

**SUBJECT: ALLOCATION OF CROWN LANDS  
FOR WIND POWER PROJECTS**



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\*Approved by Policy and Priorities Committee on September 28, 2005 in Record of Decision No. 2005-35-05

## 1.0 Purpose

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The purpose of this policy is to set criteria for the allocation of Provincially administered Crown lands in New Brunswick for wind power exploration and wind farm development.

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## 2.0 Background

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### 2.1 Wind Energy

Using wind energy to generate electricity may provide many economic and environmental benefits to the people of New Brunswick. Commercial wind power generation facilities, also referred to as wind farms, have the potential for supplying sustainable energy, at an increasingly competitive cost compared to conventional energy sources. Wind power exploration and generation is a fairly recent development in Canada. However, it is currently experiencing exponential growth, because of the country's commitment to the Kyoto Protocol, resultant federal subsidies, and lower production costs. As a relatively unknown and fairly complex land use, wind power development on Crown lands presents new challenges.

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### 2.2 Wind Power RFP by NB Power

Several private companies have shown an interest in developing wind farms on Crown lands, mostly as result of a Request for Proposals (RFP) initiated by NB Power in December 2003. The RFP was for the development of wind power generation facilities, with the intent to purchase between 20 and 40 MW of power. NB Power's long-term goal is to acquire at least 100 MW from renewables by 2010. Several of the potential sites identified during the RFP were located on Crown lands, mostly within existing Crown lands' commitments (i.e., peat leases).

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### 2.3 Inter-Departmental Cooperation

A "wind power on Crown lands" risk assessment was conducted in early 2004 by the Department, with one of the highest risk areas identified being the non-existence of a policy to deal with wind power on Crown lands. This led to the development of a draft interim policy.

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**2.4 Wind Exploration Activities**

Wind exploration usually precedes wind farm development. During the wind exploration stage developers may undertake field testing to determine the potential for wind farm development in a particular area. Wind exploration activities are comparable to mineral, oil and natural gas exploration, where developers may stake “wind claims” onto large areas of land, for possible future development. Based on the data collected during exploration, proponents may move to the second stage, and apply to develop the exploration area, or parts thereof, into a wind farm.

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**2.5 Wind Farm Construction & Operation**

Wind farm development usually occurs after exploration, when an ideal area of land has been identified. A wind farm includes several individual turbines, occupying small footprints, but together placed on a larger parcel of land. The size of the overall land parcel is usually proportional to the size of the wind turbines, the size of the blades, and the appropriate distance between the towers, all of which may be dependant on the local wind speed and direction. There will also be a requirement for strips of land between the turbines, for the housing of distribution lines, usually buried, as well as access roads to the site, and between the towers. Although wind farms can be large developments, their actual land use footprints usually take up a negligible area of land, thus allowing other land uses to flourish in close proximity.

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**2.6 Development Constraints**

Wind farms have certain development constraints that need to be considered. The accumulations of tall, tower-like structures change the visual aesthetic of the landscape, may have a negative impact on the local wildlife (especially birds and bats), and could be a potential public safety hazard. Careful planning is needed to accommodate these structures on Crown lands, so that the people of New Brunswick may reap the benefits of sustainable energy, with minimal or no significant detrimental effects.

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**3.0 Policy Statement**

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**3.1 Objective**

The objective of this policy is to provide a consistent approach in the allocation of Crown lands for wind power exploration and/or wind farm development.

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### 3.2 Policy

DNR recognizes the economic and environmental benefits of using wind energy to generate electricity. Furthermore, the Department understands that a number of energy developers may be interested in Crown lands for wind power generation, and that these developers require a fair, balanced and consistent approach in the allocation of land. As steward of Crown lands of New Brunswick, the Department also has an obligation to the people of the Province, to protect and enhance the value of Crown lands, and to strive towards managing these lands in a sustainable manner. This policy strives to provide guidelines for wind power development over Crown lands.

It is the policy of the Department of Natural Resources that suitable Crown lands will be made available for:

- wind exploration, and
- wind farm development,

subject to location criteria, terms and conditions as described in this Policy.

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### 4.0 Definitions

*Wind Exploration*

Field testing and meteorological measurements, usually utilizing temporary test towers, to determine wind energy potential of a particular area.

*Turbine*

A wind turbine consists of a rotor (blades), electrical generator (nacelle) and a tower. The “footprint” of a wind turbine includes the turbine tower base, foundations and service area around the base.

*MW*

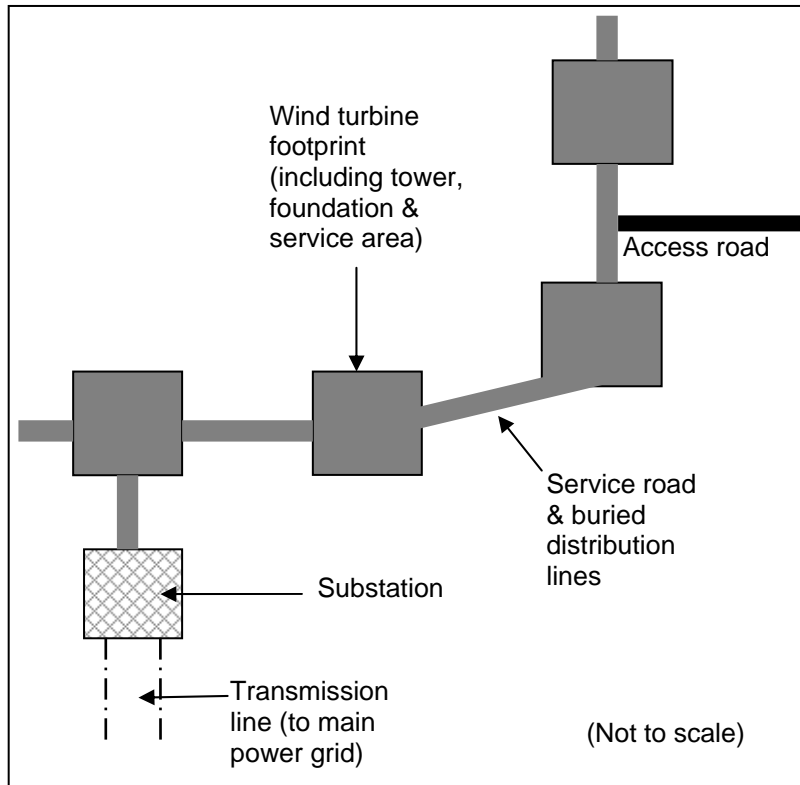
“MW” = Megawatt, a unit of electrical power, 1 MW = 1000 kW.

