



Wind



EIS

Community Guide

windeis.com.au

## Plain English Guide

to

## NSW Wind Energy Guideline December 2016

### Introduction

The Wind Energy Guideline together with the Visual Assessment and Noise Assessment Bulletins describe the process of developing a wind farm from siting and design through to evaluation, measurement and assessment of impacts and determination.

This is a plain English guide for communities. Any issues we think warrant further consideration are summarised in Attachment 1 at the end of this document.

The Guideline is designed to:

- assist wind farm developers (proponents) to design and site a wind farm within the NSW government planning framework
- assist **proponents** to address community concerns about the design, development, construction, operation and decommissioning of wind farm facilities, and
- assist **landholders and communities** to understand wind farm development assessment process, how a proposal may affect them, and how and when community consultation should occur

Those affected by a wind farm should expect to have: meaningful, respectful and effective communication during the assessment process and, if the wind farm is built, to hold the developer to account for their assessment of impacts and to be offered fair compensation for impacts by way of benefit sharing.

The Department hopes that the Guideline will speed up the assessment process and balance the interest of the community (private interest) at the same time attracting investment in renewable energy (public interest).

The Department will decide the outcome unless there are more than 25 objections or the regional council objects, in which case determination of the wind farm will be delegated to the Independent Planning Commission (IPC). Commonwealth Department of Environment approval may also be required if the project has an impact on matters of national significance. These are usually threatened species, ecological communities and heritage places impacted by the wind farm.

### Matters to be Assessed

Matters to be assessed which are specific to wind farms are:

- Biodiversity: the extent to which biodiversity values have been avoided, minimised or offset with attention to bat and bird strike.
- Noise Impact: noise levels<sup>1</sup> should not exceed 35 dB(A) or if background noise is greater than 35 dB(A), the background noise plus 5 dB(A) will apply; measurements to be made across a range of wind speeds (Detailed assessment methods are described in the Noise Assessment Bulletin)

---

1 Reference to residents and other relevant receivers is made in the Noise Assessment Bulletin, but not defined. We take this to mean all dwellings and potential dwelling locations and where people spent time. Refer to Attachment 1.

- Visual Impact: the height, scale and mechanical character of wind turbines make them stand out in the natural environments, alter the landscape and people's enjoyment (Detailed assessment methods are described in the Visual Assessment Bulletin).
- Traffic and Transport: how the road network can accommodate the traffic to and from the wind farm and the suitability of road upgrades.
- Aviation Safety: the intrusion of the wind turbines into the airspace and potential effects on navigation instruments.
- Bushfire Hazard: risks of bushfires and how the risk will be managed.
- Health: apply the latest advice from the NHMRC on health issues from noise and electric and magnetic fields and adopt a strategy of prudent avoidance<sup>2</sup>
- Telecommunications: assess interference with telecommunication services and make sure service is maintained.
- Blade Throw: what will happen if any turbines throw their blades.
- Decommissioning: make suitable arrangements for decommissioning and rehabilitation of the site when the wind farm reaches the end of its life.
- Cumulative Impacts: consider if other proposed, approved or operating wind farms in the vicinity are likely to increase the impacts of the proposed wind farm with respect to landscape, noise, biodiversity and traffic impacts.

The SEARS (standard requirements) together with a list of project specific requirements define the assessment process which needs to be undertaken including all the above matters as well as economic and social impacts, and effects on historic and Aboriginal cultural heritage and water.

### The Assessment Process

The assessment process includes the following steps:

1. Proponent: consults with affected individuals and communities to identify community values, environmental or land use constraints and opportunities in the project area to properly site and design the wind farm.
2. Proponent: prepares a Preliminary Environmental Assessment (PEA) and submits a request for SEARS - a list of requirements to be assessed in detail. The SEARS will be issued within 28 days of receiving the PEA.
3. Proponent: prepares the EIS and submits it to the Department together with a development application (DA).
4. The Department: puts the EIS on public exhibition for a minimum of 30 days. Anyone can make a submission on the project during the public exhibition period.
5. Proponent: prepares a report which responds to the submissions and sets out any changes to the project and submits this the report to the Department.
6. The Department: undertakes a comprehensive assessment of the project, prepares a report and makes a recommendation on the determination of the DA.
7. The Department or IPC: the relevant consent authority determines the DA by granting or refusing consent and, if consent is to be granted, imposing conditions. The IPC will determine controversial projects.

