Our Ref: SU506514

The Hon John Pandazopoulos MP
Chair
Environment and Natural Resources Committee
Parliament House, Spring Street
MELBOURNE VIC 3002

Dear Mr Pandazopoulos,

SUBMISSION TO THE INQUIRY INTO THE APPROVAL PROCESS FOR RENEWABLE ENERGY PROJECTS IN VICTORIA

Thank you for the opportunity to provide a submission to the Environment and Natural Resources Committee in relation to the Inquiry into the approvals process for renewable energy projects in Victoria.

The attached submission is made on behalf of the whole of Victorian Government.

Should you have any questions in relation to this submission, please contact Ms Marianne Lourey, Executive Director Energy Sector Development, on telephone (03) 9658 4922.

Yours sincerely,

[Signature]

Peter Batchelor MP
Minister for Energy and Resources

17/6/2009

Encl.
Submission to the Environment and Natural Resources Committee Inquiry into the Approvals Process for Renewable Energy Projects in Victoria

THIS SUBMISSION IS MADE ON BEHALF OF WHOLE OF VICTORIAN GOVERNMENT

INTRODUCTION

Renewable energy will be necessary to achieve the Victorian Government’s ongoing commitment to facilitate a sustainable, secure and affordable energy supply for all Victorians – particularly within the context of transitioning to a low carbon future.

The Australian Government has committed to reduce Australia’s greenhouse gas emissions by 60 per cent on 2000 levels by 2050, supported by policies such as the Carbon Pollution Reduction Scheme (CPRS) and expanded Renewable Energy Target (RET). Achieving this target will require substantial greenhouse gas reductions through greater energy efficiency, cleaner energy technologies and a broader adoption of renewable energy generation.

While renewable energy currently only contributes around 2 percent\(^1\) of Victoria’s power supply, depending on output from hydro generation, there is significant potential for it to become a much more competitive source of energy with the introduction of the CPRS and expanded RET. Consequently, Victoria is likely facing a period of the greatest rate of commissioning of new generation since privatisation, a significant proportion of which will be from renewable sources.

THE CONTEXT FOR INVESTMENT

In terms of attracting investment in renewable energy projects, Victoria provides:

- **world class renewable resources** – Victoria is fortunate to have an abundant supply of renewable energy sources, including world class wind, wave and solar resources;

- **access to competitive markets** – Victoria has separate generation, transmission, distribution and retail businesses and all key energy businesses are in private ownership. Victoria is also well placed in terms of providing access to transmission and distribution infrastructure. Victoria is a participating jurisdiction in the National Electricity Market and also benefits from one of the most competitive energy retail markets in the world;

- **a supportive regulatory environment** – Victoria has a well established regulatory environment that seeks to ensure the efficient delivery of renewable energy projects and facilitate the achievement of renewable energy targets;

- **a range of supportive government policies and initiatives** – the Victorian Government has a range of policies and initiatives in place to encourage renewable energy investment, technology innovation and development.

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\(^1\) Prior to the drought, when output from hydro generation was higher, renewable energy contributed around 4 percent of Victoria’s power supply.
THE RELEVANCE OF APPROVALS PROCESSES

Like other projects, renewable energy projects may be subject to various approvals and related assessment requirements, principally:

- **planning approvals**, such as planning permits and scheme amendments under the *Planning and Environment Act 1987*;
- **environment impact assessments and approvals**, such as those provided for by the *Environment Effects Act 1978* (assessment only), *Environment Protection Act 1970* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*;
- **works approvals** and licensing approvals may also be required in some circumstances under the *Environment Protection Act 1970*;
- **infrastructure approvals**, such as may be required under the *Road Management Act 2004*, the *Building Act 1993* or the *Project Development and Construction Management Act 1994*;
- **further land approvals**, such as may be required under the *Coastal Management Act 1995*;
- **heritage and Aboriginal impact approvals** under the *Heritage Act 1995* and the *Aboriginal Heritage Act 2006*; and
- **electricity and gas approvals**, including approvals for connection to infrastructure, such as those required under the *Electricity Industry Act 2000*, *Gas Industry Act 2001*, the *Electricity Safety Act 1998*, the *Gas Safety Act 1997*, the * Pipelines Act 2005*, and national requirements under both the *National Electricity Law* and *National Electricity Rules* and the *National Gas Law* and *National Gas Rules*.

The timing, coordination, certainty and costs associated with relevant approval processes can have an impact on investment decisions and the realization of investment opportunities for Victoria.

ROLE OF GOVERNMENT

The Victorian Government has a role in ensuring that the regulatory framework and associated approvals processes are capable of delivering renewable energy policy, and facilitating efficient and timely renewable energy investment in Victoria. Assessment and approvals in relation to renewable energy projects require that appropriate consideration be given to broader energy supply needs, relative greenhouse benefits and community concerns, in a way that balances environmental, economic and social objectives.

PURPOSE AND STRUCTURE OF THIS SUBMISSION

This Submission provides a summary of key government policies, regulatory processes and approvals, and the key challenges and ongoing responses associated with facilitating investment in, and the development of, renewable energy projects in Victoria.

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3 *National Gas (South Australia) Act 2008 / National Gas (Victoria) Act 2008.*
OVERVIEW OF RENEWABLE ENERGY IN VICTORIA

Renewable energy is generated using resources that can be rapidly replaced by an ongoing natural process. Victoria benefits from an abundant supply of renewable energy sources, including wind, solar, geothermal and tidal.

Victoria’s total electricity installed capacity in 2008 was 9,290 megawatts (MW). Currently, renewable energy provides around 1,151 MW (the breakdown by type of renewable is included as Figure 1).

![Figure 1 - Renewable generation capacity (MW) in Victoria (DPI, June 2009)](image)

Victoria’s renewable energy capacity has almost doubled over the past 10 years. Growth in the capacity of renewable electricity can be attributed primarily to significant gains in hydro-electricity, and the commencement of wind farming and biomass combustion. Other sources of renewable energy, such as geothermal and wave/tidal energy, may have significant potential but are not yet established in Victoria.

LARGE SCALE WIND

As at June 2009, Victoria has a cumulative capacity of 428 MW, generating about 1,125 gigawatt hours (GWh) of electricity per year. An additional 1,554 MW of projects have also been approved.

Figure 2 illustrates the cumulative wind energy capacity, differentiating wind farm projects by their progress through relevant approvals processes.

![Figure 2 - Approval status of wind farms in Victoria (DPI, April 2009)](image)
LARGE SCALE SOLAR

Commercial large-scale solar facilities are still relatively new to Victoria. The key example is the Solar Systems project, a $420 million, 154 MW solar power station to be built in northwest Victoria. Scheduled for completion in 2013, it will be one of the largest and most efficient solar photovoltaic power stations in the world, providing enough electricity for the annual requirements of 45,000 homes and representing a 400,000 tonne reduction per annum of greenhouse gas emissions.

The Victorian Government has also announced funding of up to $100 million to attract another large-scale solar power station capable of delivering at least 330 GWh per year into the grid.

HYDRO

Whilst hydroelectricity is currently the single largest source of renewable energy in Victoria, it has limited additional potential; most viable sites have already been exploited, and Victoria has a policy commitment to 'no new dams'. The output from hydro power stations has been impacted significantly by the drought.

GEOTHERMAL

Victoria offers significant exploration and development opportunities in geothermal energy, with close proximity of potential geothermal energy sources to the national electricity grid. However, geothermal energy technology and exploration is at a very early stage of development.

MARINE ENERGY (WAVE, TIDAL AND OFF-SHORE WIND)

Victoria has world-class wave, tidal and offshore wind resources in areas such as Port Phillip Bay, Western Port, Corner Inlet, west of Cape Otway and east of Phillip Island. The Government is in regular contact with industry to explore effective opportunities to support marine energy development. The Department of Sustainability and Environment is leading the development of improved information for marine energy investors. This includes the provision of improved information on sensitive coastal locations and the development of step-by-step guides to the approval process.

