

# **HUMAN RIGHTS**

## **AND**

# **WIND ENERGY PROJECTS**

This document is a review of the possible breaches by wind energy projects of various of the human rights of people living in the vicinity of a wind project. It identifies and considers a number of potential breaches of varying impact and of differing ease or difficulty of establishing. In this context the rights to health, safe working conditions and property may be the simplest to establish whether breaches have or have not occurred.

Readers of this document need to understand that it is not in any way a legal argument and that whilst all reasonable steps have been taken in its construction the author makes no representation that the information is complete nor that the analysis and conclusions are correct.

Those interested in the subject should obtain their own advice before proceeding with a formal complaint.

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March 2016

## HUMAN RIGHTS AND WIND ENERGY PROJECTS

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# Human Rights and Wind Energy Projects

## A. Summary

Industry spin and uncritical but determined admirers of wind energy have encouraged the political and public view of the wind industry as beyond criticism and critical analysis. In contrast people living in the vicinity of Wind Energy Projects (WEPs) have been suffering both mentally and physically since turbines have appeared in their previously quiet, peaceful and healthy environments.

Some high quality work by US scientists<sup>i</sup> in the 1980s uncovered a wind turbine sound profile (signature) that included infrasound and low frequency sound (ILFN). This signature was unlike that of any other source of sound. ILFN at very low and specific frequencies was identified as the cause of health problems in humans. The industry and their favoured acousticians “forgot” this work; but recent field work<sup>ii</sup> in Australia has confirmed the unique sound profile and the cause and effect. Advances in instrumentation are allowing more work to be undertaken in victims’ homes by privately funded acousticians independent of the wind industry.

Characteristically the victims have no funds to seek legal relief or advice but that may become easier as the findings are repeated. Meanwhile the victims continue to endure what they claim are intolerable bodily impacts with their personal sensitivity increasing with time<sup>iii</sup>.

Whilst the industry currently feels secure against court action, it has occurred to some that the industry and government regulatory authorities are quite possibly causing major breaches of certain of the victims’ human rights; and that this is an avenue that should, and can, be diligently pursued with a minimum outlay of scarce funds.

Matching of the proven impacts with defined and accepted human rights is the purpose of this document.

Matching shows that rights involving:

- Cruel, Inhuman and Degrading Treatment
- Discrimination
- Arbitrary Interference
- Working Conditions
- Family
- Children
- Physical and Mental Health
- Homes and Other Assets

are seemingly being both ignored, and breached.

It is not necessary that every one of the above identified rights is breached. One alleged breach against one person at one wind project is enough to trigger the obligations of the Human Rights Commission.

## B. Introduction

The Clean Energy Council website states that: *“Australia had 1866 wind turbines spread across 71 wind farms at the end of 2014. Three wind farms with a combined power generation capacity of 566.7 megawatts (MW) were completed in 2014 and a further five wind farms remained in progress early in 2015 and are expected to be completed in 2015”*.

Individual turbine size (rated capacity) ranges from less than 1MW to about 3.3MW.

Changes to the Renewable Energy Target will require additional renewable energy capacity to be built, most of which can be expected to be wind derived.

There are a variety of problems with wind energy that are unlikely to be rectified soon. This document is concerned solely with the physiological and psychological impact on families and farm workers living within 10km of a WEP.

The purpose of WEPs is to produce power from a sustainable source without producing carbon dioxide. It may or may not be that the planet is facing disastrous global warming; it may or not be that carbon dioxide produced from fossil fuels is a, or perhaps the, major cause. Many believe (but may not actually know) the answers to the above options are in the affirmative. Political parties and members of State and Federal parliaments have, with some exceptions, accepted the affirmative view. The Commonwealth, through the Renewable Energy Act, has directed that power consumers pay large subsidies for renewable energy in order for wind energy and some other renewable energies to become viable. Thus the wind industry operates with a guaranteed profit at a level which is very attractive to some investors who increasingly are foreign.

