title boundary, the host farmer will be partly/largely responsible for the nuisance or damages emanating from the business operating on their land.

A lease arrangement does not necessarily absolve the host farmer from responsibility of private nuisance if the lease results in damage or loss of enjoyment of the neighbouring land holder. It will be up to the neighbour and host farmer's solicitors and insurers to decipher the degree of responsibility.

Any indemnities provided by the wind company to the host farmer is only as secure as the wind company's financial security. And, as it is the general business practice for wind companies to develop the facility and on-sell the lease many times over, the host farmer cannot guarantee that they won't be left "holding the bag".

The Local Government Act 2020. *Division 1. 8(1)*, requires that Moyne Shire provides good governance for the benefits and wellbeing of the municipal community. Moyne Shire therefore is required to govern any complaints and / or adverse impacts incurred to neighbours by a host farmer's lease enterprise.

A system requiring the complainant to contact the wind company first, does not work in practice.

For example, the company complaints phone numbers are not helpful.

Try ringing the company's complaint numbers below:

Mortlake South	Acciona Energy	1800 283 550
Macarthur	AGL	1800 039 600
Dundonnell / Salt Creek	Tilt Renewables	1800 306 118
Mortons Lane	CGN Wind Energy	1800 667 867
Codrington/Yambuk	Pacific Hydro	02 9037 7299

The Complaints Form (see attached)

The initial complaint form should be generic (see 1. attached) for all parties responsible to action the complaint , such as:

- Moyne Shire
- Host Land Owner
- Third Party Lessee - Permit Holder or Service Provider. (Wind Company, Quarry, Gas Plant, Electrical Sub-Station)
- Environmental Protection Authority (EPA)
- Department of Environment, Land Water and Planning (DELWP)
- Department of Agriculture (Biosecurity)
- Country Fire Authority (CFA)
- WorkSafe Victoria
- Others

Complaint Types

1. Impact to Neighbours' Agricultural Businesses.

Moyne Shire farmers are astute business people, innovative and enterprising and sensitive to the need for a sustainable and renewable agricultural industry. The farms are productive, well managed and profitable. The agricultural land throughout Moyne Shire is some of the best in the country.

Wind companies are owned by business corporations with shareholders to service. The very nature of the industrial power generating plants, with their fast spinning propellers operating 24 hours a day, conflicts with the ambience of the agricultural industry.

Restrictions imposed on neighbouring farmers by these industrial business leases will significantly impact on the farmer's operations, and economic development. Detrimental effects including loss of prime agricultural land, decrease in animal productivity, access road implications, increased traffic, impacts on pasture, water run-off, and visual impact in general are of great concern to farmers.

The 1.5km exclusion (no-go) zone to be inserted on titles would severely impact the agricultural and economic development of the adjoining farmer's agri-business, and any such covenant would be open to legal challenge.

2. Biosecurity

Farmers understand the implications of biosecurity and biosecurity breaches.

Wind farm employees and contractors travelling between various properties to attend the turbines, increase the risk of pests and disease transfer.

The Moyne Shire Council will need to ensure that host farmer keeps comprehensive records of all movements into and out of the wind turbine areas to ensure that in the event of a biosecurity outbreak, appropriate action can be taken.

Host Farmers may be liable for any breaches of biosecurity laws, so all complaints received by the Moyne Shire must be kept on record for future tracing and potential prosecutions.

3. Fire Risk

It is up to the permit holder and host land owner to ensure that the CFA Guidelines for renewable Energy Installations are fully implemented.

<https://www.cfa.vic.gov.au/documents/20143/0/210303-CFA-Renewable-Energy-Guidelines-2021.pdf/65a98fb2-fe56-1726-8f59-a4bd929e238c?t=1618273239968>

The main causes of fire ignition in wind turbines are lightning strike, electrical malfunction, mechanical malfunction, and poor maintenance. Due to the many flammable materials used in a wind turbine, such as fiberglass reinforced polymers, foam insulation, cables and large volumes of stored oil used for the lubrication of mechanical components, the combustible fuel load of turbines is huge.

If the fire retardant mechanism fails, then the turbine will explode like a "fire cracker".

As wind company owners are often absentee off-shore consortiums, the host farmer may be responsible for the fire safety controls. For example, during the 2018 St Patrick's Day Fires; with extreme heat and wind, AGL deliberately left the Macarthur wind turbine blades spinning throughout the entire fire, exposing the area to significant danger.



Blades continue to spin at the Macarthur Wind Farm, throughout the St Patrick's Day Fires, 17th March 2018.

Photo by local farmer.

4. Noise Nuisance and Sleep Disturbance – from business enterprises.

It is well documented that most complaints against wind farms are due to sleep disturbance.

