

Planning and Environment Act 1987

Panel Report

Moyne Planning Scheme Applications to amend Planning Permits 2006/0221 and 2006/0222 Hawkesdale and Ryan Corner Wind Energy Farms

Front page

24 October 2017

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Panel Report pursuant to section 153, 155 and 97E of the Act

Moyne Planning Scheme Applications to amend Planning Permits 2006/0221 and 2006/0222
Hawkesdale and Ryan Corner Wind Energy Farms

24 October 2017



Brett Davis, Chair



Geoffrey Carruthers, Member



Ian Harris, Member

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List of Abbreviations

Abbreviation	Meaning
BAM	Bat and Avifauna Management
BLA	Brett Lane and Associates
CASA	Civil Aviation Safety Authority
CFA	Country Fire Authority
CMA	Catchment Management Authority
dB	Decibel
DEDJTR	Department of Economic Development, Jobs, Trade and Resources
DELWP	Department of Environment, Land, Water and Planning
DELWP Env	DELWP Environment Portfolio
DEPI	Department of Environment and Primary Industries (former)
DSE	Department of Sustainability and Environment (former)
EMP	Environmental Management Plan
EPA	Environment Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
ESO	Environmental Significance Overlay
FFG Act	<i>Flora and Fauna Guarantee Act 1988</i>
FZ	Farming Zone
HADDAC	Hawkesdale and district development action committee
MDA	Marshall Day Acoustics
NIRV	Noise from Industry in Regional Victoria
Noise Standard	<i>NZS 6808:2000 Acoustics – Wind farm noise</i>
NTGVVP	Natural Temperate Grassland of the Victorian Volcanic Plain
OD	Over dimensional
RSA	Rotor sweep area
SBWB	Southern Bent-winged Bat
SLO	Significant Landscape Overlay
SWLAS	South West Victoria Landscape Assessment 2012
the Act	<i>Planning and Environment Act 1987</i>
TIA	Traffic Impact Assessment
TMP	Traffic Management Plan
VCAT	Victorian Civil and Administrative Tribunal
WEF	Wind Energy Facility

Abbreviation	Meaning
WEF Guidelines	<i>Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria</i> (January 2016)

Overview

Amendment Summary

The Proposal	Moyne Planning Scheme Applications to amend Planning Permits 2006/0221 and 2006/0222 Hawkesdale and Ryan Corner Wind Energy Farms
Common name	Hawkesdale and Ryan Corner Wind Energy Farms
Brief description	The Minister for Planning is considering applications to amend the planning permit for the Hawkesdale and Ryan Corner Wind Farms. The permits were issued by the Minister for Planning in 2007 and 2008 under Division 6 of the <i>Planning and Environment Act 1987</i> .
Subject sites	Hawkesdale and Ryan Corner (shown in figure 1 of this report)
The Proponent	United Power Generation Pty Ltd (the Proponent)
Planning Authority	Minister for Planning represented by Department of Environment Land Water and Planning (DELWP)
Exhibition	1 – 28 June 2017
Submissions	Hawkesdale: Number of submissions: 6 Opposed: 4 Ryan Corner: Number of Submissions: 11 Opposed: 8

Panel Process

The Panel	Brett Davis (Chair), Geoffrey Carruthers and Ian Harris
Directions Hearing	Port Fairy Community Services Centre, 24 July 2017
Panel Hearing	Port Fairy Community Services Centre, 7 – 9 August 2017
Site Inspections	Accompanied, 10 August 2017
Appearances	Refer to Appendix B
Date of this Report	24 October 2017

Executive summary

(i) Summary

Moyne planning permits 2006/0221 and 2006/0222 were issued by the Minister for Planning in 2008 allowing for the use and development of the land for a wind farms at Hawkesdale and Ryan Corner.

The planning permits include conditions relating to turbine numbers, overall maximum turbine height, blade length and tower height. The applications seek to amend the existing planning permits under Section 97I of the *Planning and Environment Act 1987*.

The proponent has applied to amend the permits to increase the blade tip heights and other consequential changes detailed in Table 1 below.

Table 1 Summary of planning permit applications

Hawkesdale Windfarm 2006/0221	Ryan Corner Windfarm 2006/0222
Correct addresses and title details of the land	Correct addresses and title details of the land
Reduce the number of turbines from 31 to 26	Reduce the number of turbines from 68 to 56
Increase the maximum allowable height from 121.5 metres to 180 metres	Increase the maximum allowable height from 121.5 metres to 180 metres
Remove restriction on the maximum tower height and blade length, replacing with a restriction on the lowest swept height of: <ul style="list-style-type: none"> - 40 metres above ground level for the 180 metre turbines - 30 metres above ground level for the 160 metre turbines 	Remove restriction on the maximum tower height and blade length, replacing with a restriction on the lowest swept height of: <ul style="list-style-type: none"> - 40 metres above ground level for the 180 metre turbines - 30 metres above ground level for the 160 metre turbines <p>** Except for turbine B35 which must not exceed 30 metres above ground level</p>
Changes to noise conditions to require compliance with newer standards	Changes to noise conditions to require compliance with newer standards
Increase the distance from the nearest turbines within which a program of voluntary landscape mitigation works are available from 1.5 to 4 kilometres	Increase the distance from the nearest turbines within which a program of voluntary landscape mitigation works are available from 1.5 to 4 kilometres
Change shadow flicker requirements if consent is obtained from those affected	Change shadow flicker requirements if consent is obtained from those affected
Remove 0.872 hectares of native vegetation	Remove 3.768 hectares of native vegetation
Change aviation obstacle lighting requirements in response to increased turbine height	Change aviation obstacle lighting requirements in response to increased turbine height
General changes for consistency and update relevant agency names	General changes for consistency and update relevant agency names

Six submissions were received in response to Hawkesdale and 11 for the Ryan Corner application. Agency submissions generally did not object to the permit amendments, subject to permit conditions or modifications. Having reviewed the application and submissions, the Panel considers that the key issues relate to:

- landscape and visual amenity
- setbacks
- traffic and impacts on roads
- birds and avifauna
- noise
- aviation
- Moyne Council as responsible authority.

The Application is for an amendment to existing permits, not new applications. The scope of submissions, including from the Proponent, is confined to the changes from the existing approved project rather than undertaking a ‘first principles’ review. At the end of the Hearing, a “*without prejudice*” permit conditions workshop was held with agencies, the Proponent and Council. Appendices F and G of this report are the tracked changes version of those permits. The Panel commends the Proponent on its attempts to ‘clean up’ older permit conditions and provide consistency between the two permits.

The Panel approached the assessment of the Application within the framework of the *Planning and Environment Act 1987*, including the Moyne Planning Scheme, and called up instruments including the *Policy and Planning Guidelines for the Development of Wind Energy Facilities in Victoria* (January 2016) and the New Zealand wind farm noise standard NZS6808:2010 which applies in Victoria.

Having reviewed these and other issues, the Panel concludes that the amendment applications are strongly supported by policy, and both projects will contribute to meeting Victoria’s renewable energy commitments and targets.

Overall, the Panel supports the proposed amendments to the permit. Despite the proposed increase in turbine size, the Panel concludes that the expected impacts are manageable.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that the proposed amendments to Moyne Planning Scheme Planning Permits 2006/0221 (Hawkesdale Wind Energy Farm) and 2006/0222 (Ryan Corner Wind Energy Farm) be approved as exhibited, subject to amended conditions as set out in the Panel preferred versions in Appendices F and G of this report.

(iii) Further recommendations

The Panel makes the following further recommendations in relation to Bat and Avifauna:

- **The Bat and Avifauna Management plans for both Applications should be revised to reflect the changes proposed at both Wind Energy Facility sites**
- **Department of Environment, Land, Water and Planning Environment portfolio should develop, as soon as possible, a common Bat and Avifauna Management plan**

framework to guide ongoing monitoring, assessment and mitigation measures for all Wind Energy Facility sites

- **Department of Environment, Land, Water and Planning Environment portfolio should undertake further work on the assessment of the cumulative impacts of Wind Energy Facilities on key species of avifauna and bats.**

1 Introduction

1.1 The current planning permits

(i) Hawkesdale

Planning permit 2006/0221 was issued by the Minister for Planning on 21 August 2008. Concurrent with this application, Planning Permit PL06/319 issued by the Minister for native vegetation to be removed, lopped or destroyed.

The planning permit included conditions relating to turbine numbers, overall maximum turbine height, blade length and tower height.

Table 2 Existing Permit History – Hawkesdale

Date	Description
12 August 2010	Secondary consent changes approved by the department to increase overall turbine height and length restrictions within Condition 3 of Planning Permit 2006/0221. Specifically, the changes allowed: <ul style="list-style-type: none">- Increased overall turbine height from 121.5 to 126.3 metres.- Increased turbine tower height, from 78 to 80 metres.- Increased blade length, from 43.5 to 46.25 metres.
15 November 2011	The Minister for Planning granted an extension of time to Planning Permit 20060221 so that development must start no later than 15 March 2012.
23 February 2012	Plans endorsed under Planning Permit 2006/0221 by the Minister for Planning's delegate including site layout, wind turbine dimensions, substation layout, monitoring masts, signs, turbine coordinates, landscaping management plan, obstacle lighting, pre-construction TV/radio reception survey and environmental Management Plan.
5 March 2012	Works commenced on permit 2006/0221 through construction of the eastern access on Woolsthorpe-Heywood Road and associated drainage pipes, construction of several hundred metres of access tracks and associated drainage pipes, and compaction of a site compound gravel platform.
9 April 2015	Extension of time to complete works granted for Planning Permit 2006/0221. The Minister for Planning, under delegation, granted an extension of time for the completion of works until 29 August 2019.
Current status	Permit 2006/0221 active, completion of works must occur by 29 August 2019. Permit PL06/319 expired due to inaction.

(ii) **Ryan Corner**

Planning permit 2006/0222 was issued by the Minister for Planning on 21 August 2008. Concurrent with this application, Planning Permit PL07/067 issued by the Minister for native vegetation to be removed, lopped or destroyed. Table 3 outlines activity that has occurred since this permit was approved.

Table 3 Existing Permit History – Ryan Corner

Date	Description
12 August 2010	<p>Secondary consent approval granted by the department to increase the overall turbine height and length requirements contained within Condition 3 of Planning Permit 2006/0222. The approval provided for changes for the use of alternate turbine models as part of the wind farm. Specifically, the changes allowed:</p> <ul style="list-style-type: none"> - Increased overall turbine height, from 121.5 to 126.3 metres. - Increased turbine tower height, from 78 to 80 metres. - Increased blade length, from 43.5 to 46.25 metres.
23 February 2012	<p>Plans and associated documents endorsed under Planning Permit 2006/0222.</p> <p>67 turbines were endorsed on the plans (1 less than the 68 allowable under Condition 3 of the permit).</p>
5 March 2012	<p>Works commenced on permit 2006/0222 through construction of the wind farm’s Early Works (Stage 1) commencing in the form of one of the two access roads and associated drainage pipes, several hundred metres of access tracks and associated drainage pipes, and a site compound compacted gravel platform.</p>
9 April 2015	<p>Extension of time to complete works granted for Planning Permit 2006/0222. The Minister for Planning, under delegation, granted an extension of time for the completion of works until 29 August 2019.</p>
Current status	<p>Permit 2006/0222 active, works must be completed by 29 August 2019. Planning Permit PL07/067 has expired due to inactivity.</p>

(iii) **The subject sites**

The Hawkesdale and Ryan Corner wind farms are located within the Shire of Moyne and are covered by the Moyne Planning Scheme.

The Hawkesdale wind farm is located approximately 2 kilometres south of the town of Hawkesdale, Victoria. The site covers 2,280 hectares across four land holdings. Nearby towns include Warrnambool 17 kilometres to the south, Koroit 11.5 kilometres to the south-west, and Port Fairy 20 kilometres to the south-west.

The Ryan Corner wind farm is located on land south-west of Hamilton-Port Fairy Road in the area known as Ryan Corner, 12 kilometres north-west of Port Fairy. The site covers an area of approximately 3,600 hectares across 11 different land holdings. Nearby towns include

Yambuk, Codrington, Port Fairy and Koroit, all within 15 kilometres of the site. The site is 5.5 kilometres from the south Victorian coast.

The permits apply to land shown in Figure 1.

Figure 1 Hawkesdale and Ryan Corner Wind Farm locations¹



Operating wind farms within the vicinity include the Macarthur wind farm 13 kilometres to the north-west of Hawkesdale wind farm, and Codrington and Yambuk wind farms, which are within a 10 kilometre radius of Ryan Corner wind farm.

The Woolsthorpe wind farm is located 1 kilometre to the south-east of the Hawkesdale wind farm. This proposal has not been constructed. The permit was amended on 21 May 2017 and included an increase in the height of 20 turbines from 135 metres to 168 metres.

1.2 Procedural issues

(i) Native vegetation applications

The Proponent advised the Panel at the Directions Hearing that the permits issued by the Minister in 2008 for native vegetation removal for both Wind Energy Facilities (WEF) sites had expired. For Hawkesdale, the Proponent lodged an application dated 21 July 2017 to amend the Applications to include the removal of native vegetation and had requested that this matter be considered as part of the Hearings for the Amendment Applications.

¹ DELWP submission (Document 3) p17.

DELWP, as Minister's delegate, advised the Panel at the Directions Hearing that although the amendments regarding native vegetation removal had been made after the advertising period of the Amendment Applications, they had determined not to readvertise the Applications. This was because the vegetation removals proposed were predominately biological issues and that landscape impacts would be minimal.

DELWP Environment Portfolio (DELWP Env) advised that, as the proposed areas of vegetation to be removed at each WEF site exceeded 0.5 hectare, under section 55 of the Act are they recommending referral authority. Under the Act, DELWP Env had up to 28 days from the date of referral in which to formally respond.

The Chair proposed at the Directions Hearing that the hearings should proceed as planned and if the response from DELWP Env was received after completion of the Hearings, then this response would be circulated to enable all parties to respond to DELWP Env's response.

The Proponent lodged a revised application dated 27 July 2017 for the Ryan Corner WEF site after initial feedback from DELWP Env indicated that the DELWP Env mapped wetlands should have been included in the assessment of native vegetation removal on the Ryan Corner WEF site.

(ii) Ausnet

In addition, DELWP advised that the application was referred to Ausnet Transmission Group under section 55 of the Act on 6 April 2016, given that the application concerns the construction of buildings and works on land within 60 metres of a major electricity transmission line or an electricity transmission easement (Clause 66.02-4). Under Clause 66.02-4, Ausnet Transmission Group, as the relevant electricity transmission authority is a determining referral authority.

On 27 April 2016, Ausnet Transmission Group advised it did not object to the proposal, subject to conditions relating to setbacks from and works within the Ausnet Transmission Group's easement for the Hawkesdale WEF. These were provided in the draft Hawkesdale permit (Document 4), and carried through to the Panel recommended permit at Appendix F. DELWP advised that Ausnet did not object to the Ryan Corner WEF and did not require conditions to be placed on the Ryan Corner permit.

(iii) Permit workshop

At the conclusion of the Hearing, a without prejudice permit conditions workshop was held. The Proponent prepared a set of amended planning permit conditions in consultation with Moyne Shire Council and DELWP Env.

These permits were distributed to the Panel on 17 August 2017 (Documents 32 and 33). The draft conditions contained all comments by the above parties, as well as suggested conditions from DELWP Env.

On 30 August 2017, further information was then received from DELWP Env regarding Native Vegetation approvals. On 8 September 2017, DELWP revised their response accordingly about two different extent figures for native vegetation proposed to be

removed, and amended its conditional approval to reference 3.637 hectares and not 3.786 hectares (Documents 33, 34, 35).

1.3 The amended Planning Permit Applications

The Proponent sought amendments to the planning permits to allow for a reduced number of newer and more efficient wind turbines compared to the current permit. Exhibited conditions numbers are shown in brackets.

(i) Hawkesdale

The Application sought to amend the existing planning permit under Section 97I of the Act to:

- correct the address of the land and title details.
- Increase the maximum allowable turbine height from 121.5 metres to 180 metres (Condition 3c).
- Remove the restriction on the maximum tower height, currently set at 78 metres (Condition 3d).
- Remove the restriction on blade length and replace with a restriction on the lowest swept height of 40 metres above ground level for the 180 metre high turbines and 30 metres for the 160 metres high turbines (A10, A13 and A17) (Condition 3e).
- Reduce the permitted number of turbines permitted from 31 to 26 (Condition 3a).
- Allow for the future micro-siting (alteration to siting of not more than 100 metres) of turbines to occur without the consent of the Minister for Planning (Condition 2).
- Increase the distance from the nearest turbines within which a program of voluntary landscape mitigation works is to be made available to owners of dwellings from 1.5 kilometres to 4 kilometres (Condition 5a).
- Change the aviation obstacle lighting requirements in response to increased turbine height (Condition 9).
- Change the noise condition to require compliance under the contemporary NZS6808:2010 noise standard (Condition 21).
- Change the shadow flicker condition to allow for shadow flicker to exceed relevant standards on non-stakeholder properties if written consent is obtained by the landowner (Condition 25).
- Remove 0.872 hectares of native vegetation under the low risk pathway.

(ii) Ryan Corner

The Application sought to amend the existing planning permit under Section 97I of the Act to for the Ryan Corner wind farm to:

- Increase the maximum allowable turbine height from 121.5 metres to 180 metres (Condition 3c).
- Remove the restriction on the maximum tower height, currently set at 78 metres (Condition 3d).
- Remove the restriction on blade length and replace with a restriction on the lowest swept height of 40 metres above ground level for all turbines except for turbine B35 which must not be less than 30 metres above ground level (Condition 3e).

- Reduce the permitted number of turbines permitted from 68 to 56 (Condition 3a).
- Allow for the future micro-siting of turbines to occur without the consent of the Minister for Planning (Condition 2).
- Increase the distance from the nearest turbines within which a program of voluntary landscape mitigation works is to be made available to owners of dwellings from 1.5 kilometres to 4 kilometres (Condition 5a).
- Change the aviation obstacle lighting requirements in response to increased turbine height (Condition 9).
- Change the noise condition to require compliance under the contemporary NZS6808:2010 noise standard (Conditions 18 and 19).
- Change the shadow flicker condition to allow for shadow flicker to exceed relevant standards on non-stakeholder properties if written consent is obtained by the landowner (Condition 22).
- Remove 3.768 hectares of native vegetation under the moderate risk pathway.

1.4 Summary of issues raised in submissions

The key issues raised in the submissions of the various parties are briefly summarised as follows:

The main objections identified in submissions are:

- **Views and visual amenity** – The turbines would disrupt views and impact visual amenity as turbines would be taller in the surrounding relatively flat landscape.
- **Greater setbacks** – The turbines would impose themselves on neighbours and that there should be greater setbacks. The layout should be amended to position the taller turbines further away from neighbouring residences.
- **Traffic and impacts on roads** – The roads used for the construction and operation of the project should be maintained in a safe and fit for purpose condition.
- **Birds and avifauna** – There will be increased death of birds and avifauna.
- **Noise** – There will be a general increase of noise from the revised WEF and noise monitoring should be carried out by neutral bodies not engaged by the proponents (concern that there is currently no independent monitoring of noise). Associated noise impact on human health and wellbeing were raised.
- **Aviation** – Aviation lights will be seen from far away, effect on birds, bats and CASA requirements differing between the two wind farms.
- **Telecommunication impacts** – The proposal will disrupt/interfere TV, telephone reception, mobile phone and emergency communications. This is covered by exiting permit conditions.
- **Moyne Council as responsible authority** – Moyne expressed concern that matters in the permit were to the satisfaction of the Minister for Planning, but that it was the responsible authority for administration.

Many issues raised by submitters were not relevant to this Application because a permit has already been issued. In some cases, these issues are dealt with by existing permit conditions or are not matters that are typically considered in planning applications. The issues include:

- **Shadow flicker** will increase. This is covered by existing permit conditions.

- **Property prices** – Decrease in property prices and inability for residential development nearby. These are not relevant planning considerations in this case.
- **Health impacts** – one submitter (Coffey) introduced this issue during the Hearing, previously this issue had not formed part of their submission. Various articles and statements were tabled.² The Panel has no reason to doubt the genuine concern that the submitter has expressed however as no opportunity for the Proponent or others to call evidence on this matter was provided it refers to previous Panels where assessment had been tested and adopts the view there is no direct evidence to support health impacts.³

The Panel considered all written submissions made in response to the exhibition of the Application; as well as further submissions, evidence and other material presented to it during the Hearing, and observations from site visits.

The Application is an amendment to an existing permit, not a new application. The scope of submissions, including from the Proponent, is confined to the changes from the existing approved project rather than undertaking a ‘first principles’ review.

1.5 The Minister for Planning’s Role

Planning Permits 2006/0221 and 2006/0222 were issued under Part 4, Division 6 of the *Planning and Environment Act 1987* (the Act). The Minister called in these applications in accordance with Section 97 of the Act.

Under Section 97I of the Act a person entitled to develop the Hawkesdale or Ryan Corner Wind farms may apply to the Minister for Planning to amend the relevant planning permit.

Sections 97D and 97E apply to the application to amend the planning permit, as if it were an application for a permit referred to the Minister under Section 97B or 97C.

Under Section 97E the Minister must refer all submissions to a Planning Panel under Part 8 of the Act, and may refer any late objections and submissions.

Under Section 97J, after considering this Panel’s report, the planning scheme and any matters under Section 60, the Minister may amend the permit, amend the permit subject to conditions, or refuse to amend the permit on any grounds the Minister sees fit.

1.6 Issues dealt with in this report

The Panel approached the assessment of the Application within the framework of the *Planning and Environment Act 1987* including the Moyne Planning Scheme, and called up instruments including:

- the Policy and Planning Guidelines for the Development of Wind Energy Facilities in Victoria (January 2016);
- WEF Guidelines; and
- the New Zealand wind farm noise standard NZS6808:2010 (the Noise Standard), which applies in Victoria.

² Document 12

³ See Dundonnell Wind Farm Panel Report (2016) pg. 86-89, Stockyard Hill Wind Farm Panel Report (2010) pg. 38-40, Mortlake South Panel Report (2017) pg.4. Lal Lal Wind Farm (2017) pg.55

The Panel has reviewed a large volume of material. 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
- Flora and fauna
- Landscape and visual impact
- Traffic
- Noise
- Other issues:
 - Electromagnetic interference
 - Drainage
 - Who should be the responsible authority?
 - Planning permit assessment.

2 Planning context

DELWP provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed DELWP's response and the policy context of the Amendment, and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Policy framework

The Proponent noted in its submission that the assessment of the Wind Farms against the planning framework is limited to the manner in which the proposed changes comply with the current planning controls and policies (noting any changes since the planning permit was originally granted).

(i) State Planning Policy Framework

The Proponent submitted that the Application is supported by the following clauses in the State Planning Policy Framework. The Proponent noted that *"Each of these policies are largely unchanged from the regime that applied at the time the [current] planning permit was granted"*.⁴

Clause 19.01 (Renewable energy) – this clause seeks to 'promote' and 'facilitate' renewable energy in Victoria, taking into account the economic and environmental benefits to the broader community while minimising the effects on the environment and local community.

The clause notes that economically viable wind farms require locations that have 'consistently strong winds' throughout the year. The clause states that planning must consider the *WEF Guidelines* where relevant. The Proponent submitted that the *"Planning Scheme emphatically supports and 'facilitates' renewable energy generation provided it is in an appropriate location."*⁵

Table 4 illustrates the assessment against the SPPF.

Table 4 SPPF Assessment⁶

SPPF Clause	Objective/Strategies
Clause 10.04 Integrated decision making	Planning authorities and responsible authorities should endeavour to integrate the range of 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.

