

**Amendment of Planning Permit 2006/0220/B
Woolsthorpe Wind Farm**

Panel Report

Planning and Environment Act 1987

22 May 2023

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to sections 153 and 97(E)(1)(a) of the PE Act
Amendment of Planning Permit 2006/0220/B Woolsthorpe Wind Farm

22 May 2023



Lisa Kendal, Chair



Catherine Wilson, Member

Contents

	Page
1 Introduction.....	11
1.1 The Project	11
1.2 Permit history.....	13
1.3 Proposed amended permit	14
1.4 Summary of submissions.....	16
1.5 Procedural issues	17
1.6 The Panel’s approach	19
2 Planning context	20
2.1 Victorian planning objectives	20
2.2 Planning Policy Framework	20
2.3 Wind Energy Guidelines.....	20
2.4 Integrated decision making.....	21
2.5 Other relevant legislation	21
2.6 Scope of the Panel’s inquiry	22
2.7 Strategic planning and cumulative impacts.....	23
2.8 Buffer to Woolsthorpe	27
2.9 Project viability and benefits	27
2.10 Conclusions.....	29
3 Landscape and visual impact	30
3.1 Background	30
3.2 Issues.....	31
3.3 Evidence and submissions	31
3.4 Discussion	38
3.5 Conclusions.....	41
4 Flora and fauna	42
4.1 Background	42
4.2 Southern Bent-wing Bat.....	44
4.3 Grey-headed flying fox.....	52
4.4 White-throated needletail.....	54
4.5 Latham’s snipe	54
4.6 Impact on birds	55
4.7 Native vegetation and habitat	55
5 Noise	58
5.1 Background	58
5.2 Noise assessment and impacts	59
5.3 Construction noise.....	62
6 Aviation	64
6.1 Background	64
6.2 Issues.....	65
6.3 Aviation safety	65

6.4	Minimum safe altitude agreements.....	68
6.5	Aviation lighting.....	69
6.6	Meteorological monitoring masts.....	70
6.7	Firefighting.....	71
7	Other issues.....	72
7.1	Blade glint and shadow flicker.....	72
7.2	Television and radio interference.....	74
7.3	Traffic.....	74
7.4	Decommissioning.....	76
8	The planning permit.....	78
8.1	Permit assessment framework.....	78
8.2	Referral agencies.....	79
8.3	‘Without prejudice’ comment on Applicant’s proposed permit conditions.....	79
8.4	Community benefit fund.....	80
8.5	Drafting and Panel preferred version.....	81
8.6	Recommendation.....	82
Appendix A	Submitters to the Permit Amendment.....	83
Appendix B	Document list.....	85
Appendix C	Panel preferred version of Planning Permit.....	89

List of Tables

	Page
Table 1	Permit history..... 13
Table 2	Key changes to Project specifications..... 16
Table 3	Planning Policy Framework..... 20
Table 4	Permit triggers..... 78

List of Figures

	Page
Figure 1	Project location..... 12
Figure 2	Woolsthorpe Wind Farm subject site..... 12
Figure 3	Comparison of current planning permit (red) and the Project (dark blue)..... 15
Figure 4	Proposed, approved and operating wind farms in the region..... 25
Figure 5	Location of dwellings within approximately 2 kilometres of a wind turbine (approved and amended)..... 33
Figure 6	Wireframe for Dwelling J Viewpoint..... 35

Figure 7	Approved 168 metre turbine comparison with 170 metre turbine assessed in 2016 WAX Report.....	36
Figure 8	Comparative photomontage at Viewpoint 7 – current permit (top) and Project (bottom)	40
Figure 9	Southern Bent-wing Bat habitat assessment	47
Figure 10	Noise contours maps for the Project.....	60
Figure 11	Noise contours maps – cumulative impacts.....	60
Figure 12	Diagram of Lowest Safe Altitude/MSA.....	66

Glossary and abbreviations

the Applicant	Woolsthorpe Wind Asset Pty Ltd
Applicant’s final day permit	Applicant’s final draft permit, 27 February 2023 (Document 79)
Argus Consulting Report	<i>Risk Assessment Woolsthorpe Windfarm - Impacts on local aviation operations at Warrnambool</i> , 14 June 2022, Argus Consulting Group
BAM Plan	Bat and Avifauna Management Plan
CASA	Civil Aviation Safety Authority
CFA	Country Fire Authority
Comparative photomontages	Woolsthorpe comparative photomontages, Viewpoints 1 – 7 (Green Bean Design, 8 March 2023) (Document 83)
Council	Moyne Shire Council
current permit	Planning Permit PA2006/0220/B
DEECA	Department of Energy, Environment and Climate Action
DELWP	Department of Environment, Land, Water and Planning
DNV report	<i>Woolsthorpe Wind Farm: Shadow Flicker and Blade Glint Assessment</i> , 20 June 2022, DNV
DTP	Department of Transport and Planning
EP Act	<i>Environment Protection Act 2017</i>
EP Regulations	<i>Environment Protection Regulations 2021</i>
EPA	Environment Protection Authority Victoria
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
FFG Act	<i>Flora and Fauna Guarantee Act 1988</i>

GHFF	Grey-headed flying fox
January 2023 VIA	Woolsthorpe Wind Farm, Amendment to Planning Permit 2006/0220 - Report and Statement of Evidence for Visual Impact Assessment (Green Bean Design, January 2023)
June 2022 VIA	Woolsthorpe Wind Farm, Amendment to Planning Permit 2006/0220 - Visual Impact Assessment (Green Bean Design, June 2022)
Minister	Minister for Planning
MSA	minimum safe altitude
Native Vegetation Guidelines	<i>Guidelines for the removal, destruction or lopping of native vegetation</i> (DELWP, 2017)
needletail	White-throated needletail
Noise Standard	New Zealand Standard NZS6808:2010, <i>Acoustics – Wind Farm Noise</i>
NTGVVP	Natural Temperate Grassland of the Victorian Volcanic Plain
PANS-OPS	Procedures for Air Navigation Services – Aircraft Operations
PE Act	<i>Planning and Environment Act 1987</i>
permit amendment application	Application to amend planning permit 2006/0220/B Woolsthorpe Wind Farm
Planning Scheme	Moyne Planning Scheme
the Project	Woolsthorpe Wind Farm
SBWB	Southern Bent-wing Bat
VCAT	Victorian Civil and Administrative Tribunal
VIA Addendum	Visual Impact Assessment Addendum (Green Bean Design, 2 March 2023) (Document 82)
Warrnambool Council	Warrnambool City Council
Wind Energy Guidelines	<i>Development of Wind Energy Facilities in Victoria: Policy and Planning Guidelines</i> , DELWP, November 2021

Overview

Application summary

The application	Amendment of Planning Permit 2006/0220/B
The Project	Woolsthorpe Wind Farm
Brief description	<p>Application to amend Planning Permit PA2006/0220/B to:</p> <ul style="list-style-type: none"> - reduce the number of turbines from 20 to 13 - increase the turbine height from 168 metres to 230 metres - increase minimum ground clearance from 35 metres to 55 metres - make associated changes including turbine siting and native vegetation removal
Subject site	168 and 190 Slatterys Road, Woolsthorpe
Planning Scheme	Moyne Planning Scheme
The Applicant	Woolsthorpe Asset Pty Ltd
Responsible Authority	Minister for Planning
Public notice	<p>24 September - 28 October 2022, including:</p> <ul style="list-style-type: none"> - public notice in the Warrnambool Standard and all owners and occupiers within 5 kilometres of the subject site - notice to Moyne Shire Council and other relevant authorities
Submissions	<p>Number of Submissions: 47</p> <p>See Appendix A</p>

Panel process

The Panel	<p>Original appointment (November 2022): Nick Wimbush (Chair) and Catherine Wilson</p> <p>Reconstituted Panel (February 2023): Lisa Kendal (Chair) and Catherine Wilson</p>
Supported by	<p>Chris Brennan, Senior Project Officer, Planning Panels Victoria</p> <p>Georgia Thomas, Project Officer, Planning Panels Victoria</p>
Directions Hearing	Video conference, 8 December 2022
Panel Hearing	<p>Video conference and in person (Lighthouse Theatre, Warrnambool) - 6, 7, 9 and 10 February 2023</p> <p>Video conference, 13 February 2023</p>
Site inspections	<p>Accompanied, 8 February 2023</p> <p>Unaccompanied, 5 and 8 February 2023</p>

Parties to the Hearing	<p>Minister for Planning represented by Anne-Marie Edgley of the Department of Transport and Planning (DTP)</p> <p>Woolsthorpe Asset Pty Ltd (Applicant) represented by Paul Chiappi of Counsel instructed by Herbert Smith Freehills who called evidence from:</p> <ul style="list-style-type: none">- Damien Iles of Hansen Partnership, on Planning- Craig Czarny of Hansen Partnership, on Visual Amenity- Brett Lane of Biosis, on Ecology- Ian Jennings of Chiron Consultants, on Aviation Safety- Tom Evans of Resonate, on Noise <p>Department of Energy, Environment and Climate Action (DEECA) represented by Geoff Brooks</p> <p>Moyné Shire Council represented by Jeremy Wilson of Maddocks Lawyers</p> <p>Bruce Keen</p> <p>David Meggs</p> <p>Linda Roache</p> <p>Neil Blain</p> <p>The Midfield Group represented by Colin McKenna</p> <p>Viva-Lyn Lenehan</p>
Citation	Woolsthorpe Wind Farm Permit Amendment [2023] PPV
Date of this report	22 May 2023

Executive summary

The Woolsthorpe Wind Farm has a current planning permit to construct a 20 turbine wind farm, with a maximum height of 168 metres and minimum ground clearance of 35 metres. The approved wind farm is located approximately four kilometres to the west of the township of Woolsthorpe. The current planning permit will expire if work is not completed by 12 March 2024.

Woolsthorpe Wind Asset Pty Ltd (the Applicant) has applied to amend the permit to reduce the number of turbines from 20 to 13, increase the turbine height from 168 metres to 230 metres, increase minimum ground clearance from 35 metres to 55 metres and associated changes including turbine siting and native vegetation removal (the Project).

The Project will maintain an overall power output capacity of 73 Megawatts, generating approximately 290 to 310 Gigawatt hours of electricity each year.

Amendments to the Moyne Planning Scheme since the current planning permit was issued have reinforced planning policy to facilitate renewable energy facilities. Permit triggers for the planning permit assessment have not changed.

The planning permit amendment application was exhibited for four weeks over September and October 2022. Forty seven submissions were received, including from seven government agencies and authorities. The majority of individual submitters objected.

Key issues relate to:

- landscape and visual amenity
- flora and fauna, in particular the Southern Bent-wing Bat (SBWB)
- noise.

Other issues included aviation safety, blade glint and shadow flicker, television and radio interference, firefighting, traffic and roads, and decommissioning.

The Project will be visible and will have a degree of impact on the landscape. The reduction in number of turbines from 20 to 13 will reduce the overall visibility of the wind farm, however the increase in turbine height has the potential to increase visual impact. The magnitude of visual effect varies depending on the viewing location and sight lines and context, such as surrounding landscaping and topography. The Off-site Landscaping Program is an appropriate mitigation measure to minimise visual impacts at dwellings within four kilometres of the Project (excluding dwellings in the Woolsthorpe township), subject to the recommendations of the Panel. The Panel has recommended conditions relating to micro-site three turbines (WT01, WT05 and WT07) to minimise visual impact from public Viewpoint 7 in the Woolsthorpe township.

The critically endangered SBWB population is in serious decline and heading towards extinction, and careful consideration is required to help preserve and protect its habitat. While the bat has not been detected through surveys on the Project site, significant numbers have been recorded at the abutting Hawkesdale Wind Farm site, there are maternity caves and roosting caves nearby and the site contains SBWB habitat. While the increased turbine height will reduce the possibility of most of the potential SBWB turbine collisions, the Panel recommends curtailment measures be put in place immediately following the reported mortality of any SBWB suspected to be by a turbine. The Panel also recommends micro-siting a number of turbines to achieve small gains in habitat protection.

The Panel is satisfied the assessment of background noise and predicted noise for operation of Woolsthorpe and adjacent Hawkesdale wind farms is consistent with regulations. The pre-construction noise assessment should be repeated once the turbine model is chosen. It is appropriate to delete conditions relating to post-construction acoustic assessments and noise complaints in light of changes to planning and environment protection regulations, and to include a note on the permit as recommended by the Environment Protection Authority Victoria.

Following consideration of key and other issues, the Panel concludes the Project is generally supported by, and implements, the relevant sections of the Planning Policy Framework. Overall, the Project:

- is strongly supported by planning policy
- has acceptable cumulative impacts
- delivers net community benefit and sustainable development as required by Clause 71.02-3 (Integrated decision making)
- complies with the *Development of Wind Energy Facilities in Victoria: Policy and Planning Guidelines*, DELWP, November 2021 and Clause 52.32 (Wind energy facility).

The Project should proceed subject to addressing the more specific issues raised in submissions, in accordance with the Panel's recommendations.

Recommendations

Based on the reasons set out in this Report, the Panel recommends:

The Minister for Planning issue amended Planning Permit PA/2006/0220/B for the Woolsthorpe Wind Farm, with conditions as shown in Appendix C of this report.

1 Introduction

1.1 The Project

(i) Overview

The Woolsthorpe Wind Farm (the Project) has a current Planning Permit PA2006/0220/B (current permit) for use and development of a wind farm consisting of 20 turbines, with a maximum height of 168 metres and minimum ground clearance of 35 metres.

Woolsthorpe Wind Asset Pty Ltd (the Applicant) purchased the wind farm development rights, including the rights to develop the Project under the current planning permit, from the previous proponent (Woolsthorpe Wind Farm Pty Ltd) in September 2018.

The original planning permit for the Project, issued in 2008, has been amended and extended several times (see permit history in Chapter 1.2). The current permit will expire if work is not completed by 12 March 2024.

The Applicant is seeking to amend the current permit (permit amendment application) to:

- reduce the number of turbines from 20 to 13
- increase the turbine height from 168 metres to 230 metres
- increase minimum ground clearance from 35 metres to 55 metres
- make associated changes including turbine siting and native vegetation removal.

The Project will maintain an overall power output capacity of 73 Megawatts, generating approximately 290 to 310 Gigawatt hours of electricity each year.

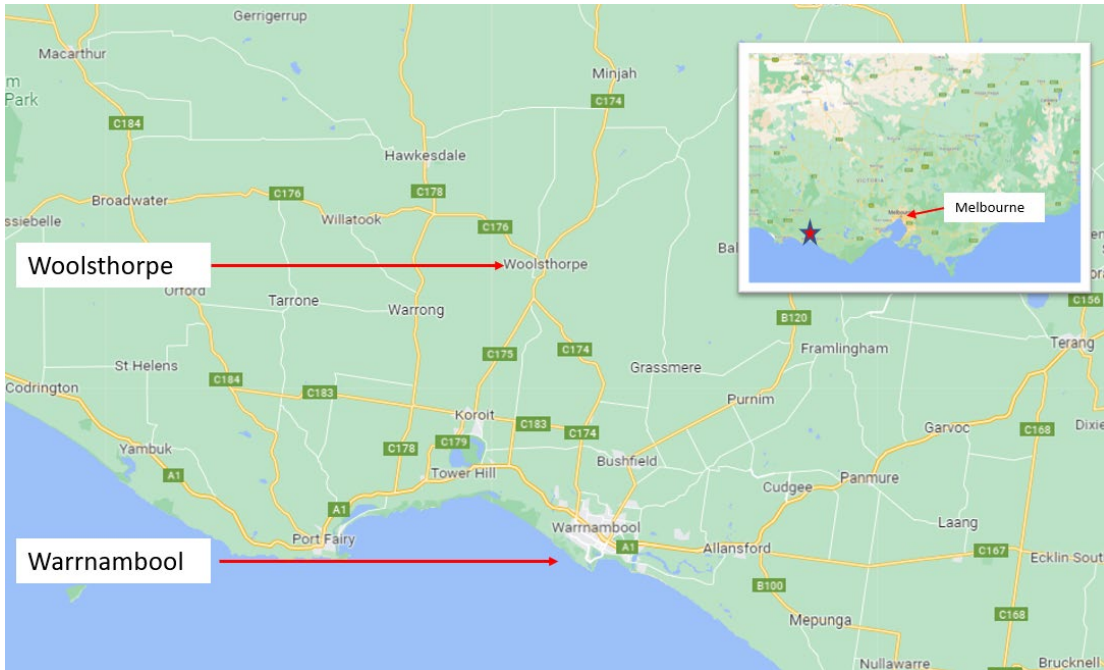
The permit amendment application is being sought under section 97I of the *Planning and Environment Act 1987* (PE Act). See details of the proposal in Chapter 1.3.

The Minister for Planning (Minister) referred the objections and submissions received in respect of the application to amend the current permit to the Panel under section 97E(1)(a) and (b) of the PE Act.

(ii) Subject site

The subject site is located in south-western Victoria approximately 25 kilometres north of Warrnambool, three kilometres west of Woolsthorpe and six kilometres south-east of Hawkesdale in the municipality of Moyne (see Figure 1).

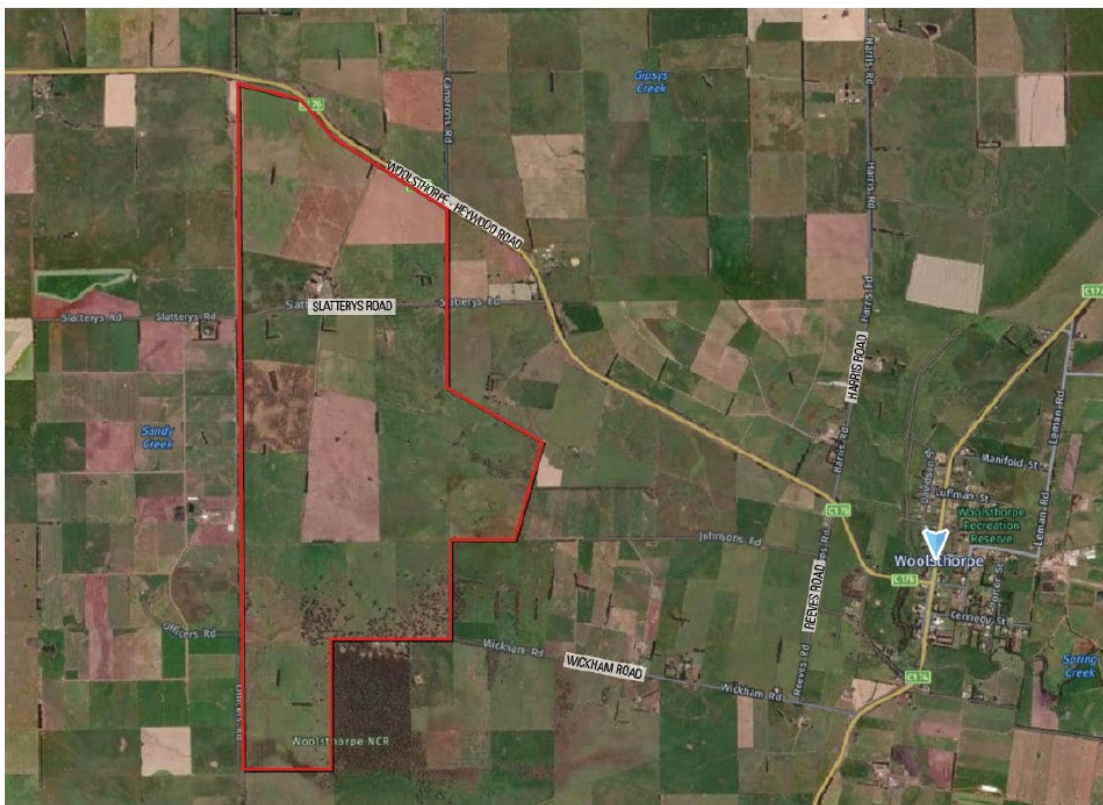
Figure 1 Project location



Source: Google Maps (Panel mark-up)

The subject site is approximately 750 hectares in area, comprising six land titles in one landholding (see Figure 2). The land is predominantly cleared and used for agricultural purposes, including cropping and grazing, and is generally surrounded by agricultural land.

Figure 2 Woolsthorpe Wind Farm subject site



Source: Damian Iles Expert Witness Statement (Document 8, page 7)

The subject site is bound by Woolsthorpe-Heywood Road to the north, and the Woolsthorpe Nature Conservation Reserve (comprising a rifle range and conservation area) abuts the land to the immediate south-east. Slattery Road runs east-west and bisects the subject site.

The land abuts the approved 23 turbine Hawkesdale Wind Farm to the north.

1.2 Permit history

A chronology of changes to the original permit is included in Table 1.

Table 1 Permit history

Date	Event
17 April 2008	Planning Permit 2006/0220 issued by the Minister for Planning (following a planning panel process - <i>Woolsthorpe Windfarm (ACI)</i> [2008] PPV 16). The permit allowed the use and development of the subject land for a wind energy facility and alteration of access to a road in Road Zone Category 1. The approved wind farm comprised 20 wind turbines with a maximum overall blade tip height of 135 metres, tower height of 90 metres and blade length of 50 metres, and associated infrastructure
15 November 2011	Date for commencement of development extended to 15 March 2012
25 October 2012	VCAT decision <i>Woolsthorpe Wind Farm Pty Ltd v Minister for Planning</i> [2012] VCAT 1634 determining that Moyne Shire Council is not automatically a party to application relating to endorsement of plans, but joining it as party to those proceedings and allowing a submission to be made
22 November 2012	VCAT decision <i>Woolsthorpe Wind Farm Pty Ltd v Minister for Planning</i> [2012] VCAT 1693 directing endorsement of plans and documents pursuant to conditions 1 (development plans), 5 (visual amenity impacts), 11 (traffic management plan), 13 (environmental management plan), 15 (bats and avifauna management plan)
31 October 2013	Date for completion of development extended to 12 March 2016
2015	Development commenced with the construction of a road on the subject site
4 June 2015	Date for completion of development extended to 12 March 2018
21 May 2017	Permit amended under Section 97J of the PE Act, allowing for a maximum turbine height of 168 metres with a minimum 35 metres ground clearance, provision of a new site entrance, introduction of a secondary consent mechanism, requirement for noise to be compliant with the 2010 version of the New Zealand noise standard, and other minor changes (following a planning panel process <i>Woolsthorpe Wind Farm Permit Amendment (PCI)</i> [2017] PPV 32)
9 January 2018	Date for completion of development extended to 12 March 2020
9 October 2018	Date for completion of development extended to 12 March 2022

Date	Event
20 September 2019	Permit amended under Section 97J of the PE Act to correctly identify the address of the land and add a road reserve at the site entrance, remove native vegetation in the road reserve, change conditions to 1, 3, 4, 5, 11, 15, 18, 37 and 41 for developments, specifications, flora surveys, off-site landscaping, the traffic management plan, the environmental management plan, noise, aviation safety and expiry; delete conditions 1(h), 3(n), 8, 9, 10, 16 and 36 for aviation lighting, lighting and review of the environmental management plan and add new conditions 36-42 relating to a setback definition and native vegetation removal, including offset requirements
18 October 2019	Permit corrected to resolve clerical mistakes with cross-referencing of conditions pursuant to section 71 of the PE Act and all amended reports and plans endorsed under the Permit
10 June 2021	Date for completion of development extended to 12 March 2024
8 July 2022	Permit amendment application lodged with Minister
July – October 2022	Referral of application to determining and recommending referral authorities and public notice
28 October 2022	Submissions referred to Panel

1.3 Proposed amended permit

(i) The proposal

The Applicant proposes to amend the current planning permit to:

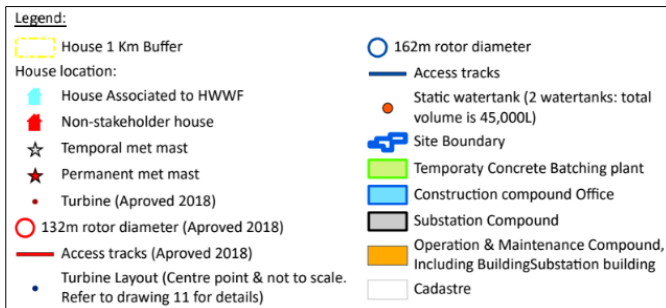
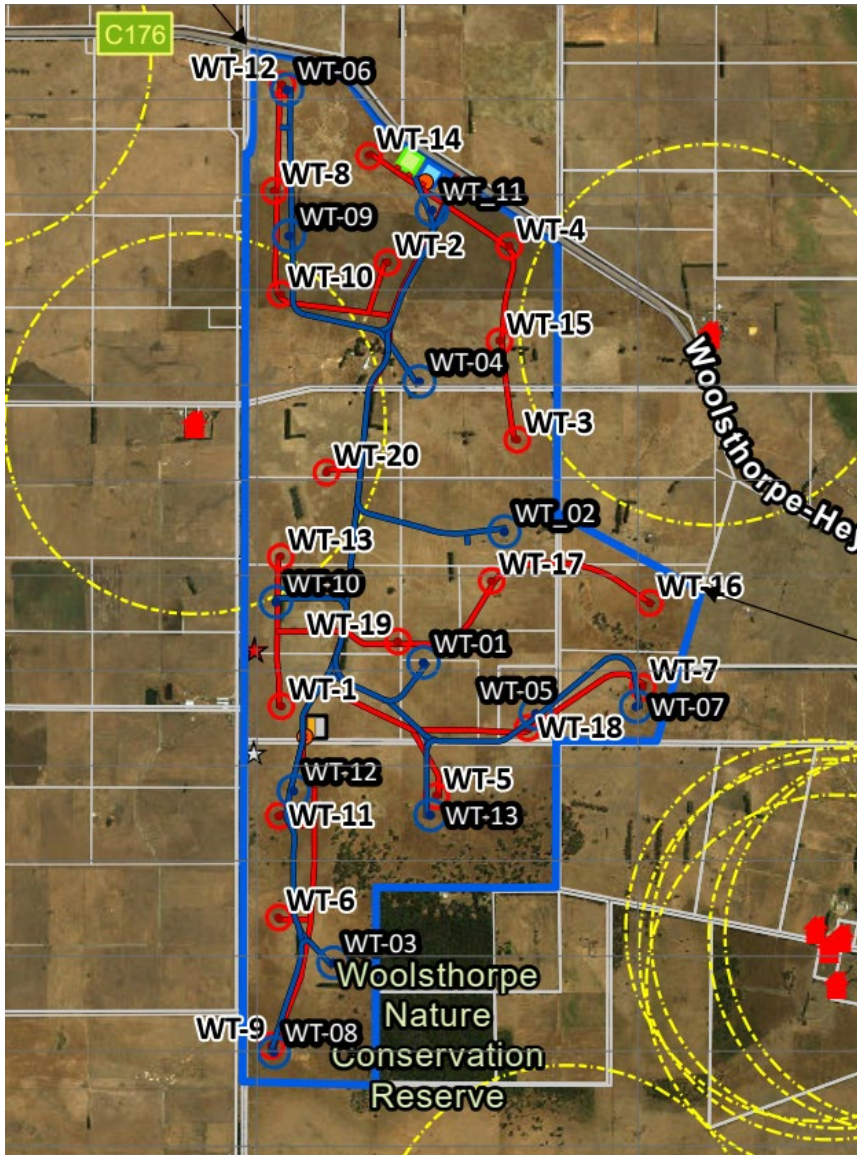
- increase the overall turbine height from 168 metres to 230 metres
- increase ground level clearance from 35 metres to 55 metres¹
- reduce the number of turbines from 20 to 13
- alter the siting of the turbines as a result of the above changes
- update the land description to reflect current title particulars
- update conditions to reflect the removal of an additional 0.019 hectares of native vegetation in the road reserve
- make minor alterations to the existing access to the subject site from Woolsthorpe-Heywood Road
- delete conditions relating to post-construction acoustic assessments and noise complaints in light of Planning Scheme Amendment VC206 and the remit of the Environment Protection Agency Victoria (EPA) as the regulator for wind turbine noise under the Environment Protection Regulations 2021.

(ii) Comparison of current permit and the Project

Figure 3 shows a comparison of the wind turbine numbers and locations in the approved current planning permit and the Project.

¹ Difference documents referred to ground clearance of 55 metres and 66 metres. The Panel has proceeded on the basis the permit amendment application is seeking 55 metre ground clearance, consistent with the exhibited proposed changes to the planning permit

Figure 3 Comparison of current planning permit (red) and the Project (dark blue)



Source: Excerpt from exhibited Additional Plans Jun/2022 (Panel enlarged legend). Note: WT = wind turbine

Table 2 details key changes the wind farm specifications from the original permit to the proposed amended planning permit.

