

The Chair of the Independent Planning Commission
Suite 15.02, Level 15,
135 King Street,
SYDNEY NSW 2000

By email: ipcn@ipcn.nsw.gov.au

4th February 2024

Attention: *Ms Mary O’Kane AC*

Hills of Gold Wind Farm (SSD-9679) – IPCN Hearing – 1 February 2024

Dear Ms O’Kane,

I addressed the IPCN Hearing at 1pm on Thursday 1st February 2024 via ZOOM and I respectfully asked Commissioner Clare Sykes, Chair, to stand down from the committee on the basis of my apprehension of bias. I read out the following:

High Court of Australia - Charisteas v Charisteas [2021] HCA 29 - Apprehended bias

“The apprehension of bias principle is that “a judge is disqualified if a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial mind to the resolution of the question the judge is required to decide”. The principle gives effect to the requirement that justice should both be done and be seen to be done, reflecting a requirement fundamental to the common law system of adversarial trial – that it is conducted by an independent and impartial tribunal. Its application requires two steps: first, “it requires the identification of what it is said might lead a judge ... to decide a case other than on its legal and factual merits”; and, second, there must be articulated a “logical connection” between that matter and the feared departure from the judge deciding the case on its merits. Once those two steps are taken, the reasonableness of the asserted apprehension of bias can then ultimately be assessed.”

Further, at common law and under the Administrative Decisions (Judicial Review) Act, the test for the Bias Rule extends beyond whether there is actual bias to whether there is an appearance of bias. An appearance or apprehension of bias may occur if, in the circumstances, **a fair-minded lay observer may reasonably apprehend that the decision maker may not bring an impartial mind to their decision**. This represents the principles that justice must not only be done but must be *seen* to be done, and that a decision-making process must be fair and impartial.

My apprehension of bias is based on the following:

IPC Website information regarding Commissioner Clare Sykes.

“Clare is the founding principal of a strategy and advisory consultancy specialising in resources and future energy value chains. Clare’s career has included leading complex multi stakeholder initiatives including resource sector technology and decarbonisation roadmaps,”

At this point I was asked to cease any further discussion about ‘personal allegations’ I was making about Mrs Clare Sykes, who it was commented, ‘that the IPCN had advised there was no conflict of interest.’ and that I should discuss my submission. I commented that I would formally express my apprehension of bias to the Independent Planning Commission.

I then addressed the Committee and stated while we care about heritage of buildings that are less than 200 years old, we should also care about and be responsible for the environmental heritage of our biodiversity which is tens of thousands if not hundreds of thousands of years old.

Below is the further information that I was to present to the Mrs Sykes about my apprehension of bias. Continuing the IPC website information regarding Commissioner Clare Sykes:

‘industry regional cluster and international market development, and mission-based innovation programs.

Clare serves on the **Advisory Board of the Newcastle Institute of Energy and Resources (NIER)** and is Chair of Resources NSW, an initiative of the NSW Energy and Resources Knowledge Hub.

Clare was appointed a member of the Independent Planning Commission in July 2022”.

From the **Newcastle Institute for Energy and Resources Annual Report 2022-2023**

Page 8

NIER Advisory Board – Mrs Clare Sykes

“The Advisory Board comprises members with a diverse array of knowledge and experience across the industry sectors of energy, resources, food and water, as well as the tertiary education and research realms. The Board contribute to strategic NIER activities and initiatives by identifying opportunity pathways for building capacity, focusing priorities to support our regional industries and communities, and ensuring alignment with the University’s overarching Strategic Plan and Engagement Priorities.

“NIER enables and facilitates multi-stakeholder networked collaborations. These partnerships help to ensure that world-class research outcomes are directly matched with industry needs and create tangible commercial outcomes and opportunities.” - Mrs Clare Sykes, Managing Director, Larkin Sykes

Page 15

CENTRAL-WEST ORANA

RENEWABLE ENERGY – The generation, transmission, and storage of replacement energy sources is critical to delivering NetZero by 2050 and the Central-West and Orana REZ will be key in replacing the state’s coal powered electricity generation over the next 15 years. The region is suitable for a variety of renewable energy projects including wind, solar, bioenergy and pumped hydro.”

Confirming my apprehension of basis is because, as a fair minded lay observer, the fact that Mrs Sykes is on the Advisory Board of the Newcastle Institute for Energy and Resources, contributed a statement to the NIER Annual Report 2022-2023, which on page 15 of that report endorsed ‘Renewable Energy’, and stated that the region which is in the proximity of the Hills of Gold Wind Farm, the approval of which is being considered by the panel of which is chaired by Mrs Clare Sykes, “is suitable for a variety of renewable energy projects including wind,”

I have no animosity towards Mrs Clare Sykes, who I do not know personally, however my apprehension of Mrs Clare Sykes bias is based on the information freely available on the IPC website and from the Newcastle Institute for Energy and Resources Annual Report 2022-2023.

I respectfully request that you ask Mrs Clare Sykes to relieve herself of any further consideration in making a determination to either conditionally approve or refuse the development.

Yours sincerely,

Bill Stinson

██████████
████████████████████
██████████
██████████