Chapter 22 – Revised Jupiter SEARs

Where the Department of Planning issues watered down revised SEARs and the inevitable happens.

The Department was the recipient of commentary from a Jupiter resident on the revised Jupiter SEARs that were issued in March 2016. Sections from that communication are italicized below.

"The Landscape and Visual Impact section of the original DGRS (31 January 2014), required, the EIS must:

> *"provide a comprehensive assessment of the landscape and values and any scenic or significant values . . . This should describe community and stakeholder values of the local and regional visual amenity and quality, and perceptions of the project based on surveys and consultations."*

The reference to community and stakeholder values, and to surveys and consultation has been expunged from the revised SEARS. Nowhere in the VI section of the new SEARs is there any reference to the community or individual members and their values.

Anyone familiar with the original DGRS, seeing the removal of all reference to community values, would reasonably judge that the Department is interested in only the judgement of VI according to the person the proponent employs to claim there will be negligible impact on the community."

As predicted there was no mention in the Jupiter LVIA of community values let alone surveys and consultations. At least in the Biala wind farm LVIA, Cloustons admitted they hadn't done any. Also, as predicted, we received the flawed judgement of an urban landscape architect who, by the way recently had this to say:

From Cloustons peer review of the Collector LVIA in the Consultation section:

> **"This is a critical element in assessing the visual impact - ie direct responses from the individuals and communities potentially most affected by the proposal - and should not simply be used as a means of establishing the relative levels of support for the proposal. The results of that consultation should directly inform and modify the professionally developed criteria used in the assessment."**

Note that they also narrow the consultation audience to **individuals and communities potentially most affected by the proposal.** Clouston Associates gets it right then, but falls at the Jupiter hurdle.

"Applicability of ZVI

The original DGRS say

> *"assess the zone of visual influence of the wind farm including consideration to night lighting (no less than 10km) **and assess the visual impact of all project components on this landscape** (emphasis added)."*

The revised SEARS say only:

> *"assess a zone of visual influence for the wind farm (no less than 10 km)"*

There is no reference in the SEARS to the use of the ZVI. Were the reference to a 10 km ZVI a lead in to all the other VI stated requirements, so it set a geographic scope for the others, then it would be meaningful. However, it is presented as just one point among a number and none of the others make any reference to being subject to the ZVI.

Again, the fact that the Department has consciously chosen to expunge the previous DGRS requirement to "assess the visual impact of all project components on this landscape" (determined by the ZVI) gives a clear message to the developer that this previous requirement is no longer required by the Department. If, when the Department assesses the revised EIS, it acts as though the previous term was meant to apply, the proponent would have reasonable grounds for objecting to the Department "changing the rules" after submission."

Cloustons chose a ZVI of 12 kms, marginally above the departmental minimum. They provided a ZVI Map, but then, as predicted, ignored the original Requirements to "assess the visual impact of all project components on this landscape"

Someone decided that only properties within 5 kms of a turbine were worth comment and Cloustons further whittled it back to 3km for more detailed study although they did give there professional judgement of properties outside the 5 km boundary as "Numerous"

Secretary McNally and departmental management, when exiting the area on the way to the airport after their site visit, may remember the elevated residences along Hazeldell Rd on the extension to the range upon which the Roseview subdivision sits. These residents will have panoramic views of the wind farm. Unfortunately they are fractionally above 5 kms from the nearest turbine and therefore are ignored. The Department is aware of studies that would show the potential for these residences to suffer High Visual Impact.

> ***"Photomontages and misleading increase from 2km to 3km***
> *The original DGRS required photomontages from all non-host properties up to 2kms from the wind farm. That distance has been increased in the SEARS to 3kms. At first glance that seems helpful to the local community, except for the pea and thimble trick being played.*
> *As already noted, the 10km ZVI previously was used to apply assessment obligations. Now it has no impact, so effectively the Department has reduced the ZVI to be examined from 10kms to 3kms, while keeping a meaningless reference to a 10km ZVI in the SEARS to apparently obscure what it has done."*

The ZVI was effectively reduced to 3km for detailed review, flawed as it is, and 5km for mention

> *"Additionally, the original DGRS required the proponent to:*
>
> > *"include **photomontages** of the project taken **from potentially affected residences** and in particular from **all** non-host dwellings within 2km of a proposed wind turbine (emphasis added)"*
>
> *Now the relevant section says:*
>
> > *"utilise **recognised tools (such as** photomontages and wireframes) at **representative locations** to **adequately assess** the visual impacts of the project, particularly for non-associated residences within 3km of a proposed turbine (emphasis added)"*
>
> *The original DGRS required photomontages "from potentially affected residences". Now it is from "representative locations", without even any requirement that they be residences. As discussed below, there is no such thing as "representative locations" around most of the area threatened by Jupiter but the Department invites the proponent to pretend that there are, while indicating that the Department will engage in the same pretence when the EIS is received.*
> *The original DGRS required photomontages for "**all** non-host dwellings within 2km". The new SEARS increase the distance involved to 3km **BUT** no longer require photomontages for **all**, just the use of "representative locations".*
> *The original DGRS covered **non-host** dwellings. The revised SEARS apply the VI requirement only to "**non-associated** residences", which includes hosts but may include other parties who have made an arrangement with EPYC for some aspect of the wind farm. The Department fallaciously assumes any commercial arrangement with the proponent accepts all harm from the wind farm.*"

Has the Department confirmed that all contracts both with hosts and with associated properties include the acceptance by the signatory of all Visual Impacts?

