

29 October 2025

The Hon. Sonya Kilkeny MP
Minister for Planning
C/- Michael Juttner
Manager, Development Approvals and Design, Renewables
Department of Transport and Planning
1 Spring Street
Melbourne VIC 3000
By Email: michael.juttner@transport.vic.gov.au

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Dear Minister

Mt Gellibrand Wind Farm: Application to amend Planning Permit PL-SP/05/0257

I am writing on behalf of Mt Gellibrand Wind Farm Pty Ltd (**MGWF**) to lodge an application to amend Planning Permit PL-SP/05/0257 (**Planning Permit**) pursuant to section 97I of the *Planning and Environment Act 1987* (Vic) (**P&E Act**). I enclose copies of:

- (a) Planning Permit PL-SP/05/0257, as well as a mark up of proposed amendments;
- (b) a supporting technical memorandum prepared by Resonate Consultants; and
- (c) Certificates of Title and copies of encumbrances on land affected by the application.

Executive Summary

MGWF seeks to amend conditions in the Planning Permit governing wind turbine noise and shadow flicker as explained below. Unless otherwise indicated, references to Conditions are to the numbering in the current Planning Permit.

MGWF's objective is to adopt modern assessment practices and reflect recent legislative changes. In summary, MGWF seeks to:

- (d) update Condition 15 to adopt the New Zealand Standard NZS 6808:2010 'Acoustics – Wind Farm Noise' (the **2010 Standard**);
- (e) broaden the scope of Conditions 16 and 23, and make consequential amendments to Conditions 38-39, to provide more flexibility for noise and shadow flicker agreements;
- (f) delete Condition 17, to reflect that wind turbine noise is now regulated by the EPA;
- (g) clarify in Condition 22 that shadow flicker requirements apply to dwellings existing at the date of the Planning Permit, to align with modern permits; and
- (h) update Condition 21 and make consequential amendments to Condition 24 to modernise complaints procedure requirements, and confine the Planning Permit's complaint process to matters other than wind turbine noise.

MGWF has proposed these changes to reflect the shift in regulation of wind turbine noise from the Minister to the EPA, and streamline the operation of the Planning Permit. The changes do not materially alter MGWF's noise compliance obligations. The proposed adoption of the 2010 Standard ensures that noise assessment is modernised without affecting existing protections for neighbours of the wind farm.

The proposed amendments are consistent with applicable planning policy, including the *Planning Guidelines for Development of Wind Energy Facilities* (September 2023).

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1 Background

The Planning Permit was issued by the Minister in August 2006. The Wind Farm commenced operating in September 2018.

Conditions 15 to 21 of the Planning Permit regulate operational turbine noise. Condition 18 requires the Wind Farm to undertake a post-construction noise monitoring program to the satisfaction of the Minister and in accordance with the New Zealand Standard NZS6808:1998 'Acoustics – The assessment and measurement of sound from wind turbine generators' (the **1998 Standard**). Due to delays in reaching full operational capacity, post-construction noise monitoring at MGWF is not yet complete. The programme is being completed in stages, in consultation with the Department.

Conditions 22 to 24 relate to shadow flicker. Conditions 38 to 39 outline the process for entering into and registering agreements about wind turbine noise and shadow flicker.

2 Condition 15 – Noise standard

MGWF proposes to update the wind farm's noise standard by replacing the 1998 Standard with the 2010 Standard. This amendment modernises MGWF's approach to regulating wind turbine noise, ensuring that noise monitoring and assessment is undertaken in line with current assessment standards.

Consequential amendments include:

- (a) removing Condition 15(a) and Condition 15(b), as the substance of these conditions is superseded by the requirement to comply with the 2010 Standard; and
- (b) removing Condition 15(c) and adding a new Note to the Planning Permit, to reflect that wind turbine noise is now regulated by the EPA.

3 Condition 16 – Noise agreements

MGWF requests amendments to Condition 16, to expand the types of agreements that may be entered into with landowners. Currently, the Planning Permit limits the agreement format to Section 173 Agreements under the P&E Act, and restricts agreement parties to persons who own, manage or receive a financial benefit from the land on which the wind farm is located.

There are no existing Section 173 Agreements in place at MGWF, so the proposed change will not affect surrounding landowners.

4 Condition 17 – Regulation of noise compliance

Condition 17 outlines the procedure to be followed in the event of a breach of the noise standard in Condition 15, which involves the Minister. As regulatory responsibility has shifted to the EPA, MGWF proposes to remove Condition 17. Noise compliance is now governed by the *Environment Protection Act 2017* (Vic), the Regulations, and the NMP. Removing Condition 17 will avoid duplication and reduce the administrative burden on the Minister.

5 Condition 21 – Noise complaint evaluation and response process

MGWF requests that the noise complaint and evaluation process in Condition 21 be substituted with an updated condition which addresses aspects of wind farm operations other than turbine noise. The distinction between turbine noise and all other matters is appropriate, as it recognises that noise complaints are now dealt with under procedures contained in the NMP, pursuant to Regulation 131E(2)(e). The proposed amendment is consistent with the approach taken in modern permits. MGWF also requests it is given 6 months to comply with the revised condition. The wind farm will continue implementing its existing complaint procedure in the meantime.