If the company is insolvent or uncontactable (like an off-shore shell company), it will be up to the host farmer to contain the noise nuisance within the boundaries of his/her property. It will also be up to the host farmer to prove that the wind farm is compliant, or potentially face civil action for the harm, distress or illness caused by noise nuisance.

Victims of noise nuisance describe the noise as being a very distinctive a “pulsating amplitude modulation” that penetrates the senses. The loss of sleep leads to chronic illness. Some people are hospitalised as a result.

At the Ryan Corner information session, Marshall Day Acoustics (MDA) explained that the reason for the complaints is due to the wind turbines producing noise above the background level of the rural countryside.

MDA admitted that although they claim they will be compliant under the NZS 6808-2010 LA90(10min), they will still produce noise nuisance that will impact people’s ability to sleep. They bought up their scatter graphs which showed noises levels at least two or three times above the usual background level of the Ryan Corner dwellings. They stated that although the current night levels measure between 15 – 20dB, the permit allows them to push out noises well above the 40dB average, and still be compliant under the permit.

MDA’s noise monitor demonstrated that 40dB LA90(10min) is like sleeping on the side of the road in Gipps Street, Port Fairy around 6.00pm on a busy-ish traffic night. This same level of noise on a rural lot at 2.00am in the morning is unnatural and loud and will prevent a peaceful rural night’s sleep.

MDA have no qualms complying with a NZS that allows turbines to produce noise levels well above the current night noise levels experienced by the Ryan Corner residents.

AGL explain that they have been dealing with noise complaints at Macarthur wind farm for 10 years, however when questioned “why they don’t turn the turbines off at night”, they stated that this would not happen because it would impact their profit. AGL puts profit before the health and wellbeing of the victims who continue to endure the noise nuisance of their turbines.

It is well documented that turbine propeller noise causes sleep disturbance.

- The victims will experience significant audible (and inaudible) wind turbine noise at night, which will potentially cause them great distress and even chronic health problems.
- Some victims will be so distressed through lack of sleep that they will be forced to move to another location to sleep.
- Some victims will be forced to sell up (if they can) and move their families away. (Eg. Vacant/derelict houses along Kangerton Road b/w Hawkesdale and Macarthur)

5. Inaudible Pulsating Waves.

The Cooper Hypothesis for Sleep Disturbance cause by Wind Turbines, (see 2. attached) outlines how people experience sleep disturbance and develop chronic health problems by inaudible pulsating waves. Cooper has demonstrated, through many years of research, that during the 30-45 minutes that it takes for the turbine blades to adjust to the changing atmospheric pressure and direction of the wind, the air turbulence created generates inaudible pulsation waves that travel through a house.

These inaudible pulsating waves are picked up by the sound receptors in the inner ear and confuse the brain into registering sound when no sound is present. It is well documented that over time people become highly sensitised to these vibrations and develop serious chronic illnesses.

6. Shadow Flicker

Shadow Flicker is a debilitating nuisance, and effects the neighbour’s enjoyment of life. The fact that there is a shadow flicker complaint matter before the court against the Salt Creek wind farm, highlights the failure of the current Moyne Shire complaints procedure system and the urgent need for a more streamlined approach.

7. Property Values

Because many neighbouring land owners have received significant pay-outs from wind farm companies, valuations by the Valuer-General do not necessarily reflect the reality of the property devaluation experienced by neighbours.

If the wind company doesn't pay a neighbour out, the land owners may be stuck with an un-sellable property, that they are unable to occupy because of sleep disturbance.

The potentially financially disastrous decommissioning clause will also be a deterrent for future land buyers.

Towns surrounded by wind farms will die off. For example a google search shows Mortlake houses have languished on the market for many months, whilst properties in Lismore are snapped up in days.

Both the host landowner and the Moyne Shire may be subject to civil action if the wind farm lease impacts on the neighbour's property value.

8. Permit Clauses and Lease Agreements

The permit outlines how the wind farm is to operate over the 25 years, and the lease is a business agreement that makes the permit easy to sell. It also seems that a company can be insolvent and continue to operate and/or sell the lease as they wish.

It is the requirement of the Responsible Authority to oversee permit compliance, but there is no requirement for the permit holder to be a reputable solvent company. Corporates are enticed by the lucrative REC subsidies and will always operate their wind facilities to ensure they show maximum profit, in order to attract the best price when selling to the eager off-shore buyers.

This monopoly board business model leaves the host farmer and Moyne Shire vulnerable to the possibility of dealing with an off-shore shell company operating a non-compliant permit.

For example, decommissioning is a major concern. If a company is no longer in business or contactable, then the liability for the decommissioning falls back on the host land owner.

