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Is the Assessment false and misleading

Developers are required by legislation to declare that their input into the planning process is neither false nor misleading. The penalties are severe. You could conclude, by broadly reading the legislation, that the Department cannot mislead the PAC.

The Capital 2, Modification 4 Assessment, a key component in the process whereby the Commissioners are to make a determination is as bad as anything published by the Department in recent times, particularly in its approach to the facts. Some of the issues raised below are minor, but collectively they show a pattern or culture inconsistent with an unbiased assessment.

From page 1:

“The Department publicly exhibited the modification application and accompanying documentation from 23 September until 10 October 2016.”

False: There was no “accompanying documentation to the 3 page Application, not even a political donations statement. Nor was there the required declaration.

“During the exhibition period, the Department received 92 submissions, including 86 from the general public (85 objections, 1 support), 6 from agencies (no objections) and a supplementary letter of support from Council.”

False: The exhibition period ended on October 10, 2016. We, the public, stupidly obeyed the rules. Of the Agency submissions:

The initial submission from QPRC was dated 25/10/16

The supplementary letter from QPRC was dated 11/11/16

The submission from the EPA was dated 19/10/16

The submissions from the Department of Industry were dated 11/10/16 and 4/11/16.

The supplementary letter of support from QPRC was addressed to Infigen. Under what circumstances was it received and accepted by the Department over one month after submission closeoff?

“subject to the stringent conditions that were imposed when the project was approved by the Commission”

False:

The Department should stop the use of the qualifier “stringent”. For instance, there is no restriction on turbine height or blade diameter in either the original Terms of Consent or those suggested for this modification.

“The Department also acknowledges the environmental benefits of the project, including the renewable energy generated, reduction in greenhouse gas emissions and subsequent contribution to the RET scheme; and the economic benefits of the project to the local and regional economies.”

Misleading:

The Department completely ignores the environmental impacts of the project, only acknowledging the supposed benefits, and has therefore conducted an incomplete merit assessment.

“There have also been no significant changes in the receiving environment since the original consent or subsequent modifications (as recently as 2015) that warrant re-assessment or significant amendments to the existing conditions of approval.”

False: There is nothing in the published documentation to support this.

Is DPE saying that no residences have been built in the viewshed during the past five years?

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Is DPE saying that there is no difference in avi-fauna impacts between an empty Lake George and a current full Lake George?

Is DPE saying that conditions surrounding decommissioning have not changed in the last five years?

Is DPE saying that technology impacts, both good and bad, remain unchanged?

Is DPE saying that the justification for Capital 2 is the same as it was over 5 years ago?

Is DPE saying that the facts surrounding wind farm fires as espoused by Infigen have not changed?

Registered Speakers have lost significant assets due to a wild fire started by Infigen wind farm infrastructure. And they said it could not happen.

This type of "modification" is clearly different, especially since the determining PAC said that the approval would expire after 5 years unless construction had commenced. The Department chose not to take advantage of the opportunity provided to review the original assessment.

"Given the above, the Department does not consider it would be reasonable, or in the broader public interest, to allow the project approval to lapse without providing additional time to develop the project."

Misleading:

The Department is in no position to judge what is in the "broader public interest". That statement may have been more easily defensible 10 years ago. Today, the case can easily be made that this wind farm is not in the broader public interest in that it will further exacerbate the rapid rise in electricity prices, it will lead to further closure of base load generators and thus lead to blackouts. I think your political masters are petrified of what could happen next summer.

"Notwithstanding, the Department acknowledges the concerns of the public regarding ongoing uncertainty and delays associated with the project, and the need to realise the benefits of the project as soon as practicable."

Misleading:

Which submissions from the public argued the need to realise the benefits of the project as soon as possible? Once again, only benefits were nominated in this departmental sentence, not impacts.

"the Department considers that the modification is approvable but recommends extending the lapse date by another 2 years after the date on which current modification is granted, instead of 5 years."

Misleading: Let us be clear, by the time this DA receives approval as recommended the extension will be closer to two and a half years. Why? Also, Infigen did not ask for a five year extension from determination date.

"The Department considers this outcome provides an appropriate balance between addressing the concerns of the community and realising the significant economic and environmental benefits that the project would bring to the region and the State as a whole."

False: The Department is in no position to judge the current economic benefits and impacts. The failure of the wind turbines to continue generating in South Australia in September 2016, is estimated to have cost the South Australian economy approximately \$360 Million.

"It is also consistent with similar decisions for other wind farms in NSW, including the Silverton Wind Farm which was recently granted a 2 year lapse date extension following an initial request for 5 years."

