

VICTORIA PLANNING PROVISIONS

AMENDMENT VC234

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Minister for Planning.

The Minister for Planning is the planning authority for this amendment.

What the amendment does

The amendment clarifies noise requirements for wind energy facilities and the responsible authority for enforcement matters.

Amendment VC234 changes the *Victoria Planning Provisions* and all planning schemes by amending:

- Clause 52.32 (Wind energy facility) to improve the application requirements relating to pre-construction (predictive) noise assessment reports, including by better aligning the pre-construction requirements with the regulatory framework for operational wind turbine noise under the *Environment Protection Act 2017*.
- Clause 72.01 (Responsible authority for this planning scheme) to clarify that councils are responsible for enforcing conditions in permits (issued under Part 4 Division 1 of the *Planning and Environment Act 1987* (the Act)) and scheme provisions requiring matters to be endorsed, approved or to the satisfaction of the Minister for Planning.

Strategic assessment of the amendment

Why is the amendment required?

Amendment VC234 is required to improve the pre-construction (predictive) noise assessment requirements for proposed wind energy facilities. In particular, the amendment will better align the pre-construction requirements with the regulatory framework for operational wind turbine noise under the *Environment Protection Act 2017* (more specifically, Division 5 of Part 5.3 of the *Environment Protection Regulations 2021*). The amendment will ensure that pre-construction (predictive) noise assessment reports required for permit applications are subject to the same requirements as post-construction reports under the operational noise framework, and more clearly assess whether the facility can comply with the relevant operational noise limit imposed by that framework. The amendment will also improve the efficiency and workability of application requirements, including by making structural changes allowing the responsible authority to determine, as with all other application requirements, whether in the facts and circumstances it is appropriate for a predictive noise assessment. This change will avoid ambiguity about whether minor changes to a permit that have no substantive impact on operational noise output trigger the need for a further predictive noise assessment.

Amendment VC234 is also required to provide greater clarity that where the Minister for Planning is responsible authority for endorsing, approving or being satisfied with matters required by a condition of a permit (issued under Part 4 Division 1 of the Act) or scheme provision, the municipal council is the responsible authority for enforcement of those conditions or provisions. The amendment will clarify existing policy and remove any potential ambiguity in the language of that

provision as to whether council or the Minister for Planning is responsible for enforcement of certain matters.

How does the amendment implement the objectives of planning in Victoria?

The amendment implements the objectives in section 4(1) of the *Planning and Environment Act 1987* (the Act). In particular, it supports the objectives:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (c) and (e).
- (g) to balance the present and future interests of all Victorians.

How does the amendment address any environmental, social and economic effects?

The Victorian Government has identified a need to increase the total energy supply and share of renewables in Victoria to 95% by 2035, and this amendment will assist the progression towards this goal.

By facilitating the development of wind energy facilities, the amendment will have positive social, environmental and economic outcomes by assisting in the reduction of emissions, the transition to clean energy and lowering household energy bills.

Does the amendment address relevant bushfire risk?

The amendment will not increase the risk of life, property, community infrastructure and the natural environment from bushfire. It will provide certainty that councils are responsible authorities for enforcing conditions in all permits, including those that may address bushfire risk, (issued under Part 4 Division 1 of the Act) and scheme provisions requiring matters to be endorsed, approved or to the satisfaction of the Minister for Planning.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment complies with relevant Ministerial Directions issued under section 12 of the Act.

The amendment complies with the *Ministerial Direction on the Form and Content of Planning Schemes* issued under section 7(5) of the Act.

How does the amendment support or implement the Planning Policy Framework (PPF) and any adopted state policy?

The amendment supports clause 19.01-2S (Renewable energy) of the Planning Policy Framework by clarifying noise requirements for wind energy facilities and enforcement matters for the responsible authority within the *Victoria Planning Provisions* and all planning schemes.

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the *Victoria Planning Provisions* by amending the most appropriate clauses to clarify noise requirements for wind energy facilities and enforcement matters for the responsible authority.

How does the amendment address the views of any relevant agency?

There was no consultation undertaken with any agencies during the preparation of the amendment.

Does the amendment have a significant impact on the transport system, as defined by section 3 of the *Transport Integration Act 2010*?

The amendment will not have a significant impact on the transport system.

Resource and administrative costs

What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The amendment is not expected to have a significant impact on the resource and administrative costs of the responsible authority. The amendment will provide certainty for responsible authorities around the validity of an application or permit and the responsibility of certain enforcement matters.

Where you may inspect this amendment

A copy of the amendment can be inspected, free of charge, during office hours, at all municipal council offices in Victoria and at the following Department offices:

Barwon South West Region

Geelong office

Level 4
30-38 Lt Malop Street
GEELONG VIC 3220

Barwon South West Region

Warrnambool office

78 Henna Street
WARRNAMBOOL VIC 3280

Gippsland Region

71 Hotham Street
TRARALGON VIC 3844

Grampians Region

Level 3, 402-406 Mair Street
BALLARAT VIC 3350

Hume Region

Level 1, 62 Ovens Street
WANGARATTA VIC 3676

Loddon Mallee Region

Cnr Midland Hwy and Taylor Street
EPSOM VIC 3551

The amendment can be inspected free of charge at the Department of Transport and Planning website at www.planning.vic.gov.au/public-inspection or by contacting 1800 789 386 to arrange a time to view the amendment documentation.