*Stand-alone System*

A wind energy system that is stand-alone, non-grid connected, with no commercial sale of electricity. A small scale system would meet the energy requirements of individual dwellings, farms, or businesses.

*Wind Farm*

This refers to any number of electrical energy-producing wind-powered turbines and supporting infrastructure that are spaced over a large area and connected to the power grid via transmission lines.



*Fig 1: Example of Wind Farm Layout*

## 5.0 Granting Rights for Wind Power Projects

### 5.1 Granting Rights through a Two-Stage Process

Rights for wind power projects over Crown lands will be granted through a two-stage, integrated process:

- First, through a licence of occupation for wind exploration and associated activities. Wind exploration applicants may also acquire an option to lease agreement over the exploration area; and
- Second, through a lease and an associated licence of occupation for construction and operation of a wind farm.

### 5.2 Mandatory Wind Exploration

It is mandatory for all wind power proponents to follow the two-stage process as outlined above, by applying for wind exploration rights prior to applying for wind farm tenure. This condition may be waived if the applicant can provide wind exploration data pertaining to the area of interest of the proposed wind farm.

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**5.3 TM Lines** Proponents may require construction of electrical transmission lines (TM lines) to connect to the provincial power grid. This should be taken into account when applying for a wind farm. However, when impacting Crown lands this will require separate authorization (through an easement).

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## 6.0 Wind Power Project Location Criteria

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**6.1 Location Constraints** The siting of all

- wind test towers, situated within a wind exploration licence area, and
- wind turbines, situated within a wind farm,

shall conform to the prescribed location constraints and setbacks.

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**6.2 Minimum Setbacks**

LAND USE/COVER	SETBACKS*
Crown lands boundaries, lakes, watercourses, wetlands and coastal features (as defined by the <i>Coastal Areas Protection Policy</i> )	150 m, or 1.5 x height of turbine, whichever is greatest
Public highways, roads and streets (including roads and streets within the boundaries of a city, town or village), designated as highways under the <i>Highways Act</i> ; and areas designated for those purposes in a plan adopted under the <i>Community Planning Act</i>	500 m, or 5 x height of turbine, whichever is greatest
Existing recreational, institutional and residential areas, and areas designated for those purposes in a plan adopted under the <i>Community Planning Act</i>	500 m, or 5 x height of turbine, whichever is greatest
Other built-up areas, e.g. industrial areas	150 m, or 1.5 x height of turbine, whichever is greatest
Communication, fire, airport and other tower structures	500 m, or 5 x height of turbine, whichever is greatest
Archaeological & Historical Sites (listed by the Culture & Sport Secretariat)	
Wind power option agreement areas, wind test towers and wind farms, either existing or under application review; unless occupied by, or part of applicant's proposal	
Endangered species habitat ( <i>NB Endangered Species Act</i> ); important migratory bird nesting sites and migration routes ( <i>Migratory Birds Convention Act</i> ); important water-bird breeding colonies; national wildlife refuges; wildlife management areas ( <i>Fish &amp; Wildlife Act</i> )	1000 m

\*From the centre of a wind test tower or turbine

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**6.3 Site-specific Setbacks** Where any site-specific wildlife or other environmental concerns are identified, that are not covered by the foregoing setbacks, Fish and Wildlife Branch and/or the Regional Biologist may be consulted, and a site-specific setback or buffer may be imposed. Site-specific setbacks may also be imposed to address concerns identified during the EIA process.

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**6.4 Areas to be Avoided** In addition to areas covered by the foregoing setbacks, the following areas shall not be available for wind power exploration and/or wind farm development:

- Protected Natural Areas (PNA's) and candidate Fine Filter sites;
- Park lands;
- Operational quarries or mining sites;
- Economically viable peat lands (areas with available peat of one metre or deeper);
- Existing Crown land leases, except as provided in sections 8 and 11 of this Policy;
- Other, site-specific fish, wildlife and environmental concerns, identified during the review process or within the EIA, if applicable.

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## **7.0 Wind Power Exploration**

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**7.1 Licence to Explore** A Licence of Occupation is used to secure the right to use Crown lands for wind exploration (see Fig 2).

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**7.2 Terms of Licence to Explore** A licence to explore:

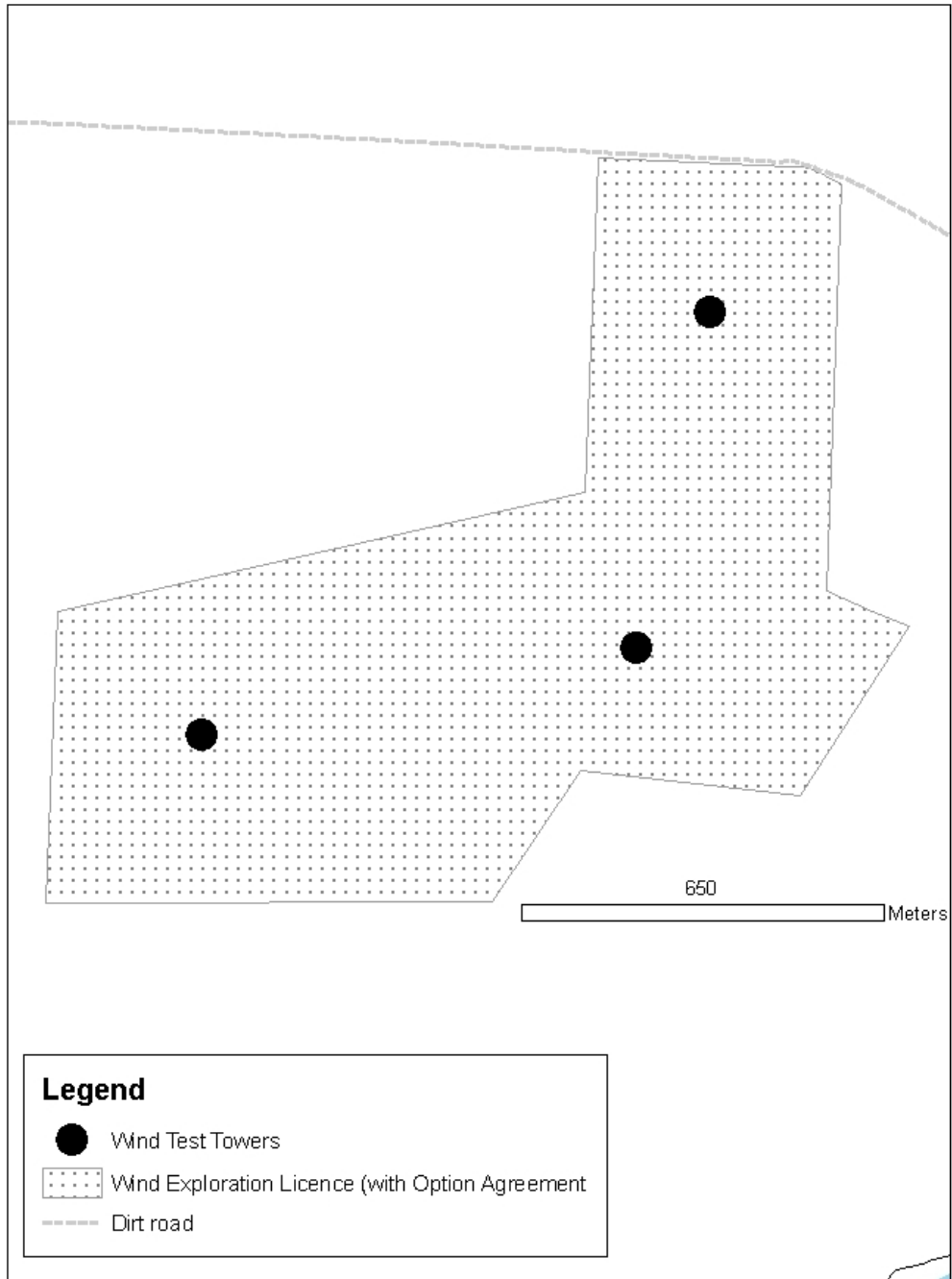
- will authorize the licensee to erect temporary test towers, take meteorological measurements, and/or conduct environment monitoring activities;
- may include up to five wind test tower sites. Greater than five test tower sites may be included in a single licence at the discretion of the Minister or the Minister's designate;
- may be granted for a period of up to three consecutive years.

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**7.3 Extension of Licence to Explore** The term of a licence to explore may be extended, at the discretion of the Minister or the Minister's designate, to allow for:

- the completion of EIA requirements;
- approvals from other agencies; or
- any other delay beyond the applicant's control.

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*Fig 2: Wind Power Exploration Rights*

**7.4 Option Agreement**

An Option to Lease Agreement may be issued in conjunction, and coterminous with the licence to explore. The option to lease agreement, held over the licensed lands, will grant an exclusive right to acquire a wind farm lease over the lands, subject to final approval, terms and conditions.



**7.5 Terms of Option Agreement**

- The term of the option agreement will run concurrent with the term of the licence to explore, i.e. for a period of up to three consecutive years;
  - During the allotted agreement period the option agreement holder will have the exclusive option to submit an application for a wind farm lease over the agreement lands;
  - If the option agreement holder does not exercise the option during the allotted agreement term, the lands will become available, on a first-come, first-served basis, for wind exploration and/or development.
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**7.6 Licence to Explore without Option Agreement**

A proponent may opt for a wind exploration licence without an option to lease agreement. This will enable the Department to issue wind exploration rights (non-exclusive) to other proponents over the same lands, subject to location criteria as outlined in section 6 of this policy.

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**8.0 Evaluation of Wind Exploration Applications**

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**8.1 Basic Eligibility**

Applications for wind power exploration will be dealt with on a first-come, first served basis.

Only wind power exploration applications that do not overlap:

- wind power exploration licences with option agreements,
- wind test tower sites on licensed lands without option agreements, or
- wind farms,

under application review or in good standing will be accepted, unless the other rights are held by the applicant.

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**8.2 Applications over Existing Rights**

Applications for wind exploration on lands over which someone else holds an existing Crown lands right may be considered,

- subject to the location criteria outlined in section 6 of this Policy;
- if, according to the Director of Crown Lands, uses compatible with wind power exploration exist; and
- in the case of an existing lease, subject to the availability of unused or redundant portions of the lease, and the consent of the lessee.

The Department may refuse an application if wind power exploration is considered to be incompatible with the existing land use.

No Option to Lease Agreement will be available over existing Crown land leases.

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**8.3 Notification and Consent of Right Holder**

The Department will notify all affected right-holders of any new wind exploration applications and/or approvals that may affect the subject lands over which the right is held.

The Department will review the suitability of a wind exploration application over an existing lease, by consulting with the lessee. Consent from the lessee must allow the Department to amend the existing lease by withdrawing the identified and unused portions from the existing lease, if the wind exploration application is approved.