False: The recently granted 2 year extension to the Silverton wind farm was not "following" an initial request for 5 years. It followed a 2 year extension which, in turn, followed the initial 5 year approval. Should we expect another extension request from Infigen for Capital 2 in two years time, once again supported by the Department and the PAC?

All the above quotations are from the 2 page Executive Summary. Many are repeated in the rest of the Assessment, in some cases more than once, thus demonstrating they were not “mistakes”, a favourite Department fallback.

We continue until the bell rings:

“The project, as approved, currently allows: the development and operation of 41 wind turbines with a tip height of 157 m”

False: There is no maximum height stipulated in the Consolidated Approval. Recent wind farm Conditions of Consent, eg Biala, clearly state the height. From Biala:

“No wind turbines may be greater than 185 metres in height (measured from above ground level to the blade tip).”

Lawyers would also have a field day with the project being constructed and operated:

“generally in accordance with the: (a) EA”

(I ask, which EA, the original one or the current 3 pager, initially described by the Department on the Major Project Register as “Capital 2 Wind Farm MOD 4 Application and EA”)

“The proposed modification would not alter the approved footprint of the wind farm, and would not increase the environmental impacts of the approved project”

False: The Department is not in a position to judge from the evidence supplied whether this modification would or would not “increase the environmental impacts of the approved project”

“During the public exhibition period, the Department: advertised the exhibition of the application in the Canberra Times, Goulburn Post and Bungendore Mirror”

False: the Bungendore Mirror closed in late 2015. For which publication dates for the Canberra Times and the Goulburn Post was the exhibition advertised? Remember, the exhibition spanned 12 working days.

“To supplement the formal exhibition process, Infigen: presented an overview of the proposed modification at its Capital Community Committee meeting on 29 September 2016;”

False: The Assessment author might believe Infigen, I don't. The minutes of the meeting don't support it and the email sent after the meeting puts a lie to it.

The modification had been on exhibition for 6 days when the email was sent. Why didn't Infigen send out an email before exhibition started or even when the Application letter for the extension was sent to the Department (16 September 2016).

Those of us who follow the responses by the Department find it intriguing that an Application dated September 16, 2016 goes on exhibition on September 23, 2016. Doesn't leave much time to book advertisements, does it? It also doesn't leave much time for the Department to contact non-associated residents in close proximity to the project. Maybe they didn't. Did Infigen?

“To supplement the formal exhibition process, Infigen: advised the community through its website and by advertising in the Bungendore Weekly.”

If the author had written “Infigen advises that.....”, he would have been safe. However, until the Department shares with us the details of such communication (which they surely must have, otherwise they wouldn't have been so confident in writing what they did) I'll call **False**.

“However, the Department considers that the extent of consultation was commensurate with the nature of the proposed modification, and that the local community and other stakeholders have been provided with sufficient access to relevant documentation and had sufficient time to make an informed submission.”

Misleading. If there wasn't enough time, 12 working days, for most of the agency stakeholders to respond (some did not respond at all), why was it deemed enough for the local community? Can we see the "irrelevant" documentation?

"The Department notes that the majority of submissions were from residents between 10 and 50 km from the site, and there were no submissions from people living in close proximity (i.e. within 5 km) to the Capital 2 turbines (noting that 6 submissions were from unknown locations, and there are 15 associated dwellings and 13 non-associated dwellings within 5 km of the turbines)."

Did the Department do this analysis or was it provided by the developer?

Does the Department believe that I, in the 10-50 km range, with clear views of Capital turbines from my residence has a diminished right to object?

The status of this Modification was "More information required" for many weeks. Neither the information required nor the information supplied has been published. Did the Department class this information as irrelevant to the community.

"the Department notes that no physical changes are proposed to the approved project, and the economic, social and environmental costs and benefits were fully considered in accordance with the EP&A Act when the project was approved by the Commission in 2011.

Misleading: What have the economic, social and environmental costs and benefits evaluated well over 5 years ago got to do with the current equivalents?

"Therefore, this assessment has been confined to consideration of the application to extend the approval lapse date"

Further on the author writes:

"In modifying the project approval, the Department has also taken the opportunity to update and strengthen the existing conditions to focus more on outcomes and to better reflect contemporary conditions applying to other wind farms in NSW."

One of these statements has to be **False**.

"In its assessment of the modification application, the Department has considered all issues raised during the exhibition period"

I cant prove it, but the quality of this Assessment screams **False**.

"The project would therefore contribute to the Australian Government's RET scheme, which has set a target for large-scale renewable energy generation of 33,000 gigawatt hours (GWh) in 2020."

Misleading: It is now April 2017. It is highly unlikely that Capital 2, requesting a 5 year extension, will be generating any gigawatt hours by 2020.

