

# **VICTORIA PLANNING PROVISIONS**

## **AMENDMENT VC206**

### **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**

Amendment VC206 changes the Victoria Planning Provisions and all planning schemes by amending:

- The particular provision, Wind Energy Facility at clause 52.32 to remove the mandatory condition requirement at clause 52.32-5 for post construction assessment reports.
- Clause 66.03 - Referral of permit applications under other state standard provisions to make the Environment Protection Authority a recommending referral authority for an application to amend a permit for a wind energy facility.
- Clauses 19.01-2S and 52.32-6 - Renewable energy to update the reference for the document Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria (Department of Environment, Land Water and Planning, July 2021).

Amendment VC206 also makes a minor change to clause 37.09-2 (Port Zone) to update licencing references in line with the Environment Protection Act 2017.

#### **Strategic assessment of the amendment**

#### **Why is the amendment required?**

The new *Environment Protection Act 2017* (as amended) will commence on 1 July 2021. It will provide a transformational change to environmental regulation in Victoria. The changes to this Act and regulations (to be introduced in July 2021) will create a new regulatory framework for wind turbine noise from a wind energy facility.

The changes aim to position the Environment Protection Authority (EPA) as the single regulator of wind turbine noise. To facilitate and align with this change the planning system must remove the requirements in the Victoria Planning Provisions for the ongoing regulation of wind turbine noise.

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

The amendment implements the objectives in Section 4 of the *Planning and Environment Act 1987* (the Act). It supports the objectives to:

- a) Provide for the fair, orderly, economic and sustainable use, and development of land.
- b) Secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.
- c) 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.

- d) Facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e) of the Act.

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

Amendment VC206 amends planning provisions that regulate the development of renewable energy (wind energy facilities) in a manner that ensures appropriate siting and design considerations are met. Amendment VC206 removes the requirement for mandatory planning permit conditions relating to wind turbine noise as this is now regulated by the EPA in accordance with the Environment Protection Regulations.

Amendment VC206 has important social and health benefits by supporting the Environment Protection Authority becoming the single regulator for operational wind turbine noise. The changes will provide certainty to industry and confidence for communities by placing efficient, clear, robust and fair regulation into the hands of the independent environmental regulator with the appropriate expertise.

The amendment will also reduce the regulatory and cost burden for councils who are the responsible authority for administering and enforcing planning permit conditions. This will occur as new permits for wind energy facilities are issued or relevant conditions are removed from existing permits.

The amendment does not change the requirement for wind energy facilities to comply with the *New Zealand Standard 6808:2010, Acoustics—Wind farm noise*.

### **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 because it does not exempt the requirements of the Bushfire Management Overlay.

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

Section 12(2)(a) of the *Planning and Environment Act 1987* requires that in preparing a planning scheme or amendment, a planning authority must have regard to a Minister's direction.

The amendment complies with all Ministerial Directions issued under section 12 of the Act. Including:

- The Ministerial Direction on the Form and Content of Planning Schemes issued under section 7(5) of the Act.
- Ministerial Direction 11, Strategic Assessment of Amendments. This explanatory report complies with the requirements of the direction and assesses the impact of the amended planning provisions on resource and administration costs of the responsible authority.
- Ministerial Direction 17, Localised Planning Statements. The amended clauses do not specifically apply to land within an adopted Localised Planning Statement or declared Statement of Planning Policy area and the amendment does not materially change how decisions would be made within these areas.

### **How does the amendment support or implement the Planning Policy Framework?**

The amendment supports the objectives of the Planning Policy Framework by ensuring that renewable energy including wind energy facilities is supported and the management of offsite impacts from operational noise from a wind turbine is properly undertaken by the appropriate authority, Environment Protection Authority.

The amendment specifically supports the following State policy:

- Clause 13.05-3S, Noise abatement objective is to assist the control of noise effects on sensitive land uses.
- Clause 13.07-1S, Land use compatibility to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.
- Clause 19.01-2S, Renewable energy objective is to promote the provision of renewable energy in a manner that ensures appropriate siting and design considerations are met.

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

The amendment makes proper use of the Victoria Planning Provisions and all planning schemes by amending the relevant VPP provisions notable clause 52.32 Wind energy facility and the appropriate tool to require a referral to the Environment Protection Authority as a recommending referral authority.

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

The Environment Protection Authority were consulted in the preparation of this 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. The Amendment does not apply to a specific site however projects proposed under clause 52.32 of the Victoria Planning Provisions requires consideration of relevant planning scheme provisions including consideration of land use and transport integration.

### **Resource and administrative costs**

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

Amendment VC206 will have limited impact on the resources and administrative costs of a responsible authority such as a municipal council. The Minister for Planning is the responsible authority for determining most permit applications for a wind energy facility. The resource and administrative costs of assessing permit applications will be borne by the State.

Councils are the responsible authority for enforcement of existing wind energy facility permit conditions. New planning permits issued for a wind energy facility will longer contain mandatory conditions for wind turbine noise. This means that councils will not be required to use their resources to administer and enforce these noise conditions.

### **Where you may inspect this amendment**

Changes have been made to the *Planning and Environment Act 1987* to address planning processes affected by coronavirus (COVID-19) public health restrictions. The changes relate to public-facing processes affected by social distancing requirements and the closure of state and local government offices to the public.

The amendment documents are available for online inspection at:

<https://www.planning.vic.gov.au/schemes-and-amendments/browse-amendments>.

When amendment documents can be made available for physical inspection, 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

**Gippsland Region**

71 Hotham Street

TRARALGON VIC 3844

**Hume Region**

Level 1, 62 Ovens Street

WANGARATTA VIC 3676

**Barwon South West Region**

Warrnambool office

703 Raglan Parade

WARRNAMBOOL VIC 3280

**Grampians Region**

Level 3, 402-406 Mair Street

BALLARAT VIC 3350

**Loddon Mallee Region**

Cnr Midland Hwy and Taylor Street

EPSOM VIC 3551