

# Amendment VC78

## Wind energy facility provisions – Clause 52.32

This Advisory Note provides information about changes to the *Victoria Planning Provisions* (VPP) and all planning schemes made by Amendment VC78.

### What does Amendment VC78 do?

Amendment VC78 changes:

- **Clause 19.01-1** of the State Planning Policy Framework (SPPF) to promote greater consideration of the effects of a Wind energy facility proposal on the local community.
- **Clause 52.32** to:
  - include additional application requirements, including the need for:
    - a plan showing all dwellings within two kilometres of a proposed turbine
    - a concept plan of associated transmission infrastructure, electricity utility works and access road options
    - an assessment of noise impacts prepared in accordance with the *New Zealand Standard NZS 6808:2010, Acoustics – Wind Farm Noise*, in place of the existing 1998 Standard.
  - all applications to be assessed to determine where a ‘high amenity noise limit’ is appropriate, using procedures set out in the Standard
  - amend the decision guidelines:
    - with an updated reference to the revised *Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria (March 2011)*
    - by referencing the *New Zealand Standard NZS 6808:2010, Acoustics – Wind Farm Noise*
  - provide transitional arrangements that preserve existing, pre-VC78, provisions for a 12 month period for any application for an extension of time or amendment to an existing Wind energy facility planning permit where it does not result in a material change in scale or impact.
- **Clause 61.01** to make local councils the responsible authority for all wind energy facility permits. This removes the previous provision whereby facilities over 30 megawatt capacity were referred to the Minister for Planning for determination. The changes to Clause 61.01 also include administrative amendments unrelated to the Wind energy facility implementation that simplify the operation of the clause.



- **Clause 81.01** by updating reference to the most recent edition of the *Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria (March 2011)*.

The new provisions and guidelines come into operation on 15 March 2011.

These amendments reflect the first stage of changes to implement the State Government's wind farm policies. The changes provide for greater emphasis on a balanced assessment of proposals across environmental, economic and social considerations. They also incorporate reference to the most recent version of the widely applied New Zealand noise standard for wind farms.

### **What noise provisions apply based on the revised New Zealand Standard?**

The *New Zealand Standard NZS 6808:2010, Acoustics – Wind Farm Noise* (the Standard) specifies that a noise limit of 40 decibels is appropriate for the protection of sleep, health and amenity of residents at most locations. This is consistent with noise limits that have previously applied in Victoria. Importantly, the Standard also sets out a process to determine if a more stringent limit should apply in specific noise sensitive locations (discussed below).

In addition, the Standard provides for consideration of cumulative impacts, so that noise impacts from nearby wind energy facilities are factored into the overall noise assessment.

### **Under what circumstances will wind farms have to comply with more stringent noise limits?**

All wind farm applications will need to be assessed to determine if the location warrants application of the Standard's more stringent 'high amenity noise limit' of 35 decibels as set out in Section 5.3 of the Standard. The high amenity standard applies in special circumstances, such as in an environment where the background noise level is particularly low. In all other circumstances, a 40 decibel limit applies or the wind farm sound levels should not exceed the background sound level by more than 5 dB, whichever is the greater.

The high amenity standard would not be applied in locations that are already affected by other background noise sources, such as road traffic sound.

Compliance with the higher standard can typically be achieved by a change in the location, number or operating mode of the turbines.

### **Who should receive notice of a new application for a wind energy facility?**

Responsible authorities should ensure affected parties are fully informed of a proposed Wind energy facility development. It is suggested that all property owners with dwellings within 2 km of a proposed turbine are notified of a proposal, as a minimum.

The new requirement for a concept plan of associated infrastructure, including proposed electricity utility works and access road options, will help local authorities and the wider community gain an improved understanding of the proposed development.

### **How will the transitional arrangements work?**

The new provisions outlined in Amendment VC78 will not apply to an existing planning permit for a Wind energy facility where the application seeks an extension in time or an amendment, in situations where there is no material change to the nature, scale or impact of the development.

A material change, for example, is one that increases turbine height or blade length to the extent that there is a clearly discernable increase in visual intrusion or a net increase in noise emissions, to be determined by the responsible authority. Where a project proponent seeks to amend their proposal to the extent that there is a material change to the scale, design or off-site impacts, the new provisions will apply.

The transitional arrangements cease to apply from 15 March 2012, 12 months from the gazettal of Amendment VC78.

Should an extension of time (or an amendment) be sought for a current permit, the extension will only be granted until 15 March 2012. The effect of this is that previous provisions upon which the permit was granted cannot be extended beyond that date.



## Who will implement the new Wind energy facility provisions?

The amendment makes local government the responsible authority for all wind energy facilities, regardless of size or capacity, replacing the prior requirement for facilities over 30 megawatt capacity to be considered by the Minister for Planning.

This change has been made in recognition of the importance of local decision making on local planning issues. Being closer to their communities, councils are well placed to drive the decision-making process concerning development of wind energy facilities in their region.

## How will local government be supported?

The Department of Planning and Community Development and other government agencies will be working in partnership with local government to ensure a smooth transition of responsibilities. On-going support and advice will be provided to councils to ensure a coordinated approach for Wind energy facility applications.

If a council believes it would be more effective for the Minister for Planning to assume the role of the responsible authority, particularly where a project straddles local government boundaries and requires coordination, or where a project presents complex issues beyond the technical expertise or resource capacity of the council, it

can seek the Minister's intervention. Accordingly, the local council, as responsible authority, may request under Section 97C of the *Planning and Environment Act 1987* that the Minister for Planning decide the application.

Of the approved, but up to now un-constructed Wind energy facility projects, there are 26 planning permits in place. In keeping with the requirements of those permits, the Minister for Planning will remain the responsible authority for 20 of these. Where an applicant seeks to extend or amend their permit, these applications will be considered by the Minister in consultation with the relevant council.

## What about other aspects of the Government's wind farm strategy?

Further actions in relation to Wind energy facility development will be progressively implemented as practical measures are developed, including new measures to minimise the effect of wind farms on national and state parks and designated tourist areas, together with further arrangements to support nearby residents.

## Further information and useful links

More information about the Victorian planning system is available online at:

[www.dpcd.vic.gov.au/planning](http://www.dpcd.vic.gov.au/planning).

To view Amendment VC78, go to: <http://www.dpcd.vic.gov.au/planning/amendmentsonline>

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