Table 2 Key changes to Project specifications

Specifications	Original Planning Permit PA2006/0220	Current Permit PA2006/0220/B	Permit amendment application
Turbine height (to blade tip)	135m	168m	230m
Tower height	90m	98m	148m
Blade length	50m	70m	82m
Minimum blade ground clearance	35m	35m	55m
Number of turbines	20	20	13
Turbine capacity	2.0 MW	N/A	6.0 MW
Total generating capacity	40 MW	73 MW	73 MW

Source: Panel compiled from Woolsthorpe Wind Farm Panel Report 10 April 2017, and current proposal

1.4 Summary of submissions

A total of 47 submissions were received and referred to the Panel for consideration. Seven submissions were from local government and State government agencies.

Submitters raised the following key issues:

- strategic planning considerations and cumulative impacts
- noise and vibration
- landscape and visual amenity
- flora and fauna, including the Southern Bent-wing Bat (SBWB)
- aviation safety, including lighting and fire fighting
- blade glint and shadow flicker
- traffic and roads
- decommissioning
- community and economic impacts.

Submitters raised the issue of impacts on property value, however this has not been addressed by the Panel as it is not a relevant planning consideration.

Two referral authorities made submissions:

- the Head, Transport for Victoria did not object subject to specified conditions
- the EPA did not object and recommended a note be added to the permit.

Submissions were received from the following government agencies and authorities:

- Country Fire Authority (CFA) - did not object and did not request changes to conditions
- Civil Aviation Safety Authority (CASA) – objected on the basis that, until such time as the impacts at the Warrnambool Airport are resolved with regard to the minimum safe altitude (MSA), the Project would have an unacceptable effect on the safety of existing and future air transport operations at the airport

- Warrnambool City Council (Warrnambool Council) – as owner/operator of Warrnambool Regional Airport, objected to the Project on the basis of protecting the present and future operations of the airport and surrounding critical airspace and maintaining the current MSA and current obstacle limitation surface
- Moyne Shire Council (Council) - objected based on landscape and amenity impacts, impacts on the Warrnambool Airport, cumulative and general community impacts
- Department of Environment, Land, Water and Planning (DELWP) – Barwon South West (Submitter 46) - requested further information on how the amended plans would comply with setback requirements for identified suitable habitat for the SBWB in condition 3e of the current permit.

DELWP was replaced by the new Department of Energy, Environment and Climate Action (DECCA) through a machinery of government change effective of 1 January 2023. Throughout this Report, the Panel refers to Submitter 46 as DEECA, and to DELWP where relevant to information and documents provided.

1.5 Procedural issues

(i) Reconstitution of Panel

Due to unforeseen circumstances of Nick Wimbush, the Panel was reconstituted on 2 February 2023 with Lisa Kendal appointed as Chair and Catherine Wilson remaining as the second Panel Member.

(ii) Declarations of Member Kendal

Following the reconstitution and before the Hearing, the Chair wrote to parties advising she had been appointed and did not hold any conflict of interest (Document 21, 3 February 2023). For transparency, the Chair advised parties she has an interest in a small shareholding in the Hepburn Community Wind Farm Cooperative as a family trust beneficiary. Parties were asked to advise if they had any concerns with the declaration, and that the declaration would be discussed in preliminary matters on Day 1 of the Hearing.

Two submitters raised concerns in writing to Planning Panels Victoria before the Hearing and spoke to their concerns during preliminary matters on Day 1 of the Hearing. In summary:

- Mr Meggs (Submitter 26) wanted it noted that a financial interest in a wind farm facility may be viewed as a conflict of interest, and Mr Keen (Submitter 19) raised concern that the shareholding would prevent an impartial consideration of the issues raised by objectors to the proposal
- both submitters advised they did not object to the Chair's appointment to the Panel, but wanted their concerns noted for the record
- other parties were provided opportunity to comment on the declaration and no party provided comment.

After hearing from parties, the Chair considered the concerns and determined to proceed as Chair of the Panel on the basis she did not believe she had a conflict of interest, she did not have a pecuniary interest in the matter before the Panel, she had gained no financial benefit from the community wind farm and no party objected to her appointment. A summary of the declaration, discussion and reasons were documented in a letter to parties on 7 February 2023 (Document 28).

On 9 February 2023, Day 3 of the Hearing, Viva-Lyn Lenehan (Submitter 29) wrote to the Panel raising concerns regarding the appointment and requesting the Chair disqualify herself from the Panel for reasons of apprehension of bias (Documents 53 – 55). Ms Lenehan’s concerns related to the Chair’s association with Hepburn Wind, specifically a retweet from 2013, and prior association with Ballarat Renewable Energy and Zero Emissions Incorporated. The Panel advised her concerns would be discussed during preliminary matters on Day 4 of the Hearing.

During preliminary matters on Day 4 of the Hearing the Panel invited comment from Ms Lenehan and other parties. In summary:

- Ms Lenehan did not appear to speak to her concerns
- the Applicant objected to Ms Lenehan’s request on the basis the concern was raised too late and would cause significant disadvantage to the Applicant and parties due to potential time and cost implications and there was insufficient basis for the request
- Neil Blain (Submitter 36) raised similar concerns to Ms Lenehan, who considered the Chair’s prior association with Ballarat Renewable Energy and Zero Emissions Incorporated should have been declared.

After standing the matter down to consider the concerns raised by parties, the Panel determined to continue with the Chair of the Panel, giving reasons that the minor shareholding in a small community based wind energy facility did not create a conflict of interest, and that the Chair had no association with BREAZE Incorporated for approximately 10 years. The Chair reaffirmed her declaration with reasons in correspondence to all parties on 15 February 2023, along with a summary of submissions and material tabled by parties on the matter (Document 68).

(iii) ‘Without prejudice’ comments on draft planning permit

The Panel issued a direction for the Applicant to circulate to all parties a ‘without prejudice’ version of the draft amended planning permit before the Hearing.

Following discussion with parties during the Hearing, the Panel issued further directions for:²

- the Applicant to circulate updated ‘without prejudice’ drafted amended planning permit by Monday 13 February 2023
- parties wishing to comment on the draft permit by Monday 20 February 2023
- the Applicant to provide reply submissions by Monday 27 February 2023.

Comments on the Applicant’s updated ‘without prejudice’ drafted amended planning permit were received from four parties, including late submissions from Ms Lenehan that was accepted by the Panel.³ The Applicant submitted a response to comments and its final position on the draft permit on 27 February 2023 (Applicant’s final day permit) (Document 79).

Note: The Applicant’s final day permit showed the allocated permit number 2006/0220/B.

(iv) Further directions and comment on visual material

The Panel accepted the Applicant’s suggestion to circulate additional photomontages to the Panel and parties. It issued further directions on 15 February 2023 for the Applicant to circulate this material and provide an opportunity for parties to comment (see Chapter 3.1).

² Document 61

³ Documents 69 – 71, 74, 75

In response to its further directions the Panel received and tabled:

- additional visual material from the Applicant (Documents 81 – 83)
- submissions from parties Moyne Shire Council, Mr Meggs and Mr Keen (Documents 84 – 86)
- reply comments from the Applicant (Document 87).

The Panel determined a reserve hearing day on 4 April 2023 was not required, however the Panel issued additional questions for the Applicant (Document 88) regarding the potential for micro-siting some turbines and the Off-site Landscaping Program. The Applicant circulated its comments in response to those questions on 5 April 2023 (Document 89).

1.6 The Panel's approach

The Panel has assessed the Application against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Moyne Planning Scheme (Planning Scheme).

The Panel considered all written submissions made in response to exhibition of the Application, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. The Panel has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Landscape and visual impact
- Flora and fauna
- Noise
- Aviation
- Other issues
- The planning permit.

2 Planning context

2.1 Victorian planning objectives

Relevant State planning policy objectives as set out in section 4 of the PE Act include:

- providing for the orderly and sustainable use and development of the land
- providing for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity
- securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- conserving and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value
- protecting public utilities and other assets and enabling the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community
- facilitating development in accordance with relevant objectives
- balancing the present and future interests of all Victorians.

2.2 Planning Policy Framework

Table 3 identifies the relevant State and local planning policies in the Planning Scheme. Details are included in the issue specific chapters of this report, as relevant.

Table 3 Planning Policy Framework

	Relevant references
Planning Policy Framework	<ul style="list-style-type: none"> - Clause 11 Settlement - Clause 12 Environmental and landscape values - Clause 13 Environmental risks and amenity - Clause 14 Natural resource management - Clause 15 Built environment and heritage - Clause 17 Economic development - Clause 18 Transport - Clause 19 Infrastructure
Local Planning Policy Framework	<ul style="list-style-type: none"> - Clause 22.01-1 Aboriginal Heritage - Clause 22.02-2 Rare and Threatened Species - Clause 22.02-5 Pest Plant Management - Clause 22.02-8 Flora and Fauna Local Policy - Clause 22.03-4 Agricultural Production - Clause 22.03-8 Fire Protection Local Policy

2.3 Wind Energy Guidelines

The *Development of Wind Energy Facilities in Victoria: Policy and Planning Guidelines*, DELWP, November 2021 (Wind Energy Guidelines) provide advice to guide decision making about proposed wind farms, including amending a planning permit.

The Wind Energy Guidelines state:

A responsible authority should endeavour to balance environmental, social and economic matters in favour of net community benefit and sustainable development.

Relevant matters for consideration when assessing wind energy facility proposals include:⁴

- contribution to government policy objectives
- amenity of the surrounding area, including noise, blade glint and shadow flicker and electromagnetic interference
- landscape and visual impact
- flora and fauna
- aircraft safety
- construction impacts and decommissioning.

2.4 Integrated decision making

Clause 71.02-3 (Integrated decision making) states:

Victorians have various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure. Planning aims to meet these needs and expectations by addressing aspects of economic, environmental and social wellbeing affected by land use and development.

...

The Planning Policy Framework operates together with the remainder of the scheme to deliver integrated decision making. Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

2.5 Other relevant legislation

The Applicant provided a summary of other relevant legislation in its Part A submission, including (Victorian legislation unless otherwise indicated):

- *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth) (EPBC Act)
- *Environment Protection Act 2017* (EP Act)
- *Aboriginal Heritage Act 2006*
- *Flora and Fauna Guarantee Act 1988* (FFG Act)
- *Road Management Act 2004*
- *Renewable Energy (Jobs and Investment) Act 2017*
- *Climate Change Act 2017*
- *Climate Change Act 2022* (Commonwealth).

Details of legislation is referenced in the issue specific chapters of this report, as relevant.

⁴ Section 5 of the Wind Energy Guidelines

2.6 Scope of the Panel's inquiry

(i) Submissions

Applicant

The Applicant submitted:⁵

- the Application seeks to amend an existing permit, and the current permit grants significant rights to the permit holder
- the question before the Panel is whether the proposed changes provide an acceptable outcome
- questions relating to the appropriateness of the permitted use and development are not before the Panel.

The Applicant submitted it was *“alive to the length of the planning process that has been associated with the Project, including amendments which have been made to the permit”*. Since acquiring the rights to the Project it had endeavoured to progress it in a timely manner.

Council

Council submitted concerns relating to permits that were granted, amended and extended multiple times. It referenced concerns documented by the Australian Energy Infrastructure Commissioner in its annual reports including (among others) projects being constructed based on outdated standards and requirements, very long periods of uncertainty for communities and other projects being planned and delivered in the intervening period with potentially unforeseen cumulative impacts.⁶ Notwithstanding these concerns:

... Council acknowledges that the scope of the Panel's inquiry is appropriateness of the Amendment Application. It is not open to the Panel to reconsider the appropriateness of this site for a wind farm. The Permit has been granted and the Proponent is entitled to act on it.⁷

It referenced the VCAT report *Callea Property Developments Pty Ltd v Wyndham CC [2014] VCAT 466* which states:

The approach adopted by Tribunals when considering the amendment of permits, whether under section 87A or section 72, has focussed on the proposed changes, rather than reopening debate about the whole proposal.⁸

However, Council considered the Project represents a clear departure from the permission granted in the current planning permit. It submitted the potential impacts of increasing the height of a wind turbine is reflected in Clause 52.32 (Wind energy facility) which includes exemptions relating to amending a permit if the proposal does not seek to increase the maximum height of a turbine. Accordingly, Council submitted that the Panel's scope of inquiry should be wide-reaching.

Other submitters

Several submitters submitted the Project should be assessed as if it were a new planning permit application, on the basis there has been a change to community opinion and understanding since the permit was issued in 2008.

⁵ Part B Submission, paragraphs 8 – 10

⁶ Council Hearing submission, paragraph 31 (Document 42)

⁷ Council Hearing submission, paragraph 32 (Document 42)

⁸ Council Hearing submission, paragraph 33 (Document 42)

(ii) Discussion

A proposal to amend a wind farm planning permit is required to meet the relevant application requirements and is subject to the notice requirements of the PE Act. The application is required to be assessed against relevant planning policy of the day and a range of other considerations detailed in the Wind Energy Guidelines. The relevant Planning Policy Framework for the Project is established in the Planning Scheme.

It is in this context the Panel is tasked with assessing whether changes to the existing permit will deliver an acceptable outcome. The Panel accepts that the previous permit approval has determined the site is suitable for use of a wind farm. It is outside the scope of the Panel's inquiry to reinterrogate the merits of a use for which a permit has been granted.

The Applicant is right to 'be alive' to the length of the planning permit process for this wind farm. The Panel notes the Applicant's intention to progress the Project in a timely manner, given the extensive time since original approval. In the context of this approval's history it is prudent for the Project to be delivered in a reasonable timeframe.

While the Panel is sensitive to the prolonged uncertainty for the community with the planning permit being modified and extended several times since originally being issued in 2008, this is not a basis for the Panel to approach assessment of the proposal as a new project.

The Panel does not accept Council's suggestion that the Panel's scope of inquiry should be more 'wide-reaching' on the basis the permit application is not subject to exemptions in Clause 52.32 (Wind energy facility). The Panel has been appointed to consider issues raised in submissions and to assess whether the changes to the proposal are acceptable and make recommendations to the Minister accordingly.

The Panel has considered the issues raised in submissions in the context of policy and provisions in the Planning Scheme and has made recommendations accordingly, as detailed in other chapters of this Report. The Panel discusses cumulative impacts in the following chapter.

2.7 Strategic planning and cumulative impacts**(i) Background**

The *Woolsthorpe Wind Energy Facility Planning Report* (KLM Spatial, July 2022) exhibited with the permit amendment application stated that Planning Scheme changes since the current permit was issued did not alter policy support for the proposal, and that most changes to the policy framework reinforced the need to facilitate the approval of renewable energy facilities to achieve State and Federal government targets.

Key relevant objectives of planning policy include:

- Clause 19.01-1S (Energy supply) - facilitating appropriate development of energy supply infrastructure
- Clause 19.01-2S (Renewable energy) - supporting the provision and use of renewable energy in a manner that ensures appropriate siting and design considerations are met.

Key relevant strategies include:

- supporting the development of energy supply infrastructure to transition to a low-carbon economy, in locations that minimise land use conflicts and that takes advantage of existing resources and infrastructure

- facilitating energy infrastructure projects that diversify local economies and improve sustainability and social outcomes
- facilitating renewable energy development in appropriate locations
- protecting renewable energy infrastructure against competing and incompatible uses
- considering the economic, social and environmental benefits to the broader community of renewable energy generation while also considering the need to minimise the effects of a proposal on the local community and environment
- supporting wind energy facilities in locations with consistently strong winds over the year.

A regional strategy at Clause 19.01-2R (Renewable Energy - Great South Coast) states "*plan for and sustainably manage the cumulative impacts of alternative energy development*".

The policy guidelines at Clause 19.01-1S (Energy supply) include considering long-term emissions reduction targets and adaptation action plans of the *Climate Change Act 2017*.

(ii) Evidence and submissions

Applicant

The Applicant submitted the Project aligned with the Victorian government policy and commitments including:⁹

- legislated renewable energy and greenhouse gas emissions reduction targets
- ensuring decision making takes account of climate change
- the South-West Renewable Energy Zone, which supports renewable energy projects in the region.

Further, the Project is consistent with the new national legislated greenhouse gas emissions target.

The Applicant submitted a plan showing other proposed, approved or operating wind farms in the region (see Figure 4), including the approved Hawkesdale Wind Farm abutting the subject site to the north-west.

The Applicant submitted:¹⁰

- cumulative effects are to be assessed under the Planning Scheme, as has been done by witnesses before the Panel
- the landscape and visual impacts have been assessed with regard to Hawkesdale Wind Farm and consideration of McArthur Wind Farm.

The Applicant relied on the evidence of Damien Iles, who gave evidence that:

- State policy provides strong support for renewable energy
- refusing applications on the basis of strategic work that has not yet been completed would be inconsistent with State policy and the critical imperative to respond to climate change
- the strategy at Clause 19.01-2R (Renewable Energy – Great South Coast) to plan for and sustainably manage cumulative impacts, does not provide a basis to refuse applications
- an extensive amount of work has been undertaken to demonstrate cumulative impacts achieve an acceptable outcome

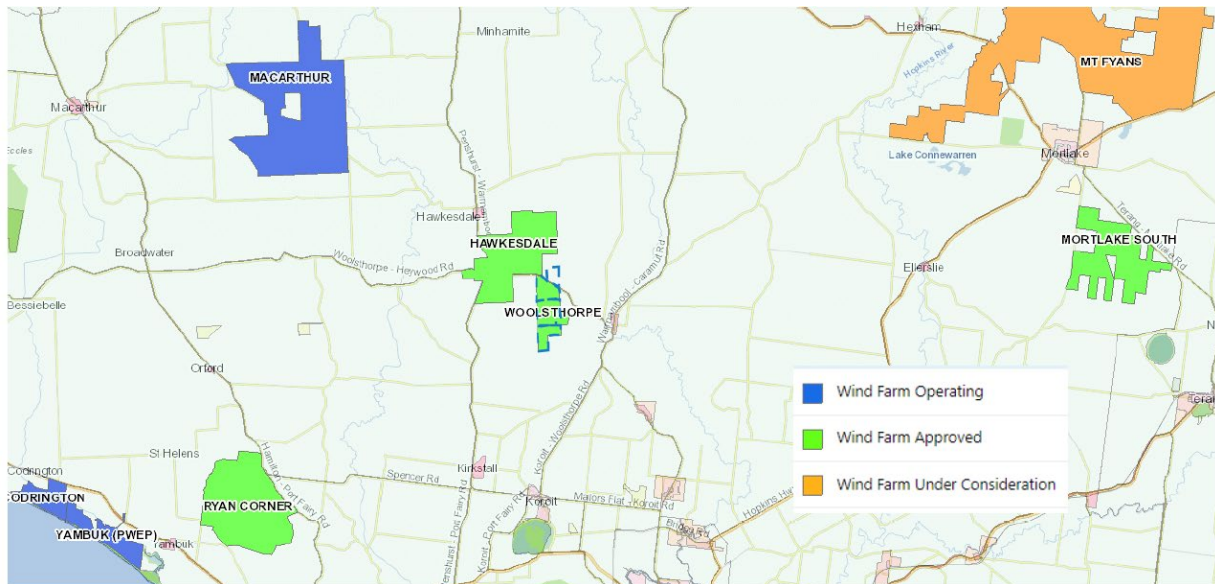
⁹ Part A Submission, paragraphs 34 - 37

¹⁰ Applicant's submissions in reply, paragraphs 16-17 (Document 62)

- the Planning Scheme does not provide for consideration of cumulative impacts at a municipal level, and Clause 74.02 does not indicate this work needs to be undertaken
- the focus of the current application must be on the changes proposed and not the Project in principle.

In response to a question from the Panel, Mr Iles explained the elements for consideration in a cumulative assessment had been appropriately addressed, specifically relating to visual impacts and noise.

Figure 4 Proposed, approved and operating wind farms in the region



Source: Exhibited Planning Report: Woolsthorpe Wind Energy Facility (KLM Spatial, July 2022) (sourced from VicPlan January 2022)

Council

Council explained the municipality of Moyne is a major location for wind farm development in Victoria. The Shire has experienced expansion of the industry and there are currently six operating wind farms, two under construction, two with permits, two seeking permits and two in the feasibility stage. If all of these are constructed, wind farms will cover approximately 12 per cent of the land area of Moyne. Over time the size of individual wind turbines has increased, with older turbines having an overall height of 81 metres, which is approximately the length of one blade on the proposed turbines.

Council submitted it was concerned the expansion of wind farm facilities is being undertaken without sufficient strategic planning. It submitted:

the Project exhibits a number of flaws and deficiencies that suggest that in this case net community benefit weighs against the grant of the Amendment Application. The Panel cannot be satisfied that the Amendment Application will be acceptable in this instance, even if it does mean that there are fewer turbines proposed.

...

There has been insufficient strategic planning for wind energy facilities in Victoria, and insufficient assessment of this Amendment Application in particular, to ensure that the Project's overall effects on the Shire's communities and natural environments will be acceptable.¹¹

¹¹ Moyne Council submission, paragraphs 5 and 9 (Document 42)

Council advised:

- in November 2018, Council resolved to oppose further wind farms until relevant recommendations of the *National Wind Farm Commissioner's 2017 Annual Report* were implemented
- in September 2022 Council adopted a resolution “*strongly recommending that the State Government pause the issuing of new wind farm permits in the Shire until strategic land use planning in the [South-West Renewable Energy Zone] is completed*”.¹²

Consistent with the Council resolution in September 2022, Council submitted the amendment application should not be approved until further strategic planning work is completed for the South-West Renewable Energy Zone.

In summary, Council submitted:

- further strategic planning is required to understand cumulative impacts of wind farm development in the municipality of Moyne
- it was generally concerned the incremental amendment to windfarm proposals, ‘piecemeal’ approach to assessments and lack of strategic planning prevents a cumulative assessment of the effects of proposals
- region-wide strategic planning is necessary for proper assessment of cumulative impacts (with reference to the *Golden Plains Wind Farm EES Enquiry [2008] PPV 97*).

Other submitters

Several submitters raised issues relating to cumulative impacts, including:

- visual impacts with nearby wind farms
- health effects of noise levels
- impacts on flora and fauna, in particular migratory species.

(iii) Discussion

The Project is supported by planning policy which strongly encourages renewable energy facilities that contribute to a low-carbon economy, provide economic, social and environmental benefits and minimise effects of local communities and environments.

The Panel understands Council is advocating for additional strategic planning work, including a framework for assessing cumulative risks, to inform renewable energy facility provision across the region. While the Panel appreciates that further strategic planning work would provide the community with greater certainty about future wind farm provision across the region, this work has not yet been completed and the Panel is required to assess the proposal against policy of the day. When completed, this further strategic work may provide greater guidance with implementation of Clause 19.01-2R (Renewable energy – Great South Coast).

The Panel is required to consider cumulative impacts in accordance with the Planning Scheme and with consideration of the Wind Energy Guidelines. The critical issues relating to cumulative impacts and the Project are visual amenity, noise and flora and fauna. Cumulative impacts are discussed as relevant to issues in submissions in other chapters of this Report. In summary, the Panel finds cumulative impacts have been adequately assessed and are acceptable, subject to recommendations of this Report.

¹² Moyne Council submission, paragraph 23 (Document 42)

2.8 Buffer to Woolsthorpe

(i) Evidence and submissions

In the absence of further strategic guidance on the effects of windfarms, Council submitted it is seeking all wind farms be set back a minimum of five kilometres from any settlement *“in order to protect the amenity interests of residents and to minimise constraints on the ability of settlements to grow”*.¹³

Alternatively, Council sought that proposed turbines WT02, WT05 and WT07 have a minimum 4 kilometre setback from the Woolsthorpe township. While acknowledging the Project does not move the turbines closer to the town, Council submitted the proposed increase in height does increase visual impacts and raises the question of whether the setback is adequate.

Mr Iles gave evidence:

In the absence of any requirement to provide this in the Schedule to Clause 52.32, and any technical evidence justifying this in the context of the current application, however, I do not support this suggestion.

Submitter 14 requested the Minister reject the proposal and require the Project adopt a 5 kilometre buffer to the township of Woolsthorpe (and provided signed 57 questionnaires in support of its submission).

(ii) Discussion

The Panel agrees with Mr Iles there is no requirement for a four kilometre setback from the Woolsthorpe township in the Planning Scheme, and no evidence was given to the Panel supporting this position.

The issue of visual impact is addressed in Chapter 3 of this Report.

2.9 Project viability and benefits

(i) Evidence and submissions

Project viability

The Applicant submitted it cannot source turbines which meet the specifications of the current planning permit. *“There are smaller turbines available but they are not economic for this site and the permitted number of turbines”*.¹⁴

In response to a direction from the Panel, the Applicant explained the process of wind turbine procurement and Project viability.¹⁵ In summary:

- under the current planning permit turbines which fit within the development envelope and permit specifications were required
- a procurement process was undertaken and a single turbine was assessed as viable - no other turbine model fitting within the specifications was viable

¹³ Moyne Council Submission, paragraph 64 (Document 42)

¹⁴ Applicant’s submissions Part A and B (Documents 16 and 62)

¹⁵ Document 63

- alternative project design was considered, taking into account a number of factors that influence viability, including size of the area and potential energy output.

Council submitted that while it accepted on face value that the turbine manufacturer is no longer able to provide the model that matches the current permit, there is nothing before the Panel as to the availability and viability of turbines that would comply with the current permit.

Benefits

The Applicant submitted the Project will provide a significant net community benefit, including contributing to local jobs and indirect employment, spending on local support services and facilities, putting downward pressure on electricity prices, and will provide social benefits through the community benefit fund.

The Applicant submitted it was ‘artificial’ to ignore benefits of the current planning permit relating to energy generation and jobs, as without the amended permit the benefits would not be delivered. It stated:

- Council criticises the assessment of benefit made by Mr Iles but does not say what the assessment should be. This is of little assistance to the Panel.¹⁶
- Further, it considered Council’s claim that Victoria is on track to meet projected renewable energy targets with or without the Project is not explained or substantiated.

Mr Iles gave evidence the Project would contribute to a net community benefit, consistent with Clause 71.02-3, by:

- assisting the delivery of Victoria’s 2030 Renewable Energy Target
- creating further investment in renewable energy projects
- supporting the reliability of electricity supply
- contributing to local jobs
- assisting to put downward pressure on electricity prices
- reducing emissions
- providing benefits through the community fund.

Mr Iles was of the view the Project had sought to minimise amenity impacts and benefits would “*offset concerns of objectors around visual impact, transport, bushfire dangers, flora and fauna impacts and aviation*”.

Council submitted:

- the Project benefits have been overstated
- there was no evidence before the Panel that turbines compliant with the approved permit were not available
- benefits relating to economic efficiency would likely flow to the Applicant, and there is no information before the Panel about the nature or extent of that efficiency benefit
- the disbenefits of the Project, which largely effect the community, outweigh unquantified efficiency benefits to the Applicant.

In response to questions from Council, Mr Iles:

- agreed the Project would not increase the renewable energy produced by the wind farm

¹⁶ Applicant Part B submission (Document 62)

- clarified that he had assumed the Project would not be viable without the amendment, and consequently had attributed all of the benefits of the wind farm to the proposed amended permit.

Several submitters raised concerns about social and economic impacts of the Project.

(ii) Discussion

The Panel accepts the Applicant's advice it has not been able to procure turbines with specifications that comply with the current permit, and consequently is seeking to amend its current permit to deliver the Project.

Planning policy requires consideration of economic, social and environmental benefits to the broader community of renewable energy while also considering the need to minimise the effects of a project on the local community and environment. The Applicant's submissions and evidence of Mr Iles appropriately focused on:

- energy and economic benefits of the Project, and associated benefits relating to job creation
- minimising impacts, in particular amenity impacts and impacts on biodiversity.

While Council was concerned that Project benefits are overstated, and the disbenefits outweigh unquantified efficiency benefits for the Applicant, it did not provide evidence supporting this position. The Panel notes the Applicant did provide details of anticipated energy output and direct and indirect jobs.

While it may have been of interest for the Panel and community to have more detailed quantification of anticipated benefits, the Panel accepts the Project benefits as described.

The Project will deliver the equivalent energy output to that approved through the current planning permit. Accordingly the renewable energy and associated emissions reductions benefits during operation of the Project are therefore fundamentally the same as the existing proposal. Importantly the proposal does not reduce these benefits.

The Panel discusses issues relating to minimising local community and environment impacts in issues specific chapters in this Report. Issues relating to the community benefit fund are discussed in Chapter 8.4.

Overall the Panel accepts that the Project delivers net community benefit and sustainable development as required by Clause 71.02-3 (Integrated decision making).

2.10 Conclusions

For the reasons set out in this report, the Panel concludes:

- The Project is generally supported by, and implements, the relevant sections of the Planning Policy Framework.
- An acceptable proposal must respond to the relevant considerations in the Wind Energy Guidelines and requirements of Clause 52.32 (Wind energy facility).
- The Project should proceed subject to addressing the more specific issues raised in submissions, in accordance with the Panel's recommendations in other chapters of this Report.