Why does the Department allow the developer to interpret "particularly for non-associated residences within 3km of a proposed turbine" as "exclusively for non-associated residences within 3km of a proposed turbine"?

"The Nonsense of "representative locations"

In areas with reasonably complex topography and substantial differences in tree cover, there is no such thing as "representative locations". Even in fairly small parts of the locality, such as Roseview, what will be visible from the wind farm will depend on how close you are, how high on the hill, and lateral position relative to foreground features that may conceal some turbines or parts of them.

The Department will not be in a position to reasonably determine whether the positions the developer chooses to illustrate visual impact are indeed representative or not, and given the way the Department conducts the assessment process, it will be almost impossible for either individual landowners or the community to prove that what has been selected is not "representative locations", not least because it is inherently subjective as to whether individual locations are representative or not."

There are clear instances where viewpoint locations are not representative. "Representative", by its very definition, presents an averaged result.

Why should a developer who proposes a wind farm in an area which, by their own count, contains 273 residences within 5 kms and others outside this boundary that are significantly impacted, let alone "potentially impacted", and many more with residential rights, get to take the short cuts offered by the Department in the revised SEARs?

*"**Weakening Mitigation Requirements***

The original DGRS required:

> *"provide an assessment of the feasibility, effectiveness and **reliability** of proposed mitigation measures and any residual impacts after these measures have been implemented (emphasis added)"*

Now the requirement is:

> *"provide detailed consideration of the feasibility and effectiveness of the proposed mitigation measures, including consultation with all landowners of non-associated residences within 3km of a proposed turbines where significant visual impacts are predicted to identify potential approaches to mitigate adverse impacts, including consideration of negotiated agreements"*

Read that statement, and after your eyes have unglazed, try to explain what it actually says. The original statement was coherent English. The replacement is not.

What does it mean to say "including consultation . . . " as part of providing a detailed consideration of possible mitigation measures? Consultation may give you some understanding of the adequacy of possible mitigation measures but it is not, itself, a mitigation measure.

Note also that the first statement requires "an assessment", the new one just a "consideration". These are not synonyms in this context. An assessment involves a judgement of the actual feasibility, effectiveness and reliability of what is proposed. The new version just invites the proponent to write a lot about the matter without actually justifying their proposals.

Note also that the first statement includes assessment of "reliability", which has disappeared from the new version. The preferred mitigation measure for wind farm developers is typically trees. Trees have to be grown. In country areas without reliable water, sometimes they die. Even when they don't, their ultimate height, breadth and when they attain it is far from certain. So even if trees are a feasible mitigation measure and would be effective if they grew as the proponent hopes, there is often a reasonable question about how reliable is that solution. When the DGRS were issued, the Department apparently understood that. Perhaps it still understands but does not want the inconvenience this uncertainty poses to wind farm developers.

Finally, note that the original DGRS required an assessment of "any residual impacts after these measures have been implemented", recognising that mitigation measures are rarely comprehensive. In the case of country locations there are multiple reasons why this is the case,

including the fact that landowners often spend much of their day working on their properties well away from the house, which is usually what developers propose to screen. And, as the first GRWF PAC noted, screening itself changes the landscape and often destroys what was valued by the landowner. So the new version removes this assessment requirement so inconvenient for the developer."

On the next Department visit, check out the screening trees planted by hosts in anticipation some years ago. Some survive, some don't. Some grow, some don't. Are any effective? Not really; and these are for that noxious weed, Cupressus leylandii, which is hard to kill.

"In Summary

The Department's rewording of the visual impact assessment is open slather for the developer. The rewording:

- *Effectively reduces the zone of visual influence (ZVI) within which impact is to be assessed from 10km to 3km;*
- *Removes any consideration of the community's landscape values and substitutes only those of the developer's hired visual consultant;*
- *Replaces the need for photomontages with the developer's choice of other techniques, which happen to be less familiar and accessible to residents and harder for them to dispute;*
- *Replaces the requirement for photomontages to be provided for **all** non-host dwellings within the specified range (2km) with a requirement to "utilise **recognised tools (such as** photomontages and wireframes) at **representative locations** to **adequately assess** the visual impacts of the project" for residences within the specified range (3km).*
- *Introduces the nonsense concept of "**representative locations**" to allow the developer to escape from providing photomontages from specific spots on potentially affected properties with a subjective judgement about which locations they choose to present as "representative", making it almost impossible for residents to dispute.*
- *Extends excluded properties from "hosts" to "associated" properties, without any consideration of the basis of association.*
- *Replaces a clear, coherent requirement to fully assess proposed mitigation measures with a waffly statement that allows developers to avoid doing what previously was required."*

As predicted, the Jupiter EIS takes advantage of all the changes raised above. All have been to the benefit of the developer and to the detriment of the community.

Of course, when advised of these deficiencies, and the recommendations, the Department, as usual, did nothing. Never admit a mistake. In fact, call the changes "reasonable", to which we respond "who to"