---

2 The Department has previously discounted community concerns about health and so we will watch with interest how a strategy of prudent avoidance will apply to wind farms in the future.

## Scoping and Pre-lodgement of the PEA

Early consultation with affected landowners, local councils, heritage groups, farming groups, environmental groups and business chambers establishes relationships and is a prerequisite to a wind farm proposal designed to avoid or minimise issues. This will include:

- inviting stakeholders to rank or value attributes such as access to the site, surrounding land uses, landscape values, geology, hydrology, soils, biodiversity, and wind resource location
- an iterative design process to identify the most appropriate locations for the final siting of specific turbines in a project, based on the quality of the wind resource and the results of their consultation
- a description of the consultation process and findings should be included in the Scoping Report so that the Department can prepare a SEARs (list of matters to be addressed in the EIS) specific to the project.

## Preliminary Environmental Assessment (PEA) and SEARs

A request for SEARs should be accompanied by a PEA report that:

- describes the project, the preliminary turbine layout, nearby dwellings, key public viewpoints and other key landscape features, discusses the suitability of their chosen location and the viability of wind resources in that area
- describes what was done to assist potentially affected people and groups in understanding the proposed development and what it could mean for them
- includes the results of the early consultation in relation to landscape values
- assesses the visual magnitude of the preliminary turbine layout as well as the cumulative impact of multiple turbines (refer to the Visual Assessment Bulletin)
- includes an indicative noise assessment
- provides a high-level assessment of the environmental impacts of the project focusing on identified key issues
- reports on the progress of community consultation
- the proposed approach to stakeholder consultation which will be taken during the EIS preparation

The Department will then issue SEARs after consulting relevant government agencies. The proponent must address all SEARs issued for a project in the project's EIS.

## Preparation of an Environmental Impact Statement (EIS)

### Project Design

The EIS must include a full description of their project, including ancillary infrastructure (concrete batching plants, substations) and access to construction materials, as well as access tracks and roads, and any transmission lines associated with the project and the timing of each key phase of the project.

Information regarding any ancillary developments that are not being proposed but are necessary to support the project (such as transmission lines not covered by the DA), should also be provided.

The location and placement of turbines must be justified including the balance with social, economic and environmental impacts. This will include a narrative on the final siting of specific turbines, including justification for decisions to move, remove, or locate turbines in a specific location, factoring in landscape values and other environmental considerations identified through community consultation and studies undertaken in the scoping and pre-lodgement stage.

The preliminary assessment tools for visual magnitude and sector analysis of multiple turbines described in the Visual Assessment Bulletin should be reapplied to the final layout.

## Impacts and mitigation and management options

The EIS should also include an analysis of the likely impacts of the project:

- an accurate noise impact assessment for relevant dwellings in accordance with the Noise Assessment Bulletin
- a visual assessment of the project in accordance with the Visual Assessment Bulletin, an analysis of the project against the performance objectives described in the Bulletin as well as photomontages showing the impacts at highly affected dwellings
- details of community consultation, including steps taken to check that the views and input of potentially affected people and groups have been faithfully and accurately captured and considered, and / or explain how their views and inputs have been considered
- consultation with landowners with regards to impacts and mitigation, including negotiated agreements
- description of the measures that will be used to avoid, minimise, mitigate or otherwise manage impacts associated with the project – this should include an assessment of the effectiveness and reliability<sup>3</sup> of the measures and any residual impacts and their acceptability after these measures are implemented.