3 Landscape and visual impact

3.1 Background

(i) Planning Scheme

Clause 52.32 (Wind energy facility) has the purpose to “*facilitate the establishment and expansion of wind energy facilities, in appropriate locations, with minimal impact on the amenity of the area*”. It:

- requires an application to include a site and context analysis including:
 - Views to and from the site, including views from existing dwellings and key vantage points including major roads, walking tracks, tourist routes and regional population growth corridors
- requires a design response to include assessment of:
 - The visual impact of the proposal on the surrounding landscape.
- includes a decision guideline requiring consideration of:
 - The impact of the development on significant views, including visual corridors and sightlines.

Clause 65 (Approval of an application or plan) requires a responsible authority to consider, among other things, the effect of the proposal on amenity.

(ii) Wind Energy Guidelines

The Wind Energy Guidelines provide guidance on assessing the visual impact of a wind energy facility. It explains the degree of visual impact depends on the extent of change to the landscape caused by the development, taking into account:

- the visibility of the development
- locations and distances from which it can be viewed
- significance of the landscape as described in the planning scheme
- landscape values associated with nearby parks (described in a schedule to the *National Parks Act 1975*) or Ramsar wetlands
- landscape values associated with nearby land included in the Schedule to Clause 52.32-2 of the planning scheme
- the sensitivity of the landscape features to change.

The Wind Energy Guidelines states:

Wind energy facilities will have a degree of impact on the landscape.

A responsible authority needs to determine whether or not the visual impact of a wind energy facility in the landscape is acceptable.

The Wind Energy Guidelines suggests a range of measures to reduce visual impacts, including:

- siting and design to minimise impacts on views from areas used for recreation and from dwellings
- locating arrays of turbines to reflect dominant topographical and/or cultural features, such as ridgelines, the coastline, watercourses, windbreaks or transmission lines
- spacing turbines to respond to landscape characteristics.

(iii) Visual impact assessment reports

The following report was exhibited with the planning permit amendment application:

- Woolsthorpe Wind Farm, Amendment to Planning Permit 2006/0220 - Visual Impact Assessment (Green Bean Design, June 2022) (June 2022 VIA).

In January 2023 the Applicant circulated the following reports to parties:

- Woolsthorpe Wind Farm, Amendment to Planning Permit 2006/0220 - Report and Statement of Evidence for Visual Impact Assessment (Green Bean Design, January 2023) (Document 11) (January 2023 VIA)
- Woolsthorpe Wind Farm, Application to Amend Planning Permit 20060220-3 – Peer Review and Statement of Evidence for Visual Impact Assessment (Craig Czarny, January 2023) (Document 15).

In response to further directions from the Panel, the Applicant circulated the following visual material to parties:

- Landscape and Visual Impact Memo (Craig Czarny, 8 March 2023) (Document 81)
- Visual Impact Assessment Addendum (Green Bean Design, 2 March 2023) (Document 82) (VIA Addendum)
- Woolsthorpe comparative photomontages, Viewpoints 1 – 7 (Green Bean Design, 8 March 2023) (Document 83) (comparative photomontages).

3.2 Issues

The issues are whether the visual impacts of the Project are acceptable, including:

- visual prominence of turbines from public and private viewpoints
- cumulative impacts of wind farms across the wider area
- whether the proposed Off-site Landscaping Program is adequate.

3.3 Evidence and submissions

Original evidence and submissions

The Applicant submitted:

- the proposed increased height would be visible from some viewpoints in the surrounding area
- the increase in height would not result in a significant increase in visual impact, with views largely limited to the upper portions of turbines
- the reduction in number of wind turbines from 20 to 13 would reduce the overall level of visibility and mitigate visual impacts
- impacts from public view points were categorised as ‘low’ and were therefore acceptable
- impacts from all but one private viewpoint were categorised as ‘low’, ‘low-medium’ or ‘limited’ impact, were acceptable and could be mitigated through landscape screening
- the one private viewpoint predicted to experience ‘medium’ impact was a stakeholder dwelling with the Hawkesdale Wind Farm
- regarding cumulative impacts, the Hawkesdale Wind Farm will be largely recessive in views from dwellings south to south-east of the subject site, and generally screened by vegetation.

In summary, the Applicant submitted the visual impacts of the amendment would be negligible relative to the current approved permit, and the overall impact would be acceptable. Visual

impacts would be appropriately managed through condition 5 of the planning permit which details the proposed Off-site Landscaping Program.

The Applicant relied on the VIA assessments of Green Bean and evidence of Mr Iles and Mr Czarny. Mr Czarny noted his evidence must be read in conjunction with the relevant source reports prepared by Green Bean (June 2022 VIA and the January 2023 VIA).

The January 2023 VIA stated:

- wireframe diagrams have been prepared for dwellings generally within 2 kilometres of the amended turbines (see Figure 5)
- it included some minor amendments to the location of the 6 viewpoints in the previous assessment and an additional location, Viewpoint 7, from Nicholson Street in Woolsthorpe was identified for community consultation purposes.

The January 2023 VIA concluded:

- There was no material change to baseline landscape characteristics and no relevant changes to planning policy from previous assessments.
- The removal of 7 turbines would reduce the overall level of wind farm visibility and reduce the potential for cumulative impacts with the Hawkesdale Wind Farm.
- The wind turbine tip height would result in an acceptable level of visual impact. While an increase in turbine height may result in additional turbine visibility, the change is not considered to be of a magnitude that a significant increase in visual effect would occur above previous accepted levels of visual effect.
- The modelling does not show a significant increase in potential for cumulative impacts, with the Hawkesdale Wind Farm turbines appearing to be visually recessive.
- The mitigation measures in the proposed planning permit, relating to turbine colour and the Off-site Landscaping Program are appropriate to manage visual effects.

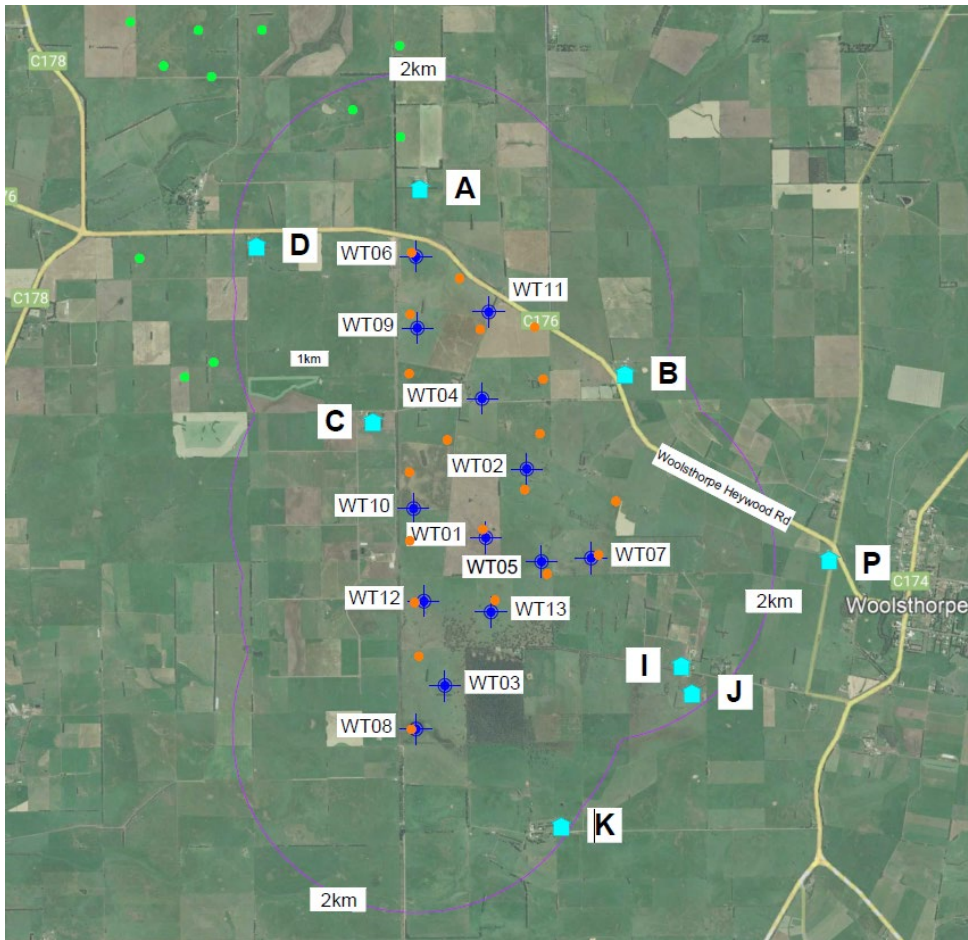
Mr Iles gave evidence the visual impacts had been adequately assessed. He acknowledged the increased height may be perceived as reducing positive social impacts, however he considered the reduced number of turbines offset any such increase in impacts. Regarding cumulative visual impacts, Mr Iles was of the view an extensive amount of work had been done to demonstrate these were acceptable.

Mr Czarny gave evidence regarding two landscape assessment reports; the *Coastal Spaces Landscape Assessment Study* (DELWP, 2006) and the *South West Victoria Landscape Assessment Study* (DELWP, 2013), noting the subject site was not identified in either assessment as a significant landscape.

Mr Czarny gave evidence that:

- there are no notable changes to the planning policy or decision making framework since the current permit was issued that would warrant a new or different assessment approach
- there is no substantive change to the physical condition of the study area
- he was satisfied with the combination of quantitative and qualitative measures used in the VIA's methodology, including the approach to rating magnitude of visual effect
- he was generally satisfied the conclusions of the VIAs are acceptable, noting his suggestion to prepare further comparative photomontages from public viewpoints to aid interpretation.

Figure 5 Location of dwellings within approximately 2 kilometres of a wind turbine (approved and amended)



Legend

- WWF approved indicative wind turbine location
- ⊕ WWF amended indicative wind turbine location
- 2km distance offset from amended wind turbine location
- 🏠 Dwelling generally within 2 km of amended wind turbine and wireframe location
- Hawkesdale indicative wind turbine location

Source: January 2023 VIA, page 18

In considering whether the Project would result in a significant impact, Mr Czarny concluded:

- The visual impact from the seven public vantage points will not be significantly impacted by the relative increase in height. The impacts appear within a range of ‘low’ value and therefore are acceptable.
- The change for private views from 8 dwellings within two kilometres of the Project is of low to medium ranking. The impacts are acceptable and can be mitigated appropriately through the permit condition which requires screen plantings.

Regarding cumulative impacts, Mr Czarny noted the photomontages and wireframe views have appropriately considered the approved Hawkesdale Wind Farm. He said long range panoramic views to the Macarthur Wind Farm (located approximately 15.23 kilometres to the west of the

Project) are available only from elevated land and particularly the Penshurst-Warrnambool Road, due to the nature of topography around the subject site. While the Macarthur Wind Farm “represents a changed condition, it has no bearing on the landscape character of the site or legitimacy” of the impact assessment work undertaken.¹⁷

In response to a question from Council about limitations of static visual assessment material, he said it would be an outstanding step if visual assessment material could capture the dynamic experience of moving through the landscape.

The majority of submitters raised concerns about the impact on visual amenity, in particular relating to the increased height of turbines. Concerns included:

- impacts on the rural aesthetic and visual amenity of the town
- the taller turbines would affect scenic views across the area
- the visual appearance of the wind turbines
- that the turbines may have lights
- cumulative impacts, particularly with the nearby approved Hawkesdale Wind Farm, and combined infrastructure such as transmission lines
- impacts on views from Woolsthorpe township, specifically in relation to Viewpoint 7
- impacts on visual amenity and views from specific private properties and dwellings.

Submitter 6 considered that with fewer turbines, the visual impact of taller turbines was minor compared with the overall benefits of the Project.

Evidence and submissions in response to VIA Addendum and comparative photomontages

In response to Panel directions, the Applicant submitted further material prepared by Green Bean and a memo from Mr Czarny. The Green Bean material included:

- a VIA Addendum (Document 82), including updated wireframes from each of the assessed private viewpoints using the correct approved wind turbine dimensions (see example for Dwelling J at Figure 6)
- comparative photomontages for the public viewpoints.

The VIA Addendum explained why an update to wireframes for private viewpoints was required. The January 2023 VIA incorporates wind turbine dimensions from the *Amendment Visual Assessment Report* prepared by WAX Design in 2016 based on a 170 metre wind turbine tip height, which is 2 metres above the approved 168 metre turbines. The VIA Addendum includes a figure illustrating the “*the very similar dimensions and scale of both wind turbines*” (see Figure 7). The report concluded there would be a negligible visual difference of the 168 metre height approved turbines and the modelled 170 metre in the 2016 WAX report.¹⁸

The VIA Addendum concluded the increased wind turbine tip height to 230 metres “*would not result in a significant increase in visual effect, and would result in an acceptable level of visual impact in addition to that previously approved*”.¹⁹

¹⁷ Mr Czarny, Expert Witness Statement, paragraph 36 (Document 15)

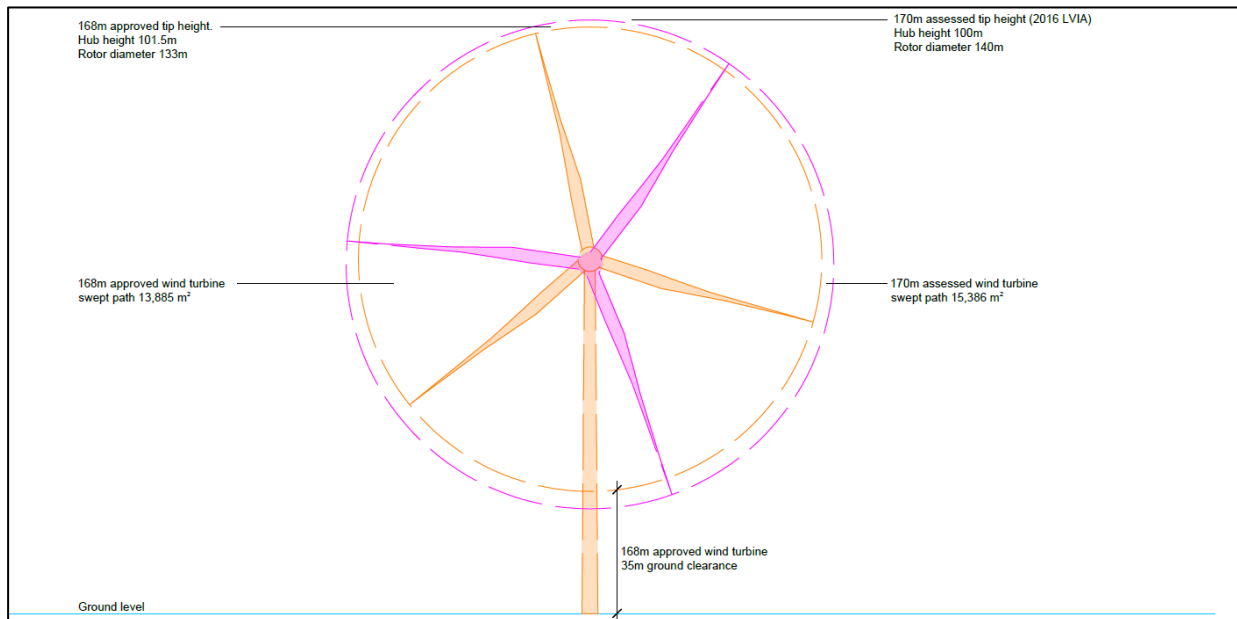
¹⁸ Document 27

¹⁹ VIA Addendum, paragraph 9

Figure 6 Wireframe for Dwelling J Viewpoint



Source: VIA Addendum (Figure 21)

Figure 7 Approved 168 metre turbine comparison with 170 metre turbine assessed in 2016 WAX Report

Source: VIA Addendum, page 4

In the memo, Mr Czarny gave evidence he was satisfied his original evidence relating to Viewpoints 1 – 6 was sound, and the visual impacts were ‘low’. Regarding Viewpoint 7 he gave evidence that:

- some adjustment to the magnitude of impact is evident
- while the VIA Addendum assessed the visual effect as ‘low’ he considered the impact was ‘low to medium’, with regard to the visual effect classifications in the application VIA which defines medium effect as:

Amendments to the approved [Woolsthorpe Wind Farm] project would result in a partial visual effect and introduce elements which may be prominent, but not completely out of character with the approved [Woolsthorpe Wind Farm] project.

- three turbines are more noticeable (WT01, WT05 and WT07) within the panorama relative to the approved project, as a function of the increased turbine profile and their alignment with Nicholson Street (which is an open aspect flanked by canopy trees).

Overall Mr Czarny considered the visual impacts acceptable, and no mitigation measures were necessary, and the permit amendment was appropriate with regard to visual impact matters.

Council submitted its views on the level of visual effect demonstrated by the comparative photomontages for each public viewpoint. It considered the assessment of visual effects from a number of public viewpoints showed the impacts to be ‘low to medium’ and ‘medium’. Regarding Viewpoint 7 it submitted:

- turbine WT05 and WT07 appear much closer to the viewer than anything in the approved proposal
- in the proposed layout the increased height brings the rotor-swept area (RSA) up above the horizon
- the visual effect should be considered ‘medium’.

Council submitted the assessment of impacts from Viewpoint 7 also demonstrated the visual amenity of private properties in the township will be affected. It suggested dwellings in the township with views to the west should be offered screening. It submitted:

... this requirement should be extended to include all dwellings in the township that have views to the west from habitable rooms, decks and balconies that do not benefit from existing screening.²⁰

Mr Keen submitted he did not find the updated comparative photomontages presented anything different from the original images. He raised questions about the accuracy of some of the images and locations. Overall he considered the location of wind turbines so close to the town was a negative for the township. He submitted a photomontage was needed from each property rather than the “*wireframe cartoon*”. He objected to the wind farm being located as proposed and that it would affect his experience of peace and tranquillity of his home.

Regarding the comparative photomontages, Mr Meggs submitted:

- many of the photomontages were poor quality with turbines depicted so far in the distance they are barely visible
- some provided marginally improved images, but still did not provide a reasonable perspective of the turbines in the landscape
- an improved depiction should be available
- in the context of an original approved turbine of 135 metres tall, the change is significant
- the overall height increase of 95 metres is very significant and must be considered.

Mr Meggs considered the additional information supplied by Mr Czarny added little to the information already available. Mr Meggs questioned the validity of the current permit in the context of the inaccurate turbine height used in previous assessments, and corrected in the VIA Addendum, and considered this indicated a level of incompetence.

In response to submissions, the Applicant submitted:

- Council’s submission is not supported by expert evidence and its comments must be considered by the Panel accordingly. Council has not indicated the change in impact is not acceptable
- the VIA Addendum and Mr Czarny’s evidence is that the proposal is acceptable and no amendment to the Off-site Landscaping Program or alternative mitigation is required
- the discrepancy in the height of turbines identified was included on the visual amenity material only and not the construction specifications
- the use of wireframes and photomontages is standard, accepted industry practice
- the concerns of Mr Keen relating to quality of the photomontages reflects what is the “*typical human field of view*” at different scales.

In response to further directions from the Panel, the Applicant submitted:

- consideration of micro-siting of wind turbines WT05 and WT07 had been investigated with consideration of SBWB habitat only
- wind turbines WT01, WT05 and WT07 could potentially be micro-sited to mitigate the visual impacts of these turbines from Viewpoint 7 along Nicholson Street. Noting:
... the micro-siting of other turbines, including as required if the without-prejudice conditions are adopted, must be considered in any requirement for micro-siting of WT01, WT05 and WT07 for visual impact mitigation at this location
- relocation of turbines is an involved process that would require reassessment of the whole layout of the wind farm and each impact

²⁰ Council submission, paragraph 14 (Document 86)

- Off-site landscaping is not necessary for dwellings in the township zone on the basis:
 - the town is heavily wooded, including a band of existing mature vegetation running between the town and subject site
 - land in the town has a different character and outlook to dwellings in an open rural setting
 - previous approvals and expert advice does not consider it necessary
- it is open to consider dwellings in the north-west quarter of the township zone, within 4 kilometres of a turbine, for eligibility for the Off-site Landscaping Program. This would be for dwellings that do not benefit from existing screening
- it is not proposed to provide photomontages as part of the Off-site Landscaping Program.

3.4 Discussion

The Panel is required to assess whether or not the visual impact of the wind farm is acceptable, with consideration of the Wind Energy Guidelines, cumulative impacts and mitigation measures.

The subject site is located at the edge of study areas for the coastal spaces and south west landscape studies, however neither study identifies the landscape of State or regional significance, and no significant view cones are identified. The subject site and surrounding landscape features and values are not associated with nearby national parks or Ramsar wetlands, or other identified sensitive areas. Consequently, the landscape features of the subject site and surrounds are not significantly sensitive to change with regard to landscape character and values.

The Panel considers the cumulative visual impacts have been adequately assessed through the VIAs and visual material presented to it. The assessment adequately considers the combined impacts of the Project and the adjacent Hawkesdale Wind Farm, and this has been taken into consideration in determining overall visual impact and visual effect classifications for each public and private viewpoint. The Panel accepts the evidence of Mr Czarny that the cumulative visual impact is acceptable.

The Panel accepts the Applicant's submissions that the discrepancy in the height of modelled turbines results in a negligible visual difference, and this was assessed in the VIA Addendum.

Consistent with the Panel for the 2017 permit amendment, the Panel considers that the approved wind farm will be visible for long distances and in many directions. The Project with taller and fewer turbines may have a change in visibility from some places (some more and some less), however *"it does not follow that this is unacceptable or should result in the refusal of the amendment application"*.²¹

Key considerations for the Panel are local visual amenity impacts from the public and private realms.

Consistent with the Wind Energy Guidelines, the Panel accepts the Project will be visible and will have a degree of impact on the landscape. Broadly the Panel accepts that the reduction in number of turbines from 20 to 13 will reduce the overall visibility of the wind farm. The increase in turbine height, however, has the potential to increase visual impact. The magnitude of visual effect varies depending on the viewing location and sight lines and context, such as surrounding landscaping and topography. As acknowledged in the VIA reports, the visibility of turbines and visual impacts

²¹ Woolsthorpe Wind Farm Panel Report [2017]

for some locations will be greater than for others. Design of the wind farm and siting of individual turbines is important to achieving an acceptable outcome.

A key issue for many submitters was the visual impacts from private dwellings, and concern the Project would substantially change their current outlook. The Panel understands these concerns, noting that the wireframes in the VIA Addendum demonstrate the change in visual impact from the approved windfarm to the Project. The Panel accepts the assessment, and the evidence of Mr Czarny, that the visual impact will be acceptable subject to implementation of permit conditions.

The proposed amended permit includes condition 5 which requires the Applicant to prepare and deliver an Off-site Landscaping Program. The program is to be offered to:

... owners of dwellings existing on 7 June 2016 within 4 kilometres of any turbine excluding any dwellings within the Woolsthorpe Township Zone. This is to include a process for making offers to affected landowners to undertake landscaping on the landowner's land.

The condition requires the Off-site Landscaping Program to be submitted to, approved and endorsed by the Minister before use and development starts, and the program must provide details of the timetable for establishing and maintaining landscaping for at least 2 years.

The Panel is satisfied the Off-site Landscaping Program is an appropriate mitigation measure to minimise visual impacts. Plants will take some time to grow to full size, and the sooner the program is implemented and plants established the sooner the mitigation benefits will be achieved.

The Panel understands the concerns of submitters that it is difficult to gain a reasonable perspective of the visual impact of turbines in the landscape from the visual material presented, due to the static nature of the images, the scale and the form, such as wireframes which as suggested by one submitter, can appear cartoon like. While the Panel considers the visual material adequate to inform its assessment of the Project, coupled with its site inspections, it agrees with Mr Czarny it would be helpful if visual assessment material could better capture the dynamic viewing experience.

While photomontages may be of assistance in understanding the outcomes of the Off-site Landscaping Program, the Panel accepts the Applicant's submission that they are not currently proposed and it will rely on the process undertaken by a qualified landscape architect. The Panel considers the process should involve the preparation of visual materials to assist with communicating the outcomes of the landscaping, and the requirement for visual materials should be included in the planning permit condition for the Off-site Landscaping Program.

A key concern for submitters was the impacts from public Viewpoint 7 (see Figure 8).

Viewpoint 7 is located close to the centre of the township of Woolsthorpe, between the general store and Woolsthorpe Soldiers Memorial Park, looking west along Nicholson Street. While Mr Czarny amended his position following review of the comparative photomontages, concluding the visual impact was 'low to medium' rather than 'low', the Panel agrees with Council the visual impact is likely to be 'medium'.

The definition of 'medium' visual effect in the VIA is assessed on the basis of a partial visual effect with elements introduced which may be prominent, but not out of character with the approved project. As noted by Mr Czarny, three turbines (WT01, WT05 and WT07) are more noticeable in the Project. In the Panel's view, the comparative photomontages show these turbines are located in an open area, in close alignment with Nicholson Street and with hubs and blades visible above the tree canopy (unlike the current permit which has fewer less prominent turbines, with hubs and

much of the blades obscured by the canopy trees). The Panel considers WT01, WT05 and WT07 are more prominent, but not out of character with the approved wind farm, consistent with the definition of 'medium' visual effect.

Figure 8 Comparative photomontage at Viewpoint 7 – current permit (top) and Project (bottom)



Source: Document 83

While Mr Czarny was of the view the visual impacts were acceptable from, Viewpoint 7, the Panel explored with the Applicant options to further mitigate the effects. The Panel observes that if WT01, WT05 and WT07 could be slightly repositioned to avoid the direct alignment with Nicholson Street, and for the turbine hub and blades to be at least partly obscured by existing canopy trees, this would lessen the visual impact from Viewpoint 7. The Applicant advised that micro-siting these turbines may be possible (Document 89).

The exhibited planning permit allows for micro-siting under the endorsed plans, on the basis that:

... micro-siting of wind turbines:

- is where the siting of a wind turbine is altered by not more than 100 metres but is not relocated closer to any site boundary or waterway than is shown on the endorsed plans;
- includes any consequential changes to access tracks and reticulation lines;
- is only allowed where the Minister for Planning is satisfied that the relocation of the turbine and any associated track or reticulation line will not give rise to a material change to assessed landscape, vegetation, cultural heritage, visual amenity, shadow flicker, noise or aviation impacts when compared to the site shown on the endorsed plans.

To this end, any request for confirmation of the Minister's satisfaction in relation to micro-siting must be accompanied by supporting material addressing these matters as relevant except that in all cases the request must be accompanied by the results of supplementary flora surveys of any areas not surveyed in accordance with condition 4 which have been prepared in consultation with DELWP Environment Portfolio to the satisfaction Minister for Planning.

The Panel notes the Applicant proposes micro-siting a number of specific turbines in its final day permit conditions (Document 79), with consideration of SBWB habitat. The Panel considers micro-siting WT01, WT05 and WT07 may result in visual amenity benefits from the public and private viewpoints. The Panel is mindful of the multiple considerations in appropriately siting wind turbines, however, is reassured by the Applicant's advice that micro-siting of these wind turbines may be possible. The Panel considers the potential micro-siting of turbines WT01, WT05 and WT07 to minimise visual impacts should be included as a planning permit condition.

Regarding Council's suggestion for an Off-site Landscaping Program for dwellings in the town with views to the west, and the Applicant's response that this may be possible for dwellings in the north-west quarter of the town, the Panel is concerned this may unnecessarily create confusion regarding community expectations and complications regarding delivery. The condition relating to the Off-site Landscaping Program anticipates being able to plant on the landowners property at approximately 100 metres from a dwelling. This will not be possible on small lots, and consequently planting would need to be off-site and likely on public land. The inclusion of a condition would raise expectations that may not be able to be satisfied through the program. The Panel considers there may be other avenues to reduce visual impact from the town, such as through planting on public land, however this would need to be delivered through a separate mechanism.

3.5 Conclusions

The Panel concludes:

- The cumulative visual impact of the Project is acceptable.
- The visual impacts from dwellings are acceptable, subject to the Panel's preferred planning permit condition relating to an Off-site Landscaping Program.
- The visual impacts from the public viewpoints are acceptable, subject to the Committee's recommended planning permit condition relating to micro-siting turbines WT01, WT05 and WT07.

Where relevant, the Panel's conclusions are included by the Panel preferred planning permit in Appendix C.

4 Flora and fauna

4.1 Background

(i) Planning Scheme

Clause 12.01-1S (Protection of biodiversity) has the objective “*to protect and enhance Victoria’s biodiversity*”. Strategies include:

- using biodiversity information to identify important areas of biodiversity, including key habitat for rare or threatened species and communities.
- ensuring decision making takes into account the impacts of land use and development on Victoria’s biodiversity, including consideration of cumulative impacts and fragmentation of habitat.
- avoiding impacts of any change in land use or development on important areas of biodiversity.

Clause 12.01-2S (Native vegetation management) has the objective “*to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation*”. The strategy is to:

- ensure decisions that involve, or will lead to, the removal, destruction or lopping of native vegetation, apply the three-step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, 2017) (Native Vegetation Guidelines).

