

The approval of the Yass Valley Wind Farm was improperly determined in a way that denied procedural fairness to the affected community in relation to visual impact (VI).

This proposal is to increase turbine height and swept area which will inevitably increase visual impact. The proponent tries to argue that the additional impact is of little consequence, positioning it as a small marginal impact over what was previously assessed.

However, that assessment was itself improper. The proponent also attempts to justify its arguments by reference to DPE's Wind Energy Visual Assessment Bulletin. However, that bulletin was produced in an improper way without demonstrable evidence of relevant expertise by those who formulated it. It appears to have been done to produce guidelines which ex-post supported previous ill-informed decisions and advice by the Department.

Invalid Prior Visual Impact Assessment

Determining the visual impact of wind farms is a unique task, unlike all other forms of visual assessment in rural areas, and indeed urban areas. To be done validly and reliably it depends on skills not formed without specific training. All those involved in the initial approval, and likely in assessing the proposed modification, appear not to have done anything to acquire those skills or to prove they have them.

The Yass Valley Wind Farm was approved by PAC Commissioners Briggs, Pegrum and Kruk. In response to a GIPA request about the specific wind farm visual impact assessment expertise of the Commissioners, the PAC has advised¹ that:

1. The PAC holds no records showing those commissioners have any specific training in wind farm VI or any testing of their relevant expertise;
2. The PAC did not engage any VI advisors and relied on advice from the Department of Planning & Environment.

DPE assessment and recommendations to the PAC for the Yass Valley Wind Farm were signed by David Kitto and Mike Young. They may have relied on advice from other parties in relation to VI assessment.

A GIPA request was lodged with DPE in relation to the authors of the DPE assessment and recommendations for Yass Valley Wind Farm and for any individuals who provided specialist visual impact advice to the Department in relation to those recommendations. The request sought, for each of those individuals (authors and advisors), records held by DPE which show that the individual:

1. has undertaken any formal courses in order to learn how to accurately assess the visual impact specifically of wind farms or similar infrastructure;
2. has been tested for their ability to make accurate assessments of the visual impact of wind farms or similar infrastructure, and their score on those tests;
3. has been tested for the degree to which their assessments of the visual impact of wind farms or similar infrastructure are consistent with the visual impact judgements made by residents to the impact and their consistency scores.

¹ GIPA Response, Decision maker: James Hebron – General Counsel, Department of Planning & Environment, 16 October 2017.

DPE responded² to the GIPA request by advising that the Department holds none of the information covered by points 1, 2 and 3 above, for any of the individuals (DPE officials and specialist visual impact advisors) involved in producing DPE's Yass Valley Wind Farm assessment and recommendations.

This does not mean all of those individuals necessarily lack specialist training and testing in the unique visual impact assessment task associated with wind farms. However, it does mean DPE employed them to do that task without any evidence of the necessary skills.

Given the unusual character of wind farms (enormous height of structures in a rural area, huge span of swept area, movement, etc with large numbers distributed over a very large area, often in folded terrain) the expertise for making valid assessments of impact reasonably similar to that which would be experienced by the class of people normally living in such localities and exposed to the impact is unlikely to occur incidental to other training or experience.

Since neither DPE nor the PAC sought evidence that those involved in producing the assessment, making the recommendations and then making the consent decision possessed any of those skills, DPE and the PAC acted in a manner which denied procedural fairness to members of the affected community and did so in a way biased to favour the developer.

Since DPE and the PAC did not ensure there was evidence of the requisite expertise on behalf of those involved, as an administrative act the assessment was flawed from the outset.

Any attempt to make further assessments as a marginal extension from the original assessment is consequently flawed. Accepting such an assessment would again deny procedural fairness to the affected community.

Likewise having any assessment done by individuals who are unable to provide the evidence specified in points 1 – 3 in the GIPA request described above would be procedurally unfair to the affected community.

Invalid DPE Wind Energy Visual Assessment Bulletin

The DPE Wind Energy Visual Assessment Bulletin was prepared by staff in DPE's Policy Unit. Having met the key individuals involved, I know they personally had no significant knowledge of wind farms (unless they were being very secretive about it).

Presumably they drew on the Department's managers and staff most directly involved in assessing wind farm plans, i.e. David Kitto and Mike Young. DPE also retained some external visual impact advisors in preparing the Bulletin.

As noted above, the Department holds no records evidencing specific wind farm assessment expertise, or tests of it, on the part of Messrs Kitto and Young.

The DPE GIPA request mentioned above also requested the same information for "individuals who provided to DPE specialist visual impact advice that was used in the development of the Department's Wind Energy Visual Assessment Bulletin 2016".

² File Ref: GIPAA – 2016/17-091 – IR, 20 July 2017.

The Department advised me that it holds no records of that specific expertise for those individuals.

So the Department produced the Wind Energy Visual Assessment Bulletin using a combination of policy area staff, wind farm planners (presumably) and paid external advisors for none of whom the Department had evidence of their ability to do personally the task for which they were prescribing a methodology and prescribing distances and conditions under which there would be particular degrees of impact.

This was a biased and procedurally unfair process which has systematised procedural unfairness to all communities to which the bulletin is applied in assessing wind farm visual impact.

Conclusion

Any attempt by DPE/PAC to rely on the Wind Energy Visual Assessment Bulletin will be a further instance of procedural unfairness, as will any visual assessment of Mod 1 which takes the previous visual impact assessment as a base, and any assessment of Mod 1 that is prepared by individuals who lack evidence they:

1. have undertaken a formal course in order to learn how to accurately assess the visual impact specifically of wind farms or similar infrastructure;
2. have been tested for their ability to make accurate assessments of the visual impact of wind farms or similar infrastructure, and achieved high score on those tests; and
3. have been tested for the degree to which their assessments of the visual impact of wind farms or similar infrastructure are consistent with the visual impact judgements made by the class of residents typically living in areas where wind farms are built, and have achieved high consistency scores.