Wave energy is captured by turbines that are either fixed to the shore, sea bed or floating on the water’s surface. Victoria’s wave resources are concentrated in the West of Cape Otway with some usable resources on the east coast as well. Most wave technologies are still undergoing development.

Tidal energy, in contrast, is captured from the flooding and ebbing tide through the use of either tidal turbines or tidal barrage systems, which trap large areas of water and require larger tidal currents. Tidal power generation opportunities along coastal Victoria are limited due to the small tidal range present in Bass Strait and the lack of natural flow channels (that aren’t already used for shipping).

Offshore wind energy is captured by wind turbines located in bays, estuaries or in coastal areas. Wind farms located offshore are not necessarily subject to the same approval system as wind farms located onshore.

BIOMASS

Organic matter, or biomass, can be converted into heat and/or electricity and biofuels (used to generate electricity or for transport) using a variety of technologies. Currently, biomass is primarily used in Victoria for low cost space heating although there are a number of commercial applications totalling around 118 MW of capacity. Biomass availability has also declined due to the drought.
KEY POLICY DRIVERS AND INITIATIVES TO ENCOURAGE INVESTMENT IN RENEWABLE ENERGY PROJECTS

The 2001 Policy Statement *Growing Victoria Together* has a priority action to increase the development and use of renewable energy sources. Further, the Victorian Government’s *Renewable Energy Action Plan,* a key initiative under the *Our Environment, Our Future – Sustainability Action Statement 2006,* sets out a number of actions by Government to facilitate renewable energy investment and development in Victoria. The focus of the Action Plan has been to encourage renewable energy generation in the stationary energy sector by **driving demand** for renewable energy and **removing barriers** to development.

DRIVING DEMAND

The *Renewable Energy Action Plan* outlines actions to drive demand for renewable energy by:

- **setting a mandatory minimum for the uptake of renewable energy,** through the Victorian Renewable Energy Target (VRET) Scheme, and the inclusion of solar hot water in the 5 star standard for homes; and

- **stimulating consumer demand,** through the Green Power promotion and a solar hot water rebate.

Key initiatives aimed at driving demand for renewable energy and establishing an equitable market are described below:

THE VRET SCHEME

In July 2006, the Victorian Government announced the VRET scheme which was intended to operate in parallel with the Commonwealth’s Mandatory Renewable Energy Target (MRET) scheme that had been introduced in 2001.

The MRET scheme established a national target of an additional 9,500 GWh from accredited renewable generation whilst the VRET scheme, established a target of increasing Victoria’s electricity consumption from renewable sources to 10% (an additional 3,274 GWh) by 2016.

Under both these schemes, renewable energy certificates are created by accredited renewable energy generators. These certificates may then be sold to electricity retailers or wholesalers who are obliged to buy a certain number of certificates or face penalties. The price of certificates varies as sellers and purchasers directly negotiate price and payment arrangements.

To date, these schemes have helped to encourage the development of more than 428MW capacity in Victoria that generate enough power to supply the electricity needs of around 180,000 homes each year.

TRANSITION TO AN EXPANDED NATIONAL RENEWABLE ENERGY TARGET SCHEME

On 30 April 2009, the Council of Australian Governments’ (COAG) agreed the design of an expanded national Renewable Energy Target (RET) scheme. This scheme consolidates the existing MRET and various State and Territory schemes, including VRET, into a single national scheme.

The RET establishes a target of an additional 45,000 GWh to be sourced from accredited renewable generation in 2020. This target is then maintained through to the closure of the scheme in 2030, as illustrated in Figure 3. It is anticipated that the expanded targets will commence from 1 January 2010.

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5 The VRET Scheme is established under the *Victorian Renewable Energy Act 2006.*

6 The VRET Scheme commenced on 1 January 2007.

7 Arrangements to transition the VRET scheme to the RET scheme are currently being developed.

8 Additional to 2000 levels, i.e. includes 9,500 GWh MRET target.
The RET scheme is likely to provide the single most significant incentive for investors in renewable energy projects in the next decade, then the effects of the CPRS are likely to become more dominant. For example, modelling suggests that, due to the large area of windy sites that are in relative close proximity to electricity transmission infrastructure, another 900 wind turbines could be built in Victoria by 2020.

An exposure draft of legislation to expand the renewable energy target scheme was released by the Commonwealth Department of Climate Change on 9 June 2009.

INTRODUCTION OF A CARBON POLLUTION REDUCTION SCHEME

The Greenhouse Challenge for Energy position paper outlines the Victorian Government’s support for a national emissions trading scheme.

The Commonwealth Government has recently put forward legislation to introduce a CPRS. The CPRS is an Emissions Trading Scheme (ETS) that places an annual cap on the volume of greenhouse gases that can be emitted and requires electricity generators (gas and coal) as well as businesses in other covered sectors, to buy permits for each tonne of greenhouse gas emitted.

The Commonwealth Government intends for the CPRS to take effect from 1 July 2011, with an initially fixed permit price of $10/tonne CO₂e until 30 June 2012.

Renewable energy sources that do not emit any greenhouse gas will not need to buy permits. Consequently, the CPRS begins to change the profitability of different fuel sources, creating a market environment beneficial to lower emitting forms of energy generation. The CPRS should provide significant opportunities for investment and innovation in greener power generation and storage, including further expansion of solar, wave, geothermal and wind power generation technologies.

REMOVING BARRIERS TO DEVELOPMENT

To remove or address barriers to development, the Renewable Energy Action Plan outlines a series of actions:

- **encourage a supportive regulatory environment** by influencing national reform processes, facilitation of planning activities and through legislation and regulation;
- **build informed and engaged communities** through renewable energy information and the sustainable schools initiative;
- **support innovative technology development and application** by providing funding support for research and development through the Renewable Energy Support Fund and Victorian Solar Initiative, and by establishing the Centre for Energy and Greenhouse Technologies.

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5 Sustainability Victoria has administered the Renewable Energy Support Fund (RESF) which aims to support medium-scale renewable energy infrastructure projects to promote clean energy such as wind, solar, biomass, geothermal and marine power. Although no longer being offered, the RESF provided funding of up to 20% of the capital cost of approved projects that demonstrated innovation and local market development potential in the delivery of renewable energy to Victoria.
Funding is complementary to that available through the Energy Technology Innovation Strategy (ETIS) which also provides funding for pre-commercialisation technology development and demonstration;

- **strategic and coordinated development** through specific government initiatives. For example, the **green communities: smart energy zones** initiative, and separately undertaking a study into the challenges and opportunities for the aggregation and use of biomass for energy generation;

- **encourage thriving and capable local industries** to ensure that there is the capability to deliver renewable energy solutions and that Victoria realizes the benefits of a thriving renewable energy industry.

Key initiatives aimed at removing barriers to development are described below:

**THE VICTORIAN ENERGY TECHNOLOGY INNOVATION STRATEGY**

The Victorian Government has committed to pursue a strategy to develop and demonstrate those technologies in which Victoria has a particular advantage, and to facilitate technology developments with respect to renewable energy and energy efficiency. Consequently, the Victorian Energy Technology Innovation Strategy (ETIS) was established under the **Greenhouse Challenge for Energy** to promote low emission technologies and strengthen Victoria’s capacity to progress technologies along the technology ‘supply chain’ in preparation for a carbon constrained future.

Through ETIS, the Government is investing with industry to develop technologies that are capable of delivering significant greenhouse gas savings and that show potential in terms of practical, commercial and cost-effective application. Grants are allocated to the most competitive proposals received from industry. Particularly in the early years, the CPRS is likely to have a modest carbon price which may provide only limited incentive to bring promising new low-emission technologies to the commercialisation stage.