Clause 22.02 (Rare and threatened species) includes objectives:

- To maintain and enhance biodiversity in Moyne.
- To recognise the location of Victorian Rare and Threatened Flora and Fauna Species including but not limited to those listed under Schedule 2 of the *Flora and Fauna Guarantee Act 1988*.
- To maintain and enhance the habitat, particularly the critical habitat, of Victorian Rare and Threatened Flora and Fauna species including but not limited to those listed under Schedule 2 of the *Flora and Fauna Guarantee Act 1988*.

Clause 22.02-8 (Flora and fauna local policy) includes the objective to “*protect and enhance flora and fauna communities throughout the Shire*”. Strategies include encouraging protection, conservation and enhancement of ecological communities, encouraging coordinated management and action between agencies, encouraging establishment and protection of wildlife corridors.

Clause 52.17 (Native vegetation) requires a planning permit to remove, destroy or lop native vegetation, and includes offset requirements in accordance with the Native Vegetation Guidelines.

Clause 52.32 (Wind energy facility) includes:

- an application requirement for consideration of flora and fauna species listed under the FFG Act and the EPBC Act
- decision guidelines requiring consideration of the impact of the facility on the natural environment and natural systems.

Clause 65 (Approval of an application or plan) requires a responsible authority to consider, among other things, the effect of the proposal on the environment. It includes decision guidelines:

- The extent and character of native vegetation and the likelihood of its destruction.

- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.

(ii) Wind Energy Guidelines

The Wind Energy Guidelines state:

Impacts on flora and fauna species and habitat from wind energy facilities and associated infrastructure can be minimised through siting and design measures at the project planning stage. Project specific impacts can vary widely with location and species. The assessment of a proposed development must carefully examine any risk to flora and fauna species and project design and adaptive management measures should be applied where necessary.

If native vegetation is proposed to be removed, the responsible authority must have regard to the Native Vegetation Guidelines.

The responsible authority is required to consider:

- whether the species and communities are protected under the EPBC Act or the FFG Act;
- the sensitivity of any protected species to disturbance;
- the potential loss of habitat of species protected under the EPBC Act or the FFG Act;
- measures to minimise the impacts on any native species.

The Wind Energy Guidelines states an Environmental Management Plan will be required which may include a Bat and Avifauna Management Plan (BAM Plan). Appendix B of the Wind Energy Guidelines provides example permit conditions for a BAM Plan.

(iii) EPBC Self-assessment

The Applicant submitted in its Part A submission:

- in 2004, the original project was referred to the Federal Minister for the Environment under the EPBC Act
- it was determined the original project was not a controlled action
- given the time that has elapsed and changes to the project, the Applicant prepared an EPBC Act Self-assessment that was exhibited with the amended permit application.²²

The EPBC Act Self-assessment identifies:

- four listed fauna species likely to or have potential to occur in the study area:
 - SBWB, listed as critically endangered under the EPBC Act (in 2007) and FFG Act
 - Grey-headed flying fox (GHFF), listed as vulnerable under the EPBC Act in 2001 and listed as threatened under the FFG Act
 - White-throated needletail (needletail), listed as vulnerable and migratory under the EPBC Act in 2019 and included on the DELWP Advisory List
 - Latham's snipe, listed as migratory under the EPBC Act and the DELWP Advisory List as near threatened
- one listed ecological community known to occur in the study area and will be impacted:
 - Natural Temperate Grassland of the Victorian Volcanic Plain (NTGVVP)
- one listed ecological community known to occur in the study area will not be impacted:
 - Seasonal Herbaceous Wetlands of the Temperate Lowland Plains.

The EPBC Act Self-assessment concluded the Project is unlikely to be a significant impact on Matters of National Environmental Significance and referral under the EPBC Act is not warranted.

²² Woolsthorpe 2022 Wind Farm: EPBC Act Self-Assessment, prepared for Elecnor Australia Pty Ltd by Nature Advisory, June 2022

4.2 Southern Bent-wing Bat

(i) Background

Bat and Avifauna Management Plan

The current permit includes a condition for a BAM Plan which requires:

- c) A Southern Bent-wing Bat monitoring program of at least two years duration to establish utilisation of the site including monitoring of bat presence at different heights up to 168m;
- d) Specification of mortality rates for the Southern Bent-wing Bat and bird species listed under the EPBC Act or the FFG Act that would trigger the requirement for appropriate ameliorative measures; and
- e) Management and mitigation measures or offset measures that can be taken in response to monitoring results relative to relevant triggers and standards.

The endorsed BAM Plan and appendices includes monitoring programs, notification procedures once a SBWB mortality is found, development and implementation of mitigation plan including temporary turbine curtailment and possible use of offset measures (such as supporting a breeding program), definitions for trigger points and significant impact for both threatened and non-threatened species.²³

The BAM Plan identifies:

- most SBWB flights occur within 25 kilometres of roosting caves
- micro-bats such as the SBWB are less active during wind speeds over 10 metres per second, during moderate to heavy rainfall and during full moons and maximum activity occurs during summer
- appreciable numbers of SBWB may use the Hawkesdale Wind Farm area, during their migration periods of late spring and early autumn, with 447 SBWB calls recorded predominately at 20 – 25 metres above ground.

Findings of previous panels

The Panel for the original permit considered the impact of the proposed use and development on the SBWB.²⁴ At that time the SBWB was listed as a threatened species under the EPBC Act and listed under the FFG Act. That Panel considered the wind farm would have some impact on the SBWB and it recommended a permit condition requiring a BAM Plan be prepared.

One of the options considered by that Panel was for a condition in the permit that during the likely periods of migration of the SBWB the turbines not operate at night. This was to remain an option if it was deemed necessary.

In 2017 an application was made for the same number and layout of turbines as the original permit, but with an increase in height from 135 metres to 168 metres and a decrease in ground clearance from 35 metres to 28 metres. That Panel considering the amendment application recommended:

- the RSA remain at 35 metres ground clearance, as the proposed reduction to 28 metres had not been substantiated

²³ Document 29

²⁴ *Woolsthorpe Windfarm (ACI) [2008] PPV 16.*

- all wind turbines must be set back a distance of 120 metres plus the length of the turbine blade to treed vegetation as assessed by a qualified ecologist to be suitable habitat for the SBWB
- the BAM Plan should be further revised to enable additional monitoring of the SBWB at height and for a reasonable time period.

In consultation with DELWP a revised BAM Plan was prepared by Nature Advisory and was endorsed by the Minister in 2019.²⁵

(ii) Issues

The issues are whether:

- the impact of the Project on the critically endangered SBWB is acceptable
- the BAM Plan is adequate to mitigate and manage impacts.

(iii) Evidence and submissions

SBWB population, habitat and behaviour

The Applicant submitted:

- the SBWB is unlikely to fly at the proposed RSA heights of 55 - 66 metres, however a survey at the proposed Kentbruck Wind Farm site found a SBWB call at 56 metres and another at 84 metres
- one SBWB carcass was found at the Macarthur Wind Farm which has a minimum RSA of 28 metres ground clearance
- the potential SBWB habitat on the subject site comprises patches of indigenous trees with canopies within 5 metres of one another or continuous native treed vegetation.

The Applicant relied on the evidence of Mr Lane. Mr Lane explained, the SBWB has undergone serious population decline since the 1960s. A national recovery plan for the SBWB was issued in 2020.²⁶

Regarding SBWB behaviour and habitat, Mr Lane gave evidence:

- while it had been thought that SBWBs gather in the summer months at maternity caves to give birth and raise their young, and then disperse in autumn to use non-breeding caves throughout the cooler parts of the year however recent studies indicate its behaviour is more complex and they do not follow the two season pattern
- maternity caves in the region are Naracoorte in South Australia, the 'Starlight Cave', near Warrnambool in Victoria and a cave near Portland
- the distance between the Project site and known nearby SBWB maternity caves is 30 kilometres for the Warrnambool cave, 32 kilometres for a cave in Panmure and 15 kilometres for a cave in Grassmere
- it typically forages above the canopy, but can fly closer to the ground in more open areas
- SBWB is a nocturnal, aerial hawking species with a fast, direct flight pattern, requiring access to water drinking from farm dams and wetlands and appears to typically forage in

²⁵ Doc 29 BAM Plan

²⁶ The Recovery Plan for the Southern Bent-wing Bat (*Miniopterus orianae bassanii*) 2020, prepared by the Victorian Department of Environment, Land, Water and Planning, and has been adopted nationally adopted under the EPBC Act.

open spaces in a range of habitat types including native remnant vegetation and over cleared agricultural and grazing land.

Mr Lane was of the view it is unlikely that SBWB occurs regularly or in significant numbers on or near the site as no SBWB had been recorded on the site.

DEECA submitted:

- audio of bat calls has been shown to not be good at differentiating SBWB from other bats
- a decline of up 97 per cent in the SBWB population is projected over the next few decades if current survival rates do not improve.

Several submitters noted the SBWB are known to fly in the area, and one submitter had seen SBWBs at night and sleeping on walls and in vegetation. Some submitters were concerned the Project would have impacts on the SBWB population.

Project design

The Applicant submitted:

- the layout of the Project provides buffers from SBWB habitat and these are equal or better than those required by the current permit
- the turbines are in open paddocks devoid of trees, or in areas with only sparsely scattered trees
- no turbine will be within 100 metres of a designated waterway
- the total RSA from the current permit (277,900 square metres) will be reduced by 3,252 square metres.

The Applicant submitted that the EPBC Self-assessment concluded there is likely to be a lesser impact on the SBWB than previous applications.

The Applicant submitted that the EUROBAT Guidelines recommended by DEECA, which specify a 200 metre buffer from bat habitat, is not a Planning Scheme requirement and is for European landscapes and for European bats protection.

Mr Lane's evidence included a map of the proposed turbine layout and his assessment of SBWB's habitat (see Figure 9). He explained:

- the habitat assessment map shows:
 - additional small clumps of trees more than five metres from the habitat identified in the 2019 endorsed BAM Plan
 - habitat regrowth along the rail reserve on the western boundary of the Project area
 - Basalt Shrubby Woodland mapped during roadside vegetation assessments and scattered trees
- the proposed layout takes into account the need to buffer occupied dwellings by one kilometre
- the habitat assessment when micro-siting turbines.

Figure 9 Southern Bent-wing Bat habitat assessment

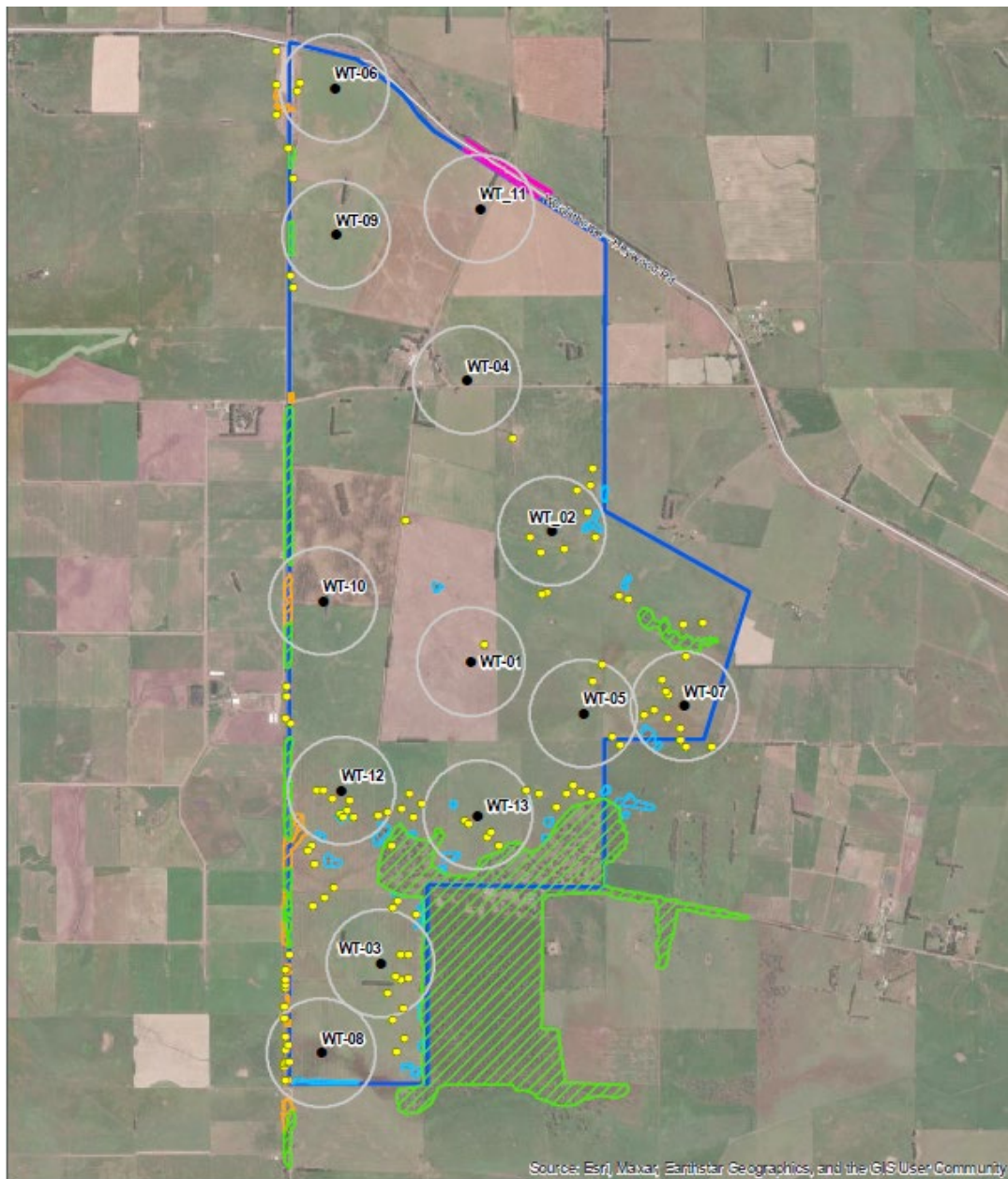
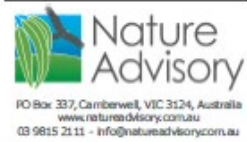


Figure 1: Southern Bent-wing Bat (SBWB) habitat assessment

Project: Woolsthorpe Wind Farm Client: Woolsthorpe Asset Pty Ltd Date: 23/01/2023

- Study area
- Proposed Turbines
- Turbine buffer - 282 metres
- SBWB potential scattered trees
- SBWB habitat
- SBWB habitat extension
- SBWB habitat regrowth (rail reserve)
- Basalt Shrubby Woodland



Source: Expert Witness Statement, Brett Lane (Document 10)

Mr Lane considered that when the ground clearance and sparse habitat near turbines are factored in, risk to the SBWB is considered low.

Regarding opportunities to reduce impacts, Mr Lane explained at the Hearing:

- bats mortalities have occurred at Tasmanian and Victorian wind farms, but detection is challenging as scavengers could take SBWB carcasses before they are found and SBWB struck by a turbine could be thrown far
- at high wind speeds bats stay in tree habitat, and at low wind speeds they fly out
- changing the 'cut in' speed from the turbine speed from 3 to 4/5 metres per second from dawn to dusk would reduce SBWB deaths²⁷
- if there are any SBWB mortalities attributable to the windfarm operations, you would go straight to curtailment rather than implement further monitoring, as required under the endorsed BAM Plan.

DEECA submitted that while there is uncertainty about the SBWB's flight height, it is satisfied the Project does not appear to present an increased risk compared to the previous proposal.

However, it considered:

- some turbines in the changed layout are in closer proximity to treed vegetation and therefore do not appear to comply with 3e) of the current permit which requires all turbines to be set back 120 metres plus the blade length to treed vegetation
- not all turbines appear to have been adequately set back from potential habitat.

DEECA advocated for adoption of the EUROBAT Guidelines recommendation for a 200 metre buffer between a turbine and wooded vegetation and other habitat features for insectivorous bats, such as watercourses. It considered the 200 metre setback should be used here especially with turbines WT07, WT08, WT12 and WT13.

DEECA submitted in its without prejudice draft permit conditions it wanted some turbines moved to avoid SBWB habitat including from the scattered trees, shown as yellow dots in Figure 9.

In response to submissions Mr Lane gave evidence:

- 95 per cent of birds and bats as shown in surveys fly below 40 metres above ground
- in response to Council's submission to increase the 'cut in' speed of the turbines, he expected this may reduce fatal bat strike by over 50 per cent, would be a highly cost effective mitigation measure and the revenue consequences would be relatively minor.

Regarding the buffer in the EUROBAT Guidelines, Mr Lane gave evidence:

- SBWB habitat is not defined
- it is not possible to avoid all habitat within the 200 metre buffers at all turbines
- while a 200 metre setback may not be entirely achievable, micro-siting of turbines could minimise adverse effect.

Council submitted:

- the SBWB should be protected and not be put at further risk
- a condition should be included in the permit to ensure to the extent reasonably practicable micro-siting must achieve a setback from all habitat features, but particularly from the blue and green hatched areas shown in Figure 9
- notes the Railway Conservation area which borders the site to the west may increase and this area should be buffered to the extent sought by DEECA

²⁷ *Cut in speed* is the wind speed at which the turbines start rotating

- it wants greater certainty over the implementation of curtailment as a mitigation measure and greater clarity over BAM Plan roles and responsibilities with DEECA's view prevailing.

Permit conditions

DEECA submitted:

- in line with the mitigation hierarchy, the approach to managing impacts on SBWB should be to avoid through buffers and then minimise through targeted curtailment and a BAM Plan
- it recommended that potential SBWB habitat is buffered to 200 metres (from blade tip) from all proposed turbines.

In relation to curtailment, DEECA submitted:

- targeted turbine curtailment is shown to be effective at Australian wind farms and is considered international best practice²⁸
- Portland Wind Farm introduced a curtailment plan to reduce SBWB collisions, which has led to a 54 per cent reduction in bat mortalities (including SBWB)
- as the development of a curtailment plan is a lengthy process there is a need to have one ready to implement if required.

DEECA submitted, and Council supported, the following conditions should be added to the BAM Plan requirements in the planning permit:

A curtailment plan that provides for immediate and seasonal shut down of turbines between dusk and dawn and for cut in wind speeds of no less than 4.5 metres per second after a reported mortality incident of a Southern Bent-wing Bat.

Specific steps to be taken in response to any incident of bird or bat strike, including unambiguous description of the roles and decision-making functions of each of the operator, DELWP (Environment Portfolio) and the responsible authority.

In relation to buffers, the Applicant suggested changes to the permit conditions to require:

- all wind turbines must be set back a distance of 120 metres plus the blade length to treed vegetation, identified with green hatching on the SBWB habitat assessment map in Mr Lane's evidence statement
- turbines WT03, WT08, WT012 and WT13 must be sited generally in accordance with the exhibited plans, but to be micro-sited to minimise the habitat for SBWB within a distance of 200 metres plus the length of the blade, as identified with green, blue and orange hatching on the SBWB habitat assessment map in Mr Lane's evidence statement.

The Applicant did not support DEECA's recommendations in condition 3ee) to:²⁹

- include turbines WT05 and WT07 in the condition relating to 200 metre buffers, as its preliminary investigations indicated these turbines cannot be "*micro-sited further to minimise the specified areas within the agreed buffer*"
- remove the word 'micro' from 'micro-siting'
- reference the 'yellow points' on Figure 9 as these relate to scattered trees, on the basis Mr Lane gave evidence these were the lowest in the hierarchy of potential habitat.

The Applicant opposed the inclusion of the curtailment plan condition on the basis:

²⁸ Doc 38

²⁹ Document 78, comment on condition 3.ee)

- no modelling had been undertaken to assess the feasibility of the curtailment regime
- Mr Lane recommended a nuanced strategy for curtailment
- given the Applicant is required to consult with DEECA in preparing the BAM Plan, this matter can be appropriately dealt with at that time
- its final day permit conditions included a requirement for mitigation measures for the SBWB be included in the BAM Plan.

The Applicant submitted amended conditions:

Specification of mortality rates for the Southern Bent-wing Bat and bat and bird species listed under the EPBC Act or the FFG Act that would trigger the requirement for appropriate ameliorative measures, and specifically for the Southern Bent-wing Bat, the details of such ameliorative measures;

Management and mitigation measures or offset measures that can be taken in response to monitoring results relative to relevant triggers and standards, including a description of the roles of the operator, DEECA Environment Portfolio and the responsible authority.

While there were different opinions about how curtailment requirements should be expressed in the permit, parties generally agreed that preparation of a curtailment plan can take some time following a reported mortality, and there was some confusion about roles and responsibilities for approval of any plan.

In response to submissions, the Applicant submitted:³⁰

- it is willing to move turbines WT03 and WT08
- no evidence has been put to the Panel as to the appropriateness of the 200 metre setback except that it is a precautionary approach, and the 200 metre setback can only be provided by removing turbines
- the curtailment measures recommended by DEECA are contrary to Mr Lane's evidence
- the BAM Plan will need to be updated and this is separate to the Panel's consideration.

(iv) Discussion

SBWB population, habitat and behaviour

The SBWB population is in serious decline and heading towards extinction. The decline is thought to be as a result of loss of habitat and drought. A National Recovery Plan has recently been developed to stop the decline of the species. Careful consideration to help preserve and protect its habitat at sites such as the subject site will assist to curtail its decline albeit in a small way.

The Panel accepts that no SBWB have been detected on the site during the various surveys. There may be a number of reasons for this, such as difficulty discerning the SBWB calls from other bats on-site. However, the appendices in the EPBC Self-assessment indicate significant numbers of the SBWB have been recorded at the abutting Hawkesdale Wind Farm site. Given its presence on the adjacent land, suitable habitat on site, and submitter reported sightings, the Panel does not accept Mr Lane's opinion that the SBWB is unlikely to utilise the Project site.

A lot has been learnt about the SBWB over the last few years and its behaviour is now understood to be more complex since the assessment of previous panels considering the wind farm. Research now shows the bat does not have the simple seasonal movement patterns between maternity caves and roosting caves. There are maternity caves and roosting caves in the vicinity of the

³⁰ Doc 62

Project with the nearest maternity cave at Grassmere, just 15 kilometres from the Project, an easy flight to forage and then move to a roosting cave for this fast moving bat.

Project design

Clause 52.32 (Wind Energy Facility) requires that wind turbines must not be within one kilometre of an existing dwelling. This requirement was not in place during the previous approvals. This requirement restricts where the turbines can be sited, along with other constraints in the current permit including:

- a requirement to not have turbines within 100 metres of a watercourse
- to have a 150 metres buffer from neighbouring land
- to have a buffer of 120 metres plus the 82 metres blade length from SBWB habitat.

The research shows that the SBWB in the majority flies at heights less than the 66 metres RSA from ground level as proposed in this application. This is one positive from the Project that will reduce possible bat injuries and mortalities. The total reduced RSA will also provide some benefit.

The Panel notes the EUROBAT Guidelines do not have any status in the Planning Scheme and further evidence is required to understand if the standards are appropriate in the local context. However, wider buffers to SBWB habitat are generally considered beneficial.

Permit conditions

The Panel supports the Applicant's efforts to provide buffers of 200 metres plus the length of the blade where possible, and as expressed in its amended condition 3. While the Applicant did not support including WT05 and WT07 in this condition, the Panel agrees with DEECA that these turbines should be included to allow further consideration of potential for micro-siting. The condition does not require the turbines are moved, but does require further consideration of opportunities.

The Panel generally supports the Applicant's proposed changes to the permit condition relating to the BAM Plan, including:

- the requirement to prepare an amended BAM Plan
- wording changes to reflect current departments and updates to the proposal.

Regarding the curtailment plan recommended by DEECA and supported by Council, the Panel notes the reported success in reducing bat mortalities at the Portland Wind Farm as a result of the implementation of a curtailment plan. On the understanding there are long lead times for preparing and implementing a curtailment plan, and some confusion about roles and responsibilities, the Panel can see no reason that a draft curtailment plan cannot be prepared as part of the BAM Plan to enable a more rapid response.

The Panel considers there may be several elements to planning and delivering a successful curtailment plan, and that rather than a specific condition in the permit as suggested by DEECA, this is better resolved as part of the BAM Plan.

The permit condition wording suggested by the Applicant, requires the BAM Plan to specify a mortality rate for implementation of appropriate ameliorative measures for SBWB. Given the critically endangered status of the SBWB and risk of decline of the remaining population, the Panel considers it important to require curtailment measures be put in place immediately following the reported mortality of any SBWB suspected to be by a turbine.

The Panel has recommended permit condition wording in Appendix C that requires the BAM Plan include a draft curtailment plan after a reported mortality incident of a SBWB, and that requires a description of operator and agency roles.

The Panel has also accepted the Applicant's final day permit suggestion relating to the condition for management and mitigation measures for bat and bird strike, to require a description of operator and agency roles.

The Panel notes that given the number of wind farms either built or planned in western Victoria, it would be beneficial to have specific guidance for curtailment plans to assist with this process.

(v) Conclusions

The Panel concludes that:

- The SBWB population is declining rapidly and needs to be afforded the maximum protection possible within the constraints of the proposed layout of the turbines.
- SBWB behaviour is complex and based on the surveys at Hawkesdale and other sightings, the SBWB is likely to use the Project site.
- Although the capacity to significantly relocate turbines away from SBWB habitat is constrained there is potential for turbines WT03, WT05, WT07, WT08, WT012 and WT013 to be micro-sited to achieve further small gains in protecting habitat.
- The increased turbine height will reduce the possibility of most of the potential SBWB turbine collisions.
- The development of a draft curtailment plan for the SBWB should form part of the BAM Plan.

Where relevant, the Panel's conclusions are included by the Panel preferred planning permit in Appendix C.

4.3 Grey-headed flying fox

(i) Issues

The issues are whether:

- the potential impact of the Project on the GHFF is acceptable
- the BAM Plan is adequate to mitigate and manage impacts.

(ii) Evidence and submissions

The Applicant submitted there is unlikely to be a significant impact on the GHFF.

Mr Lane gave evidence:

- the GHFF, which flies in flocks in the evening and before dawn, is large, can fly up to 100km in a night and likes waterways.
- there is a nearby GHFF camp at Hexham.
- if the species were to forage in the area or fly over the site a few individuals may collide with turbines however the increase in minimum turbine blade height to 66 metres will significantly reduce collision risk and will not represent a barrier to movement of the species if it moves across the site
- the GHFF is not common in Victoria and it was highly unlikely to occur in the vicinity of the Woolsthorpe site

- the loss of a few individuals will not be a significant risk to the population³¹
- it is not proposed to remove any of the GHFF's habitat at the Project site
- if a significant number of deaths are recorded then under a BAM Plan a curtailment mitigation plan would be developed
- turbine curtailment or temporary illumination in short periods during the evening and pre-dawn when the GHFF may be in the area could potentially reduce collision rates.

DEECA submitted:³²

- GHFF collision mortalities have been recorded at several wind farms in western Victoria over the last four years and it does not support the assumption that small numbers of mortalities would not present a significant risk
- it is predicted that due to environmental conditions, such as climate change, the GHFF's population in western Victoria will increase
- due to the long lead times to develop curtailment mitigation plans it recommends that a mitigation plan for the GHFF be prepared as a condition of the planning permit
- given the changed turbine dimensions, number and location and the emergence of new risks to GHFF, consideration should be given to the adequacy of the currently endorsed BAM Plan.

In response to DEECA's submission that the BAM Plan should include a GHFF mitigation plan, the Applicant submitted:

DEECA's submissions and responses to the Panel's queries during the hearing were that there is currently no scientifically devised, approved or even recommended mitigation plan for the GHFF. It would be unreasonable to require the Applicant to devise such a plan prior to the commencement of development where industry and scientific knowledge does not enable this.

(iii) Discussion

The GHFF was considered by the first Panel however that Panel did not make any recommendations for the GHFF.

The evidence of Mr Lane and submissions of DEECA was that there have been reported collisions with turbines at wind farms in western Victoria. Further, according to Mr Lane, there is likely to be collisions at the Project wind farm albeit because of the increased turbine height at a reduced scale.

Without any evidence to the contrary, the Panel accepts DEECA's submission that due to environmental factors, population of the GHFF is likely to increase in western Victoria. With consideration of the species listing under both the FFG Act and EPBC Act, and as recommended by DEECA, the Panel considers it warrants being included in the BAM Plan.

At this stage the Panel does not consider that development of a curtailment plan for the GHFF is warranted. Instead, survey work should be undertaken to determine the GHFF's use of the site and the abutting Hawkesdale Wind Farm.

³¹ Mr Lane's Expert Witness Statement, Document 10

³² DEECA Submission, Document 46

(iv) Conclusion

The Panel concludes the BAM Plan needs to be revised to include GHFF monitoring and a mitigation plan, in consultation with the DEECA Environment Portfolio.

The Panel's conclusion is included in the Panel preferred planning permit in Appendix C.

4.4 White-throated needletail

(i) Evidence and submissions

The Panel noted the needletail was referred to in EPBC Self-assessment and asked questions of Mr Lane regarding the potential impacts.