### Micro-siting

Wind turbines may need to be re-located during construction. This is known as ‘micro-siting’ and must be discussed in the EIS.

Micro-siting may be permitted provided it does not materially increase environmental impacts and must be consistent with the conditions of the development consent.

### Refurbishment and decommissioning

Wind turbines typically have an expected operating life of around 20 to 25 years, at which point they are usually refurbished or decommissioned.

The NSW Government’s policy is that a wind farm owner or operator, and not the ‘host’ landholder, should be responsible for decommissioning and rehabilitation at the end of life of a wind farm or a turbine. All relevant issues for decommissioning and rehabilitation must be considered in the EIS and include a commitment that the operator will be responsible for decommissioning and rehabilitation.

Both proponents and host landowners should consider refurbishment, decommissioning and rehabilitation when negotiating landowner agreements.

### Noise and Health

Currently, there is no direct evidence that exposure to wind farm noise affects physical or mental health and there is currently no consistent evidence supporting a link between wind farms and adverse health outcomes in humans relating to infrasound.

### Assessment

An assessment of the specific impact of each proposed wind farm on its merits will include:

- suitability of the site for the wind farm
- submissions made by the local community, stakeholders and government authorities
- the likely environmental, social and economic impacts of the construction, operation and decommissioning of the wind farm in the locality

---

3 Effectiveness and reliability of visual impact mitigation measures are not discussed in the Visual Assessment Bulletin as a requirement for minimising visual impact but should be addressed in the EIS.

- any environmental planning instrument (for example, LEP, SEPP) which regulates the types of development permitted in certain areas
- the public interest in increasing the supply of renewable energy as well as the objects of the EP&A Act and the principles of ecologically sustainable development
- all the assessment issues - biodiversity, visual impact, noise etc listed in the SEARS
- impacts on existing development<sup>4</sup> near the wind farm, including dwellings and approved development within the vicinity of the wind farm, development within the vicinity of a wind farm for which a development application has been lodged, including with councils, but a determination is yet to be made; and existing dwelling entitlements (right to build)

### Determination and conditions of consent

Following assessment of a wind energy development application, the Department or IPC will determine whether the project should be approved on its merits.

If consent is granted, it will be subject to a range of conditions, for example:

- obligations to meet a performance outcome or objective
- obligations to implement specific mitigation measures
- obligations to monitor actual versus predicted impacts
- obligations to monitor the effectiveness and outcomes of any mitigation strategies and implement adaptive management strategies where required
- reporting and auditing requirements

The conditions may also require additional mitigation measures to be implemented, amendments to the project (such as removal or re-siting of turbines), and / or as a last resort 'voluntary acquisition' for significantly affected landholders. Any voluntary acquisition process can only be initiated by the landowner and not the proponent<sup>5</sup>.

Development consent conditions relating to acquisition requirements will only be imposed where all other reasonable and feasible mitigation measures have been considered, and the consent authority is satisfied that the economic, social and environmental benefits of the project outweigh its adverse impacts.

If the benefits of the project do not outweigh its impacts, project will be refused.

### Community and stakeholder consultation

Early, meaningful and innovative community consultation, demonstrating an ongoing commitment to provide clear information and providing opportunities for genuine input, is important for good outcomes including:

- informing the community about the project and its contribution to renewable energy
- gathering valuable knowledge from the community
- establishing relationships between the proponent and the community, and
- providing communities with real opportunities to influence the siting and design of the wind farm

Detailed and genuine community consultation should occur throughout the entire assessment process, so that they understand possible impacts and given reasonable opportunities to provide their views on the proposal.

---

4 Refer to Attachment 1 for a discussion of this broader definition of development.

5 The landowner who is the subject of a voluntary acquisition would either have read the assessment report and conditions of consent or be informed of the condition of consent by the Department.

The aim of community consultation is to identify and consider options for eliminating, reducing or otherwise managing impacts, not merely informing communities of the proposed layout.