Since 2005, there have been two rounds of ETIS funding. The funding supports pilot and pre-commercial large-scale demonstration projects and research and development, including new generation photovoltaic cells and a large-scale solar photovoltaic demonstration plant.

Round one of ETIS leveraged $250 million from the Commonwealth and $1.2 billion of co-investment, primarily from industry. To date, the Victorian Government has allocated $190 million to energy technology development including:

- up to $50 million to build Australia’s largest solar photovoltaic large-scale demonstration electricity generation plant (Solar Systems, located in North-West Victoria);
- $29.25 million to support the Centre for Energy and Greenhouse Technologies (CEGT); and
- $10 million for Sustainable Energy R&D, including renewable energy, energy efficiency and clean distributed generation.

In 2008, the Government announced a further $182 million for ETIS which included $72 million towards pre-commercial large-scale demonstrations of sustainable energy technologies such as solar, energy storage, biofuels, biomass conversion, geothermal, energy efficiency and clean distributed energy.

The Victorian Government has also awarded $6 million via the Sustainable Energy Research Grants Program to the Organic Solar R&D project. The aim of this project is to increase the efficiency of organic solar cells as an alternative to silicon based cells by produce an inexpensive, efficient solar cell which can be printed directly onto plastic.

**SMART ENERGY ZONES**

Sustainability Victoria runs the Smart Energy Zones program, a $4 million funding grant program to demonstrate and encourage the efficient integration of a range of precinct energy supply and demand technologies in urban redevelopment and Greenfield development projects in Victoria. This supports the integration of small scale community applications of sustainable energy, including renewable energy.

A zone could include:

- local energy generation, including cogeneration and small scale renewable generation;
- micro-grids for distributing electricity, heating and cooling;
- energy efficiency measures;
- smart meters; and/or
- energy storage.

In a competitive funding round held in 2008/09, projects could apply for funding between $250,000 and $750,000 with a maximum State Government contribution of 25%. Projects were selected for funding according to a set of criteria, including greenhouse gas abatement potential, innovation, community engagement and replication potential. Implementation of infrastructure projects begins in 2009.

RENEWABLE ENERGY SUPPORT FUND

Sustainability Victoria has also administered the Renewable Energy Support Fund (RESF) to support medium-scale renewable energy infrastructure projects to promote clean energy such as wind, solar, biomass, geothermal and tidal power.

The RESF provided funding of up to 20% of the capital cost of projects with the amount of support available for a project is based on the level to which the project satisfied eligibility and selection criteria.

The RESF is now closed.

PROMOTION OF GREEN POWER

Green Power is a government accreditation program for renewable energy. By choosing a Green Power accredited retail product, electricity consumers are assured that a proportion of the relevant energy purchases of their retailer will be sourced from accredited renewable generators.

Promotion of Green Power forms part of a long-term energy and sustainability media campaign.

GEOTHERMAL ENERGY RESOURCES ACT 2005

The Geothermal Energy Resources Act 2005 provides the legal framework for the development of geothermal resources in Victoria. This Act ensures that environmental, social and land use issues are considered from the planning to the decommissioning of geothermal energy resource operations. It also provides an effective regime to enforce conditions of the title and operation, in particular health, safety and environmental performance.

The Government has released land for geothermal exploration as well as allocating $15.6 million to conduct targeted drilling work to develop a Victorian Geothermal Atlas to assist industry to identify viable sites.

ELECTRICITY INDUSTRY (WIND ENERGY DEVELOPMENT) ACT 2004

The Electricity Industry (Wind Energy Development) Act 2004 (Vic) aims to encourage the development of wind energy by mitigating key barriers to grid connection. It also provides an assured buyer for power from small wind generators.

WIND GUIDELINES

The Policy and planning guidelines for development of wind energy facilities in Victoria, administered under the planning system, provide a clear decision making framework to ensure that proposals for wind energy facilities are thoroughly assessed against criteria important to both proponents and the community before development can commence.

VICTORIAN WIND ATLAS

The Victorian Wind Atlas provides detailed information about the State’s wind resource in individual local government areas. The Atlas contains data and analysis about the wind resource in Victoria including proximity to electricity transmission systems and is intended to assist project proponents identify suitable wind resources and consider locational costs and benefits.

FUNDING FOR LARGE-SCALE SOLAR

The Victorian Government is keen to promote investment in large scale solar electricity generation. The costs associated with solar are currently very high though recent reports suggest that as a result of technology,
manufacturing and efficiency breakthroughs, and the increase in scale in the industry, key costs are falling. Solar could therefore achieve grid parity far sooner than expected.

In the interim, the Victorian Government is supporting improvements in solar energy technology that will assist in bringing down costs and help make solar energy competitive with wind and other fossil fuel technologies in the medium to long term.

In addition to the funding being made available to Solar Systems under ETIS, Victoria will also support the development of another large-scale solar energy generator in Victoria by 2015. This new supported commercial solar generator will produce at least 330 GWh per annum or enough to power 50,000 homes or enough electricity to power the Victorian Government’s departments, public schools, police stations, courts, the Melbourne Zoo, Royal Botanic Gardens and VicRoads.

SUPPORT FOR SMALL-SCALE RENEWABLE GENERATION

In order to promote the uptake of small-scale renewable generation, the Victorian Government has introduced a Bill for a premium solar feed-in tariff whereby customers will be credited 60 cents per kWh for any electricity they feed back into the grid on a net basis (i.e. after taking account of local energy consumption). This is in addition to the existing standard feed-in tariff for small-scale renewable generation, which guarantees the customer a ‘one-for-one’ tariff (i.e. that the customer will be offered at least the same price for any electricity they generate as that they pay the retailer).

SOLAR INDUSTRY FELLOWSHIP PROGRAM

In June 2008, Victoria and Queensland committed joint funding for an industry fellowship program (up to 3 fellowships in each State), allowing individuals to work with major solar companies to develop expertise which can then be applied in Australia.

SOLAR ATLAS

A further joint initiative between Victoria and Queensland will develop a Solar Atlas to assist proponents identify suitable locations for solar projects.

FURTHER COMMONWEALTH INITIATIVES

The Commonwealth has established a range of programs to encourage the development of renewable energy and low emissions projects, including:

- Clean Energy Initiative:
  - Solar Flagships Program;
  - Renewable Energy Demonstration Program/Renewables Australia;
- Climate Ready;
- Renewable Energy Development Initiative; and the
- Renewable Energy Equity Fund.

CLEAN ENERGY INITIATIVE

On 12 May 2009, the Commonwealth Government announced a budget commitment of $4.5 billion for a Clean Energy Initiative which brings together previous initiatives and funding under a new framework that also provides an additional $1.465 billion in new funding towards the development of clean energy technologies.

Of relevance:

- $1.365 billion has been allocated to support new investment in large-scale solar energy projects over the next eight years under a new Solar Flagships program;
- A new body, Renewables Australia, will be established within the Commonwealth Department of Resources, Energy and Tourism to promote the development, commercialisation and deployment of renewable technologies. This new agency will administer $365 million of the existing Renewable Energy Fund (REF) and will get $100 million in new funding; and
- $14.9 million has also been allocated for a three year Clean Energy Trade and Investment Strategy to assist Australian businesses exploit global opportunities being created by climate change policies.
SOLAR FLAGSHIPS PROGRAM

As part of the Clean Energy Initiative, the $1.5 billion Solar Flagships Program aims to support the development of up to four large scale solar generation plants (thermal and photovoltaic) with the intent of generating an extra 1000MW of new capacity. This program inherits around $135 million in funding from the previous Renewable Energy Fund.