The Clean Energy Commission states that "*The Australian wind farm industry takes decommissioning very seriously. No wind farm owner has ever abandoned a wind farm in Australia and the industry does not intend to ever allow this to happen.*"

<https://www.cleanenergycouncil.org.au/advocacy-initiatives/community-engagement/decommissioning>

If the turbines are not decommissioned as per the intention of the Clean Energy Council, neighbours may sue the host farmer and/or the Shire for permit non-compliance, nuisance, and loss of visual amenity. It follows therefore that the Moyne Shire may need to sue the host farmer to action the decommissioning. If the host farmer goes broke covering the decommissioning costs, the Shire may be left with the bill.

This obvious financial risk created by the decommissioning clause must be of great concern to both the host farmer and the Moyne Shire Council.

The Macarthur wind farm permit decommissioning clause:

DECOMMISSIONING

51. The wind energy facility operator must, without delay, notify the responsible authority in writing as soon as all of the wind turbines have permanently ceased to generate electricity. Within 12 months of this date, the wind energy facility operator, or in the absence of the operator, the owner of the land in which the relevant turbine is located must undertake the following to the satisfaction of the responsible authority:

- a) Remove all above ground non-operational equipment;
- b) Remove and clean up any residual spills;
- c) Clean up and restore all storage, construction and other areas associated with the use, development and decommissioning of the wind energy facility;
- d) Restore all access tracks and other areas affected by the project closure or decommissioning, if not otherwise useful to the on-going management of the land;

9. Industrial Safety Laws

As the Responsible Authority managing permit compliance, the Moyne Shire Council must ensure the wind power generating plant does not pose a risk to the public. Any breach of industrial safety laws will need to be quickly addressed and rectified to ensure that public safety is maintained.

A lease does not abdicate host farmers of their duty of care to the public.

Wind companies and host farmers are subject to the following OH&S requirements with regard to public safety.

- General Duties relating to Health and Safety: Part 3: S 20 – 24 of the *OHS Act 2004*
- Plant: Part 3.5 - S 74 – 75 of the *OH&S Regulations Act 2017*
- Plant: Part 3.5 – S 97 – 98 of the *OH&S Regulations Act 2017*

A recent letter to Work Safe Victoria (see 3. attached), outlines the power generating plant industry public risk mitigation strategies that wind companies must implement in order to comply with current OH&S laws and regulations.



AGL – Gate 14 Gerrigerrup Rd. Macarthur Wind Farm.
Unsecured wind power plant site – exposing the public to great risk.



Acciona's diesel fuel bowser set up on a road in Kolora, to service the Mortlake wind farm construction works during the fire danger months of Jan-Feb 2021.

10. Blade Accidents

The problem of blade throw and blade fragment throw is real.

Any unsecured wind power generating plant facility operating dangerously close to public spaces, places the public at risk, and must be reported immediately.

Prosecution may arise for negligence causing death or harm due to turbine blade/fragment throw, if the wind farm facility was unsecured with no suitable protection to the public and/or the turbine was located too close to public roads and/or adjoining properties at the time of the incident.



Dundonnell Wind Farm – 5th October 2020
<https://reneweconomy.com.au/dundonnell-wind-farm-stops-production-after-blade-falls-off-turbine-15865/>



Blade throw across a South Yorkshire walking path.
17 March 2021
<https://stophesethings.com/2021/04/14/death-dodgers-on-how-to-avoid-being-impaled-by-flying-wind-turbine-blade-chunks/>

Western District Brolgas

It is of World importance that our critically endangered Brolgas are fully protected.

Publicly documented DNA research evidence now shows that the Western District Brolgas are the only genetically pure species of Brolgas left in the world.

It is the responsibility of all duty holders at all levels of Government to implement planning laws to protect the Brolgas.

For example, in the norther areas of the shire brolga numbers are falling due to wind farm operations.

The AGL 2013 Brolga utilisation report 2 December 2014 (see 4. attached) outlines the displacement of Brolgas within the vicinity of the Macarthur Wind Farm, and includes generation data provided by AEMO, and observation reports provided by AGL

It shows that it appears Brolgas will attempt to feed or build nests if the turbines are generating below 30%, and they leave the site, even abandoning nests when generation exceeds 30%.

It also appears that their tolerance to disturbance by the turbine noise diminishes over time, and they eventually give up trying to live within 5km of the turbines.

This diminished tolerance to the noise was also documented in a study of cranes near 10 wind farms in Texas.

Brolgas are affected by wind farms – and all evidence shows that they just leave the area from what appears to be noise disturbance.

Every wind farm in the Moyne Shire has displaced Brolga for 5km from turbines and need and as the Responsible Authority for permit compliance, **all complaints on Brolga deaths and dislocation need to be fully investigated.**

Willatook Wind Farm Site Constraints Map – outlining the 5km buffer required for Brolga survival.

