

APPENDIX F:

DEPARTMENT CORRESPONDENCE – REJECTION OF 2015 DA

Mr Ibrahim Eid
Project Manager
EPYC Pty Ltd
Level 5, 44 Miller Street
NORTH SYDNEY NSW 2060

Dear Mr Eid

Jupiter Wind Farm Project (SSD 13_6277)

The Department has reviewed the Environmental Impact Statement (EIS) for the Jupiter Wind Farm Project to determine whether it is suitable for public exhibition, and whether the Department should accept the Development Application (DA) for the project.

During this review, the Department has identified several matters that must be addressed prior to the EIS being placed on public exhibition.

These matters include:

1. Inadequate consultation with affected non-host landowners, particularly in relation to the development of potential mitigation measures to address predicted exceedances of relevant criteria or significant impacts. This is particularly important given the fact that there are 59 non-host residences and 4 approved non-host residences located within 2 kilometres of the project's turbines.
2. Inadequate landscape and visual impact assessment:
 - the assessment does not include a detailed assessment and photomontages of the potential impacts of the project on all of the non-host residences within 2 kilometres of any turbine, as required by the Secretary's Environmental Assessment Requirements, nor some of the critical non-host residences beyond this area where high visual impacts are predicted (particularly the Roseview Road and Lakeview Road areas);
 - there is insufficient consideration of the specific mitigation measures that could be implemented to avoid and / or minimise the high or moderate - high visual impacts of the project: the assessment relies on generic planting measures and there is little evidence of any meaningful consultation with the affected landowners or the consideration of alternative mitigation measures such as the use of negotiated agreements.
3. Flaws in the noise impact assessment:
 - The assessment does not comply with *ISO 9613-2 Acoustics - Attenuation of sound during propagation outdoors - Part 2: General method of calculation*, and uses a modified method that has not been endorsed for use in NSW by the Department or the Environment Protection Authority;

- the assessment uses the IEC 61400-11 standard rather than ISO 1996.2 standard to assess the potential tonality impacts of the project, as required by the draft *NSW Planning Guidelines Wind Farms* (2011);
 - failure to provide the minimum quantity of worst case data points in accordance with the relevant South Australian guidelines, and to justify the low data coefficients (R^2 values); and
 - insufficient consideration of the specific mitigation measures that could be implemented to avoid any exceedances of the relevant noise criteria, including the use of negotiated agreements.
4. Lack of consultation or evidence of agreement with Airservices Australia about the scope of the study for air navigation facilities, and that a detailed study could be deferred to the post approval stage of the project.
 5. Insufficient detail on the proposed 33 kV transmission line to enable its potential impacts to be properly assessed, and no land owner's consent from the relevant road authorities for the lodgement of the DA in areas where the transmission line is located within public road reserves.
 6. Lack of detail on the nature of the agreements with involved landowners, and the extent to which these agreements cover the potential impacts of the project.

Under the *Goulburn Mulwaree Local Environmental Plan* (LEP), the northern portion of the project is prohibited. While Clause 89 of the *Environmental Planning and Assessment Act 1979* allows a consent authority to approve a State Significant Development application that is not wholly prohibited, the EIS contains insufficient consideration of:

- the project against the aims, objectives and other provisions of the LEP, or reasons why the project should be approved notwithstanding the prohibitions in the LEP; and
- the suitability of the site, paying particular attention to the growing rural - residential character of the surrounding area.

For these reasons, the Department has decided to reject the DA under Clause 51 of the *Environmental Planning and Assessment Regulation 2000*.

I would appreciate it if you would revise the EIS to address these issues, and submit the DA and revised EIS to the Department as soon as practicable.

The Department would be happy to meet with you to discuss any of these matters in more detail.

Yours sincerely

 16/10/15

David Kitto
Executive Director
Resource Assessments and Business Systems