CLIMATE READY

Climate Ready will be a competitive program providing grants from $50,000 up to $5 million on a matching funding basis to support research and development, proof of concept and commercialisation activities to develop solutions to climate change challenges. The program funding is $75 million over 4 years.

RENEWABLE ENERGY DEMONSTRATION PROGRAM (UNDER RENEWABLES AUSTRALIA SINCE THE ANNOUNCEMENT OF THE COMMONWEALTH BUDGET)

The Renewable Energy Demonstration Program (REDP) is a $435 million competitive grants program designed to accelerate the commercialisation and deployment of new renewable energy technologies for power generation in Australia.

The REDP is targeted at project proposals that are relatively mature and are at the stage of commercial demonstration. Demonstration is taken to be the final step to address remaining technology risks around integration and scale-up, once the technology has been proven at pilot plant scale. The REDP aims to:

- demonstrate the technical and economic viability of renewable energy technologies for power generation through large-scale installations;
- support the development of a range of renewable energy technologies for power generation in Australia;
- enhance Australia’s international leadership in renewable energy technology for power generation development; and
- attract private sector investment in renewable energy power generation.

RENEWABLE ENERGY DEVELOPMENT INITIATIVE

The Renewable Energy Development Initiative (REDI) is a competitive grants program supporting renewable energy innovation and its early-stage commercialisation. The program provides matching grants from $50,000 up to a limit of $5 million for eligible renewable energy technology projects extending up to three years.

RENEWABLE ENERGY EQUITY FUND

The Renewable Energy Equity Fund (REEF), administered by AusIndustry, provides venture capital and managerial advice for small, innovative renewable energy companies. This includes companies which are commercialising renewable energy technologies and services. The company receives capital, managerial expertise and enhanced business reputation as a result of the REEF investment.

OVERVIEW OF REGULATORY PROCESSES AND APPROVALS

This section provides a summary of key regulatory processes and approvals relevant to renewable energy projects, categorised as:

- planning approvals;
- environmental assessment and approvals;
- works approvals;
- infrastructure approvals;
- heritage and Aboriginal impact approvals;
- further land approvals; and
• electricity and gas approvals.

PLANNING APPROVALS

All municipalities in Victoria are covered by land use planning controls which are prepared and administered by State and local government authorities. The legislation governing such controls is the Planning and Environment Act 1987.

The bodies controlling land-use planning are planning authorities and responsible authorities. A planning authority, which may be a local council or the State Government, conceives land-use planning schemes and devises appropriate controls. A responsible authority, which is usually the local council, administers the planning scheme.

PLANNING AND STAKEHOLDER PARTNERSHIPS

The Government’s approach to planning relies on creative and effective partnerships with local government, local communities, business, industry and other organisations and interest groups.

Victoria’s planning system is robust and comprehensive and provides an appropriate assessment process for land use and development proposals, including renewable energy projects. A fundamental part of this process is the opportunity for all stakeholders’ views to be considered and resolved with a high level of public involvement and acceptance.

Victoria’s planning system provides for extensive public involvement. This includes notification and appeal rights for permit application, independent planning panel hearings where the Minister is responsible authority or where an application is called-in by the Minister, or review by the Victorian Civil and Administrative Tribunal (VCAT) where the local council is the responsible authority.

PLANNING AND RENEWABLE ENERGY

The planning system provides a statutory mechanism for the delivery of Government policy and has a role in ensuring that renewable energy innovations in Victoria are facilitated.

In an economic and social environment characterised by rapid change, it is essential that our planning system is flexible to respond to and manage this change. But it needs to be prescriptive enough to provide certainty and consistency.

The Government’s strategic land-use planning is based on a sound analysis of issues and trends that can be monitored and reviewed regularly, with an integration of the economic, environmental and social aspects of development. Such strategies are reflective of the broader community and are therefore based on extensive community consultation and debate.

The Victoria Planning Provisions (VPP’s) and all Victorian planning schemes currently provide land use and development requirements for large scale wind energy and geothermal energy projects. Whilst the planning system currently does not explicitly address other forms of renewable energy proposals there is capacity for such proposals to be put forward.

VPP amendments are currently being prepared by the Department of Planning and Community Development to provide greater guidance and certainty to councils, industry and the community about renewable energy projects by proposing to amend the VPPs and all Victorian planning schemes to:

• Update the State Planning Policy Statement (SPPF), Clause 15.14 ‘Renewable Energy’, so that it provides an overarching renewable energy policy statement. The current clause is primarily focused on wind energy.

• Amend Clause 74 to include a definition for ‘renewable energy facility’. Currently the only renewable energy facilities defined in the VPPs are wind energy facilities and geothermal energy extraction.

• Amend the Farming Zone, Rural Conservation Zone and Public Conservation and Resource Zone, to list renewable energy facility as a permit required use.
• Include a new particular provision ‘Renewable Energy Facility (other than wind energy facility)’, to provide application requirements and decision making guidelines for proponents and decision makers.

A renewable energy proposal may be subject to three types of assessment (refer to Figure 4): planning permit processes (local government); Environment Effects Statement 1978 processes (State government); or Environment Protection and Biodiversity Conservation Act (1999) processes (Commonwealth government). Refer to Figure 4.

Figure 4 - Assessment process flowchart

Pre-application Consultation
With council, DPCD, DSE, relevant agencies & community

EPBC Act process

Applicant to determine whether referral required under EPBC Act

NO

Commonwealth determines whether proposal requires approval under EPBC Act

YES

State EES Process Accredited under EPBC Act

NO

Separate process under EPBC Act

EES process

Referral
Project referred to Minister for Planning *1

Decision
Minister’s decision on the need for an EES

NO

Focused process

Referral
Project referred to Minister for Planning

YES

Preparation of EES
Proponent prepares the EES

Public review
Exhibition of EES & lodgement of submissions

Inquiry
Minister may appoint an inquiry to consider the effects of the project, having regard to public submissions

Making an assessment
Minister’s assessment of environmental effects

Decision
Minister’s decision on proposal

Planning permit process

Preparing the planning permit application

Lodgement
Planning permit application lodged

Further information
RA requests further information if required

Decision
RA decides application

VCAT review
If applied for by applicant or objector

*1 Including a preliminary landscape assessment

*2 No VCAT review available were Minister for Planning is the RA

DPCD – Department of Planning and Community Development
DSE – Department of Sustainability & Environment
RA – Responsible Authority
EES – Environment Effects Statement
VCAT – Victorian Civil & Administrative Tribunal
PLANNING PERMIT APPLICATION PROCESS

The Planning and Environment Act 1987 sets out the planning permit process:

- planning permit applications are lodged with the relevant responsible authority, either the local council or the Minister for Planning;
- pre-application consultation with the community and key stakeholders on a proposed development is encouraged to provide the opportunity for information gathering and exchange. Pre-application consultation is not a formal statutory requirement of the planning process, however it offers benefits for proponents and interested parties alike;
- when all the relevant planning permit information has been received, the responsible authority will proceed with the public notification and referral requirements. Upon completion of notice and referral the responsible authority will determine the application;
- the responsible authority may decide to grant a permit or refuse to grant a permit. Where the council is the responsible authority and objections have been received council may issue a notice of decision to grant a permit giving objectors an opportunity to lodge an application for review at the VCAT; and
- where the Minister for Planning is responsible authority and an Environment Effects Statement is required, a joint Environment Effects Statement inquiry and Planning Panel may be appointed to consider objections and submissions received, and make recommendations to the Minister for Planning.

LARGE SCALE WIND PROJECTS – PLANNING PROCESS

Wind energy facility provisions were introduced into the VPP’s and all Victoria planning schemes in October 2002 to assist responsible authorities in assessing proposals for wind energy facilities. These provisions include:

- a State Planning Policy on wind energy facilities in the context of Victoria’s renewable energy objectives;
- requirements for planning permit applications – Clause 52.32 ‘Wind Energy Facility’;
- a definition of a wind energy facility; and
- exempting anemometers erected for less than 3 years from planning control.

