



Environmental Defenders Office

30 June 2020

Mr John Hann
Commissioner, Independent Planning Commission
Panel Chair for the Vickery Extension Project

Prof. Chris Fell AM and Prof. Zada Lipman
Commissioners, Independent Planning Commission
Panel Members, Vickery Extension Project

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By e-mail only

Dear Commissioner

Public hearing for Vickery Extension Project

1. We refer to the public hearing scheduled to take place on 2-3 July 2020 in relation to the above Project and confirm that we act for Lock the Gate (**LTG**).
2. LTG is network of groups and individuals throughout Australia that are concerned about the impacts of coal mining, and is one of the leading objectors to the Project. LTG has invested a substantial amount of time over the years faithfully participating in the assessment process.
3. We have been engaged by LTG for a number of years on this Project, and provided a substantial amount of advice and assistance in relation to our client's contribution to the assessment process for the Project. That work has included briefing independent experts to analyse the assessment information provided by the proponent. The experts briefed by our office on behalf of our client who will be presenting during the public hearing are:
 - a. Professor Will Steffen, Emeritus Professor, The Australian National University Senior Fellow, Stockholm Resilience Centre (on the topic of **climate change**);
 - b. Dr Alison Ziller, Lecturer, Macquarie University (on the topic of **social impact**);
 - c. Ms Sharyn Anderson, PhD Candidate, Charles Sturt University (on the topic of **European heritage**);
 - d. Dr Matthew Currell, Associate Professor, School of Engineering RMIT University (on the topic of **groundwater impacts**).
4. We note that there a number of other independent experts with appropriate qualifications who are also presenting to the Commission: Simon Nicholas (Institute for Energy Economics and Financial Analysis), Rod Campbell (Economist, The Australia Institute), John Quiggin (Professor, University of Queensland) and Alistair Davey (Pegasus Economics).
5. On behalf of our client, we have briefed Mr Robert White of Counsel to appear before the Commission to present our client's position on the Project, by reference to the law and the evidence.

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6. We note that Mr White has been allocated a time limit of 10 minutes to present to the Commission, and each of the independent experts listed above have been allocated just 5 minutes to present evidence on the impacts of the Project. By contrast, Mr Young from the Department has been allocated 45 minutes.
7. The Department has submitted that this Project (which is subject to heavy objection) is approvable by the Commission. In the interests of justice and the promotion of procedural fairness, and in order to build public confidence in the planning process, our strong view is that it is essential that a leading objector, like LTG, be afforded a similar amount of time to present its case as the Department been allocated.
8. Similarly, our view is that the independent experts who have been briefed to give evidence on behalf of LTG will be unable to meaningfully add value to the public hearing in just 5 minutes. We understand that the experts briefed by the EDO each requested 15 minutes to present. It is not clear why this time has been reduced to 5 minutes.

Building confidence in planning processes

9. The purpose of independent experts is to test assumptions and conclusions made by the proponent and the Department. Independent experts are impartial to the outcome – their contribution is objective, science-based, and necessarily complex. For those reasons, the time allocated to hear from independent experts should be proportionate to the complexity and gravity of their contribution to the assessment process.
10. As the Commission is aware, the public hearing is the vehicle by which merits appeal rights to the Land and Environment Court are removed. It is therefore the only forum in which objectors have the opportunity to provide oral evidence from eminently qualified experts that tests the rigour of the assessments prepared by the proponent and the Department.
11. In these circumstances, it is critical that such experts be given more than just a nominal opportunity to speak. Their contribution must be meaningful both in terms of the decision-making process and the public's understanding of the impacts of the Project. The public must be given an adequate opportunity to observe the giving of independent evidence on the impacts of the Project.

Request for additional time

12. Given that the public hearing is the only forum by which the public has the opportunity to observe (virtually in this case) and truly understand the decision-making process, and the evidence on which the Commission's decision is based. It is therefore, in our view, critical that independent experts are allocated sufficient time to give detailed evidence at the hearing, and that a leading objector is given sufficient time to present the legal and evidentiary basis on which objections are being made to the Commission.
13. On behalf of our client, we respectfully request that Mr White is allocated an equivalent time to Mr Young (45 minutes) to present submissions to the Commission on the legal and evidentiary basis for LTG's objection. We also request that each of the experts listed in this letter be allocated at least the usual 15 minutes allowed for special interest groups and independent experts.
14. We look forward to your response on an urgent basis.

Yours sincerely

Environmental Defenders Office



Elaine Johnson
Principal Solicitor