⁴ Document 20 p14

⁵ Document 14 p7

⁶ DELWP submission p21-22

SPPF Clause	Objective/Strategies
Clause 11.02 Supply of urban land	To maintain access to productive natural resources and an adequate supply of well-located land for energy generation, infrastructure and industry.
Clause 11.04 Settlement	<p>To protect natural assets and better plan our water, energy and waste management systems to create a sustainable city.</p> <p>Protect and restore natural habitats in urban and non-urban areas.</p> <p>Improve noise and air quality to improve human and environmental health.</p> <p>Protect significant water and sewerage assets.</p> <p>Reduce energy consumption and transition to clean energy.</p>
Clause 11.07 Regional Victoria	<p>To develop regions and settlements which have a strong identity, are prosperous and are environmentally sustainable.</p> <p>Ensure the capacity of major infrastructure (including energy generation and distribution systems) is not affected adversely by urban development in adjacent areas.</p>
Clause 11.11 Great South Coast	<p>Planning must consider the Great South Coast Regional Growth Plan.</p> <p>Support and facilitate the development of energy facilities in appropriate locations where they take advantage of existing infrastructure and provide benefits to the regional community.</p> <p>The cumulative impacts of alternative energy development should be planned for and managed.</p> <p>Access to key construction materials resources, including onsite quarrying should be facilitated.</p>
Clause 12 Environmental and Landscape Values	<p>Planning should help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values.</p> <p>Planning should protect sites and features of nature conservation, biodiversity, geological or landscape value.</p>
Clause 12.01 Biodiversity	To assist the protection and conservation of Victoria’s biodiversity, including important habitat for Victoria’s flora and fauna and other strategically valuable biodiversity sites.
Clause 12.04-2 Landscapes	To protect landscapes and significant open spaces that contribute to character, identity and sustainable environments.
Clause 13 - Environmental risks	Planning should adopt a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards. Planning should identify and manage the potential for the environment, and environmental changes, to impact upon the economic, environmental or social well-being of society.

SPPF Clause	Objective/Strategies
Clause 13.04-1 Noise abatement	<p>To assist the control of noise effects on sensitive land uses.</p> <p>Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.</p> <p>Planning must consider as relevant:</p> <ul style="list-style-type: none"> - State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2. - State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (in metropolitan Melbourne). - Interim Guidelines for Control of Noise from Industry in Country Victoria (Environment Protection Authority, 1989). - A Guide to the Reduction of Traffic Noise (VicRoads 2003).
Clause 14 Natural resource management	<p>Planning is to assist in the conservation and wise use of natural resources including energy, water, land, stone and minerals to support both environmental quality and sustainable development.</p>
Clause 14.01-2 Sustainable agricultural land use	<p>To encourage sustainable agricultural land use.</p> <p>Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.</p>
Clause 15.03-2 Aboriginal cultural heritage	<p>To ensure the protection and conservation of places of Aboriginal cultural heritage significance.</p> <p>Ensure that permit approvals align with recommendations of a Cultural Heritage Management Plan approved under the Aboriginal Heritage Act 2006.</p>
Clause 17 Economic development	<p>Planning is to provide for a strong and innovative economy, where all sectors of the economy are critical to economic prosperity.</p> <p>Planning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.</p>

SPPF Clause	Objective/Strategies
Clause 18 Transport	<p>Planning should ensure an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods, and is safe.</p> <p>Locate and design new transport routes and adjoining land uses to minimise disruption of residential communities and their amenity.</p> <p>Ensure transport practices, including design, construction and management, reduce environmental impacts.</p> <p>Consider all modes of travel, including walking, cycling, public transport, taxis and private vehicles (passenger and freight) in providing for access to new developments.</p>
Clause 19.01 Renewable energy	<p>To promote the provision of renewable energy in a manner that ensures appropriate siting and design considerations are met.</p> <p>Facilitate renewable energy development in appropriate locations.</p> <p>Protect energy infrastructure against competing and incompatible uses.</p> <p>Develop appropriate infrastructure to meet community demand for energy services and setting aside suitable land for future energy infrastructure.</p> <p>In considering proposals for renewable energy, consideration should be given to the economic 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.</p> <p>In planning for wind energy facilities, recognise that economically viable wind energy facilities are dependent on locations with consistently strong winds over the year</p> <p>Planning must consider as relevant:</p> <ul style="list-style-type: none">- Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria (Department of Environment, Land, Water and Planning, January 2016).

(ii) **Local Planning Policy Framework**

The Proponent submitted that the Local Planning Policy Framework is mostly consistent with the framework that applied in 2010. It continues to note the importance of agriculture, tourism and the protection of significant landscapes in the region.

Table 5 provides the assessment against the LPPF.

Table 5 LPPF Assessment⁷

LPPF Clause	Objectives/strategies/policy
<p>Clause 21.02 Municipal Overview</p>	<p>The municipal overview recognises the geographic location, physical characteristics, historic development, and population characteristics of the shire.</p> <p>The overview recognises the landscape character of the municipality and identifies that the majority of development pressure on landscape character occurs in coastal areas. However, other infrastructure pressures include wind farms and natural gas pipeline and processing plants in the coastal hinterland, and telecommunication and electricity towers throughout the landscape.</p>
<p>Clause 21.03 Factors influencing future planning and development</p>	<p>The municipality relies heavily on agricultural activity as its economic base.</p> <p>The existing agricultural base needs to be preserved in recognition of its strong economic performance.</p> <p>The Shire has a high quality historic built environment, towns of distinctive urban character, farmland of historic and landscape interest and rich aboriginal heritage.</p> <p>The importance of landscape character to the economy of the Region and the need to relate new development to landscape character.</p> <p>The importance of views of the landscape from road corridors, and the need to control and manage development that is highly visible from main road corridors and principal tourist routes.</p> <p>The need to retain the dominance of the landscape from key viewing locations throughout the Region.</p>
<p>Clause 21.04 Municipal Vision</p>	<p>Economic development</p> <p>To support and protect the agricultural base of the shire, recognising the potential of improving primary production, adding value to primary products and diversifying into other industries, in an effort to start new business, employment and increase economic wealth.</p> <p>Environment</p> <p>To have a balance between development and the protection of the natural environment.</p> <p>Land use planning</p> <p>To have balanced development and to protect the natural environment.</p>

⁷ DELWP submission p24-26

LPPF Clause	Objectives/strategies/policy
Clause 21.06 Environment	<p>Overall, the condition of the land, water and biological resources in the region is declining.</p> <p>The majority of the land in the shire has been converted to agriculture.</p> <p>Landscape Character elements</p> <p>The road corridors throughout the Shire pass through different landscape types and precincts, resulting in a variety of landscape experiences and scenery throughout the journey. The assessment and management of development that can be seen from main road corridors is therefore an important issue in the Shire.</p> <p>Landscape character and significance</p> <p>The Shire contains limited areas of its original natural vegetation cover which primarily consisted of native forests and a combination of grasslands, woodlands and wetlands. Much of the remaining remnant vegetation exists only in small fragments, many of which are in poor health and restricted to small parcels of public land, scattered throughout the Shire.</p> <p>Moyne Shire is renowned for its picturesque natural and man-made landscapes. Spectacular views exist along the coastline. Significant views are also to be found throughout the rural areas, with those in the environs of Tower Hill being particularly noteworthy.</p> <p>Objectives</p> <p>To protect water quality by preventing urban run-off leading to erosion, siltation or degradation of waterways.</p> <p>To develop and implement sensible fire management solutions that reduce risks to the community and recognise the balance between fire safety and healthy natural environments.</p> <p>To minimise stormwater run-off in urban and in rural areas.</p> <p>To retain the open and rural character of views and outlooks, particularly from main road corridors.</p>
Clause 21.07 Economic Development	<p>Agriculture</p> <p>Agriculture is the most significant land use in the Shire, due to the mild climate, high and well distributed rainfall, suitable soils and good access to markets. Intensive dairying and crop production activity are significant land uses along the coastal areas, whilst large cattle and sheep farms are significant activities in the northern portion of the Shire.</p> <p>Wind farms and other energy facilities</p> <p>Wind farms have been established along the Yambuk and Codrington coasts. There is an increasing amount of pressure for wind farms and gas plants along the coastal hinterland from Peterborough to Warrnambool, including large wind farms containing multiple turbines.</p>

LPPF Clause	Objectives/strategies/policy
Clause 22.02-1 Aboriginal Heritage Local Policy	<p>To promote the protection and appropriate management of Aboriginal cultural heritage values.</p> <p>It is policy to have regard to current Aboriginal heritage study documents and where there is a known Aboriginal archaeological site to request a report from suitably qualified archaeologist and consult with the Aboriginal authority.</p>
Clause 22.02 -2 Rare and threatened species Local Policy	<p>To maintain and enhance biodiversity in Moyne.</p> <p>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 <i>Flora and Fauna Guarantee Act 1988</i>.</p> <p>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 <i>Flora and Fauna Guarantee Act 1988</i>.</p> <p>It is policy to refer the application to DELWP (former DNRE), discourage the clearing of remnant vegetation and habitat corridors for identified rare and threatened flora and fauna habitat.</p>
Clause 22.02-5 Pest Plant Management Local Policy	<p>To contain the spread of noxious and pest weeds and to progressively reduce the areas affected.</p> <p>It is policy to consider the management and removal of pest weeds in developments.</p>
Clause 22.02-8 Flora and Fauna Local Policy	<p>To protect and enhance flora and fauna communities throughout the Shire.</p> <p>It is policy that:</p> <p style="padding-left: 40px;">The protection, conservation and enhancement of ecological communities hosting native flora and fauna should be encouraged.</p>
Clause 22.03-4 Agricultural Production	<p>This policy applies to all land in the Farming and Rural Living Zones.</p> <p>To protect the natural and physical resources upon which agricultural industries rely.</p> <p>To prevent land use conflicts between agricultural uses and sensitive uses and ensure that use and development in the municipality is not prejudicial to agricultural industries or the productive capacity of the land.</p> <p>To ensure that land capability and land suitability will be considered in the assessment of use and development proposals.</p> <p>To ensure that the use and development of land within Moyne is not prejudicial to agricultural industries or to the productive capacity of the land.</p> <p>It is policy that:</p> <p style="padding-left: 40px;">Highly productive agricultural land should be protected from development that may detrimentally affect the amount of land available for viable farming enterprises, while providing opportunities for new and innovative agricultural operations.</p>

LPPF Clause	Objectives/strategies/policy
	<p>The non-agricultural use and development of high quality agricultural land should be limited.</p> <p>Adequate buffers around potentially annoying activities to avoid the creation of incompatible land use scenarios should be encouraged.</p>
<p>Clause 22.03-8 Fire Protection Local Policy</p>	<p>This policy applies to all land zoned Farming.</p> <p>Ensure that land use and development does not increase the level of fire risk.</p> <p>Ensure that adequate fire protection measures are considered with any development application.</p> <p>It is policy that:</p> <ul style="list-style-type: none"> Development will not be considered where safe access for fire-fighting purposes is unable to be provided. <p>The views of the CFA may be sought for significant development, or amendment requests.</p>

(iii) **Other planning strategies or policies used in formulating the Applications**

The Wind Energy Facility Guidelines

The *WEF Guidelines* aim to provide advice for responsible authorities, proponents and the community regarding the decision-making framework that relates to wind farm proposals. The intention is to provide a framework for a ‘consistent and balanced approach’ to the assessment of wind energy projects in Victoria, and set consistent operational performance standards.

The *WEF Guidelines* have been a reference document in all planning schemes (including the Moyne Planning Scheme) rather than an incorporated document since March 2011.

The current version of the *WEF Guidelines* (most recently amended in January 2016) are largely unchanged from the version applicable in 2010, with the exception of structural changes and the inclusion of additional detail. Notable changes include those to ‘Flora and fauna impacts assessment’ and a more detailed discussion of the noise requirements under the NZS6808:2010.

Victoria’s Renewable Energy Roadmap

In August 2015, Victoria’s Renewable Energy Roadmap – *Delivering jobs and a clean energy future*, was released. The Roadmap includes the following statements:

- *Climate change is one of the most critical issues facing our state;*
- *Victoria is committed to sustainable development and to decreasing Victoria’s reliance on non-renewable sources of energy;*
- *The Victorian government believes targets are critical for ensuring growth in renewable energy generation. Therefore, as part of the Action Plan, Victoria will establish two targets for renewable energy generation in this state ...*
- *... Growing the share of renewable energy in Victoria is a key part of the government’s strategy to create jobs, particularly in rural and regional*

Victoria and with a focus on addressing the reduction in employment occurring in areas such as automotive manufacturing.

(iv) **Victoria’s Renewable Energy Auction Scheme**

In June 2016, the Victorian government committed to Victorian renewable energy generation targets of 25 per cent by 2020 and 40 per cent by 2025.⁸ This involves the government auctioning up to 5,400 megawatts of additional capacity over the life of the scheme (based on current generation and demand forecasts).

(v) **Victoria’s Regional Statement**

In November 2015 ‘*Victoria’s Regional Statement – your voice, your region, your state*’, was released. The statement comments on regional jobs, renewable energy and protecting the quality of life for regions. It states that Victoria is taking the lead on climate change action and becoming a low-carbon economy; this will deliver major benefits and jobs opportunities for regional Victoria.

2.2 Planning scheme provisions

The Hawkesdale and Ryan Corner Wind Farm sites and neighbouring land are located within the Farming Zone (FZ).

No part of either site is subject to an overlay. The statutory controls relevant to the applications are listed in Table 6.

Table 6 Permit triggers

Zone and overlay	Permit/Application Requirement(s)/Decision guidelines
<p>Clause 35.07 Farming Zone</p>	<p>A permit is required to use the land for a wind energy facility (Clause 35.07-1) and must meet the requirements of Clause 52.32.</p> <p>A permit is required to construct a building or carry out works associated with a Wind energy facility (Section 2 use under Clause 35.07-4).</p> <p>The relevant purposes of the Farming Zone are:</p> <ul style="list-style-type: none"> To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies. To provide for the use of land for agriculture. To encourage the retention of productive agricultural land. To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture. To encourage the retention of employment and population to support rural communities. To encourage use and development of land based on comprehensive and sustainable land management practices and

⁸ DELWP submission p27.

infrastructure provision.

Decision guidelines relevant to this application include matters relating to general issues, agricultural issues and impacts from non-agricultural issues, environmental issues and design and siting issues.

(i) **Particular provisions**

Clause 52.17 – Native Vegetation

The purpose of Clause 52.17 is *“To ensure permitted clearing of native vegetation results in no net loss in the contribution made by the native vegetation to Victoria’s biodiversity”*. Pursuant to Clause 52.17-2, a planning permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

Clause 52.32 – Wind Energy Facility

The Proponent noted that Clause 52.02 has undergone changes since the current planning permit was granted but submitted that these were not material to the Application. The purpose of this clause is *“to facilitate the establishment and expansion of wind energy facilities in appropriate locations, with minimal impact on the amenity of the area”*. The decision guidelines include:

- *The effect of the proposal on the surrounding area in terms of noise, blade glint, shadow flicker and electromagnetic interference.*
- *The impact of the development on significant views including visual corridors and sight lines.*
- *The impact of the facility on the natural environment and natural systems.*
- *The impact of the facility on cultural heritage.*
- *The impact of the facility on aircraft safety.*
- *The [WEF Guidelines].*
- *The New Zealand Standard NZS6808:2010, Acoustics – Wind farm noise [updated from the 1998 standard applicable at the time the current planning permit was granted].*

A new Clause 52.32-3 requires the written consent of all owners and dwellings located within 1 kilometre of a proposed turbine. However, this clause does not apply to the Application because it does not propose to increase the number of turbines, and it does not seek to locate a turbine within 1 kilometre of a dwelling.

A new Clause 52.32-7 provides that:

... applications to amend permits under section 72 of the Act are exempt from certain decision requirements and review rights under the Act where the application does not seek to increase the number of turbines or locate a turbine closer to an existing dwelling within one kilometre of a turbine than the closest permitted turbine to that dwelling.

The Proponent noted that provision does not apply to it, as the Application was lodged under section 97I of the Act.

(ii) **General provisions**

Clause 65 – Decision Guidelines

The following decision guidelines apply to the application:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- 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.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

3 Flora and fauna

3.1 Issues

The key flora and fauna issues arising from the Applications for amended permits at one or both of the WEF sites, related to:

- The removal of native vegetation
- The impact on Brolga
- The impact on the Southern Bent-winged Bat (SBWB)
- The monitoring and management of impacts on birds and bats through the proposed Bat and Avifauna Management (BAM) Plan.

3.2 Evidence and submissions

The Proponent submitted that in considering the effects wind farms on flora and fauna at WEF sites and surrounding areas, the *WEF Guidelines* require consideration of:

- Any impacts on species or communities protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) or the *Flora and Fauna Guarantee Act 1988* (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 Proponent stated that although the native vegetation assessment was undertaken for the entire WEF study area and impacts calculated on the removal of all the native vegetation located in this study area, as the WEF infrastructure would not affect the whole area, the actual impacts were likely to be lower. The Proponent advised that a total of 13 remnant patches were recorded in the study area comprising of Swamp Scrub, Plains Grassland, and Basalt Shrubby Woodland vegetation classes.

In addition a Natural Temperate Grassland of the Victorian Volcanic Plain (NTGVVP) ecological community was recorded, as noted above. Based on this information a total 0.872 hectare of native vegetation (including 0.371 hectare of NTGVVP) could potentially be impacted. The Proponent advised that the offset requirements for removal of native vegetation had been calculated pursuant to Clause 52.17 of the Planning Scheme to be 0.056 general biodiversity equivalence units with minimum strategic biodiversity score of 0.146 within the Glenelg Hopkins CMA area or Moyne Shire area.

DELWP Env indicated that it required further information before it could support the application. However, in relation to DELWP Env's specific concerns regarding the wind breaks on the site, Mr O'Callaghan stated that, although there were some Australian plants in these wind breaks, the plants were not indigenous to the area and therefore not considered to be 'native vegetation'.

DELWP Env provided a final response after the Hearing (dated 30 August 2017) advising that it did not object to the Application for the Hawkesdale WEF if certain conditions were met relating to native vegetation removal. The DELWP responses are found at Appendix D.

The Proponent in its submission of 27 July 2017 stated that the assessment (including the wetlands mapped by DELWP Env) indicated that the area of native vegetation that could potentially be impacted could total 3.768 hectare. The offset requirements to remove this area of native vegetation had been calculated pursuant to Clause 52.17 of the PS to be 0.745 general biodiversity equivalence units with minimum strategic biodiversity score of 0.354 within the Glenelg Hopkins CMA area or Moyne Shire area. DELWP Env indicated that it required further information before it could support the application.

The Proponent stated that for both sites appropriate offsets would be sourced through a native vegetation broker.

Council submitted that it had no 'in principle' objection to the proposed removal of native vegetation provided that appropriate offsets and conditions were satisfactorily met by the Proponent.

The Panel members visited both sites independently and during the accompanied site visit on 10 August 2017.

DELWP Env provided a final response after the Hearing, dated 8 September 2017 advising that it did not object to the Application for the Ryan Corner WEF providing that certain conditions were met relating to native vegetation removal. The DELWP responses are found at Appendix E.

3.2.1 Native vegetation

(i) Evidence and submissions

Mr O'Callaghan gave evidence that on the verge of the Woolsthorpe - Heywood Road at the Hawkesdale WEF site there was a small area of NTGVVP, which was an ecological community listed under the EPBC Act. Referral to the Commonwealth under the EPBC Act would be required if the final development footprint could not avoid this area.

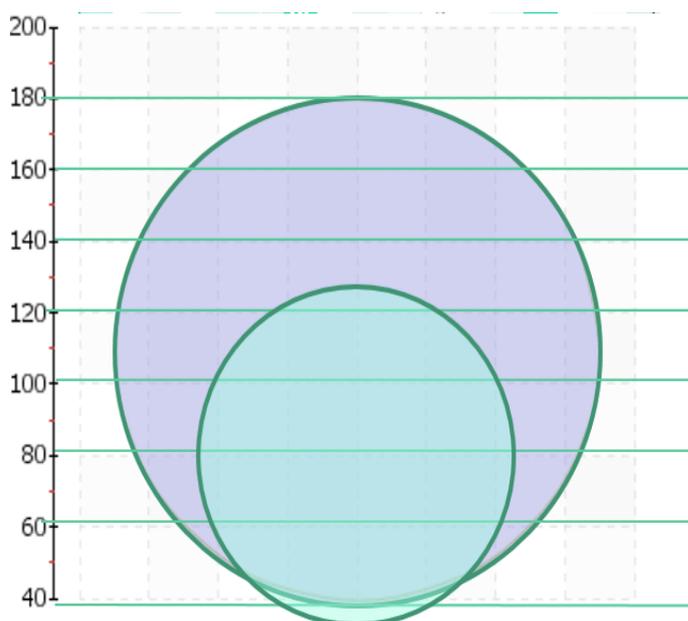
(ii) Avifauna

Several submissions raised issues relating to avifauna, including those from Council, DELWP Env, and Ms Keane regarding Wedge-tailed Eagles on the Hawkesdale site.

Mr O'Callaghan gave evidence that, in addition to the assessments undertaken for the original WEF applications by Brett Lane and Associates Pty Ltd (BLA), BLA had completed a number of additional assessments of the impacts on biodiversity of the proposed permit amendments at both the WEF sites between 2015 and 2017. He stated that these assessments recorded that the birds as flying over both WEFs sites were common species adapted to farmland settings.

Mr O'Callaghan provided information on the increased total RSA (129% increase) for each of the proposed 180 metre high turbines (23 of the 26 turbines at the Hawkesdale WEF site and 55 of the 56 turbines at the Ryan Corner WEF site) compared with the 126.3 metre high turbines originally proposed. He also provided information on the change of turbine RSAs at different heights for the 180 metre turbines compared with the approved 126.3 metre turbines (Figure 2).

Figure 2 Comparison of RSA of 126.3 metre and 180 metre turbines⁹



Mr O'Callaghan provided the results of the findings of bird flight recording that showed that for the 180 metre turbines showing a decrease in risk to birds flying below 60 metre, a small increase in risk to birds flying at or above 60 metre and an increase in risk to higher flying bird species.

In relation to those turbines where the RSA would be lowered from 33.75 metre to 30 metre (three at the Hawkesdale WEF site and one at the Ryan Corner WEF site), Mr O'Callaghan stated that this would slightly increase the potential bird collision risk at these turbines.

Mr O'Callaghan stated that the potential for increased collision risk would affect common farmland birds as no threatened or endangered species were recorded during the surveys nor considered likely to regularly visit either site. He stated that the increase in the RSA above the 80 metre level would most likely impact on higher flying species including raptors and species such as the Wedge-tailed Eagle and White-throated Needletail, neither of which were threatened species. Mr O'Callaghan also stated that the increase in tip height from 126.3 metre to 180 metre would affect only a small number of high-flying birds as only a small number of bird flights were observed at this height.

(iii) **Brolga**

In relation to Brolga at both WEF sites, Mr O'Callaghan gave evidence that assessment surveys had shown that the nearest potential breeding wetlands were at least 6 kilometres from either site, the sites were not frequently used by Brolga and there were no recent records of Brolga in the area in the Victorian Bird Atlas. Mr O'Callaghan stated that according to BLA's unpublished data, Brolgas fly most frequently below 30 metres. He said therefore increasing the minimum height of the RSA of the 180 metre turbines would reduce the overall collision risk to Brolgas at both WEF sites.

⁹ Document 19

DELWP Env advised that it had assessed the impacts of proposed increase in turbine RSAs on threatened species of birds, particularly Brolga, at both WEF sites. DELWP Env indicated that it had reviewed the implications of the *“Interim Guidelines for the Assessment, Avoidance, Mitigation and Offsetting of Potential Wind Farm Impacts on the Victorian Brolga Population 2011, Revision 1 February 2012” (DSE 2012)* (Brolga guidelines) which had been introduced since the permits were issued for the original Hawkesdale and Ryan Corner WEFs.

As there were records for Brolga breeding within the radius of investigation outlined in the Brolga guidelines (i.e. 10 kilometre) around each site, the guidelines would trigger a Level 2 Brolga investigation for both WEF sites if they were applied to new applications. However, as the applications under consideration were amendments rather than new applications, DELWP Env had not required such investigations to be undertaken. DELWP Env did not anticipate that the granting of the amended permits would materially increase the risk to Brolga.

Following a direction of the Panel at the Directions Hearing for information on the monitoring of bird deaths at operational WEFs, DELWP Env submitted that although a number of birds of prey (including Wedge-tailed Eagles) had been killed after colliding with turbines, only one Brolga death at a WEF had been recorded and it was not certain this death was caused by striking a turbine.