The wind industry's interest is to protect and enhance its cash flows. Capitalism has a poor record if its product or service is damaging to the public and the environment. In these circumstances it commonly does not seek to change its product but to defend its continuation. Unfortunately this reaction includes tactics of denial and dissembling, refusing to undertake sufficient research on its own products, delaying research by others and attacking those who see problems with the product and are prepared to say so. An expensive campaign of denial and spin is progressively developed and practised.

Those convinced of the need to reduce carbon dioxide emissions see wind energy as a win-win solution (both sustainable and reducing carbon dioxide). However, in the matter of its more carefully defined purpose, that being the net reduction of carbon dioxide per unit of power produced, it is a failure.<sup>iv</sup> This is mentioned here so that readers may realise that wind energy is not the saviour first thought, and that there is no question of “wind power or we perish”.

However this document does not make the argument about wind being not fit for purpose. Others have done and continue doing that. The purpose here is to consider whether proven impacts on residents constitute transgression of their human rights.

The following facts relating to the generation of power from wind are drawn from published research and unpublished field work, much of which is available on websites such as the Waubra Foundation, National Wind Watch, etc. website. These are discovered and researched facts, not unfounded assertions nor the output of “post modern” science.

Matching of these facts with defined and accepted human rights is the purpose of this document.

### **C. The Relevant Facts**

An understanding of the nature of the sound pressure waves<sup>v</sup> emitted by turbines and the impacts of that energy upon neighbours is essential to any assessment of the possible breaching of human rights. Facts vital to this evaluation follow.

- Wind turbines produce sound (airborne pressure waves) across the infrasound, low frequency and audible ranges.
- Sound in the very low frequency spectrum (0.1 hertz to 20 hertz) characterised as infrasound, as well as excessive low frequency noise (20 to 200 Hz) causes serious physiological and psychological impacts on some or all of the residents in a significant number of houses up to at least 10 km from the nearest turbine.
- Residents do not become accustomed to these pressure waves, but become sensitised, so that the impact becomes increasingly damaging with ongoing exposure. (See Endnote ii)
- A major impact of these sound waves is chronic sleep deprivation<sup>vi</sup> often associated with waking suddenly and regularly in a panicked state; but other primary or secondary health problems such as tinnitus, vertigo and balance problems, tachycardia, nausea, migraine, exacerbation of chronic medical conditions such as heart disease, and concentration problems, as well as physiological and psychological stress are also common. (See Endnote ii) Chronic sleep deprivation is classified by the World Health Organisation as a contributor to disease<sup>vii</sup>.
- Many residents find their formerly peaceful homes are rendered sonically toxic and ultimately uninhabitable and, on full disclosure to possibly interested buyers, unsaleable.
- Young children are unable to understand or express their discomfort, which is often extreme, old people are unable to move for various reasons including financial; and all ages suffer declining health and cognitive power and are increasingly at risk in operating farm machinery, fixed machines and even cars and trucks.

### **D. Has the Wind Industry Proven Its Machines Are Safe?**

The information to support the above facts is readily available and mounting. Whilst the wind industry and its variously motivated supporters deny any evidence exists, and discredit the motives and background of the whistleblowers, the industry has never been inclined or required to prove that their ever larger turbines are safe, or to prove another source that has any scientific credibility for the health impacts that arise around wind turbine installations.

## E. Level of Disturbance

The number of currently adversely impacted households or individuals in Australia from wind power sound and vibration is unknown. However three population impact surveys conducted by community researchers confirm suspicions that those who have contacted the Waubra Foundation directly are the “tip of the iceberg” of those who actually suffer sleep disturbance. The community surveys comprise: NSW (Schneider, Cullerin Range, 2012 and repeated 2013<sup>viii</sup>); Victoria (Schafer, Macarthur in 2013<sup>ix</sup> after only eight months operation) and South Australia (Morris, Waterloo 2012<sup>x</sup>, - the only Australian data included in the NHMRC Commissioned Adelaide University Literature Review in 2014).

University of Adelaide Masters student Frank Wang<sup>xi</sup> documented in 2011 that 50% of those households who responded at Waterloo reported moderate to severe impacts in his population survey of all households out to 5km, with 38% reporting sleep disturbance and headaches. Those surveys are all available on the Waubra Foundation website<sup>xii</sup>.

