



CWP

Our ref EM:CJT:3289429
Your ref MP 11_0033

25 September 2012

Ms Felicity Greenway
Acting Director Infrastructure Projects
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Attention: Mr Neville Osborne

Dear Madam

Crudine Ridge Wind Farm (Application Reference No. MP 11_0033) – Proposed Minor Change

1 Introduction

I refer to the Proposed Development of the Crudine Ridge Wind Farm (**Project**) and the following relevant materials previously lodged with, or issued by, the Department of Planning and Infrastructure (**DoPI**) in respect of this Project:

- (a) 'Major Project Application' No. MP 11_0033 (dated 16 February 2011);
- (b) 'Crudine Ridge Preliminary Environmental Assessment' (**PEA**) (dated February 2011);
- (c) 'Director General's Requirements' (**DGRs**), made pursuant to section 75F of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) (dated 17 March 2011);
- (d) 'Supplementary DGRs' made pursuant to section 75F(3) of the EP&A Act (dated 16 August 2011);
- (e) Further 'Supplementary DGRs' made pursuant to section 75F(3) of the EP&A Act (undated, but dated March 2012 on the DoPI website); and
- (f) 'Environmental Assessment' (**EA**), incorporating a Statement of Commitments (**SoC**) duly submitted on 18 May 2012.

2 Recent changes to the EP&A Act

I refer to the DoPI letter of 29 August 2012 concerning the amendment of Schedule 6A to the EP&A Act by way of Regulation on 24 August 2012. I also refer to my telephone conversation with the DoPI and my related email of 7 September 2012, responding to the DoPI's letter with respect to this Project.

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The EA has been duly submitted to the DoPI in respect of the Project in accordance with section 75H(1) of Part 3A and clause 2(1)(c) of Schedule 6A to the EP&A Act on 18 May 2012. The EA has been assessed for 'adequacy' and we are making revisions prior to public exhibition.

3 Critical Infrastructure

The Project is a 'critical infrastructure' Project pursuant to the declaration which was made by the Minister for Planning on 11 November 2009, under section 75C of Part 3A of the EP&A Act, at page 5841 of the NSW Government Gazette No.184.

4 Transitional Part 3A project

Part 3A of the EP&A Act was repealed on 1 October 2011. The Project is a 'transitional Part 3A project' pursuant to clause 2(1)(c) of Schedule 6A to the EP&A Act.

Clause 2(1)(c), as amended by regulation on 24 August 2012, provides:

2 Transitional Part 3A projects

(1) *The following are, subject to this Schedule, transitional Part 3A projects:*

...

(c) *a project for which environmental assessment requirements for approval to carry out the project, or for approval of a concept plan for the project, were last notified or adopted within 2 years before the relevant Part 3A repeal date (unless the environmental assessment is not duly submitted on or before 30 November 2012 or on or before such later day as the Director-General may allow by notice in writing to the proponent),*

... ' (our underling)

Supplementary EA assessment requirements were notified on 16 August 2011 (and March 2012). The EA was duly submitted on 18 May 2012. Thus, Part 3A of the EP&A Act is to continue to apply to the Project pursuant to clause 3(1) of Schedule 6A to the EP&A Act.

Relevantly, we also observe that clause 2(5) of Schedule 6A to the EP&A Act provides that:

'A transitional Part 3A project extends to the project as varied by changes to the Part 3A project or concept plan application, to the concept plan approval or to the project approval, whether made before or after the repeal of Part 3A.' (our underlining)

5 Proposed Minor Change to the Project

At present the EA (duly submitted on 18 May 2012) provides (at page 4) that:

'The EA may also be used in support of subsequent applications for approval under Section 78A of the Environmental Planning and Assessment Act (EP&A) Act 1979 (NSW) associated with the lease of land for the turbine sites and associated infrastructure.'

The EA similarly provides (at page 22) that:

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'The EA may also be used in support of subsequent applications for approval under Section 78A of the Environmental Planning and Assessment Act 1979 (NSW) associated with the lease of land for the turbine sites and associated infrastructure.'

Wind Prospect CWP Pty Ltd on behalf of Crudine Ridge Wind Farm Pty Ltd (**Proponent**) wants to make a minor change to the Project description to clarify that the leases of each parcel of land, which comprise the Project, are to be a component of this critical infrastructure Project under Part 3A.

The Proponent proposes to make this minor change only by:

- (a) deleting the above paragraphs from the EA;
- (b) inserting a small amount of text into paragraphs 2.1 and 3.2 of the EA. The text is to succinctly incorporate that the leases of all of the parcels of land, which comprise the Project (ie. each being a lease of land greater than 5 years: which is deemed to be the 'subdivision of land' pursuant to section 4B(1)(b) of the EP&A Act; but is not an actual subdivision creating a new allotment and deposited plan), are a component of the Project;
- (c) within that text, linking the various leases of the land (ie. the 'subdivision') to the same 'Landowner', 'Deposited Plan' and 'Lot' descriptions which are already provided at Appendix 1 of Volume 3 of the EA. In other words, demonstrating that the land the subject of leases is the identical land the subject of the project (see **Attachment 1**); and
- (d) renaming the title of the plan which is already provided in Figure 3.1 and 3.2 of Volume 2 of the EA to read 'Project Layouts A & B and Lease Corridor' and referencing this renamed plan within the new text inserted at paragraphs 2.1 and 3.2 (ie. a diagrammatic representation of the leased area) (see **Attachment 2**).