(iv) Cumulative impacts

In relation to cumulative impacts, DELWP Env submitted that since 2007 it had asked WEF operators to make financial contributions to cumulative impact studies on threatened species such as Brolga. It stated that this had led to the preparation of the Brolga Guidelines. DELWP submitted that applying the *“zero net impact”* principle as outlined in the Brolga Guidelines, was the most appropriate approach to considering the cumulative impacts on Brolga.

Council raised concerns that the Brolga Guidelines had not been applied, and was concerned with the potential cumulative impacts on birds from all the proposed WEFs in the area.

The findings of the previous Panel, in relation to the Hawkesdale WEF (July 2007), were that: *“the threatened species considered most at risk by the wind farm was the Brolga ... this wind farm will not create any undue additional risk to the regional Brolga population”*. The findings of the previous Inquiry in relation to the Ryan Corner WEF (March 2008) were *“that the risk to Brolga ... is low and any impacts can be managed via operational management of the wind farm, offsite habitat enhancement or predator control as necessary”*.

The recent Woolsthorpe Wind Farm Panel (10 April 2017), which considered an amended permit to raise the height of the proposed 20 turbines from 135 metres to 168 metres, did not identify any issues relating to birds.

3.3 Discussion and conclusions

Native vegetation

As both the Proponent and DELWP Env agreed on the assessment of native vegetation removal proposed for both sites, the Panel accepts this outcome. The Panel considers that the area of native vegetation to be removed on both sites is small and appropriate offsets could be found.

The Panel notes that the resolution of the native vegetation issues could have happened far more efficiently if sufficient discussions had occurred between the Proponent and DELWP Env earlier in the process. Although all matters may have now been resolved, the Panel sees no reason why this could not have been achieved before the Hearings commenced, which would have avoided the preparation of many documents and unnecessary discussions at the Hearings.

The amended permit conditions in relation to flora and fauna (except for native vegetation removal) have not been significantly changed from the original permit conditions for both WEFs, and generally relate to wording and terminological changes. In the feedback received on the permit conditions, the Proponent indicated that in Condition 29(d) relating to the content of BAM plan for the Hawkesdale WEF, the word 'threatened' should be inserted, whereas DELWP Environment Portfolio (DELWP Env) requested that it be removed.

The Panel has redrafted conditions on both permits to address this, providing a compromise.

Condition 29(d) for the Hawkesdale WEF and 19 (d) for Ryan Corner WEF as proposed by the Panel reads as follows:

- *a strategy developed in consultation with DELWP Environment Portfolio and to the satisfaction of the Minister for Planning to mitigate or offset any impacts in relation to the threatened or significantly affected native bird or bat species detected during monitoring. Measures to offset the impacts may include management or improvement of habitat or breeding sites away from the WEF in the region to improve breeding productivity, or other offsets to the satisfaction of the Minister for Planning.*

The Panel concludes:

- The area of native vegetation proposed for removal is relatively small and can be effectively offset
- For the Hawkesdale WEF the wording 'threatened or significantly affected native bird or bat species' should be included in permit condition 29(d) in relation to mitigation or offset impacts
- This wording should be incorporated into the Ryan Corner WEF for consistency at condition 19(d).

Avifauna

The Panel notes that the birds recorded using both the sites are common species adapted to farmland settings and this appears to have changed little since the current permits were issued. The Panel also notes that as no substantive changes are proposed to the number or

locations of the turbines, the findings of the original Panel/Inquiry in relation to birds are relevant to these permit amendment applications.

The Panel accepts Mr O'Callaghan's evidence that the potential for increased collision risk from the amended permits for both WEF sites would mainly affect common farmland birds. The Panel accepts Mr O'Callaghan evidence that the increase proposed in the RSA above the 80 metre level would most likely impact on higher flying species including raptors and species such as the Wedge-tailed Eagle and migratory White-throated Needletail which are not threatened species.

Brolga

The Panel accepts the submission from DELWP Env and the evidence of Mr O'Callaghan that Brolga are the most likely bird species of conservation significance that could potentially visit the sites. The Panel accepts Mr O'Callaghan evidence that the nearest recent records of Brolga breeding site is 6 kilometre and there were no observations of Brolga on the sites recorded during recent surveys.

The Panel is concerned that WEF sites were not assessed in line with the Brolga guidelines, which were introduced subsequent to the issue of the permits for the original WEFs. The Panel believes it would have been better for such an assessment to be done, but accepts that it is not technically required because the applications were for amended permits not for new permits.

The Panel notes Mr O'Callaghan statement that, according to BLA's unpublished data, Brolgas fly most frequently below 30 metre and that the raising of the lower level of the RSA for most of the turbines would reduce the collision risk to Brolga. The Panel also notes DELWP's position that the Brolga Guidelines operate on the principle of locating turbines away from key Brolga habitat areas rather than relying on flying height. However, the Panel accepts DELWP's advice that the granting of the amended permits would not increase the risk to Brolga.

The Panel also notes that the Panel which considered an amended permit on the Woolsthorpe WEF site (located immediately southeast of the Hawkesdale WEF site), did not identify any issues relating to birds.

The Panel concludes that the risk to threatened species of birds and in particular Brolga from the development of the proposed WEFs at both sites is low.

Cumulative impacts

The Panel notes that the evidence indicates that the amended permits for both WEFs may lead to an increase in deaths of species which are not listed as threatened, such as the Wedge-tailed Eagle. The Panel is concerned that, although the granting of these amended permits in themselves may not have a significant impact on such species, the cumulative impact all the proposed WEF in South Western Victoria, if built, could possibly have an adverse impact in the long term (See Section below Bird and Bat Monitoring).

The Panel concludes that the DELWP Env advice that the "zero net impact" principle as outlined in the Brolga Guidelines is the most appropriate approach to considering the cumulative impacts on Brolga.

3.4 Bats

DELWP Env advised that the Southern Bent-wing Bat (*Miniopterus schreibersii bassanii*) was listed as Matter of National Environmental significance under the Commonwealth EPBC Act, and had been upgraded from ‘conservation dependent’ to critically endangered in December 2007 since the original permits were issued for both WEF sites. Any matter relating to this bat would need to be referred to the Commonwealth for consideration.

(i) Evidence and submissions

Council and DELWP Env raised issues relating to bats.

Mr O’Callaghan gave evidence that pre-construction surveys in 2009-2010 at the Hawkesdale WEF site recorded 11 species of bats. This comprised eight species that were widespread, common and secure, two species that were uncommon but widespread and the threatened SBWB. He considered the bat activity to be ‘moderate’ at this site and only two species were recorded above 50 metres, the White-striped Freetail Bat and the Little Forest Bat.

In relation to the SBWB, Mr O’Callaghan gave evidence that no calls were recorded at 50 metres, only one call was recorded at 20 metres and many calls were recorded at ground level. He did, however, identify a problem with bat monitoring in that it was impossible to distinguish between separate calls from different bats from repeat calls from one bat.

Mr O’Callaghan stated that pre-construction surveys in 2006-2007 at the Ryan Corner WEF site recorded nine species of bats, which comprised eight species that were widespread, common and secure, and the SBWB. He considered the bat activity at the site to be ‘low’. He stated that, during the survey, bat detection microphones were located at heights of 40 metres, where four species were recorded (no SBWB calls), and at ground level where six species were recorded including some SBWB calls.

Mr O’Callaghan concluded that, although the RSA of the turbines would be increased on both sites, the overall risk to bats other than high flying would be reduced. In relation to SBWB, the increased height of the lower level of the RSA of the 180 metre turbines would reduce the risk to this species, while the reduced minimum height of the RSA of the 160 metre turbines would likely result in a small increased risk. Overall, Mr O’Callaghan considered that the risk to the SBWB of the amended permits for both WEFs would not be of conservation significance.

Mr O’Callaghan stated that studies had shown that night lights, such as aviation lights on turbines, attracted moths and other nocturnal insects which lead to a high level of foraging activity by bats around the lights. He stated that to minimise the impacts on bats, such lights should be red LED lights with flash periods as short as possible.

DELWP Env submitted the SBWB, in addition to being listed under the EPBC Act, was also listed as ‘threatened’ in the Schedule to the FFG Act. DELWP Env advised that there were no detailed studies on the flight paths or behaviour of the SBWB and therefore it was difficult to assess the risk posed by wind turbines to SBWB.

It stated that to date SBWB mortalities had been recorded at three WEFs in their range in Victoria, which indicated there was a level of activity at the height of RSA of turbines.

DELWP Env submitted that, although 'at height' recordings of bats from several WEF sites (including Hawkesdale) had suggested there were fewer bats at height, it was uncertain of the reliability of these surveys. It was also concerned that SBWB calls are difficult to distinguish from several more common species of bats.

DELWP Env submitted that, despite the previous Inquiry accepting estimates for 12 SBWB mortalities at the Ryan Corner WEF, it now considered that it was not possible to estimate post-construction mortalities based on pre-construction surveys. DELWP Env now consider that only a risk based approach to SBWB is appropriate. DELWP Env submitted that the proposed increase in RSA at both WEF sites would increase the SBWB turbine collision risk, but this would be at least partly offset by the proposed increased minimum height of the RSA proposed for 180 metre turbines.

DELWP Env did not anticipate that the proposed amendments would materially increase the risk to SBWB.

Cumulative impacts

In relation to cumulative impacts of many WEFs, DELWP submitted that it could not form a clear understanding of the cumulative impacts for SBWB, and considered that a precautionary approach was appropriate.

DELWP Env submitted that should aviation lighting be required, then this lighting should be designed to minimise its attraction to insects and therefore bats that may feed on these insects.

Council was concerned that the assessment failed to categorise the range of bat species, which utilised the site and appeared to lack a technical discussion of the predicted impacts on protected bat species, particularly the SBWB. Council was also concerned with the potential cumulative impacts on bats from nearby WEFs.

The Panel that considered the original permit for the Hawkesdale WEF and the Inquiry which considered the original proposal for the Ryan Corner WEF both concluded that the risk to SBWB was low at both sites.

The recent Panel which considered an amended permit to raise the blade tip height of 20 turbines from 135 metre to 168 metre on the Woolsthorpe WEF site (located immediately southeast of the Hawkesdale WEF site) identified that the potential impact of the WEF on SBWB was a key issue. This Panel supported the granting of a permit, but only if the Proponent's proposal to reduce the separation distance between ground and the RSA of the turbines from 35 metre to 28 metre was rejected.

Discussion and conclusions

The Panel accepts Mr O'Callaghan's submission that the proposed amended permits for both sites may have an impact on high flying bats, but these species are not listed as of conservation significance.

The Panel is concerned with the reliability of the monitoring data given DELWP Env evidence that SBWB calls are difficult to distinguish from a number of more common species of bats and Mr O'Callaghan's evidence that it is impossible to distinguish between many calls from one bat and individual calls from many bats. The Panel noted that DELWP Env considers

there is a level of activity at the height of RSA of turbines as there have been SBWB mortalities recorded at three WEFs in Victoria.

The Panel is concerned with DELWP Env submission that the proposed increase in RSA at both WEF sites would increase the SBWB turbine collision risk, but accepts that this would be at least partly be offset by the proposed increased minimum height of the RSA of the proposed 180 metre turbines. However the Panel is concerned that DELWP Env is unable to quantify this due to uncertainty in the data and limited knowledge of the ecology of the species.

The Panel concludes:

- Advice from DELWP Env (as the expert on fauna) that in relation to SBWB, the proposed applications are not likely to materially increase the risk to SBWB
- That although the development of the WEF's at both sites will impact on bat species, the risk to SBWB is low
- DELWP (Env) and Mr O'Callaghan's views that aviation lighting if required, should be designed to minimise its attraction to insects and therefore bats that could feed on these insects is supported.

Cumulative impacts

The Panel notes that many parties including DELWP Env and the Panel/Inquiry that considered the original permits for both sites, have expressed concern with the lack of information on the cumulative impact that many WEFs could have on SBWB.

The Panel agrees with the findings of the Woolsthorpe WEF Panel that found in relation to cumulative impacts, a consistent approach for BAM plans for both the Woolsthorpe and Hawkesdale WEF's (and other WEFs) would provide compatible data that could assist the assessment of cumulative impacts of WEFs on SBWBs.

The Panel concludes that ongoing monitoring and assessment of all species of bats within a standardised framework is essential to determine the long term cumulative impact of WEFs on bat species, especially the SBWB.

3.5 Bat and Avifauna Management Plans

Council submitted that since the approval of the original permits for both WEFs, it had experienced significant problems ensuring compliance with Bat and Avifauna Management Plans (BAM plans) for operational WEFs including that permit holders had been able to change monitoring methodologies mid-program which had compromised the compatibility of results both between seasons and between WEFs.

(i) Evidence and submissions

DELWP Env submitted that it was developing a template approach for BAM plans, particularly relating to data collection, to overcome the problem of past BAM plans varying in structure, style and quality. DELWP Env stated that it would require BAM plans for every WEF that would detect the mortality of threatened species of bats and avifauna with a high degree of confidence. DELWP Env noted that the Proponent had not submitted revised BAM plan as part of the amendment applications and it was comfortable that this matter could be handled through a secondary consent process.

DELWP Env also supported the Woolsthorpe WEF Panel's recommendation that BAM plan methodology and implementation should be compatible across both the Hawkesdale and Woolsthorpe WEF sites so the impact of the two WEFs on SBWB, in particular, could be assessed with confidence.

Mr O'Callaghan's evidence was that the BAM plans required in the permit conditions should be updated to reflect the amended permit applications, but he considered that the monitoring protocols, impact triggers and investigation and reporting requirements were still valid and did not need to be amended.

The Panel that considered the amended permit for the Woolsthorpe WEF recommended that the BAM plan for Woolsthorpe WEF should be consistent with the approach being taken at Hawkesdale WEF (or via versa). This was to ensure that at least some of the input needed to assess the cumulative impacts on the SBWB was provided as well and ensuring consistent data sets for informing future research and recovery programs.

During the '*without prejudice*' discussion at the Hearing on the proposed permit conditions for both WEFs, conditions that refer to avifauna and bat monitoring and reporting, and the preparation of a BAM plans, were discussed. In relation to proposed permit Condition 29(d) for the Hawkesdale WEF, DELWP Env requested (in feedback dated 17 August 2017) the inclusion of a requirement in the BAM plan that strategies for mitigation or offset (of) any impacts be developed for all species of birds or bats detected during monitoring. The Proponent's feedback indicated that this should only apply to threatened species.

(ii) Discussion

It is apparent to the Panel that ongoing monitoring programs for avifauna and bats, especially for Brolga and SBWB, and procedures for reporting mortalities and implementing mitigating actions as required, are essential for both WEFs.

The Panel is concerned with Council's evidence that a the lack of clarity in the BAM plans had allowed permit holders to change their methodology mid-program, which has compromised the compatibility of monitoring results, both between seasons and between WEFs.

The Panel is concerned with the advice provided by DELWP Env that past BAM plans have varied in structure, style and quality, but supports DELWP Env addressing this issue by developing a template approach, particularly relating to data collection.

The Panel encourages DELWP to finalise and release this template as soon as possible in order to give WEF Proponents' more certainly of what is required in BAM plans and to provide very useful information to other interested parties. The Panel supports DELWP Env approach that every BAM plan would require specific avifauna and bat monitoring and detection of the mortality of threatened species of bats and avifauna with a high degree of confidence.

The Panel also agrees with Mr O'Callaghan that the existing BAM plans for both WEFs sites should be updated to reflect the amended permit applications. The Panel does not agree with DELWP Env's suggestion that this matter be addressed through a secondary consent

process, but considers that this matter would be more effectively and efficiently resolved by revising the BAM plans for both WEFs.

In relation to the feedback received by the Panel on Condition 29(d) of the Hawkesdale WEF, the Panel partly agrees with DELWP Env that the BAM plan should include a requirement that mitigation or offset measures may need to be developed for other species detected during monitoring, rather than just threatened species as proposed by the Proponent. However, rather than any species (which could include non-native species) the Panel considers that wording should be '*threatened or significantly affected native bird or bat species*'. The Panel considers that this is necessary should future monitoring and assessment indicate that other species might be experiencing significant decline, which if not mitigated, could result in those species becoming threatened.

The Panel concurs with DELWP Env submission and the recommendation of the Woolsthorpe WEF Panel that the BAM plans for the Woolsthorpe and Hawkesdale (and other WEFs) should be consistent as far as possible. This would provide the input needed to ensure that the cumulative impacts on the SBWB could be assessed across the two WEFs, and provide consistent data sets that could inform future research and recovery programs for the species.

(iii) **Conclusions**

The Panel concludes:

- The adoption of a common BAM plan framework to guide on going monitoring, assessment and mitigation measures for all WEFs is extremely important
- Further work is needed on the assessment of cumulative impacts of WEFs on key species of avifauna and bats.

(iv) **Further recommendations**

The Panel makes the following further recommendations in relation to Bat and Avifauna:

- **The Bat and Avifauna Management plans for both Applications should be revised to reflect the changes proposed at both Wind Energy Facility sites**
- **Department of Environment, Land, Water and Planning Environment portfolio should develop, as soon as possible, a common Bat and Avifauna Management plan framework to guide ongoing monitoring, assessment and mitigation measures for all Wind Energy Facility sites**
- **Department of Environment, Land, Water and Planning Environment portfolio should undertake further work on the assessment of the cumulative impacts of Wind Energy Facilities on key species of avifauna and bats.**

4 Landscape and visual impact

4.1 Issues

The key landscape and visual impact issues arising from the applications relate to:

- The impact of the proposed changes on the landscape
- The visual impacts of the higher turbines on affected residential properties and other sites.

4.2 Evidence and submissions

The Proponent explained that the amended permits require that a program of voluntary landscape works to mitigate the visual impact of turbines to the satisfaction of the Minister for Planning must be made available to the owners of dwellings that existed within 4.0 kilometres of the nearest turbine as at 28 February 2017.

In considering the effects of WEFs on landscapes, the *WEF Guidelines* require consideration of:

- Clause 12.04 (Significant environments and landscapes) of the State Planning Policy Framework
- Any strategic landscape studies that have been completed for a number of regions across Victoria, including the *Coastal Spaces Landscape Assessment Study (2006)*
- Any significant landscapes that are recognised in Planning Scheme overlays.

The Proponent submitted that neither WEF site was located in a landscape considered to be of sufficient importance to warrant a Significant Landscape Overlay or an Environmental Significance Overlay in the planning scheme. The Proponent submitted that the Panel that considered the original Hawkesdale WEF, and the Inquiry that had considered the original Ryan Corner WEF, had both found that the visual impact on the regional landscape of these proposals would be low.

Mr Burge's evidence was that the *South West Victoria Landscape Assessment Study (2012)* (SWLAS) had not identified any views of state of regional significance at the Ryan Corner site. He indicated although that the SWLAS had recommended a 'Significant Landscape Overlay – Lava Flows and Mt Eccles Surrounds', this had not been incorporated in the Planning Scheme. The SWLAS and the *Coastal Spaces Landscape Assessment Study (2006)*, as well as further assessment by ERM, had identified a 'Stony Rises' landscape sub-unit with higher sensitivity than indicated in the original landscape and visual assessment analysis. This had changed the visual impact at the three viewing locations of the Ryan Corner site from 'Low' to 'Medium to Low.' However, Mr Burge stated that the change in visual impact was not caused by the proposed change in turbine height, reduction in number of turbines or micro siting changes.

Mr Burge's evidence was that the view-shed, that is the extent of the area in which the turbine may have some visual impact, would increase from about 15 kilometres to about 20 kilometres. He said that areas that would be visually affected, that is from which the turbines would be highly visible, would increase from three to four kilometres from the nearest turbine. He advised that the amended permits would offer landscape screening for

mitigating visual impacts for any affected dwelling located within four kilometres of a turbine.

(i) Photomontages

Mr Burge, in his evidence, presented a number of photomontages to assist the comparative analysis between the turbines as approved for both sites compared with the turbines that would be permitted if the applications were granted for the higher turbines. He presented three photomontages of the Hawkesdale site for the viewpoints as follows:

- South of the WEF site on the Peshurst-Warrnambool Road near the Gittens Road intersection
- Immediately south of the Hawkesdale township on the Peshurst-Warrnambool Road near the Warwillah Road intersection, and
- On the Woolsthorpe-Heywood Road near the McCoshs family property.

In relation to the Ryan Corner site, Mr Burge presented four photomontages for viewpoints as follows:

- Three as included in his initial assessment located southwest, northwest and east of the WEF site
- A fourth located on Fingerboard Road prepared in response to the Panel direction and following concerns expressed by Council and some residents that the initial photomontages were not adequate.

Mr Burge stated that the analysis of the photomontages showed that the significant changes to the landscape would occur as a result of the presence of the turbines that had already been approved for each site, rather than the proposed increase in their height.

(ii) Community concerns

In relation to the Hawkesdale WEF site, Ms Keane and Ms Ryan (submitters 2, 5) expressed concern that the 180 metre turbines would be too close and would impact on their properties. Mr Huglin (submitter 6), Secretary of the Hawkesdale and District Development Action Committee (HADDAC), also submitted that the higher turbines would be too close to the township and affect the views especially from the southern boundary of the town. He was concerned that the residents along the Woolsthorpe-Heywood Road, and Camerons Road on the east of the Hawkesdale site, would be significantly impacted.

The McCosh family (submitter 4)¹⁰ owns the 'Banuke' property adjacent to the Hawkesdale WEF site on the south of the Woolsthorpe-Heywood Road. They were concerned that the increased height of turbines located on the Hawkesdale site, both across the road to the north and immediately to the west of their property, would cause significant adverse impacts on their property, livestock and residence. The McCosh family submitted that this impact would be in addition to that of the recently approved higher turbines on the Woolsthorpe WEF immediately to the east of their property. The McCosh's initially requested that turbines A30 and A31 on the Hawkesdale site be relocated 750 metre further

¹⁰ The McCosh's lodged the same submission for Ryan Corner (submitter 7)

to the west to allow farm operations to continue unimpeded, then in a later submission to the Hearing, requested that these turbines be deleted altogether.

Council was also concerned that the photomontages did not adequately represent the expected changes of turbines at dwellings located one and two kilometre of the WEF sites and this had limited both the Council's and the landowners' ability to assess the visual impacts from dwellings of the proposed changes. Council supported 'in principle' the Proponent's proposal to extend off-site landscaping mitigation offers to all affected dwellings within four kilometre of the nearest turbine, but was concerned with the time that it would take for plants to grow to provide screening for residents. Council supported the McCosh's request to relocate the two turbines on the Hawkesdale site further away from their property. It was also concerned with the cumulative landscape and visual impacts that would arise from the number of WEFs proposed in the area.

(iii) Aviation lighting

Council submitted that the Proponent had not adequately considered the SWLAS as this study had been undertaken since the original permit was granted for the Ryan Corner WEF site. Council also raised concerns that aviation obstacle lighting which might be required by CASA, could detract from the rural night sky at both sites.

In relation to the Ryan Corner WEF site, several residents of Fingerboard Road (Ms Pagan, Mr and Ms Martin, Mr Donohue and Ms Magnusson) raised concerns with the visual impact resulting from the proposed increased height of the turbines (Submitters 2, 9, 10, 11).

These concerns included the inadequacy of the photomontages, the limitation of screen planting as a mitigation technique and the impact of possible aviation lighting on the night sky. Mr and Ms McNamara (submitter 3) and Mr and Ms Coffey (submitter 4), who owned properties located to the east of the Ryan Corner site, also raised concerns with the proposal.

The Proponent submitted that CASA had requested steady red lighting. It was submitted that that shorter flashes and LED lights were preferable. There was general agreement that if the lighting was required by CASA¹¹, then it can be provided.

(iv) Mitigation measures

In relation to mitigation measures, Mr Burge advised that for the approved turbines (height 126.3 metre) any screen planting located 20 metre in the line of sight from a residence one kilometre distant from a turbine would need to be 4.1 metre high to be fully effective. Whereas for a proposed turbine (height 180 metre) the screen planting located 20 metre in the line of sight from a residence one kilometre distant from a turbine would need to be 5.2 metre high to be fully effective, a difference of 1.1 metre. In either case any screen planting closer to the residence would not need to be as high.

¹¹ The Dundonnell Wind Farm Report (11 January 2016) addressed this issue at length in relation to Brolga. The Panel understands that CASA can recommend obstacle lighting but cannot mandate it.

