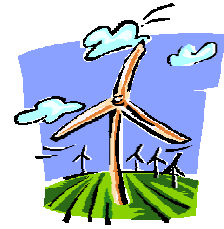


Wind Farm Developments



Planning and Environment Act Review
Statutory Planning Systems Reform
Department of Planning and Community Development
GPO Box 2392
Melbourne VIC 3001

April 15th, 2009

Via email to: PEActreview@dpcd.vic.gov.au

Dear Sir/Madam,

Re: Submission on Modernising Victoria's Planning Act

Wind Farm Developments (WFD) welcomes the opportunity to make a submission on the Planning and Environment Act Review discussion paper.

Wind Farm Developments (Australia) Ltd is a special purpose company formed to develop, project manage, finance and commission, utility scale wind farm developments in New Zealand and Australia.

The parties involved with WFD have been responsible for the development, construction, project management, financing, commissioning and operations & maintenance of the Tararua Wind Farm (TWF) in the North Island of New Zealand.

WFD has been active in Australia since 2000. In May 2003, WFD secured development approval for the 91MW Wattle Point Wind Farm on Yorke Peninsula in South Australia. This wind farm was built and was the largest wind farm in the Southern Hemisphere at the time of its completion in 2005.

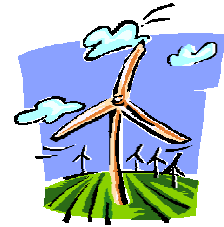
WFD has identified a number of sites, predominantly in Victoria and South Australia, upon which it is undertaking further and continuing evaluation. Included in these projects are:

- The 42MW, 22 wind turbine **Naroghid Wind Farm** near Camperdown, approved by the Victorian Minister for Planning in 2006;
- The 29.9MW, 13 wind turbine **Drysdale Wind Farm** near Purnim, approved by VCAT in 2008;
- The 40 MW, 20 wind turbine **Woolsthorpe Wind Farm**, approved by the Victorian Minister for Planning in 2008;
- The 29.9 MW **Sisters Wind Farm**, currently awaiting approval from Moyne Shire.

WFD operates out of offices in Wellington, New Zealand, and Melbourne, Australia to develop these projects. WFD has experience with wind farm consenting processes in New Zealand, South Australia and Victoria.

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WFD wish to make comment on a number of sections of the discussion paper, as outlined below.

Section 6.4

- “Should the term objection be changed to submission?”

WFD is supportive of this change. Submissions are regularly received on Applications which can be either positive, neutral or negative; however the wording “objection” can lead to a situation where the public is unaware that they are able to make a non-objecting submission. Further, the current terminology downplays the importance of hearing from those who support a project. There is a trend, particularly in wind energy, that objectors get the most attention. Changing the term to “submission” would lead to a more balanced distribution of views on an Application being received from the public.

- “Should the responsible authority have a greater discretion to reject an objection?”

WFD is supportive of this. Many causes of delays/obstruction of developments are due to irrelevant objections. We have had the experience of a VCAT hearing based on objections which were not even related to the wind farm application but an unrelated radio mast. This objection in our view was invalid, and much time and expense could have been saved had the Responsible Authority been able to reject objections that were not relevant to the application and or frivolous.

- “Should an objector be required to provide more specific information about how they might be effected by a proposal in their objection?”

Similarly to the above, requiring an objector to provide specific information about how they may be effected by a proposal would be a very welcome change to the current situation. Objections are often too vague or misleading to be dealt with and responded to appropriately, and again take up time and expense. It would aid both the applicant and objector if their submissions were specific in terms of how they may be adversely effected and what they may suggest to avoid, mitigate or remedy such adverse effects. The object should be to narrow to the relevant issues and ensure that any response/compromise is reached based on sound evidence and not vague statements which are unable to be substantiated.

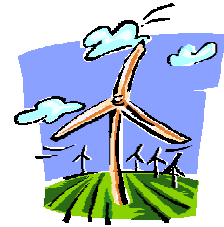
Section 6.5

- “How could the Act be changed to encourage the more effective and timely input of referral authority requirements in the permit process?”

Currently referral authorities often make recommendations which include errors or are unsuitable/unrelated to the proposal at hand. Giving Responsible

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Authorities the ability to review/edit recommendations of Referral Authorities would greatly improve the process of gaining input from them, and prevent VCAT appeals on conditions. There is a concerning trend for referral authorities to put the same response into a wind farm application without often either assessing the individual effects of the particular development due to other work commitments. Referral Authorities often see the process as an opportunity to secure in conditions extensive further study data or additional resources that may or may not be appropriate relative to the actual adverse effects of the development.

