

APPENDIX 24

Letter from George Baitch, For Surveyor General, Senior Surveyor, Survey Infrastructure and Geodesy, Department of Lands

Letter from Ken Sullivan, Regional Manager, South Region, Crown Lands Division, Department of Lands

Letter from John Flarrey, Program Manager, Land Administration (East), South Region, Department of Lands

Email correspondence with John Flarrey, Program Manager, Land Administration (East), South Region, Department of Lands



Department of Lands

Land Administration & Management
Property & Spatial Information

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15 May 2009

Ref: 55/11/1789

Dear Ed

Subject: Boco Rock Wind farm

In response to your email of 4 March 2009, I supply the following advice regarding the Trigonometrical Stations Teapot (TS 4302) and Bungarby (TS 1277).

From the coordinates that you sent to me, I note that the nearest "109 Layout Turbine Location" is only **57.5** metres distant from TS Teapot, and that the nearest "109 Layout Turbine Location" is only **30.5** metres distant from TS Bungarby.

Both Trigonometrical Stations Teapot (TS 4302) and Bungarby (TS 1277) are known as a Spine which is the basis of the State's network breakdown. They have the highest horizontal accuracy of Class 2A and Order 0. The Trigonometrical Stations are marked by a cairns, poles and discs that were placed in about 1892.

Neither of these Trigonometrical Stations are located on a Trigonometrical Reserve, and accordingly the Surveyor General can not insist on any additional conditions for your construction. However, I do remind you that the Surveyors Act 2002 states:

"24 Removal etc of survey marks

(1) A person must not remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General.

Maximum penalty: 25 penalty units.

(2) A court that finds a person guilty of an offence under this section may, in addition to any penalty it imposes, make either or both of the following orders:

(a) it may order the person to pay compensation, totalling not more than \$10,000, to the Surveyor-General towards the cost of reinstating the survey mark,

(b) it may order the person to pay compensation, totalling not more than \$10,000, to any other person towards any loss or damage suffered by that person as a consequence of the offence."

Accordingly, I ask that during construction of your towers, that you take care not to disturb or damage trigonometrical stations or the adjacent witness mark SS 8451.

Again I thank you for consulting with this Department on the final location of your towers.



George Bailch
For Surveyor General

Mr Edward Mounsey
Development Manager
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**Land Administration & Management
Property & Spatial Information**

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27 October 2008

Dear Mr Mounsey

**SUBJECT: PROPOSED BOCO ROCK WIND FARM BETWEEN NIMMITABEL AND
BOMBALA.**

I refer to your letter of the 20th October 2008 to Graham Harding, General Manager of Crown Lands Division concerning the above proposal. Mr Harding has asked that I reply on his behalf.

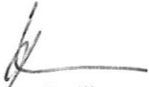
In respect of the proposal and the specific questions raised I would advise the following:

1. a. A perusal of your diagram showing the proposed turbine sites confirms that a number of Crown public roads may be affected by the proposal. Local records also suggest that several Council public roads may also be affected by turbine sites.
 - b. To determine exactly which roads (Crown or Council) are impacted by turbine sites, the Department will require detailed sites diagrams identifying the proposed turbine locations in relation to the cadastre and road boundaries.
 - c. Because Section 5 (1) of the Roads Act 1993 (copy attached hereto) provides for access by members of the public on roads, hindering of access on the roads by structures such as wind turbines would not be favoured.
 - d. It would be open to neighbouring landowners to lodge applications to close and purchase the affected Crown public roads (and any other sections traversing their properties). However, it should be pointed out that because road closings applications are advertised for comment by members of the public and statutory stakeholders there can be no guarantee of success of any application lodged.
 - e. It is recommended that you contact John Flarrey, Program Manager, Land Administration (East) at the Goulburn Office on (02) 4824-3714 to discuss the lodgement, processes, costs and likely timeframes of such applications.
 - f. Closure applications for Council public roads are processed in a slightly different fashion. Costs and purchase price methodologies may also vary. Usually, Council would be the applicant as the responsible roads authority. Until the Department receives a more detailed diagram relating the turbine sites to road boundaries, it is difficult to be definitive about the impact of this proposal.
2. From records available to the Goulburn Office Lot 127 DP 756848, and Lots 49, 63, 61, 94, 75 and 48 DP 756821 appear to be remnant parts of freehold parcels. It is recommended that your company approach Land and Property Information (NSW) C/- GPO Box 15 Sydney NSW 2000 to confirm their status and to provide ownerships.