In response to questions from the Panel, Mr Burge advised that the landscaping required for individual properties would be developed in conjunction with the landowner and the plants selected after considering the types of plants and their growing rates.

In response to the McCosh family request to move or delete turbines A30 and A31 from the Hawkesdale WEF, Mr Burge stated that the changes arising from the application could be effectively mitigated by landscape planting.

The Panel members inspected both WEF sites, including during the accompanied site inspection on 10 August 2017. Sites visited included the viewpoint locations on Fingerboard Road at the Ryan Corner site and on the Penshurst Warrnambool road reserve just south of the Hawkesdale township at the Hawkesdale site. The McCosh family property was also visited.

4.3 Discussion

The Panel notes that the Panel/Inquiry that considered the original permits for both WEF sites found that the visual impacts on the regional landscape of both the original WEF proposals would be low, and at that time neither WEF site was located in a landscape protected by an overlay.

The Panel notes that several documents relating to landscape matters and, in particular, the SWLAS (which recommended a Significant Landscape Overlay – Lava Flows and Mt Eccles and Surrounds) had been prepared since the original permits were issued. However, the Panel accepts the Proponent's submission that the key consideration in this matter is that there is currently no overlay in the Planning Scheme relating to either WEF site.

The Panel accepts Mr Burge's evidence that the distance from which the turbines may have some visual impact would increase from about 15 kilometres to about 20 kilometres. However, the Panel accepts that the areas that would be most visually affected by the Amendment, that is where the turbines would be highly visible, would increase from three to four kilometre distance from the nearest turbine.

The Panel accepts that the screen planting that would be available to all affected residents within this area could mitigate this increased visual impact, albeit that it may take some years before the planting would be high enough to provide effective screening.

The Panel appreciates the concerns with the visual impacts arising from the higher turbines that was expressed by residents living close to both sites and, in particular, those living in the Hawkesdale township and along Fingerboard Road. However, the key issue for the Panel relates to the significance on the visual impact resulting from the increase in height from the already approved height of 126.3 metres to 180 metres for most of the turbines.

After careful consideration of all the evidence submitted, including the photomontages and from its own inspection of both WEF sites, the Panel is satisfied that the visual impact of the additional height of the turbines is not of such an extent that would cause the Panel to recommend rejection of the Applications.

In relation to the Hawkesdale township, the Panel is satisfied from the evidence and its own inspection that the impact at most residences would be mitigated by the topography and existing trees. The Panel also considers that additional screen planting would not be

justified on the road reserve at the view point site located immediately south of the Hawkesdale township near the Warwillah Road intersection on the Peshurst-Warrnambool Road.

The Panel appreciates the concerns expressed by residents with the time it may take for plants to grow. However, the Panel accepts Mr Burge's evidence that the difference in height of the plantings needed to mitigate 126.3 metre (approved) turbines as against 180 metre turbine (as proposed) at residences one kilometre from the nearest turbine is not of major significance (1.1 metre difference for screen planting located 20 metres from residences - or less for plantings closer to residences).

The Panel finds that while there may be some basis for the residents' concerns in this matter, the additional height of the proposed turbines would not significantly change the situation. The Panel also accepts that, as any landscaping and screen planting proposals would be developed in consultation with residents, the residents could select the type of plants with growing rates that would be suitable for their specific needs.

The Panel commented earlier in this report that it supports the proposal to minimise the impacts on bats by installing red LED lights with a flash period as short as possible. It supports the permit condition amendment that ensures lighting minimises any impact on bats or night flying birds. This should also mitigate general concerns on impacts to the night sky. The Panel notes that some form of lighting is essential for safety reasons.

The Panel notes that turbines A30 and A31 are currently approved at 126.3 metres in height, at locations on the endorsed plans that are slightly closer to the western wind farm boundary than the proposed location under the Amendment application.

In relation to the McCosh family farm, the Panel does not support the request to move or delete these turbines as it questions whether there will be additional impact compared with the impact that is already approved. The Panel believes that Mr Burge's evidence that landscape explaining that planting could effectively mitigate the visual changes at the McCosh's residence (over time) would be an effective mitigation measure.

4.4 Conclusions

The Panel concludes:

- the changes proposed would not cause such adverse visual impacts at either site that would warrant refusing the applications
- the visual impact resulting from the applications could be mitigated for affected residents located within four kilometre from any turbine if landscaping mitigation measures were made available to these residents
- the landscape mitigation measures provided in the permits are supported
- lighting, if required will not cause detriment and is, in any case, required for safety purposes
- on-going monitoring on possible effects to wildlife is required. The Panel is satisfied that the revised permit conditions provide an adequate framework for resolving this issue, should it arise.

5 Traffic

5.1 Issues

The following issues were raised in submissions:

- the implementation of comprehensive Traffic Management Plans
- the potential damage to the local road network
- the impacts of the over dimensional vehicles on VicRoads arterial roads and local roads, and
- road and intersection upgrades.

5.2 Evidence and submissions

Traffic Impact Assessments (TIAs) were compiled as part of the approval of the existing planning permits. Each calls up the requirements for Traffic Management Plans (TMP) to be prepared.

Council submitted that predicted volumes in the TMP were the same as the currently endorsed TMP, which *“raises further questions as to whether the applicant had adequately considered additional traffic impacts.”*

The Proponent explained that the TMPs were revised in March 2017 in relation to the current permit amendment, to consider the increased turbine dimensions proposed. Both TMPs state that there will be three categories of vehicles required during the construction phase:

- Over dimensional vehicles (OD) transporting tower sections, turbine blades, and nacelles
- construction vehicles transporting steel, road construction materials, concreting supplies, and water; and
- personnel transport vehicles for construction workers, including light commercial and cars (less than 4.5 tonnes in weight).

As outlined in the TMP, the Port of Portland is the nominated location for the commencement of ground transportation for the larger wind turbine components that arrive by sea freight. It requires that raw materials to construct the foundations works be sourced from local suppliers.

Preliminary routes to both sites for the OD vehicles were assessed by URS, on behalf of the Proponent. Traffic generation was assessed with respect to the predicted construction timetable. OD vehicle swept paths were considered along the predicted routes and at the critical turning intersections, in consultation with VicRoads.¹² Consequently, the swept paths were based upon a delivery truck having a 65 metre articulated trailer to load a 63.7 metre blade (that would increase to a 68.8 metre blade length).

The TMP specifies that various permits will need to be obtained from VicRoads prior to certain vehicle movements, particularly for the OD vehicles. School Bus services routes and timetables have been identified and assessed, with the objective of construction vehicles not

¹² Background information - URS Traffic Management Plan pg.13

interfering with the services around both sites. Thirty-minute time periods were identified in consultation with Council when bus services were likely to use certain surrounding roads.

Council had advised the Proponent in relation to the existing permit that it did not broadly require the payment of security deposits for road maintenance, as all the proposed routes for OD and construction vehicles were VicRoads declared roads. Youls Road would however require a deposit, estimated to be \$100,000.

The TMP specifies that Youls Road is a local road, and has a number of crossing points for vehicles. It notes that Harris Road is also to be avoided, except where it is traversed by internal access tracks at Ryan Corner WEF.

The TMP explained that Youls Road is not currently constructed to the required pavement specification for OD vehicles, and is to be widened to a 6.2 metre seal, then maintained from the Princes Highway for 2,800 metres by the Proponent. The intersection at the Princes Highway is to be upgraded at the request of Council to a 'Type C' intersection.

GTA Consultants were engaged by the Proponent to compile a review of the URS 2017 TMP's. Mr Simon Davies (GTA) submitted his expert evidence to the Panel that the proposed amendment would be no impact in comparison with what has been approved. He noted that for Hawkesdale, the TMP had not been amended to account for the fact that the Peshurst-Warrnambool Road and northern side site access intersection had been removed.

His evidence was that the previously approved analysis significantly over-estimated the anticipated heavy vehicle volumes in any single peak hour. He assessed that all intersections could be expected to continue to operate well, with an excellent level of service during the construction period.

Mr Davies advised the Panel that the proposed amendments would have no significant additional impact beyond what has previously been assessed and approved, and that there was no need for revised TIAs.

In relation to road surface maintenance, Mr Davies noted that the existing permit condition 11 requires road management, upgrades, and maintenance associated with both WEF's to be at the expense of the permit holder. A "*program of regular inspections and road maintenance*" would comprise monthly inspections (fortnightly on Youls Road) of road surfaces. Any required works would be required within one week of inspection.

Council's submission was that the Minister review and update the traffic management conditions for both WEF planning permits, to ensure that they are consistent with the WEF Guidelines and sought an independent road quality auditor be appointed for the project.

Council submitted that it has been limited in its assessment of roads and traffic management due to the absence of updated TIAs for both sites. They queried whether the traffic data predictions in the 2017 TMP's had been re-assessed. Council's position was that the TMP's could not satisfactorily be relied upon for the amendment because the quarry locations had not been finalised. As such, Council requested that the Panel delay any recommendations until the information has been determined and included in the TMP. Council requested that a "*road quality auditor*" be required to make this assessment.

Mr Davies gave evidence that the WEF Guidelines (particularly at conditions 30 and 31) were generally consistent with the existing permit conditions relating to maintenance. He was not aware of any reference within the Guidelines to a road quality auditor, nor what formal qualifications would be called upon for the role.

He noted that the TMP's state that a VicRoads representative will sign off on the rehabilitated works once they have inspected each location and they are satisfied that the works are satisfactory. He suggested that the fact that Youls Road is a local Council road gives need for the wording to be "*representative of the relevant Roads Authority*".

Mr Davies reviewed the traffic movements if on-site quarrying was utilised, and rock materials were delivered from off-site locations. Whilst the construction vehicle traffic volumes would increase slightly at the Ryan Corner WEF by 30 vehicles per month, he regarded any increased impact to be relatively indiscernible (approximately 2 additional heavy truck per day).

Mr Donohue (submitter 10) argued that the construction of access tracks and site facilities might impact upon established drainage lines at the Ryan Corner WEF site. His property is on the southern boundary of this site, and he submitted that severe water inflows from unregulated upstream water flows would severely affect farming activities and his income. He sought that a detailed topological plan (with all drains and water flows highlighted) be prepared showing that all water is returned to gazetted Moyne Shire drains.

Mr Donohue submitted that there are five quarries within a 5-kilometre radius of his property. He argued that they have significant impacts on local amenity, especially when crushing stone. He sought a condition in the amended permit to impose that all construction and quarrying activity be limited to Monday to Friday, with none on weekends or public holidays.

Mr Huglin, of the Hawkesdale and District Development Action Committee (HADDAC) (submitter 6) submitted that lessons could be learnt from Macarthur Windfarm, both during and following construction. In relation to the deterioration of roads, Mr Huglin said that the Moyne Shire Council should ensure that local roads are kept in good order and repaired via a planning permit condition.

Mr Huglin expressed concern that the larger towers and blades would place increased stress upon roads.

VicRoads did not submit to the Amendment. The Panel directed that they appear at the hearing to better inform itself of their views. Mr Gstrein of VicRoads appeared at the hearing and submitted that the TMP's generally met the objectives in the relevant conditions of the existing permits. Mr Gstrein noted that there was still a vast array of unknown traffic management issues at the planning stage of the WEF's, such as a decision to quarry on-site. A large volume of quarried materials for internal access roads and lifting pads would need to be moved via road if sourced off-site. He requested that a secondary TMP be prepared once this had been decided.

VicRoads sought that the TMP's consider:¹³

¹³ Document 8

- *nominating haulage routes from potential quarries to the project sites*
- *avoiding arterial and local roads that represent potential road safety risks*
- *avoiding potential road safety issues in relation to School Bus services*
- *all mitigation works associated with access to the sites*
- *the maintenance methods and financial obligations for addressing potential damage and impacts to arterial and local roads during the construction stage.*

Mr Gstrein suggested that the Proponent should enter into an agreement with VicRoads and/or the relevant road authority that determined obligations and commitments associated with construction transport and traffic.

Council tabled an excerpt of the TMP for the Salt Creek WEF, to illustrate an approach to support the appointment of an independent Road Quality Auditor.¹⁴ Council requested that the same approach be implemented through a condition in the amended permits, whereby a suitably qualified engineer engaged by the Proponent undertake monthly inspections of roads and report to the responsible road authority. Council submitted that *“these reports should make recommendations regarding reinstatement and maintenance methods of the affected roads.”*

5.3 Discussion

The Panel acknowledges the previous experience elsewhere in relation to roads being damaged due to delivery and construction vehicle traffic, particularly the Macarthur WEF examples conveyed at the Hearing. The Council should be compensated for any increased maintenance and reinstatement of pavement conditions due to the project. The Proponent also acknowledged that reasonable compensation is appropriate.

The proposed changes to the WEF’s would not have a significant impact upon road maintenance and traffic volumes, but it is reasonable the 2017 TMP’s be updated prior to the commencement of site works to reflect final decisions on haulage routes and quarried material sourcing.

The proposed permits require that, before the development starts, TMP’s must be prepared in consultation with Moyne Shire Council and VicRoads to the satisfaction of the Minister for Planning. The Panel finds that the appropriate approach would be redefine this consultation as *“the relevant roads authority”*, in order to cover both local Council and declared VicRoads jurisdictions.

The Panel agrees with Council’s position that the TMP’s should be updated and approved by the Minister prior to the commencement of site works. The Panel finds no evident need for Traffic Impact Assessments to be re-done.

With regard to the Council request of a *“road quality auditor”* being appointed prior to commencement of works, the Panel agrees with the Proponent’s alternative that a *“suitably qualified road pavement engineer”* better describes the role. Despite opposition from the Proponent, the Panel does support Council’s request for a permit condition that it must be

¹⁴ Document 23

satisfied with the appointment and the independence of the engineer. The Panel has included a new Condition 13 to both permits to allow for this.

Council sought the addition of new sub condition at 11 (o) to (z), relating to roads maintenance and rehabilitation. The Panel agrees with these inclusions.

Council sought the inclusion, at condition 11, of requirements in relation to updated TMP's within 28 days in the event that the suitably qualified road pavement engineer identifies significant increase increases in traffic or changes to the identified haulage routes. The Panel finds that this condition is an appropriate inclusion, in the event that either occurs.

The Panel's preferred permit conditions are found at Appendices F and G of this report.

5.4 Conclusions

The Panel concludes that the proposed permit conditions should be amended to provide for:

- Traffic Management Plans for both the WEF sites to be updated by the proponent prior to the commencement of site works to the satisfaction of the relevant roads authority, and approved by the Minister for Planning
- the proposed amendments would have no significant impact beyond what has previously been assessed and approved, and there is no need to revise the TIAs
- permit conditions to be reworded so that a *"suitably qualified road pavement engineer be appointed by the proponent prior to the commencement of site works to the satisfaction of the Moyne Shire Council, to audit the implementation of the TMP's, monitor the condition of the local and declared VicRoads, and report monthly to the responsible roads authority"*
- Additional sub conditions 11 (o) to (z) are appropriate in relation to roads maintenance and rehabilitation for both WEF sites
- Additional condition 12 relating to updated TMP's within 28 days in event that the *"suitably qualified road pavement engineer"* identifies *"either"* significant increase increases in traffic and / or changes to the identified haulage routes
- Additional condition 13 is appropriate to include Council approving an independent road pavement engineer to undertake duties identified in the TMP.

6 Noise

6.1 Issues

The following issues were raised in submissions:

- Updated noise assessments to the current noise standard NZS6808:2010, as referred to within the wind farm provisions of the Moyne Planning Scheme.
- Revised noise contours for Ryan Corner WEF to show the township
- whether a 'high amenity area noise limit' should apply.

6.2 Noise assessment and monitoring

(i) Evidence and submissions

Several submissions detailed dissatisfaction with the noise criteria adopted within the *WEF Guidelines*, on the basis that criteria adopted did not adequately protect residents.

DELWP submitted that assessment of WEF impacts is based on the Victorian Government *WEF Guideline*. Noise impacts from the WEF sections within the guidelines require that the WEF complies with New Zealand Standard NZ6808:2010 *Acoustics – Wind farm noise* (the Noise Standard).

The Proponent explained that the NZ Noise Standard specifies a general limit for wind farm noise or a noise level increase above the existing background noise level. The NZ Noise Standard also details requirements of wind farm noise prediction methods.

In evidence from Mr Christophe Delaire (for the proponent), 111 noise sensitive locations had been identified at Ryan Corner, and 166 at Hawkesdale. Noise levels above the 35 dB L_{A90} had been predicted at 22 of the 111 at Ryan Corner, and 15 of the 166 at Hawkesdale.

Mr Christophe submitted at Table 1, page 9 of his evidence relating to the Ryan Corner WEF:

- *Predicted noise levels from the Ryan Corner WEF would comply with the NZ Standard, using 2 of the 3 candidate turbines*
- *Predicted noise levels at one of the sensitive locations at Ryan Corner WEF would marginally exceed the NZ Standard by 0.1 dB (residence number 29) if the GE 3.2 – 130 candidate turbine model was used*
- *Predicted noise levels at all the other identified sensitive locations within stakeholder properties would comply with the 45 dB noise limit.*

Table 2, page 10 related to the Hawkesdale WEF:

- *All noise sensitive locations would comply with the NZ Standard for all 3 candidate turbine models.*
- *Predicted noise levels at all the other identified sensitive locations within stakeholder properties would comply with the 45 dB noise limit.*

Mr Delaire advised the Panel that he had considered the cumulative effects that might be created by the planned Woolsthorpe WEF (at the Hawkesdale WEF site). He noted that the predicted noise levels from the Hawkesdale WEF were generally more than 10 dB below the of Woolsthorpe WEF, and that the cumulative noise levels of the two sites would be below the threshold at which the NZ Standard required further consideration.

He stated:

there may be an exception at intermediate locations in the area between the two WEF's, but that the locations cannot simultaneously be downwind of each WEF, and the cumulative effects cannot increase the predicted noise levels.

Ms Quigley submitted that the Proponents adopted the position that the assessment of amendment applications focused upon the impacts of the proposed changes measured against the current planning controls. The “New Zealand Standard” only applied to noise sensitive locations associated with a habitable space or education space in a building not on a WEF site.

The proposed permits set noise limits by reference to the NZ 6808:2010 WEF Noise Standard. The NZ Noise Standard states:

As a guide to the limits of acceptability at a noise sensitive location, at any wind speed wind farm sound levels $L_{A90(10 \text{ min})}$ should not exceed the background sound level by more than 5 dB, or a level of 40 dB $L_{A90(10 \text{ min})}$, whichever is the greater.

Ms Quigley explained that the WEF Guidelines stated:

A wind energy facility should comply with the noise limits recommended for dwellings and other noise sensitive locations in the New Zealand Standard NZS 6808:2010 Acoustics – Wind Farm Noise (the Standard). The Standard specifies a general 40 decibel limit for wind farm sound levels, or the sound should not exceed the background sound level by more than five decibels, whichever is the greater.

Under section 5.3 of the Standard, a ‘high amenity noise limit’ of 35 decibels applies in special circumstances. All wind farm applications must be assessed using section 5.3 of the Standard to determine whether a high amenity noise limit is justified for specific locations, following procedures outlined in clause C5.3.1 of the Standard. Guidance can be found on this issue in the VCAT determination for the Cherry Tree Wind Farm.

Mr Delaire noted that, although the Noise Standard was drafted in New Zealand, it had been adopted as appropriate for Victoria, and is the current relevant Victorian standard. The standards or approaches of other jurisdiction are consequently not relevant. It was his evidence that the Proponent would not commission a turbine that could not meet the NZ Noise Standard where required.

The noise limits at the host residences is permitted to be 45 dB $L_{A90(10 \text{ min})}$.

Council had completed a review of the amended projected noise impacts for the Ryan Corner WEF, which had been informed by the Proponent’s technical assessment – Ryan Corner WEF *Noise Impact Assessment* (Marshall Day Acoustics – December 2015).

In assessing the amendment application, Council obtained its own independent acoustic peer review of the Proponent’s noise assessment by SLR Consulting. Council explained that this independent peer review was used to inform Council’s submission to the Panel.

The Proponent's noise assessment at Ryan Corner WEF is based on the following:

- A fifty-six (56) wind turbine layout
- The proposed changes sought by this amendment application
- Assessment against the current noise standards for wind farms – NZS6808:2010
- Candidate turbines installed, being either:
 - Vestas V126 3.3MW – 117m hub height
 - Senvion 3.0MW – 117m hub height
 - GE 3.2MW – 110m hub height.

Council submitted that the current Conditions refer to the noise standard for the wind farm where noise levels must not exceed the levels of the 1998 New Zealand standard, being the background noise levels by more than 5dBA, or a level of 40dBA, whichever is the greater. The Proponent argued that the SLR analysis was of "little assistance" as it attempted to rely on the NIRV Guidelines rather than the New Zealand Standard.

(ii) Discussion and conclusions

The Panel notes that there is some discrepancy in the wording of the 'Noise Compliant Assessment conditions' in both exhibited permits.¹⁵

The discrepancy relates to the terms 'noise monitoring program' and a 'noise compliance testing plan'. Whilst these conditions relate to a plan for testing and monitoring, and reports from an environmental auditor, to avoid possible confusion the wording should be consistent.

The Panel concludes:

- There is no need for additional noise assessment or testing at this Amendment stage.
- The Proponent would not commission a turbine that could not meet the NZ Noise Standard.
- There is no significant change to the predicted noise levels from the proposed Amendment to the existing permit. Given that the actual turbines ultimately selected would be subject to compliance testing assessment described in the Permit, the Panel is satisfied that the NZ Standard can be complied with.

6.3 High amenity area noise limit

(i) Evidence and submissions

Several submissions obliquely raised the "High Amenity Area" issue, on the grounds of proximity of townships to the WEF sites.

Council's submission noted that DELWP had sought an additional assessment of noise for the Hawkesdale WEF including revised noise contours, and that the Hawkesdale township falls inside the 35 dBA $L_{A90(10 \text{ min})}$ prediction for which a "High Amenity Area" noise limit might apply.

¹⁵ Hawkesdale permit conditions 42,43,44 and Ryan Corner permit conditions 30,31,32 (Appendices F and G)

Mr Delaire's evidence was that the level of 35 dBA $L_{A90(10 \text{ min})}$ limit "*can be achieved in the Township Zone of Hawkesdale.*"

Ms Quigley took the Panel to the three elements of the NZ Noise Standard that must be satisfied for the "*High Amenity Area*" limit to apply:

- *The relevant planning instrument must specify the wind farm location as being one which 'promotes a higher degree of protection of amenity related to the sound environment'*
- *The planning instrument promotes a higher degree of acoustic amenity, and*
- *If the proposal passing these two tests, the average difference during the prescribed evening and night time periods between measured background noise and predicted noise levels must be greater than 8 dB(A).*

She submitted that it is not necessary to consider the second and third criteria if the first criterion is not met. Mr Delaire's assessment of the Township Zone had concluded that it does not satisfy the first criterion. She also referred to the VCAT "*Cherry Tree Farm*" decision (that is referred to in the WEF Guidelines):

that the subject land and its locality is not capable of designation as a high amenity area because it does not possess the necessary characteristics of such an area as specified in the NZ Standard.

(ii) Discussion and conclusion

The Panel accepts the submission made by the Proponent that the NZ Noise Standard and the WEF Guidelines reference to the VCAT Cherry Tree Farm decision have been appropriately considered in the current approvals for both sites.

The Panel concludes:

- There is nothing substantive in the amended proposals that affects the Panel's further consideration of either the Hawkesdale Township Zone or Yambuk as "*High Amenity Areas*"

6.4 Construction noise

(i) Evidence and submissions

Several submissions raised concerns that the proposed amendment would have a detrimental effect upon noise during the construction stage. Mr Donohue in particular asked that construction be limited to certain periods in order to minimise both construction vehicle traffic and associated noise.

The Proponent explained that the Interim Guidelines for the Control of Noise from Industry in Country Victoria, N3/89, have been superseded by Environment Protection Authority (EPA) guidelines *Noise from industry in regional Victoria, Recommended maximum noise levels from commerce, industry and trade premises in regional Victoria*, Publication 1411, October 2011. It noted that construction noise is not covered by the guidelines.