Mr Lane gave evidence at the Hearing that the needletail:

- had been recorded as colliding with rotors at wind farms in eastern Australia³³
- can fly at or above the RSA which puts it at risk of turbine collisions
- the endorsed BAM Plan notes that the Needletail may utilise the site in small numbers but due to the high numbers of the Needletail the loss of a small number is not considered significant.³⁴

In response to questions from the Panel, both Mr Lane and DEECA supported inclusion of the Needletail in the BAM Plan.

(ii) Discussion

No substantive evidence was put to the Panel as to the population numbers of the needletail in the region only that it is, according to Mr Lane is likely to utilise the Project site. The needletail however is listed under the EPBC Act, which alone indicates that is to be protected.

Both Mr Lane and DEECA supported the inclusion of the needletail in the BAM Plan. The Panel agrees.

(iii) Conclusion

The Panel concludes the BAM Plan needs to be revised to include a needletail monitoring and mitigation plan, in consultation with the DEECA Environment Portfolio.

The Panel's conclusion is included in the Panel preferred planning permit in Appendix C.

4.5 Latham's snipe

Insufficient evidence was presented to the Panel about the population numbers near the site and in the region - only that Latham's snipe may use the Project site. At this stage it does not appear that the snipe warrants the additional resources for its inclusion in the BAM Plan.

³³ EPBC self-assessment

³⁴ BAM Plan 2019

4.6 Impact on birds

(i) Issue

The issue is whether the impact of the Project on birds from collision with turbines is acceptable.

(ii) Evidence and submissions

The Applicant adopted the evidence of Mr Lane, who stated:

- it had been calculated that turbines of the size proposed would kill about 5 to 6.7 birds per turbine per year, that is 65-87 per year. The calculated deaths for the permitted 20 turbines is estimated to be between 68 and 82 birds per year
- a 2004 survey at Woolsthorpe found that the site is dominated by common widespread species and this is unlikely to have significantly changed in the intervening years
- the proposed 66 metre ground clearance (from the currently approved 35 metres), will put the turbines above the air space utilised by the majority of bats and birds
- there is also a small reduction in the RSA for the Project which will also contribute to a reduced bird and bat mortality rate.

No parties challenged Mr Lane's evidence.

Several submitters were concerned about the impact of the Project on birds, including because of the longer blades and larger rotor-swept area and through bird kill.

(iii) Discussion and conclusion

Without evidence to the contrary, the Panel accepts the evidence of Mr Lane that the Project will lead to a reduction in bird mortalities.

4.7 Native vegetation and habitat

(i) Issue

The issue is whether the impact on native vegetation is acceptable.

(ii) Evidence and submissions

The Applicant submitted:

- the Project will result in removal of 0.083 hectares of native vegetation within the road reserve of Woolsthorpe-Heywood Road - an increase of 0.019 hectares from the current permit
- native vegetation removal has been avoided and minimised by locating the access point at an existing driveway and through the location and design of the required roadworks
- a total of 0.056 general habitat units are required to offset removal of native vegetation; 0.045 general habitat units for the current permit and an additional 0.011 general habitat units for the amendment
- offsets for the current permit have been secured, and the further 0.011 general habitat units are readily available
- no large or scattered trees are proposed for removal, and tree protection zones have been identified for scattered trees on the subject site.

The Applicant explained the native vegetation proposed for removal included:

- Plains Grassland and Basalt Shrubby Woodland, including black wattle, which is protected under the FFG Act
- NTGVVP which is listed as a threatened community under the EPBC Act.

The Applicant adopted the evidence of Mr Lane in relation to flora impacts. Mr Lane said:

- no native vegetation would be removed from the Wickham nature conservation reserve or from the subject site
- entrance to the site will require removal of less than 1,000 square metres of native vegetation on the Woolsthorpe-Heywood Road
- a small proportion of the native vegetation for removal is EPBC listed NTGVVP, and its removal is not considered a significant impact
- a permit under the FFG Act is required to remove 358 square metres of Western Basalt Plains Grassland (listed as threatened)
- targeted spring surveys of the affected area indicated it did not support any populations of listed rare or threatened flora species
- the consequences for local and regional biodiversity of these impacts are considered very minor.

Mr Lane was of the view the *“consequences for wildlife of this limited removal are negligible”*.³⁵

The Panel sought to understand whether it may have been possible to redesign the entrance to avoid and further minimise native vegetation removal. Mr Lane and the Applicant explained the Project design was intended to avoid and minimise native vegetation removal to the extent practicable.

Several submitters raised issues that:

- the Project would result in increased removal of native vegetation on Woolsthorpe-Heywood Road
- removal of native vegetation would impact habitat for native animals.

(iii) Discussion and conclusion

The EPBC Self-assessment states a total of 0.032 hectares of low quality NTGVVP will be removed, and:

- given the small, degraded and isolated occurrence of the community within the study area, the development of the site will not adversely affect habitat critical to NTGVVP
- previous referrals to the Commonwealth Department of Agriculture, Water and the Environment have indicated impacts to small, low quality patches are not considered a significant impact.

The Native Vegetation Removal Report (Nature Advisory, June 2022) exhibited with the amendment application, explained the efforts to avoid and minimise vegetation removal. While submitters were generally concerned with loss of native vegetation and associated habitat, no evidence was given to the Panel that the loss was unacceptable and could not meet policy and planning provisions.

The Panel accepts the evidence of Mr Lane that the local and regional biodiversity impacts will be minor as a result of the native vegetation removal, and that offsets are readily available.

³⁵ Mr Lane, Expert Witness Statement, page 5

On the basis that offsets are readily available, the Panel is satisfied the objective of Clause 12.01-2S (Native vegetation management) to ensure there is no net loss of biodiversity has been met.

The Panel concludes the impact on native vegetation is acceptable.

5 Noise

5.1 Background

(i) Planning Scheme

Clause 13.05-1S (Noise) has the objective to “assist the management of noise effects on sensitive land uses.” Strategies include:

- ensuring development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions
- minimising the impact on human health from noise exposure to occupants of sensitive land uses.

Relevant policy documents include:

- *Environment Protection Regulations under the Environment Protection Act 2017*
- *Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues* (Publication 1826, Environment Protection Authority, May 2021)
- *Environment Reference Standard* (Gazette No. S 245, 26 May 2021).

A mandatory noise assessment is an application requirement under Clause 52.32 (Wind energy facility). The decision guidelines include consideration of the effect of the proposal in terms of noise, and the New Zealand Standard NZS6808:2010, *Acoustics – Wind Farm Noise* (Noise Standard).

The EPA is a recommending referral authority for amendments to a wind farm planning permit if the application amends or removes conditions or requirements for operational wind turbine noise.

(ii) Environment Protection Act 2017 and Environment Protection Regulations 2021

The EP Act defines unreasonable noise, and noise is considered unreasonable if it exceeds the noise limits established under the *Environment Protection Regulations 2021* (EP Regulations). The EP Regulations pass the management of wind turbine noise from the responsible authority to the EPA.

As of 1 July 2021 the EP Act requires industries, including wind farms, to have a General Environmental Duty to reduce the risk of harm to human health.

(iii) Noise reports

Relevant technical noise reports include:

- Application document 20060220-3 Woolsthorpe Wind Farm (pre-construction) Noise Assessment, May 2022
- Application document 20060220-3 Woolsthorpe Wind Farm Noise Audit, June 2022
- Mr Evans’ expert witness statement and Hearing presentation (Documents 7 and 32)
- Pre-construction Environmental Noise Assessment Review, Woolsthorpe Wind Farm, John Cumming, Infotech June 3, 2022
- Response to further information (NZS Compliance) 12 January 2023 (Document 6)

- Woolsthorpe Wind Farm—Additional Background Noise Monitoring – Woolsthorpe Township, 18 November 2022 (Document 40).³⁶

5.2 Noise assessment and impacts

(i) Issues

The issues are whether:

- the assessment of pre-construction noise and predictions of operating noise are adequate
- noise impacts, including cumulative impacts, can be appropriately mitigated and are acceptable.

(ii) Evidence and submissions

The Applicant submitted it proposed to delete conditions in the current permit relating to “*post-construction acoustic assessments and noise complaints in light of Planning Scheme Amendment VC206 and the remit of the [EPA] as the regulator for wind turbine noise under the Environment Protection Regulations 2021*”.³⁷

In accordance with Clause 52.32-4, the Applicant had prepared the mandatory pre-construction (predictive) noise assessment report and verification report by an environmental auditor. The pre-construction noise assessment was prepared by Resonate and the appointed environmental auditor was John Cumming.

The Applicant relied on the evidence of Tom Evans from Resonate.

Mr Evans gave evidence including noise contour maps showing predicted noise levels at sensitive receivers for the Project, and cumulative noise levels taking into account Hawkesdale Wind Farm (see Figure 10 and 11). Background noise monitoring included nearby dwellings and the Woolsthorpe Primary School in the township of Woolsthorpe.

Mr Evans considered the noise assessment had appropriately taken into account the contribution of Hawkesdale Wind Farm, and that “*cumulative noise levels from the two sites are capable of complying with the applicable noise limits*”.³⁸

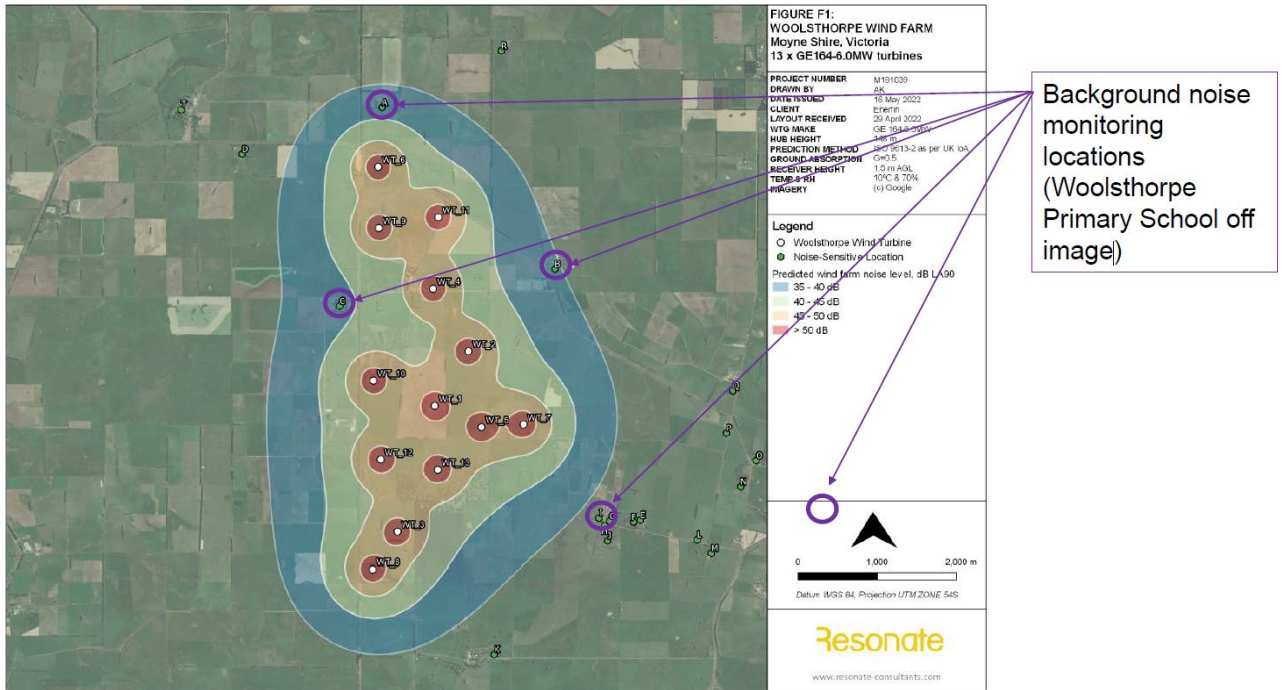
Mr Evans explained the noise assessment was conducted on the basis of a potential wind turbine model (a GE164 6.0 MW turbine). The model was used as it represented the loudest of the turbine models being considered for the Project. As is normal practice, he considered the noise levels should be reassessed once the turbine type and layout has been confirmed. He was of the view that exhibited condition 16, which requires a pre-construction noise assessment be prepared based on the final turbine layout and turbine model, was appropriate.

³⁶ This additional noise monitoring was done at the Applicant’s request in response to community feedback. As the 2 noise monitoring sites are outside the 35dB LA90 they do not require further comment.

³⁷ Applicant’s Part A submission, paragraph 12

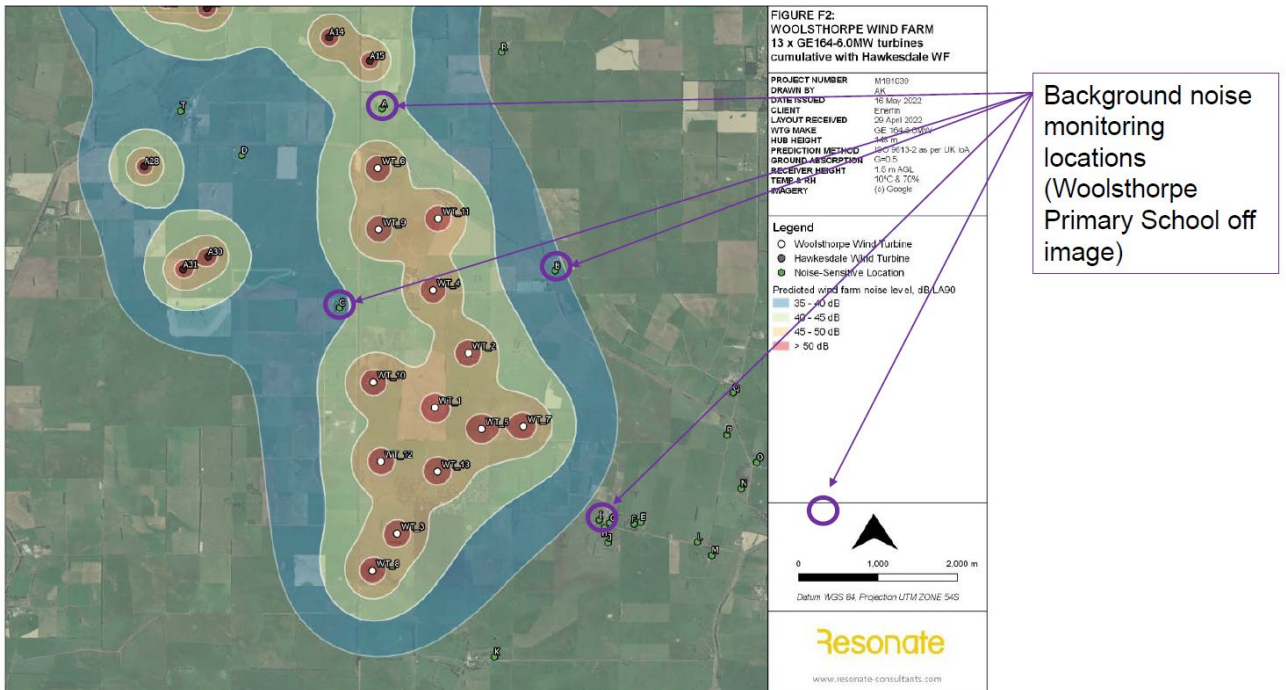
³⁸ Mr Evans’ Expert Witness Statement, page 24

Figure 10 Noise contours maps for the Project



Source: Document 32

Figure 11 Noise contours maps – cumulative impacts



Source: Document 32

Many submitters raised concerns relating to noise, including:

- whether the high amenity noise limit applies
- increased noise and impacts on amenity
- infrasound
- noise propagation and predictions
- noise regulation and limits

- health impacts
- ground vibration
- noise at night
- temperature inversion
- intermittent noise
- cumulative effect.

Mr Evan's expert witness statement provided a comprehensive response to issues raised by submitters (Document 7). He gave evidence regarding the limits and methodology:

- the high amenity noise limit provisions in the Noise Standard and EPA *Wind Energy Facility Turbine Noise Regulation Guidelines* do not apply to land in Farming Zone
- the same noise limits apply as under the current permit
- the Project must be compliant with the applicable noise limits in the Noise Standard, and the noise assessment establishes the Project can operate within the noise limits
- the noise assessment considered night time noise, and a separate night time assessment will be required as part of the post-construction noise assessment
- the Noise Standard requires consideration be given to analysis of noise under different conditions
- the methodology for predicting noise impacts is well established
- the change to regulations has introduced additional obligations relating to ongoing management of turbine noise.

Regarding noise assessment outcomes and potential impacts, Mr Evans said:

- the level of infrasound near wind farms is no greater than that which occurs in other environments and *"the level of infrasound that occurs at residences near wind farms is orders of magnitude lower than the established threshold of perception"*
- turbine noise decreases distance, and the level of noise close to turbines is markedly higher than that which occurs at residential setbacks
- any 'special audible characteristics' will be assessed and dealt with in the post-construction assessment
- compliance with the Noise Standard also results in compliance with the World Health Organisation guidelines
- vibration and temperature inversion are not expected to be issues.

The EPA:

- did not object to the permit amendment application
- supported the note on the exhibited permit proposed by the Applicant relating to post-construction noise and ongoing monitoring being prescribed by the the EP Regulations
- recommended a note on the amended planning permit relating to duties under the EP Act.

DTP submitted in relation to the Noise Standard condition, the reference of responsibility for the section 173 Agreement should be changed from Minister for Planning to Council.

Council submitted that it sought to avoid any doubt the Woolsthorpe township was considered a High Amenity Area for the purposes of noise assessment under the Noise Standard. It confirmed its understanding that the assessment had appropriately considered this.

Ms Lenehan submitted concerns relating to the EPA's approach to regulating noise, and sought to have the noise conditions proposed for removal "*retained as security*".

The Applicant submitted Ms Lenehan's concerns about the EPA were irrelevant to the Panel's considerations and there was no point retaining permit conditions relating to post-construction noise in the current regulatory environment.

(iii) Discussion and conclusion

The Panel considers that the assessment of background noise and predicted noise for operation of Woolsthorpe and Hawkesdale wind farms is comprehensive and has been confirmed by an independent auditor.

The Panel accepts the evidence of Mr Evans that cumulative noise impacts have been adequately assessed and noise limits can be complied with.

As the pre-construction noise assessment was based on a potential candidate wind turbine, a further pre-construction noise assessment should be prepared when the final turbine model is selected. This is adequately addressed in the permit conditions.

The Panel is satisfied the Project permit requirements and ongoing management and regulation as required by the EP Act and associated regulations and guidance will require any impacts to be mitigated to ensure noise limits are met. It is appropriate to delete the permit conditions relating to post-construction noise and noise complaints that are now redundant as a result of the changes to the regulatory environment.

The Applicant's proposed planning permit included a modified version of the note suggested by the EPA, for example it did not include the website links. The Panel accepts the Applicant's suggested drafting in the planning permit note.

The Panel concludes that noise impacts of the Project are acceptable, subject to the Applicant's final day planning permit changes.

The Panel's conclusions are reflected in the Panel preferred version of the planning permit at Appendix C.

5.3 Construction noise

(i) Issue

The issue is whether noise from construction is acceptable.

(ii) Submissions

One submitter was concerned about the effect of construction noise.

(iii) Discussion and conclusion

Under the EP Act, unreasonable noise must not be emitted from construction sites at any time of day. The EP Regulations, that are determined in accordance with the Noise Protocol, provide noise limits for different times of the day and for week-days and weekends.³⁹

Noise can be considered unreasonable due to its duration, its volume or its characteristics (such as its impulsiveness, rattling or tone). If noise during construction is assessed as unreasonable then the operator of the wind farm may be required to undertake mitigation measures.

No evidence or submissions were presented to the Panel suggesting construction noise could not be reasonably managed.

The Panel concludes construction noise is acceptable, subject to compliance with relevant regulations.

³⁹ EPA Victoria Publication 1826.4 - *Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues*

6 Aviation

6.1 Background

Planning Scheme

Clause 18.02-7S (Airports and airfields) has the objective to “*strengthen the role of Victoria’s airports and airfields within the state’s economic and transport infrastructure, guide their siting and expansion, and safeguard their ongoing, safe and efficient operation*”. Relevant strategies include (among others):

- Prevent land use or development that poses risks to the safety or efficiency of an airport or airfield, including any of the following risks:
- Increased risk of wildlife strike.
 - Pilot distraction from lighting.
 - Intrusion into protected airspace.

Clause 52.32 (Wind energy facility) requires the responsible authority to consider aircraft safety before deciding on an application.

Clause 62.02-1 relating to buildings and works not requiring a permit states that any requirement to construct or carry out works does not apply to “*an anemometer located on a site for three years or less*”.

Wind Energy Guidelines

The Wind Energy Guidelines notes that while CASA is not a referral authority:

Applicants should consult with the Civil Aviation Safety Authority (CASA) for wind energy facility proposals that:

- are within 30 kilometres of a declared aerodrome or airfield
- infringe the obstacle limitation surface around a declared aerodrome
- include a building or structure the top of which will be 110 metres or more above natural ground level (height of a wind turbine is that reached by the tip of the turbine blade when vertical above ground level).

Early engagement with aviation safety organisations like CASA is encouraged as aviation safety is a complex area of wind energy facility assessment.

...

A responsible authority should ensure that the proponent has consulted appropriately with CASA in relation to aircraft safety and navigation issues. It is recommended that the proponent consults and receives approval from CASA prior to lodging their application for ease of process.

CASA may recommend appropriate safeguards to ensure aviation safety. These may include changes to turbine locations, turbine heights and/or the provision of aviation safety lighting. A responsible authority should ensure that any concerns raised by CASA are appropriately reflected in permit conditions.

Exhibited material

The *Risk Assessment Woolsthorpe Windfarm - Impacts on local aviation operations at Warrnambool*, 14 June 2022 prepared by Argus Consulting Group was exhibited with the permit amendment application (Argus Consulting report).

The Argus Consulting report was provided to Airservices Australia for consideration prior to exhibition of the proposed amended permit.

Airservices Australia's response was exhibited with the permit amendment application. Airservices Australia advised raising the MSA:

... is unlikely to adversely impact instrument flight operations at Warrnambool Airport and can be made, provided the proponent of the wind farm consults with the Airport and aircraft operators to determine any further impact to their operations.

6.2 Issues

The key issue is whether the increased height of the turbines will jeopardise aviation safety.

If aviation safety is not compromised, other issues include whether:

- the necessary agreements to increase the MSA are in place
- aviation lighting is required
- requirements relating to meteorological monitoring masts are met
- firefighting operations will be compromised.

6.3 Aviation safety

(i) Evidence and Submissions

The Applicant submitted that issues relating to aviation safety are addressed in the Argus Consulting report and evidence of Mr Jennings. It was satisfied a comprehensive assessment of impacts had been undertaken and that these can be addressed.

The Applicant submitted:

The Argus Consulting report finds that the Proposal will not affect radar and navigational aid performance, instrument approaches for runways 13 and 31, overlying published air routes, or the Obstacle Limitation Surface or circling areas of the Warrnambool Airport, and that no change in categorisation of airspace around the Proposal is required.

The Applicant relied on the evidence of Mr Jennings.

Mr Jennings gave evidence he undertook a comprehensive review of all the relevant air safety documentation relating to the Warrnambool Airport, including the types of aircraft using the airport, policy guidelines, submissions from CASA, Air Services Australia, Warrnambool City Council and others as well as the risk assessment undertaken by the Argus Group.

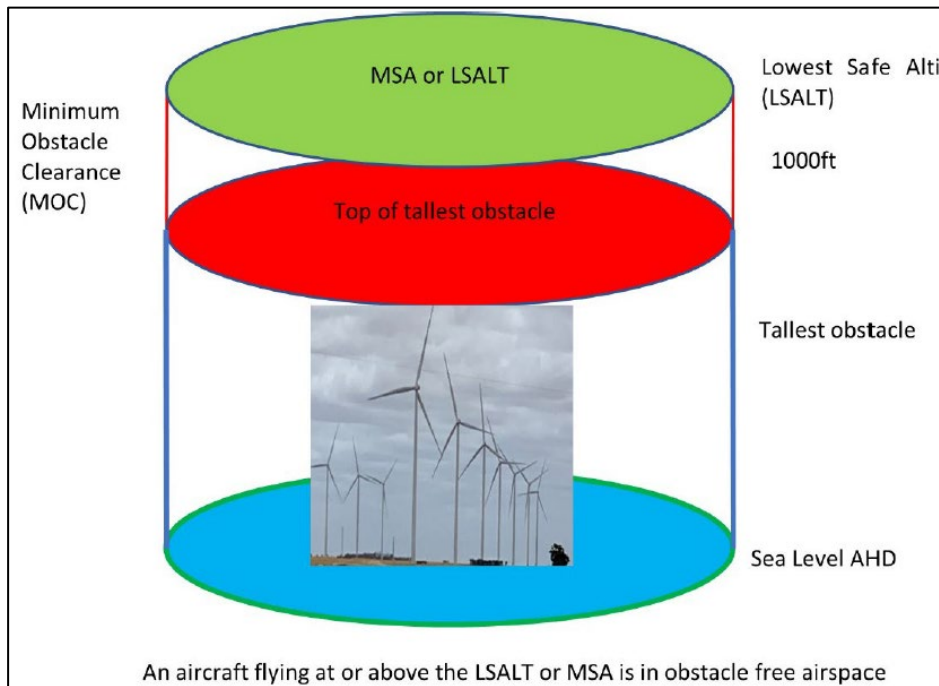
He described the categories of aircraft using the airport as those flying using instruments and those flying using visual flight rules.

Mr Jennings made an assessment of flight paths for the Warrnambool Airport to determine the MSA that an aircraft using instruments needs to reach to safely fly over the wind farm. Importantly, in considering aviation safety, the Lowest Safe Altitude or the MSA must be obstacle free airspace. This obstacle free airspace for Instrument Flight Rules aircraft is published in the Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS). Mr Jennings explained *"The PANS-OPS surfaces provide the lowest safe altitude at which an aircraft can operate and be safely above any obstacles"*.

Mr Jennings' evidence statement included a diagram of how the Lowest Safe Altitude is determined (see Figure 12). With consideration of proposed 230 metre turbines, terrain of the wind farm site, buffers plus the flight paths, including buffers for runways 13 and 31, Mr Jennings

determined the revised Lowest Safe Altitude for Warrnambool Airport to be 2200 feet (from 2100 feet)⁴⁰.

Figure 12 Diagram of Lowest Safe Altitude/MSA



Source: Expert Witness Statement, Mr Jennings (page 6)

Mr Jennings gave evidence that changes to the Lowest Safe Altitude / MSA are routinely made, and most of the changes are administrative, in that they only require an amendment to the published instrument approach plate, not a redesign of the approach path.

According to Mr Jennings aircraft flying under visual flight rules requires that the aircraft:

... must remain at least 500ft above the tallest obstacle on the terrain within 300m radius of the aircraft. Approved low level flight, that is below 500ft, is permitted when the pilot in command is suitably trained and endorsed.⁴¹

Mr Jennings agreed with the findings of Argus Consulting that:

- radar and navigation aid performance should not be affected by the Project
- the instrument approaches to runways 13 and 31 will not be affected as the structures fall outside the protection areas associated with the instrument approaches and overshoot areas
- Instrument Flight Rules routes will be unaffected
- the taller turbines will not impact on the aerodrome Obstacle Limitation Surface surfaces
- the published MSA for Warrnambool Airport will need to be raised to 2200 feet
- the taller turbines will not affect the Warrnambool Regional Airport Development Plan
- aircraft operating under visual flight rules are not affected as they do not operate at night or when visibility is poor.

⁴⁰ Argus Consulting Group also states that the 10 nautical mile MSA for Warrnambool airport will need to be raised but appears to incorrectly equate this to 2300ft

⁴¹ Mr Jennings, Expert Witness Statement

Council referred to the Panel Report for the Delburn Wind Farm and the VCAT decision for the Naroghid Wind Farm and said there is need for consistency between the recommendations for those findings.⁴² There are nearby airports for both of these wind farms. In the case of Delburn the recommendation was to decrease the height of two turbines, and no permit was issued for the Naroghid Wind Farm by VCAT as the runways for the uncertified Cobden airfield would require changes to the aircraft approaches leading to aircraft flying over the Cobden township.

Several submitters considered the increased height of the turbines will be a risk to aircraft using Warrnambool Airport and would jeopardise the ability of medivac aircraft to safely access the Woolsthorpe township.

Mr Jennings gave evidence at the Hearing that he was unaware of any aircraft collisions with turbines in Australia, and there have been around 11 worldwide which have been attributed to pilot error.

In reply submissions, the Applicant stated:

As previously noted, council has not identified any actual safety or operational difficulty arising from the increased turbine height or increase in the MSA. This is the critical aviation issue in this case. The Panel can rely on Mr Jennings' uncontradicted evidence that there is no such difficulty. Rather, it is a routine matter that will be dealt with administratively.