3. Until the status of the parcels of land outlined in 2. is confirmed, I am not in a position to provide advice regarding the impact of native title or how it should be dealt with. Should they be confirmed as freehold though, I am advised that native title would be considered to be extinguished.

In addition to discussing possible road closing applications, your firm is encouraged to contact Mr Flarrey at the Goulburn office (telephone (02) 4824-3714) to discuss any aspect of this proposal as it relates to the Department. I suggest it would be helpful if you can provide Mr Flarrey with any plans or other information so that he may be in a better position to assist you with any further enquiries.

Yours sincerely



Ken Sullivan
Regional Manager
South Region
Crown Lands Division

Roads Act 1993 No 33

5 Right of passage along public road by members of the public

(1) A member of the public is entitled, as of right, to pass along a public road (whether on foot, in a vehicle or otherwise) and to drive stock or other animals along the public road.

(1A) The right conferred by this section extends to the right of passage of members of the public in a light rail or other railway vehicle.

(2) The right conferred by this section does not derogate from any right of passage that is conferred by the common law, but those rights are subject to such restrictions as are imposed by or under this or any other Act or law.

(3) For example, those rights are subject to such restrictions as are imposed:

(a) by or under the road transport legislation within the meaning of the Road Transport (General) Act 2005, or

(b) by or under section 72 of the Crown Lands Act 1989 (Cultivation of enclosed roads).



Department of Lands

Land Administration & Management Property & Spatial Information

Website: www.lands.nsw.gov.au

Contact: John Flarrey

13th August 2009

Ed Mounsey
Development Director
Wind Prospect CWP Pty Ltd
P.O. Box 1708,
NEWCASTLE NSW 2300

Dear Ed,

SUBJECT: BOCO ROCK WIND FARM NEAR NIMMITABEL AND COOMA

Reference is made to information supplied by email on 10th July 2009 and our numerous conversations concerning the above proposal.

From our conversations, it is clear that a number of Crown public roads, Enclosure Permits, Council public roads and Crown land are affected by the Wind Farm proposal.

In the first instance Diagram's A1 to A6 inclusive show the overall land affected by the Wind Farm at a larger scale. Affected Crown public roads not held under Enclosure Permit are coloured lime green, Crown public roads held under Enclosure Permit are coloured pink and Council public roads are coloured purple. Details of the Permits are set out later in this letter.

Lot 7301 DP 1139914 shown by orange on Diagrams A5 and B1 comprises a reserve for future public requirements under the general parish reservation. Lot 7301 is also subject of Aboriginal Land Claim 11049 for which processing is yet to commence. Until the Minister makes a determination in respect of the Claim, the Department is unable to authorise any use or occupation of the land and consideration should be given to relocating the overhead cable so as not to involve this land.

Lot 166 DP 756861 shown by yellow colour on Diagrams A5 and B2 comprises Permissive Occupancy 171108 for grazing held by John Osmond Bridgewater. The land also forms part of Reserve 93115 for Future Public Requirements notified in the gazette of 18th July 1980.

Lots 162 & 163 DP 756861 and Lot 1 DP shown by blue colour on Diagrams A5 and B3 comprises Special Lease 70907 for grazing held by John Reginald Jardine. This land also forms part of Reserve 93115 for Future Public Requirements notified in the gazette of 18th July 1980.

Preliminary investigations suggest that native title may be extinguished over both Permissive Occupancy 171108 and Special Lease 70907 but a final determination cannot be made until your Company provides the plans and titles previously discussed. However, if native title is confirmed as extinguished, it is likely the purpose of both tenures will have to be amended to permit the works required.

The details of Enclosure Permits affected in some way by the proposal are:

- Enclosure Permit 23627 covers the Crown public roads shown on Diagram C1 on property owned by Victoria May Bridgewater.
- Enclosure Permit 172902 covers the Crown public roads shown on Diagram C2 on the property owned by James William Haylock.