It was Mr Delaire's evidence that issues concerning construction and quarry noise will be managed through the Environmental Management Plan (EMP). Each permit stipulates that

the EMP is required to be submitted to the Minister. He noted that his assessment did not cover quarry noise because “*quarry activity should be considered in the permission for the quarry itself and is regulated by the applicable EPA standards.*”

(ii) **Discussion and conclusion**

The Panel notes that the *WEF Guidelines* highlight construction noise as being an issue of windfarm developments, however, does not detail mitigation measures.

EPA Noise Control Guidelines, Publication 1254, October 2008, detail the requirements for construction and demolition sites, in particular industrial and commercial premises. The guidelines specify noise limits and the hours of application for these limits. The Noise Control Guidelines also specify noise measurement techniques and measurement procedures. These guidelines are proposed in the amended planning permit for both WEF’s.

Noise from associated wind farm construction activities such as truck routes on non-arterial roads where the existing traffic is relatively small would also be a condition of the updated Permit. If local rock materials are used for the construction of the wind farm, then the hours of operation conditions specified in the guidelines would also apply to these activities for the duration of the construction period.

6.5 Conclusions

The Panel concludes:

- Prior to finalisation of the permit, the permit conditions in relation to noise compliance should be amended in order to achieve consistency and clarity
- The existing permit conditions relating to the EPA Noise Control Guidelines 1254 are appropriate in relation to construction noise.

7 Other issues

7.1 Electromagnetic interference

(i) Issue

Several submissions raised concerns about the impact of the Ryan Corner WEF on television and radio signal reception at dwellings and the process to be adopted by the Proponent to resolve these issues.

(ii) Submissions

Aleta Collins (submission 5) and Anne Carey (submission 8) have properties in Yambuk. They submitted that television reception might be affected by the increased size of the WEF towers and rotor space areas.

The submitters referenced the Codrington WEF development that they claimed created interference to the signal reception. Ms Carey submitted that the antenna had to be altered to provide clear reception and that the proponent at Codrington (Pacific Hydro) had been proactive in assisting home owners in relation to this issue. Both sought a similar response from the Proponent.

It was the Proponent's submission to rely upon the expert written statement of Mr Trenton Gilbert that had considered this issue and concluded that it was unlikely that the WEF's would cause interference to AM or FM radio signals. Notwithstanding his expert opinion, Ms Quigley noted that the Ryan Corner WEF Permit conditions 25 and 26¹⁶ require that the Applicant "*return the affected reception to per construction quality at the cost of the wind facility operator and to the satisfaction of the Minister for Planning*". It was her submission that the proponent would ensure that any television and radio interference was mitigated.

The background technical documents submitted by the Applicant included a "*Pre-construction TV/Radio reception survey by Lawrence Derrick and Associates (Engineering Consultants and RF Frequency Assigners) dated 20 January 2010*". This report contained field survey results for both the Hawkesdale and Ryan Corner affected areas.

(iii) Conclusion

The Panel concludes that the existing Permit conditions (that would remain unaltered) are appropriate to ensure that that any television and radio interference was mitigated.

7.2 Drainage

(i) Issue

Mr and Mrs Donohue (submission 10) raised concern regarding the impact of the Ryan Corner WEF construction upon drains and designated waterways. The Panel directed that the Proponent respond to submissions that there is poor drainage in the Ryan Corner area.

¹⁶ Now conditions 43 and 44 in Panel preferred permit (Appendix G)

(ii) **Submission**

The submitters stated that their property is on the southern boundary of the Ryan Corner WEF site and severe water inflows from unregulated upstream water flows would severely affect their farming activities and income. Mr Donohue provided copies of aerial photographs supplied by the Glenelg Hopkins CMA¹⁷ highlighting the existing waterways across the site. He requested that the Panel consider what affect the Amendment might have upon surface water diversions across the Ryan Corner WEF increasing flows in drains within his farm.

He further requested that the CMA ensure that water flows are directed to the west into the Yambuk Drain, and to the east into the Goose Lagoon Drain.

The Proponent's submission was that the relevant consideration for the Panel is whether the Amendment would result in different or additional impacts related to drainage. Ms Quigley's submission was that reducing the number of turbines would consequently reduce that number of tower foundations, but increasing the turbine sizes would require an increase in the size of some foundation pads.

Ms Quigley took the Panel to the existing permit condition requiring that a detailed EMP be compiled, and requiring that the development be in accordance with EPA Publications 480 *"Environmental Guidelines for Major Construction Sites"*, and 275 *"Construction Techniques for Sediment Pollution Control"*.

She noted that a sediment, erosion, and water quality management plan would be prepared in consultation with the CMA, with regular review to reflect operational experience and changes in the environmental management standards and techniques. This would be appropriate to manage potential drainage impacts including during construction and operations of the WEF's.

(iii) **Conclusion**

The Panel concludes:

- The existing Permit condition requiring an EMP and adherence to the EPA Publications is satisfactory.
- The Glenelg Hopkins CMA is the appropriate Authority to oversee the performance of the Proponent in relation to any impacts upon drainage at Ryan Corner and Hawkesdale.

7.3 Who is the responsible authority?

(i) **Evidence and submissions**

Council's proposed amendments to the permits include a change that provides that the Minister is the responsible authority for administration and enforcement of the planning permits, rather than Council. It had raised similar submissions at the Woolsthorpe and Mortlake Panels earlier in 2017.

¹⁷ Document 22

The Proponent submitted that it is possible to have a specific condition that calls up responsibilities to someone else, however argued that the Minister should be the “sign off” for these matters.

The Proponent and DELWP, as the Minister’s, delegate explained in their submissions that, under the provisions of Clause 61.01-1 of the Moyne Planning Scheme, the Minister for Planning is the responsible authority for a WEF (except for permits for a WEF issued before 2 April 2015 under Division 6 of Part 4 of the Act. Council is responsible authority for endorsement, administration and enforcement of a WEF planning permit, subject to the operation of Section 97H of the Act which deals with:

- any matters which the permit specifies to be done by, approved by, or done to the satisfaction of the Minister
- any extension of time under section 69 in relation to the permit
- the correction of any error
- the amendment of the permit.

Based on the operation of Section 97H of the Act, and as the current planning permit states that the Minister for Planning is responsible for approving and endorsing extensive secondary consent matters, Council submitted there is merit in the Minister being the responsible authority for the entire permit other than traffic management conditions where the expertise for these conditions exists with VicRoads and Moyne Shire Council.

The Proponent noted:

The mechanism in section 114 of the Planning and Environment Act allows 'any person' to take enforcement action with respect to contraventions of the Act or a permit condition.

(ii) Discussion and conclusion

The effect of Clause 61 of the Planning Scheme together with section 97H of the Act is that Council is the Responsible Authority for enforcement. This cannot be changed by altering the permit.

The Panel has some sympathy for Council but does not see how it is an issue that can be effectively addressed by this process. The Panel’s understanding is that it would require changes to the planning scheme and possibly the Act. The Panel adopts the views of previous Panels on this matter including most recently, Woolsthorpe and Mortlake in 2017.¹⁸

7.4 Planning permit assessment

(i) Status of permits

The Proponent submitted that they have satisfied the pre-construction conditions under each Permit. They submitted that they sought to extend the permits to allow for development to be completed by 2020. At present, the permits require development to be completed by 29 August 2019. The reasoning for the extension request related to the

¹⁸ See Woolsthorpe Wind Farm Panel Report 10 April 2017 and Mortlake Wind Farm Panel Report 8 February 2017

Victorian auction process for power purchase agreements, a key commercial requirement for the Proponent. Council and DELWP did not object to this request.

(ii) **Discussion and conclusions**

The consideration of planning permit applications for wind farms, and the amendment of same, is undertaken within a comprehensive planning framework as outlined in Chapter 2.

The revised permits contain several revisions and corrections including the sites to which they apply, and the changes in department names. The extension of time for each permit expiry is supported. These changes are not contentious. The Proponent submitted that the principles of assessment considered in case law for sections 72 and 87A of the Act applied and that the *“assessment should focus on the proposed changes rather than re-opening debate about the whole proposal.”*

The Panel concludes:

- The recommended permits contained at Appendices F and G are the result of a rigorous and detailed review process, held without prejudice at the end of the Hearing.
- The permit conditions and content should be approved as contained in Appendices F and G.

7.5 Recommendations

Based on the reasons set out in this Report, the Panel recommends that the proposed amendments to Moyne Planning Scheme Planning Permits 2006/0221 (Hawkesdale Wind Energy Farm) and 2006/0222 (Ryan Corner Wind Energy Farm) be approved as exhibited, subject to amended conditions as set out in the Panel preferred versions in Appendices F and G of this report.

Appendix A Submitters

No.	Hawkesdale Submitter
1	EPA
2	Maxine Keane
3	Moyne Shire
4	McCosh family
5	Jenny Ryan
6	Frank Huglin c/- Hawkesdale and District Development Action Committee

No.	Ryan Corner Submitter
1	EPA
2	Rebecca Pagan
3	K and S McNamara
4	M and J Coffey
5	Aleta Collins
6	Moyne Shire
7	McCosh family
8	Anne Carey
9	Paul Martin and Amanda Baker
10	John and Alisa Donahue
11	Ruth Magnusson

Appendix B Parties to the Panel Hearing

Submitter	Represented by
The Minister for Planning as Responsible Authority	Tim Doolan of DELWP
Global Power Generation Australia Pty Ltd (Proponent)	Michelle Quigley QC instructed by Claire Somerville of Herbert Smith Freehills and calling evidence in: <ul style="list-style-type: none">- Flora and Fauna (Mr O'Callaghan)- Acoustics (Christophe Delaire)- Landscape and Visual Impact (Hayden Burge)- Traffic (Simon Davies)
Moyne Shire Council	Aaron Moyne assisted by
DELWP Environment	Geoff Brooks and Claire Tesselar
VicRoads	Peter Gstrein
McCosh Family	Janet Collins
J Donohue	
Hawkesdale and District Development Action Committee	Frank Huglin
Maxine Keane	
J Coffey	

Appendix C Document list

No.	Date	Description	Tabled by
1	7/8/2017	Hawkesdale proposed WEF site plan	Ms Quigley
2		Ryan Corner proposed WEF site plan	"
3		DELWP – Planning submission	Mr Doolan
4		Hawkesdale Permit draft	"
5		Ryan Corner Permit draft	"
6		Additional Permit conditions from DELWP and Proponent	"
7		DELWP – Environment submission	Mr Brooks
8		VicRoads submission	Mr Gstrein
9		Moyne Shire Council submission	Mr Moyne
10		Maxine Keane submission	Ms Keane
11		Ryan Corners photo montages	Ms Quigley
12		Jacinta Coffey submission	Ms Coffey
13		Bunuke property location map (McCosh family)	Ms Collins
14		Proponent's Part 1 submission for Hawkesdale and Ryan Corner (Ryan Corner Development Pty Ltd)	Ms Quigley
15		Minister for Planning letters (2) to Moyne Shire Council	Mr Moyne
16		Mortlake WEF Permit amended 23/4/2017	Mr Moyne
17	8/8/2017	Marshall Day presentation slides (by Christophe Delaire)	Ms Quigley
18		ERM presentation slides (by Hayden Burge)	"
19		BLA presentation slides (by Bernard O'Callaghan)	"
20		Proponent's Part 2 submission for Hawkesdale and Ryan Corner (Ryan Corner Development Pty Ltd)	"
21		Macarthur Bat and Avifauna mortality monitoring data	"
22	9/8/2017	Supplementary plan to submission #10 (Donohue)	Mr Donohue
23		Salt Creek WEF Traffic Management Plan (Cardno)	Mr Moyne
24		Proponent's letter of response to DELWP- Environment dated 9 August 2017 (Herbert Smith Freehills)	Ms Quigley
25		Proponent's advice to Herbert Smith Freehills regarding Ryan Corner WEF off-site landscaping (Shaq Mohajerani)	Ms Quigley
26		High Amenity Area and Health Impacts information (Herbert Smith Freehills)	"
27		GTA evidence statement on Traffic (Simon Davies)	"

No.	Date	Description	Tabled by
28	9/8/2017	McCosh family submission-in-writing (Janet Collins)	Ms Collins
29		Endorsed documents – Ryan Corner WEF	“
30		Endorsed documents – Hawkesdale WEF	“
31	17/8/2017	Post – exhibition planning permit Hawkesdale	Heidi Asten
32	“	Post – exhibition planning permit Ryan Corner	“
33	30/8/2017	DELWP conditional native vegetation approval letter Ryan Corner	Geoff Brooks
34	“	DELWP conditional native vegetation approval letter Hawkesdale	“
35	8/9/2017	DELWP conditional native vegetation approval letter – Ryan Corner (amended)	“

Appendix D DELWP Environment Portfolio Correspondence – Hawkesdale



Department of Environment,
Land, Water & Planning

Our ref: SP461046
Your ref: 20060221

30 August 2017

Ms Alison Glynn
Director, Planning Services & Impact Assessment
Department of Environment, Land, Water & Planning

tim.doolan@delwp.vic.gov.au

Dear Ms Glynn

PLANNING APPLICATION: 20060221
PROPOSAL: Amend permit for wind energy facility and remove native vegetation
ADDRESS: Hawkesdale Wind Farm, Woolsthorpe-Heywood & Peshurst Roads,
Hawkesdale

Further to my letter of 4 August 2017, I acknowledge receipt of a letter from Herbert Smith Freehills on behalf of the applicant, dated and received on 9 August 2017, providing further information in respect of the above-described Planning Permit Application.

The Department of Environment, Land, Water and Planning (DELWP) has considered the above application as a recommending referral authority as identified in Clause 66.02-2 in the Moyne Planning Scheme and Section 55 of the *Planning and Environment Act 1987*. The area of native vegetation to be cleared is 0.5 ha or more.

DELWP has reviewed the following:

- *Hawkesdale Wind Farm: Native Vegetation Assessment, Report No. 14144 (11.0)* (Brett Lane & Associates, July 2017) – the “Native Vegetation Assessment”
- *Hawkesdale Wind Farm: Biodiversity Impact Assessment on Proposed Modification, Report No. 14144 (9.1)* (Brett Lane & Associates, January 2016) – the “Biodiversity Impact Assessment”
- *Hawkesdale Wind Farm: Amendment to Permit No. 20060221 Planning Permit Assessment Report* (ERM, March 2016) – the “Planning Permit Assessment Report”
- Planning permit PL06/319

The application proposes to remove native vegetation to enable development of the Hawkesdale Wind Farm. Impacts are primarily associated with access ways (either from the road network or within the site), with some small losses also appearing to be associated with connection to the grid.

The native vegetation proposed to be removed consists of 0.872 hectares of remnant patch comprising a mix of Plains Grassland, Basalt Shrubby Woodland and Swamp Scrub. The applicant has confirmed that there are no locations where infrastructure intersects with mapped “current wetlands”. This letter incorporates a condition requiring submission of a final “Biodiversity Assessment Report” or “Biodiversity impact and offset requirements report”, as appropriate, which would be informed by pursuit of opportunities for further minimisation of losses through the detailed design process.

The application does not address the majority of the potential losses associated with construction of the transmission line connection from the wind farm site to the Tarrone terminal station. The applicant has

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Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002



advised that any native vegetation losses associated with the transmission line will be addressed separately.

The information provided with the application has adequately described the risk and biodiversity values associated with the proposed native vegetation removal.

DELWP has only considered the Clause 52.17-5 *Decision guidelines* for the *Biodiversity considerations* of this application, in accordance with the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (DEPI 2013), and has not considered the Clause 52.17-5 *Decision guidelines for Other matters*.

DELWP does not object to the granting of the planning permit if it is subject to the following conditions:

- 1) No more than 0.872 hectares of native vegetation is permitted to be removed under this permit.
- 2) Before any native vegetation is removed under this permit, a Native Vegetation Plan to the satisfaction of the Department of Environment, Land, Water and Planning and the Minister for Planning must be submitted to and approved by the Minister for Planning. When approved the Native Vegetation Plan will be endorsed and will then form part of the permit. All works constructed or carried out must be in accordance with the endorsed plan. The Native Vegetation Plan must include:
 - a) a final Biodiversity Assessment Report or Biodiversity Impact and Offset Requirements Report which identifies all losses being approved by this permit and the associated offset requirements, in accordance with the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (DEPI 2013).
 - b) Plans drawn to scale with dimensions that identify:
 - i) native vegetation to be removed.
 - ii) any current mapped wetlands, as defined in the *Permitted clearing of native vegetation – Biodiversity assessment handbook* (DELWP 2015), that are present on the site.
 - iii) any native vegetation to be retained that is within the permissible micro siting envelope of turbines or ancillary infrastructure.
 - c) measures to be used during construction to protect native vegetation to be retained.
- 3) Except with the written consent of the Minister for Planning, within any area of native vegetation to be retained the following are prohibited:
 - a) vehicular or pedestrian access
 - b) trenching or soil excavation
 - c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
 - d) entry and exit pits for underground services
 - e) any other actions or activities that may result in adverse impacts to retained native vegetation.
- 4) To offset the native vegetation removal described in the endorsed Native Vegetation Plan, the permit holder must secure a native vegetation offset in accordance with the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (DEPI 2013) and *Native vegetation gain scoring manual* (DEPI 2013).

- 5) Before any native vegetation is removed, evidence that the required offset for the project or for a defined stage has been secured must be provided to the satisfaction of the Minister for Planning in consultation with the Department of Environment, Land, Water and Planning. The offset evidence can be:
 - a security agreement signed by both parties, to the required standard, for the offset site or sites, including a 10 year offset management plan and/or
 - an allocated credit extract from the Native Vegetation Credit Register.A copy of the offset evidence will be endorsed by the Minister for Planning and form part of this permit.
- 6) Within 30 days of endorsement of the offset evidence by the Minister for Planning, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning. At the conclusion of the project, offset requirements can be reconciled with agreement by the Minister for Planning and the Department of Environment, Land, Water and Planning.
- 7) In the event that a security agreement is entered into as per condition (5), the applicant must provide the annual offset site condition report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.
- 8) To prevent the spread of weeds and pathogens, all vehicles and machinery must be made free of soil, seed and plant material before being taken to the works site and again before being taken from the works site, during and on completion of the project.
- 9) Any pruning to the canopy or major structural branches of any tree to be retained must be undertaken in accordance with Australian Standard 4373-2007 – Pruning of Amenity Trees.

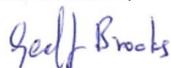
In accordance with Section 66 of the *Planning and Environment Act 1987*, please provide a copy of the permit, if one is granted, or any notice to grant or refuse to grant a planning permit to the contact person at the above address.

Important information for the applicant:

The proposal appears likely to include removal of plants from Crown land that constitute protected flora under the *Flora and Fauna Guarantee Act 1988*, specifically Western (Basalt) Plains Grasslands Community. The proponent should consider the need to obtain a permit to take protected flora from DELWP.

If you have any queries regarding this matter, please contact me on telephone (03) 5226 4693.

Yours sincerely



Geoff Brooks
Program Manager Regional Planning & Approvals
Barwon South West Region

cc Applicant via email

Appendix E DELWP Environment Portfolio Correspondence – Ryan Corner



Department of Environment,
Land, Water & Planning

Our ref: SP461049
Your ref: 20060222

8 September 2017

Ms Alison Glynn
Director, Planning Services & Impact Assessment
Department of Environment, Land, Water & Planning

tim.doolan@delwp.vic.gov.au

Dear Ms Glynn

PLANNING APPLICATION: 20060222
PROPOSAL: Amend permit for wind energy facility and remove native vegetation
ADDRESS: Ryan Corner Wind Farm, Youls Lane, Yambuk

State Government Offices
Cnr Fenwick & Little Malop Streets
PO BOX 103 GEELONG VIC 3220
bsw.planning@delwp.vic.gov.au
Tel: (03) 5226 4667
DX 216048

This letter supersedes and replaces my letter of 30 August 2017. Further to my letter of 4 August 2017, I acknowledge receipt of a letter from Herbert Smith Freehills on behalf of the applicant, dated and received on 9 August 2017, providing further information in respect of the above-described planning permit application.

The Department of Environment, Land, Water and Planning (DELWP) has considered the above application as a recommending referral authority as identified in Clause 66.02-2 in the Moyne Planning Scheme and Section 55 of the *Planning and Environment Act 1987*. The area of native vegetation to be cleared is 0.5 ha or more.

DELWP has reviewed:

- *Ryan Corner Wind Farm: Native Vegetation Assessment, Report No. 14144 (10.1)* (Brett Lane & Associates, July 2017) – (the “Native Vegetation Assessment”)
- *Ryan Corner Wind Farm: Biodiversity Impact Assessment on Proposed Modifications, Report No. 14144 (8.1)* (Brett Lane & Associates, February 2016) – (the “Biodiversity Impact Assessment”)
- *Ryan Corner Wind Farm: Amendment to Permit No. 20060222 Planning Permit Assessment Report* (ERM, March 2016) – (the “Planning Permit Assessment Report”)
- Planning permit 20060222
- Further information – “BIOR_report_BLA_14144_RCWF_ERM_09082017 updated.pdf” (BIOR)

The application proposes to remove 3.637 hectares of native vegetation associated with development of the Ryan Corner Wind Farm. The native vegetation proposed to be removed comprises a mix of Damp Sands Herb-rich Woodland, Plains Grassy Wetland, Heavier Soils Plains Grassland, Stony Knoll Shrubland, and mapped current wetlands as detailed in the BIOR submitted as further information.

I note the extent figure (3.637 ha) contrasts with the figure contained in the application documents submitted initially. The applicant has clarified that current mapped wetlands will be impacted as part of this proposal. These impacts have been incorporated in to the revised BIOR. This letter incorporates a condition requiring submission of a final “Biodiversity Assessment Report” or “Biodiversity impact and offset requirements report”, as appropriate, which would be informed by pursuit of opportunities for further minimisation of losses through the detailed design process.

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002



The application does not address the majority of the potential losses associated with construction of the transmission line connection from the wind farm site to the Tarrone terminal station. The applicant has advised that any native vegetation losses associated with the transmission line will be addressed separately.

The information provided with the application has adequately described the risk and biodiversity values associated with the proposed native vegetation removal. The department has only considered the Clause 52.17-5 *Decision guidelines* for the *Biodiversity considerations* of this application, in accordance with the Guidelines. The department has not considered the Clause 52.17-5 *Decision guidelines* for *Other matters*.

DELWP does not object to the granting of a permit for the above application on biodiversity grounds, if it is subject to the following conditions:

- 1) No more than 3.637 hectares of native vegetation is permitted to be removed under this permit.
- 2) Before any native vegetation is removed under this permit, a Native Vegetation Plan to the satisfaction of the Department of Environment, Land, Water and Planning and the Minister for Planning must be submitted to and approved by the Minister for Planning. When approved the Native Vegetation Plan will be endorsed and will then form part of the permit. All works constructed or carried out must be in accordance with the endorsed plan. The Native Vegetation Plan must include:
 - a) a final Biodiversity Assessment Report or Biodiversity Impact and Offset Requirements Report which identifies all losses being approved by this permit and the associated offset requirements, in accordance with the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (DEPI 2013).
 - b) Plans drawn to scale with dimensions that identify:
 - i) native vegetation to be removed.
 - ii) any current mapped wetlands, as defined in the *Permitted clearing of native vegetation – Biodiversity assessment handbook* (DELWP 2015), that are present on the site.
 - iii) any native vegetation to be retained that is within the permissible micro siting envelope of turbines or ancillary infrastructure.
 - iv) the location of any detected threatened flora and fauna species
 - c) measures to be used during construction to protect native vegetation to be retained.
- 3) Except with the written consent of the Minister for Planning, within any area of native vegetation to be retained the following are prohibited:
 - a) vehicular or pedestrian access
 - b) trenching or soil excavation
 - c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
 - d) entry and exit pits for underground services
 - e) any other actions or activities that may result in adverse impacts to retained native vegetation.
- 4) To offset the native vegetation removal described in the endorsed Native Vegetation Plan, the permit holder must secure a native vegetation offset in accordance with the *Permitted clearing of*

native vegetation – Biodiversity assessment guidelines (DEPI 2013) and *Native vegetation gain scoring manual* (DEPI 2013).

- 5) Before any native vegetation is removed, evidence that the required offset for the project or for a defined stage has been secured must be provided to the satisfaction of the Minister for Planning in consultation with the Department of Environment, Land, Water and Planning. The offset evidence can be:
- a security agreement signed by both parties, to the required standard, for the offset site or sites, including a 10 year offset management plan and/or
 - an allocated credit extract from the Native Vegetation Credit Register.