(ii) Discussion and conclusion

Turbines can be a hazard to aircraft especially when the wind farm is located in proximity to an airport. Warrnambool Airport is located approximately 12 kilometres to the south east of the site and is used by a diverse range of aircraft including for flight training, recreation, business, aerial agriculture, aerial firefighting, emergency services, such as Ambulance Australia and the Royal Flying Doctors.

The key issue to ensuring aviation safety at and around Warrnambool Airport, and for the wind farm with 230 metre high turbines and the airport to coexist, is having the MSA raised. The Panel notes there are well developed processes and procedures for this to occur, including for pilots to be notified of the new obstacles and for pilots to modify routes and flight heights to adapt to the obstacles.

The Panel notes the issues that led VCAT to not grant the permit for Naroghid Wind Farm are distinctly different to here because:

- the Cobden airfield is not a certified or registered airport and does not need to comply with CASA regulations
- the proposed site of the Naroghid Wind Farm is approximately 5.5 kilometres from the airport
- pilots would have to fly around the turbines, and undertake more complex and riskier take offs and landings
- night time use of the airport would be unlikely without lighting
- the flight path would be over or around the Cobden township resulting in noise issues, and it would likely jeopardise future development of the airport.

The Panel considers that this decision is not applicable or relevant to the Panel's consideration.

⁴² *Delburn Wind Farm (PCI)* [2022] PPV 7 (7 February 2022) and *Naroghid Wind Farm Pty Ltd v Minister for Planning* [2019] VCAT 800 at [111] (referenced in Document 42)

The Delburn Wind Farm had a distinct difference to what is proposed for the Project, with concern relating to potential impacts on future commercial development of the Latrobe Valley Regional Airport. The Panel accepts the evidence of Mr Jennings that the Project will not affect the proposed development of the Warrnambool airport.

The Panel accepts the evidence of Mr Jennings that providing the MSA is raised to 2200 feet, the Project will not impact Warrnambool Airport or its development plans. The requirement to change the MSA is discussed in the following Chapter.

The Panel concludes the increased height of the turbines will not jeopardise aviation safety, provided the MSA is raised to 2200 feet.

6.4 Minimum safe altitude agreements

(i) Evidence and submissions

Mr Jennings referred to the Wind Energy Guidelines which require consultation with CASA. He advised that CASA does not consult with wind farm applicants. Instead CASA recommends an applicant engage an aviation specialist and it is the responsible authority who seeks CASA's advice.

The Applicant submitted it had *"properly consulted with Airservices Australia (who regulates MSAs) and with the Airport"*.

CASA submitted that it requires confirmation from both Airservices Australia and the Applicant for the MSA to be raised. It stated:

As CASA is not aware of any changes to date with regards to referenced 10NM MSA, CASA considers that infringement to currently present an unacceptable risk to the safety of aircraft operations. Accordingly, until such time that the impacts at Warrnambool Airport are resolved, CASA advises that the proposed Woolsthorpe Wind Farm as presented, would have an unacceptable effect on the safety of existing and future air transport operations at Warrnambool Airport.

Warrnambool City Council submitted it did not consent to raising the current MSA due to concerns about aviation safety, in particular aircraft landing, and the proposed extension of runway 13/31 to allow the airport to receive larger aircraft. Council expressed similar views and did not support increasing the MSA.

At the Hearing, Mr Jennings gave evidence that changing the MSA is an administrative process which takes around 6 months before coming into effect. The MSA is regularly changed at other airports such as Melbourne and Essendon to reflect changes in the built environment.

Council submitted that:

... if the Panel is minded to recommend the Amendment Application be granted, it should be made subject to a condition that works must not infringe on the MSA. Such a condition would:

- enable the Proponent to continue its efforts to reach agreement with Warrnambool City Council, without authorising any adverse effect on safety;
- be consistent with the *Guideline* direction that responsible authorities ensure CASA's concerns are appropriately reflected in permit conditions.

Council proposed the inclusion of the following permit condition:

Construction of wind must not commence until either:

- The height of the wind turbines is modified to not impact on the Warrnambool Airport MSA; or

- Airservices Australia confirms that it has raised the MSA to 2100 nautical miles as approved by the Warrnambool City Council.

The Applicant submitted the condition in the current permit should be retained, stating the increase to the MSA is a matter that sits outside the planning permit.

(ii) Discussion and conclusion

Warrnambool Airport is a certified airport that must comply with CASA's regulations.

As discussed in the above Chapter, the turbines do not need to be modified to achieve airport safety. Accordingly, the Panel supports raising the MSA.

This Panel does not see, in spite of the objection by Warrnambool City Council, any impediment to raising the MSA to 2200 feet. It is Airservices Australia that advises CASA that the MSA is to be raised. It then follows that once the location of the turbines is finalised the Applicant needs to Airservices Australia with the details so Airservices Australia can advise CASA. The proposed permit conditions need to reflect this.

The Panel concludes that, on the basis that aviation safety has been adequately assessed, the MSA should be changed to reflect the changed conditions. To facilitate this, a new permit condition should be included requiring copies of the approved development plans be provided to Airservices Australia.

Where relevant, the Panel's conclusions are included by the Panel preferred planning permit in Appendix C.

6.5 Aviation lighting

(i) Evidence and submissions

The Applicant submitted:

The proposed turbines will be classified as tall structures, and tall structures are typically lit at night and in conditions of poor visibility.

The Argus Consulting report states that a lighting system which activates only when aircraft are in the vicinity of a turbine could be provided.

It is the evidence of Mr Jennings that aviation lighting is not required and that he has received feedback from [Instrument Flight Rules] pilots that lighting is of limited benefit to them, and in certain conditions, more of a distraction.

It is the Applicant's position that aviation lighting is not required, in accordance with Mr Jennings' evidence. The Applicant also submits that it is generally accepted that aviation lighting can create visual impact and disturbance to both neighbours and fauna.

Mr Jennings gave evidence he did not support turbine lighting for the Project. He cited a number of wind farms that originally had aviation lighting, including Lal Lal and Waubra, which had since been turned off as it was deemed unnecessary. The only Victorian wind farm he is aware of that still had operational lighting is Berrybank, although he said he had recommended lights at another as yet to be completed wind farm.

Mr Jennings was critical of the use of aviation lighting during cloudy conditions as the lights flare and they are difficult to see. Pilots must be separately endorsed to use visual flight rules at night and fly using aircraft with additional instrumentation and aircraft are required to fly at or above the Lowest Safe Altitude/MSA meaning the aircraft will be well clear of the turbines. A restricted

number of organisations that operate aircraft equipped with Night Vision Imaging Systems are authorised to fly at low levels at night.

The Applicant submitted that it is generally accepted that aviation lighting can create visual impact and disturbance to both neighbours and fauna and that it did not support having a condition that required aviation lighting.⁴³

Several individual submitters raised issues in relation to aviation lighting, however these submissions were not related to aircraft safety but visual amenity. CASA did not raise the issue of aviation lighting.

(ii) Discussion and conclusion

The Panel notes the original permit included a condition for plans to show details of aviation lighting, which was removed in the current permit.

On the basis of Mr Jennings' evidence, in which he outlined the regulations that ensure that aircraft can safely operate without turbine lights, the Panel is satisfied that turbine lights are not required. This will also reduce impacts relating to visual amenity of the Project at night and disturbance to fauna.

The Panel concludes aviation lighting is not required.

6.6 Meteorological monitoring masts

(i) Evidence and submissions

Mr Jennings outlined the marking and reporting requirements for meteorological monitoring masts (anemometers), as required by the *National Airports Safeguarding Framework Guideline D: Managing the Risk of Wind Turbine Farms as Physical Obstacles to Air Navigation*. Mr Jennings explained that unless made visible, anemometers can be dangerous especially for aerial firefighting and aerial spraying. Once reported to Airservices Australia, masts are included on the Airservices Australia Vertical Obstacle Database.

Council proposed that a condition relating to existing anemometers be included in the permit.

The Applicant advised the existing mast is temporary and proposed to be removed once construction commences. Further, the mast will not be required after three years and it is not the subject of this permit amendment application.

Nevertheless, the Applicant was not opposed to the inclusion of a condition similar to the one proposed by Council, provided it only refer to permanent meteorological masts as follows:

All permanent meteorological masts must be marked in accordance with the *National Airports Safeguarding Framework Guideline D: Managing the Risk of Wind Turbine Farms as Physical Obstacles to Air Navigation*, and on the base around the outer guy wires to the satisfaction of the responsible authority.

(ii) Discussion and conclusion

Clause 52.32-6 relating to anemometers states:

⁴³ Part B submission

Despite anything to the contrary in this scheme a permit may be granted to use and develop land for the purpose of wind measurement by an anemometer for a period of more than three years.

This Panel agrees that anemometers, after having seen one or two unmarked ones at other wind farms and noting they are less visible than turbines, could be difficult for a pilot to see and they are a potential aviation safety risk. On that basis alone, the Panel supports the inclusion of a condition for anemometers.

The Panel suggests a change to the wording of the condition to align it with Clause 52.32-6, specifying that an anemometer that does not comply with the marking requirement specified in the *National Airports Safeguarding Framework Guideline D: Managing the Risk of Wind Turbine Farms as Physical Obstacles to Air Navigation* can be on the site for no longer than three years, and referring to anemometer, not meteorological mast.

The Panel concludes that requirements relating to meteorological monitoring masts are met, subject to the Panel preferred permit conditions in Appendix C.

6.7 Firefighting

(i) Evidence and Submissions

CFA submitted it had no objection to the Project.

Mr Jennings gave evidence that specialised low flying aircraft are used for firefighting and can only fly when it is clear enough for them to see the ground. Under clear skies they will be able and do undertake aerial firefighting in and around wind farms.

Several submitters raised concerns about the ability of firefighting aircraft to operate in the area as a result of the taller turbines. One submitter, a CFA volunteer, was concerned the turbines will restrict aerial firefighting operations.

(ii) Discussion and conclusion

The Panel accepts Mr Jennings' evidence that the turbines will not be an impediment to firefighting operations.

7 Other issues

7.1 Blade glint and shadow flicker

(i) Background

Exhibited material

The *Woolsthorpe Wind Farm: Shadow Flicker and Blade Glint Assessment*, 20 June 2022 prepared by DNV was exhibited with the amended permit application (DNV report).

The DNV report included an assessment of shadow flicker at 44 dwellings closest to the Project site. It:

- modelled the combined impact of shadow flicker on dwellings from the Hawkesdale Wind Farm and the Project. Details on the Hawkesdale layout and turbine dimensions were based on data provided for the Hawkesdale planning amendment application made in 2021
- used the approach outlined in the 2010 draft National Wind Farm Development Guidelines⁴⁴
- used a conservative approach as it did not model any vegetation that may obscure blade flicker and it assessed shadow flicker up to a distance of 2,460 metres from the Project site.

The DNV report found that three dwellings will experience shadow flicker. One of the dwellings, the consenting stakeholder dwelling on the Project site, will experience a high level of shadow flicker.⁴⁵

The DNV report predicted the two non-stakeholder houses and immediate surrounds will be impacted by shadow flicker less than 30 hours per year within 50 metres of the dwelling, and less than 10 hours per year when cloud cover and rotor orientation are taken into account. One dwelling will have 26.1 hours per year of shadow flicker, as a result of flicker from turbines WT04 and WT11, and less than 6 hours per year when cloud cover and rotor orientation is included. Due to blade rotation, shadows will be cast by turbine WT04 on the other impacted dwelling for a predicted 18.9 hours per year and approximately 4 hours per year when cloud and rotor orientation are included.

The DNV report considered shadow flicker could be further reduced through mitigation measures such as vegetative screening.

The DNV report stated that as a non-reflective finish is to be used blade glint is not considered an issue.

(ii) The Issues

The issues are whether:

- blade glint is minimised to an acceptable level

⁴⁴ *draft National Wind Farm Development Guidelines*, Environment Protection and Heritage Council (EPHC), July 2010

⁴⁵ Consent letter signed by William and Jennifer Slattery, June 2022

- the requirements relating to shadow flicker have been met
- reference to the complaints and response process should be removed from the permit.

(iii) Submissions

Several submitters expressed concerns about shadow flicker, and specifically that shadow flicker would increase due to the increased height of the turbines. Two of those submitters were also concerned about blade glint. One of those submitters recommended the adoption of *National Wind Farm Commissioner's 2019 Annual Report* recommendation of 15 hours of actual shadow flicker per year and no more than 30 minutes per day at a residence.

Several submitters were concerned the turbines will create a distraction to drivers.

The Applicant relied on the DNV report to highlight that, at all non-stakeholder dwellings, shadow flicker will be less than 30 hours per year and meets the requirements of the current permit.

The Applicant suggested removal of the condition in the current permit which relates to the handling of shadow flicker complaints. No party raised concerns about the removal of this permit condition.

(iv) Discussion

The sun shining on the turbine blades can cause shadow flicker and blade glint which can cause annoyance and affect amenity.

The Wind Energy Guidelines require that:

The shadow flicker experienced immediately surrounding the area of a dwelling (garden fenced area) must not exceed 30 hours per year as a result of the operation of the wind energy facility.

The DNV report demonstrated the Guideline requirements for shadow flicker have been met at all non-stakeholder dwellings and their immediate surrounds. Further when cloud cover and rotor orientation are factored in, shadow flicker impacts are relatively moderate for the impacted two non-stakeholder dwellings.

The current permit requires that a Complaint Investigation and Response Plan be prepared (conditions 16 to 21). Conditions 16 to 21 have been retained in draft permit conditions. The Complaint Investigation and Response Plan is required to cover complaints about all aspects of the wind farm including shadow flicker. The Applicant and Council proposed that condition 24 in the existing permit be deleted. The Panel supports the proposed deletion of condition 24 which is superfluous.

The Panel understands the draft 2010 *draft National Wind Farm Development Guidelines* state that turbines posed a negligible risk to distraction to drivers.

The Panel agrees with the retention of the existing permit condition regarding blade glint which is a standard approach to avoid glint impacting dwellings, and a standard condition in the Wind Energy Guidelines.

(v) Conclusions

The Panel concludes that:

- The Wind Energy Guidelines for shadow flicker will be met at all non-stakeholder dwellings and surrounds through permit condition 23.

- Condition 24 in the existing permit is superfluous as conditions 16 to 21 of the existing permit are to be retained and cover complaints including those regarding shadow flicker. The Panel accepts the Applicant's removal of condition 24.
- Blade glint will be minimised to an acceptable level.

Where relevant, the Panel's conclusions are included in the Panel preferred planning permit in Appendix C.

7.2 Television and radio interference

(i) Issue

The issue is whether the turbines will cause electromagnetic interference that affects with television and radio reception.

(ii) Submissions

One submitter expressed concern that the turbines would interfere with their television and radio reception.

The Applicant submitted in its Part B submission (page 22):

... any potential impacts from electromagnetic interference will be managed in accordance with conditions 29-31 of the permit, which require the Project to survey reception and mitigate any interference at its cost and to the satisfaction of the responsible authority.

To the extent electromagnetic interference is raised as a concern, there is no additional impact or likelihood of impact arising from the Proposal which could lead to an unacceptable outcome, having regard to the mitigation strategy required by permit condition.

(iii) Discussion and conclusion

Electromagnetic interference can affect television and radio reception as well as communication equipment.

Conditions in the current permit require that prior to construction a survey to assess the strength of television and radio reception at selected locations within 3 kilometres of the turbines be undertaken. The locations are to be selected by an independent expert. When the Project is operating, if a complaint is received that the wind farm is causing interference a post construction survey is required. In the event that post construction interference is established, the Project operator has to undertake mitigation measures to return the television and radio reception to pre-construction quality.

The Panel concludes that television and radio interference can be effectively managed through planning permit conditions.

7.3 Traffic

(i) Issues

The issues are whether:

- traffic impacts have been adequately assessed
- permit conditions will adequately manage impacts.

(ii) Submissions

A number of submitters raised concerns relating to traffic and road impacts, including impacts on the road as result of increased use, particularly by heavy vehicles during wind farm construction.

The Applicant submitted the proposed Traffic Management Plan and Environmental Management Plan would address submitter concerns. Road upgrades will enable Project access while minimising traffic impacts.

Council submitted the Project raised concerns regarding effects on the road network. Based on its experience with other projects, it is concerned the Project may have underestimated traffic volumes or may leave Council with damaged roads and costs associated with repairs. It was concerned about road safety and road use by construction vehicles on the Woolsthorpe-Heywood Road.

Council submitted a condition should be included to require an independent road quality auditor to inspect and direct maintenance of the road network.

The Head, Transport for Victoria, as a determining referral authority, submitted changes to the permit conditions:

- relating to the requirement for a Traffic Management Plan to be prepared to the satisfaction of the Head, Transport for Victoria and Minister for Planning
- detailing requirements of the Traffic Management Plan, and requiring compliance unless varied by written consent of Council and the Head, Transport for Victoria
- that would trigger the need to update the Traffic Management Plan, a Road Quality Auditor and engineering plans for works.

The Applicant submitted it accepted the *“comprehensive and detailed conditions recommended to be included by the Head, Transport for Victoria”*.⁴⁶ In response to submissions of Council, it submitted it:

- it considered the condition must remain exactly as stated by Head, Transport for Victoria, as a determining referral authority
- considered these conditions addressed the concerns of Council.

Council generally accepted the Applicant’s final day permit as it relates to traffic, with some proposed changes to drafting. Council raised concerns with the inclusion of agency officer names and direct phone contacts in the permit.

(iii) Discussion

The Applicant’s final day permit includes a number of checks and balances that will address the concerns of submitters, including a Traffic Management Plan approved and endorsed by the Head, Transport for Victoria and the Minister for Planning. The requirements of the Traffic Management Plan include:

- an assessment of existing conditions
- designation of appropriate routes and operating hours
- recommendations for road and intersection upgrades to accommodate additional traffic or site access

⁴⁶ Applicant’s Part B submission, paragraph 135

- detailed engineering plans for works
- measures to manage impacts, including a program for road rehabilitation
- nomination of a Road Quality Auditor for approval by Council and the Head, Transport for Victoria.

The permit also contains an Environmental Management Plan which includes, for example:

- a construction management plan which includes procedures for construction vehicles and equipment to use designated tracks and works areas to avoid impacts on native vegetation
- a Sediment, Erosion and Water Quality Management Plan which includes road works to be confined to the minimum practical working area.

The Panel is satisfied the permit conditions will minimise traffic and road impacts.

The Panel has reviewed the conditions recommended by the Head, Transport for Victoria, and the Applicant's final day permit, and has observed some duplication, changes to wording and reordering. In its preferred version of the planning permit at Appendix C, the Panel has:

- generally adopted the wording and order of conditions as recommended by the Head, Transport for Victoria
- adopted an approach to numbering conditions consistent with the *DTP Writing Planning Permits* (May 2023) guidance (see Chapter 8.5)
- has retained traffic conditions that are not included in the conditions required by the Head, Transport for Victoria, but are in the current permit and have not been subject to submissions.

For example, in condition 10 relating to works being carried out in accordance with the Traffic Management Plan, the Panel has amended it to use the wording recommended by the Head, Transport for Victoria, and has retained the wording proposed by the Applicant "*and the cost of any works including maintenance are to be at the expense of the permit holder*" as this is in the current permit, was retained by the Applicant and was not the subject of submissions.

The Panel agrees with Council it is not appropriate to include government agency officer personal names and direct contact details and has indicated this should be updated with appropriate contacts.

(iv) Conclusion

The Panel concludes traffic impacts will be adequately assessed, and impacts mitigated through the planning permit conditions, subject to the recommendations of the Panel.

Where relevant, the Panel's conclusions are included in the Panel preferred planning permit in Appendix C.

7.4 Decommissioning

(i) Issue

The issue is whether decommissioning of the facility is adequately covered in the planning permit conditions.

(ii) Submissions

Council submitted the following change should be made to the decommissioning permit condition:

31. The operator under the permit must, no later than 2 months after all the wind turbines have permanently ceased to generate electricity, notify the responsible authority in writing of the cessation of use. Within a further 12 months of this date, the operator under the permit, ~~or in the absence of the operator under the permit, the owner of the land on which the relevant turbines are located,~~ must undertake the following to the satisfaction of the responsible authority within such timeframe as may be specified by the responsible authority: ...

Ms Lenehan supported Council's submission and, in addition, proposed there be a bond of \$5-10 million to safeguard the Shire, and possibly the Victorian taxpayer, from having to take on decommissioning responsibility.

The Applicant was not opposed to excluding reference to the land owner, however preferred the reference be retained as the permit runs with the land and it will provide certainty regarding obligations for decommissioning.

In response to Ms Lenehan's suggestion of a bond, the Applicant submitted:⁴⁷

- it is not appropriate or necessary for the operator to provide a bond to Council
- there is no evidence to suggest the operator will not comply with its obligations under the approved planning permit
- there are statutory mechanisms under the PE Act to ensure compliance with permit conditions.

(iii) Discussion and conclusion

The Panel notes, the Wind Energy Guidelines example permit conditions (at Attachment B) do not name the party responsible for decommissioning the wind farm, only that reinstatement of the site has to be to the satisfaction of the responsible authority.

The decommissioning conditions in the current permit meet the requirements in the Wind Energy Guidelines and require that decommissioning be done to the satisfaction of Council, as responsible authority for enforcement of permits.

A bond as proposed by Ms Lenehan cannot be legally imposed through a permit condition. However, as is the usual practice with wind energy facilities, there will be an agreement between the Applicant and the landowner which will include financial arrangements associated decommissioning costs. This is considered an acceptable outcome.

The Panel concludes the current permit conditions adequately cover decommissioning, and are appropriate for the amended permit.

⁴⁷ Document 77

8 The planning permit

8.1 Permit assessment framework

(i) Permit triggers

Table 4 identifies permit triggers relevant to the Project.

According to the *Woolsthorpe Wind Energy Facility Planning Report* (KLM Spatial, July 2022), permit triggers have not changed since approval of the current permit.

Table 4 Permit triggers

Planning scheme provision	Permit application requirement(s)
Clause 35.07 Farming Zone	A permit is required to: <ul style="list-style-type: none"> - use the land for a wind energy facility (must meet the requirements of Clause 52.32) - use the land for the purposes of a utility installation - construct a building or carry out works associated with a wind energy facility and utility installations
Clause 36.04 Transport Zone Category 2	A permit is required to create or alter access to a road in a Transport Zone 2 (as required by Clause 52.29)
Clause 44.06 Bushfire Management Overlay	A permit is not required to construct or carry out works as the development is not a relevant defined use
Clause 52.17 Native Vegetation	A permit is required to remove, destroy or lop native vegetation
Clause 52.32 Wind Energy Facility	A permit is required to use and develop land for a wind energy facility
Clause 65 Decision guidelines	Identifies a number of matters that must be considered in deciding on an application

(ii) Clause 52.32 Wind Energy Facility

The purpose of Clause 52.32 is:

To facilitate the establishment and expansion of wind energy facilities, in appropriate locations, with minimal impact on the amenity of the area.

Clause 52.32 includes:

- specific requirements for turbines proposed within one kilometre for a dwelling
- application requirements, including site and context analysis, design response and mandatory noise assessment
- decision guidelines.

Decision guidelines include reference to the State and Local Planning Policy Framework, a number of specific issues and consideration of the Wind Energy Guidelines (see Chapter 2.3).

(iii) Wind Energy Guidelines considerations

Key issues identified as matters for considerations in the Wind Energy Guidelines include:

- landscape and visual impact

- flora and fauna
- noise and amenity
- aircraft safety.

The details of these issues are considered in Chapters 3, 4, 5 and 6 of this Report.

8.2 Referral agencies

The Applicant submitted the application had been referred to:

- the Head, Transport for Victoria, which:
 - is a determining referral authority
 - advised it did not object to the Project subject to inclusion of specified conditions on the amended permit.
- the EPA, which:
 - is a recommending referral authority
 - advised it did not object to the Project and did not require conditions to be amended. It requested a permit note referring to duties under the EP Act.

Issues relating to traffic conditions are discussed in Chapter 7.3, and issues relating to noise are discussed in Chapter 5.

The Panel's recommendations are reflected in the Panel preferred version of the planning permit at Appendix C.

8.3 'Without prejudice' comment on Applicant's proposed permit conditions

Comments on the Applicant's updated 'without prejudice' permit conditions were received from:

- DTP (Document 70) which proposed changes to the names of government departments, a land use zone name update, removal of operational noise conditions as these are no longer required with consideration of the EP Act and recommendation of a new conditions relating to emergency services.
- DEECA (Document 69), which proposed changes relating to the SBWB conditions and turbine siting.
- Council (Document 71) which:
 - recommended the inclusion of definitions in the permit
 - supported changes to Condition 3e) and ee) proposed by DEECA
 - suggested not including specific government agency staff contact details
 - additional conditions relating to aviation safety clearances and a community safety fund
 - proposed minor wording changes to clarify purpose or meaning of the condition
- Ms Lenehan (Documents 74 and 75) sought clarification on who would be liable if the operator did not comply with decommissioning conditions and recommended a bond.

The Applicant accepted all of the changes suggested by DTP, and the Panel considers these changes appropriate.

Issues raised by:

- DEECA are discussed in Chapter 4 of this Report
- Council's submissions are discussed where relevant in various chapters of this Report

- Ms Lenehan’s suggestions are discussed in Chapter 7.4.

The Panel has accepted suggested wording changes where it considers this improves drafting of the conditions.

The conclusions of the Panel are reflected in the Panel’s preferred planning permit at Appendix C.

8.4 Community benefit fund

(i) The issues

The issues are whether the community benefit fund should be:

- included as a permit condition
- indexed to the consumer price index.

(ii) Evidence and submissions

Council submitted community sharing initiatives are a limited but important way projects such as this “*justify the disproportionate burdens they place on local communities*”.

Council advocated for securing the community benefit fund as a permit condition, noting such conditions have not commonly been used. Council considered this appropriate because:

- the wind industry is maturing and past practice is not necessarily a guide as to what ought to occur in the future
- if the applicant is relying on a benefit to justify the proposal, it should not be discretionary
- if the level of benefit proposed by a proponent is reduced, it would undermine public confidence and social license for all wind farm operators
- a permit condition is not without precedent (with reference to the Australian Energy Infrastructure Commissioner 2021 Annual Report).

Council submitted the community benefit fund should be indexed to the consumer price index, to ensure the extent of benefit promised is actually delivered.

Mr Iles acknowledged that while community benefit funds sit outside of planning approvals, it is common practice for funds to be established and directed to local communities. He understood the Applicant would provide up to \$60,000 and this would be directed to local community projects through an annual grant program, and this fund would result in a range of social benefits.

In response to questions from Council, Mr Iles confirmed the community benefit fund was a relevant factor in his assessment of community benefit. He was of the view a condition to secure the fund may be beneficial in terms of community confidence, and would come at no real cost to the Proponent.

In response to a question from the Panel, Mr Iles confirmed he was not aware of any example where the community benefit fund was required as a condition of permit.

The Applicant did not support the introduction of a community benefit fund to the planning permit, stating the fund sits outside of the planning framework.

(iii) Discussion and conclusions

Clause 19.01-2S (Renewable Energy) includes policy document *Community Engagement and Benefit Sharing in Renewable Energy Development in Victoria: A guide for renewable energy developers* (DELWP, July 2021). The purpose of the guide is to:

- set out expectations for the renewable energy industry
- assist developers to best engage and share benefits with local communities.

In relation to benefit sharing it states, “*sharing the benefits of a project can enhance the social and economic outcomes for the local community, further building support for a project*”. It explains a range of benefit sharing options, including community benefit funds.

No examples of community benefit funds included as permit conditions were provided the Panel. Further the Panel notes:

- the Wind Energy Guidelines do not include example permit conditions relating to a community benefit fund
- the *Community Engagement and Benefit Sharing in Renewable Energy Development in Victoria: A guide for renewable energy developers* does not indicate a community benefit fund should be included as a condition of permit.

The Panel supports the creation of a community benefit fund, as proposed by the Applicant. However, the Panel does not consider it appropriate to include the community benefit fund as a condition of permit. There are many factors that will influence the delivery model of a community benefit fund, and its delivery does not relate to use and development considerations that can be managed by conditions in a permit.

8.5 Drafting and Panel preferred version

The conclusions of the Panel are reflected in the Panel’s preferred planning permit at Appendix C. The Panel has used the Applicant’s final day permit as the basis for its recommended changes.

The Panel has used DTP *Writing Planning Permits* (May 2023) guidance which includes principles for amending a permit, including:

- adding new conditions or sub-conditions where they logically belong
- using A, B, C etcetera for numbering new conditions to avoid having to renumber the remaining conditions
- adding new sub-conditions at the end of an existing list
- when deleting a condition or sub-condition to delete the words and insert [condition deleted], and not changing the numbering of subsequent conditions
- the table at the back of the permit should include the date and nature of any amendments, and name of the responsible authority that approved the amendment.

The numbering of conditions in the exhibited and final day versions of the planning permit is irregular. The Panel has renumbered sequentially, and with new conditions numbered using the *Writing Planning Permits* convention. Condition numbers should be checked prior to approval of the permit.