It is clear from all the first hand reports provided to the Waubra Foundation by impacted individuals, in Senate inquiry submissions and as court evidence in witness statements and affidavits, that with cumulative exposure, more people are adversely impacted over time with ongoing exposure, although there are no formal longitudinal studies which have captured this fact, because none have ever been conducted. This is entirely consistent with what is known to occur when people are chronically exposed to excessive noise and suffer chronic and repeated sleep disturbance, and chronic physiological and psychological stress.

There are many houses at numerous wind power developments that have been abandoned either permanently or repeatedly by the owners or bought by the developers with the terms of purchase generally including “gag” clauses that stop residents from speaking publicly and openly about the adverse impacts. The Foundation has confidentially documented knowledge of approximately 40 such homes in multiple locations to a 2012 Senate Inquiry chaired by Senator Doug Cameron, and knows of others who have left their homes since that time. The information remains confidential at the request of the residents.

All the victims are country residents often in households that include children and often the elderly. Developers do not place their machines in metropolitan environments or in near city or town settlements. This is clearly discriminatory in that depending where one lives, a particular group is vulnerable and has not the organising, financial, or political power of an urban group to turn developers away.

The intensity of the impact on an individual of a neighbouring residence depends upon the:

- power output of the turbines (in turn being functions of size and wind speed) and, to a second degree, the make of the turbines;
- distance from the nearest turbine or groups thereof;
- turbine spacing;
- quantity of turbulent air flowing from one turbine to adjacent turbines;
- topography and atmospheric conditions;
- location elevation of the home with respect to the nacelle;
- house construction;
- location of bedroom with respect to the sound source;

- duration of time at home; and
- susceptibility and sensitivity of the person(s) receiving the energy pulses.

## **F. Human Rights Legislation**

In addition to the original Universal Declaration of Human Rights (“UDHR”) Australia is a signatory to eight other international conventions or treaties on human rights.

<https://www.humanrights.gov.au/chart-related-rights-and-articles-human-rights-instruments-human-rights-your-fingertips-human-rights> The UDHR and at least four subsequent conventions contain specific articles and rights that are being ignored and arbitrarily violated by the operations of the wind industry.

The relevant Conventions and Articles are:

- Universal Declaration of Human Rights (UDHR) <http://www.un.org/en/universal-declaration-human-rights/index.html>
- International Covenant on Economic, Social and Cultural Rights (ICESCR) <https://www.humanrights.gov.au/international-covenant-economic-social-and-cultural-rights-human-rights-your-fingertips-human-rights>
- International Covenant on Civil and Political Rights (ICCPR) <https://www.humanrights.gov.au/international-covenant-civil-and-political-rights-human-rights-your-fingertips-human-rights-your>
- Covenant on the Rights of the Child (CRC) <https://www.humanrights.gov.au/convention-rights-child-human-rights-your-fingertips-human-rights-your-fingertips>
- Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT). <https://www.humanrights.gov.au/convention-against-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-human-rights>

## **G. Major Breaches of Human Rights**

Appendices 1 to 5 list the relevant Articles of the Declaration and each Covenant with an analysis or statement as to the specific possible breach.

This analysis indicates that the human rights of residents living within 10km of a WEP appear to be ignored and breached in multiple ways by the wind industry, responsible authorities and politicians. The rights that appear to be breached are of a serious and major magnitude; and the damage is rising in both the number of victims and in its intensity.

### **a) Cruel, Inhuman and Degrading Treatment:**

- No one should be subject to cruel, inhuman and degrading treatment, UDHR Article 5;
- Undertake to prevent acts of cruel, inhuman or degrading treatment, CAT Article 16(i).

**b) Discrimination:**

- All are equal before the law and are entitled without any discrimination to equal protection of the law, UDHR Article 7;
- The law shall prohibit any discrimination on any ground such as ..... property, ICCPR Article 17;
- Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or the law, UDHR Article 8;
- The law shall prohibit any discrimination and guarantee equal and effective protection against discrimination, ICCPR Article 26.