A copy of the offset evidence will be endorsed by the Minister for Planning and form part of this permit.

- 6) Within 30 days of endorsement of the offset evidence by the Minister for Planning, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning. At the conclusion of the project, offset requirements can be reconciled with agreement by the Minister for Planning and the Department of Environment, Land, Water and Planning.
- 7) In the event that a security agreement is entered into as per condition (5), the applicant must provide the annual offset site condition report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.
- 8) To prevent the spread of weeds and pathogens, all vehicles and machinery must be made free of soil, seed and plant material before being taken to the works site and again before being taken from the works site, during and on completion of the project.
- 9) Any pruning to the canopy or major structural branches of any tree to be retained must be undertaken in accordance with Australian Standard 4373-2007 – Pruning of Amenity Trees.

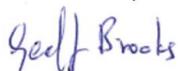
In accordance with Section 66 of the *Planning and Environment Act 1987*, please provide a copy of the permit, if one is granted, or any notice to grant or refuse to grant a planning permit to the contact person at the above address.

Important information for the applicant:

The proposal appears likely to include removal of plants from Crown land that constitute protected flora under the *Flora and Fauna Guarantee Act 1988*, specifically Western (Basalt) Plains Grasslands Community and Black Wattle (*Acacia mearnsii*). The proponent should consider the need to obtain a permit from DELWP to take protected flora.

If you have any queries regarding this matter, please contact me on telephone (03) 5226 4693.

Yours sincerely



Geoff Brooks

Program Manager Regional Planning & Approvals
Barwon South West Region

cc Applicant via email

Appendix F Panel recommended permit – Hawkesdale

[Tracked Added](#)

~~Tracked Deleted~~

The permit is based the post-exhibition permit submitted on 17 August 2017 (Document 31) The Panel accepted the majority of the track changes listed in that document and this Permit reflects the final recommendations of the Panel

Planning and Environment Regulations 2005 Form 11 Section 97F

PLANNING PERMIT GRANTED BY THE MINISTER UNDER

DIVISION 6 OF PART 4 OF THE PLANNING AND ENVIRONMENT ACT 1987

PLANNING PERMIT

Permit No.:20060221

Planning Scheme: Moyne Planning Scheme

Responsible Authority for Administration and Enforcement of this Permit: Moyne Shire Council

ADDRESS OF THE LAND:

Land in Hawkesdale, generally described as:

- Lot 1 TP 414357L Vol 08444 Fol 791
- Lot 2 TP 414357L Vol 08444 Fol 791
- Lot 3 TP 414357L Vol 08444 Fol 791
- Lot 4 TP 414357L Vol 08444 Fol 791
- Lot 5 TP 414357L Vol 08444 Fol 791
- Lot 6 TP 414357L Vol 08444 Fol 791
- Allot. 58A Sec. B Parish of Willatook Vol 10885 Fol 766
- Lot 2 TP 854496 Vol 9488 Fol 081
- Lot 1 PS 513798P Vol 10737 Fol 654
- Lot 2 PS 513798P Vol 10737 Fol 655
- Allot. 3 Sec. 17 Parish of Minjah Vol 05865 Fol 958
- Lot 1 TP 242538N Vol 08214 Fol 311
- Lot 2 TP 242538N Vol 08214 Fol 311
- Lot 3 TP 242538N Vol 08214 Fol 311
- Lot 4 TP 242538N Vol 08214 Fol 311
- Lot 5 TP 242538N Vol 08214 Fol 311
- Allot. 1A1, 1B, 2A, 2B, 3A, 3B Sec. 6 Parish of Willatook Vol 9753 Fol 538
- Lot 1 TP 116527Y Vol 9753 Fol 536
- Lot 2 TP 116527Y Vol 9753 Fol 536
- Allot. 3A & 3B Sec. 7 Parish of Willatook Vol 9753 Fol 537
- Allot. 3A1 Sec. 5 Parish of Willatook Vol 9753 Fol 529
- Allot. 4A & 4B Sec. 6 Parish of Willatook Vol 9753 Fol 535
- Lot 1,2,3,4,5 & 6 TP 885221G Vol 9576 Fol 235
- Lot 1 TP 116526B Vol 9753 Fol 534

- Lot 2 TP 116526B Vol 9753 Fol 534
- Lot 1 TP 116525D Vol 9753 Fol 533
- Lot 2 TP 116525D Vol 9753 Fol 533
- Allot. 3B1 & 3B2 Sec. 5 Parish of Willatook Vol 9753 Fol 528
- Lot 1 TP 116522K Vol 9753 Fol 527
- Allot. 5C Sec. 5, Parish of Willatook Vol 9753 Fol 539
- Section A Parish of Willatook Vol 9753 Fol 539
- Lot 1 TP 218500C Vol 9753 Fol 531
- Lot 1 TP 116524F Vol 9753 Fol 532
- Lot 1 TP 116523H Vol 9753 Fol 530
- Lot 1 TP 6904J Vol 10296 Fol 904
- Lot 2 TP 6904J Vol 10296 Fol 905
- Lot 1 TP 412718Q Vol 08444 Fol 792
- Lot 2 TP 412718Q Vol 08444 Fol 792
- Lot 3 TP 412718Q Vol 08444 Fol 792
- Lot 4 TP 412718Q Vol 08444 Fol 792
- Allot. 3A & 3B Sec. 17 Parish of Willatook Vol 3445 Fol 852
- Allot. 58 Sec. B Parish of Willatook Vol 10885 Fol 765
- Lot 1 PS 613134L Vol 08444 Fol 790
- Lot 2 PS 613134L Vol 08444 Fol 790
- Allot. 1A2 Sec. 6 Parish of Willatook
- Lot 1 on TP885221G Vol 09576 Fol 235
- Lot 2 on TP885221G Vol 09576 Fol 235
- Lot 3 on TP885221G Vol 09576 Fol 235
- Lot 6 on TP885221G Vol 09576 Fol 235
- Disused railway reserve including:
 - Lot 5 on TP 599305U Vol 00704 Fol 660
 - Lot 6 on TP 599305U Vol 00704 Fol 660
 - Lot 7 on TP 599305U Vol 00704 Fol 660
 - Lot 5 on TP424945L Vol 01446 Fol 191
 - Lot 6 on TP424945L Vol 01446 Fol 191
 - Lot 7 on TP424945L Vol 01446 Fol 191
 - Lot 8 on TP424945L Vol 01446 Fol 191
- Woolsthorpe-Heywood Road and road reserve including:
 - Sec. A Parish of Willatook Vol 9753 Fol 261 (to north)
 - Lot 1 on TP250987 Vol 4390 Fol 873
- Peshurst-Warrnambool Road and road reserve

THE PERMIT ALLOWS:

Use and development of land for a Wind Energy Facility and 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. The plans may be submitted for approval in stages or for a particular grouping of wind turbines within the site. When approved, the plans will be endorsed by the Minister for Planning 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 for aviation safety 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 application plans as identified in Figure 4.1 of report titled the *Hawkesdale Wind Farm Application for Planning Permit by Gamesa Energy Australia/TM E Australia Volume 1 -Main Report September 2006* dated September 2006 but modified to show:

- (a) any necessary adjustment to the layout to ensure that any indigenous or non-indigenous archaeological site identified by the on-site archaeological survey, and required to be protected, is avoided.
- (b) global positioning system coordinates for each turbine;
- (c) details of the model and capacity of the wind turbines to be installed;
- (d) elevations, materials and finishes of the wind turbines and other buildings and works;
- (e) the location of turbines with obstacle lighting for aviation safety, the type and intensity of any obstacle lighting for aviation safety, including any impact minimisation features as required by Condition 9;
- (f) the relocation of the access track and underground cable between turbines A29 and A30 to the west away from the boundary with the non contracted landowner;
- (g) details of any signage.

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 (as defined in this condition), is permitted provided that:

- (a) the developer of the wind energy facility has written advice from appropriately qualified experts that the alteration or modification will not result in a material adverse change in landscape, flora and fauna, cultural heritage, visual amenity, shadow flicker, noise fire risk or aviation impacts compared to the endorsed plans;
- (b) the turbine base is not relocated so that it is within 1 km of a dwelling that existed on 28 February 2017 and which was not the subject of written consent of the owner as at that date, unless evidence has been provided to the satisfaction of the Minister for Planning that

- the owner of the dwelling has consented in writing to the location of the turbine;
- (c) the turbine base is not relocated so that it results in the removal of any additional remnant native vegetation, unless that removal has been authorised by a planning permit; and
 - (d) no turbine base is located within:
 - (i) 100 metres from a Road Zone Category 1 or land in a Public Acquisition Overlay to be acquired for a road;
 - (ii) 40 metres from a Road Zone Category 2;
 - (iii) 20 metres from any other road;
 - (iv) 5 metres from the site boundary;
 - (v) 50 metres from a waterway, wetlands or designated flood plain; or
 - (vi) within an exclusion zone of any licensed communications link.

Any micro-siting of turbines in accordance with this condition will be regarded as being in accordance with the endorsed plans, and no consent under condition 2 will be required to reflect the micro-siting of turbines in compliance with this condition.

For the purpose of this condition, micro-siting of turbines means an alteration to the siting of a turbine by not more than 100 metres.

For the purposes of this condition, micro-siting of turbines includes any consequent changes to access tracks and electricity reticulation lines and the measurement of any distance between a dwelling and a turbine must be from the centre of the tower of the turbine (at ground level) to the closest point of the dwelling.

Copies of the written advice referred to in this condition must be provided to the Minister for Planning.

SPECIFICATIONS

- 3. Except with the written consent of the Minister for Planning, the wind energy facility must meet the following requirements to the satisfaction of the Minister for Planning:
 - (a) the wind energy facility must comprise no more than 26 wind turbines;
 - (b) the overall maximum height of the wind turbines (to the tip of the rotor blade when vertical) must not exceed 180 metres above natural ground level;
 - (c) wind turbines must be mounted on a tubular steel and/or concrete tower
 - (d) each wind turbine is to have not more than three rotor blades, and the lowest point of a sweep of the rotor blade tip must not be less than 40 metres above ground level at the turbine base for all turbines except for turbines A10, A13, and A17 that must not be less than 30 metres above ground level at the turbine base;

- (e) the wind turbine towers, nacelles and rotor blades must be 'off white', pale grey or other colour that blends with the landscape, and must be of a non-reflective finish;
- (f) the colours and finishes of all other buildings and ancillary equipment must be such as to minimise the impact of the development on landscape;
- (g) the transformer associated with each wind generator must be located beside each tower and pad mounted, or be enclosed within the tower structure;
- (h) 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;
- (i) all new electricity cabling associated with the collector network within the wind energy facility must be placed under the ground; and
- (j) subject to condition 2(d) all wind turbines must be set back at least 150 metres from boundaries to neighbouring properties and roads which are formed roads at the date of this permit.

LANDSCAPE/VISUAL AMENITY

4. Before the development starts, an on-site landscape plan to the satisfaction of the Minister for Planning must be submitted to and approved by the Minister for Planning. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:
 - (a) landscaping to screen the substation, switchyard and associated buildings other than the turbines;
 - (b) details of plant species proposed to be used in the landscaping, including height and spread at maturity;
 - (c) a timetable for implementation of all landscaping works; and
 - (d) a maintenance and monitoring program.
5. Before any turbine is commissioned:
 - (a) a program of voluntary landscape mitigation works to mitigate the visual impact of turbines to the satisfaction of the Minister for Planning must be made available to the owners of dwellings that existed as at 28 February 2017 within 4.0 kilometres of the nearest turbine and to the owners of dwellings 40 and 47 as identified in Figure 20.45 of the report titled Hawkesdale Wind Farm Application for Planning Permit by Gamesa Energy Australia/TM E Australia Volume 1 - Main Report September 2006;
 - (b) as part of that program, an off-site landscaping plan must be prepared in consultation with the landowners specified in Condition 5(a) to the satisfaction of 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 provide details of planting or other treatments that will be used to reduce the visual impact of the wind turbines at the dwellings of the participating landowners.

The off-site landscape plan must include:

- (i) details of the plant species to be used, including the height and spread of plants at maturity; and
- (ii) a timetable for implementation of the landscaping works.

6. The landscaping as shown on the endorsed on-site and off-site landscape plans required by Conditions 4 and 5 must be completed to the satisfaction of the Minister for Planning within 12 months of the completion of the development or any relevant stage of it, or to such other timetable as agreed with the landowner and approved by the Minister for Planning, at the cost of the operator under this permit.
7. All access tracks associated with the wind energy facility 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.

LIGHTING

8. Except in the case of an emergency, no external lighting of infrastructure associated with the wind energy facility, other than low level security lighting may be installed or operated without the further written consent of the Minister for Planning.
9. Obstacle lighting for aviation safety should be generally in accordance with the '*100401-02 Hawkesdale Wind Farm Obstacle Lighting Design v1.1 151009*' prepared by Aviation Projects dated 20 September 2011, unless otherwise agreed with the Minister for Planning and must be to the satisfaction of the Minister for Planning. In finalising any lighting plan:
 - (a) The applicant must consult with CASA;
 - (b) Advice must be sought from a suitably qualified wildlife ecologist to ensure the lighting minimises any impact on bats or night flying birds, to the satisfaction of the Minister for Planning in consultation with DELWP Environment Portfolio;
 - (c) The turbines to be lit must be selected in consultation with the owners of the adjacent Woolsthorpe Wind Farm with the objective of minimising the total number of lit turbines in the area;
 - (d) Where turbines are to be lit, individual lighting installations must be in accordance with the CASA Advisory Circular 139-18(0) and the CASA Manual of Standards, particularly Chapter 9; and
 - (e) Subject to condition 9(b), the impact minimization features to be incorporated in any installation must include, but are not limited to:

- (i) Treatment of the rear of the blade to avoid reflection of aviation lights;
- (ii) Shielding of the lights on top and bottom such that the maximum intensity of light is limited to a beam of 3 degrees, with only 0.5 degrees of this beam width below the horizon; and

TRAFFIC MANAGEMENT

10. Before the ~~commencement of construction of~~ installation of wind turbines ~~footings, crane hardstand, internal access roads and substation~~, the road construction works as shown on the plan(s) endorsed under Condition 11 must be completed by the permit holder and assessed by ~~the~~ a suitably qualified road pavement engineer ~~Road Quality Auditor~~, in consultation with Moyne Shire Council and VicRoads to the satisfaction of the Minister for Planning.
11. Before the development starts, a traffic management plan must be prepared in consultation with Moyne Shire Council and VicRoads to the satisfaction of 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 of public roads in the vicinity of the wind energy facility that may be used for access, including details of the suitability, design and construction standard of the roads;
 - (b) the designation of appropriate construction and transport vehicle routes to 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;
 - (d) identify any areas of indigenous roadside vegetation that may require removal or pruning, the pruning practices to be followed and the planning permit requirements for removal of native vegetation;
 - (e) the identification and timetabling of any required pre-construction works;
 - (f) the designation of principal and other vehicle access points to the wind energy facility from surrounding roads. The location and detailed design of the connection between the internal access tracks and the public roads must fully consider desirable standards to ensure safe site distances, turning movements, and potential through traffic conflicts;
 - (g) 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 Vic Roads;
 - (h) 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;
- (i) 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;
 - (j) engineering plans demonstrating how truck movements can be accommodated on sealed roadways and turned without encroaching onto the incorrect side of the road must be prepared for the Princess Highway/Penshurst-Port Fairy Road intersection. The plan must include details of any required road construction works;
 - (k) access roads and intersection upgrades in Penshurst -Warrnambool Road and Woolsthorpe - Heywood Road designed to avoid or minimise disturbance or removal of native vegetation;
 - (l) a program of regular inspections to be carried out during the construction period to identify maintenance works necessary as a result of construction traffic;
 - (m) a program to rehabilitate roads to the condition identified by the surveys required above by Condition 11(a); and
 - (n) if required by Moyne Shire Council, the payment of a security deposit or bond for a maintenance period of 12 months in respect of works covered by the Traffic Management Plan, such security deposit or bond to be released at the end of that period.
 - (o) consideration of road sealing, the construction of gravel shoulders and associated drainage works for roads required for use in the construction of the wind energy facility, depending on anticipated traffic volumes and composition of vehicle movements.
 - (p) plans prepared under this condition must include cross-sections showing their formation, depth, drainage and surface levels, in consultation with the relevant road authority, to the satisfaction of the Minister for Planning.
 - (q) the scope of the expertise, duties and role of the nominated ~~Road Quality Auditor~~ [suitably qualified road pavement engineer](#) engaged under Condition 13, including inspection frequency and reporting requirements;
 - (r) the number and type of anticipated vehicle movements and the time of day when local roads will be used;
 - (s) the designation of all vehicle access points to the wind energy facility site from surrounding roads. Vehicular access points must be designed and located to ensure safe line of sight distances and turning movements, and to avoid potential through-traffic conflicts;
 - (t) the designation of appropriate construction and transport vehicle routes to and from the wind energy facility site;
 - (u) provision of designated areas for loading zones;
 - (v) measures to be undertaken to record traffic volumes on the nominated road network during

the construction of the wind energy facility.

- (w) proposed measures to ensure workers enter and exit the wind energy facility site from the designated site entrance points.
- (x) proposed measures to ensure construction vehicles are easily identifiable;
- (y) 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
- (z) a program to rehabilitate existing public roads (road rehabilitation responsibilities can be assigned to the relevant road authority by way of contract or levy) within agreed timeframes to the condition identified in the surveys carried out under Condition 11(a) or to the condition to which the roads have been upgraded, whichever is relevant.

12. The ~~Traffic Management Plan~~ applicant must ~~be updated in consultation~~ submit an updated Traffic Management Plan ~~with to the~~ Moyne Shire Council and VicRoads, within 28 days of an event in either (a) or (b), to the satisfaction of the Minister for Planning to the satisfaction of the Minister for Planning, within 28 days of:

- a. A significant increase in vehicle numbers, determined by ~~the a suitably qualified road pavement engineer~~ Road Quality Auditor, above the anticipated vehicle movements identified in the endorsed Traffic Management Plan; or
- b. Any change to an endorsed vehicle routed identified in the endorsed Traffic Management Plan.

[The Applicant opposes the introduction of condition 13]

13. Before the endorsement of the Traffic Management Plan, the permit holder must submit to Moyne Shire Council and VicRoads for approval, an independent suitably qualified road pavement engineer, ~~independent of the permit holder's traffic advisor~~, who will undertake the duties ~~of the Road Quality Auditor~~ identified in the Traffic Management Plan.

Once approved, the permit holder must engage, at its cost, the approved qualified road pavement engineer ~~Road Quality Auditor~~ to fulfil the requirements of the ~~Road Quality Auditor~~ as defined in the Traffic Management Plan.

14. The traffic management and road upgrade and maintenance works associated with the wind energy facility must be carried out in accordance with the traffic management plan and the cost of any works including maintenance are to be at the expense of the permit holder to the satisfaction of the relevant road authority.

CONDITIONS REQUIRED BY VICROADS

15. Before the commencement of construction of wind turbines footings, crane hardstand, internal access roads and substation, all vehicular entrances to the proposed wind energy facility from either the Penshurst-Warrnambool Road and Woolsthorpe - Heywood Road must be designed constructed to

standards specified by VicRoads and Moyne Shire Council to the satisfaction of VicRoads.

CONDITIONS REQUIRED BY AUSNET TRANSMISSION GROUP

16. No wind turbine shall be constructed within 200 metres of AusNet Transmission Group's easement.
17. No buildings or structures are permitted on AusNet Transmission Group's easement other than interface works required for connection of the wind energy facility electrical system to the to the 500 kilovolt transmission line. Design plans for such work must be submitted to and approved in writing by AusNet Transmission Group prior to the commencement of construction.
18. Details of any road or track construction and the installation of services within the easement must be submitted to AusNet Transmission Group and approved in writing prior to the commencement of work on site.
19. Gates must be installed in any new boundary fences that cross the easement to enable access by AusNet Transmission Group vehicles.
20. Natural ground surface levels on the easement must not be altered by the stockpiling of excavated material or by landscaping without prior written approval from AusNet Transmission Group.
21. A 'Permit to Work Adjacent to Exposed High Voltage Electrical Apparatus' must be obtained prior to the commencement of any works on the easement that involves the use of any plant or equipment exceeding 3 metres operating height.
22. Parking, loading, unloading and load adjustment of large commercial vehicles is not permitted on the easement.
23. All future works in the easement must be submitted to AusNet Transmission Group and approved in writing prior to the commencement of work on site.

ENVIRONMENTAL MANAGEMENT PLAN

24. Before the development starts, an environmental management plan must be prepared to the satisfaction of the Minister for Planning, in consultation with the DELWP Environment Portfolio, Moyne Shire Council, Country Fire Authority and other agencies as specified in this condition or as further directed by the Minister for Planning. The environmental management plan must be based on the approach outlined in Chapter 23 of report titled Hawkesdale Wind Farm Application for Planning Permit by Gamesa Energy Australia/TM E Australia Volume 1 - Main Report September 2006. The environmental management plan may be prepared in sections or stages. When approved, the plan will be endorsed by the Minister for Planning and will then form part of this permit. The environmental management plan must include the following:

- (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 480 *Environmental Guidelines for Major Construction Sites* and EPA Publication 275 *Construction Techniques for Sediment Pollution Control*;

- (ii) the identification of all potential contaminants stored on site;
 - (iii) the identification of all construction and operational processes that could potentially lead to water contamination;
 - (iv) the identification of appropriate storage, construction and operational methods to control any identified contamination risks;
 - (v) the identification of waste re-use, recycling and disposal procedures;
 - (vi) appropriate sanitary facilities for construction and maintenance staff in accordance with the EPA Publication 891 *Septic Tanks Code of Practice*;
 - (vii) procedures, where practical, to construct turbine bases, access tracks and power cabling during warmer months to minimise impacts on ephemeral wetlands, local fauna and sediment mobilisation;
 - (viii) procedures for construction vehicles and equipment to use designated tracks and works areas to avoid impacts on native vegetation, Austin Creek and the disused railway reserve;
 - (ix) procedures to cover trenches and holes at night time and to fill trenches as soon as practical after excavation, to protect native fauna; and
 - (x) procedures for the removal of works, buildings and staging area 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) procedures 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) 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 628 *Environmental Guidelines for the Concrete Batching Industry*;

- (iii) 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;
 - (iv) procedures to suppress dust from construction-related activities. Note: appropriate measures may include water spraying offroads 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;
 - (v) procedures to ensure that steep batters are treated in accordance with Environmental Protection Authority Publication 275 *Construction Techniques for Sediment Pollution Control*;
 - (vi) procedures for waste water discharge management;
 - (vii) a process for overland flow management to prevent the concentration and diversion of waters onto steep or erosion prone slopes;
 - (viii) pollution management measures for stored and stockpiled materials including waste materials, litter and any other potential source of water pollution;
 - (ix) incorporation of pollution control measures outlined in EPA Publication 480 *Environmental Guidelines for Major Construction Sites*;
 - (x) siting of concrete batching plant and any on-site wastewater and disposal and disposal treatment fields at least 100 metres from any watercourse;
 - (xi) 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
 - (xii) 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 the following:
- (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 1 km 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 Environment Protection Authority requirements.
- (e) **A wildfire prevention and emergency response plan** prepared in consultation with and to the satisfaction of the Country Fire Authority and Moyne Shire. This plan must include:
- (i) criteria for the provision of static water supply tanks solely for fire fighting purposes, including minimum capacities, appropriate connections and signage,
 - (ii) criteria for access to static water supply tanks for fire fighting vehicles;
 - (iii) procedures for vegetation management, fuel control and the provision of fire fighting 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, 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 Country Fire Authority, 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, training of authority personnel in relation to suppression of wind energy facility fires.
 - (f) A **pest animal management plan** to be prepared in consultation with the Department of Economic Development, Jobs, Transport and Resources. This plan must include:
 - (i) procedures for the control of pest animals, particularly by negating opportunities for the sheltering of pests; and
 - (ii) follow-up pest animal control for all areas disturbed by the wind energy facility construction works for a period of two years following the completion of the wind energy facility.
 - (g) A **pest plant management plan** to be prepared in consultation with the Department of Economic Development, Jobs, Transport and Resources and DELWP Planning 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.
 - (h) A **lighting maintenance plan** including a monitoring and maintenance procedure for obstacle lighting for aviation safety.
 - (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.
 - (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 0 to 0 above.
25. The Environmental Management Plan must be reviewed and if necessary amended, in relation to matters pertaining to the continued operation of the wind energy facility, in consultation with the Moyne Shire Council and where relevant DELWP Environment Portfolio to the satisfaction of the Minister for Planning every 5 years to reflect operational experience and changes in environmental management standards and techniques and must be submitted to the Minister for Planning for re-endorsement.