"The project also has a capital investment value of approximately \$240 million, would employ the equivalent of up to 120 full time jobs during construction and provide up to 6 full time jobs during operation. This level of investment would also stimulate flow-on economic benefits in the local and regional economies."

Misleading: The "investment" of \$240 million in NSW, will mostly be spent overseas, borrowed overseas, repaid overseas and the profits, in whole or in part, most likely remitted overseas. A Clayton's investment. All employment figures are dubious. Ask Infigen to justify the 6 full time jobs in light of the revelation in their June 2016 newsletter:

"Our team at Infigen is made of 58 employees – three are placed at the wind farms in NSW, WA and SA, and the rest in the head office in Sydney"

We get baseless claims about gross job creation. No mention of job losses elsewhere or the jobs created should the wind farm not be built. The 750 retrenched employees at the Hazelwood power station would be gladdened to hear that there are up to 6 opportunities near Bungendore. So would those retrenched from surrounding Gippsland businesses as a consequence.

“In this regard, the Department considers that there is no fundamental environmental or policy constraint (such as the previous review of the RET) that would prevent Infigen commencing the project sooner than 2022 (i.e. within 5 years).”

False: A five year extension beyond the lapse date takes you to 2021.

“Accordingly, the Department considers that extending the lapse date by another 2 years after the date on which the current modification is granted, instead of 5 years”

False: The developer did not request a 5 year extension from the date the modification was to be granted.

“The Department considers that there have been no significant changes in the receiving environment since the original consent or subsequent modifications (as recently as 2015) that warrant re-assessment or amendments to the existing conditions of approval.”

False: This statement is in the Biodiversity section. The most obvious significant change is that Lake George was full through the planning period for Modification 4.

“The Department acknowledges the concerns raised in submissions regarding the confusion between the Capital Community Committee currently being operated by Infigen and the formal Community Consultative Committee (CCC) which must be established under the existing conditions of approval.”

False: There is no confusion. We are quite clear. The developer has been deceptive. The Department and the PAC were told via submissions to Capital 2, Modification 2. Both chose to downplay the issue. The PAC ruled that a CCC needed to be formed prior to construction. 10 years too late.

“It also aligns with other recent wind farm approvals which have incorporated an allowance for micro-siting of **at least** 100 m.” (my bolding)

As Manuel would say, **Que?**

“The Department notes that no objections were raised by agencies or from residences located within 5 km of the proposed turbines”

Of the non-associated residents, how many are already within 5 kms of existing Capital and Woodlawn turbines? Having been beaten into submission, why would they bother? How were they notified and when?

“The Department acknowledges there has been considerable uncertainty in the renewable energy industry over the last 3 to 4 years as a result of the review of the RET”

This statement and similar ones appear throughout the Assessment. Nowhere in the developer or departmental documents is the truth expressed. The key issue is not with the RET. After all this is just a target. The determinant of the growth of renewable energy is the availability of Renewable Energy Certificates. Without this huge subsidy from electricity consumers, through their electricity bills, no renewable energy project, including this wind farm, would be developed. **Misleading** by omission. Another key issue not mentioned is the reason Capital 2 was not successful in the various ACT renewable energy auctions. Others were successful, despite the RET uncertainty and technological change. Maybe it was price. Maybe people in high places in the ACT didn't want any more wind farms in the area to which they were planning to retire. Or maybe it had something to do with conditions the

ACT set for success. Simon Corbell recently tweeted twice in relation to the community objections to the proposed Jupiter wind farm:

“ACT & Vic Reverse Auction score projects on community engagement- lessons for NSW?”

and:

“Record submissions to Jupiter Wind Farm proposal highlights importance of building social licence”

The Department was advised to dig deeper for the real reasons Capital 2 has been unable to attract a PPA. They didn't

“Infigen does not object to the proposed amendments to the project approval.”

When were the draft assessment conditions shared with Infigen?

In what format? Can we see them?

Were there any conditions of consent in the first draft seen by Infigen that were subsequently deleted or changed? If so what were they and why were they deleted or changed?

All of the above is contained in just over 11 pages of the Assessment Report. Surely it must rate as amongst the worst ever.

The apparent author from the document properties, Iwan Davies, needs to be counselled. Unfortunately, so does the planner of record for this modification, Nicole Brewer, if she approved this nonsense. This Assessment, for what the Department initially described as an administrative change, was signed by the two senior line managers, Messrs Kitto and Young. Not even a completely new wind farm Assessment, Biala, received such attention. They too must share the responsibility.

And finally, many of us are driven by our resistance to the Jupiter wind farm proposal. In the fourth year of our opposition, we are increasingly hardened by the continued deceptiveness of wind farm developers and the acceptance of this by the Department.

Anthony Gardner