A planning permit is required to use and develop land for a wind energy facility\(^\text{10}\) under all Victorian planning schemes. A wind energy facility is prohibited in National Parks and land reserved under the National Parks Act 1975.

The Minister for Planning, instead of local councils, is responsible for assessing proposals that have a capacity of 30MW or greater. This arrangement recognises the significance of large scale wind energy facilities to the State of Victoria.

The 30MW threshold aligns with other relevant regulatory thresholds for example:

- a 30MW wind energy facility must be registered under the national electricity rules governed by the National Electricity Market Management Company;
- an Essential Services Commission licence must be issued for installation of a wind energy facility of 30MW or more; and
- the Electricity Industry Act 2000 uses 30MW as the defining threshold between a ‘small’ and ‘large’ generation asset.

While Victorian Councils are responsible for wind energy facilities that have a capacity of less than 30MW, the Minister for Planning may ‘call-in’ a planning permit application yet to be decided by a Council where the

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\(^{10}\) A wind energy facility is defined as: Land used to generate electricity by wind force. It includes any turbine, building or other structure or thing used in or in connection with the generation of electricity by wind force. It does not include: (a) turbines principally used to supply electricity for domestic or rural use of the land; or (b) an anemometer.
Minister considers the proposal to be of State or regional significance. Once a proposal is called-in the Minister for Planning assumes the role of responsible authority.

The key features of the Victorian planning system, as they relate to large-scale wind energy developments, are summarised in Table 1.

<table>
<thead>
<tr>
<th>Wind farms of less than 30MW capacity</th>
<th>Wind farms of 30MW or greater capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible authority</td>
<td>Council (Note: Minister may ‘call-in’ a proposal)</td>
</tr>
<tr>
<td>Review of decision</td>
<td>Applicant can apply for a VCAT review of decision (Note: Where Minister assumes role of responsible authority, no VCAT review available)</td>
</tr>
<tr>
<td>Third party appeal</td>
<td>Objector can apply to VCAT for review of decision to refuse planning permit (Note: Where Minister assumes role of responsible authority, no VCAT review available)</td>
</tr>
</tbody>
</table>

The wind energy facility provisions are supported by the Policy and planning guidelines for development of wind energy facilities in Victoria 2003 (the Guidelines) which seek to guide and facilitate the appropriate development of wind farms by balancing environmental, social and economic outcomes and ensuring proper planning for Victoria’s future energy needs.

The Guidelines aim to protect the amenity of nearby residents by setting out a range of matters that must be considered when decisions are made about acceptable impacts of wind farm proposals.

The operation of the planning system in conjunction with the Guidelines provides the framework for the assessment and consideration of planning proposals for wind farms.

The Guidelines provide a comprehensive approach with other States typically adopting aspects of them on specific issues.

LARGE SCALE GEOTHERMAL PROJECTS – PLANNING PROCESS

Geothermal energy exploration and extraction provisions were introduced into the Victoria Planning Provisions in 2006 following the Geothermal Energy Resources Act 2005. This legislation provides the regime to allocate titles to geothermal energy resources, negotiate land access and ensure sustainable exploration and extraction.\(^{11}\)

To avoid unnecessary duplication of regulatory approval processes a planning permit is not required where:

- a permit has been granted for geothermal energy exploration under the Geothermal Energy Resources Act 2005; or

- an Environmental Effects Statement has been prepared and the Minister administering the Geothermal Energy Resources Act 2005 after considering the assessment authorises the holder of an

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\(^{11}\) Geothermal energy extraction in the Victorian planning schemes is defined as: Land used for the purposes of extracting geothermal energy or geothermal energy resources for the purpose of capturing the heat energy from the resources in accordance with the Geothermal Energy Resources Act 2005. It includes any activity incidental to this purpose including the construction and operation of pumps and pipes within the area in which the geothermal energy or geothermal energy resources are being extracted.
extraction licence issued under the Geothermal Energy Resources Act 2005 to carry out the geothermal energy extraction operation.

This approach is consistent with mineral exploration and mining.

In addition, a planning permit for removal of native vegetation is not required for geothermal extraction and exploration as this issue is comprehensively assessed and regulated under the Geothermal Energy Resources Act 2005.

OTHER LARGE RENEWABLE ENERGY – PLANNING PROCESS

The introduction of other forms of large scale renewable energy facilities has only recently commenced within Victoria with several trial or demonstration operations (solar, wave and tidal) being proposed.

The impacts associated with these ‘new’ types of renewable energy technology are not as well understood as the established wind and geothermal sectors and accordingly specific statutory provisions, policy and guidance has not been developed.

Nonetheless, the planning system does provide for the assessment of other forms of renewable energy projects as demonstrated by the proposed large scale 154MW photovoltaic power station proposed to be built in north-west Victoria. The first stage of the project consisting of a trial photovoltaic power station test facility project near Bendigo was approved via a site specific amendment by the Minister for Planning.

The introduction of other forms of large scale renewable energy technology to Victoria brings with it new land use and development issues that the planning system has not previously considered. Issues could include physical and social impacts, i.e. visual impacts associated with solar energy projects, or legislative considerations, i.e. the adequacy of legislation to assess ‘land use’ impacts for projects based off-shore or in the inter-tidal zone.

These impacts have the potential to be significant and will necessitate separate and specific consideration. The assessment of these matters will influence how these renewable energy facilities are treated in the planning system.

However, given the advances in innovations across a range of renewable energy technologies, it is important that the planning system be proactive and provides as much certainty to industry, councils and the community as possible.

ENVIRONMENTAL APPROVALS

STATE ENVIRONMENTAL ASSESSMENT PROCESSES

The Minister for Planning is responsible for administering the Environment Effects Act (1978) (EE Act) and for deciding whether an Environment Effects Statement (EES) is required under this Act.

The Ministerial guidelines for assessment of environmental effects under the EE Act provide guidance on EES processes and outline the criteria that warrant referral of a project.

The Minister for Planning may make three forms of response to an EES Referral as follows:

• an EES is required;
• an EES is not required if conditions specified by the Minister are met; or
• an EES is not required.

Once an EES Referral is lodged with the Minister for Planning, decision makers under other Victorian legislation may be directed not to make a decision on the project until the need for an EES is determined. If an EES is required, statutory decisions are on hold until the EES process is complete.

All projects referred to the Minister for Planning for a decision about the need for an EES are publicly notified on the Department of Planning and Community Development website.
Almost all wind energy projects in Victoria have been referred under the EE Act, although the majority have not required the preparation of an EES.

Since the amended EE Act commenced in operation in July 2006, some wind energy proposals have not required the preparation of an EES, subject to certain conditions being met.

COMMONWEALTH ENVIRONMENTAL APPROVAL PROCESS

A proposal may also need approval under the Commonwealth’s *Environment Protection and Biodiversity Conservation Act (1999)* (EPBC Act) if it is likely to have a significant impact on matters of national environmental significance (for example, a ‘declared RAMSAR wetland’ designated under the RAMSAR Convention).

When a person proposes to take an action that they believe may need approval under the EPBC Act, they must refer the proposal to the Commonwealth Minister for the Environment, Water, Heritage and the Arts. If the Minister determines that an approval is required, the proposed action must be assessed under the EPBC Act.

If approval is required under the EPBC Act, the Commonwealth may accredit Victoria’s EES assessment process as the means for assessing the environmental impact. However the Commonwealth will make the final decision under the EPBC Act. The proposed bilateral agreement between Victoria and the Commonwealth on environmental impact assessment will enable the use of either an accredited EES process or planning permit process.