If approved by the Minister, the date of the amendment and description of changes will need to be included in the table at the back of the permit.

The Panel understands the intent of Council’s submission that the permit may be improved by including definition of terms, such as commissioning and decommissioning.

The Panel notes:

- where a land use term does not have a defined meaning, it has its ordinary meaning in accordance with the Macquarie Dictionary⁴⁸
- the DTP *Writing Planning Permits* (May 2023) states:
 - a planning permit must stand alone when interpreting its meaning and what it allows
 - operational conditions may clarify the meaning of terms used throughout a permit.

While Council suggested a number of terms, it did not suggest definitions. The Applicant did not include definitions in its final day permit, and did not comment on this suggestion. No other party made submissions on this matter.

In the context of an existing permit, and in the absence of further evidence relating to the need for and proposed definitions, the Panel is not in a position to further assess whether definitions would assist with clarifying the meaning of terms in the permit.

8.6 Recommendation

The Panel recommends:

The Minister for Planning issue amended Planning Permit 2006/0220/B for the Woolsthorpe Wind Farm, with conditions as shown in Appendix C of this report.

⁴⁸ *Practitioner's guide to Victoria's planning schemes*, April 2022

Appendix A Submitters to the Permit Amendment

No	Submitter
1	Country Fire Authority
2	Mick Mahoney
3	Anthony and Jennifer McCutcheon
4	Oonagh Kilpatrick
5	John Doolan
6	Graeme Broderick
7	Russell and Mary Hussey
8	Carole Doolan
9	Noel Roache
10	Linda Roache
11	Jason and Elise Willie
12	Janet Doolan
13	Sylvie Rogers
14	John and Jan Murphy
15	John Knowles
16	John Murphy
17	Terri Barnes
18	John Anscombe
19	Bruce and Debbie Keen
20	Paul and Debra Daly
21	Russell and Mary Hussey
22	Elaine Knowles
23	Robin and David Richardson
24	Stephen Brereton
25	Raymond and Jennifer Springthorpe
26	David Meggs
27	The Midfield Group
28	Emma McRae
29	Viva-Lyn Lenehan
30	Bill and Jenny Slattery c/- Kelly Slattery
31	Jennifer Lee-Grey

32	Robert Grey
33	Laurice and Ian Richardson
34	Linda Roache
35	Margaret McCosh
36	Neil Blain
37	Erika Sedgman
38	Carol Meggs
39	Rosie Richardson
40	P A Matthews
41	Glenn Britnell
42	Moyne Shire Council
43	Civil Aviation Safety Authority
44	Environment Protection Authority Victoria
45	Department of Transport
46	Department of Environment, Land, Water and Planning (Forests, Fire and Regions)
47	Warrnambool City Council

Appendix B Document list

No.	Date	Description	Presented by
1	9 Nov 2022	Panel Directions Hearing notice letter	Planning Panels Victoria (PPV)
2	9 Nov	Letter referring matter to Panel	Department of Environment, Land, Water and Planning (DELWP)
3	12 Dec	Panel Directions and Hearing Timetable version 1	PPV
4	19 Dec	Spring 2022 Flora and Fauna Survey report	Woolsthorpe Asset Pty Ltd as trustee for Woolsthorpe Asset Trust (Applicant)
5	23 Dec	Combined submissions (redacted)	PPV
6	17 Jan 2023	Cover letter and statement from Resonate in response to further information request	Applicant
7	23 Jan	Expert witness statement of Tom Evans of Resonate in noise	Applicant
8	23 Jan	Expert witness statement of Damian Iles of Hansen in planning	Applicant
9	23 Jan	Expert witness statement of Ian Jennings of Chiron Consultants in aviation	Applicant
10	23 Jan	Expert witness statement of Brett Lane of Nature Advisory in ecology	Applicant
11	23 Jan	Updated landscape and visual amenity impact assessment prepared by Green Bean Design	Applicant
12	25 Jan	Email dated 17/1/23 regarding without prejudice discussion	Department of Energy, Environment and Climate Action (DEECA)
13	25 Jan	Panel correspondence and timetable v2	PPV
14	27 Jan	Submitter map (confidential)	Applicant
15	30 Jan	Expert witness statement of Craig Czarny, Hansen Partnership in visual impact	Applicant
16	30 Jan	Applicant Part A submission	Applicant
17	30 Jan	Draft track-changed permit	Applicant

No.	Date	Description	Presented by
18	2 Feb	Submission	Department of Transport and Planning (Planning Portfolio) (DTP)
19	3 Feb	Part B Submission	Applicant
20	3 Feb	Hearing presentation of Damian Isles	Applicant
21	3 Feb	Panel correspondence regarding member reappointment	PPV
22	6 Feb	Hearing presentation of Ian Jennings	Applicant
23	6 Feb	Planright Preliminary Landscape Assessment - December 2004	Applicant
24	6 Feb	WAX Woolsthorpe Wind Farm Detailed Visual Impact Assessment - October 2006	Applicant
25	6 Feb	WAX Woolsthorpe Wind Farm Detailed Visual Impact Assessment - October 2006 Appendices	Applicant
26	6 Feb	Correspondence from WAX - August 2016	Applicant
27	6 Feb	Amendment Visual Assessment - February 2016 (combined with the above correspondence from WAX)	Applicant
28	7 Feb	Panel correspondence (including Timetable v3)	PPV
29	7 Feb	Endorsed C14 BAM Plan (Woolsthorpe)	Applicant
30	7 Feb	Timetable v4	PPV
31	7 Feb	Timetable v4 clarification	PPV
32	8 Feb	T Evans Hearing Presentation	Applicant
33	8 Feb	List of plans and documents endorsed in October 2019 under current planning permit	Applicant
34	8 Feb	Copy of endorsed development plan showing SBWB habitat buffers	Applicant
35	8 Feb	Copy of endorsed Off-site Landscaping Plan	Applicant
36	8 Feb	Presentation	V Lenehan
37	9 Feb	Presentation (Amended)	V Lenehan
37a	9 Feb	Hepburn Wind Farm (author B. Gullifer 18-08-2011)	V Lenehan
38	9 Feb	DELWP (DEECA) Environment submission	DEECA
39	9 Feb	Photomontages from Nicholson Street to approved and amended turbines	Applicant
40	9 Feb	Resonate – additional background noise report	Applicant
41	9 Feb	List of application documents exhibited and further documentation	Applicant
42	9 Feb	Moyne Shire - Submission – Woolsthorpe Wind Farm Permit Amendment application	Moyne Shire Council

No.	Date	Description	Presented by
43	9 Feb	Moyne Shire - Submission Annexure A (Projects Overview Map)	Moyne Shire Council
44	9 Feb	Moyne Shire – Submission Annexure B (Position Statement)	Moyne Shire Council
45	9 Feb	Inverleigh Wind and Solar Farm Project Report	Applicant
46	9 Feb	Photomontages from Nicholson Street to approved and amended wind turbines	B Keen
47	9 Feb	Wildlife article	B Keen
48	9 Feb	Moyne Shire Economic Development newsletter January 21	N Blain
49	9 Feb	Submission 9 Feb 2023	N Blain
50	9 Feb	WWF Reference List	D Meggs
51	9 Feb	B Keen Wind - Turbine Fire at Sleaford Jan 2023	B Keen
52	9 Feb	B Keen NSW Rural Fire Service: Crew contain blaze at Southern Tablelands	B Keen
53	9 Feb	Letter to the Panel Chair	V Lenehan
54	9 Feb	LinkedIn information part 1	V Lenehan
55	9 Feb	LinkedIn information part 2	V Lenehan
56	10 Feb	Scanned article Wind Farm Green Light; The Standard 7 November 2012	D Meggs
57	10 Feb	Email – request to disregard comments	D Meggs
58	11 Feb	LinkedIn information	N Blain
59	12 Feb	Request for record of correspondence	V Lenehan
60	13 Feb	Letter to Panel	N Blain
61	13 Feb	Email to parties – timetable update and further directions	PPV
62	13 Feb	Submissions in reply	Applicant
63	13 Feb	Amendment context and turbine procurement process	Applicant
64	13 Feb	Overview of community engagement	Applicant
65	13 Feb	Timetable for provision of and submissions on the additional photomontages	Applicant
66	13 Feb	Email regarding submission	D Meggs
67	13 Feb	Without prejudice draft amended planning permit conditions	Applicant
68	15 Feb	Letter to parties from Panel Chair, including further directions	PPV
69	17 Feb	Comments on amended permit conditions	DEECA
70	20 Feb	Comments on amended permit conditions	DTP
71	20 Feb	Comments on amended permit conditions	Council

No.	Date	Description	Presented by
72	20 Feb	Letter from Council to Enerfin Elecnor Group relating to 'Love Local' campaign	Council
73	20 Feb	Tax invoice relating to 'Love Local' campaign	Council
74	21 Feb	Late comments on amended permit conditions (Part 1)	Viva-Lyn Lenehan
75	21 Feb	Late comments on amended permit conditions (Part 2)	Viva-Lyn Lenehan
76	23 Feb	Email to parties – acceptance of Viva-Lyn late comments	PPV
77	27 Feb	Email –Without prejudice draft amended permit and response to queries	Applicant
78	27 Feb	Without prejudice draft amended permit (Applicant's comments)	Applicant
79	27 Feb	Without prejudice draft amended permit – Final position	Applicant
80	10 Mar	Email filing additional material regarding photomontages	Applicant
81	10 Mar	Craig Czarny memo on photomontages, 8 March 2023	Applicant
82	10 Mar	Green Bean – Visual impact assessment addendum, 2 March 2023	Applicant
83	10 Mar	Comparative photomontages, 8 March 2023	Applicant
84	17 Mar	Comments on photomontages	Bruce Keen
85	18 Mar	Comments on photomontages, enclosing: a) Wireframe diagram with circumferential rings	David Meggs
86	20 Mar	Comments on photomontages	Council
87	27 Mar	Reply comments on comparative photomontages	Applicant
88	30 Mar	Letter to parties from Panel Chair – Additional questions for Applicant	PPV
89	5 April	Applicant response to additional Panel questions	Applicant

Appendix C Panel preferred version of Planning Permit

[Tracked Added](#)

~~Tracked Deleted~~

The Panel recommended changes are based on the Applicant's final day permit (Document 79)

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Planning and Environment Regulations 2015
Form 11

**PLANNING PERMIT GRANTED BY THE MINISTER UNDER SECTION 97F OF
THE PLANNING AND ENVIRONMENT ACT 1987**

PERMIT NO: 2006/0220/B [\[insert new number\]](#)

PLANNING SCHEME: Moyne Planning Scheme

ADDRESS OF THE LAND: Land in Woolsthorpe, described as:
Lot 1 TP 5031A; Vol 10282; Folio 326
Lot 2 TP 5031A; Vol 10282; Folio 327
Lots 1, 2 & 3 on TP95438J; Vol 10129; Folio 252
Crown Allotment 6, Section 21 Parish of Woolsthorpe; Vol 10129; Folio 253
Crown Allotment 3B2, Section 21 Parish of Woolsthorpe; Vol 10129; Folio 255
Lots 3, 4, 5, 6, 7, 8, 10 and 11 on TP 968406H, Vol 12188; Folio 439
Lot 9 on TP 968406H, Vol 12188; Fol 482
Road reserve abutting Woolsthorpe-Heywood Road

THE PERMIT ALLOWS: Use and development of land for a Wind Energy Facility and to alter access to a road in Transport Zone 2 and associated removal of native vegetation

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

DEVELOPMENT PLANS

1. Before the development starts, development plans to the satisfaction of the Minister for Planning must be submitted to and approved by the Minister for Planning. When approved, the plans will be endorsed by the Minister and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided.

The plans must show the location, setbacks to property boundaries, layout and dimensions of all on-site buildings and works including all wind turbines, access tracks, underground cables, any temporary concrete batching plant, the sub-station, the switchyard, landscaping, any designated car parking areas, any signage, those turbines fitted with obstacle lighting (as appropriate) and ancillary works, such as construction compounds and water tanks, as well as off-site road works.

The plans must be generally in accordance with the amended plans submitted with the advertised

application to amend the permit but modified to show:

- a) Any necessary adjustment to the layout of the wind farm:
 - to ensure that clearing of native vegetation identified in flora surveys conducted in accordance with condition 4 is avoided to the satisfaction of the Minister for Planning;
 - to ensure that ground disturbance associated with the construction of the wind energy facility does not adversely impact on designated waterways. Turbines are to be located more than 100 metres from any designated waterway;
 - to ensure the habitat setback requirements in condition 3(e) are met;
 - to ensure that any indigenous or non-indigenous archaeological site identified by the on-site archaeological survey required by condition 21(f), and required to be protected, is avoided.
 - b) Details of the new site entrance off the Woolsthorpe – Heywood Road;
 - c) Southern Bent-wing Bat Habitat as required in condition 3(e) and 3(ee);
 - d) Global positioning system coordinates for each turbine;
 - e) All wind turbines set back not less than 150 metres from the boundaries of neighbouring land owned by persons other than the landowner of the subject site, excluding Slatterys Road and Johnson Road west extension (paper road) which transect the land, but including the boundary of the Woolsthorpe-Heywood Road;
 - f) Details of the model, sound power level and capacity of the wind turbines to be installed;
 - g) Elevations, materials and finishes of the wind turbines and other buildings and works;
 - h) Details of any signage, which must be limited to:
 - directional signs showing the location of any entry access;
 - signs required specifically related to site safety issues including as required by condition 27;
 - signs included in the approved Traffic Management Plan required by condition 9.
 - i) Vegetation exclusion zones based on the zones of high habitat value shown on Maps 2 and 3 of Appendix E to the Planning Application Report and defined in consultation with DEECA Environment Portfolio to the satisfaction of the Minister for Planning;
 - j) Access tracks within the site designed in consultation with the CFA that provide appropriate access for fire fighting vehicles to the satisfaction of the Minister for Planning.
2. The use and development as shown on the endorsed plans must not be altered or modified without the written consent of the Minister for Planning; except that the micro-siting of wind turbines and consequential micro-siting of associated tracks and reticulation lines as defined below does not require written consent and will be viewed as generally in accordance with the endorsed plans.

For the purposes of this condition, micro-siting of wind turbines:

- is where the siting of a wind turbine is altered by not more than 100 metres but is not relocated closer to any site boundary or waterway than is shown on the endorsed plans;
- includes any consequential changes to access tracks and reticulation lines;
- is only allowed where the Minister for Planning is satisfied that the relocation of the turbine and any associated track or reticulation line will not give rise to a material change to assessed

landscape, vegetation, cultural heritage, visual amenity, shadow flicker, noise or aviation impacts when compared to the site shown on the endorsed plans.

To this end, any request for confirmation of the Minister's satisfaction in relation to micro-siting must be accompanied by supporting material addressing these matters as relevant except that in all cases the request must be accompanied by the results of [further visual assessment from Viewpoint 7 and dwellings within 2 kilometres of the wind farm, and](#) supplementary flora surveys of any areas not surveyed in accordance with condition 4 which have been prepared in consultation with DEECA Environment Portfolio to the satisfaction Minister for Planning.

SPECIFICATIONS

3. The wind energy facility must meet the following requirements, and shall not be altered or modified without the written consent of the Minister for Planning:
 - a) The wind energy facility may include not more than 13 wind turbines;
 - b) The overall maximum height of the wind turbines (to the tip of the rotor blade when vertical) must not exceed 230 metres above natural ground level;
 - c) The spacing between turbines must be 350 metres or greater;
 - d) The distance between turbine rotors and the ground must be 55 metres or greater;
 - e) All wind turbines must be set back a distance of 120 metres plus the length of the turbine blade to treed vegetation identified with green hatching as 'SBWB habitat' on Figure 1: 'Southern Bent-wing Bat (SBWB) habitat assessment' prepared by Nature Advisory and dated 23/01/2023 (contained in the Woolsthorpe Wind Farm Panel expert witness statement of Brett Lane, January 2023);
 - ee) Turbines WT-03, [WT-05](#), [WT-07](#), WT-08, WT-12 and WT-13 must be sited generally in accordance with the amended plans submitted with the advertised application, but micro-sited to minimise, to the extent reasonably practicable, the habitat for the Southern Bent-wing Bat within a distance of 200 metres plus the length of the turbine blade, as identified with green, blue, and orange hatching on Figure 1: 'Southern Bent-wing Bat (SBWB) habitat assessment' prepared by Nature Advisory and dated 23/01/2023 (contained in the Woolsthorpe Wind Farm Panel expert witness statement of Brett Lane, January 2023), in consultation with DEECA Environment. Any micro-siting must be in accordance with condition 2;
 - f) [Turbines WT-01, WT-05 and WT-07 must be sited generally in accordance with the amended plans submitted with the advertised application, but if possible micro-sited to minimise visual impact from Viewpoint 7 and dwellings within 2 kilometres of the wind farm;](#)
 - g) Turbines must be located in open paddocks devoid of trees or in areas of only sparsely scattered trees to the satisfaction of the Minister for Planning;
 - h) All work required to construct and operate the wind farm must be able to be completed without entering or disturbing the vegetation exclusion zones as shown on the development plan;
 - i) The wind turbine towers, nacelles and rotor blades must be pale grey or other colour that blends with the landscape to the satisfaction of the Minister for Planning, and must be of a non-reflective finish to the satisfaction of the Minister for Planning;
 - j) The colours and finishes of all other buildings and ancillary equipment must be such as to minimise the impact of the development on landscape to the satisfaction of the Minister for Planning;

- k) The transformer associated with each wind generator must be located beside each tower and pad mounted, or be enclosed within the tower structure;
- l) Access tracks within the site are sited and designed to minimise impacts on overland flows, soil erosion, the landscape value of the site, environmentally sensitive areas and, where appropriate, the farming activities on the land, to the satisfaction of the Minister for Planning;
- m) All new electricity cabling associated with the wind energy facility must be placed underground except for connection between the substation and the 66kV overhead line connecting the wind farm to the electricity network;
- n) All wind turbines must be set back at least 150 metres from boundaries to neighbouring properties owned by persons other than the landowner of the subject site, excluding Slatterys Road and Johnson Road west extension (paper road) which transect the land, but including the Woolsthorpe-Heywood Road;
- o) A minimum of 45,000 litres of water to be used solely for firefighting purposes must be provided on the site in not more than two tanks. The tanks must meet the access and outlet requirements specified in condition ~~21~~13(e)(ii).

FLORA SURVEYS

4. The development plans lodged for approval as required by condition 1 of this permit must be supported by the results of flora surveys conducted by a suitably qualified expert covering all areas to be disturbed plus areas beginning at the perimeters of those areas and extending a distance of 10 metres outside those perimeters.

The flora survey results must be those of surveys conducted utilising procedures developed in consultation with the DEECA Environment Portfolio and must include results of surveys conducted in spring/early summer.

Flora survey results provided to the Minister for Planning must include a list of all flora species observed.

Note: The development plans may not be approved if any of the species observed are listed under the Environmental Protection and Biodiversity Conservation Act 1999 or the Flora and Fauna Guarantee Act 1988, unless, upon the advice of DEECA Environment Portfolio, it is determined that the endangered plants may be transplanted and arrangements are in place which are to the satisfaction of the Minister for Planning to carry this out or for vegetation where a permit has been granted for the removal of native vegetation under this permit.

LANDSCAPE / VISUAL AMENITY

5. Before the use and development starts, an Off-site Landscaping Program must be submitted to, approved and endorsed by the Minister for Planning. When endorsed, the Off-site Landscaping Program will form part of this permit.

The Off-site Landscaping Program must:

- a) Outline a program of voluntary landscape mitigation works to be offered to the owners of dwellings existing on 7 June 2016 within 4 kilometres of any turbine excluding any dwellings within the Woolsthorpe Township Zone. This is to include a process for making offers to affected landowners to undertake landscaping on the landowner's land.
- b) Provide:
 - [Visual materials showing how the screen planting will reduce visual impact at the dwellings of participating landowners;](#)

- Details of planting or other treatments that will be used to reduce the visual impact of the wind turbines at [each of](#) the dwellings of the participating landowners;
 - Details of the plant species to be used, including the height and spread of plants at maturity;
 - A methodology for determining;
 - i. The type of landscaping treatments to be proposed.
 - ii. A timetable for establishing and maintaining the landscaping for at least two years.
- c) Include a process for recording:
- Offers that have been made to landowners.
 - Whether or not the offers are accepted.
 - Details of consultation with the land owner.
 - When and how offers are actioned following acceptance.
- d) Include a process for the preparation and provision of progress reports regarding the implementation of the endorsed Off-site Landscaping Program to be provided to the Minister for Planning annually, from when this document is endorsed and at other times on request.
6. The endorsed Off-site Landscaping Program:
- a) Must be implemented to the satisfaction of the Minister for Planning.
 - b) Must not be altered or modified without the written consent of the Minister for Planning.
7. All access tracks associated with the wind farm must be constructed with local gravel and/or other surface material that will not unduly contrast with the landscape to the satisfaction of the Minister for Planning.

DRIVER DISTRACTION

8. Should Regional Roads Victoria determine at any time during the life of the wind farm that the proximity of the turbines to the Woolsthorpe-Heywood Road is causing driver distraction and hence compromising road safety, the operator under the permit must pay for or undertake remedial measures to the satisfaction of Regional Roads Victoria.

TRAFFIC MANAGEMENT

~~9. Before the development starts and once construction methods and transportation routes are revealed, a Traffic Management Plan must be prepared to the satisfaction of the Head, Transport for Victoria and the Minister for Planning, for submission to and approval by the Minister for Planning. When approved, the Plan will be endorsed and will then form part of this permit.~~

~~The plan must include:~~

- ~~a) An existing conditions survey (including testing of road base) of public roads on designated construction transport vehicle routes and in the vicinity of the wind energy facility that may be used for access, including details of the suitability, design, construction standard and condition of the roads;~~
- ~~b) The designation of appropriate construction transport vehicle routes for traffic accessing and departing the wind energy facility site;~~
- ~~c) The designation of operating hours and speed limits for trucks on routes accessing the site so as to avoid the time and routes of passage of school buses where relevant, and to provide for resident safety;~~
- ~~g) Recommendations on the need for road and intersection upgrades to accommodate any additional traffic or site access requirements, whether temporary or on-going and the~~

~~timing of when these upgrades are to be undertaken. Where upgrades are required, the Traffic Management Plan must include:~~

- ~~i. detailed engineering plans showing the required works, including cross sections which show their formation, depth, drainage, and surface levels to the satisfaction of the Minister for Planning and the Head, Transport for Victoria; and the timing of when the works are to be undertaken.~~
- ~~ii. proposed measures to ensure workers enter and exit the wind energy facility site from the designated site entrances.~~
- ~~iii. proposed measures to ensure construction vehicles are easily identifiable.~~
- ~~iv. the designation of mitigation measures, including operating hours and speed limits for trucks on routes accessing the wind energy facility site which:
 - ~~a) provide for appropriate safety measures around school bus routes and school bus times where relevant; and~~
 - ~~b) provide for resident safety.~~~~
- ~~v. proposed measures to manage traffic impacts associated with the ongoing operation of the wind energy facility on the traffic volumes and flows on surrounding roads; and~~
- ~~vi. a program to rehabilitate existing public roads within agreed timeframes to the condition identified in the surveys carried out or to the condition to which the roads have been upgraded, whichever is relevant;~~
- ~~h) Measures to be used to manage traffic impacts associated with the ongoing operation of the wind energy facility on the traffic volumes and flows on surrounding roads;~~
- ~~i) Engineering plans demonstrating how truck movements can be accommodated must be prepared for any intersection with the Princes Highway that will be utilised by trucks travelling to or from the site. The plan must include details of any required road construction works;~~
- ~~k) A program of regular inspections to be carried out during the construction period to identify maintenance works necessary as a result of construction traffic;~~
- ~~l) A program to rehabilitate roads to the condition identified by the surveys required by condition 9(a) above within 3 months of the need for such rehabilitation being identified by the regular inspections required by condition 9(k) above;~~
- ~~m) the scope of the expertise, duties and role of the nominated Road Quality Auditor engaged under condition 12, including inspection frequency and reporting requirements;~~
- ~~n) the number and type of anticipated vehicle movements and the time of day when local roads will be used;~~
- ~~o) the designation of appropriate pre-construction, construction, and transport vehicle routes to and from the to the wind energy facility site, including designation of transport vehicle routes being used to establish any on-site quarries;~~
- ~~p) engineering plans demonstrating whether, and if so how, truck movements to and from the wind energy facility site can be accommodated on sealed roadways and turned without encroaching onto the incorrect side of the road to the extent practicable;~~

~~q) measures to be undertaken to review estimated traffic volumes on the nominated road network generated during and as a result of the construction of the wind energy facility.~~

9. Before the development starts and once construction methods and transportation routes are revealed, a Traffic Management Plan must be prepared to the satisfaction of the Head, Transport for Victoria and the Minister for Planning. When approved, the Traffic Management Plan will be endorsed by the Minister for Planning and the Head, Transport for Victoria. The Traffic Management Plan must be complied with, unless varied by the written consent of Moyne Shire Council and the Head, Transport for Victoria.

The Traffic Management Plan must include:

- a) the scope of the expertise, duties and role of the nominated Road Quality Auditor engaged under condition 12, including inspection frequency and reporting requirements;
- b) the number and type of anticipated vehicle movements and the time of day when local roads will be used;
- c) the nominated routes for traffic accessing and departing the wind energy facility site;
- d) the identification of any areas of indigenous roadside vegetation that may require removal or pruning, and the pruning practices to be followed;

Note: this does not obviate the need for a permit for native vegetation removal where one is required.

- e) the identification and timetabling of any required pre-construction works;
- f) details of any large over dimension vehicles to be used (such as those used for the transport of the nacelles, blades and tower sections) and details of the transport route to be taken, the proposed escort arrangements and requirements for over dimensional permits from VicRoads;
- g) an existing conditions survey (including testing of road base) of public roads that may be used in connection with the wind energy facility (for access, pre-construction or construction purposes), including details of the suitability, design, condition and construction standard of the relevant public roads;
- h) the designation of all vehicle access points to the wind energy facility site from surrounding roads. Vehicle access points must be designed and located to ensure safe sight distances, turning movements, and avoid potential through traffic conflicts;
- i) the designation of appropriate pre-construction, construction, and transport vehicle routes to and from the to the wind energy facility site, including designation of transport vehicle routes being used to establish any on-site quarries;
- j) Intersection upgrades in Warrnambool-Carramut Road and Woolsthorpe-Heywood Road designed to avoid or minimise disturbance or removal of native vegetation if the intersection is used by traffic associated with the wind energy facility;
- k) engineering plans demonstrating whether, and if so how, truck movements to and from the wind energy facility site can be accommodated on sealed roadways and turned without encroaching onto the incorrect side of the road.
- l) measures to be undertaken to review estimated traffic volumes on the nominated road network generated during and as a result of the construction of the wind energy facility.

- m) recommendations on the need for road and intersection upgrades to accommodate any additional traffic or site access requirements, whether temporary or on-going and the timing of when these upgrades are to be undertaken. Where upgrades are required, the Traffic Management Plan must include:
- i. detailed engineering plans showing the required works, including cross sections which show their formation, depth, drainage, and surface levels to the satisfaction of the Minister for Planning and the Head, Transport for Victoria; and the timing of when the works are to be undertaken.
 - ii. proposed measures to ensure workers enter and exit the wind energy facility site from the designated site entrances.
 - iii. proposed measures to ensure construction vehicles are easily identifiable.
 - iv. the designation of mitigation measures, including operating hours and speed limits for trucks on routes accessing the wind energy facility site which:
 - a) provide for appropriate safety measures around school bus routes and school bus times where relevant; and
 - b) provide for resident safety.
 - v. proposed measures to manage traffic impacts associated with the ongoing operation of the wind energy facility on the traffic volumes and flows on surrounding roads; and
 - vi. a program to rehabilitate existing public roads within agreed timeframes to the condition identified in the surveys carried out or to the condition to which the roads have been upgraded, whichever is relevant;

Note: Regional Roads Victoria approval for the movement of Over Dimensional loads is required. ~~VicRoads contact officer is Mr Paul Frost – Team Leader Safety Services (Tel: 03 5225 2578 or mobile 0417 483 421)~~[Insert appropriate contact details]. Contact at an early date is recommended.

9A. Where there is:

- a) a significant increase in vehicle numbers accessing the project site, determined by the Road Quality Auditor, above the anticipated vehicle movements identified in the endorsed Traffic Management Plan; or
- b) any change to an endorsed vehicle route identified in the Traffic Management Plan.

The Traffic Management Plan must be updated to the satisfaction of Moyne Shire Council and the Head, Transport for Victoria within 28 days of the event described in this condition or the above condition.