**c) Arbitrary Interference:**

- No one shall be subject to arbitrary interference with family and home: UDHR, Article 12;
- No one shall be arbitrarily deprived of his property, UDHR Article 17;
- No one shall be subjected to arbitrary or unlawful interference with his family (or) home, ICCPR Article 17.

**d) Working Conditions:**

- The right to safe and healthy working conditions, ICESCR Article 7(b);
- The prevention, treatment and control of occupational and other diseases, ICESCR Article 7(b).

**e) Family:**

- The widest possible protection and assistance should be accorded to the family, ICESCR Article 10(1);
- Special measures of protection and assistance should be taken on behalf of all children and young persons, ICESCR, Article 10(2);
- No one shall be subjected to arbitrary or unlawful interference with his family (or) home, ICCPR Article 17.



**f) Children:**

- Special measures of protection and assistance should be taken on behalf of all children and young persons, ICESCR, Article 10(2);
- Undertake to ensure the child such protection and care as is necessary for his or her well-being ..... and to this end shall take all appropriate legislative and administrative measures, CRC, Article 3(2);
- Shall take all ..... measures to protect the child from all forms of physical or mental violence injury or abuse, CRC, Article 19;
- Recognise the right of the child to the enjoyment of the highest attainable standard of health, CRC Article 24;
- No child shall be subjected to ..... cruel, inhuman or degrading treatment CRC Article 37.

**g) Physical and Mental Health:**

- Recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, ICESCR Article 12(1);
- The prevention, treatment and control of ..... occupational and other diseases, ICESCR Article 12(2c).
- States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health..... CRC Article 24 (1)

**h) Homes and Other Assets:**

- No one shall be subjected to arbitrary or unlawful interference with his family (or) home, ICCPR Article 17;
- Nothing in this covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilise fully and freely their natural wealth and resources, ICESCR Article 25.

Appendices 1 to 5 examine covenant by covenant the specific articles noted above and are therefore key to the conclusions reached.

**H. Obligations of Civil Servants**

By ratifying these conventions/treaties Australia has accepted these documents and their definition of specific rights as having “standing” in Australia.

The Australian Human Rights Commission Act charges the Commission with the implementation, oversight and enforcement of the suite of rights encompassed by these conventions.

It is not easy to identify the legal responsibilities of public servants in relation to human rights and infringements by wind turbine projects on local populations. However the Federal Legislation which governs the conduct of federal public servants is relevant, and the Australian Public Service Code of Conduct states the following:

<http://www.apsc.gov.au/working-in-the-aps/your-rights-and-responsibilities-as-an-aps-employee>

*“The principles of good public administration, embodied in the APS Values and Employment Principles, lie at the heart of the democratic process and the confidence the public has in the way public servants exercise authority when meeting government objectives. Good public administration is a protection not only against inefficiency and poor performance, but also against fraud, corruption, inequity, inability to conduct business confidently **and infringement of human rights.**”*

One would think that where a public servant is involved whether it be in the permitting, compliance and continued operation of a wind project that is, or will likely cause human rights infringements on local residents, that they should take every care to avoid such infringement. This should include nighttime shutdown if sleep is being disturbed, rapid and independent investigation of the claimed infringement and, if proven, require the project owner to remove the mechanism of infringement before the project may restart.

To do nothing would infer complicity in the infringement of the victims' human rights. Given the analysis offered above these are no minor infringements.

# Appendix 1

## Universal Declaration of Human Rights (UDHR)

### Article 5.

No one shall be subjected to torture **or to cruel, inhuman or degrading treatment** or punishment.

*Independent acoustical and medical professionals<sup>xiii</sup> are satisfied that victims are exposed to airborne pressure waves (sound) and possibly ground borne pressure waves (vibration) to the point which is, for some victims, unbearable and quite clearly cruel, inhuman and degrading treatment.*

*The fact that the intensity of the treatment varies from person to person is irrelevant. So is the number of victims. Article 5 is clear no one should be subjected to cruel, inhuman or degrading treatment.*

### Article 7.

All are equal before the law and are **entitled without any discrimination to equal protection of the law**. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