Landowner issues should be addressed before lodging the PEA, including agreements regarding land access and appropriate responses to the concerns and impacts on other potentially affected landowners.

### When and whom to consult

Proponents should consult at all stages, including siting and design, planning and EIS, construction, operation, decommissioning, and rehabilitation phases.

An inclusive approach should be taken which recognises that different perspectives may exist within a community (for example differences in ages, gender, income, etc). The principles of ecologically sustainable development also require that the impacts of a project on future generations to be considered.

Overall, the level and types of engagement required will depend on the project, including:

- the size of the locality likely to be affected
- how diverse the potentially affected people and groups are
- the range and types of issues involved, and
- the needs of different audiences (for example, cultural appropriateness, capacity to participate)

Community and other stakeholders who should be consulted may include:

- the community, in relation to landscape values (refer to the Visual Assessment Bulletin)
- owners and occupiers of land proposed to host wind turbines or related infrastructure
- owners and occupiers of land required for access during construction and/or maintenance
- landowners who have reached a financial or in-kind agreement (associated properties<sup>6</sup>)
- landowners who have not reached a financial or in-kind agreement (non-associated properties)
- organisations representing local, regional, State, national and international interests regarding business, community, indigenous and environmental issues
- relevant local council(s), including impacted neighbouring councils and stakeholders of other significant infrastructure near the proposed wind farm

The Department will consider the impacts of a proposal on all properties.<sup>6</sup>

The standard SEARs outline the **minimum** consultation requirements for wind farms during the assessment process. However, there is significant value in proponents engaging in innovative ways with affected communities and other stakeholders in the initial stages of the project, including before SEARs are requested.

### Shared benefits and negotiated agreements<sup>6</sup>

In some instances, a private agreement may be negotiated and voluntarily entered in to between a proponent and a landowner to manage some or all impacts on that property and as a result will become associated properties.

Agreements with landholders and local communities provide opportunities for them to share in some benefits from the location of the wind farm and for the proponent to enhance the community support for its project.

---

6 That “the Department will consider the impacts of a proposal on all properties” is strictly speaking not true because landowners who sign agreements become associated and may be excluded from assessments. The ramifications of agreements on non-associated landowners are discussed in Attachment 1

Whilst 'benefit sharing' is not required under the NSW planning system, there are several options for benefit sharing, for example, establish a community enhancement fund to sponsor community projects or community groups, such as the provision of grants or contributions to infrastructure.

The preferred means of administering community enhancement funds is under a voluntary planning agreement with the relevant local council/s, and proponents for wind farms could consider similar initiatives.

Landowners and the proponents may negotiate agreements regarding the specific impacts.

### Post approval regulation

The construction, operation, decommissioning and rehabilitation is primarily regulated and coordinated by the Department, to ensure compliance with development consent conditions; and the EPA, to ensure compliance with EPL conditions.

The conditions of consent will continue to apply to the wind farm and the land throughout its life and the responsibility for compliance with the conditions of consent falls to the wind farm owner.

Development consent conditions will likely include:

- operational noise limits
- a Noise Compliance Report following commissioning
- visual impact mitigation, such as screening at affected dwellings
- road upgrades and maintenance requirements
- a traffic management plan including transport routes for over-sized vehicles
- implementation of a biodiversity offsets strategy
- measures to prevent water pollution
- an Aboriginal Heritage Management Plan to be prepared and implemented in consultation with the local Aboriginal community
- obligations to manage risks associated with aviation, bushfire, and telecommunications
- adaptive management strategies to deal with issues as they arise
- decommissioning and rehabilitation of the site
- establish and operate a Community Consultative Committee for the project
- requirements for regular monitoring and reporting of the environmental performance

### Compliance

The Department is responsible for monitoring compliance with the conditions of consent and conducting periodic audits. The general email for reporting suspected breaches is [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au).

Proponents are also required to establish and operate a complaint handling system.