‘SPECIFIED WORKS’ APPROVAL

If works associated with the projects fall within the definition of ‘specified works’ related to soil, vegetation, waterways and habitats, the consent of the Department of Sustainability and Environment (DSE) under the *Conservation, Forests and Lands Act 1987* is required before specified works can be undertaken. Specified works include:

- disturbing soil and vegetation;
- constructing structures in or across waterways which may interfere with fish or an aquatic habitat; or
- developing within a ‘critical habitat’ under the *Flora and Fauna Guarantee Act 1988*.

PERMIT UNDER THE WILDLIFE ACT 1975

If any of the land required for a project is part of a State Wildlife or Nature Reserve, a permit to damage, destroy or relocate wildlife under the *Wildlife Act 1975* may be required. Additionally, no sand, soil or other material may be removed from the protected area.

PERMIT UNDER THE FLORA AND FAUNA GUARANTEE ACT 1988

If a project may impact on native vegetation and other protected flora and fauna, a permit may be required under the *Flora and Fauna Guarantee Act 1988*. The Environment Minister may require a taxon or community of flora or fauna to be protected – resulting in an alteration of the route or construction of the Projects.

The Minister may also make an Interim Conservation Order (ICO) providing for the protection of flora, fauna, land or water by prohibiting or regulating any activity or process on the relevant land. An ICO can stipulate that permits are required for certain activities, and can take precedence over licenses, permits or other authorisations under other Acts and planning schemes to the extent of any inconsistency.

However, it is assumed that in the context of a major project supported by the Government, the order would be amended to maintain the protection and conservation of the relevant flora or fauna, while permitting activities required for the Project (presumably subject to conditions).

Impacts on fauna may also be considered in:

- Decision guidelines for issue of a planning permit under a zone (such as Rural Conservation Zone) or overlay (such as Environmental Significance Overlay);
- EE Act (the scope of an EES would normally include removal of habitat and impact on protected fauna); and
• EPBC Act.

APPROVAL UNDER THE COASTAL MANAGEMENT ACT 1995

If projects involve the use or development of coastal Crown land, the proponent will be required to obtain the consent of the Environment Minister to use and develop the Crown land under the Coastal Management Act 1995 (CMA).

The CMA provides a consent process for the use and development of coastal Crown land. Consent can be obtained prior to a planning permit application being made or if a planning permit is required, as part of the planning permit process.

Where consent is refused, the proponent has no rights of appeal and any planning permit application must also be refused.

When assessing planning permit applications on coastal Crown land, the following documents are considered:

• the coastal areas policy in the SPFF and other relevant provisions in the planning scheme;
• the Victorian Coastal Strategy (www.vcc.vic.gov.au) ; and
• any relevant Coastal Action Plans (CAP).

THE CATCHMENT AND LAND PROTECTION ACT 1994

If projects involve impacts on land, soil, declared weeds and pests, the Catchment and Land Protection Act 1994 (CLPA) applies. The Project Authority must comply with a general duty on ‘land owners’ to take all reasonable steps to avoid contributing to land degradation, conserve soil and prevent the growth and spread of declared weeds and pests.

Under the CLPA, Victoria is divided into ten catchment regions and a Catchment Management Authority (CMA) is established for each region. CMAs form a major part of the framework for achieving sustainable management of Victoria’s land and water resources.

LICENSE UNDER THE WATER ACT 1989

If the projects are likely to impact or interfere with a waterway or if the project works are likely to impact or interfere with a waterway, a license must be obtained from the Water Minister pursuant to the Water Act 1989 (Water Act). A waterway includes rivers, creeks, streams, watercourses, lakes and natural collections of water (except those on private land). However, the Water Minister may grant an exemption for the requirement to apply for a license in order to carry out the project works. A license is also required to take and use water, including groundwater and water from a waterway.

Water infrastructure may also require:

• planning permits under the relevant zone and overlay, including requirements imposed under the Urban Floodway Zone, Floodway Overlay or Land Subject to Inundation Overlay; and
• works approval under the Environment Protection Act 1970.

PERMIT UNDER THE FORESTRY RIGHTS ACT 1996 OR FORESTS ACT 1958

If projects require the occupation of State forest or the utilisation of forest products from land managed by the Secretary under the Forests Act 1958, a permit, licence or lease is required.

THE NATIONAL PARKS ACT 1975

If projects require land that is a national or state park, the National Parks Act 1975 applies. The effect on the Project will depend on the particular park involved, as each is listed with different requirements, including access arrangements and licensing requirements.
WORKS APPROVALS

If, during the construction phase or post completion of the project, there would be an increase in emissions (noise or waste), a Works Approval may need to be obtained from the Environmental Protection Agency under the Environment Protection Act 1970 (EP Act). The EP Act provides that the occupier of scheduled premises must not undertake works which would result in the discharge emission or deposit of waste except in accordance with a works approval, including a research development and demonstration approval. In addition, the EP Act provides that it is an offence for the occupier of scheduled premises to discharge, emit, or deposit such waste without license. For a Project which will qualify as a scheduled premises, a licence may also be required during the operations phase.

During the construction phase, State Environment Protection Policies (which are guides to the application of the EP Act) may be applicable.

A works licence may also be required under the Water Act 1989 for the construction, alteration, operation, removal or decommissioning of any works on a waterway (including a bore or a dam belonging to a prescribed class of dams).

INFRASTRUCTURE APPROVALS

If projects involve the development of roads, works carried out on or around roads require the consent of the relevant coordinating authority. A Road Access Works Permit is required for road reserves under the Road Management Act 2004.

If projects involve the development of buildings, the Building Act 1993 (BA) applies to the construction and maintenance of buildings. ‘Building’ is defined to include any structure, temporary building, temporary structure and any part of a building or structure. If the works falls within the operation of the BA:

- a building permit must be obtained before commencement of the works; and
- consent of adjoining owners must be obtained if any protection works are required to adjoining property.

HERITAGE AND ABORIGINAL IMPACT APPROVALS

If projects impact on Aboriginal heritage or native title rights or interests, a Cultural Heritage Management Plan (CHMP) or application for a Cultural Heritage Permit may be required, under the Aboriginal Heritage Act 2006 (AH Act).

An Aboriginal body corporate can apply to become a Registered Aboriginal Party (RAP) for a specified area. A RAP will evaluate any CHMP for that area. CHMPs for areas for which there is no RAP, currently including metropolitan Melbourne, will be assessed by the Secretary of Aboriginal Affairs Victoria or the Aboriginal Heritage Council.

Where a CHMP is required for a large area there may be more than one RAP in respect of that area. If multiple RAPs elect to evaluate the CHMP, they jointly agree to approve or reject the CHMP. This requires that the project proponent satisfy multiple entities prior to the making of the joint decision.

Where a project requires an EES, a CHMP will also be required for the whole project.

Where an act (such as the issue of a permit or approval, or the undertaking of works) will have an effect on native title rights or interests, that act will be invalid under the Native Title Act 1993 (Cth) (NT Act) unless one of the ‘future act’ procedures set out in the NT Act is followed. Depending on the type of Project and other circumstances, the procedures most likely to be relevant to a Project include:

- negotiation of and entry into an Indigenous Land Use Agreement (ILUA);
- certain acts for the management of water;
- acts related to certain facilities for services to the public; and
- compulsory acquisition of onshore native title rights and interests.
If projects impact on heritage places or objects, consent to undertake any works to a place listed on the Victorian Heritage Register or the Victorian Heritage Inventory may be required under the Heritage Act 1995. In either case a permit will be required before works can be carried out.

Heritage issues will also be considered as part of:

- decision guidelines for issue of a planning permit under a Heritage Overlay; and
- the EPBC Act, for heritage which constitutes a matter of national environmental significance.