26. The use and development must be carried out in accordance with the endorsed Environmental Management Plan.

BATS AND AVIFAUNA

27. Within 3 months of the issue of this amended permit, unless extended by the Minister for Planning, a methodology must be prepared for a targeted assessment to determine the utilisation of the site by the threatened bird and bat species identified in the report titled, Hawkesdale Wind Farm Application for Planning Permit by Gamesa Energy Australia/TM E Australia Volume 1 - Main Report and Volume 2 - Annexes, September 2006. A methodology for the assessment, shall be developed in consultation with the DELWP Environment Portfolio to the satisfaction of the Minister for Planning.
28. The targeted assessment must be carried out, to the satisfaction of the Minister for Planning, during the period between the approval of the methodology and the commissioning of the last turbine.
29. Prior to the commissioning of the first turbine, and based on the findings of the targeted assessment, a Bat and Avifauna Management Plan (BAM Plan) to the satisfaction of the Minister for Planning must be prepared in consultation with the DELWP 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 BAM Plan must include:
- (a) a statement of the objectives and overall strategy for detecting, managing and mitigating any significant bird and bat mortality arising from the wind energy facility operations;
 - (b) a monitoring program of at least 2 years duration, either commencing upon the commissioning of the last turbine of the first stage of the approved development and use (if any) or alternatively, such other time of commencement as is to the satisfaction of the Minister for Planning. The monitoring program must include surveys during breeding and migratory seasons to ascertain:
 - (i) the presence, behaviour and movements of any Brolga, especially breeding pairs in the vicinity of the wind energy facility;
 - (ii) the presence, behaviour and movements of any Southern Bent- wing Bat in the vicinity of the wind energy facility;
 - (iii) the species, number, age and sex (if possible) and date of any bird or bat mortality arising from the wind energy facility operations;
 - (iv) procedures for the reporting of any detected threatened bird or threatened bat mortalities arising from the operation of the wind energy facility to the DELWP Environment Portfolio and the responsible authority within 7 days of becoming aware of any mortality;
 - (v) seasonal and yearly variation in the number of bird and bat mortalities arising from the operation of the wind energy facility;

- (vi) whether bird and bat mortalities were at lit or unlit turbines;
 - (vii) the efficacy of searches for carcasses of birds and bats and information on the rate of removal of carcasses by scavengers, so that correction factors can be determined to enable calculations of the total number of mortalities;
 - (viii) procedures for the regular removal of carcasses likely to attract raptors to areas near turbines; and
 - (ix) requirements for periodic reporting, within agreed timeframes, of the findings of the monitoring to DELWP Environment Portfolio, the responsible authority and the local community;
- (c) recommendations in relation to a mortality rate for specified species which would trigger the requirement for responsive mitigation or offset measures to be undertaken by the proponent to the satisfaction of the Minister for Planning; and
- (d) a strategy developed in consultation with DELWP Environment Portfolio and to the satisfaction of the Minister for Planning to mitigate or offset any impacts in relation to the threatened [or significantly affected native bird or bat species detected](#) ~~bird and bat species~~ during monitoring. Measures to offset the impacts may include management or improvement of habitat or breeding sites away from the wind energy facility in the region to improve breeding productivity, or other offsets to the satisfaction of the Minister for Planning.
30. Following the completion of the two year monitoring program in condition [29](#), a report must be prepared by the operator of the wind energy facility setting out the findings of the program and in particular assessing any cumulative impact of the wind energy facility on bird and bat species, to the satisfaction of the Minister for Planning. The report should be generally in accordance with Windfarm collision risk for birds: Cumulative risks for threatened and migratory species, Department of Environment and Heritage (2006) and any general framework for cumulative impact studies if issued by the Minister for Planning at the end of the two year monitoring program.
31. If, after consideration of this report, the Minister for Planning directs that further investigation of potential or actual impacts on birds and bats is to be undertaken, the extent and details of the further investigation must be prepared in consultation with DELWP Environment Portfolio and to the satisfaction of the Minister for Planning, and the investigation must be carried out to the satisfaction of the Minister for Planning.

NATIVE VEGETATION REMOVAL

- [32. No more than 0.872 hectares of native vegetation is permitted to be approved under this permit.](#)
- [33. Before any native vegetation is removed under this permit, a Native Vegetation Plan to the satisfaction of DELWP Environment Portfolio and the Minister for Planning must be submitted to and](#)

approved by the Minister for Planning. When approved the Native Vegetation Plan will be endorsed and then form part of the permit. All works constructed or carried out must be in accordance with the endorsed plan. The Native Vegetation Plan must include:

- (a) a final Biodiversity Assessment Report or similar which identifies all losses being approved by this permit and the associated offset requirements, in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, September 2013).
- (b) Plans drawn to scale with dimensions that identify:
 - (i) native vegetation to be removed.
 - (ii) any current mapped wetlands that are present on the site.
 - (iii) any native vegetation to be retained that is within the permissible micro siting envelope or ancillary infrastructure.
- (c) measures to be used during construction to protect native vegetation to be retained.

34. Except with the written consent of the Minister for Planning, within any area of native vegetation to be retained the following are prohibited:

- (a) vehicular or pedestrian access
- (b) trenching or soil excavation
- (c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
- (d) entry and exit pits for underground services
- (e) any other actions or activities that may result in adverse impacts to retained native vegetation.

35. To offset the native vegetation removal described in the endorsed Native Vegetation Plan, the permit holder must secure a native vegetation offset in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI 2013) and Native vegetation gain scoring manual (DEPI 2013).

36. Before any native vegetation is removed, evidence that the required offset for the project or stage has been secured must be provided to the satisfaction of the Minister for Planning. The offset evidence can be:

- (a) a security agreement signed by both parties, to the required standard for the offset site or sites, including a 10 year offset management plan; and/or
- (b) an allocated credit extract from the Native Vegetation Credit Register.

37. Within 30 days of endorsement of the offset evidence by the Minister for Planning, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and

Planning. At the conclusion of the project, offset requirements can be reconciled with agreement by the Minister for Planning and the Department of Environment, Land, Water and Planning.

38. In the event that a security agreement is entered into as per condition (35), the applicant must provide the annual offset site condition report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.

Notes:

To prevent the spread of weeds and pathogens, all vehicles and machinery must be made free of soil, seed and plant material before being taken to the works site and again before being taken from the works site, during and on completion of the project.

Any pruning to the canopy or major structural branches of any tree to be retained must be undertaken in accordance with Australian Standard 4373-2007 – Pruning of Amenity Trees.

NOISE STANDARD

39. 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 in relation to any dwelling existing on land in the vicinity of the wind energy facility as at 28 February 2017, to the satisfaction of the Minister of Planning. In determining compliance with the standard, the following requirements apply:
- (a) The sound level from the wind energy facility, when measured outdoors within 10 metres of a dwelling at any relevant nominated wind speed, must not exceed the background level (LA90) by more than 5 dB or a level of 40 dB LA90, whichever is the greater;
 - (b) Compliance at night must be separately assessed with regard to night time data. For these purposes the night is defined as 10.00pm to 7.00am; and
 - (c) Where special audible characteristics, including tonality, impulsive sound or excessive amplitude modulation occur, the measured noise level with the identified special audible characteristics will be modified by applying a penalty of up to +6 dB LA90 in accordance with Section 5.4 of the Standard.
40. This condition does not apply if an agreement has been reached with a landowner through which the landowner accepts predicted noise levels or otherwise agrees to implement appropriate acoustic attenuation measures to ensure a reasonable level of acoustic amenity in relation to the indoor habitable areas of their dwelling(s), and acknowledges that the operation of the wind energy facility may still generate noise in outdoor areas at the dwelling(s) which may from time to time exceed the standard. Evidence of the agreement must be provided to the satisfaction of the Minister for Planning upon request, and must be in a form that applies to the land for the life of the wind energy facility.

NOISE COMPLIANCE ASSESSMENT

41. An independent post-construction noise monitoring program must be commissioned by the proponent within 2 months from the commissioning of the first turbine and continue for 12 months after the commissioning of the last turbine, to the satisfaction of the Minister for Planning. The independent expert must have experience in acoustic measurement and analysis of wind turbine noise. The program must be carried out in accordance with New Zealand Standard 6808:2010 as varied by Condition 39 above. The operator under this permit must pay the reasonable costs of the monitoring program.
42. All noise compliance reports must be accompanied by a report from an environmental auditor appointed under the Environment Protection Act 1970 with their opinion on the methodology and results contained in the noise compliance testing plan. If a suitable auditor cannot be engaged, the proponent may seek the written consent of the Minister for Planning to obtain an independent peer review of the noise report instead.
43. The results of the post-construction noise monitoring program, data and details of compliance and non-compliance with the New Zealand Standard must be forwarded to the Minister for Planning within 45 days of the end of the monitoring period. The results must be written in plain English and formatted for reading by laypeople.

COMPLAINTS

Complaint Investigation and Response Plan

44. Before development starts, a Complaint Investigation and Response Plan must be submitted to the Minister for Planning for endorsement. Once endorsed, the plan will form part of this permit.
45. The Complaint Investigation and Response Plan must:
 - (a) respond to all aspects of the construction and operation of the wind energy facility
 - (b) be prepared in accordance with Australian/New Zealand Standard AS/NZS 10002:2014 – Guidelines for complaint management in organisations
 - (c) include a process to investigate and resolve complaints (different processes may be required for different types of complaints).
46. The endorsed Complaint Investigation and Response Plan must be implemented to the satisfaction of the Minister for Planning and be publicly available online. The endorsed Complaint Investigation and Response Plan must not be altered or modified without the written consent of the Minister for Planning.

Publishing information about complaints handling

47. Before the development starts the following information must be made publicly available and readily accessible from the wind energy facility project website to the satisfaction of the Minister

for Planning:

- (a) a copy of the endorsed Complaints Investigation and Response Plan;
- (b) a toll free telephone number and email contact for complaints and queries to the operator of the wind energy facility.

Complaints Register

48. Before the development starts, a Complaints Register must be established which records:
- (a) the complainant's name and address (if provided), including (for noise complaints) any applicable property reference number contained in the report titled *Hawkesdale Wind Farm Assessment NZS 6808:2010 Noise Assessment* (Marshall Day Acoustics, 25 August 2016);
 - (b) a receipt number for each complaint, which must be communicated to the complainant;
 - (c) the time and date of the incident, and the prevailing weather and operational conditions at the time of the incident;
 - (d) a description of the complainant's concerns, including (for a noise complaint) the potential occurrence of special audible characteristics;
 - (e) the process for investigating the complaint, and the outcome of the investigation, including:
 - (i) the actions taken to resolve the complaint;
 - (ii) for noise complaints, the findings and recommendations of an investigation report undertaken in accordance with the endorsed Noise Management Plan.
49. All complaints received must be recorded in the Complaints Register.
50. The complete copy of the Complaints Register must be provided, along with a reference map of complaint locations, to the Minister for Planning on each anniversary of the date of this permit and at other times on request.

BLADE SHADOW FLICKER

51. Shadow flicker from the wind energy facility must not exceed 30 hours per annum at any dwelling existing at 28 February 2017.
52. This condition does not apply if the operator of the wind energy facility has entered into an agreement with a landowner under which the landowner acknowledges and accepts that shadow flicker may exceed 30 hours per annum at the landowner's dwelling. Evidence of the agreement must be provided to the satisfaction of the Minister for Planning upon request, and must be in a form that applies to the land for the life of the wind energy facility.

TELEVISION AND RADIO RECEPTION AND INTERFERENCE

53. 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 up to 5kms 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.

54. 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.
55. 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 wind energy facility operator and to the satisfaction of the Minister for Planning.

SECURITY

56. All site and wind turbine access points and electrical equipment must be locked and made inaccessible to the general public to the satisfaction of the Minister for Planning. 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 Minister for Planning.

AVIATION CHARTS

57. Before development starts, confirmation of the surveyed location and height of turbines must be provided to Airservices Australia, to enable details of the facility to be shown on aeronautical charts of the area.
58. If there are any subsequent changes to turbine location or height during construction, Airservices Australia must be advised, to enable details of any changes to the facility to be shown on aeronautical charts of the area.

PRELIMINARY INVESTIGATIVE WORKS

59. 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.

STAGING

60. 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 (including the preparation and approval of plans) may be similarly completed in stages or parts.

DECOMMISSIONING

61. The wind energy facility operator must, without delay, notify the Minister for Planning in writing as soon as all of the wind turbines have permanently ceased to generate electricity. Within 12 months of this date, the wind energy facility operator must undertake the following to the satisfaction of the Minister for Planning within such timeframe as may be specified by the Minister:
- (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, 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 Minister for Planning and , when approved by the Minister for Planning, implement that plan; and
 - (f) submit a post-decommissioning revegetation management plan to the Minister for Planning and, when approved by the Minister for Planning, implement that plan.

EXPIRY

62. This permit will expire if one of the following circumstances applies:
- (a) the development is not started within 3 years of the date of this permit:
 - (b) 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 writing before the permit expires, or within 12 months afterwards.

Date Issued:	
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THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

Date of amendment	Brief description of amendment
15 November 2011	Pursuant to Section 69 of the Planning and Environment Act 1987 this permit was extended so that development must start no later than 15 March 2012.
31 October 2013	Pursuant to Section 69 of the Planning and Environment Act 1987 this permit was extended so that the permit will expire if the development is not

	completed by February 2016.
09 April 2015	Pursuant to Section 69 of the Planning and Environment Act 1987 this permit was extended so that the permit will expire if works are not completed by 29 August 2019.
[insert date of issue of this amended permit]	Pursuant to Section 69 of the Planning and Environment Act 1987 this permit was extended so that the permit will expire if works are not completed by 29 August 2020.

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 5 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
7. 1987, the Minister is the responsible authority in respect to any extension of time under section 69 in relation to this permit.

WHAT ABOUT APPEALS?

The permit has been granted and issued by the Minister under Division 6 of Part 4 of the Planning and Environment Act 1987. Section 97M provides that Divisions 2 and 3 of that Part and section 149A do not apply in relation to an application referred to the Minister under this Division, a permit issued under this Division or an amendment of a permit issued under this Division. The effect of this is that the Minister's decision is final.

Appendix G Panel recommended permit - Ryan Corner

[Tracked Added](#)

~~Tracked Deleted~~

The permit is based the post-exhibition permit submitted on 17 August 2017 (Document 32) The Panel accepted the majority of the track changes listed in that document and this Permit reflects the final recommendations of the Panel

Planning and Environment Regulations 2005 Form 11 Section 97F

PLANNING PERMIT GRANTED BY THE MINISTER UNDER

DIVISION 6 OF PART 4 OF THE PLANNING AND ENVIRONMENT ACT 1987

PLANNING PERMIT

Permit No.: 20060222

Planning Scheme: Moyne Planning Scheme

Responsible Authority for Administration and Enforcement of this Permit: Moyne Shire Council

ADDRESS OF THE LAND:

RYAN CORNER, PORT FAIRY ON LAND GENERALLY BOUNDED BY THE HAMILTON - PORT FAIRY ROAD, FINGERBOARD ROAD AND SHAW RIVER, described as:

- Lot 1 PS 342920W Vol 10246 Fol 739
- Lot 3 PS 342920W Vol 10246 Fol 741
- Lot 1 TP 583778M Vol 05985 Fol 855
- Lot 2 TP 583778M Vol 05985 Fol 855
- Lot 1 TP 739708U Vol 5985 Fol 856
- Lot 4 PS 342920W Vol 10246 Fol 742
- Lot 1 PS 533111T Vol 10922 Fol 363
- Lot 2 PS 533111T Vol 10922 Fol 364
- Lot 1 TP 020873M Vol 10588 Fol 322
- Lot 2 TP 020873M Vol 10585 Fol 312
- Lot 3 TP 020873M Vol 10585 Fol 315
- Lot 4 TP 020873M Vol 10585 Fol 324
- Lot 38 LP 004537 Vol 10585 Fol 323
- Lot 57 LP 004537 Vol 10585 Fol 319
- Lot 1 TP 189288D Vol 9495 Fol 250
- Allot. 4 Sec. F Parish of Yambuk Vol 10842 Fol 693
- Allot. 15 Sec. E Parish of Yambuk Vol 10586 Fol 664
- Lot 1 TP 333255U Vol 8397 Fol 544
- Lot 2 TP 333255U Vol 8397 Fol 544
- Lot 3 TP 333255U Vol 8397 Fol 544
- Lot 1 TP 674712N Vol 08898 Fol 020
- Lot 2 TP 674712N Vol 08898 Fol 020
- Lot 3 TP 674712N Vol 08898 Fol 020
- Lot 4 TP 674712N Vol 08898 Fol 020
- Lot 5 TP 674712N Vol 08898 Fol 020

- Lot 6 TP 674712N Vol 08898 Fol 020
- Lot 7 TP 674712N Vol 08898 Fol 020
- Lot 1 LP 129285 Vol 9340 Fol 475
- Lot 2 PS 129285 Vol 9340 Fol 476
- Lot 1 LP 093264 Vol 08914 Fol 779
- Lot 2 LP 093264 Vol 08914 Fol 780
- Allot. 16 Sec. E Parish of Yambuk Lot 1 TP 404726M Vol 04599 Fol 711
- Lot 2 TP 404726M Vol 04599 Fol 711
- Lot 4 LP 093264 Vol 08914 Fol 782
- Lot 3 LP 093264 Vol 08914 Fol 781
- Lot 1 on LP 078617 Vol 05161 Fol 030
- Lot 1 on TP126647G Vol 09391 Fol 430 as part of the Hamilton Port Fairy Road
- A small section of Riverside Road/Harris Road that is controlled Crown Land reserve
- Riverside Road and road reserve
- Youls Road (Crown land for Youls Road widening)

THE PERMIT ALLOWS:

Use and development of land for a Wind Energy Facility and 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. The plans may be submitted for approval in stages or for a particular grouping of wind turbines within the site. When approved, the plans will be endorsed by the Minister for Planning 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, layout and dimensions of all on-site buildings and works including all wind turbines, access tracks, underground cables, overhead cables, any temporary concrete batching plant, the on-site sub-station, the off-site substation and high voltage switchyard, landscaping, any designated car parking areas, any signage, those turbines fitted with obstacle lighting for aviation safety 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 application plans as identified in Figure 4.1 (dated 20/02/07) of the Ryan Corner Wind Farm Environment Effects Statement and Application for Planning Permit (Gamesa Australia/TME Australia, October 2006), but modified to show:

- (a) any necessary adjustment to the layout to ensure that any indigenous or non-indigenous archaeological site identified by any on-site archaeological survey, and required to be protected (including those identified in Figure 9.1 of the Ryan Corner Wind Farm Environment Effects Statement and Application for Planning Permit (Gamesa Australia/TME Australia, October 2006), is avoided.

- (b) global positioning system coordinates for each turbine;
 - (c) details of the model and capacity of the wind turbines to be installed;
 - (d) elevations, materials and finishes of the wind turbines and other buildings and works;
 - (e) the location, size, type and intensity of any aviation safety lighting including any impact minimisation features as required by Condition 9
 - (f) details of any signage.
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; (as defined in this condition) is permitted provided that:
- (a) the developer of the wind energy facility has written advice from appropriately qualified experts that the alteration or modification will not result in a material adverse change in landscape, flora and fauna, cultural heritage, visual amenity, shadow flicker, noise fire risk or aviation impacts compared to the endorsed plans;
 - (b) the turbine base is not relocated so that it is within 1 km of a dwelling that existed on 28 February 2017 unless evidence has been provided to the satisfaction of the Minister for Planning that the owner of the dwelling has consented in writing to the location of the turbine;
 - (c) the turbine base is not relocated so that it results in the removal of any additional remnant native vegetation, unless that removal has been authorised by a planning permit; and
 - (d) no turbine base is located within:
 - (i) 100 metres from a Road Zone Category 1 or land in a Public Acquisition Overlay to be acquired for a road;
 - (ii) 40 metres from a Road Zone Category 2;
 - (iii) 20 metres from any other road;
 - (iv) 5 metres from the site boundary;
 - (v) 50 metres from a waterway, wetlands or designated flood plain; or
 - (vi) within an exclusion zone of any licensed communications link.

Any micro-siting of turbines in accordance with this condition will be regarded as being in accordance with the endorsed plans, and no consent under condition 2 will be required to reflect the micro-siting of turbines in compliance with this condition.

For the purpose of this condition, micro-siting of turbines means an alteration to the siting of a turbine by not more than 100 metres.

For the purposes of this condition, micro-siting of turbines includes any consequent

changes to access tracks and electricity reticulation lines and the measurement of any distance between a dwelling and a turbine must be from the centre of the tower of the turbine (at ground level) to the closest point of the dwelling.

Copies of the written advice referred to in this condition must be provided to the Minister for Planning.

SPECIFICATIONS

3. Except with the written consent of the Minister for Planning, the wind energy facility must meet the following requirements to the satisfaction of the Minister for Planning:
- (a) the wind energy facility must comprise no more than 56 wind turbines;
 - (b) the overall maximum height of the wind turbines (to the tip of the rotor blade when vertical) must not exceed 180 metres above natural ground level;
 - (c) wind turbines must be mounted on a tubular steel and/or concrete tower;
 - (d) each wind turbine is to have not more than three rotor blades and the lowest point of a sweep of the rotor blade tip must not be less than 40 metres above ground level at the turbine base for all turbines except for turbine B35 that must not be less than 30 metres above ground level at the turbine base;
 - (e) the wind turbine towers, nacelles and rotor blades must be pale grey, off white, or other colour that blends with the landscape, and must be of a non-reflective finish;
 - (f) the colours and finishes of all other buildings and ancillary equipment must be such as to minimise the impact of the development on landscape;
 - (g) the ~~transformer~~ [transformer](#) associated with each wind generator must be located beside each tower and pad mounted, or be enclosed within the tower structure;
 - (h) 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, cultural heritage places, native flora and fauna and, where appropriate, the farming activities on the land;
 - (i) all new electricity cabling associated with the collector network within the wind energy facility must be placed under the ground, excepting for overhead cabling across Riverside Road/Harris Road as shown on Figure 4.1(dated 20/02/07) of the Ryan Corner Wind Farm Environment Effects Statement and Application for Planning Permit (Gamesa Australia/TME Australia, October 2006);
 - (j) subject to condition 2(d) all wind turbines must be set back at least 50 metres from boundaries to neighbouring properties and roads which are formed roads at the date of this permit.

LANDSCAPE/VISUAL AMENITY

4. Before the development starts, an on-site landscape plan to the satisfaction of the Minister for Planning must be submitted to and approved by the Minister for Planning. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:
 - (a) landscaping to screen the onsite and offsite substation and switchyard, and associated buildings other than the turbines;
 - (b) details of plant species proposed to be used in the landscaping, including height and spread at maturity;
 - (c) a timetable for implementation of all landscaping works; and
 - (d) a maintenance and monitoring program.
5. Before any turbine is commissioned:
 - (a) a program of voluntary landscape mitigation works to mitigate the visual impact of turbines to the satisfaction of the Minister for Planning must be made available to the owners of dwellings that existed as at 28 February 2017 within 4.0 kilometres of the nearest turbine, to the owners of dwellings 4, 5, 104 and 105 as identified in Figure 20.46 of the Ryan Corner Wind Farm Environment Effects Statement and Application for Planning Permit (Gamesa Australia/TME Australia, October 2006) and to the Collins property at 800 Fingerboard Road, Yambuk.
 - (b) as part of that program, an off-site landscaping plan must be prepared in consultation with the landowners specified in Condition 5(a) to the satisfaction of 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 provide details of planting or other treatments that will be used to reduce the visual impact of the wind turbines at the dwellings of the participating landowners.

