Chapter 6. Is the Jupiter wind farm in the "public interest"?

When all else fails in a logical argument, invoke the "public interest" defence.
The Department relies on it heavily in its recently released final version of the Wind Energy Guideline, December 2016, especially the Visual Assessment Bulletin.

In the final version of the Visual Assessment Bulletin, the NSW Land and Environment Court case where "public interest" was introduced in relation to NSW wind farms is cited five (5) times. One instance:

> "For example, in the case of Taralga, the Chief Judge of the Land and Environment Court found that, in that specific case, the public interest in renewable energy outweighed the visual, noise and other adverse impacts of the proposal.

Five citations in the Visual Assessment Bulletin, of all places. (There is no mention of the case in the equivalent Noise Assessment Bulletin. Why not?)

Four months earlier, in the draft version of the same Bulletin called the Visual **Impact** Assessment Bulletin, it was cited **once**. (Note the change of title at the behest of the developers. Wind farms don't produce visual impacts, do they)
Why did the Department feel the need to bolster their already blatantly pro-developer draft VIA Bulletin with four extra citations? Who lobbied them? One day we will find out.
Not surprisingly, Epuron and Epyc relied heavily on this NSW Land and Environment Court case in their submissions to the draft Wind Energy Framework.

A citation was also introduced into the Wind Energy Guideline (main section) whereas the draft had none.

The Department's Resource Assessments division has also fallen for it as well, writing in the Biala Assessment:

> the project is in the wider public interest, particularly as it would:
> – be consistent with the NSW Government's vision for a secure, reliable, affordable and clean energy future for the state;
> – assist in meeting Australia's renewable energy targets as well as future electricity demands without the production of additional greenhouse gases; and
> – facilitate employment for up to 74 personnel during construction and 7 personnel during operations.[1]

What we don't need in NSW are politicians with vision, especially as those in the NSW government must be petrified of following the other states into third world status in a first world country and a dark energy future.

That cited case, of course, is Taralga Landscape Guardians Inc v Minister for Planning and RES Southern Cross Pty Ltd [2007][2]

Taking its lead from the Department, ERM cited the same case four(4) times in the Jupiter EIS.[3] An example from page E13.

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[1] Appendix B, Biala Assessment. December 2016, signed by Mike Young and Nicole Brewer, the Jupiter assessors.
[2] http://www.austlii.edu.au/cgi-bin/sign.cgi/au/cases/nsw/NSWLEC/2007/59
[3] Pages E13, E20, 6.20 and 11.35. EIS Main Report

> "There is a recognised 'broad public interest in the establishment of viable renewable energy sources' which must be balanced against 'the geographically narrower' potential impacts of the Project (as was stated by Chief Justice Preston of the NSW Land and Environment Court in *Taralga Landscape Guardians Inc v Minister for Planning and RES Southern Cross Pty Ltd* [2007]
> NSWLEC 59 (12 February 2007)). In that decision, Chief Justice Preston specifically noted that the public interest in "the adoption of alternative, more environmentally friendly, energy generation sources" outweighed the visual impacts of a wind farm "where there [was] no compelling reason why there should not be some turbines in [that] landscape." Whilst it is acknowledged that the Project will have an impact on visual amenity, this must be balanced against the public interest benefits which accrue from the development of renewable energy projects such as this Project."

The quotations in that example are hard to find and/or in context in the judgement. The closest I can get from the judgement for some of them is:

> "146 This choice arises in a context where there is no compelling reason why there should not be some turbines in this landscape and where there is a significant public interest, in general terms, in adoption of alternative, more environmentally friendly, energy generation sources."

Whilst the ERM summary of the decision is approximate, if it is not a quote from the judgement, it should not be purported as such. If Chief Justice Preston had wanted to say what ERM summarises, he would have done so. (I'm getting sick of saying false and misleading)

This is a merit review of the Taralga wind farm decision and may or may not be relevant to the Jupiter wind farm. Chief Justice Preston, for instance, was reviewing a proposed wind farm with 110 metre turbines (not 173 metres as in the Jupiter variant)

> "355 I indicate that, once the conditions are settled, I will make orders upholding the appeal and granting development consent to Development Application 241/04 to construct and operate 62 wind turbines each consisting of a 65 m tower, nacelle and 3 x 45 m long fibreglass blades"

This decision is 10 years old, and given what has changed in the intervening period, Chief Justice Preston may have made a different decision considering what is known today. After all, his Honour clearly states:

> "3 Resolving this conundrum - the conflict between the geographically narrower concerns of the Guardians and the broader public good of increasing the supply of renewable energy - has not been easy."

