

## Fact Sheet

### Land Use Planning and Approvals (Validation) Amendment Bill 2009

The Dorset Council granted Hydro Tasmania a planning permit for the Musselroe Wind Farm Project at Cape Portland on 21 December 2004.

The Dorset Council's permit was appealed to the Resource Management and Planning Appeal Tribunal with the Tribunal allowing the project to proceed with its decision becoming effective on 7 May 2005.

The *Land Use Planning and Approvals Act 1993* limits planning permits to a life of two years from the date on which the permit was granted by the Planning Authority (Dorset Council) unless an 'extension of time' is applied for and granted.

In June 2006 Roaring 40s Renewable Energy Pty Ltd (who had by that time had taken over the project rights from Hydro Tasmania) applied to the Dorset Council for an 'extension of time' to its permit.

The Council granted the extension and calculated the period by reference to the date when the appeal before the Tribunal was determined (7 May 2005) and stated in the 'extension notice' that the permit was extended to 7 May 2009.

As a consequence of the Council's 'extension notice' Roaring 40s proceeded in good faith on the basis that it had until 7 May 2009 to 'substantially commence' development only to discover more recently that the extension to its permit could be argued to have expired on 20 December 2008.

It is apparent that a proponent whose permit has been the subject of a planning appeal could have the time to 'substantially commence' a development severely reduced from the intended two year time-frame. In an extreme situation a planning permit could even expire whilst a planning appeal was still 'on foot'.

The Bill addresses this legislative anomaly to ensure that future 'extensions of time' are consistently applied whether there has been a planning appeal or not. It also specifically validates the Dorset Council's 'extension permit' for the Musselroe project.