- Enclosure Permit 24168 covers the Crown public roads shown on Diagram C3 on the property owned by Edwin John Freebody.
- Enclosure Permit 24090 covers the Crown public roads shown on Diagram C4 on the property owned by Stephen John Rolfe.
- Enclosure Permit 24381 covers the Crown public roads shown on Diagram C5 on the property owned by JR and LH Jardine.
- Enclosure Permit 20844 covers the Crown public roads shown on Diagram C6 on the property owned by PJ & MH Bright.
- Enclosure Permit 20596 covers the Crown public roads shown on Diagram C7 on the property owned by William George Garnock.
- Enclosure Permit 20722 covers the Crown public road shown on Diagram C8 on property owned by W, M & A Haylock.

Local records indicate that a number of the Enclosure Permit holders have other Permits that are not affected by the Wind Farm. Similarly, most of the Permit holders mentioned above have other Crown public roads traversing their properties not held under an Enclosure Permit which in some cases are affected by the proposal and on other occasions are not. Should those landowners wish to consider lodging road closing applications over all the road in their properties, not just those affected by the Wind Farm, they should be encouraged to contact this office separately for relevant details of the roads involved.

It is the Departments preferred position that those Crown public roads directly impacted by towers, internal access roads, overhead or underground cables are closed if they are not required for access. It is noted however, that in some situations that while a road is affected by Wind Farm infrastructure, the roads may be required to remain in place to provide access to Crown land or other properties. In those cases, it may be prudent to approach the respective Council to determine whether that LGA would consider accepting control of the road. If that is not the case, it may be difficult to authorise any works on Crown roads because it may contravene the Departments road construction policy.

A total of 11.5 hours has been spent investigating the proposed Wind Farm and its impacts on Crown land and roads. The search fee for this investigation will be \$747.60. It would be appreciated if your Company could send a cheque for this amount to this office care of the address hereon as soon as practicable.

Yours sincerely



John Flarrey
Program Manager
Land Administration (East)
South Region

Can do that for you. From the info provided, the Department is satisfied that Native title is extinguished over Lot 166 DP 756861

John Flarrey

Program Manager
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Land and Property Management Authority
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From: Ed Mounsey [mailto:ed.mounsey@windprospect.com.au]
Sent: Tuesday, 18 August 2009 10:12 AM
To: John Flarrey
Subject: RE: Portions 162 and 163

Hi John

I received your letter and maps in the post today, many thanks.

In response would you be able to confirm in providing you with the plans and titles, that in addition to Lots 162 & 163 DP 756861, native title is also considered extinguished on lot 166 DP 756861

Ed

From: John Flarrey [mailto:John.Flarrey@lands.nsw.gov.au]
Sent: Tuesday, 11 August 2009 1:37 PM
To: Ed Mounsey
Subject: RE: Portions 162 and 163

Ed

Based on the information supplied I am now completely satisfied native title is extinguished over these two blocks

John Flarrey

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From: Ed Mounsey [mailto:ed.mounsey@windprospect.com.au]
Sent: Tuesday, 11 August 2009 1:23 PM
To: John Flarrey
Subject: RE: Portions 162 and 163

I appreciate it John, and consider the overhead line that was otherwise going to straddle lot 730I amended

Cheers

Ed

From: John Flarrey [mailto:John.Flarrey@lands.nsw.gov.au]
Sent: Tuesday, 11 August 2009 1:19 PM
To: Ed Mounsey
Subject: RE: Portions 162 and 163

Ed

The only thing holding up a response is Kristine's time. She's on leave for a couple of days dealing with a family matter and will not return until tomorrow. My response can hopefully make tomorrow's mail

John Flarrey

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From: Ed Mounsey [mailto:ed.mounsey@windprospect.com.au]
Sent: Tuesday, 11 August 2009 1:12 PM
To: John Flarrey
Subject: Portions 162 and 163

John

Report and maps attached, note page two of the black and white report is replicated in colour (also attached)

Ed

Edward Mounsey
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