The Branch that administers the lease will do the consultation with the lessee.

The wind exploration proponent will be obliged to pay all costs associated with amendment of the existing lease, including survey and registration of amended leases.

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**8.4 RFP**

A request for proposals (RFP) will be initiated if more than one proponent expresses interest in the same parcel of Crown lands for wind power exploration, prior to the commencement of the application review process (generally within 14 days or receipt of an application).

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**8.5 Location Map**

All wind exploration applications must be accompanied by a map or aerial photograph showing:

- the boundaries, dimensions and size of the proposed wind exploration licence area;
  - the location of all proposed wind test tower site(s);
  - existing or proposed access roads to the proposed wind exploration area and/or wind test tower site(s);
  - all lakes, watercourses, wetlands, roads and trails within or near the proposed wind exploration licence area; and
  - the location of any other existing infrastructure and development within the proposed exploration licence area.
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**8.6 GPS Delineation Map**

The proponent must submit, for approval, a description of the boundaries of the licensed lands and associated option to lease, in the form of a GPS delineation map, derived from GPS coordinates. All GPS coordinates used must conform to GPS standards as prescribed by DNR.

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**8.7 Site Development Plan**

The proponent must submit, for approval, a description of the proposed exploration activities on the licensed lands in the form of a Site Development Plan (SDP). The approved SDP will form part of the licence document, and must include the following:

- A location map, as described above;
  - A project summary, describing all exploration activities to be undertaken;
  
  - A site plan showing:
    - the location of all wind test towers and/or related facilities, with GPS coordinates and scale dimensions;
    - the location of any new or existing access roads to the site;
    - the location of any fuel storage tanks;
    - the proposed location of any future wind test towers or facilities;
  
  - Construction details for every wind test tower and related facilities, including excavations, construction materials used, timber removal, etc.;
  - Timeline of the proposed wind exploration project;
  - A site rehabilitation plan for implementation upon expiry of licence, and/or decommissioning of individual test towers.
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**8.8 Site Location Review**

The siting of all wind test tower sites and related facilities are subject to location criteria, setbacks and constraints, as detailed in Section 6 of this Policy (see Addendum A). The site location review does not replace any requirements for a Provincial Environmental Impact Assessment review, or Federal Environmental Assessment review, of the proposed undertaking.

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**9.0 Requirements of Wind Exploration Right-holders**

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**9.1 Site Development**

Once a wind exploration licence has been approved and issued, construction of wind test towers and related facilities may commence in accordance with the approved Site Development Plan (SDP).

The SDP has to be amended and re-approved by DNR if:

- the licence area is modified;
  - test towers are relocated to sites not specified in the original SDP; or
  - before any major works, other than those approved in the original SDP, are undertaken on the site.
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**9.2 Early Termination with Cause** The licensee shall commence with installation of wind test towers, monitoring stations or related facilities within twelve months after the issuance of the licence to explore. Failure to comply may lead to a termination of the licence, unless the licensee can provide DNR with just cause as to the nature of any delay, the anticipated date of installation, and evidence of progress towards site monitoring activities.

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**9.3 Inspections** There will be a site inspection after the 1<sup>st</sup> year of the licence period, to verify compliance with policy requirements.

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**9.4 Compliance with Relevant Legislation** All relevant Provincial and Federal legislation must be adhered to, and the licensee must obtain all the necessary approvals, permits, licenses or authorizations prior to any work done on the lands, including but not limited to the following:

- *Watercourse and Wetland Alteration Permit*  
If a watercourse or a wetland is present in a proposed exploration area, the applicant must contact DELG regarding a Watercourse and Wetland Alteration Permit for any work to be carried out within 30 meters of a wetland or the banks of a watercourse;
  - *Watershed Protected Area Designation Order*  
Where the proposed wind exploration area is located within an area designated as a watershed protected area under *Regulation 2001-83, Watershed Protected Area Designation Order – Clean Water Act*, the applicant must adhere to the Designation Order;
  - *Wellfield Protected Area Designation Order*  
Where the proposed wind exploration area is located within an area designated as a wellfield protected area under 2000-47, *Wellfield Protected Area Designation Order – Clean Water Act*, the proponent must adhere to the Designation Order.
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**9.5 Existing Access Roads** Where available, existing access roads must be used to access exploration sites.

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**9.6 Environmental Considerations** Any new infrastructure on licensed lands is to be constructed and maintained so as to minimize loss of flora, fauna or aquatic life.

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**9.7 Storage of Petroleum Products** The licensee will have to abide with the *Interim Policy on the Storage of Petroleum Products on Crown Lands*.

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**9.8 Wind Test Data** Licensees are required to submit all wind test data to DNR upon expiration of the wind exploration licence agreement, irrespective of whether the site will be developed for wind power production.

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**9.9 Site Rehabilitation** The licensee is responsible for the rehabilitation of all disturbed land as a result of construction, testing or any other activities. Licensees will also be required to rehabilitate the site, to the satisfaction of the Minister, after decommissioning of individual wind test sites, and/or expiry of the licence.

