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Land and Property  
Management Authority

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Your Ref 10/09150-2

Director General  
Planning NSW  
PO Box 39  
SYDNEY NSW 2001

Attention: Ms Dinuka McKenzie

4<sup>th</sup> February 2011

Dear Sir

**Subject: Capital Wind Farm II – Request for Environmental Assessment Requirements**

I refer to the proponent's Preliminary Environmental Assessment Report for the Capital Wind Farm II proposal forwarded with your letter dated 9<sup>th</sup> December 2010 concerning your request for environmental assessment requirements. Thank you for extending the time to enable this response to be made.

Whilst the report states that at this stage the turbine and infrastructure layout has not been finalised, examination of the report indicates that Crown land is located within or in proximity to the project area which may be affected. This Crown land comprises:

- a) Two Trigonometric Reserves;
- b) Crown roads; and
- c) Crown waterways.

#### Trigonometric Reserves

- i. TR 18512 notified 26<sup>th</sup> August 1893 comprising Lot 7300 DP 1141027 in Parish Ellendon County Murray.
- ii. TR 88657 notified 14<sup>th</sup> July 1972 comprising Lot 98 DP 754919 in Parish Werriwa County Murray.

Any development should not interfere with the usage of this site for communications and or surveying purposes either during or after construction.

Any works located within or in the vicinity of these Trig Reserves will require:

- I. Consent on writing of the Surveyor General;
- II. A licence under the Crown Lands Act 1989. Works other than low impact acts will require a non-claimant application for determination of native title to be lodged at the federal Native Titles Tribunal and dealt with by the Federal Court because it is unlikely that native title has been extinguished.

#### Crown roads

It is apparent that several Crown public roads are located within the project area and intersect the designated envelope areas for turbine development. No reference to these roads or the impact upon them is evident in the report however this may be due to its preliminary nature.



When the layout of the proposal has been finalised it is likely that some parts of access tracks and buried and overhead cables for the project will be located on or over Crown roads. On this basis the following comments concerning the proposal are made:

1. Under the Crown Land Reforms, which commenced in 2004, LPMA has a program to close and sell unnecessary Crown roads to adjoining land owners and accordingly is encouraging applications for this purpose. In this instance, following the grant of an interim tenure to permit construction and resource surety, the proponent should coordinate the lodgement of road closing applications from adjoining landowners.
2. Under the provisions of Section 7 of the Roads Act 1993 the Minister for Lands, per LPMA, is the roads authority for Crown roads. Under the provisions of Section 138 of the Act the consent of the roads authority is required for any works, structures or excavation on Crown roads. In accordance with Section 139 of the Act it is proposed that any necessary consent will be provided by a licence which sets the conditions and authorises these works on Crown roads. An annual rental will apply to this licence;
3. LPMA will require that any works located on Crown roads shall be installed or constructed so that any current or possible future public use of the road is not impeded;
4. LPMA does not favour the construction of tracks along Crown road reserves particularly when, i. their current state, they have not been formed or used and may contain remnant native vegetation. The proponent should not assume that because Crown roads exist (on paper) they provide a satisfactory route for wind farm access tracks. It is more likely that better engineered tracks having better grade and alignment and less environmental impact can be formed on adjoining freehold land;
5. Whilst LPMA, on behalf of the Minister, is a roads authority it is not a road constructing authority and consequently, as part of the consent process, is unable to assess plans & specifications and the engineering design of road or track construction proposals along Crown road corridors. It is similarly unable to make any determination that a road or track has been constructed in accordance with the plans & specifications or appropriate standards. Nevertheless this authority would require that the proponent for the subject development provides full engineering details for any track construction work proposed along Crown roads.
6. For any significant construction of a track along a Crown road corridor that may be required by the proponent this Authority may wish to engage a consultant to technically assess the proposal and to undertake the monitoring and evaluation of the construction work to ensure it has been satisfactorily constructed in accordance with the plans and specifications and development approval. In accordance with Sec 223 of the Roads Act 1993 this Authority will wish to recover any costs incurred in the engagement of a consultant.
7. Similar to other wind farm projects it is likely that works to be constructed on Crown roads will most likely comprise access tracks and buried or overhead cables which will generally cross from one side of a road to the other. It is recognised that occupations of this type are unavoidable, relatively minor in nature and unlikely to require much technical assessment. Works of this nature will be dealt with in accordance with the procedure outlined in item 1 above.
8. The Crown, Minister for Lands and LPMA will require indemnification by the proponent and wind farm operator, or any of their contactors, against all claims arising out of the use and occupation of Crown road for the installation, maintenance and the continuing existence of the works on or over Crown roads.

### **Waterways and Water Bodies**

Sections of the following waterways within close proximity of proposed project which may be affected by the proposal have been identified as Crown lands:

- Lake George

- Taylors Creek
- Butmaroo Creek
- Wrights Creek

All current access points to waterways must be retained and available for public use. The impacts of any construction or operational activities of the proposal must not adversely affect the bed or banks of waterways; restrict flows; or adversely affect water quality. LPMA approval will be necessary before any work or activity can be carried out on the bed or banks of Crown waterways.

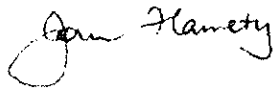
LPMA would like to express its concerns about the aesthetics of the proposal and its affects upon the adjoining Lake George. Both layouts provide a continuous line of wind turbines along 25 km of the eastern bank of Lake George and this is likely to have a considerable impact on the lakes visual amenity. The escarpments around Lake George define the lake and provide its backdrop. Because the lake is Crown land, the visual amenity should be preserved. Of the two layout options it is clear that option B has the lesser impact because of the wider spacing between turbines and the fact that the wider spacing is similar to that employed for the now completed Capital 1 development.

### **Development Application**

Owner's consent for lodgement of a development application may be required in respect of any development upon or use of Crown land by this proposal. Please note that any LPMA consent for lodgement of the development application does not imply or allow presumption of the concurrence of the Minister for Lands for the development proposal and does not prevent the LPMA or the Minister from lodging an objection at a later date when the full implications of the proposal are evident.

Steve Watts can be contacted on (02) 4824 3712 for any queries concerning the waterways and John Daunt on (02) 4824 3709 for any queries concerning the Crown roads and the Trigonometric Reserves.

Yours sincerely



John Flarrey  
Group Leader  
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**CROWN LANDS DIVISION**

