

Annex O to the Jupiter EIS relates to the Decommissioning and Rehabilitation Plan. Paragraph 1.2 contains the following text:

“The guidelines require that the proponent/wind farm owner rather than the “host” landowner must retain responsibility for decommissioning. Additionally, the guidelines require applicants to include a Decommissioning and Rehabilitation Plan in their environmental assessment report. Where this is deemed to be inadequate, but the Development Application is granted consent, a condition of consent will be imposed requiring the proponent to pay a decommissioning bond”.

No doubt these statements have been placed into this document to provide comfort to all residents, Hosts, associated and non-associated properties, along with interested environmental groups, that there is an iron-clad responsibility for the proponent, or any subsequent owner to ensure that decommissioning occurs.

This sentiment is repeated numerous times within the document, in particular, paragraphs 3, 4 & 5.

At first glance, it appears that these statements are in accordance with the Department of Planning and Environment doctrine. However, closer inspection reveals:

1. From the excerpt above:

“Where this is deemed to be inadequate, but the Development Application is granted consent, a condition of consent will be imposed requiring the proponent to pay a decommissioning bond”.

The Department of Planning and Environment, in its recommendations to the Crudine Ridge PAC, explicitly said that it had received legal advice that it has no power to impose such a bond. To place such a statement on this document is deceitful and misleading, as there is no legally enforceable obligation for this bond.

2. From the excerpt above:

“The guidelines require that the proponent/wind farm owner rather than the “host” landowner must retain responsibility for decommissioning”

The Secretary of the Department of Planning and Environment has provided advice that does not support this statement in the attached letter from Ms McNally to Dr Crawford. In this letter, Ms McNally explicitly states:

“...Where the company becomes insolvent, the owners of the land may be required to comply with the decommissioning and rehabilitation obligations under the consent. This is because in NSW the development rights and the associated conditions apply to the subject land (rather than to a particular person or corporate identity)”

This admission from the Secretary clearly shows this passage within the EIS to be false and misleading. The responsibility does not reside solely with the proponent or subsequent owner, **as it cannot be guaranteed.**

This apparently strongly worded sentiment, placed numerous times within the document is actually meaningless, as any decommissioning action will eventually depend upon an agreement in good faith and that the proponent or subsequent owner will not transfer the liability to a \$2 company that

cannot fulfil its obligation. The Department of Planning and Environment has already publically declared it has no legal right to demand the bond alluded to in this chapter of the EIS as mitigation.

Does anybody remember an airline called ANSETT?

The Decommissioning and Rehabilitation Plan is not really a plan, it is a hope, and in all probability a forlorn one. A utopian desire that in the fullness of time, the proponent or subsequent owner will not perform the fiscally astute manoeuvre of transferring its assets to a worthless company and then withdrawing support, leaving the land owner to decommission at their expense, or themselves default, leaving the turbines to succumb to the ravages of the environment. This ploy has already occurred in the mining industry – what evidence is there to satisfy one that the wind industry won't follow the same path?

All of a sudden, the “warm and fuzzy” intent of these statements becomes cold and hard, when placed in context with the truth. The truth, something in short supply nestled within a long list of false and misleading statements that appear throughout this EIS, placing it at odds with the legal requirement for it not to be either.

I fail to understand why this section of the EIS has been deemed by the Department of Planning and Environment as being suitable for public exhibition, with these fundamentally and critically flawed statements within the paragraph above, repeated throughout the document. Is there no requirement for this document to be vetted, other than by the public?