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## **10.0 Wind Farm Development, Construction and Operation**

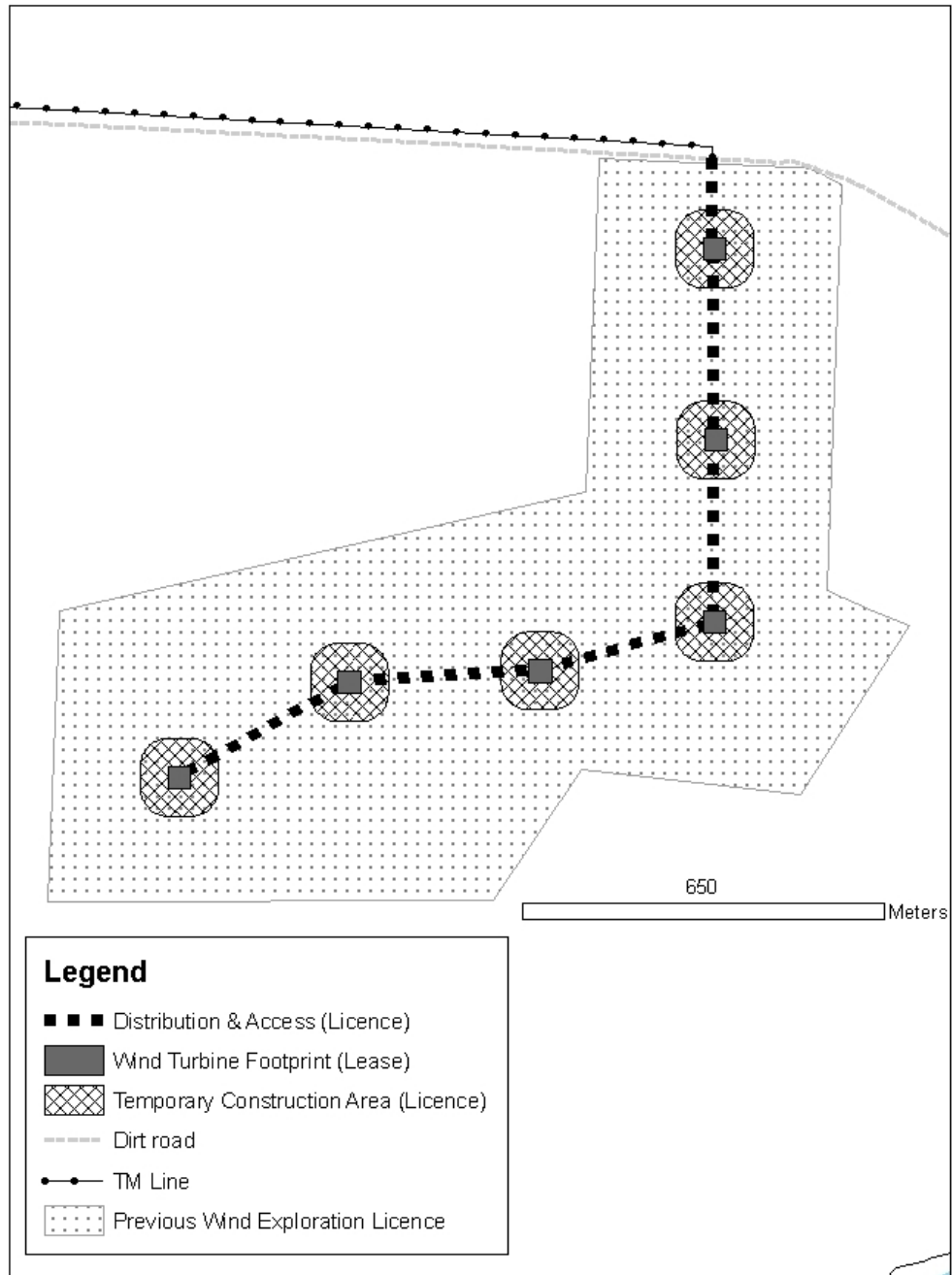
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**10.1 Wind Farm Tenure** A lease, with a licence of occupation, is used to authorize the development, construction and operation of a wind farm on Crown lands, in the following manner:

- a single lease (exclusive use) will be issued for all wind turbine and electrical substation sites within a wind farm, and
- an associated licence of occupation (non-exclusive use) will be issued to authorize all distribution lines and access roads within the wind farm (see Fig 3).

For smaller sites, one-turbine sites, or where turbines are closely located, the lease without an associated licence may be used to include all wind turbine sites and associated infrastructure, including electrical substations, distribution lines and access roads.

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*Fig 3: Wind Farm Rights*

**10.2  
Temporary  
Licence during  
Construction**

A temporary licence of occupation covering an area larger than the actual lease footprint may be issued to allow construction of the wind farm. This licence will expire upon completion of wind farm construction.

**10.3 Term of Wind Farm Tenure** The term of tenure for the wind farm, consisting of a lease and associated licence of occupation, will be 10 years (*currently under review, awaiting legislative amendment for 20 year term*).

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**10.4 Transmission Lines** Wind farm tenure does not confer the right to build electrical transmission lines across the lands. Tenure for transmission lines to or from a wind farm must be applied for, and may be issued separately, in the form of an easement.

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## **11.0 Evaluation of Wind Farm Applications**

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**11.1 Basic Eligibility** Wind power option agreement holders have the first right to submit applications for wind farm development over the agreement lands, at any time during the option agreement term. Applications for wind farms over lands for which the applicant has held no existing wind power option agreement will be considered on a first-come, first served basis.

Only wind farm applications that do not overlap:

- wind power exploration licences with option agreements,
- wind test tower sites on licensed lands without option agreements, or
- wind farms,

under application review or in good standing will be accepted, unless the other rights are held by the applicant.

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**11.2 Applications over Existing Rights** Applications for wind farm development on lands over which someone else holds an existing Crown lands right may be considered,

- subject to the location criteria outlined in section 6 of this Policy;
- if, according to the Director of Crown Lands, uses compatible with wind farm development exist; and
- in the case of an existing lease, subject to the availability of unused or redundant portions of the lease, and the consent of the lessee.

The Department may refuse an application if wind farm development is considered to be incompatible with the existing land use.

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**11.3  
Notification  
and Consent**

The Department will notify all impacted right-holders of any new wind farm applications and/or approvals that may affect the subject lands over which the right is held.

The Department will review the suitability of a wind farm application over an existing Crown land lease, by consulting with the lessee. Consent from the lessee must allow the Department to amend the existing lease by withdrawing the identified unused portion(s) from the existing lease, if the wind farm application is approved.