This is proposed as a minor change only to the Project description within the EA to go on public exhibition. This minor inclusion is not to, in any manner, alter the Project's overall:

- (a) site;
- (b) physical nature;
- (c) landscape and visual impact;
- (d) environmental or human impacts (eg. noise, flora and fauna, cultural heritage, traffic, water etc.);
- (e) final micro-siting of the turbines;
- (f) development footprint;
- (g) DGRs; or
- (h) SoC.

With regard to clauses 2(1)(c) and 2(5) of Schedule 6A to the EP&A Act, we contend that the proposed minor change is not to affect the 'transitional Part 3A project' status of the Project. We want to confirm with the DoPI that our understanding is correct prior to including this component in the EA to go on public exhibition.

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As the Project is a critical infrastructure Project, it is important that the whole of the Project be approved under Part 3A of the EP&A Act, rather than omitting the 'subdivision of land' (as defined in section 4B(1)(b) of the EP&A Act) and relying on a further development consent under Part 4 of the EP&A Act (eg. subject to applicable Local Environmental Plans) across multiple local council areas.

Section 75S of Part 3A of the EP&A Act concerns (in part) the 'subdivision of land'. That section excludes the operation of certain provisions of the EP&A Act (ie. 'relevant provisions' being section 81A and 109M or any provision relating to 'subdivision certificates') with respect to critical infrastructure Projects, unless a condition of the approved Project applies those provisions [see: section 75S(2)(b)].

In our view, section 75S makes it clear that it is appropriate for the 'subdivision of land' by lease to form part of the Project to be assessed under Part 3A. The inclusion of the 'subdivision of land' by lease within the Project description is administratively efficient because it reduces the need for a separate approval for the exact same Project (with assessment of the whole of the critical infrastructure Project being undertaken at the same time) and consequently reduces duplication of effort and associated additional costs.

As contemplated by section 75S, we contend that the Project does not require any particular conditioning, with respect to 'subdivision certificates' or other 'relevant provisions', as a result of this minor addition because the 'subdivision of land' is by lease only.

6 Meeting and next steps

With regard to the DoPI's letter of 29 August 2012 (and the new requirement from 24 August 2012 that an EA must be duly submitted on or before 30 November 2012 in order for a project to retain its Part 3A status) I would like to meet with the DoPI as soon as possible:

- (a) to confirm that the EA for the Project has been 'duly submitted on or before 30 November 2012' in accordance with clause 2(1)(c) of Schedule 6A to the EP&A Act – I understand from telephone discussions with the DoPI that it has been duly submitted; and
- (b) prior to making any minor inclusion within the EA to go on exhibition – to discuss the DoPI's requirements in relation to the above minor addition.

I look forward to hearing from you and discussing this matter as soon as possible.

Yours sincerely



Edward Mounsey
Head of Development | Wind Prospect CWP

Copy to:

1. Matthew Daniel, Director, Project Delivery Unit, NSW Department of Planning and Infrastructure

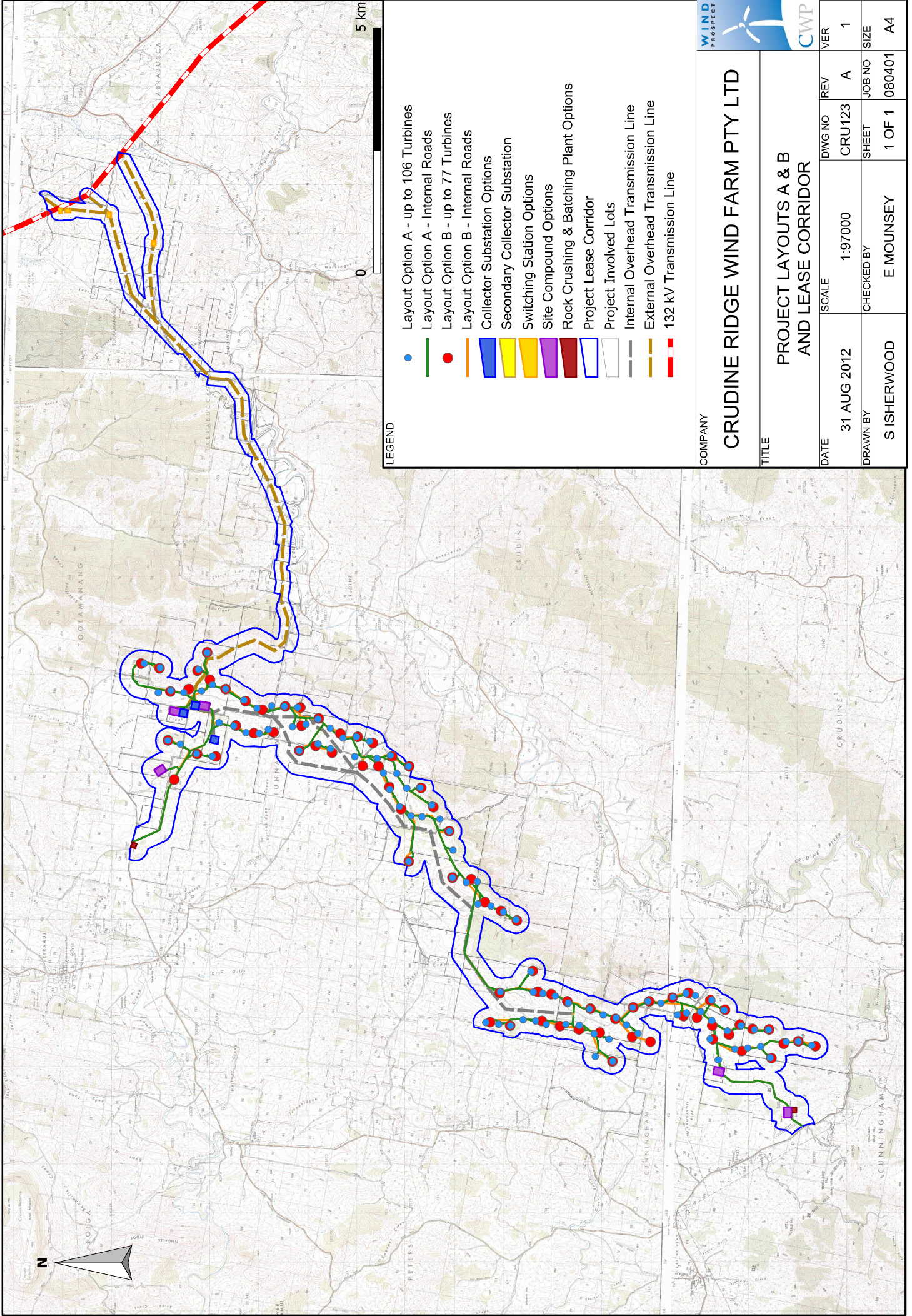
Attachments:

1. Land Tenure (**Attachment 1**).
2. Layout Options 1 and 2 with proposed lease corridor (**Attachment 2**).

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Landowner	DP	Lot	Landowner	DP	Lot
Landowner 1	DP756913	177	Landowner 14	DP756913	10
Landowner 2	DP756878	100		DP756913	12
Landowner 3	DP740568	2		DP756913	13
Landowner 4	DP756878	35		DP756913	165
Landowner 5	DP755792	27		DP756913	184
	DP756913	100	DP756913	185	
Landowner 6	DP755792	101	Landowner 15	DP756913	27
	DP870385	1		DP756913	57
Landowner 7	DP756878	113		DP756913	134
	DP756900	120		DP756913	135
Landowner 8	DP756913	209		DP756913	136
	DP756913	218		DP756913	137
Landowner 9	DP756913	8		DP756913	190
	DP756913	18		DP756913	202
	DP756913	199		DP756913	210
Landowner 10	DP756913	123		DP756913	211
	DP756913	129	Landowner 16	DP756913	17
	DP756913	169		DP756913	24
	DP756913	188		DP756913	35
Landowner 11	DP734393	1		DP756913	36
	DP756878	76		DP756913	39
	DP756878	97		DP756913	47
	DP756878	161		DP756913	98
	DP756878	17		DP756913	125
Landowner 12	DP1097478	1		DP756913	141
	DP755792	44		DP756913	159
	DP755792	62	DP756913	160	
	DP755792	63	Landowner 17	DP755792	45
	DP755792	64		DP755792	46
	DP755792	81		DP755792	65
	DP755792	99		DP755792	79
Landowner 13	DP756909	156		DP755792	88
	DP756913	162		DP755792	89
	DP756913	171		DP756913	37
	DP756913	173	DP756913	38	
	DP756913	179	DP756913	46	
	DP756913	195	DP756913	53	
	DP756913	197	DP756913	127	
	DP756913	214			



LEGEND

- Layout Option A - up to 106 Turbines
- Layout Option A - Internal Roads
- Layout Option B - up to 77 Turbines
- Layout Option B - Internal Roads
- Collector Substation Options
- Secondary Collector Substation
- Switching Station Options
- Site Compound Options
- Rock Crushing & Batching Plant Options
- ▭ Project Lease Corridor
- ▭ Project Involved Lots
- Internal Overhead Transmission Line
- External Overhead Transmission Line
- 132 kV Transmission Line

COMPANY

CRUDINE RIDGE WIND FARM PTY LTD

TITLE

**PROJECT LAYOUTS A & B
AND LEASE CORRIDOR**



DATE	31 AUG 2012	SCALE	1:97000	DWG NO	CRU123	REV	A	VER	1
DRAWN BY	S ISHERWOOD	CHECKED BY	E MOUNSEY	SHEET	1 OF 1	JOB NO	080401	SIZE	A4