The off-site landscape plan must include:

 - (i) details of the plant species to be used, including the height and spread of plants at maturity; and
 - (ii) a timetable for implementation of the landscaping works.
6. The landscaping as shown on the endorsed on-site and off-site landscape plans required by Conditions 4 and 5 must be completed to the satisfaction of the Minister for Planning within 12 months of the completion of the development or any relevant stage of it; or to such other timetable as agreed with the landowner and approved by the Minister for Planning, at the cost of the operator under this permit.
7. All access tracks associated with the wind energy facility 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.

LIGHTING

8. Except in the case of an emergency, no external lighting of infrastructure associated with the wind energy facility, other than low level security lighting may be installed or operated without the further written consent of the Minister for Planning.
9. Obstacle lighting for aviation safety should be generally in accordance with the the ‘Ryan Corner Wind Farm Obstacle Lighting Design V1.1’ prepared by Aviation Projects dated 20 September 2011, unless otherwise agreed with the Minister for Planning and must be to the satisfaction of the Minister for Planning. In finalising any lighting plan:
 - (a) The applicant must consult with CASA;
 - (b) Advice must be sought from a suitably qualified wildlife ecologist to ensure the lighting minimises any impact on bats or night flying birds, to the satisfaction of the Minister for Planning in consultation with DELWP Environment Portfolio;
 - (c) Where turbines are to be lit, individual lighting installations must be in accordance with the CASA Advisory Circular 139-18(0) and the CASA Manual of Standards, particularly Chapter 9; and
 - (d) Subject to condition 9(b), the impact minimization features to be incorporated in any installation must include, but are not limited to:
 - (i) Treatment of the rear of the blade to avoid reflection of aviation lights;
Shielding of the lights on top and bottom such that the maximum intensity of light is limited to a beam of 3 degrees, with only 0.5 degrees of this beam width below the horizon; and

TRAFFIC MANAGEMENT

10. ~~Before the commencement of construction of installation of wind turbines footings, crane hardstand, internal access roads and substation, the road construction works as shown on the plan(s) endorsed under Condition 11 must be completed by the permit holder and assessed by the a suitably qualified road pavement engineer Road Quality Auditor, in consultation with Moyne Shire Council and VicRoads to the satisfaction of the Minister for Planning.~~
11. Before the development starts, a traffic management plan must be prepared in consultation with Moyne Shire Council and VicRoads to the satisfaction of 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 of public roads in the vicinity of the wind energy facility that may be used for access, including details of the suitability, design and construction standard of the roads; .

- (b) the designation of appropriate construction and transport vehicle routes to 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;
- (d) identify any areas of indigenous roadside vegetation that may require removal or pruning, the pruning practices to be followed and the planning permit requirements for removal of native vegetation;
- (e) the identification and timetabling of any required pre-construction works;
- (f) the designation of principal and other vehicle access points to the wind energy facility from surrounding roads. The location and detailed design of the connection between the internal access tracks and the public roads must fully consider desirable standards to ensure safe site distances, turning movements, and potential through traffic conflicts;
- (g) 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;
- (h) 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;
- (i) 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;
- (j) engineering plans demonstrating how truck movements can be accommodated on sealed roadways and turned without encroaching onto the incorrect side of the road must be prepared for the Princess Highway/Youls Road intersection. 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 above by condition 11(a);
- (m) a protocol that bans the use of Riverside Road north of the newly constructed access track for trucks or heavy vehicles and provides that other vehicles avoid the vegetated areas by using the [formed](#) road surface and designated turning sites; and
- (n) if required by Moyne Shire Council, the payment of a security deposit or bond for a maintenance period of 12 months in respect of works covered by the Traffic Management

Plan, such security deposit or bond to be released at the end of that period.

- (o) consideration of road sealing, the construction of gravel shoulders and associated drainage works at:
 - (i) Youls Road;
 - (ii) depending on anticipated traffic volumes and composition of vehicles movements, any other roads required for use in the construction of the wind energy facility.
 - (p) Plans prepared under this condition must include cross-sections showing their formation, depth, drainage and surface levels, in consultation with the relevant road authority, to the satisfaction of the Minister for Planning.
 - (q) the scope of the expertise, duties and role of the nominated [qualified road pavement engineer](#) ~~Road Quality Auditor~~ engaged under Condition 10, including inspection frequency and reporting requirements;
 - (r) the number and type of anticipated vehicle movements and the time of day when local roads will be used;
 - (s) the designation of all vehicle access points to the wind energy facility site from surrounding roads. Vehicular access points must be designed and located to ensure safe line of sight distances and turning movements, and to avoid potential through-traffic conflicts;
 - (t) the designation of appropriate construction and transport vehicle routes to and from the wind energy facility site;
 - (u) provision of designated areas for loading zones;
 - (v) measures to be undertaken to record traffic volumes on the nominated road network during the construction of the wind energy facility.
 - (w) proposed measures to ensure workers enter and exit the wind energy facility site from the designated site entrance points.
 - (x) proposed measures to ensure construction vehicles are easily identifiable;
 - (y) 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
 - (z) a program to rehabilitate existing public roads (road rehabilitation responsibilities can be assigned to the relevant road authority by way of contract or levy) within agreed timeframes to the condition identified in the surveys carried out under Condition 11(a) or to the condition to which the roads have been upgraded, whichever is relevant.
12. The ~~Traffic Management Plan~~ [applicant](#) must ~~be updated in consultation~~ [submit an updated Traffic Management Plan](#) ~~with to the~~ Moyne Shire Council and VicRoads, [within 28 days of an event in](#)

either (a) or (b), to the satisfaction of the Minister for Planning to the satisfaction of the Minister for Planning, within 28 days of:

- a. A significant increase in vehicle numbers, determined by ~~the a suitably qualified road pavement engineer~~Road Quality Auditor, above the anticipated vehicle movements identified in the endorsed Traffic Management Plan; or
 - b. Any change to an endorsed vehicle routed identified in the endorsed Traffic Management Plan.
13. Before the endorsement of the Traffic Management Plan, the permit holder must submit to Moyne Shire Council and VicRoads for approval, an independent suitably qualified road pavement engineer, ~~independent of the permit holder's traffic advisor~~, who will undertake the duties ~~of the Road Quality Auditor~~ identified in the Traffic Management Plan. Once approved, the permit holder must engage, at its cost, the approved qualified road pavement engineer ~~Road Quality Auditor~~ to fulfil the requirements of the ~~Road Quality Auditor~~ as defined in the Traffic Management Plan.
14. The traffic management and road upgrade and maintenance works associated with the wind energy facility must be carried out in accordance with the traffic management plan and the cost of any works including maintenance are to be at the expense of the permit holder to the satisfaction of the relevant road authority.

CONDITIONS REQUIRED BY VICROADS

15. Before the commencement of construction of wind turbine footings, crane hardstand, internal access roads and substation, the intersection of the Princes Highway West and Youls Road intersection must be upgraded to a "Type B" treatment. All works associated with the design and construction of the intersection must be designed to standards specified in AUSTRROADS publication "Guide to Traffic Engineering Practice, Intersection at Grade, Part 5".

ENVIRONMENTAL MANAGEMENT PLAN

16. Before the development starts, an environmental management plan must be prepared to the satisfaction of the Minister for Planning, in consultation with DELWP Environment Portfolio, Moyne Shire Council, Country Fire Authority, and other agencies as specified in this condition or as further directed by the Minister for Planning. The environmental management plan must be based on the approach outlined in Chapter 23 of the Ryan Corner Wind Farm Environment Effects Statement and Application for Planning Permit (Gamesa Australia/TME Australia, October 2006). 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 by the Minister for Planning and will then form part of this permit.

The environmental management plan must include the following:

- (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 480 Environmental Guidelines for Major Construction Sites and EPA Publication 275 Construction Techniques for Sediment Pollution Control;
 - (ii) the identification of all potential contaminants stored on site;
 - (iii) the identification of all construction and operational processes that could potentially lead to water contamination;
 - (iv) the identification of appropriate storage, construction and operational methods to control any identified contamination risks;
 - (v) the identification of waste re-use, recycling and disposal procedures;
 - (vi) appropriate sanitary facilities for construction and maintenance staff in accordance with the EPA Publication 891 Septic Tanks Code of Practice;
 - (vii) procedures for construction vehicles and equipment to use designated tracks and works areas to avoid impacts on native vegetation;
 - (viii) procedures to cover trenches and holes at night time and to fill trenches as soon as practical after excavation, to protect native fauna; and
 - (ix) procedures for the removal of works, buildings and staging area 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) 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 628 Environmental Guidelines for the Concrete Batching 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 480 Environmental Guidelines for Major Construction Sites;
- (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 the following:

- (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 1 km 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 1 km 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 Environment Protection Authority requirements.
- (e) **A wildfire prevention and emergency response plan** prepared in consultation with and to the satisfaction of the Country Fire Authority, and Moyne Shire. This plan must include:
- (i) criteria for the provision of static water supply tanks solely for firefighting purposes, including minimum capacities, appropriate connections and signage,
 - (ii) criteria for access to static water supply tanks for fire fighting vehicles;
 - (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, 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 Country Fire Authority, 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, training of authority personnel in relation to suppression of wind energy facility fires.
- (f) **An archaeological management plan.** This plan must include:
- (i) procedures to ensure that before any buildings or works commence in association with the development, the identified non-Aboriginal heritage locations identified in the Archaeological/Cultural Heritage Assessment undertaken by ERM, August 2006 in Supplementary Reports, Volume 2 of the Ryan Corner Wind Farm Environment Effects Statement and Application for Planning Permit (Gamesa Australia/TME Australia, October 2006), are protected from any buildings and works in accordance with the recommendations contained in the Cultural Heritage Assessment; and
- (ii) protocols for the activities of construction contractors on site, which have been identified to have potential effects on sites of cultural significance.
- (g) **A pest animal management plan** to be prepared in consultation with the Department of Economic Development, Jobs, Transport and Resources. This plan must include:
- (i) procedures for the control of pest animals, particularly by negating opportunities for the sheltering of pests; and
- (ii) follow-up pest animal control for all areas disturbed by the wind energy facility construction works for a period of two years following the completion of the wind energy facility.
- (h) **A pest plant management plan** to be prepared in consultation with the Department of Economic Development, Jobs, Transport and Resources and DELWP Planning including:
- (i) procedures to prevent the spread of weeds and pathogens from earthmoving equipment and associated machinery including the cleaning of all plant and equipment before transporting 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.

- (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 0 to 0 above.
17. The Environmental Management Plan must be reviewed and if necessary amended, in relation to matters pertaining to the continued operation of the wind energy facility, in consultation with the Moyne Shire Council and where relevant DELWP Environment Portfolio to the satisfaction of the Minister for Planning every 5 years to reflect operational experience and changes in environmental management standards and techniques and must be submitted to the Minister for Planning for re-endorsement.
18. The use and development must be carried out in accordance with the endorsed Environmental Management Plan.

BATS AND AVIFAUNA

19. Prior to the commissioning of the first turbine a Bat and Avifauna Management Plan (BAM Plan) to the satisfaction of the Minister for Planning must be prepared in consultation with DELWP 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 BAM Plan must include:
- (a) a statement of the objectives and overall strategy for detecting, managing and mitigating any significant bird and bat mortality arising from the wind energy facility operations;
 - (b) a monitoring program of at least 2 years duration, either commencing upon the commissioning of the last turbine of the first stage of the approved development and use (if any) or alternatively, such other time of commencement as is to the satisfaction of the Minister for Planning. The monitoring program must include surveys during breeding and migratory seasons to ascertain:
 - (i) the presence, behaviour and movements of any Brolga, especially breeding pairs in the vicinity of the wind energy facility;
 - (ii) the presence, behaviour and movements of any Southern Bent-wing Bat in the vicinity of the wind energy facility;
 - (iii) the species, number, age and sex (if possible) and date of any bird or bat mortality arising from the wind energy facility operations;
 - (iv) procedures for the reporting of any detected threatened bird or threatened bat mortalities arising from the operation of the wind energy facility to DELWP Environment Portfolio and the responsible authority within 7 days of becoming aware of any mortality;

- (v) seasonal and yearly variation in the number of bird and bat mortalities arising from the operation of the wind energy facility;
 - (vi) whether bird and bat mortalities were at lit or unlit turbines;
 - (vii) the efficacy of searches for carcasses of birds and bats and information on the rate of removal of carcasses by scavengers, so that correction factors can be determined to enable calculations of the total number of mortalities;
 - (viii) procedures for the regular removal of carcasses likely to attract raptors to areas near turbines; and
 - (ix) requirements for periodic reporting, within agreed timeframes, of the findings of the monitoring to DELWP Environment Portfolio, the responsible authority and the local community;
- (c) recommendations in relation to a mortality rate for specified species which would trigger the requirement for responsive mitigation or offset measures to be undertaken by the proponent to the satisfaction of the Minister for Planning; and
- (d) a strategy developed in consultation with DELWP Environment Portfolio and to the satisfaction of the Minister for Planning to mitigate or offset any impacts in relation to threatened or significantly affected native bird or bat species detected ~~bird and bat species~~ detected during monitoring. Measures to offset the impact may include management or improvement of habitat or breeding sites away from the wind energy facility in the region to improve breeding productivity, or other offsets to the satisfaction of the Minister for Planning .
20. Following the completion of the two year monitoring program referred to in condition [19](#), a report must be prepared by the operator of the wind energy facility setting out the findings of the program and in particular assessing any cumulative impact of the wind energy facility on the defined bird and bat species , to the satisfaction of the Minister for Planning. The report should be generally in accordance with Windfarm collision risk for birds: Cumulative risks for threatened and migratory species, Department of Environment and Heritage (2006) and any general framework for cumulative impact studies if issued by the Minister for Planning at the end of the two year monitoring program. If, after consideration of this report, the Minister for Planning directs that further investigation of potential or actual impacts on birds and bats is to be undertaken, the extent and details of the further investigation must be prepared in consultation DELWP Environment Portfolio and to the satisfaction of the Minister for Planning, and the investigation must be carried out to the satisfaction of the Minister for Planning.

NATIVE VEGETATION REMOVAL

21. [No more than 3.637 hectares of native vegetation is permitted to be approved under this permit.](#)
22. [Before any native vegetation is removed under this permit, a Native Vegetation Plan to the satisfaction of DELWP Environment Portfolio and the Minister for Planning must be submitted to and approved by the Minister for Planning. When approved the Native Vegetation Plan will be endorsed and then form part of the permit. All works constructed or carried out must be in accordance with the endorsed plan. The Native Vegetation Plan must include:](#)
 - (a) [a final Biodiversity Assessment Report or similar which identifies all losses being approved by this permit and the associated offset requirements, in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines \(DEPI, September 2013\).](#)
 - (b) [Plans drawn to scale with dimensions that identify:](#)
 - (i) [native vegetation to be removed.](#)
 - (ii) [any current mapped wetlands that are present on the site.](#)
 - (iii) [any native vegetation to be retained that is within the permissible micro siting envelope or ancillary infrastructure.](#)
 - (c) [measures to be used during construction to protect native vegetation to be retained.](#)
23. [Except with the written consent of the Minister for Planning, within any area of native vegetation to be retained the following are prohibited:](#)
 - (a) [vehicular or pedestrian access](#)
 - (b) [trenching or soil excavation](#)
 - (c) [storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products](#)
 - (d) [entry and exit pits for underground services](#)
 - (e) [any other actions or activities that may result in adverse impacts to retained native vegetation.](#)
24. [To offset the native vegetation removal described in the endorsed Native Vegetation Plan, the permit holder must secure a native vegetation offset in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines \(DEPI 2013\) and Native vegetation gain scoring manual \(DEPI 2013\).](#)
25. [Before any native vegetation is removed, evidence that the required offset for the project or stage has been secured must be provided to the satisfaction of the Minister for Planning. The offset evidence can be:](#)
 - (a) [a security agreement signed by both parties, to the required standard for the offset site or](#)

sites, including a 10 year offset management plan; and/or

(b) an allocated credit extract from the Native Vegetation Credit Register.

26. Within 30 days of endorsement of the offset evidence by the Minister for Planning, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning. At the conclusion of the project, offset requirements can be reconciled with agreement by the Minister for Planning and the Department of Environment, Land, Water and Planning.

27. In the event that a security agreement is entered into as per condition (25), the applicant must provide the annual offset site condition report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.

Notes:

To prevent the spread of weeds and pathogens, all vehicles and machinery must be made free of soil, seed and plant material before being taken to the works site and again before being taken from the works site, during and on completion of the project.

Any pruning to the canopy or major structural branches of any tree to be retained must be undertaken in accordance with Australian Standard 4373-2007 – Pruning of Amenity Trees.

NOISE STANDARD

28. 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 in relation to any dwelling existing on land in the vicinity of the wind energy facility as at 28 February 2017, to the satisfaction of the Minister of Planning. In determining compliance with the standard, the following requirements apply:

(a) The sound level from the wind energy facility, when measured outdoors within 10 metres of a dwelling at any relevant nominated wind speed, must not exceed the background level (LA90) by more than 5 dB or a level of 40 dB LA90, whichever is the greater;

(b) Compliance at night must be separately assessed with regard to night time data. For these purposes the night is defined as 10.00pm to 7.00am; and

(c) Where special audible characteristics, including tonality, impulsive sound or excessive amplitude modulation occur, the measured noise level with the identified special audible characteristics will be modified by applying a penalty of up to +6 dB LA90 in accordance with Section 5.4 of the Standard.

29. This condition does not apply if an agreement has been reached with a landowner through which the landowner accepts predicted noise levels or otherwise agrees to implement appropriate acoustic attenuation measures to ensure a reasonable level of acoustic amenity in relation to the indoor habitable areas of their dwelling(s), and acknowledges that the operation of the wind energy facility

may still generate noise in outdoor areas at the dwelling(s) which may from time to time exceed the standard. Evidence of the agreement must be provided to the satisfaction of the Minister for Planning upon request, and must be in a form that applies to the land for the life of the wind energy facility.

NOISE COMPLIANCE ASSESSMENT

30. An independent post-construction noise monitoring program must be commissioned by the proponent within 2 months from the commissioning of the first turbine and continue for 12 months after the commissioning of the last turbine, to the satisfaction of the Minister for Planning. The independent expert must have experience in acoustic measurement and analysis of wind turbine noise. The program must be carried out in accordance with New Zealand Standard 6808:2010 as varied by Condition [280](#) above. The operator under this permit must pay the reasonable costs of the monitoring program.
31. All noise compliance reports must be accompanied by a report from an environmental auditor appointed under the Environment Protection Act 1970 with their opinion on the methodology and results contained in the noise compliance testing plan. If a suitable auditor cannot be engaged, the proponent may seek the written consent of the Minister for Planning to obtain an independent peer review of the noise report instead.
32. The results of the post-construction noise monitoring program, data and details of compliance and non-compliance with the New Zealand Standard must be forwarded to the Minister for Planning within 45 days of the end of the monitoring period. The results must be written in plain English and formatted for reading by laypeople.

COMPLAINTS

Complaint Investigation and Response Plan

33. Before development starts, a Complaint Investigation and Response Plan must be submitted to the Minister for Planning for endorsement. Once endorsed, the plan will form part of this permit.
34. The Complaint Investigation and Response Plan must:
 - (a) respond to all aspects of the construction and operation of the wind energy facility;
 - (b) be prepared in accordance with Australian/New Zealand Standard AS/NZS 10002:2014 – Guidelines for complaint management in organisations;
 - (c) include a process to investigate and resolve complaints (different processes may be required for different types of complaints).
35. The endorsed Complaint Investigation and Response Plan must be implemented to the satisfaction of the Minister for Planning and be publicly available online. The endorsed Complaint Investigation and Response Plan must not be altered or modified without the written consent of the Minister for Planning.

Publishing information about complaints handling

36. Before the development starts the following information must be made publicly available and readily accessible from the wind energy facility project website to the satisfaction of the Minister for Planning:
- (a) a copy of the endorsed Complaints Investigation and Response Plan;
 - (b) a toll free telephone number and email contact for complaints and queries to the operator of the wind energy facility.

Complaints Register

37. Before the development starts, a Complaints Register must be established which records:
- (a) the complainant's name and address (if provided), including (for noise complaints) any applicable property reference number contained in the report titled *Ryan Corner Wind Farm NZS 6808:2010 Noise Assessment* (Marshall Day Acoustics, 21 April 2017);
 - (b) a receipt number for each complaint, which must be communicated to the complainant;
 - (c) the time and date of the incident, and the prevailing weather and operational conditions at the time of the incident;
 - (d) a description of the complainant's concerns, including (for a noise complaint) the potential occurrence of special audible characteristics;
 - (e) the process for investigating the complaint, and the outcome of the investigation, including:
 - (i) the actions taken to resolve the complaint;
 - (ii) for noise complaints, the findings and recommendations of an investigation report undertaken in accordance with the endorsed Noise Management Plan.
38. All complaints received must be recorded in the Complaints Register.
39. The complete copy of the Complaints Register must be provided, along with a reference map of complaint locations, to the Minister for Planning on each anniversary of the date of this permit and at other times on request.

BLADE SHADOW FLICKER

40. Shadow flicker from the wind energy facility must not exceed 30 hours per annum at any dwelling existing at 28 February 2017.
41. This condition does not apply if the operator of the wind energy facility has entered into an agreement with a landowner under which the landowner acknowledges and accepts that shadow flicker may exceed 30 hours per annum at the landowner's dwelling. Evidence of the agreement must be provided to the satisfaction of the Minister for Planning upon request, and must be in a form that applies to the land for the life of the wind energy facility.

TELEVISION AND RADIO RECEPTION AND INTERFERENCE

42. 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 up to 5 kms 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.
43. 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.
44. 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 reasonable and feasible measures to mitigate the interference and return the affected reception to pre-construction quality at the cost of the wind energy facility operator and to the satisfaction of the Minister for Planning.

SECURITY

45. All site and wind turbine access points and electrical equipment must be locked and made inaccessible to the general public to the satisfaction of the Minister for Planning. 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 Minister for Planning.

AVIATION CHARTS

46. Before development starts, confirmation of the surveyed location and height of turbines must be provided to Airservices Australia, to enable details of the facility to be shown on aeronautical charts of the area.
47. If there are any subsequent changes to turbine location or height during construction, Airservices Australia must be advised, to enable details of any changes to the facility to be shown on aeronautical charts of the area.

DECOMMISSIONING

48. The wind energy facility operator must, without delay, notify the Minister for Planning in writing as soon as all of the wind turbines have permanently ceased to generate electricity. Within 12 months of this date, the wind energy facility operator must undertake the following to the satisfaction of the Minister for Planning within such timeframe as may be specified by the Minister:
 - (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 Minister for Planning and, when approved by the Minister for Planning, implement that plan; and
- (f) submit a post-decommissioning revegetation management plan to the Minister for Planning and, when approved by the Minister for Planning, implement that plan.

STAGING

49. 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 (including the preparation and approval of plans) may be similarly completed in stages or parts.

PRELIMINARY INVESTIGATIVE WORKS

50. 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.

EXPIRY

51. This permit will expire if one of the following circumstances applies:
- (a) the development is not started within 3 years of the date of this permit:
 - (b) 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 writing before the permit expires, or within 12 months afterwards.

Date Issued:	Signature for the Responsible Authority:
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THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

Date of amendment	Brief description of amendment
15 November 2011	Pursuant to Section 69 of the Planning and Environment Act 1987 this permit was extended so that development must start no later than 15 March 2012.
31 October 2013	Pursuant to Section 69 of the Planning and Environment Act 1987 this permit was extended so that the permit will expire if the development is not completed by February 2016.
09 April 2015	Pursuant to Section 69 of the Planning and Environment Act 1987 this permit was extended so that the permit will expire if works are not completed by 29 August 2019.
[insert date of issue of this amended permit]	Pursuant to Section 69 of the Planning and Environment Act 1987 this permit was extended so that the permit will expire if works are not completed by 29 August 2020.

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 5 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
7. 1987, the Minister is the responsible authority in respect to any extension of time under section 69 in relation to this permit.

WHAT ABOUT APPEALS?

The permit has been granted and issued by the Minister under Division 6 of Part 4 of the Planning and Environment Act 1987. Section 97M provides that Divisions 2 and 3 of that Part and section 149A do not apply in relation to an application referred to the Minister under this Division, a permit issued under this Division or an amendment of a permit issued under this Division. The effect of this is that the Minister's decision is final.