The Branch which administers the lease will do the consultation with the lessee.

The wind farm proponent will be obliged to pay all costs associated with amendment of the existing lease, including survey and registration of amended leases.

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**11.4 Location  
Map**

All wind farm applications must be accompanied by a map or aerial photograph showing:

- the boundaries, dimensions and size of the proposed wind farm, including preliminary turbine sitings;
  - location of existing or proposed access roads;
  - all lakes, watercourses, wetlands, roads and trails within or near the proposed wind farm;
  - location of any existing or proposed transmission line grid connections; and
  - the location of any other existing infrastructure within the proposed wind farm.
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**11.5 Site Development Plan**

The proponent must submit, for approval, a description of the proposed activities in the form of a Site Development Plan (SDP). The approved SDP will form part of the tenure document, and must contain the following:

- A location map, as described above;
  - A project summary;
  - A site plan showing:
    - the location of all proposed infrastructure, with scale dimensions;
    - the location of any new access roads to, and within the site;
    - the location and type of any proposed fuel storage tanks;
    - type, size and location of any proposed security fencing;
    - location of any proposed public safety signage;
    - future site expansion potential;
  - Construction details for all planned infrastructure, including excavations, construction materials used, timber removal, etc;
  - Timeline of the proposed project, including construction schedules;
  - Rehabilitation plans for any disturbed lands as a result of construction activities; and
  - A site rehabilitation plan for implementation upon expiry of lease, and/or decommissioning of any infrastructure.
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**11.6 Business Plan**

The proponent must provide a Business Plan which:

- provides cost estimates and funding requirements for the proposed plan; and
  - demonstrates that capital required to develop the wind farm is secured, e.g. letter of credit from a bank.
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**11.7 Site Location Review**

All applications for wind farms on lands:

- for which the applicant does not hold an existing wind exploration licence, and/or
- that were not previously screened for the location criteria prescribed by this Policy;

will be screened for the prescribed location criteria, setbacks and constraints as detailed in Section 6 of this Policy (see Addendum A).

For all other applications, existing constraint maps drafted during the wind exploration application review will be used during the wind farm application review.

The site location review does not replace any requirements for a Provincial Environmental Impact Assessment review, or Federal Environmental Assessment review, of the proposed undertaking.

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**11.8 EIA  
Registration**

Any wind farm application that corresponds to one of the undertakings described in Schedule A of Regulation 87-83, *Environmental Impact Assessment Regulation – Clean Environment Act* must be registered with the Minister of Environment and Local Government to determine whether completion of an Environmental Impact Assessment is required.

Should a wind development project require registration under the EIA Regulation, DNR will not provide an approval for a wind farm until:

- a Certificate of Determination is issued by the Minister of Environment and Local Government under the EIA Regulation; or
- the Lieutenant-Governor in Council gives approval for the undertaking, following the completion of a required EIA.

If the Lieutenant-Governor refuses to approve the undertaking, DNR will reject the wind farm application.

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**11.9 Review  
Agencies**

DNR may call upon the expertise of any governmental and non-governmental review agencies for evaluation of a wind farm application, including evaluation of the Site Development Plan.

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**11.10  
Conformity to  
Existing Plans  
and Zoning By-  
Laws**

If the application is located in an area where a municipal plan, rural plan, basic planning statement or zoning by-laws or regulations are in effect, the proponent will have to show conformity to them or apply for an amendment.

For any application that requires an amendment, DNR may undertake the evaluation of the application but will not make a final offer to the applicant until the amending by-law or regulation has been enacted.

Where the application to amend a plan and/or zoning by-law or regulation is rejected, DNR will reject the application.

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**11.11 Public  
Consultation**

DNR may require that public consultation take place with respect to the wind farm proposal. This may include:

- public notifications in a French and English paper that serves the area in which the wind farm is proposed. The notification shall:
  - describe the proposed use;
  - show the location of the proposed wind farm;
  - indicate to whom comments are to be forwarded;

### 11.11 Public Consultation (continued)

- indicate that the names of individuals who have concerns with the proposal will be kept confidential; however, DNR may share the concerns that were identified with the applicant, and
- identify a deadline for submitting comments.
- sending a letter to land owners located within one kilometre distance of the site on which the wind farm is being proposed. The letter shall:
  - describe the proposed use;
  - show the location of the proposed wind farm lease;
  - indicate to whom comments are to be forwarded;
  - indicate that the names of individuals who have concerns with the proposal will be kept confidential; however, DNR may share the concerns that were identified with the applicant, and
  - identify a deadline for submitting comments.
- holding public consultation sessions to assist in making a decision on whether or not to issue authorization.

Public consultation is not required for:

- a wind farm application if public consultation is required as part of an EIA process or as part of a re-zoning request; and
- wind farm authorization renewals or assignments.

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## 12.0 Requirements of Wind Farm Right-holders

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### 12.1 Leasing Regulation

The wind farm right holder must abide by all the requirements of Regulation 89-32, *Leasing Regulation – Crown Lands and Forests Act*.

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### 12.2 Survey of Wind Farm

Before a wind farm authorization is issued, the occupant shall, at the occupant's expense, have a New Brunswick Land Surveyor prepare a coordinated plan of survey or subdivision plan on which coordinates shown were derived from ties to adjusted NB Monuments or HPN Monuments, along with a description of the surveyed area, and submit these to the Department for approval.

A survey will be required:

- for all new wind farms;
- any time there is an addition or a withdrawal of land from the authorization; and
- for all renewals if the boundaries of the wind farm:
  - have been changed;
  - are no longer visible on the ground; or
  - if it is unclear what the boundaries are.

**12.2 Survey of Wind Farm (continued)**

The survey must include all proposed wind turbine footprints, including service areas, and all related infrastructure, including electrical substations. The distribution lines and access roads under wind farm authorization may be included in the survey, however at the discretion of the Minister or the Minister's designate a GPS survey, which conforms to GPS standards set by CLB, may suffice.