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6 Conditions 22-24 – Blade/Shadow flicker

Conditions 22-24 regulate the impacts of shadow flicker on surrounding dwellings.

Similarly to the requested amendments with respect to noise agreements, MGWF proposes to expand Condition 23 to permit a broader range of agreements to modify the restrictions on shadow flicker in Condition 22. This will allow a more flexible approach, which reduces the administrative burden on the Minister and ensures internal consistency within the Planning Permit.

MGWF also seeks to clarify that Condition 22 only applies to dwellings existing at the date of the Planning Permit, and to delete the requirement to prepare a complaint process under Condition 24 in light of the expanded complaint evaluation process proposed under Conditions 19-23.

7 Conditions 38-39 – Agreements

Conditions 38-39 of the Planning Permit outline the process for registering and retaining a copy of Section 173 Agreements made under Conditions 16 and 23. As the requirement to enter into a Section 173 Agreement is proposed to be changed, MGWF requests that Conditions 38-39 be deleted.

8 Relevant planning policy

The proposed amendments seek to modernise the manner in which wind turbine noise is monitored and managed. They are supported by planning policy. These changes bring the Planning Permit in alignment with model permit conditions endorsed by the Department of Transport and Planning and as referenced in its *Planning Guidelines for Development of Wind Energy Facilities* (September 2023). We note that the 2010 Standard is also preferred by the EPA, as outlined in its recently published *Wind Energy Facility Turbine Noise – Technical Guideline* (December 2024).

9 Notice and advertising

Pursuant to section 52 of the P&E Act, the Minister must give notice of this application to:

- (a) Colac Otway Shire Council, as it affects land within the Council's municipal district;
- (b) owners and occupiers of adjoining land, unless the Minister is satisfied that the amendment would not cause material detriment to those people; and
- (c) any other person, if the Minister considers that the amendment may cause material detriment to that person specifically.

MGWF considers the amendments to be mostly administrative in nature. We do not anticipate that these amendments will result in any material change to owners and occupiers, or other persons. In our view, the Minister can be satisfied that the amendments will not cause material detriment to neighbouring landowners, occupiers or other persons. If the Minister nevertheless finds that advertising is required, we would be pleased to assist with that process.

10 Title information

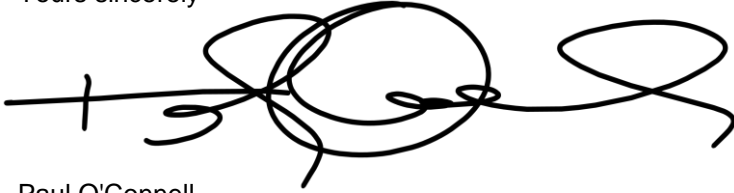
Schedule 1 to this letter contains a table which lists the details of all current Certificates of Title and any encumbrances on land affected by the application (excluding mortgages and leases). The copies of such are collated according to the Lot on Plan information, indicated by numbering in the left hand column of the table.

We separately provide Attachment 5, which is a table which lists the titles on the original Planning Permit and tracks through the cancellation of such titles as relevant to the current title information. Cancellations of titles occurred due to subdivision of titles, consolidation of titles and to reflect earlier subdivisions. The cancellations do not impact the proposed amendments to the Planning Permit.

Attachment 5 also lists any encumbrances on title (excluding mortgages and leases) for ease of reference.

Please let me know if you require any additional information to assess this application.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Paul O'Connell', written over a horizontal line.

Paul O'Connell

**General Manager, Safety, Environment and Social
Acciona Energia**

Encl.

Attachments

1. Current Planning Permit PL-SP/05/0257
2. Marked up copy of Planning Permit PL-SP/05/0257
3. Technical Memorandum prepared by Resonate Consultants, dated 30 May 2025
4. Current Certificates of Title and copies of encumbrances on land affected by the application
5. Table tracking through cancelled Certificates of Title listed on the original planning permit and listing all encumbrances on titles

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Schedule 1

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Number	Lot on Plan	Title details	Encumbrances (excluding leases and mortgages)
1	Lots 1 - 16 TP 381888F	Lot 1 TP 381888F - CT Vol 11571 Fol 433	None listed
		Lot 2 TP 381888F - CT Vol 11571 Fol 434	
		Lot 3 TP 381888F - CT Vol 11571 Fol 435	
		Lot 4 TP 381888F - CT Vol 11571 Fol 436	
		Lot 5 TP 381888F - CT Vol 11571 Fol 437	
		Lot 6 TP 381888F - CT Vol 11571 Fol 438	
		Lot 7 TP 381888F - CT Vol 11571 Fol 439	
		Lot 8 TP 381888F - CT Vol 11571 Fol 440	
		Lot 9 TP 381888F - CT Vol 11571 Fol 441	
		Lot 10 TP 381888F - CT Vol 11571 Fol 442	
		Lot 11 TP 381888F - CT Vol 11571 Fol 443	
		Lot 12 TP 381888F - CT Vol 11571 Fol 444	
		Lot 13 TP 381888F - CT Vol 11571 Fol 445	
		Lot 14 TP 381888F - CT Vol 11571 Fol 446	
		Lot 15 TP 381888F - CT Vol 11571 Fol 447	
		Lot 16 TP 381888F - CT Vol 11570 Fol 918	
2	Subdivision C CAs 16 - 21 Parish of Turkeeth as shown on TP 360703Q	Subdivision C CA 16 Parish of Turkeeth - CT Vol 11570 Fol 956	Water and mining rights in TP 360703Q
		Subdivision C CA 17 Parish of Turkeeth - CT Vol 11570 Fol 957	