*Wind projects are built in windy areas close to power transmission facilities. Generally this involves areas zoned rural with varying rural housing densities. Once a site has been selected there is little chance that locals can influence the site choice.*

*Nor are the locals afforded any protection. First because the relevant authorities naturally believe, or are somehow induced to think, that turbines are a net benefit to the community, and/or those that may be harmed just have to bear the damage; and second, because the noise guidelines are totally inadequate to protect residents<sup>xiv xv & see Endnote ii</sup>. This failure to protect has been drawn to the attention of the industry and politicians<sup>xvi</sup> and their expert advisers for many years but kept in place largely unaltered by willfully ignorant authorities and by misleading statements by the industry or its technically under-informed supporters.*

*The conditions required by wind developers to maximize profits are such that their industrial machinery is placed largely within farming and lifestyle districts (almost totally zoned rural). This site selection criterion ensures that households, families and individuals are perhaps inadvertently, but still casually, and knowingly, impacted. The result is discrimination against a largish group of farming families, rural schools, businesses and those individuals confined in institutions such as nursing homes and prisons.*

### Article 8.

Everyone has the **right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law**.

*There are no effective remedies for currently impacted families or those to be impacted in future. Noise guidelines are totally incompetent at protecting neighbours, so planned turbine layouts constructed to meet known to be incompetent guidelines will hurt residents; this situation will be locked in by compliance (or faux compliance) to these incompetent guidelines<sup>xvii</sup>. Additionally compliance is not tested according to a protocol as no such protocol exists and many “compliant”*

*projects are unlikely to be compliant because of deliberate or sloppy compliance testing<sup>xviii</sup>. So compliance, which should be a test and where necessary a remedy, is not present.*

*Complaints of damage reported to WEP operators are ignored. Complaints referred to so-called responsible authorities and other state bureaucracies are dismissed or ignored. Complaints to politicians are met by “file closer” letters except by a brave few who argue the case but with little power in the end. Senate committees examining health impacts come and go, the NHMRC follows one acoustically ill-informed literature review with another<sup>xix</sup> again inadequately informed on turbine acoustics.*

#### **Article 12.**

No one shall be subjected to **arbitrary interference** with his privacy, family, **home** or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

*As indicated elsewhere, homes are arbitrarily interfered with, being rendered unsafe quite often to the point of being uninhabitable, and values driven down to the point of unsaleable.*

*Again no one, i.e., not one person, should be subject to this arbitrary interference with his or her home.*

#### **Article 17.**

Everyone has the right to own property alone as well as in association with others.

**No one shall be arbitrarily deprived of his property.**

*If a property becomes a place of severe discomfort and pain and thereby unsafe, the resident is arbitrarily deprived of his property (home). Many families have been deprived of homes that have become uninhabitable.*

#### **Source:**

<http://www.un.org/en/universal-declaration-human-rights/>

## **Appendix 2**

### **International Covenant on Economic, Social and Cultural Rights (ICESCR)**

#### **Article 7**

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

**(b) Safe and healthy working conditions;**

*There are multiple farming properties where owners and farm employees have found it impossible to work during certain wind speeds and directions and in certain parts of farming properties. Working on these properties is unsafe and a health hazard.*

#### **Article 10**

The States Parties to the present Covenant recognize that:

1. The **widest possible protection and assistance should be accorded to the family**, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children .....

*There is no attempt to provide any protection and assistance to any family impacted by turbine generated pressure pulses. Quite the reverse, responsible entities ignore the calls for help and assistance.*

2. **Special measures of protection and assistance should be taken on behalf of all children and young persons** without any discrimination for reasons of parentage or other conditions. ....

