



3 April 2020

Dear Sir / Madam

**The Next Generation (NSW) Pty Ltd v Independent Planning Commission
Land and Environment Court Proceedings no. 2019/13009 (Class 1 Proceedings)
Eastern Creek Energy from Waste Facility SSD 6236**

The purpose of this letter is to provide you with an update about these Class 1 Proceedings.

1. Conciliation conference vacated

On 27 March 2020, the Land and Environment Court (**Court**) convened a case management conference by telephone. The purpose of this was to consider whether the Conciliation Conference, which was scheduled to take place on 28-30 April 2020, should occur in light of the current circumstances arising from Covid-19.

The Court ordered that the current dates for the Conciliation Conference be vacated. Accordingly, the public portion of the Conciliation Conference scheduled for 29 April 2020 is cancelled.

The Court has adjourned this matter until 2 October 2020, when it will set a new date for the Conciliation Conference. In addition, orders were made permitting the parties to approach the Court to seek an earlier listing if circumstances change.

A letter will be sent to you when the Court sets new dates for a Conciliation Conference.

2. Leave to amend plans refused

Further, since the last letter, The Next Generation (NSW) Pty Ltd (**Applicant**) filed a motion to rely on amended plans.

On 18 February 2020, the Court delivered judgment, refusing the Applicant's motion to rely on amended plans.

The full citation of the Court's judgment is: *The Next Generation Pty Limited v Independent Planning Commission* [2020] NSWLEC 13. This can be accessed either by the link or by searching the case on <https://www.caselaw.nsw.gov.au/search/advanced>.

In summary, the Court found that the proposed amendments were so different to the development application formally determined (and refused) by the Independent Planning Commission (**Determined Application**), that it constituted a development for which a new development application was required.

On 4 March 2019, the Applicant informed the Court that it would continue with the Class 1 Proceedings, seeking approval for the Determined Application.

When a new date is set for the Conciliation Conference, any submissions you may wish to make should relate to the Determined Application. All the submissions which have already been made in relation to the Determined Application will be provided to the Court.

Yours faithfully

A handwritten signature in blue ink, appearing to be 'J. Zorzetto', with a horizontal line drawn through it.

John Zorzetto
Senior Legal Officer
Legal Services