



All correspondence to:  
PO Box 51, Port Fairy, VIC, 3284

26 February 2021

Windfarmnoise@delwp.vic.gov.au  
Dept Environment, Land, Water and Planning  
Via Engage Victoria

Dear Sir/Madam,

**Submission – Wind Farm Noise – Regulatory Reform.**

Council welcomes the opportunity to make a submission on the options and proposals for regulatory change to the management and administration of noise from wind farms.

In providing this submission, we reiterate to DELWP that Council currently opposes any new wind farms developments in Moyne Shire unless specific recommendations of the National Wind Farm commissioner are implemented by the Victorian Government. Moyne Shire forms a large proportion of the South West Victoria Renewable Energy Zone and is the major growth area for wind farm development in Victoria.

As you are aware there is strong community concern and a growing lack of confidence in how noise from wind farms is measured and reported on. Compliance monitoring is another major issue that needs to be considered as the number of wind farms in south west Victoria continue to grow, and the cumulative impacts of this are measured.

Council has been advocating strongly for many years that the assessment, monitoring and compliance for noise from wind farms should be administered by the Environment Protection Authority (EPA).

Council is pleased that the Regulatory Impact Statement recognises the complexity of noise management for wind farms including the operation of the New Zealand Standard, the specialist nature of monitoring and assessment. The regulatory burden currently falls unfairly to local government, through its responsibilities under the Planning and Environment Act 1987 and the Public Health and Wellbeing Act 2008.

Council endorses the government objective for the EPA to become the primary regulator for noise from wind turbines and be responsible for compliance and enforcement under the Environment Protection Act 2017 and its accompanying regulations.

For your information, Council commissioned a public notice in the Warrnambool Standard and on social media to ensure its community were aware of DELWP engagement of wind farm noise regulations.



Within Moyne Shire there are 6 operational wind farms, 1 under construction, 3 with permits scheduled for construction in 2021 and at least 4 projects seeking permits or in the feasibility stage. If all these wind farms are constructed the Shire will host approximately 800 turbines, generating about 3 GW of electricity and covering over 12 % of Moyne Shire's land area. These wind farms are creating 2 distinct geographical clusters in the north west and east of the Shire as can be seen on the attached map.

Of the operational wind farms, 3 have been subject to noise complaints both in regard to planning permit compliance and the nuisance provisions of the Public Health and Wellbeing Act.

For wind farms under construction or seeking to commence construction in 2021 Council has noted an increase in concern from the community to these projects regarding the possible impact of noise. They are seeking plain English explanations of the noise framework, the New Zealand Standard and how background noise assessment and predictive noise assessments are carried out and analysed to ensure amenity in their homes is protected. They are also seeking that such reports are assessed and approved by government.

As a result of significant concern for the Hawkesdale Wind Farm, Council is commencing its own background noise testing. It is undertaking such an assessment to confirm if expert reports are accurate and to address community concern.

Should you have any queries about this submission please don't hesitate to contact Michelle Grainger, Manager, Energy Projects

