

Brenda Gerrie  
PO Box 13  
Captains Flat NSW 2623

brendagerrie@bigpond.com

---

Carolyn McNally  
Secretary  
NSW Planning & Environment  
GPO Box 39  
Sydney NSW 2001

**Re: Jupiter Wind Farm Development Application**

**Late Submission Based On Letters From NSW Planning (copies attached)**

The NSW Planning & Environment letter of June 2014 asking Epyc to lift their game is on the major projects website. Whereas the letter of October 2015 rejecting the DA is not. Another letter from NSW Planning to Dr Crawford dated February 2016 was posted as part of a submission. These three letters, taken together give me a different perspective on the Jupiter Wind Farm proposal. Since I was not privy to the information in these letters prior to making my submissions I feel compelled to express my views to you now in the form of a late submission.

I wish to explain to you why the Jupiter Wind Farm proposal should be rejected out of hand on the basis of these three letters alone.

I do hope you will consider my letter before passing it down the line to the appropriate section who will, based on past performance, characterise the unprecedented number of objections as wide spread regional interest and follow due process. When in reality these Departmental letters show that the Resource Assessments Team have a case to answer.

**SITUATION SO FAR**

The deadline for public submissions to the Jupiter Wind Farm is now past. The Department has received over 550 objections mostly from the local community who do not want a wind farm within one or two kilometres of their doorstep. These objections are detailed, wide ranging, far reaching and point to many anomalies and discrepancies in the EIS.

Not one of the 23 organisations including 12 government organisations support this wind farm and all point to issues in the EIS that cannot be rectified. These objections echo the two warnings that NSW Planning had already issued to Epyc in the attached letters. Warnings that the proponent has obviously ignored.

The 38 submissions in support of Jupiter fit into two categories: 1) renewable energy enthusiasts and 2) self interested hosts. Not what I would categorise as strong support.

Nobody wants this wind farm. Not the community nor their regional councils. Neither does Epyc since they have repeatedly said that they plan to on-sell the project as soon as they can. Whilst on-selling a wind farm is the norm, it does beg the question - who would want to buy Jupiter?

I say nobody because the EIS process has been one of community alienation rather than community engagement, ensuring that so-called alternative mitigation measures like negotiated agreements to tolerate the intolerable are off the table.

In this instance, public confidence in the EIS process has been destroyed and there is no coming back from that.

No surprises then that the end result is an inconsistent and poor quality EIS which the Department foreshadowed in their letters. And also, most probably the EIS describes a flawed wind farm design. Another reason why a buyer might be hard to find.

So here we are, three years down the track, Epyc still produces an inadequate EIS after three or four bites at the cherry and two extensions of time. The community is given a short sharp deadline spanning Christmas holidays to submit a record number of high quality objections to Jupiter. And an unjust process drags on.

It now seems that the proponent who has demonstrated incompetence, is to be given all the time in the world to review the objections and no doubt, based on past performance, will demean and dismiss them as anti wind farm scare mongering, while an anxious community who have done an excellent job and nothing wrong can only wait some more, their lives on hold.

The damage has been done and cannot be repaired.

I suspect the hosts might even be having second thoughts. Why don't you ask them?

But my point here is that these three letters demonstrate that NSW Planning saw this situation unfolding and don't seem to do anything about it. Except perhaps make things worse.

Let me explain why.

#### **A DETAILED LOOK AT LETTERS FROM NSW PLANNING & ENVIRONMENT**

NSW Planning's first warning to Epyc about a lack of information and deficiencies in the community consultation process was written only six months after the Jupiter PEA submission. The Department even warned Epyc to remove a legal barrier between them and the community.

There is no doubt the proponents early engagement had already alienated that community. And Epyc's solution was to hide behind a legal barrier like spoiled children. So much for their professionalism.

This is where the Jupiter fiasco began and should have ended.

I do believe that NSW Planning should have given Epyc clearer directives about their obligation to consult meaningfully with the community with a real focus on community values and community concerns. Maybe the Department did try...

NSW Planning should have been more proactive in facilitating the consultation process by engaging with the community and explaining how the draft guidelines would be applied in assessing the proposal.

If NSW Planning did give clear directives and had been proactive, Epyc did not get the message. That in itself should have been warning enough.

The Department's lack of public involvement simply compounded the community's lack of confidence in the assessment process.

This situation was allowed to fester and went from bad to worse.

On 16 October 2015 NSW Planning rejected the DA and gave the proponent another bite at the cherry even though earlier warnings about the inadequacies in the community consultation had been ignored. The Department even said that the EIS did not adequately address the fundamental question of the suitability of the site in a growing rural residential area. A strong warning indeed...

Surely it was quite clear by then that Epyc was incapable of understanding the task and rectifying the situation?

The letter also points out flaws in the assessment process that certainly casts a shadow over the competency of the consultants. Why did NSW Planning not address this far-reaching issue that goes to the heart of the credibility of the noise and visual assessment reports more forcefully and directly?