Where required by DNR, the survey must be:

- in compliance with land subdivision requirements of the *Community Planning Act* unless it is exempted; and
- approved for registration by a Development Officer.

The right holder must maintain the boundary lines without destroying survey evidence.

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**12.3 Registration of Lease**

Before a lease is issued, the Department may require the occupant to:

- obtain either an approval or an exemption under the *Community Planning Act* for registration of the parcel created by the lease; and
- register the lease and submit proof of registration within a specified time period.

If the DNR Land is in the Land Titles System, the lessee will have to register the lease in the Land Titles System.

Where the right holder desires to enter into an undertaking that requires the transfer of the leased lands from the Land Registry System to the Land Titles System, such as mortgaging the lease, the lessee will be responsible for arranging the transfer and bearing all associated costs.

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**12.4 Liability Insurance**

All wind farm developments must carry public liability insurance in the amount of \$2,000,000.00 per incident, for the duration of the authorization.

“Her Majesty the Queen in Right of the Province of New Brunswick” must be named as an “additional-insured” in the policy.

A copy of the policy and a certificate of insurance must be provided to the Department upon request.

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## **12.5 Compliance with Relevant Legislation**

All relevant Provincial and Federal legislation must be adhered to, and the right holder must obtain all the necessary approvals, permits, licences or authorizations prior to any work done on the lands. These include but are not limited to the following:

- *12.5.1 Watercourse and wetland alteration permit*  
If a watercourse or a wetland is present in a proposed exploration area, the applicant must contact DELG regarding a Watercourse and Wetland Alteration Permit for any work to be carried out within 30 meters of a wetland or the banks of a watercourse;
- *12.5.2 Oversized load permit*  
Pursuant to Regulation 2001 - 67, *Vehicle Dimensions and Mass Regulation* under the *Motor Vehicle Act*, special permits may be required for oversize/overweight loads, associated with transportation of wind energy components to project sites;
- *12.5.3 Building permit*  
The right holder will have to obtain a building permit from the proper planning authority before constructing any building on the leased lands;
- *12.5.4 Tower marking and lighting*  
The right holder must adhere to the *Civil Aviation Regulations* requirements for wind turbine tower markings and lighting;
- *12.5.5 Watershed Protected Area Designation Order*  
If the proposed wind farm is located within an area designated as a watershed protected area under Regulation 2001-83, *Watershed Protected Area Designation Order – Clean Water Act*, the applicant must adhere to the Designation Order;
- *12.5.6 Wellfield Protected Area Designation Order*  
If the proposed wind farm is located within an area designated as a wellfield protected area under 2000-47, *Wellfield Protected Area Designation Order – Clean Water Act*, the proponent must adhere to the Designation Order;
- *12.5.7 Coastal Areas Protection Policy*  
If the wind farm is located in a coastal area, the proponent must adhere to the *Coastal Areas Protection Policy*;
- *12.5.8 Interim Policy on the Storage of Petroleum products on Crown Lands*  
The right holder shall abide by the *Interim Policy on the Storage of Petroleum Products on Crown lands*.

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## **12.6 Environmental Requirements**

Any infrastructure on the lands is to be constructed and maintained to minimize loss of flora, fauna or aquatic life.

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**12.7 Assignments** Authorizations may not be assigned to third parties, successors, assigns or beneficiaries, unless written permission is obtained from the Minister.

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**12.8 Site Development** Once wind farm tenure has been approved, and the lease and associated license(s) issued, construction of turbines and related infrastructure may commence in accordance with the approved Site Development Plan (SDP).

The SDP has to be amended and re-approved by DNR if:

- the wind farm area is modified; or
  - before any works, other than those approved in the original SDP, are undertaken on the site.
- 

**12.9 Early termination with Cause** Wind farm construction has to be initiated within twelve months of issuance of a wind farm authorization.

The site must be fully developed within three years of issuance of the authorization. Failure to comply may lead to a termination of the authorization, unless the right holder can provide DNR with just cause as to the nature of any delay, and evidence of progress towards construction and development.

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**12.10 Site Inspections** All newly authorized wind farms will be inspected by DNR staff on an annual basis, until the wind farm is fully developed and becomes operational, as indicated on the development timeline in the approved Site Development Plan. Existing wind farms will be inspected by DNR staff prior to renewal, and upon cancellation, or at any other time DNR deems necessary.

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**12.11 Annual Report** Right holders must submit an annual report to CLB, outlining:

- monthly production statistics (if operational);
- meteorological data collected on site, i.e. average measured wind speed;
- results of any ongoing environmental monitoring;
- any public safety issues; and
- other concerns.

The annual report may also be forwarded to the Department of Energy for its records.

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**12.12 Public Safety**

Right holders shall be responsible for the installation and upkeep of safety fencing and public safety information signs around the bases of wind turbines, substations and associated infrastructure.

In the event of ice build-up on blades, ice storms, or any other natural disasters that may cause public safety concerns in or around the wind farm, all precautionary measures shall be taken by the right holder to ensure public safety, including the posting of temporary warning signs at the perimeter of the wind farm, and at all public access points to the wind farm.

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**12.13 Site Rehabilitation**

Right holders are responsible for the rehabilitation of all disturbed land as a result of construction or use of infrastructure on authorized lands.

Right holders will be required to rehabilitate the site after expiry of the authorization, or after decommissioning of the site, whichever occurs first, to the satisfaction of the Minister.

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**13.0 Scope and Application**

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**13.1 Applies to**

This policy applies to Crown lands under DNR jurisdiction for:

- new licences for wind exploration;
  - new Wind Power Option to Lease Agreements;
  - extensions of existing licenses for wind exploration;
  - extensions of existing option to lease agreements;
  - new leases for wind farms;
  - new leases and associated licences for wind farms;
  - extensions of leases for wind farms; and
  - extensions of leases and associated licences for wind farms.
- 

**13.2 Does not apply to**

This policy does not apply to

- submerged Crown lands;
- small scale/stand-alone wind power systems.