**NATIVE TITLE**

Native title may exist in places where Indigenous people continue to follow their traditional laws and customs. The Native Title Act 1993 (Cth) applies in these circumstances.

**FURTHER LAND APPROVALS**

**COMPULSORY ACQUISITION OF EASEMENTS**

Easements over private land for transmission or pipeline assets can be acquired by agreement with landowners. If agreement cannot be reached, the proponent needs the Minister’s consent to compulsorily acquire the easement. This can only be given after a process of consultation with the landowner.

If projects require land that is not available for purchase (such as easements for transmission lines), the Land Acquisition and Compensation Act 1986 (LACA) enables any ‘Authority’ to compulsorily acquire land pursuant to the LACA procedures.

Under the Planning and Environment Act 1987 (Vic) land can be declared as special land for the purpose of s.5 of the LACA, or even declared as a development of State significance in accordance with s.201F of the P&E Act.

Further, there are powers in Part 5 (Powers of Electricity Corporations) of the Electricity Industry Act 2000 which enable Electricity Corporations to acquire easements with application of the LACA. Requirements for compulsory acquisitions of easements require approval by the Minister.

**THE CROWN LAND (RESERVES) ACT 1978**

If project works are to be carried out on Crown land, the Crown Land (Reserves) Act 1978 may apply in a number of ways:

- a temporary or permanent reservation of Crown land may need to be revoked if the land is reserved for a purpose which is inconsistent with its use for the Project; and/or
- where the project involves the use of Crown land for ‘public purposes’ within the meaning of the Act (including ports, roads, railways, and the supply and distribution of water), the Act provides a mechanism to reserve such Crown land for the project.

If projects involve construction of buildings and works and to occupy permanently or temporarily unreserved Crown land, approval for buildings and works and to occupy permanently or temporarily reserved Crown land (on a permanently or temporarily basis) may be required under the Crown Land (Reserves) Act 1985.

Approval for buildings and works and to occupy permanently or temporarily unreserved Crown land (on a permanent or temporary basis) may be required under the Land Act 1958.

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12 Note that Native Title is extinguished on privately owned land.
13 The Valuation of Land Act 1960 is relevant to determining the value of land acquired and compensation payable to land owners if land is compulsorily acquired under the LACA.
ELECTRICITY AND GAS APPROVALS

ELECTRICITY APPROVALS

The Electricity Industry Act 2000 provides for the regulation of the electricity industry. If projects involve activities to transmit, distribute, supply, sell or generate electricity for supply or sale, a licence is required to transmit, distribute, supply, sell or generate electricity for supply or sale requires a permit from the Essential Services Commission under the Electricity Industry Act 2000. The Distribution Code and Retail Code apply to appropriately licensed parties14.

If projects involve participation in the national electricity market, the National Electricity (Victoria) Act 2005 (NEL) provides for the application of the National Electricity Law in Victoria with which all participants in the national electricity market must comply. Only registered participants may own, control or operate a generator connected to the interconnected national electricity system; or a transmission/distribution system connected to the interconnected national electricity system, unless they are exempted by NEMMCO15.

Work in relation to electricity lines16 must be carried out by a person authorised under the Electricity Safety Act 1998 (ESA). The Governor in Council may grant an exemption from compliance with this requirement.

CONNECTIONS TO THE TRANSMISSION SYSTEM

In Victoria, connections to the electricity transmission system are governed by a number of legislative/regulatory instruments – the National Electricity Law, the National Electricity Rules, the Victorian Electricity Industry Act 2000, Transmission Licences and the Victorian System Code. These instruments define obligations on network service providers and transmission network asset owners17 in relation to connections to the transmission network18.

In Victoria the transmission network service provider is Victorian Energy Network Corporation (VENCorp)19, a statutory body whose is the Victorian Network Service Provider with statutory responsibility for planning, expanding and approving connections to the Victorian shared extra-high voltage (EHV) transmission network, and directing expansion of the network.

Applications for new connections to the transmission system are made to VENCorp by project proponents. VENCorp operates under a ‘plan and procure’ model and competitively procures shared EHV network services from asset owners, primarily SPI PowerNet although other companies are able to bid. SPI PowerNet is responsible for owning, maintaining and operating its EHV transmission network to provide services as defined in its Network Agreements with VENCorp and Connection Agreements with other transmission customers.

CONNECTIONS TO THE DISTRIBUTION SYSTEM

Applications for new connections to the distribution system are made to the appropriate distribution business20. A project proponent or developer will usually be responsible for meeting the total cost, or a proportion of the cost, of extending or upgrading a distribution system to provide electricity supply.

In 2004, the Victorian Government introduced amendments to the Electricity Industry Act 200021 to allow for augmentations to the distribution network to be deemed approved where these augmentations facilitate the connection of a wind farm.

(Note that the MCE Network Policy Working Group is currently considering a National Connections Framework for Electricity Distribution Networks.)

14 Note also that the installation of on-site cogen and embedded renewable generation by third party developers or energy service providers are also subject to the requirements of the Retail Code.
15 These responsibilities transition to the Australian Energy Market Operator (AEMO) from 1 July 2009.
16 No license is required to build powerlines, however a company must hold a distribution or a transmission license to operate and transmit power.
17 In Victoria this is SPI PowerNet, a subsidiary of SP AusNet.
18 Note that with the transfer of responsibilities from VENCorp to AEMO from 1 July 2009, transmission licensing arrangements are to be reviewed and an alternative framework may be developed.
19 VENCorp’s statutory responsibilities will broadly transition to the Australian Energy Market Operator (AEMO) from 2009.
20 In Victoria, there are 5 electricity distribution businesses.
GAS APPROVALS 22

The Gas Industry Act 2001 provides for the regulation of the gas industry. The Gas Safety Act 1997 (GSA) may also apply.

If projects involve a gas pipeline23, a license to construct and operate a pipeline may be required under the Pipelines Act 2005 (PA). If a licence is issued under the PA for the construction and operation of a pipeline, a planning permit is not required for the use or development of land, including the removal, destruction and lopping of native vegetation, or the doing or carrying out of any matter or thing for the purpose of the pipeline. 24 However, if pipelines are prohibited under the planning scheme, the planning scheme amendment process is incorporated with the EES process.

A company must hold distribution and transmission 25 licence (issued by ESC under GIA) to be able to distribute gas. Approvals/consents/agreement required in some case include works approval by the EPA, Crown Land Manager (DSE) as well as Aboriginal heritage and Native Title approvals.

Further, for any project, consent from the Minister for Energy and Resources may be required to carry out works less than 3 metres from a pipeline.

KEY CHALLENGES AND ONGOING RESPONSES TO THESE CHALLENGES

This section provides a summary of key challenges for the Victorian Government in relation to facilitating investment in renewable energy projects in Victoria, further to those policies and initiatives described earlier in this submission. Broadly these challenges are to:

- continue to develop, communicate and engage key stakeholders and the community in relation to the Government’s renewable energy strategies, policies and initiatives; and
- identify, prioritise and facilitate efficient and effective opportunities for improvement.

CONTINUE TO DEVELOP, COMMUNICATE AND ENGAGE KEY STAKEHOLDERS AND THE COMMUNITY IN RELATION TO THE GOVERNMENT’S RENEWABLE ENERGY STRATEGIES, POLICIES AND INITIATIVES

In June 2002, the Victorian Government launched a three year program of action to reduce Victoria’s greenhouse emissions across a range of sectors as part of the Victorian Greenhouse Strategy (2002). Building on this work, to acknowledge national and international developments in climate change policy, and build on the actions and commitments initiated in 2002, the Government released:

- the Greenhouse Challenge for Energy: Driving investment, creating jobs and reducing emissions position paper (2004);

These publications seek to communicate and engage key stakeholders and the community in relation to the government’s renewable energy strategies, policies and initiatives. Building on this framework, the Government has announced:

- the Climate Change Green 26/White Paper; and

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22 In the context of renewable energy projects, gas approvals are more likely to relate to the incidental use of gas.
23 ‘Pipeline’ means any pipe or system of pipes for the conveyance of anything through the pipe (except drains, sewers, hoses and pipelines within properties).
25 Subject to review following the transfer of various responsibilities to AEMO from 1 July 2009.
26 The Green Paper has now been released.
• the Future Energy Statement.