Section 6.6

- “Are the times prescribed by regulation in which certain decisions should be made appropriate? Should other matters also have prescribed times?”

The lack of a known timetable for a Panel Hearing, and a decision from the Minister on an Application creates a significant level of uncertainty. This has an impact on investment decisions and the timely implementation of projects. Further, average waiting times for a decision on a wind energy facilities have contributed to slowing investment and job creation as in some cases Applicants have been waiting over twelve months for a decision. Prescribed timelines for a Panel Hearing and a decision from the Minister would alleviate this problem. The planning process should seek to deliver outcomes to a known timeframe so that investment decisions can be planned and implemented in a timely manner. WFD has had experience in Victoria of the unknown decision times with the panel and Ministerial decision meaning that projects have missed their window of opportunity to be built.

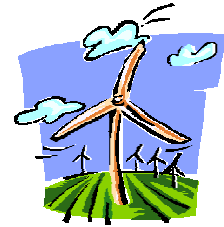
Section 8.1

- “If a proposal is of State significance, does this mean that it must always be decided by the Minister? Could specified types of proposals (such as all windfarms over 30 megawatts) more effectively be decided by a Development Assessment Committee?”

The current distinction for whom the Responsible Authority is for a wind energy facility is 30MW; projects over this size are called in by the Minister, and projects under 30MW are decided upon by the local Council. A 30MW project was a large project when this rule was devised, however since then technology has developed rapidly; one turbine which back then may have been 1.5MW is now producing up to 3MW with largely the same potential impacts. The average project size is now well over 30MW, with proposals of between 150 and 900MW recently being made public in Victoria.

However, there is, somewhat perversely, greater certainty from the Council (even when followed by a VCAT appeal) process than through the State process. Statutory time frames for decisions apply to Council and there is no Panel Hearing; as such this is a more appealing route for many Planning Applications, resulting in a trend of ~29MW wind farm applications throughout the state (eg. Drysdale, The Sisters, Berrimal, Winchelsea, Lexton, Newfield, Salt Creek, Mortons Lane).

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This could be simply rectified by lifting the 30MW threshold, for example to 50MW or 20 turbines, whichever is the higher. This would better reflect current technology and provide for a quicker approvals process.

Section 10.6

- “What other opportunities not discussed or listed in this paper would improve the operation of the Act?”

There are a number of other measures which WFD believes could better improve the Act with regards to how wind farm applications are decided.

There are significant concerns about the Panel process; specifically we have concerns about the equity of the panels inquisitorial process and procedures such as Directions, time wasting on enquiry into unreasonable and largely irrelevant matters often reflecting the personal preferences of the Chair. Examples would be the views formed by some Panel Chairs on the visual amenity effects of aviation safety lighting for wind turbines and cumulative effects despite the latter being addressed in the wind farm guidelines.

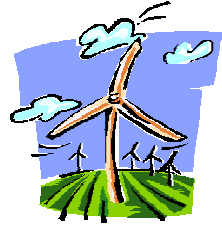
The Panel process can in our view be still informal and maintain a balanced and considered approach to the issues before it. The rules applicable to VCAT hearings may be more appropriate to ensure the fairness with which these hearings are held. This is especially important given the reluctance of the Minister to overturn other than in exceptional circumstances Panel recommendations.

Regular updating of the *Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria*, first published in 2002, should occur to address new issues which arise in the wind energy development industry from time to time. For example how aviation lighting and cumulative effects should be dealt with, among others. This would lead to clear directives about how these matters are to be dealt with in the planning process and avoid the current situation of uncertainty for decision makers and developers.

Furthermore, the focus should be firmly aimed at avoiding where practically possible, remedying or mitigating material adverse effects, with any residual adverse effects balanced against the positive outcomes of clean energy production. State leadership is necessary to balance local visual amenity effects (which will not be acceptable to some) with the emission reduction benefits which are desired not only on the local but on the State, Federal and Global level.

WFD would be happy to discuss this further with you at an appropriate time.

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Yours Sincerely

A handwritten signature in black ink that reads "Laura Bassed". The signature is written in a cursive, flowing style.

Laura Bassed
Project Planner

lbassed@windfarmdevelopments.net