Although small scale systems are not covered by this policy, they may be considered as part of other authorization requests.

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## 14.0 Authority

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- Section 4, *Crown Lands and Forests Act*
  - Section 23, *Crown Lands and Forests Act*
  - Section 24, *Crown Lands and Forests Act*
  - Section 26, *Crown Lands and Forests Act*
  - Regulation 89-32, Leasing Regulation – *Crown Lands and Forests Act*
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## 15.0 Inquiries

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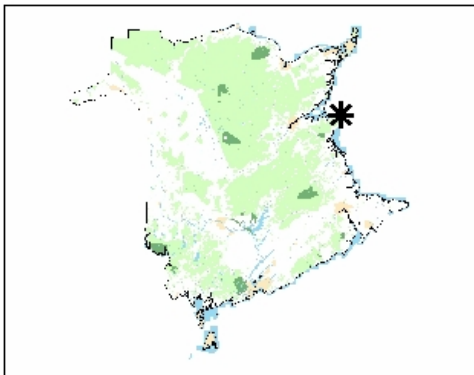
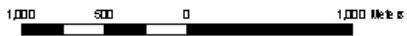
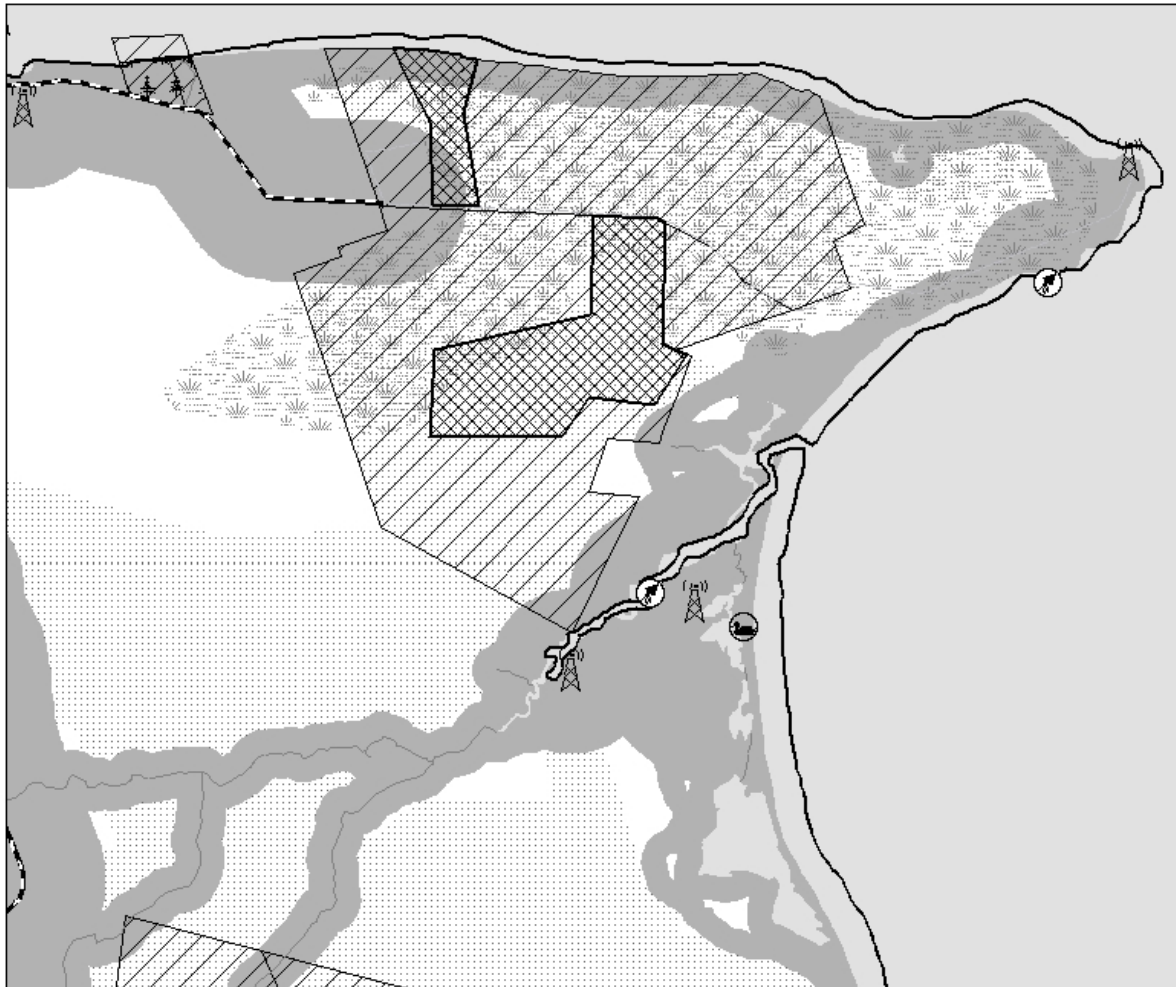
Inquiries concerning this policy may be directed to:

Director of Crown Lands Branch or  
Manager of the Upland and Coastal Planning Section  
Department of Natural Resources  
Crown Lands Branch  
P.O. Box 6000  
Fredericton NB E3B 5H1  
Tel: (506) 453-2437



# Addendum A

Addendum A: Example of buffered setbacks, applied to proposed Escuminac Wind Farm



Map of New Brunswick  
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### Legend

- Archaeological sites
- Endangered species
- Antennas
- Highways
- Forest roads
- Streams
- Buffers & setbacks
- Proposed Wind Farm
- NB Border
- Commitment rights
- Viable peatlands (1m)
- Crown lands
- Water
- DNR Parklands

