



renewable power ventures

30th January 2009

Director - Major Infrastructure Assessment  
NSW Department of Planning  
23-33 Bridge Street  
Sydney NSW 2000

Dear Mr Jeffries

**Capital Wind Farm PA 05\_0179 - Amendment to Condition 52**

This letter seeks an amendment of Condition 52 of the Capital Wind Farm Project Approval to address changes in the NSW regulatory framework. The change being sought involves the reference in Condition 52 to the 'DEC' being replaced with 'Department' meaning the NSW Department of Planning.

Condition 52 currently includes the following sentence:

*Any work undertaken outside the specified construction hours, other than those specified in (a) – (c) of this Condition No. 52, must not be undertaken without prior consent of the DEC.*

At the time of the Project Approval wind farms were considered as 'Scheduled Premises' and for aspects relating to matters addressed by the Protection of the Environment Operations Act, the 'DEC' was deemed the Appropriate Regulatory Authority. With the subsequent revision of the Protection of the Environment Operations Act, Schedule 1 of the Act now clearly excludes wind farms from the facilities defined as 'Scheduled Premises'. The outcome of this change is that:

- wind farms are no longer required to hold an Environment Protection License
- the DEC (now DECC) no longer considers that it has jurisdiction in respect to wind farms
- the DECC does not appear to want to take on responsibility for approving matters where it does not see itself being the 'Appropriate Regulatory Authority'
- The Department of Planning has a difficulty making decisions in regard to approval for variations of the matters specified in Condition 52 due to the current wording of the Condition.

It appears that the wording of Condition 52 does not allow the issues to be practically managed and we now request that the Department review the wording of Condition 52 and if deemed appropriate by the Department, amending Condition 52 by replacing 'DEC' with 'Department'.

Should you wish to discuss any aspect of this matter please contact me on 02 9238 4557 or by email on [dan.bennett@babcockbrown.com](mailto:dan.bennett@babcockbrown.com).

Yours Faithfully

Dan Bennett  
**Renewable Power Ventures**