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Number	Lot on Plan	Title details	Encumbrances (excluding leases and mortgages)
		Subdivision C CA 18 Parish of Turkeeth - CT Vol 11570 Fol 958	
		Subdivision C CA 19 Parish of Turkeeth - CT Vol 11570 Fol 959	
		Subdivision C CA 20 Parish of Turkeeth - CT Vol 11570 Fol 960	
		Subdivision C CA 21 Parish of Turkeeth - CT Vol 11570 Fol 961	
3	Lots 1 – 3 PS 429092B	Lot 1 PS 429092B - CT Vol 10470 Fol 616	Caveat AM299601A
		Lot 2 PS 429092B - CT Vol 10470 Fol 617	None listed
		Lot 3 PS 429092B - CT Vol 10470 Fol 618	
4	CAs 94 and 97 Parish of Gellibrand as shown on TP 302203Q	CT Vol 10729 Fol 637	Caveat AJ210025N
5	CAs 95, 102, 103, 104 and 105 Parish of Gellibrand as shown on TP 006264U	CA 95 Parish of Gellibrand - CT Vol 10289 Fol 648	Caveat AJ210025N
		CA 102 Parish of Gellibrand - CT Vol 10566 Fol 352	
		CAs 103, 104, and 105 Parish of Gellibrand - CT Vol 9787 Fol 718	
6	Lots 1 and 2 PS 733208M	Lot 1 PS 733208M - CT Vol 11896 Fol 792	Caveat AM246876G
		Lot 2 PS 733208M - CT Vol 11896 Fol 793	Caveat AQ558645C
7	CAs 72, 73, 78, 79, 80, 81, 86 and 87 Parish of Gellibrand as shown on TP574493F	CAs 73, 78, 81 and 86 Parish of Gellibrand - CT Vol 11224 Fol 553	None listed
		CA 72 Parish of Gellibrand - CT Vol 12016 Fol 989	
		CA 79 Parish of Gellibrand - CT Vol 12016 Fol 990	
		CA 80 Parish of Gellibrand - CT Vol 11348 Fol 612	
		CA 87 Parish of Gellibrand - CT Vol 11036 Fol 568	

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Number	Lot on Plan	Title details	Encumbrances (excluding leases and mortgages)
8	CA 88 Parish of Gellibrand as shown on TP 067568D	CT Vol 10137 Fol 065	Caveat AJ209896L
9	CA 57A Parish of Birregurra as shown on TP 262391E	CT Vol 5291 Fol 071	None listed
10	CA 57B Parish of Birregurra as shown on TP 783173J	CT Vol 0818 Fol 495	None listed
11	CA 50A Parish of Birregurra as shown on TP 273590L	CT Vol 5218 Fol 577	Easement A325855
12	CA 51A Parish of Birregurra as shown on TP 541789T	CT Vol 7218 Fol 541	Easement A370659
13	Lot 2 LP 065810 as shown on TP 634103R	CT Vol 8576 Fol 336	Easements C288450 and C288451
14	Lots 1 - 9 TP 845466A	CT Vol 8666 Fol 517 and CT Vol 8600 Fol 564	Covenants under s 3A <i>Victorian Conservation Trust Act 1972</i> AL032054E and AL521922D; Agreements under s 72(1) <i>Conservation Forest and Lands Act 1987</i> AR277925C, AS171290C and AS956107V
15	Lots 1 - 6 TP 011017J; CA 83 Parish of Turkeeth as shown on TP 011017J	Lot 1 TP 011017J - CT Vol 10443 Fol 482 and CT Vol 10443 Fol 516	Caveat AJ222036Q
		Lot 2 TP 011017J - CT Vol 10443 Fol 483 and CT Vol 10443 Fol 517	
		Lot 3 TP 011017J - CT Vol 12554 Fol 785	Caveat AJ222021E
		Lot 4 TP 011017J - CT Vol 12554 Fol 784	

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Number	Lot on Plan	Title details	Encumbrances (excluding leases and mortgages)
		Lot 5 TP 011017J - CT Vol 12554 Fol 786	
		Lot 6 TP 011017J - CT Vol 12554 Fol 787	
		CA 83 Parish of Turkeeth - CT Vol 12554 Fol 783	

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