*This important matter is dealt with in Appendix 4.*

#### **Article 12**

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

*Large numbers of residents that are within 10km of industrial wind projects (and a lesser number beyond that) suffer a very low standard of physical and mental health due to the intrusion of wind turbines in the vicinity of their homes and workplaces.<sup>xx See Endnotes vi), vii) and viii)</sup>*

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

**(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;**

*There are quite substantial impediments derived from adjacent turbines to the healthy development of children.<sup>xxi</sup>*

**(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;**

*Sleep deprivation is a major symptom of people living near turbines and is classified as a disease by the WHO.*

*There is no recognition of this nor attempts by the industry or relevant authorities to prevent, treat or control this problem; rather the opposite by the industry and relevant authorities willfully remaining in denial and promoting more projects that will contribute to the volume and intensity of the harm.*

**(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.**

*For reasons which at best include ignorance of the science of acoustics, medically oriented organisations (with the exception of the Waubra Foundation which is informed in both acoustics and medicine) are in determined and ignorant denial of the problem.<sup>xxii xxiii xxiv</sup> General practitioners in areas where people are impacted are quite slow to identify the problem and to realise that treating the patient is not productive. Some are beginning to recognize that their only useful contribution to caring for the patient is to advise them to live elsewhere.*

## **Article 25**

Nothing in the present Covenant shall be interpreted as impairing the **inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.**

*Natural wealth and resources is not clearly enough defined to be of much use. However if they include families' financial resources, the farmability of their land and the well being of their natural environment, then the right to retain those resources is removed and they have no hope of enjoying and utilising fully and freely those resources.*

### **Source:**

<https://www.humanrights.gov.au/international-covenant-economic-social-and-cultural-rights-human-rights-your-fingertips-human-rights>

## Appendix 3

### International Covenant on Civil and Political Rights (ICCPR)

#### Article 17

1. No one shall be subjected to **arbitrary or unlawful interference with his privacy, family, home** or correspondence, nor to unlawful attacks on his honour and reputation.

*The interference with family and home is a fact. It is arbitrary in that people are subject to interference as others use their own criteria, generally directed at maximising the interferer's profit to site their machines. It is argued elsewhere that the industry interferes with the family and the family home.*

2. Everyone has the right to the protection of the law against such interference or attacks.

*As already argued there is no practical route for victims to access the "protection" of the law.*

#### Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, **the law shall prohibit any discrimination** and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

*As argued elsewhere, discrimination by property type and location is evident.*

#### Source:

<https://www.humanrights.gov.au/international-covenant-civil-and-political-rights-human-rights-your-fingertips-human-rights-your>

## Appendix 4

### Covenant on the Rights of the Child (CRC)

#### Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration.**

*Responsible authorities setting noise guidelines and standards, considering and permitting wind projects, and evaluating them through compliance and complaints and declaring remedial action, clearly have a specific and additional responsibility to consider the impact of these projects on children. Not one of the responsible parties have ever directed or described their actions or intent to do so. Impacts on children are particularly worthy of special consideration as young children are unaware and unable to articulate the common health problems caused by wind projects and particularly the inaudible sensations that are associated with ILFN.<sup>xxv xxvi xxvii xxviii</sup>*

*The directions of this Convention logically make consideration of the child the default minimum acceptable base for considering the appropriate standards for human protection and impacts from a wind project. There is no evidence that this matter has ever been taken into account or even considered. In addition to the general problems of the child in respect of wind projects there a number of cases where impacts are being felt at schools.*

2. States Parties **undertake to ensure the child such protection and care as is necessary for his or her well-being**, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

*This does not happen.* There is no evidence of impacts on children being specifically addressed in Planning applications.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, **particularly in the areas of safety, health**, in the number and suitability of their staff, as well as competent supervision.

*This does not happen.* There is no evidence of impacts on children being specifically addressed in Planning applications.

#### Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home .....



2. *This does not happen.* There is no evidence of impacts on children being specifically addressed in Planning applications.
3. The child has the right to the protection of the law against such interference or attacks.

*This does not happen.*

#### **Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures **to protect the child from all forms of physical or mental violence**, injury or abuse, neglect or negligent treatment, maltreatment or exploitation .....