Yours faithfully,

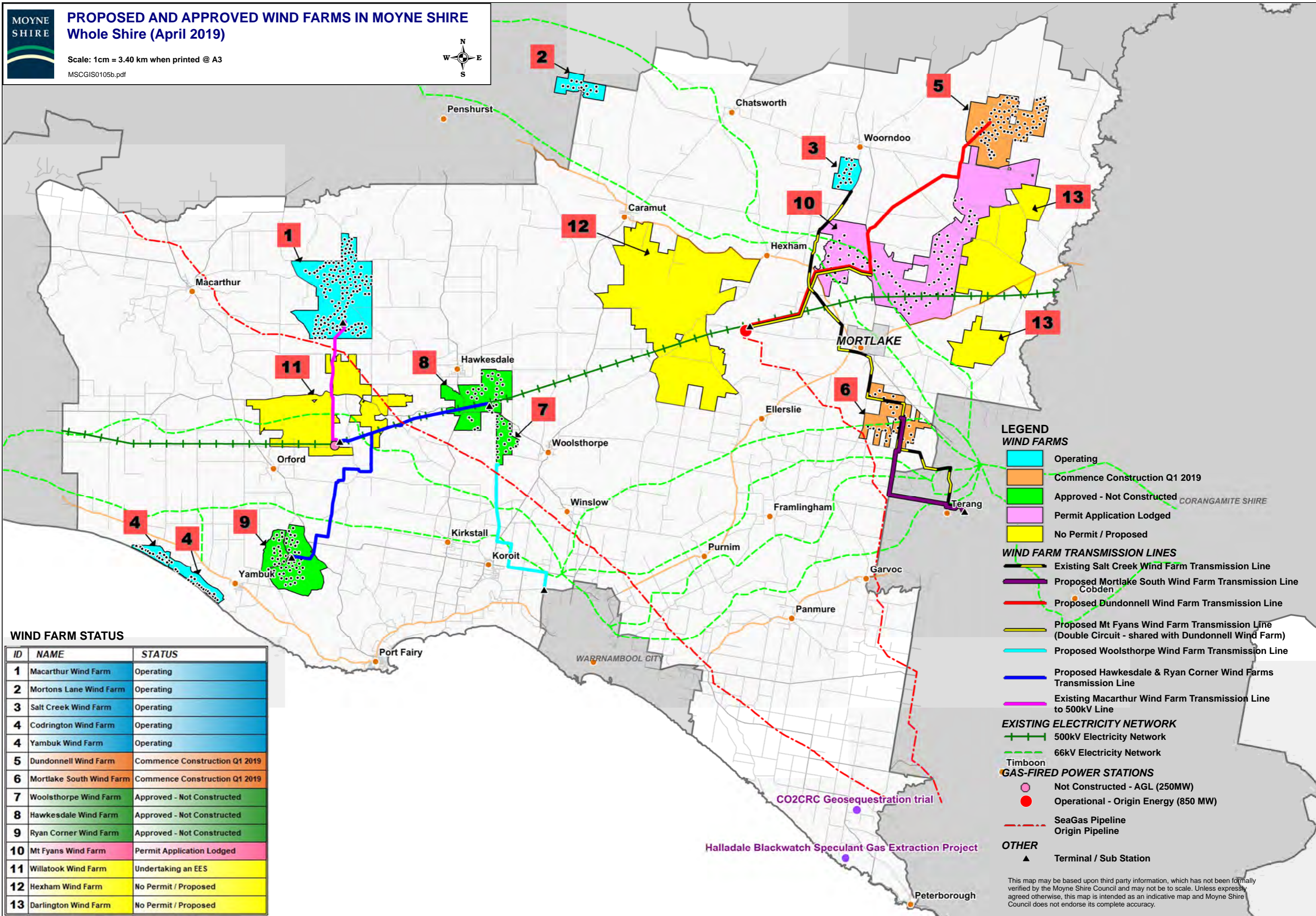
A handwritten signature in black ink, appearing to read "Bill Millard".

Bill Millard  
Chief Executive Officer

*Enclosed:*

*Moyne Shire Wind Farm Map*

*Moyne Shire Council detailed comments*



**LEGEND**

**WIND FARMS**

- Operating
- Commence Construction Q1 2019
- Approved - Not Constructed
- Permit Application Lodged
- No Permit / Proposed

**WIND FARM TRANSMISSION LINES**

- Existing Salt Creek Wind Farm Transmission Line
- Proposed Mortlake South Wind Farm Transmission Line
- Proposed Dundonnell Wind Farm Transmission Line
- Proposed Mt Fyans Wind Farm Transmission Line (Double Circuit - shared with Dundonnell Wind Farm)
- Proposed Woolsthorpe Wind Farm Transmission Line
- Proposed Hawkesdale & Ryan Corner Wind Farms Transmission Line
- Existing Macarthur Wind Farm Transmission Line to 500kV Line

**EXISTING ELECTRICITY NETWORK**

- 500kV Electricity Network
- 66kV Electricity Network

**GAS-FIRED POWER STATIONS**

- Not Constructed - AGL (250MW)
- Operational - Origin Energy (850 MW)

**OTHER**

- SeaGas Pipeline
- Origin Pipeline
- Terminal / Sub Station

**WIND FARM STATUS**

ID	NAME	STATUS
1	Macarthur Wind Farm	Operating
2	Mortons Lane Wind Farm	Operating
3	Salt Creek Wind Farm	Operating
4	Codrington Wind Farm	Operating
4	Yambuk Wind Farm	Operating
5	Dundonnell Wind Farm	Commence Construction Q1 2019
6	Mortlake South Wind Farm	Commence Construction Q1 2019
7	Woolsthorpe Wind Farm	Approved - Not Constructed
8	Hawkesdale Wind Farm	Approved - Not Constructed
9	Ryan Corner Wind Farm	Approved - Not Constructed
10	Mt Fyans Wind Farm	Permit Application Lodged
11	Willatook Wind Farm	Undertaking an EES
12	Hexham Wind Farm	No Permit / Proposed
13	Darlington Wind Farm	No Permit / Proposed

This map may be based upon third party information, which has not been formally verified by the Moyne Shire Council and may not be to scale. Unless expressly agreed otherwise, this map is intended as an indicative map and Moyne Shire Council does not endorse its complete accuracy.



