

Why this modification requires a new EIS and needs to be re-decided by the Planning Assessment Commission.

Since the original determination,

- Facts surrounding renewable energy and wind farms have changed, particularly with respect to noise and visual impact.
- The members of the Planning Assessment Commission (PAC) are five years wiser.
- The Capital local community, mostly via research carried out in anticipation of the planned Jupiter wind farm is also five years wiser. So are others.
- Community attitudes have changed

The community has been forbidden from addressing the glaring deficiencies in the original EIS and Assessment for over 5 years.

For each of the previous three modifications, both the Department and the developer insisted that the original decision had been made and could not be revisited and only those changes represented in each of the modifications was open to discussion and review. The PAC has shown slightly more flexibility.

This application essentially raises the issue of whether the original determination was sound. A determination, if taken today, could go either way, especially with a full Lake George and its consequent impact on avi-fauna and further local development surrounding the site. Therefore, every factor must be open to reassessment, but the Department refuses to restart the EIS process, agreeing with Infigen that this modification is just a minor administrative change.

Five years ago, the PAC accepted the arguments put forward by the Department as truly reflecting the benefits and impacts of the project. Those arguments were weak and incomplete.

Infigen in its three page submission supporting Modification 4 has not presented any real arguments as to why the approval should not lapse.

We get the usual fluff.

- The Paris Accord,
- The Federal RET (unfortunately Capital 2 cannot support the NSW renewable energy target because we deliberately don't have one)
- How many houses can be powered by Infigen's portfolio of wind farms when in reality, Infigen cannot tell you how many houses Woodlawn or Capital will power the day after tomorrow.
- distorted economic arguments
- the public interest

Infigen tries to justify the extension request on potential technology improvements and uncertainty.

Other approved wind farms have not had that issue in the last five years.

The real reason is that Infigen has been unable to obtain a Power Purchase Agreement and hence an investor. Why would anyone believe that a five year extension would remedy that deficiency?

Infigen should be given the opportunity to submit a revised EIS, because, to be reassessed on the arguments put forward so far would be unfair to all parties; the PAC, the developer and the community

Local community interest in the dire impacts wind farms have on rural communities has increased exponentially as the Department well knows. As much as we were allowed to, we unsuccessfully raised some issues with the PAC during the meeting addressing Capital 2. Modification 2, including,

- The community contributions for Capital 2 at the equivalent level of \$800 per turbine per annum.
- The deficient avi-fauna studies. Lake George is now lapping its eastern shores under the shadow of Capital 2 turbines. No avi-fauna study anticipated that. We did.
- The lack of a Community Consultative Committee. No CCC exists for Capital 2 despite the deception on Page 3 and the Department knows that.
- Information has been deliberately withheld from the community due to the lack of a CCC and unpublished avifauna studies. Little has been volunteered.

Treating this modification as an “administrative amendment” would add to the growing list of recent decisions and pronouncements by the Department that could be viewed as pro-developer and anti community. eg.

- the revised Jupiter SEARs
- the revised CCC guidelines
- the lack of a Response to Submissions for the latest round of community input for the Rye Park wind farm

and some we can predict eg. the new Wind Energy Framework.

And finally, and most importantly, condition A4 (Limits of Approval) of the Project Approval signed by PAC Commissioners says:

“This project approval shall lapse five years after the date on which it is granted, unless works subject of this approval have commenced before that date.”¹

There are no other options to this explicit PAC approval limitation, certainly not “the Department can extend the approval period on the basis of an administrative amendment”

To me there are only three options:

- the approval lapses in line with the intent of the Project Approval
- Infigen can start **genuine** construction before November 1st
- the PAC, and only the PAC, can temporarily modify its “Limits of Approval” whilst a revised EIS is prepared and evaluated.

Genuine construction is impossible as Infigen has told you it needs up to 5 years to start.

The final option enables the PAC, the Department and the community the opportunity to consider all the facts five years on. ie, a new EIS. Infigen is obviously in no hurry for a decision, so an additional 3 months will have no impact.

¹ The only other “Limit of Approval” was a maximum of 41 turbines in the project. The PAC could have imposed many other physical “limits” eg. turbine height, blade length, but it didn’t. The two “limits” that it did specifically impose indicate that only the PAC can change them.

This request is not a modification to the wind farm as the other three have been; it is an extension of the limits of approval set by the consenting authority.

The LGA in which this wind farm is planned has a clear policy on lapse dates. If construction does not commence, approval lapses. The only alternative is a new application.

We believe the DPE has no power to intervene.

For this and other reasons above, the approval should be allowed to lapse. Infigen knew the conditions of consent but failed to act.

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