The EPA is responsible for regulating the environmental impacts from the operation of wind turbines. The EPA's pollution hotline is 131 555.

The National Wind Farm Commissioner (<https://www.nwfc.gov.au/>) also handles complaints about wind farms, as well as promotes best practices for industry and government to adopt for the planning and operation of wind farms.

## Attachment 1 Observations

### 1 Noise Assessment

The Noise Assessment Bulletin states that noise measurements should be taken at residents and other relevant receivers within a certain distance. No definition of other relevant receivers is given. Nor is the broader definition of a development including DAs, dual occupancy and DA entitlements discussed (see below).

This is one of several inconsistencies between the component parts of the Guidelines.

### 2 Health

In past assessments the Department has misrepresented the NHMRC stance on wind farms and human health which says there is no consistent evidence, but that the research is poor quality and further investigation within the 1500m buffer is warranted. In that context, it is difficult to understand how a strategy of prudent avoidance will be applied to wind farms other than to apply a buffer zone of 1500m to all residences including hosts.

### 3 Effectiveness and Reliability of Visual Impact Mitigation Measures

The requirement to assess the effectiveness and reliability of vegetation screening as a visual impact mitigation measure is not mentioned in the Visual Assessment Bulletin even though vegetation screening is often the only option proposed for reducing visual impact.

The Visual Assessment Bulletin does however suggest vegetation screening is rarely effective or reliable. It is therefore difficult to understand why vegetation screening is considered at all as a mitigation for visual impact.

This is another example of a significant inconsistency between the component parts of the Guidelines.

### 4 Definition of Development

The Guide states that assessment of the EIS will include consideration of impacts on development within the vicinity of a wind farm for which a development application has been lodged, including with councils, but a determination is yet to be made; and existing dwelling entitlements (right to build). Elsewhere the Guide mentions the need to consult stakeholders of other infrastructure.

Taken together the key phrases residents, other relevant receivers, development including DA applicants, those with an existing dwelling entitlement and other stakeholders with infrastructure refers to all dwellings and potential dwelling locations and places of work including schools and churches.

Therefore, noise and visual impact assessments should be made at all these places within the impact zone.

The Noise Assessment Bulletin focusses on noise assessment at residences and does not discuss the necessity of noise assessing properties with DA entitlements.

Yet another example of an inconsistency between the component parts of the guidelines.

### 5 Voluntary Acquisition

Voluntary acquisition as a condition of consent can only be initiated by the landowner and that can only happen if they know about it.

### 6 Negotiated Agreements and Benefit Sharing

Benefit sharing agreements are a mitigation strategy and the consequences of signing such an agreement are not explained in the Guidelines. Landowners who sign agreements are excluded from assessment by the Department and indeed may well be excluded from impact assessment by the proponent, even though the guidelines say the impacts on all properties will be considered. Furthermore, if a property is not impact assessed then the landowner may consequently not receive fair compensation, and if the impact threshold is

not specified in the agreement the landowner has abrogated their rights to complain about exceedances. Refer to the [benefit sharing agreements](#) section of our website.

We sought clarification from the Department and this was the response:

“The Department is obliged to assess the impacts of any project on the environment as a whole, regardless of whether there are agreements in place with landowners. It is only where there is a potentially significant impact (e.g. noise, visual, etc) on a particular residence that the Department gives further consideration to additional mitigation, and in these instances, the presence of an agreement becomes a relevant consideration for the assessment. That is, if the landowner has agreed to accept an impact in exchange for some kind of compensation, it is not the role of the Department to second guess that agreement. The Department undertakes its own due diligence on agreements to ensure that they cover the matters of relevance to the assessment of potential impacts (i.e. noise, visual, etc.). This information is obviously not made publicly available for privacy reasons.”

We asked for a plain English version of this paragraph and further clarification because the Department has excluded landowners who sign agreements from their assessment and at the same time so not respect their privacy by identifying these properties on a map. No response has been received as yet.