

Background

The recent NSW court case **2016/00255812 - JEFF PARNELL v HARBOUR RADIO PTY LIMITED** brought to light behaviour within the Department of Planning and Environment (DPE) which appears to be quite improper, contrary to established Administrative Law, and biased to the benefit of the developer for the Crudine Ridge Wind Farm (CRWF) to the detriment of people living in the area.

Importantly, in testimony to the Court, a DPE official stated that the behaviour revealed during the case was *normal* and there was an *obligation* to do it. Thus, there is a reasonable presumption that the behaviour has applied to other projects and multiple DPE officials.

A detailed summary of what emerged in that case has been sent in a separate letter to the DPE Secretary, together with a list of the important questions that follow about DPE behaviour not just for the CRWF project but for all other projects dealt with by DPE. That would include Flyers Creek Wind Farm (FCWF) in relation to the original assessment by DPE, subsequent DPE interactions with the developer, and DPE's handling of this modification application.

In addition, with time, it has become apparent that the CRWF EIS and related documents and representations by the developer contained some important statements on multiple matters which were false or misleading. Critically, it appears DPE had simply accepted those statements without doing any thorough checking itself to determine their validity and then presented them to the PAC as authoritative advice from DPE in its assessment, thus misleading the PAC about the validity of those statements.

Implications for FCWF Assessment

Given the evidence now in the public domain, the DPE Secretary has an obligation to:

1. Conduct a thorough investigation to determine the extent to which the types of behaviour mentioned above also occurred during the original assessment for FCWF or subsequently in relation to that project, and advise the findings to all parties including the IPC, the FCWF developer and especially members of the community.
2. Ensure new procedures have been established for project assessment so there can be no improper behaviour, and particularly that everything presented as a fact in DPE's assessment for FCWF has actually been independently verified by DPE, and everything which is a DPE opinion in the assessment has solid, logical grounds to support it, *which DPE has documented*.
3. Take legal action under the EP&A Act in relation to any statements in the modification application which appear materially false or misleading.