## Moyne Shire Council's detailed comments on the Wind Farm Noise Reform

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### General comments

Council supports legislative reform relating to noise from wind farm turbines.

Without change to the existing framework of regulations there would be many authorities responsible for managing noise assessment and compliance.

The Victorian Government's renewable energy target is seeing generational change in how we generate power and for Moyne Shire this has seen wind farms being developed forming 2 clusters.

Council having experienced operational wind farms in its Shire for over 15 years fully understands the current complexities of multiple pathways to secure compliance. It recognises that change is required to provide the communities in which wind farms are developed and the owners of wind farms a revised and single process for noise compliance. Community needs to have confidence in ensuring noise standards are complied with.

Wind Farms need dedicated regulation for noise from turbines as Council has seen the number of turbines proposed and the size of turbines significantly increase. The Environment Protection Act (EP Act) as it currently stands provides an obligation on all with the General Environmental Duty and the unreasonable noise provisions. A wind farm, unlike many other industrial uses, is developed over many properties, it can be over thousands of hectares and relies on a noisy background environment to generate power. The use of the New Zealand standards, NZ6808, whether 1998 or 2010 reflects the complexity to test noise from wind farms.

As the wind industry develops and grows in Australia, it will be important to review the applicability and continued use of the New Zealand Standard, the need for an Australian standard or updates based on local and international experience. Additionally, the need to incorporate and consider the impact of infrasound and/or vibration may require review when the health studies commissioned by the NHRMC are released.

Council seeks involvement in further regulatory change to the Planning and Environment Act 1987 as forecasted in the Regulatory Impact Statement.

### Options 1-3 on Exhibition

- 1. Base Case:** *The Base Case consists of the primary legislation (including provisions of the Environment Protection Act (EP Act) and the EP regulations that are expected to commence on 1 July 2021) and the policy objective of the EPA as the primary regulator of Wind Farm turbine noise.*
- 2. Option 1 Direct Regulation:** *Additional industry specific direct regulation introduced as an amendment to the incoming EP Regulations that prescribes what constitutes compliance with the General Environmental Duty (GED) and unreasonable noise provisions.*



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- 3. Permits:** *A permissions scheme is developed alongside the incoming legislation that allows EPA to issue permits for WEF's prescribing conditions which represent reasonably practicable requirements to reduce the risk of harm.*

Council has ranked and offers comment on each of the 3 options discussed.

### **1. Option 1 – Direct Regulation**

Council supports Option 1 – Direct Regulation as the best and most suitable regulatory outcome as:

- It builds in post-construction noise testing 12 months after operation, which is an accepted outcome built into most planning permits for wind farms.
- It requires each wind farm operator to develop and have a noise management plan that includes a complaints handling system. This, separate to planning permit that currently exist, should be based on a model or template and can ensure a consistent approach to the benefit of the regulator, wind industry, and the communities that surround wind farms.
- The requirement for 5-year noise testing and reporting will provide an appropriate check of noise output from the turbines that have an expected lifespan of 25 years.
- If this option is successful it will be pertinent to ensure the EPA is adequately resourced in the regions, particularly in south-west Victoria so that our community has access to the organisation that will be responsible for assisting them with concerns and complaints.

### **2. Base Case**

Council does not support the Base Case, which relies on the Environment Protection Act and the use of the General Environmental Duty. It has been recognised in the Regulatory Impact Statement (RIS) that the complexity of wind farm noise and the accompanying New Zealand Standard NZ6808:2010 would benefit from direct regulation as it has been drafted.

If the Base Case was to be the preferred option, then Council would suggest that it could be strengthened by requiring full time monitoring of noise at operating wind farms with real time data being publically accessible.

### **3. Option 2**

Option 2, a permit system would appear to be contrary to the intent of the Environment Protection Act and may lead to a greater level of complexity and confusion with dual approvals required and increase the burden on local government and its communities to be engaged in 2 processes.



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### EPA

Council supports the EPA being appointed the regulatory authority to administer and enforce wind farm noise.

The EPA are more appropriately skilled and resourced to managed the complexities associated with wind farm noise. The draft regulations to be assigned and implemented by the EPA will provide a contemporary approach to noise management by an authority consistent across the State.

Council acknowledges that the EPA has been funded to resource the increased requirements of the EP Act. The number of wind farms in south-west Victoria and indeed just in Moyne should see officers based in Warrnambool to provide local access for industry, community and councils.

Council seeks that the EPA have a strong local presence, ideally based in Moyne rather than being serviced from the Barwon South West office in Geelong.