Surely it was quite clear that these flaws were never going to be properly redressed in a reasonable time frame?

It seems to me that NSW Planning saw this serious situation unfolding and didn't try to do anything about it. The website says NSW Planning exist to make people's lives better and you have certainly failed in that duty of care.

Then in February 2016 NSW Planning assured Dr Crawford that the EIS will be reviewed to ensure that it adequately addressed requirements before accepting the DA and putting documents on public display.

Nine months later the EIS was accepted and put on public exhibition. Presumably NSW Planning thought that it adequately addressed the requirements. Surely not?

So why did NSW Planning put an inadequate and flawed EIS on public exhibition?

In that same letter to Dr Crawford, NSW Planning say that decommissioning and rehabilitation is covered in land holder agreements. I do hope you are going to check this when you have that meeting with the hosts. After all Epyc have not managed to do a single thing properly, so why should this be any different?

And while I'm on a roll - why does NSW Planning persist in talking about wind farm guidelines in the pipeline that will give greater clarity in the dim dark future but actually

creates more uncertainty and does nothing but aggravate the situation in the here and now?

The proponent has said time and again that they had no obligation to follow draft guidelines and with a dismissive wave of an arrogant hand, community concerns fell on deaf ears. And of course the December 2016 guidelines came too late to apply to this proposal either.

This is yet another situation where the Department could have been proactive early in proceedings and said to Epyc and the community that the draft guidelines would apply, particularly in this rural residential area where so many turbines are so close to dwellings. Once again the Department sat on its hands and did nothing.

#### **IN SUMMARY**

NSW Planning have mishandled the process of getting the Jupiter Wind Farm proposal to this stage. The Department knowingly allowed an adversarial relationship between the proponent and the community to continue and fester when, as I have suggested, there is so much that could have been done.

As I see it, the Department's job is to provide guidance and context and to verify the content of the EIS proposal as it was developed. NSW Planning have not done this and in that sense have not been a responsible gatekeeper.

But, I am hopeful that NSW Planning can still do what needs to be done and reject Jupiter.



Brenda Gerrie

25 March 2017

PS. My objections to Jupiter and the way NSW Planning conducts its business are on public record on your major projects website.





## Planning & Environment

Dr Sharoo Mohajerani  
EPYC Pty Ltd  
Level 5, 44 Miller Street  
North Sydney NSW 2060

Dear Dr Mohajerani

I refer to Jupiter Wind Farm project (SSD 13\_6277) and the high level of community concern raised at this early stage in the assessment process.

The Department has received a large number of complaints about the lack of information provided about the proposal. Therefore, I strongly encourage you to consult widely with the community at the earliest possible date and ensure that you inform the community about the project and associated impacts.

The community has raised concerns that some state agencies were not listed for consultation in the Environment Assessment Requirements (EARs). As such, please ensure that EPYC Pty Ltd provides evidence of such consultation in the Environmental Impact Statement (EIS) for the NSW agencies/departments listed in the EARs and the following additional agencies:

- NSW Health;
- Department of Family and Community Services including Ageing, Disability and Home Care, Community Services and Families NSW; and,
- Department of Education and Communities in relation to impacts on Tarago School.

I understand that contact was not established with all property owners within the boundary of the project area prior to the lodgement of the EARs. I strongly recommend that you now consult with all residents in the project area and advise that involvement in the consultation process from the project is voluntary.

It is also noted that you have engaged legal representation to respond to issues raised by the community. Consideration should be given to direct involvement from EPYC Pty Ltd as this approach may be more appropriate.

Finally, communities where wind farms are proposed have a legitimate interest in the assessment process and the Department strongly encourages the early establishment of the Community Consultative Committee (CCC) with genuine community representation.

I welcome your earliest response to these issues. Please contact Tracy Bellamy of the Department of Planning and Environment on (02) 9228 6106 if wish to discuss these matters further.

Yours sincerely

Carolyn McNally  
**Acting Secretary**



**Planning &  
Infrastructure**

Planning Services  
Resource Assessments  
Phone: 9228 6487  
Email: david.kitto@planning.nsw.gov.au

Mr Ibrahim Eid  
Project Manager  
EPYC Pty Ltd  
Level 5, 44 Miller Street  
NORTH SYDNEY NSW 2060

Dear Mr Eid

**Jupiter Wind Farm Project (SSD 13\_6277)**

The Department has reviewed the Environmental Impact Statement (EIS) for the Jupiter Wind Farm Project to determine whether it is suitable for public exhibition, and whether the Department should accept the Development Application (DA) for the project.

During this review, the Department has identified several matters that must be addressed prior to the EIS being placed on public exhibition.

