

31 March 2016

Mr David Kitto  
Executive Director  
Resource Assessments & Business Systems  
Department of Planning and Environment



Dear Mr Kitto

### **Revised Community Consultative Committee Guidelines for State Significant Projects**

Thank you for the opportunity to provide feedback on the revised Community Consultative Committee Guidelines – State Significant Projects (the revised Guidelines). As requested in your email of 19 February 2016 the revised guidelines were circulated to all members of the Jupiter Windfarm CCC along with a process for the collation of individual member's comments and preparation of a Jupiter Windfarm CCC submission. Jupiter Windfarm CCC members were also advised that they were able to make individual submissions. The issue was also briefly discussed at the CCC meeting on 2 March 2016.

#### *CCC member feedback*

A number of Jupiter CCC community members elected to make submission directly to the Department of Planning and Environment.

Comments were received from Community Member, Mr Barry O'Neill (attached).

#### *Comments from the Independent Chair*

#### **Role of Independent Chair**

To support the role of the Chair as an independent facilitator and advisor, a more appropriate process for the appointment of a CCC Chair is required to ensure the actual and perceived independence of the Chair.

In appointing an Independent Chair, a preferable process would be for the Department of Planning and Environment to seek expressions of interest from appropriately qualified professionals to act as Chairpersons of CCCs. Following review of the expressions of interest The Department would be able to form a Panel of appropriately qualified Chairpersons to be allocated to CCCs, rather than the Company identifying a potential Chairs as the revised Guidelines suggest.

Following this proposed process, a panel member can be appointed to a CCC and the Company should be required to accept the Department's nomination. This process allows for independence and transparency, overcoming the perception that the proponent has influence over the appointment of the Chair.

If the Chair is to have a greater role in appointment CCC members, it is even more important that they are not nominated by the Company.

If my suggested approach to appoint the Independent Chair is accepted the selection process described on page 4, will need to be amended.



The revised guidelines should also recognise the Independent Chairperson's role in managing communication between members of the CCC, the Department, and the community, between meetings. In some cases this can be a time consuming and complex process.

#### Appointing community representatives

I am supportive of the Independent Chairperson having a greater role in advertising for and selecting committee members.

If the Independent Chairperson is appointed in advance of the CCC's establishment, the Independent Chairperson's role should include the preparation of and placing of advertisements into relevant newspapers (to be paid for by the company). The Independent Chairperson should then be responsible for vetting the application and making recommendations to the Department about members and alternates.

If this suggestion is accepted the diagram on page 5 should be revised to reflect this.

#### Alternate representatives

I support the process detailed for alternate representatives for community, company, and Council members.

#### Meeting proceedings

In general practice 'Confirmation of the minutes of the previous meeting' immediately follows from 'Declaration of pecuniary or other interests' in committee meeting agendas with matters arising following on from confirmation of the minutes. As such, the order of Committee meeting agenda items should be revised, with items 3 and 4 reversed.

#### Minutes of meetings

I support the clear and prescriptive requirements for minutes to record "issues raised and actions to be undertaken, who is responsible for carrying out those actions and by when."

On the recording of minutes, it is not appropriate for the Company to produce the minutes of meetings. I believe the Independent Chairperson should arrange for the independent taking of minutes to be paid for by the Company. An independent minute taker will help to ensure that there is no perceived bias in the minutes and that Company representatives can participate fully in the meeting.

The process for the distribution of draft and final minutes appears to be contradictory. I believe only the final minutes, which have been endorsed by the Committee and the Chair, should be available on the website. The draft minutes should not be made available on the Company's website, as they have not been endorsed by the Committee and the Chair.

#### Attendance by non-Committee members

While supportive of the exclusive role of the Independent Chairperson to invite non-committee members to CCC meetings, the role of observers should be explained in the revised guidelines.

It is recommended that the revised guidelines provide that; for members of the public to attend as observers subject to prior notification to the Independent Chairperson, and the ability of the venue to accommodate additional persons. The observer shall not be permitted to speak at the meeting, unless requested to do so by the Independent Chairperson.

#### Committee funding and remuneration

With regard to the payment of the Independent Chair this should not be discretionary. The statement "It is at the discretion of the Company whether or not it agrees to such requests," should consequently be revised to state, "The Independent Chairperson may seek payment of sitting fees and other costs associated with the role of the Independent Chairperson, including administrative and management issues between CCC meetings."



Further the following sentence should be inserted in this section "Once the Independent Chairperson has been appointed by the Department, the Independent Chairperson and Company will negotiate sitting fees and other costs, and those costs will be paid by the company."

#### FAQ

I note, and am supportive of, the principles of the revised guidelines allowing the Independent Chairperson to play a stronger role in the appointment of members.

Once again thank you for the opportunity to comment on the revised guidelines for CCCs. If any further clarification is required regarding this submission please contact me on 02 9387 2600.

Yours sincerely

Brian Elton

Independent Chair, Jupiter Windfarm CCC

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On behalf of the Jupiter Windfarm Community Consultative Committee



## Attachment 1: CCC community representative submissions

### Comments on Revised CCC Guidelines

From the operation of the Jupiter CCC the following points seem relevant to me:

- » The appointment of an independent Chair is essential. A Chair who is selected by the Department from a group of people nominated by the proponent cannot be called "independent".
- » The appointment of community representatives by the Department following a public call for nominations is important to give the community confidence in the independence of the process.
- » Although a large committee can be unwieldy, I do not see a need to specify the numbers of community representatives, especially if they are likely to be outnumbered by proponent representatives. There may well be a number of community points of view in relation to some projects.
- » On the appointment of alternatives for community representatives, it should be the Department's role to appoint permanent replacements from the list of original applicants. Where a CCC member is only temporarily absent the member should be able to appoint his or her alternate.
- » The purpose of a CCC is still vague. In the Jupiter case the proponent has seen it as a necessary evil, to be given only the minimum of attention that is required to look 'consultative'. Without an active role in the decision whether a proposal is approved or in developing the conditions of any approval a CCC can always be treated with contempt by the developer.
- » Currently a CCC has no powers to compel the provision of information from the proponent. The revised guidelines see a role for the CCC in recommending variations to, or conditions on, the potential project approval to the Department which I see as an essential role for a CCC. Such a role would also require that comprehensive information be provided to the CCC. The revised guidelines do not address how a CCC could reach a consensus on recommendations that may be against the proponent's interests. There may be a case for a report to the Department from the community representative members on a CCC at the EIS lodgement stage which would comment on the effectiveness of the consultation process and provide recommendations on approval or not, or any conditions of approval.
- » There is a clear distinction in the role of the CCC prior to and post approval of a project. Prior to approval the CCC is seeking information on the project to relay to the community, testing that information and (under the revised guidelines) can make recommendations to the Department on the project approval.
- » Post approval the role of the CCC seems to be one of monitoring the conditions of approval. It is likely that this role would be more important to those in the community directly affected by the development through noise, dust, etc. A CCC before a project is approved would be of interest to the community more broadly. A monitoring role is a difficult one for the community given its lack of resources and without powers to require provision of information.
- » The absence of Departmental representation on a CCC hampers the Committee's ability to acquire information or to make meaningful suggestions on approval of the project and its operating conditions and to enforce any operating conditions once the project is underway. I see it as important that the Department is represented on a CCC – at least for major projects that are likely to raise significant community concerns.

Barry O'Neill  
Community Representative  
Jupiter Wind Farm CCC