

Amendment VC124

Changes to wind energy facility provisions and vegetation provisions

Planning Advisory Note | 61

APRIL 2015

This Advisory Note provides information about changes to the *Victoria Planning Provisions* (VPP) and all planning schemes made by Amendment VC124 on 2 April 2015.

What does Amendment VC124 do?

Wind energy facility provisions

Amendment VC124 amends the wind energy facility provisions to reduce the allowable distance of a turbine to a dwelling from two kilometres to one kilometre with the landowner's consent, and makes the Minister for Planning the responsible authority for all planning permit applications for the use and development of a wind energy facility.

Amendment VC124 changes:

- **Clause 19.01-1** of the State Planning Policy Framework 'Provision of Renewable Energy' to reference the updated *Policy and planning guidelines for development of wind energy facilities in Victoria*.
- **Clause 52.32 'Wind energy facility'** to:
 - reduce the allowable distance of a turbine to a dwelling from two kilometres to one kilometre (consent is required from the owner of a dwelling to locate a turbine closer than one kilometre to the dwelling)
 - clarify the application of the one kilometre rule to applications for minor amendments to existing permits
 - reference the updated *Policy and planning guidelines for development of wind energy facilities in Victoria*.
- **Clause 61.01-1 'Minister is the Responsible Authority'** to make the Minister for Planning the responsible authority for all new planning permit applications for the use and development of land for the purpose of a Wind energy facility.

Vegetation provisions

Amendment VC124 also provides a planning permit exemption to enable vegetation to be removed, destroyed or lopped by traditional owners on Crown land in accordance with an authorisation order made under the *Traditional Owner Settlement Act 2010*.

Amendment VC124 changes the following overlays: **Clause 42.01** 'Environmental Significance Overlay', **Clause 42.02** 'Vegetation Protection Overlay', **Clause 42.03** 'Significant Landscape Overlay', **Clause 44.01** 'Erosion Management Overlay', **Clause 44.02** 'Salinity Management Overlay', **Clause 52.16** 'Native Vegetation Precinct Plan' and **Clause 52.17** 'Native Vegetation' to:

- introduce an exemption from requirements to obtain a permit to remove, destroy or lop vegetation on Crown land and by a person acting under and in accordance with an authorisation order made under sections 82 or 84 of the *Traditional Owner Settlement Act 2010*
- update references to the name of a government department.

When does Amendment VC124 come into effect?

The changes implemented by Amendment VC124 come into effect immediately.

WIND ENERGY FACILITY

Policy and planning guidelines for development of wind energy facilities (April 2015)

The *Policy and planning guidelines for development of wind energy facilities* have been updated to include the changes introduced by Amendment VC124 namely the one kilometre turbine to dwelling distance and the transfer of responsibility status to the Minister for Planning. The updated guidelines also include updated State and Commonwealth department names and information relating to applications to amend a planning permit and planning permit administration and enforcement.

What application requirements apply to a turbine located within one kilometre of a dwelling?

A planning permit application that includes a turbine located within one kilometre of a turbine must be accompanied by:

- a plan showing all dwellings within one kilometre of a proposed turbine that forms part of the Wind energy facility

- evidence of the written consent of any owner of an existing dwelling located within one kilometre of a proposed turbine that forms part of the Wind energy facility.

The consent of a dwelling owner is now not required for turbines located greater than one kilometre of an existing dwelling.

These application requirements do not apply to a Wind energy facility that is located on land in a residential zone, an industrial zone, a commercial zone or a special purpose zone.

Does the one kilometre rule apply to proposals to amend a planning permit?

An application to amend a planning permit where approved turbines are within one kilometre of a dwelling do not need to provide the consent of a landowner unless the amendment would:

- increase the number of turbines; or
- change the location of a turbine so that it is located closer to an existing dwelling (within one kilometre of a turbine) than the closest permitted turbine to that dwelling.

If these requirements are not met the dwelling owners consent will be required to be submitted with an application to amend a permit.

Who is the responsible authority for a Wind energy facility?

The Minister for Planning is the responsible authority for a permit application for a Wind energy facility. The responsible authority status has been transferred from Council to the Minister for Planning.

Who is the responsible authority for existing planning permits and enforcement?

Council is the responsible authority for:

- the enforcement of Wind energy facilities, including an operating facility, new and existing planning permits;
- the administration of existing permits except where the Minister for Planning has specific responsible authority status as prescribed by Division 6 of Part 4 of the *Planning and Environment Act 1987*, such as planning permit amendments and secondary consent approvals, and where conditions of permits explicitly state that the Minister is responsible.

VEGETATION PROVISIONS

What does the permit exemption allow?

Under all planning schemes the permit exemption allows for vegetation to be removed, destroyed or lopped only on Crown land and by a person acting under and in accordance with an authorisation order made under sections 82 or 84 of the *Traditional Owner Settlement Act 2010*.

Will the removal of vegetation under the exemption be regulated in another way?

Yes. The authorisation orders made under the *Traditional Owner Settlement Act 2010* are intended to replace the need for traditional owners to obtain other permissions to remove vegetation from Crown land. An authorisation order may provide for, among other matters, the removal of specified vegetation for both traditional and commercial purposes, which may impose terms and conditions on the type and amount of vegetation that may be removed. An authorisation order is approved by the Governor in Council and on recommendation of the Minister administering the *Flora and Fauna Guarantee Act 1988*.

Further information and useful links

More information about the Victorian planning system is available online at

www.delwp.vic.gov.au/planning

To view Amendment VC124 go to [Planning Scheme Amendments Online](#)

Authorised and published by Victorian Government
Department of Environment, Land, Water & Planning
1 Spring Street, Melbourne 3000

Published April 2015

© State of Victoria, Department of Environment, Land, Water & Planning 2015.

Except for logos, emblems, trademarks, artwork and photography this document is made available under the terms of the Creative Commons Attribution 3.0 Australia licence.

This document is also available in accessible Word format at www.delwp.vic.gov.au/planning