These matters include:

1. Inadequate consultation with affected non-host landowners, particularly in relation to the development of potential mitigation measures to address predicted exceedances of relevant criteria or significant impacts. This is particularly important given the fact that there are 59 non-host residences and 4 approved non-host residences located within 2 kilometres of the project's turbines.
2. Inadequate landscape and visual impact assessment:
  - the assessment does not include a detailed assessment and photomontages of the potential impacts of the project on all of the non-host residences within 2 kilometres of any turbine, as required by the Secretary's Environmental Assessment Requirements, nor some of the critical non-host residences beyond this area where high visual impacts are predicted (particularly the Roseview Road and Lakeview Road areas);
  - there is insufficient consideration of the specific mitigation measures that could be implemented to avoid and / or minimise the high or moderate - high visual impacts of the project: the assessment relies on generic planting measures and there is little evidence of any meaningful consultation with the affected landowners or the consideration of alternative mitigation measures such as the use of negotiated agreements.
3. Flaws in the noise impact assessment:
  - The assessment does not comply with *ISO 9613-2 Acoustics - Attenuation of sound during propagation outdoors - Part 2: General method of calculation*, and uses a modified method that has not been endorsed for use in NSW by the Department or the Environment Protection Authority;



- the assessment uses the IEC 61400-11 standard rather than ISO 1996.2 standard to assess the potential tonality impacts of the project, as required by the draft *NSW Planning Guidelines Wind Farms* (2011);
  - failure to provide the minimum quantity of worst case data points in accordance with the relevant South Australian guidelines, and to justify the low data coefficients ( $R^2$  values); and
  - insufficient consideration of the specific mitigation measures that could be implemented to avoid any exceedances of the relevant noise criteria, including the use of negotiated agreements.
4. Lack of consultation or evidence of agreement with Airservices Australia about the scope of the study for air navigation facilities, and that a detailed study could be deferred to the post approval stage of the project.
  5. Insufficient detail on the proposed 33 kV transmission line to enable its potential impacts to be properly assessed, and no land owner's consent from the relevant road authorities for the lodgement of the DA in areas where the transmission line is located within public road reserves.
  6. Lack of detail on the nature of the agreements with involved landowners, and the extent to which these agreements cover the potential impacts of the project.

Under the *Goulburn Mulwaree Local Environmental Plan* (LEP), the northern portion of the project is prohibited. While Clause 89 of the *Environmental Planning and Assessment Act 1979* allows a consent authority to approve a State Significant Development application that is not wholly prohibited, the EIS contains insufficient consideration of:


- the project against the aims, objectives and other provisions of the LEP, or reasons why the project should be approved notwithstanding the prohibitions in the LEP; and
- the suitability of the site, paying particular attention to the growing rural - residential character of the surrounding area.

For these reasons, the Department has decided to reject the DA under Clause 51 of the *Environmental Planning and Assessment Regulation 2000*.

I would appreciate it if you would revise the EIS to address these issues, and submit the DA and revised EIS to the Department as soon as practicable.

The Department would be happy to meet with you to discuss any of these matters in more detail.

Yours sincerely

 16/10/19

David Kitto  
Executive Director  
Resource Assessments and Business Systems





Office of the Secretary

Dr Michael Crawford  
426 Barnet Drive  
Boro NSW 2622

15/17886

Dear Dr Crawford

Thank you for writing to me about your concerns with the Jupiter Wind Farm.

I can confirm that the Department's press release accurately reflects the reasons why the development application and Environmental Impact Statement (EIS) were not accepted by the Department.

It is now up to the proponent to address these issues, especially undertaking further consultation with the owners of affected residences to determine what additional mitigation can be implemented to reduce the visual impacts of the project.

The Department will review any revised EIS to ensure it adequately addresses the environmental assessment requirements before accepting the application and placing any documents on public exhibition.

In regard to decommissioning, I can confirm that development consents for wind farms include specific obligations on the proponent for decommissioning of the project and rehabilitation of the site.

However, 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 entity).

While the specific matters covered by landholder agreements are a matter for the proponent and landholders, the Department would expect that landowner agreements address decommissioning and rehabilitation responsibilities.

The Department has referred EPYC to the Department's *Voluntary Land Acquisition and Mitigation Policy* where there is some guidance about what should be included in negotiated agreements with local landholders, albeit in the context of mining.

The Department is also developing specific guidelines for wind farms that cover decommissioning and rehabilitation responsibilities among other matters. This will provide greater clarity for both proponents and local residents living in the vicinity of wind farms.



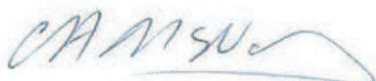
Finally, as you would be aware, the Department has had an active involvement in the operation of the Jupiter Community Consultative Committee (CCC), including attending meetings and responding to a range of detailed questions from the members of the committee.

I understand that this process has been working well, and I can assure you that the Department will continue to actively participate in the CCC throughout the assessment process.

However, if you have concerns about the operation of the CCC, I would encourage you to raise your concerns with the chair of the committee (Mr Brian Elton) in the first instance. It is the role of the chair to address any issues with the operation of the CCC, including ensuring concerns about information. The chair can then raise these issues directly with the Department for further action, if necessary.

Should you have any further enquiries, please contact Mr Mike Young, Director Resource Assessments on (02) 9228 2091.

Yours sincerely



Carolyn McNally  
Secretary

12.2.16