9B. Prior to endorsement of the Traffic Management Plan, the developer of the wind energy facility must submit to Moyne Shire Council and the Head Transport for Victoria for approval the identity of a suitably qualified engineer, independent of the proponent's traffic adviser who will undertake the duties of the Road Quality Auditor identified in the traffic management plan. Once approved, the developer of the wind energy facility must engage, at its cost, the approved Road Quality Auditor to fulfil the requirements of the Road Quality Auditor as defined in the Traffic Management Plan.

9C. Moyne Shire Council or the Head, Transport for Victoria may require at any time the appointment of an alternate proposed Road Quality Auditor within 21 days of making a written request to the wind energy facility developer, if the appointed Road Quality Auditor is unable to maintain independence or is unable to meet project timelines to Council's or the Head, Transport for Victoria's satisfaction. The alternate auditor must, if approved, be appointed by the wind energy facility developer to undertake the duties identified under the Traffic Management Plan.

- 9D. Prior to endorsement of the Traffic Management Plan, the terms of reference for the Road Quality Auditor must be endorsed by Moyne Shire Council and the Head, Transport for Victoria, including but not limited to:
- a) a program of regular inspections to be carried out during the construction of the wind energy facility to identify maintenance works necessary because of construction traffic.
 - b) frequency of inspections.
 - c) frequency of reporting to the wind energy facility developer, Moyne Shire Council and the Head, Transport for Victoria.
 - d) standards to which all agreed local roads are constructed.
 - e) ongoing maintenance and repair regime during construction of the wind turbine generators.
 - f) procedures for corrective works resulting from non-compliance; and
 - g) penalties for non-compliance.
- 9E. Prior to the commencement of development of the wind energy facility, engineering plans for all road works required by the Traffic Management Plan must be submitted to Moyne Shire Council and the Head, Transport for Victoria for approval. The engineering plans must be designed to Australian Standards and in accordance with VicRoads guidelines and include:
- a) the location and detailed design of the connection between the internal access tracks and the public roads.
 - b) a demonstration that safe sight distances, turning movements, and the avoidance of traffic conflicts at the intersection of internal roads and public roads will be achieved to the satisfaction of Moyne Shire Council and the Head, Transport for Victoria.
- 9F. Prior to the commencement of construction of wind turbine footings, crane hardstand, internal access roads, the substation or transmission towers, road construction works as identified in the endorsed traffic management plan, must be undertaken, completed, and assessed and approved by the Independent Road Quality Auditor to the satisfaction of Moyne Shire Council and the Head, Transport for Victoria. These works may be staged as construction of individual turbine groupings are commenced.
10. The traffic management and road upgrade and maintenance works ~~associated with the wind energy facility must be carried out in accordance with~~ identified in the endorsed Traffic Management Plan must be carried out to the satisfaction of the Moyne Shire Council and the Head, Transport for Victoria, and the cost of any works including maintenance are to be at the expense of the permit holder.
- 10A. Prior to any works commencing within any arterial road reserve, the applicant must enter into a works agreement with the Head, Transport for Victoria, confirming design plans and works approvals processes, including the determination of fees and the level of the Head, Transport for Victoria service obligations. Contact: southwestworks@roads.vic.gov.au

DEPARTMENT OF TRANSPORT AND PLANNING CONDITIONS

11. Alterations to the crossovers and driveways are to be constructed generally in accordance with VicRoads SD2065 at a minimum, taking into consideration the necessity for access by over-dimensional vehicles, to the satisfaction of, and at no cost to, the Department of Transport and Planning prior to the commencement of the use hereby approved.

12. At least 10 working days prior to commencing work within the declared road, the developer must contact ~~Mr Mark McDonald, Senior Surveillance Officer, on telephone number 0400 051670~~ [\[insert appropriate contact details\]](#), to discuss construction methods and traffic management issues.

ENVIRONMENTAL MANAGEMENT PLAN

13. Before the development starts, an Environmental Management Plan must be prepared to the satisfaction of the Minister for Planning. The Plan must be submitted to the Minister for Planning for approval. The Environmental Management Plan may be prepared in sections or stages. When approved, the Plan will be endorsed and will then form part of this permit.

The use and development must accord with the endorsed plan at all times.

The environmental management plan must include:

- a. **A Construction and Work Site Management Plan** which must include:
- i. Procedures for access, noise control, dust emissions, spills and leaks from the handling of fuels and pollution management. Such procedures are to be undertaken in accordance with EPA Publication 1834: Civil construction building and demolition guide and EPA Publication 275 Construction Techniques for Sediment Pollution Control.
 - ii. This must include arrangements for effectively dealing with construction noise complaints including provision for an effective and rapid response to noise from mechanical faults;
 - iii. The identification of all potential contaminants stored on site;
 - iv. The identification of all construction and operational processes that could potentially lead to water contamination;
 - v. The identification of appropriate storage, construction and operational methods to control any identified contamination risks;
 - vi. The identification of waste re-use, recycling and disposal procedures;
 - vii. Appropriate sanitary facilities for construction and maintenance staff in accordance with the EPA Publication 891.4 Code of practice – onsite wastewater management;
 - viii. Procedures, where practical, to construct turbine bases, access tracks and power cabling during drier months and other measures to minimise impacts on ephemeral wetlands, local fauna and sediment mobilisation;
 - ix. Procedures for construction vehicles and equipment to use designated tracks and works areas to avoid impacts on native vegetation;
 - x. Procedures to cover trenches and holes at night time and to fill trenches as soon as practical after excavation, to protect native fauna;
 - xi. Procedures for the rehabilitation of construction zones with appropriate pasture species;
 - xii. Identification on site of the vegetation exclusion zones and their protection from vehicles and storage of materials and equipment or other damaging use during the construction period; and
 - xiii. Procedures for the removal of works, buildings and staging area(s) on completion of construction of the project.

- b. A **Sediment, Erosion and Water Quality Management Plan**. This plan must be prepared in consultation with the Glenelg-Hopkins Catchment Management Authority and other authorities as may be directed by the Minister for Planning.

The Plan must include:

- i. A procedure to ensure that silt from batters, cut-off drains, table drains and road works is retained on the site during and after the construction stage of the project.

To this end:

- All land disturbances must be confined to a minimum practical working area and to the vicinity of the identified works areas;
 - Soil to be removed must be stockpiled and separate soil horizons must be retained in separate stockpiles and not mixed; and
 - Stockpiles must be located away from drainage lines.
- ii. Arrangements for the storage of fuel and chemicals in securely bunded areas during and after construction away from waterways and vegetation;
- iii. Criteria for the siting of any temporary concrete batching plant associated with the development of the wind energy facility and the procedure for its removal and reinstatement of the site once its use finishes. The establishment and operation of any such temporary concrete batching plant must be designed and operated in accordance with the Environment Protection Authority Publication 1806: Reducing risk in the premixed concrete industry;
- iv. The installation of geo-textile silt fences (with sedimentation basins where appropriate) on all drainage lines from the site which are likely to receive run-off from disturbed areas;
- v. Procedures to suppress dust from construction-related activities. Note: appropriate measures may include water spraying of roads and stockpiles, stabilising surfaces, temporary screening and/or wind fences, modifying construction activities during periods of heightened winds and revegetating exposed areas as soon as practicable;
- vi. Procedures to ensure that steep batters are treated in accordance with Environmental Protection Authority Publication 275 *Construction Techniques for Sediment Pollution Control*;
- vii. Procedures for waste water discharge management;
- viii. A process for overland flow management to prevent the concentration and diversion of waters onto steep or erosion prone slopes;
- ix. Pollution management measures for stored and stockpiled materials including waste materials, litter and any other potential source of water pollution;
- x. Incorporation of pollution control measures outlined in EPA Publication 1834: Civil construction building and demolition guide;
- xi. Siting of concrete batching plant and any on-site wastewater and disposal and disposal treatment fields at least 100 metres from any watercourse;
- xii. Appropriate capacity and an agreed program for annual inspection and regular maintenance of any on-site wastewater management system constructed to service staff, contractors or visitors; and

- xiii. Immediate remediation of localised erosion with a specified response time.
- c. A **Blasting Plan**. This plan is only required if blasting is proposed to be undertaken at the site as part of the construction of the wind energy facility.

The plan must include:

- i. Name and qualification of the person responsible for blasting;
 - ii. A description of the location of where the explosives will be used, and the location of every licensed bore on any property with an adjoining boundary within 1km of the location of the blasting;
 - iii. A requirement for the identification and assessment of any potentially sensitive site within 1 km of the location of the blasting, including the procedure for pre-blast and post-blast qualitative measurement or monitoring at such site;
 - iv. The procedure for site clearance and post blast reoccupation;
 - v. The procedure for the storage and handling of explosives;
 - vi. A requirement that blasting only occur after at least 24 hours prior notification in writing of the intention to undertake blasting has been given to all adjoining neighbours of the proposal with a property boundary within 1km of the location of the proposed blasting; and
 - vii. A requirement that blasting only be undertaken between the hours of 8am and 4pm.
- d. A **Hydrocarbon and Hazardous Substances**

Plan. The plan must include:

- i. Procedures for any on-site storage of fuels, lubricants or waste oil to be in bunded areas; and
 - ii. Contingency measures to ensure that any chemical or oil spills are contained on-site and cleaned up in accordance with EPA requirements.
- e. A **Fire Emergency Response Plan** to the satisfaction of the Minister for Planning and prepared in consultation with the CFA, the DEECA and Moyne Shire Council.

The plan must include:

- i. The provision of 1 or 2 static water supply tank(s) solely for firefighting purposes with the minimum capacity specified in condition 3 to the satisfaction of the CFA;
- ii. The tank(s) must;
 - Be fitted with outlets of at least one 64mm, 3 thread/25mm by 50mm nominal bore British Standard Pipe (BSP), round male coupling;
 - Be signed to the satisfaction of CFA; and
 - Be able to be accessed to within 4 metres of the outlet, in all weather conditions, by firefighting vehicles of up to 15 tonnes with a minimum turning circle of 10 metres;
- iii. Procedures for vegetation management, fuel control and the provision of firefighting equipment during declared fire danger periods;
- iv. Minimum standards for access roads and tracks to allow access for fire fighting vehicles;
- v. The facilitation by the operator under the permit, before or within 3 months after the commencement of the operation of the wind energy facility, of a familiarisation visit to the site and explanation of emergency services procedures for the CFA, Rural Ambulance Victoria, Moyne Shire Council's Municipal Emergency Management Committee and Victoria Police;

- vi. Subsequent familiarisation sessions for new personnel of those organisations on a regular basis and/or as required; and
 - vii. If requested, assist in the training of authority personnel in relation to suppression of wind energy facility fires.
- f. A **Cultural Heritage and Archaeology Management Plan** to address Aboriginal cultural heritage.

This plan must include:

- i. Protocols for the management of archaeological and cultural heritage on the land during construction in order to manage and protect Aboriginal cultural heritage;
 - ii. Protocols for consultation with the Registered Aboriginal Party, or where no Registered Aboriginal Party exists, the traditional land owners for the area;
 - iii. Procedures for seeking and obtaining any necessary permits and for entering into any necessary agreements under the *Aboriginal Heritage Act 2006*; and
 - iv. Protocols for protecting and reporting the discovery of any human remains in accordance with the requirements of the Victoria Police, the Victorian State Coroner's Office and Aboriginal Affairs Victoria.
- g. A **Pest Animal Management Plan** to be prepared in consultation with the DEECA to the satisfaction of the Minister for Planning.

The plan must include procedures for the control of pest animals for all areas disturbed by wind farm works for a period of 2 years after completion of the development or, if staged of each stage; particularly by negating opportunities for the sheltering of pests.

- h. A **Pest Plant Management Plan** including:
- i. Procedures to prevent the spread of weeds and pathogens from earth moving equipment and associated machinery including the cleaning of all plant and equipment before transport to the site and the use of road making material comprising clean fill that is free of weeds;
 - ii. Sowing of disturbed areas with perennial grasses; and
 - iii. A protocol to ensure follow-up weed control is undertaken on all areas disturbed through construction of the wind energy facility for a minimum period of 2 years following completion of the works.
- i. A **Training Program** for construction workers and permanent employees or contractors at the wind energy facility site including a site induction program relating to the range of issues addressed by the Environmental Management Plan to the satisfaction of the Minister for Planning.
- j. A **Program for Reporting** including a register of environmental incidents, non-conformances, complaints and corrective actions.
- k. A **Timetable for Implementation** of all programs and works identified in a plan referred to in conditions (a) to (j) above.

BATS AND AVIFAUNA

14. Before the development starts, the operator under the permit must engage the services of a suitably qualified expert(s) to prepare an amended Bat and Avifauna Management Plan (BAM Plan) to the satisfaction of the Minister for Planning. It must be prepared in consultation with the DEECA Environment Portfolio, and must be submitted to and approved by the Minister for Planning. When approved the plan will be endorsed and will then form part of the permit. The use must thereafter accord with the endorsed plan.

The BAM Plan must include:

- a. An overall strategy for managing and mitigating any significant bird and bat strike arising from the wind energy facility operations;
 - b. A bat and bird strike monitoring program specifying, at least, its duration, timing, data recorded, methodology, correction factors and reporting protocols;
 - c. A Southern Bent-wing Bat monitoring program of at least two years duration to establish utilisation of the site including monitoring of bat presence at different heights up to turbine hub height;
 - d. Specification of mortality rates for the Southern Bent-wing Bat and bat and bird species listed under the EPBC Act or the FFG Act that would trigger the requirement for appropriate ~~ameliorative~~ management and mitigation measures, ~~and specifically for the Southern Bent-wing Bat, the details of such ameliorative measures;~~
 - e. Management and mitigation measures or offset measures that can be taken in response to monitoring results relative to relevant triggers and standards, including a description of the roles of the operator, DEECA Environment Portfolio and the responsible authority; and
- 14A. A draft curtailment plan including details of mitigation measures for immediate implementation after a reported mortality incident of a Southern Bent-wing Bat that can be attributed to the wind energy facility's operation, including a description of the roles of the operator, DEECA Environment Portfolio and the responsible authority.
- 14B. A grey-headed flying fox monitoring and mitigation plan, in consultation with the DEECA Environment Portfolio.
- 14C. A white-throated needletail monitoring and mitigation plan, in consultation with the DEECA Environment Portfolio.

NOISE STANDARD

15. Except as provided below in this condition, the operation of the wind energy facility must comply with New Zealand Standard 6808:2010 Acoustics – Wind Farm Noise (the Standard) at any dwelling existing on land in the vicinity of the wind energy facility as at 7 June 2016 (excluding any receptor which is an associated land owner or does not meet the definition of a 'noise sensitive location' under the Standard), to the satisfaction of the responsible authority.

In determining compliance, the following apply:

- a. The operator must ensure that at any wind speed, wind farm sound levels at noise sensitive locations do not exceed a noise limit of 40dB LA90 (10 min), provided that where the circumstances specified in condition ~~2315~~ (b) apply, the noise limit of 40dB LA90 (10 min) will be modified as specified in condition ~~2315~~ (b).
- b. At the specified assessment positions referred to in condition ~~2315~~ the noise limit of 40dB LA90 (10 min) referred to in condition ~~2315~~ (a) will be modified in the following way when the following circumstances exist:

- i. Where the background sound level is greater than 35 dB LA90 (10 min), the noise limit will be the background sound level LA90 (10 min) plus 5 dB;
- ii. Where special audible characteristics, including tonality, impulsive sound or amplitude modulation occur, the noise limit will be modified by applying a penalty of up to + 6 dB LA90 in accordance with section 5.4 of the Standard.

This condition does not apply if an agreement has been reached with a landowner through which the landowner accepts predicted noise levels and acknowledges that the operation of the wind energy facility may still generate noise in outdoor areas at the noise sensitive residence (s) which may from time to time exceed the Standard.

In such circumstances, the operator under this permit must, as soon as practicable, enter into an agreement with ~~the~~ [Moyne Shire](#) Council and the registered proprietor of the affected land pursuant to Section 173 of the Planning and Environment Act 1987 (Section 173 Agreement) to provide that, except with the written consent of ~~the~~ [Moyne Shire](#) Council, any noise sensitive residence on the land should not be occupied by persons other than:

- i. Those with an interest in ownership and management of land on which the wind energy facility is located and their families, or
- ii. Persons who otherwise receive a financial benefit as a result of the location of the wind energy facility on the land;

and application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act.

NOISE COMPLIANCE ASSESSMENT

16. [Condition deleted](#)
17. [Condition deleted](#)
18. [Condition deleted](#)

NOISE COMPLAINTS EVALUATION

19. [Condition deleted](#)

PRE-CONSTRUCTION NOISE ASSESSMENT

20. Before development starts, a pre-construction noise assessment must be undertaken to reflect the final turbine layout and turbine model chosen. The pre-construction noise assessment shall be prepared by a suitably qualified and experienced independent acoustic engineer to demonstrate that the wind energy facility will comply with the relevant noise limits specified in this permit, to the satisfaction of the Minister for Planning.

COMPLAINT INVESTIGATION AND RESPONSE PLAN

21. Before the development starts, the permit holder must prepare a Complaint Investigation and Response Plan to the satisfaction of the responsible authority. When approved, the plans will be endorsed by the responsible authority and will then form part of this permit. The complaint investigation and response plan will be designed to respond to all aspects of the wind farm including (but not limited to): construction noise, construction impacts, traffic, shadow flicker.
22. The endorsed complaints investigation and response plan must be publicly available on the wind farm operator's website.

23. The plan must be prepared in accordance with *Australian/New Zealand Standard AS/NZS 10002:2014 – Guidelines for Complaint Management in Organisations* and shall include:
 - a. A process of investigation to resolve a complaint
 - b. A requirement that all complaints will be recorded in an incident register
 - c. How contact details will be communicated to the public
 - d. A toll-free telephone number and email contact for complaints and queries
 - e. Details of the appropriate council contact telephone number and email address (where available)
 - f. A table outlining complaint information for each complaint received, including:
 - i. The complainant's name.
 - ii. Any applicable property reference number if connected to a noise background testing location.
 - iii. The complainant's address.
 - iv. A receipt number for each complaint which is to be communicated to the complainant.
 - v. The time, prevailing conditions and description of the complainant's concerns including the potential incidence of special audible characteristics (for a noise complaint).
 - vi. The processes of investigation to resolve the complaint.
24. A report including a reference map of complaint locations, and outlining complaints, investigation and remediation actions is to be provided on an annual basis to the satisfaction of the responsible authority.
25. The register and complaints response process shall continue for the duration of the operation of the wind energy facility and must be made available to the responsible authority on request.
26. The owner of the wind energy facility must implement and comply with the approved Complaint Investigation and Response Plan for the duration of the operation of the wind energy facility.

PRELIMINARY INVESTIGATIVE WORKS

27. For the purposes of this permit, the carrying out of preliminary investigative works, including geotechnical investigations, for the purposes of gathering data or making other assessments necessary or desirable in order to prepare the development plan or other plans specified in this permit, is not considered to be commencement of the development.

BLADE SHADOW FLICKER

28. Shadow flicker from the wind energy facility must not exceed 30 hours per annum at any dwelling existing at 7 June 2016.

This condition does not apply to any dwelling on land on which part of the wind energy facility is erected. Any required exemption must be given effect by an agreement with the landowner which is registered on the title to the land and will apply to any occupant of the dwelling. The agreement must be entered into before the use commences.

Note: inclusion of the exemption as part of any agreement made under condition [2315](#) will be one way to satisfy this condition.

29. [Condition deleted](#)

TELEVISION AND RADIO RECEPTION AND INTERFERENCE

30. Prior to commencement of works, a pre-construction survey must be carried out to the satisfaction of the Minister for Planning to determine television and radio reception strength at selected locations approved by the Minister for Planning up to 3kms from all wind turbines. The location of such monitoring is to be determined by an independent television and radio monitoring specialist appointed by the operator under this permit.
31. If, following commencement of the operation of the wind energy facility, a complaint is received regarding the wind energy facility having an adverse effect on television or radio reception at the any dwelling in the area which existed at the date of the pre-construction survey, a post-construction survey must be carried out at the dwelling.
32. If the post-construction survey establishes any increase in interference to reception as a result of the wind energy facility operations, the wind energy facility operator must undertake measures to mitigate the interference and return the affected reception to pre-construction quality at the cost of the operator and to the satisfaction of the responsible authority.

SECURITY

33. All site entries and wind turbine access points and electrical equipment must be locked and made inaccessible to the general public to the satisfaction of the responsible authority. Public safety warning signs must be located on all towers and all spare parts and other equipment and materials associated with the wind energy facility must be located in screened, locked storage areas that are inaccessible to the public to the satisfaction of the responsible authority.

AVIATION SAFETY CLEARANCES

34. Copies of the approved development plans must be provided to CASA, the Department of Defence, CFA State Aircraft Unit and to any organisation responsible for providing air ambulance services in the area, to enable details of the wind energy facility to be shown on aeronautical charts of the area.

[34A. Copies of the approved development plans must be provided to Airservices Australia.](#)

[34B. ~~All permanent meteorological masts~~ Following commencement of this permit, any anemometer on the site after three years](#) must be marked in accordance with the *National Airports Safeguarding Framework Guideline D: Managing the Risk of Wind Turbine Farms as Physical Obstacles to Air Navigation*, and on the base around the outer guy wires to the satisfaction of the responsible authority.

DECOMMISSIONING

35. The operator under the permit must, no later than 2 months after all the wind turbines have permanently ceased to generate electricity, notify the responsible authority in writing of the cessation of use. Within a further 12 months of this date, the operator under the permit, or in the absence of the operator under the permit, the owner of the land on which the relevant turbines are located, must undertake the following to the satisfaction of the responsible authority within such timeframe as may be specified by the responsible authority:
 - a. Remove all above ground non-operational equipment;
 - b. Remove and clean up any residual spills;
 - c. Clean up and restore all storage, construction and other areas associated with the use, development and decommissioning of the wind energy facility, if not otherwise useful to the on-going management of the land;
 - d. Restore all access tracks and other areas affected by the project closure or decommissioning, if not otherwise useful to the on-going management of the land;

- e. Submit a decommissioning traffic management plan to the responsible authority and, when approved by the responsible authority, implement that plan; and
 - f. Submit a post-decommissioning revegetation management plan to the responsible authority and, when approved by the responsible authority, implement that plan.
36. In the event that one or more turbines have permanently ceased to generate electricity prior to cessation of operation of the whole wind energy facility, the operator under the permit must, within 2 months of that event, notify the Minister for Planning. Within a further 6 months of this date, the operator under the permit must undertake the following to the satisfaction of the Minister for Planning:
- a. Remove the turbine including the rotor, nacelle and tower;
 - b. Remove and clean up any residual spills;
 - c. Submit a Traffic Management Plan to the Minister for Planning for the removal of that turbine(s) and, when approved by the Minister for Planning, implement that plan.

STAGING

37. The use and development authorised by this permit may be completed in stages as shown on the endorsed development plan(s) to the satisfaction of the Minister for Planning, and any corresponding obligation arising under this permit (except the preparation and approval of the development plan under condition 1) may be similarly completed in stages or parts.

SETBACKS

38. Unless stated otherwise, setbacks for wind farm turbines are to be measured from the centre of the tower at ground level to the closest point on any other feature.

NATIVE VEGETATION REMOVAL

39. Before works start, the permit holder must advise all persons undertaking the vegetation removal/works on site of all relevant conditions of this permit.

Offset requirement

40. In order to offset the removal of 0.083 hectares of native vegetation approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements and is in accordance with Clause 52.17.

General offset

41. To offset the permitted clearing in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017), the permit holder must secure general offsets. The offset must:
- a. Contribute a gain of 0.056 general habitat units.
 - b. Be located within the Glenelg Hopkins Catchment Management Authority boundary or Moyne Shire Council municipal district.
 - c. Have a strategic biodiversity score of at least 0.368.
 - d. Contain at least 0 large old trees.

Offset evidence

42. Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of Guidelines for the removal destruction or lopping of native vegetation.
43. Offset evidence can be either:
 - a. A security agreement, to the required standard, for the offset site or sites, including a 10-year offset management plan.
 - b. A credit register extract from the Native Vegetation Credit Register.
44. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at the Department of Environment, Land, Water and Planning, relevant regional office.
45. Within 6 months of the conclusion of the permitted clearing of native vegetation under this permit, the offset requirements can be reconciled with the written agreement of the responsible authority and the Department of Environment, Land, Water and Planning.

EMERGENCY SERVICES

- 45A. Before development starts, the permit holder must provide spatial information data to Land Use Victoria via email vicmap@delwp.vic.gov.au to be used to direct emergency services to and within the site. This information must be in the ESRI Shapefile or Geodatabase .gdb format, GDA94 or GDA2020 datum and include:
 - a. the location and boundaries of the facility extents polygon(s);
 - b. all access entry points onto private property;
 - c. all internal roads; and
 - d. the locations of site compound, substations, batteries, and maintenance facilities.
- 45B. If there are any subsequent changes to infrastructure location, internal roads or access points during construction, or after completion of construction, updated data must be provided to Land Use Victoria via email vicmap@delwp.vic.gov.au within 30 days of the change, to enable details of any changes to the facility to be known to emergency services dispatchers.

GENERAL

- 45C. A copy of this permit and all endorsed plans under the permit must be displayed on the operator's website.

EXPIRY

46. This permit will expire if one of the following circumstances applies:
 - The development is not started within 3 years of the date of this permit;
 - The development is not completed within 6 years of the date of this permit.

The Minister for Planning as responsible authority may extend the periods referred to if a request is made in accordance with the Planning and Environment Act 1987.

EPA note

The amended *Environment Protection Act 2017* came into effect on 1 July 2021. The *Environment Protection Act 2017* imposes new duties on individuals and businesses undertaking the activity permitted by this permit. If your business engages in activities that may give rise to a risk to human health or the environment from pollution or waste, you must understand those risks and take action to minimise them as far as reasonably practicable.

Wind Energy Facility - Operator's Compliance

The Operator of the wind energy facility is required to comply with Division 5 of Part 5.3 of the *Environment Protection Regulations 2021*. This provides for post-construction noise assessment and associated ongoing noise monitoring requirements. Please refer to regulations 131A-131J.

<i>Date of amendment</i>	<i>Brief description of amendment</i>
15 November 2011	Pursuant to section 69 of the <i>Planning and Environment Act 1987</i> this permit was extended so that development must start no later than 15 March 2012.
31 October 2013	Pursuant to section 69 of the <i>Planning and Environment Act 1987</i> this permit was extended so that development will expire if the development is not completed by 12 March 2016.
4 June 2015	Pursuant to section 69 of the <i>Planning and Environment Act 1987</i> this permit was extended so that development will expire if the development is not completed by 12 March 2018
21 May 2017	Permit amended under section 97J of the <i>Planning and Environment Act 1987</i> - to increase turbine height, increase tower height, increase the blade length, provide a new site entrance, introduce a secondary consent mechanism, and require noise to be compliant with the 2010 version of the New Zealand noise standard, and other minor changes.
9 January 2018	Pursuant to section 69 of the <i>Planning and Environment Act 1987</i> this permit was extended so that development will expire if the development is not completed by 12 March 2020.
9 October 2018	Pursuant to section 69 of the <i>Planning and Environment Act 1987</i> this permit was extended so that development will expire if the development is not completed by 12 March 2022.
20 September 2019	Permit amended under section 97J of the <i>Planning and Environment Act 1987</i> - to correctly identify the 'Address of the Land' and add a road reserve at the site entrance; remove 0.064 hectares of native vegetation in road reserve; change conditions 1, 3, 4, 5, 11, 15, 18, 37 and 41 for development plans, specifications, flora surveys, off-site landscaping, the traffic management plan, the environmental management plan, noise, aviation safety and expiry; delete conditions 1(h), 3(n), 8, 9, 10, 16 and 36 for aviation lighting, lighting and review of the environmental management plan; and add new conditions 36-43 relating to a setback definition and native vegetation removal, including offset requirements.
18-10-19	Pursuant to section 71 of the <i>Planning and Environment Act 1987</i> this permit was corrected to resolve clerical mistakes with cross-referencing of conditions

IMPORTANT INFORMATION ABOUT THIS PERMIT WHAT HAS BEEN DECIDED?

The Minister has granted and issued a permit under Division 6 of Part 4 of the **Planning and Environment Act 1987**.

WHEN DOES A PERMIT BEGIN?

A permit operates—

- from the date specified in the permit; or
 - if no date is specified, from the date on which it was issued.
-

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within five years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
 2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
 3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
 4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
 5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry
 6. In accordance with section 97H of the **Planning and Environment Act 1987**, the responsible authority specified in the planning scheme is the responsible authority for the administration and enforcement of the **Planning and Environment Act 1987** and the relevant planning scheme in respect of this permit (whether or not the permit is amended) except that the Minister remains the responsible authority in respect of—
 - any matters which the permit specifies to be done by, approved by or done to the satisfaction of the Minister; and
 - any extension of time under section 69 in relation to the permit; and
 - the correction of the permit under section 71(1); and
 - the amendment of the permit under section 97J.
-

WHAT ABOUT REVIEWS?

In accordance with section 97M of the **Planning and Environment Act 1987**, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.
