



# Amendment VC82

## Changes to wind energy facility provisions

This Advisory Note provides information about changes to the *Victoria Planning Provisions* (VPP) and all planning schemes made by Amendment VC82.

### What does Amendment VC82 do?

Amendment VC82 prohibits a wind energy facility in the following circumstances and locations:

1. A wind energy facility that includes a turbine located within two kilometres of an existing dwelling is prohibited except where the planning permit application includes evidence of written consent from the owner of the dwelling to the location of the turbine.
2. Areas with high conservation and landscape values:
  - National, State Parks and Coastal Parks described in a schedule to the *National Parks Act 1975*.
  - Ramsar wetlands as defined under section 17 of the *Environment Protection and Biodiversity Conservation Act 1999*.
3. Locations that feature a high degree of amenity, environmental value, or are a significant tourist destination:
  - Yarra Valley and Dandenong Ranges and Mornington Peninsula, being all land in the Yarra Ranges and Mornington Peninsula Planning Schemes.
  - Bellarine Peninsula, being all land in the Queenscliffe Planning Scheme, and that area in the Greater Geelong Planning Scheme east of the Surf Coast Highway and south of the Princes Highway.
  - Macedon Ranges and McHarg Ranges, being all land in the Macedon Ranges Planning Scheme; all land west of the Hume Freeway and the Goulburn Valley Highway in the Mitchell Planning Scheme; and all land within the area bounded by the McIvor Highway and the Calder Highway and Calder Freeway in the Greater Bendigo and Mount Alexander Planning Schemes.
  - Bass Coast, being all land within five kilometres of the coast in the Bass Coast Planning Scheme and South Gippsland Planning Scheme, west of Wilson's Promontory.



- Great Ocean Road region, being land within five kilometres of the high water mark of the coast in the Colac Otway, Corangamite, Greater Geelong, Moynes, Surf Coast and Warrnambool Planning Schemes between the Surf Coast Highway in the east and Warrnambool in the west.

4. Locations identified for future urban growth:

- Land in an Urban Growth Zone that applies to metropolitan growth areas and some regional growth areas like Armstrong Creek in Geelong and Ballarat.
- Designated regional population growth corridors, being land within five kilometres of major regional cities and regional centres specified in the Regional Victoria Settlement Framework Plan in the State Planning Policy Framework (Ararat, Bairnsdale, Ballarat, Benalla, Bendigo, Colac, Echuca, Geelong, Hamilton, Horsham, Mildura, Moe, Morwell, Portland, Sale, Shepparton, Swan Hill, Traralgon, Wangaratta, Warrnambool and Wodonga). The five kilometre exclusion area will be replaced with defined locations as growth planning for each centre is completed.

**Clause 52.32** has been amended by:

- Specifying that a permit is required to use and develop land for a wind energy facility.
- Introducing a table to clause 52.32-2 that specifies locations where the use and development of land for a wind energy facility is prohibited. The table provides for a local schedule to clause 52.32 to provide for planning schemes to specify locations where wind energy facilities are prohibited.
- Introducing a requirement for evidence of written consent from the owner of an existing dwelling where a turbine is proposed to be located within two kilometres of the dwelling.
- Consolidating application requirements in clause 52.32-4 that were previously included both in clause 52.32 and the *Planning and policy guidelines for development of wind energy facilities in Victoria* (March 2011).

- Adding a new clause 52.32-6 that specifies that 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.

**Clause 37.07 Urban Growth Zone** – Wind energy facility is included in section 3 in the use table, and is prohibited in the zone.

***Policy and planning guidelines for development of wind energy facilities*** (August 2011)

The guidelines have been updated to include the changes introduced by Amendment VC82. The guidelines are now a reference document in the *Victoria Planning Provisions* and planning schemes and address:

- what evidence is required to be provided to responsible authorities of the consent of an owner of a dwelling for a turbine proposed to be located within two kilometres of a dwelling
- model permit conditions that should be considered by responsible authorities when issuing a planning permit for a wind energy facility.

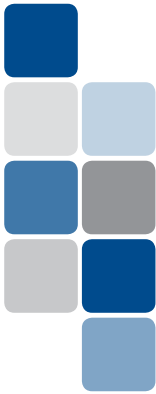
**What must be provided as evidence of written consent?**

The responsible authority must establish if an application for a wind energy facility is discretionary under the planning scheme. Where an application includes a turbine or turbines within two kilometres of an existing dwelling, the responsible authority must be provided with evidence of written consent of the owner(s) of the dwelling or dwellings. The application requirement in clause 52.32-3 requires a planning permit application to include:

1. A plan showing all dwellings within two kilometres of a proposed turbine that forms part of the wind energy facility.
2. Evidence of the written consent of the owner of any existing dwelling located within two kilometres of a proposed turbine that forms part of the wind energy facility.

Evidence of written consent should include:

- a statement of consent that contains
  - the name and address of the owner(s) of the dwelling
  - the address of, and title particulars for, the land on which the dwelling is located



- a statement that the owner consents to an application being made that includes a turbine(s) located as shown on the attached plan.
- a plan showing:
  - the dwelling
  - the proposed location of the turbine(s) within two kilometres of the dwelling
  - the distance between the dwelling and the proposed turbine(s).

The location of the turbine(s) can be a specific site or a more general area in which the turbine(s) will be sited.

The plan should be able to be read and reconciled with the plans of the wind energy facility that form part of the application (including the plan showing all dwellings within two kilometres of a proposed turbine that forms part of the wind energy facility).

The statement of consent and the attached plan should both be signed and dated by the owner of the dwelling.

The *Policy and planning guidelines for development of wind energy facilities in Victoria* includes a Statement of Consent form that can be used by an applicant.

### Can consent be withdrawn after an application has been lodged?

Consent relates to the point in time when the application for planning permit is lodged. Evidence of written consent is required to change a proposal from being prohibited to being discretionary under the planning scheme. The application can be considered and determined once the responsible authority has been satisfied that there is written consent to locate a turbine within two kilometres of a dwelling. If an owner subsequently withdraws consent, this is not a matter for the responsible authority to consider.

### Does written consent prevent the owner of a dwelling making a objection?

Written consent allows the application to be considered. All other provisions of the Act still apply to the application. This includes the responsible authority determining what notice must be provided of the application (section 52 of the Act), the right to make an

objection or the right of review of any person considered to be affected by the grant of a permit.

### What about wind energy facilities in urban locations that are integrated in a development?

Specific provision has been made to ensure that a wind energy facility that is integrated as part of a development in an urban location, like the six star ANZ Docklands headquarters, can continue to be considered and are not subject to the requirement relating turbines within two kilometres of a dwelling.

### Are there any transitional arrangements?

There are no new transitional arrangements that apply to the changes introduced by Amendment VC82. The transitional arrangements in clause 52.32 introduced by VC78 in March 2011 continue to apply until they cease on 15 March 2012.

### Further information and useful links

More information about the Victorian planning system is available online at: [www.dpcd.vic.gov.au/planning](http://www.dpcd.vic.gov.au/planning)

To view amendment VC82, go to: [www.dpcd.vic.gov.au/planning/amendmentsonline](http://www.dpcd.vic.gov.au/planning/amendmentsonline)

View the *Policy and planning guidelines for development of wind energy facilities in Victoria*, August 2011 at [www.dpcd.vic.gov.au/planning/windenergy](http://www.dpcd.vic.gov.au/planning/windenergy)

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