Additionally, Council would encourage the EPA to review and update its lists of Environmental Auditors.

Additional to the review, Council sees merit in requiring a review of the effectiveness of the role of the EPA in wind farm turbine noise management and the appropriateness of the use of the New Zealand standard. It would be appropriate if this occurs 18 months or 2 years after regulatory reform to ensure the goals of this review are being met.

### Environment Protection Amendment Regulations 2021 Exposure Draft

Council supports the introduction of regulations that relate to wind farm noise.

Having reviewed the draft regulations Council seeks some changes including:

- Wind Turbine definition – it currently refers to *“means a device with a swept rotor area of at least 200m<sup>2</sup> ...”*. Council is concerned that the 200m<sup>2</sup> may not capture all wind farms within the Shire and seeks that this is reviewed to ensure that all wind farms are captured by this definition including Codrington and Yambuk wind farms in Moyne Shire.
- Section 131F of the proposed regulations relates to the noise assessment for a wind farm every 5 years and requires this to commence for wind farms *“within 3 months of the fifth anniversary of the facility...”* This could be strengthened and remove the ambiguity Council currently has regarding when the five years start, is this from the date of operation or completion of commissioning of turbines.
- Regulations have a lifespan of 10 years before they sunset. Has it been considered that with the 5 year reporting requirement that the government will have enough information to review



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the effectiveness of the regulations with maybe only the first round of reports being submitted and reviewed within this timeframe?

### **Planning and Environment Act 1987 – subsequent changes**

The Regulatory Impact Statement recognises that as part of a package of reform there needs to be subsequent change to the Planning and Environment Act 1987, planning schemes and planning permits.

Council seeks to be involved and consulted on such changes.

It seeks to ensure that EPA has a statutory role to play in the planning permit process for considering an application for a wind farm. As the EPA transitions into noise assessment and compliance for wind turbine noise it will be vital in using this information to review the suitability of proposed wind farms and assess background noise assessment reports and predictive noise assessments. Having status as a referral authority in Planning Schemes will ensure this occurs.

Planning permits for wind farms need to be amended to remove obligations on responsible authorities and permit holders to remove noise related conditions once the EP Act and Regulations come into force. Amending planning permits is usually constrained to matters requested by the permit holder. Council suggests that the Minister for Planning should, in this case have the authority to amend permits to delete noise related conditions.

### **Public Health and Wellbeing Act 2008 – nuisance complaints**

Council acknowledges that amending the Public Health and Wellbeing Act 2008 to remove wind turbine noise from the nuisance provisions was part of the overall package of regulatory reform.

Currently, having multiple avenues for complaint creates confusion and regulatory burden that rural councils, where the wind farms are developed, are not adequately equipped.

This change further endorses Council support for Option 1 providing direct regulation for wind turbine noise and having the EPA as the sole regulator.

Some of our communities have expressed concern with reducing the number of avenues for complaint.

As stated earlier in our submission, the presence of EPA officers locally and access to information regarding the EPA complaints process will be required to build community confidence and trust in the EP Act and regulations.



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### **Wind Farm Developers and industry**

Council understands that the wind farm industry may oppose further regulation and seek to maintain the Base Case.

Within Moyne we have many instances of companies owning and operating more than one wind farm. Currently there are differing planning permit requirements per project so a differing management approach needs to be taken to management of noise and other matters such as environmental management.

Council is of the view that streamlining the system will be of benefit to the industry as it will introduce consistent provisions and obligations across the State including the benefit of a single regulator for noise.

The regulations as proposed only introduce 1 specific new obligation for the wind farm industry beyond what is largely already prescribed in planning permits. This is the requirement for 5-year noise monitoring and assessment process to demonstrate compliance. For state significant infrastructure, that will be a major contributor to Victoria's power supply, without separate licences, this should not be seen as a burden or compelling reason not to proceed with Option 1.

### **Conclusion**

Council supports regulatory change to the management, assessment and resolution of noise complaints for wind farms in Victoria.

Ensuring those living close to wind farms are not subject to unreasonable noise and amenity impacts is vital as Victoria's reliance on renewable energy grows. The proposed regulatory reform on which this submission is based should be the first of a series of reviews.

The outcomes of NHMRC studies into noise impacts from turbines and the ongoing appropriateness of the New Zealand Standard should be scheduled for review.

Council seeks that the government work with communities and councils to ensure the New Zealand Standard that is used for noise regulation is well understood. It is pertinent to provide the reasons why this standard is currently used and embedded in the new regulatory frameworks as the applicable standard.

Community trust and confidence in the Standard is under intense scrutiny as it is applied to existing and proposed wind farms in Moyne Shire.