*This does not happen.*

#### **Article 24**

1. States Parties recognize **the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.** States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

*This does not happen.*

#### **Article 37**

States Parties shall ensure that:

- (a) **No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment .....**

*Children living in proximity to wind projects are subject to cruel, inhuman and degrading treatment.*

#### **Source:**

<https://www.humanrights.gov.au/convention-rights-child-human-rights-your-fingertips-human-rights-your-fingertips>

## Appendix 5

# Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT)

### Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is **intentionally** inflicted on a person for such **purposes** as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

*Torture has a very specific definition in this covenant where the word intentionally is used as it is a qualifier of the purposes of the torture. It is clear that the impacts of wind turbines on neighbours do not qualify as torture. However Article 16(1) below is clear that this Convention does not allow or countenance cruel, inhuman or degrading treatment of individuals.*

**16.1** Each State Party shall undertake to prevent in any territory under its jurisdiction **other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture** as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

*Under any definition the treatment of wind project neighbours is cruel, inhuman and degrading. The treatment originates in State Cabinet policies followed by Planning, Health and Energy Departments and in some cases by State EPAs. Senior officers of these departments and authorities know the facts of damage to WEP neighbours, but proceed anyway, thus demonstrating the actions of consent or acquiescence.*

*In this case it is only necessary to prove cruel, inhuman or degrading treatment and not torture to trigger a transgression of human rights under this convention. The real impact is that it directs that it is so when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Significantly this qualifier may create liability.*

### Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

*The first paragraph of 16.1 (see above) makes it clear that the requirements of this Article 2 applies to cruel inhuman and degrading treatment by public officials<sup>1</sup> in this case the impact of wind turbines on neighbours.*

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<sup>1</sup> For these articles cruel inhuman and degrading treatment is substituted for the word 'torture'.

*No such action has been taken, nor does it appear likely and specifically unlikely until the matter is brought to the attention of the Human Rights Commission.*

## **Article 12**

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable grounds to believe that an act of torture<sup>2</sup> has been committed in any territory under its jurisdiction.

*No such action has been taken*

## **Article 13**

Each State Party shall ensure that any individual who alleges he has been subjected to torture<sup>2</sup> in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

*There have been multiple complaints. No competent authorities have been appointed to examine these complaints. Where developers have purchased affected properties “gag” clauses have been required by the developer. No steps have been taken as directed by this article.*

## **Article 14**

1. Each State Party shall ensure in its legal system that the victim of an act of torture<sup>2</sup> obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

*Compensation has been refused by developers and not even considered by relevant authorities.*

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

## **Article 16**

1. Each State Party **shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.**

*Discussed above.*

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<sup>2</sup> For these articles cruel inhuman and degrading treatment is substituted for the word ‘torture’.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

Source:

<https://www.humanrights.gov.au/convention-against-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-human-rights>

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<http://cdn.knightlab.com/libs/timeline/latest/embed/index.html?source=0Ak2bgr7C0nhPdGR3S11EekU3T3p4ZDhUNDdRV2Y2ZkE&font=Bevan-PotanoSans&maptype=toner&lang=en&height=650>

ii <http://waubrafoundation.org.au/resources/acoustic-engineering-investigation-at-cape-bridgewater-wind-facility/>

iii <http://waubrafoundation.org.au/resources/wind-turbine-noise-adverse-health-effects-june-2014/>

iv The referred document is high quality analysis of CO2 savings by wind turbines and the costs thereof. It is presented solely to demonstrate that there is high quality analysis from these matters and if anyone wishes to argue the point made in this document, then it is recommended that they start by reading and understanding the reference. Submission 259 to Federal Senate Inquiry into Wind Farms and Health by Peter Lang:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Wind\\_Turbines/Wind\\_Turbines/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Wind_Turbines/Wind_Turbines/Submissions)

v <http://waubrafoundation.org.au/resources/wind-turbine-noise-simple-statement-facts-australian-experience/>

vi <http://waubrafoundation.org.au/2014/too-little-sleep-causes-lasting-brain-damage/>

vii <http://waubrafoundation.org.au/resources/who-night-noise-guidelines-for-europe/>

viii <http://waubrafoundation.org.au/resources/schneider-p-culler-in-range-wind-farm-survey-follow-up-july-august-2013/>

ix <http://waubrafoundation.org.au/resources/macarthur-wind-energy-facility-preliminary-survey/>

x <http://waubrafoundation.org.au/resources/waterloo-wind-farm-survey-2012/>

xi <http://waubrafoundation.org.au/resources/evaluation-wind-farm-noise-policies-south-australia/>

xii <http://waubrafoundation.org.au/library/community-noise-impact-surveys/>

xiii Independent acoustical and medical professionals' statements:

<http://waubrafoundation.org.au/resources/hallstein-dr-w-ltr-famlouth-zoning-board-appeals/>

<http://waubrafoundation.org.au/resources/dr-sandy-reider-testimony-wind-noise-adverse-health-effects/>

<http://waubrafoundation.org.au/resources/evans-prof-health-effects-wind-turbines-should-be-taken-seriously/>

<http://waubrafoundation.org.au/resources/wind-turbine-amplitude-modulation-planning-control-study-inwg/>

<http://waubrafoundation.org.au/resources/mcmurtry-krogh-diagnostic-criteria-for-adverse-health-effects-environs-wind-turbines/>

<http://waubrafoundation.org.au/resources/basner-dr-mathias-et-al-auditory-and-non-auditory-effects-noise-health/>

<http://waubrafoundation.org.au/resources/alves-pereira-castelo-branco-vad-need-for-new-attitude-towards-noise/>

<http://waubrafoundation.org.au/resources/who-night-noise-guidelines-for-europe/>

<http://waubrafoundation.org.au/resources/swinbanks-m-enhanced-perception-infrasound/>

<http://waubrafoundation.org.au/resources/german-medical-assoc-calls-for-increased-research-health-effects-wind-facilities/>

<http://waubrafoundation.org.au/resources/carlile-prof-s-wind-farm-effect-balance-akin-seasickness/>

<http://waubrafoundation.org.au/resources/stepanovv-health-risk-factors-low-frequency-noise-oscillation-below-20-hz/>

<http://waubrafoundation.org.au/resources/kugler-et-al-royal-society-low-frequency-sound-affects-active-micromechanics-human-inner-ear/>

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- <http://waubrafoundation.org.au/resources/kenny-dr-pamela-wind-turbines-make-people-ill-fact-not-fiction/>
- <http://waubrafoundation.org.au/resources/punch-j-james-r-negative-health-effects-noise-from-industrial-wind-turbines/>
- xiv <http://waubrafoundation.org.au/resources/thorne-r-problems-with-noise-numbers-for-wind-farm-noise-assessment/>
- xv <http://waubrafoundation.org.au/wp-content/uploads/2013/07/W-Les-Huson-submission-to-Senate-Inquiry.pdf>
- xvi <http://waubrafoundation.org.au/resources/waubra-foundation-conversation-with-agl-ltd/>
- xvii <http://waubrafoundation.org.au/resources/mitchell-p-management-sound-emissions-from-wind-turbines/>
- xviii <http://waubrafoundation.org.au/resources/madigan-sen-john-corruption-fraud-power-generation-industry/>
- xix <http://waubrafoundation.org.au/resources/responses-nhmrc-draft-information-paper-systematic-literature-review/>
- xx <http://waubrafoundation.org.au/resources/thorne-r-victorian-wind-farm-review-updated-june-2014/>
- xxi <http://waubrafoundation.org.au/2014/world-sleep-day-time-stop-abuse-children-from-environmental-noise-pollution-2/>
- xxii <https://ama.com.au/media/no-evidence-wind-farms-harm-health-ama>
- xxiii
- <https://www2.health.vic.gov.au/about/publications/policiesandguidelines/Wind%20farms%20sound%20and%20health%20Community%20information>
- xxiv
- <https://www2.health.vic.gov.au/about/publications/policiesandguidelines/Wind%20farms%20sound%20and%20health%20Technical%20information>
- xxv <http://waubrafoundation.org.au/resources/van-kamp-et-al-effects-noise-disturbed-sleep-childrens-health-cognitive-development/>
- xxvi <http://waubrafoundation.org.au/resources/krogh-c-risk-harm-children-correia-may-15-2013/>
- xxvii <http://waubrafoundation.org.au/resources/sadeh-consequences-sleep-loss-or-sleep-disruption-children/>
- xxviii <http://waubrafoundation.org.au/resources/jan-j-e-et-al-long-term-sleep-disturbances-children-cause-neuronal-loss/>