

WIL 6.1

Native Vegetation Council

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Reference: NVC MTG 136, Item 6.3.1 : 05WLB02098

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15 December 2005

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Wind Prospect Pty Ltd
Att: Doreen Marchesan
PO Box 389
CHRISTIES BEACH SA 5165

Dear Ms Marchesan

Re : **Willogoleche Hill Wind Farm**

I refer to the letter dated 1/3/05 from Wind Prospect Pty Ltd seeking consent for the clearance of some areas of native vegetation in association with the Willogoleche Hill Wind Farm project.

At its meeting on 24 October, the Native Vegetation Council considered the proposal outlined in the documentation provided by Wind Prospect Pty Ltd, including the native vegetation clearance assessment report and the vegetation management plan framework.

Council considered your application against Regulation 5(1)(d) - *building or infrastructure in the public interest*. (See attachment 1) In summary this regulation requires that a clearance is be exempt from the *Native Vegetation Act 1991* if:

- that clearance is incidental to the construction of infrastructure in the public interest, or the provision of infrastructure to a building,
- development authorisation has been obtained,
- after taking into account the preservation of biodiversity, the site is the most suitable,
- there is no other alternative that would involve less clearance, and
- the clearance is undertaken in accordance with:
 - a standard operating procedure, or
 - a management plan approved by Council, and
 - there will be a significant environmental benefit on the property, or
 - the applicant has made a payment into the Native Vegetation Fund sufficient to achieve a significant environmental benefit.



Government
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Please note: All parts of regulation 5(1)(d) need to be satisfied for it to come into effect.

The Native Vegetation Council resolved that:

- the clearance outlined in this report is incidental to the construction of a building or infrastructure,
- it is satisfied that the clearance is in the public interest,
- it is satisfied that the proposed site is the most suitable that is available; and
- it is satisfied that there is no other practicable alternative that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared;

Council noted that under this application a total of 1.31 ha of native vegetation would be cleared, and that it was proposed that a Significant Environmental Benefit (SEB) would be achieved if native grassland vegetation elsewhere on the property (owned by AN & KA Wadlow) was protected in the long term under a Heritage Agreement. It is further noted that a suitable area for this purpose had been defined by Wind Prospect Pty Ltd with the agreement of the landowners. The Council noted that the proposed Heritage Agreement area would be fenced by Wind Prospect, and include clauses allowing existing vehicle access along the northern boundary of the property. Short-term grazing by stock would occur in the event that introduced grasses become prominent to the detriment of native species.

In a letter to the Native Vegetation Council dated 19/10/05, subject to the clearance application being approved, Mr and Mrs Wadlow confirm their agreement to provide a set aside area on the property and enter into a Heritage Agreement, the area to be a minimum of 4.1 ha and up to 5 ha in size, encompassing native grassland area on the property.

Council further resolved to approve the clearance application, and in particular the section titled "Willogoleche Hill Wind Farm – Vegetation Management Plan Framework" as a management plan pursuant to part (v) of Regulation 5(1)(d). Council noted that the plan provided detail on:

General Management

- Development of Environmental Management Implementation Plans, or equivalent (such as SOP) in relation to the actions detailed in the EMP.
- Environmental Inductions to be part of on-site training and inductions
- Implementation of an audit, incident reporting and non-compliance/corrective action system

Environmental Management

- Management of stockpiles to avoid impact to vegetation associations
- Pre-construction surveys to identify and flag no-go zones, in accordance with on-site findings (past and present) of significant flora and fauna
- Use of existing tracks where possible to limit disturbance to native vegetation and habitat areas

- Re-instatement of all disturbed areas not required to be maintained as cleared during operation of the wind farm, including monitoring of re-instatement efforts
- Development of a Soil and Water Management Plan in accordance with EPA guidelines, and including monitoring of soil management actions
- Upon decommissioning, re-instatement of all other disturbed areas.

Compliance with this EMP will form part of the contractual obligations between the Wind Farm Owner and third party contractors commissioned to work on-site, ensuring all actions in the EMP are implemented.

The Native Vegetation Council further resolved to require that Wind Prospect Pty Ltd report back in twelve months time outlining the clearance undertaken, the mitigation works implemented and the results of the monitoring program.

Upon commencement of clearance, implementation of the management plans as approved by the Native Vegetation Council is enforceable under *Native Vegetation Act*.

Part (ii) of regulation 5(1)(d) requires that: *any development authorisation required by or under the Development Act 1993 has been obtained*. It is the responsibility of the applicant to ensure that this authorisation has been obtained.

Therefore, subject to the obtaining of the above authorisation, and compliance with the approved management plan, the clearance described in the submitted report is exempt under *Regulation 5(1)(d) - building or infrastructure in the public interest*.

Please feel free to contact Peter Farmer on 8124 4769 should you have any questions.

Yours sincerely



Melissa Minerds
Secretary
Native Vegetation Council

Attachment 1

Native Vegetation Regulations 2003

Regulation 5(1)(d) - building or infrastructure in the public interest

Pursuant to section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared if —

- (i) —
 - (A) *the clearance is incidental to the construction of a building or infrastructure and the Council is satisfied that the clearance is in the public interest; or*
 - (B) *the clearance is required in connection with the provision of infrastructure or services to a building or proposed building, or to any place; and*
- (ii) *any development authorisation required by or under the Development Act 1993 has been obtained; and*
- (iii) *the Council is satisfied that, after taking into account the need to preserve biological diversity and the nature and purposes of any proposed building or infrastructure that is yet to be constructed, the proposed site of the building or infrastructure is the most suitable that is available; and*
- (iv) *there is no other practicable alternative that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or (if relevant) the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared; and*
- (v) *the clearance is undertaken in accordance with a standard operating procedure determined or approved by the Council for the purposes of this provision or a management plan that has been approved by the Council, and either there will be a significant environmental benefit on the property where the clearance is being undertaken or within the same region of the State, or the owner of the land (or a person acting on his or her behalf) has, on application to the Council to proceed with clearing the vegetation in accordance with this provision, made a payment into the Fund of an amount considered by the Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21(6) of the Act.*