Much has changed. The Taralga case is anything but "recent"[4], as ERM would have you believe, given the rapid changes in the understanding of climate science.

- 10 years ago the IPCC had accepted scientific credibility.

- In the last 10 years the 32 models predicting temperature increases as a result of greenhouse gas emissions have been spectacularly wrong.[5]

- The science is no longer settled. The consensus has fragmented.

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[5] U.S. House Committee on Science, Space & Technology, 2 Feb 2016, Testimony of John R. Christy University of Alabama in Huntsville.
http://docs.house.gov/meetings/SY/SY00/20160202/104399/HHRG-114-SY00-Wstate-ChristyJ-20160202.pdf

- There is no agreement that wind farms significantly lower NET greenhouse gas emissions.[6]

- The Global picture, on which Chief Justice Preston partially relied to support a local decision is about to be dramatically altered due to the election of President Trump. Add this to the fact that, under the Paris accords, "effective" from November 4, 2016, China and India, and others, are obliged to do nothing to reduce greenhouse gases. How could that possibly be in the public interest in Australia?

- Al Gore's now discredited "An Inconvenient Truth" had just been released (May 2006) to critical acclaim.

- the emails from the Climate Research Unit at the University of East Anglia had not been released ("Climategate")

- Ten years on, Climate Change is now primarily a political issue rather than a scientific one.

- NSW has more approved wind farms in the pipeline than it will conceivably need to meet whatever target it may or may not have. Why would another one, that may always be last in the queue, be in the public interest?

- No wind farm has been proposed in NSW in the 3 years since the Jupiter request for SEARs. Developers, electricity retailers and financiers don't think wind farms, and the need to increase the supply of wind based renewable energy, are in their interests, let alone the public's.

- Chief Justice Preston may find today that solar farms are more in the public interest rather than wind farms.

- Chief Justice Preston may have difficulty repeating a number of his statements, however valid at the time:

> "It is widely recognised that the state of the global environment is in rapid decline" (para 67)

If anything, the global environment has improved as CO2 levels have increased.

- and astute statements have got more complex:

> "67 Addressing the implications of climate change involves a complex intersection of political, economic and social considerations"

- Whilst the levelised cost of production from wind turbines may be debatably as cheap as that from fossil fueled generators, we customers also have to pay on top of the wholesale price for the RET, over three times higher than in 2006/7, and with RECs currently close to their maximum of 9 cents/KWh. Compare that to the wholesale spot price as I write of 4.6 cents/KWh.

- Chief Justice Preston, given the opportunity today, may find that the public is more interested in a reliable, cheap energy supply and the jobs that come with it. South Australians are. Many certainly are sick of politicians telling them what is good for them.

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[6] https://bravenewclimate.files.wordpress.com/2009/08/peter-lang-wind-power.pdf

- I suspect Chief Justice Preston may be given the opportunity to revisit his judgement in the near future.

This emphasis on the “public interest” by the developers and the Department, especially as a counterbalance to Visual Impact, gives one the impression that both parties know, and have probably discussed, that some wind farms should not have been proposed for the areas that they have been and future supportive Assessments may need to be made with even more help from this nebulous concept. Epyc and the Department both know that the Jupiter proposal creates an unacceptable Visual and Noise Impact on the surrounding community and the developer desperately needs to grasp some hazy and imprecise notion as a fallback. The sad part about the “public interest’ is that it gives the Department the opportunity to ignore sound planning principles in its Assessments. On the other hand, in a merit review of the Jupiter project, Chief Justice Preston may well recognise that the “geographically narrower” impacts are of greater import and the “broader public interest” less so.

Reject the Jupiter DA