

Submission to Coppabella wind farm Modification 2

Thank you for the opportunity to comment on the Coppabella wind farm Modification 2 (SSD-6698-Mod-2).

I would like to raise a major issue about which the Department is fully familiar; that the approval for the Coppabella wind farm lapsed some years ago, and therefore this modification is irrelevant and immaterial.

Some facts:

On January 28, 2015, the then variant of the Department of Planning rejected, in totality, the Yass Valley wind farm, of which Coppabella was one of three precincts.

On March 30, 2016, the project was approved after the Planning Assessment Commission, true to form, recommended a compromise whereby the Coppabella precinct alone was accepted.

At that stage the approval would lapse 5 years from the approval date. ie. March 30, 2021.

The legislation relevant to lapsing of approval at that stage and currently, includes:

4.53 Lapsing of consent (cf previous s 95)

(1) A development consent lapses 5 years after the date from which it operates.

and:

(4) Development consent for:

(a) the erection of a building, or

(b) the subdivision of land, or

(c) the carrying out of a work,

does not lapse if building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under this section.

The current wording in the Act for 4.53(1) also includes additional verbiage covering the rules for eligibility of an extension to the lapse period of two years, due to the supposed impacts of the Covid epidemic.

Coppabella was deemed to have qualified for this extension. The legal lapse date of the approval was therefore March 30, 2023. The Coppabella community strongly and forcefully raised the issue with the Department immediately the lapse date was reached. I have seen two emails on the subject to Nicole Brewer, then the Director, Energy Assessments. (Coincidentally, Ms Brewer is still listed as the Planner for the Coppabella wind farm - strange).

One of Ms Brewer's replies includes:

"The applicant, Coppabella Wind Farm Pty Ltd, has advised the Department that works physically commenced on the Yass Valley Wind Farm (Coppabella) prior to 30 March 2023.

When an applicant has physically commenced a project under the development consent, it means that a consent does not lapse.”

Knowing and respecting Nicole as I do through our involvement in the Jupiter wind farm, it surprises me that Nicole would put her name to something as basic as that.

So, here we are, more or less three years further on, how has construction work progressed? How many turbines are spinning? None.

How many concrete bases have been poured? None.

How many of the multitude of pre-construction responsibilities have been completed? Some.

Has finance been obtained? No, according to the minutes of the last CCC.

You should read again the minutes from, and the presentation to, that last CCC (October 16, 2025). No reasonable person would believe that anything of substance had been done to satisfy the “lapsing of consent” legalities. From Page 2 of the minutes:

“We are currently targeting construction to begin 1st quarter 2026” – and so on.

Also, from the Mod 2 Modification Report and its appendices (November 26, 2025), there are many sentences that would lead any reasonable person to believe that nothing happened 3 years ago to satisfy the “lapsing of consent” legalities and nothing has happened since.

A partial sample:

“Coppabella Wind Farm Pty Ltd (CPWPL) intends to progress the development in the near future”

“Prior to construction, in accordance with Schedule 2 Condition 18, Voluntary Planning Agreements (VPA) with each Council will be in place”

“Goldwind Australia has been contacted by various accommodation providers in the local area in preparation for construction”

“It is currently proposed to construct 69 of the 75 approved wind turbines. The final selection will be confirmed during the detailed design for the project, prior to commencement of construction.”

“The Hume Highway / Whitefields Road intersection will also be upgraded prior to commencement of construction (other than pre-construction minor works)”

and from the photograph at the end, Whitefields Road still looks like a rarely used country lane.

I raised, via email, in October 2018 with then Minister Roberts, examples of four similar instances, including Conroys Gap wind farm and Glen Innes wind farm. A significant paragraph from Page 1 of my submission to the Minister:

“Justice Kunc in the Supreme Court of NSW in 2016, on a matter solely concerned with the lapsing of a project wrote:

58. It was submitted that, jointly and severally, the Relevant Works related to the subject matter of the Consent. The Relevant Works had been “physically commenced” because, applying *Hunter Developments* at [86] (see paragraph [82] below), they involved physical activity on the land to which the Consent applied that involved an appearance of reality and were not merely a sham.”

In my opinion, each of those four decisions by the Department was a sham.

I could not find, in the published documents from Planning or from the Proponent, any supporting evidence of the works supposedly commenced prior to March 30, 2023.

Therefore, in my opinion, until the NSW Department of Planning and Environment provides the basic information in support of Ms Brewer's response to the community, as requested, the Coppabella lapsing decision does not involve an appearance of reality and is therefore, a sham.

It will have to come out sooner or later. Be proactive.

Anthony Gardner