CLIMATE CHANGE GREEN/WHITE PAPER

The Government released its Climate Change Green Paper on 3 June 2009. The development of the Green Paper stemmed from the Climate Change Summit held in April 2008. A public consultation program on the Green Paper is currently underway and will inform the development of the Climate Change White Paper, which is due for release in late 2009.

The Green Paper seeks to provide a comprehensive overview of the issues facing Victoria in responding to climate change, as well as a clear understanding of the Government’s objectives and priorities for action. More broadly, the Green Paper:

• provides a comprehensive analysis of the State-specific issues and opportunities facing Victoria in relation to climate change;
• identifies the strategic objectives for Victoria in responding to climate change;
• recognises the Victorian Government’s role in the context of national and international policy developments; and
• outlines priority areas for Government actions leaving open the policy options to support these priorities.

Building on the directions in the Green Paper, the White Paper will:

• set out a comprehensive climate change strategy for the next 10 years (out to 2020);
• be a statement of Victorian Government policies, programs and initiatives under the priority areas highlighted in the Green Paper;
• outline new and continuing programs, with funding, delivery and timeframes; and
• target two budget cycles to reflect a longer-term focus.

FUTURE ENERGY STATEMENT

The Victorian Government plans to release a Future Energy Statement in 2009/10. This statement aims to ensure a secure and reliable energy supply for Victoria while achieving reductions in greenhouse gas emissions in the most cost effective way. The primary aims of this statement are to tell the story of Victoria’s energy future to better engage the Victorian community, and to outline the Government’s plan to ensure a secure, reliable and sustainable energy supply during the transition to a carbon-constrained economy.

IDENTIFY, PRIORITISE AND FACILITATE EFFICIENT AND EFFECTIVE OPPORTUNITIES FOR IMPROVEMENT

A number of opportunities for improvement in regulation and processes which have a bearing on investment and approvals for renewable energy projects are currently being considered at national and state levels. These include:

• a review of the (national) energy market framework is currently being undertaken by the Australian Energy Market Commission to determine whether it requires amendment to accommodate the introduction of the CPRS and expanded RET;
• a review into the current electricity distribution network planning and expansion arrangements across the National Electricity Market is currently being undertaken to assist the establishment of a national framework for distribution network planning;
• a review into opportunities for improving environmental regulation in Victoria by, for example, reducing administrative and compliance burdens, and reducing any overlap and duplication of Federal, state and local government regulation;
• a review to identify opportunities to improve and modernise the operation of the Planning and Environment Act 1987;
• development of a Commonwealth White Paper on Energy which considers the governance, institutional, legal and regulatory frameworks through which energy policy is applied to meet the challenge of the transformation of the energy sector; and
• government facilitation of energy sector development, particularly in the context of transitioning to a low carbon future.

In addition, the Victoria Government’s Reducing the Regulatory Burden (RRB) initiative affirms the Victorian Government’s on-going leadership in implementing the reforms which are essential to the competitiveness of the Australian economy. While regulation will continue to be a necessary and important tool in achieving the Government’s policy objectives, ensuring that regulation is appropriate and that there is no unnecessary burden on businesses is a key priority. As part of the RRB initiative, Victoria is currently funding a range of initiatives for regulatory reform, some of which will also improve the regulatory environment for the renewable energy sector.

IMPROVING THE ENERGY MARKET FRAMEWORK IN THE LIGHT OF THE INTRODUCTION OF THE CPRS AND RET SCHEME

At its meeting of 13 June 2008, the Ministerial Council on Energy (MCE) agreed to direct the Australian Energy Market Commission (AEMC) to conduct a review of the energy market framework to determine whether it requires amendment to accommodate the introduction of the Carbon Pollution Reduction Scheme (CPRS) and expanded Renewable Energy Target (RET). The review will provide advice to the MCE in September 2009.

A first interim report was published in December 2008. The preliminary key finding in the first interim report was that existing market frameworks are resilient to changes in market behaviour likely to arise as a consequence of the introduction of CPRS and RET, but that a number of risk areas warrant further consideration. These risk areas include:

• retail price regulation that fails to account fully for carbon costs in energy prices;
• insufficient arrangements for a Retailer of Last Resort in the event of a retailer failure;
• insufficient opportunities for demand-side response at times of tight supply/demand;
• insufficient arrangements for transmission investment to transport remote generation to demand centres; and
• insufficient locational price signals for new generation investment.

The connection of remote generation has been flagged as a material issue and the AEMC has indicated that there are likely to be recommendations for change to existing frameworks in this area. The key concern is that the existing framework is based upon bilateral negotiation for grid connection, which may not fully optimise opportunities to facilitate coordination of applications and allow consideration of future connections and efficient sizing. This could lead to increased connection costs and also lead to timing issues, if multiple applications are treated fully in isolation.

IMPROVING NETWORK PLANNING

From 1 July 2009, the Australian Energy Market Operator (AEMO) will take over the market operator functions previously carried out by NEMMCO, VENCorp (Victoria), Gas Market Company (NSW and the ACT), REMCo (South Australia) and the Gas Retail Market Operator (Queensland). AEMO will also take on a new responsibility of National Transmission Planner in relation to the planning and development of the national electricity transmission grid. In this role, AEMO’s key responsibility will be the preparation of the National Transmission Network Development Plan which will help to ensure that local network investments contemplate the broader strategic direction of the network and guide appropriate investment in network infrastructure and promote efficiency savings.

An issue for renewable energy projects can be the costs and timeframes for connecting to the electricity grid, coupled with a lack of guaranteed transmission capacity (or firm transmission rights).

As a general rule, electricity generators must pay for any new infrastructure built, to ensure efficient investment. Building transmission infrastructure is capital intensive, complex and time consuming and tends.
to be a stumbling block for renewable energy project developers. Conversely, if transmission infrastructure build costs were to be recovered by the network service provider from all end-users, this could distort the operation of the market by encouraging generation connections in areas that are inefficient or more expensive than elsewhere.

These broad concerns are currently being considered by the Australian Energy Market Commission during its review of the energy market framework in light of the CPRS and expanded RET, and also in terms of a review of network planning.

On 17 December 2008, the MCE directed the AEMC to conduct a review into the current electricity distribution network planning and expansion arrangements across the National Electricity Market. The objective of the review is to propose recommendations to assist the establishment of a national framework for distribution network planning. Further, MCE has provided guidance on the required characteristics of the national framework, including that:

- Distribution Network Service Providers (DNSPs) have a clearly defined and efficient planning process which provides certainty in relation to the approval of network expansion and augmentation to maintain the reliability of the electricity supply to consumers.
- DNSPs develop the network efficiently. This includes addressing a perceived failure by DNSPs to look at non-network alternatives (such as embedded generation, energy efficiency and conservation measures) in a neutral manner when making distribution augmentation assessments.
- Appropriate information transparency to allow:
  - network users, including distributed generators, to plan where best to connect to the network and provide an appropriate regulatory environment to facilitate this;
  - network users to understand how the timing of connection might affect connection charge arrangements, to the extent which connecting users contribute to upstream augmentation requirements; and
  - efficient planning by parties that may offer alternative, more cost-effective solutions to network augmentations to address emerging constraints.
- Ensure a level playing field for all regions in terms of attracting investment and promoting more efficient decisions.
- Reduce the regulatory compliance burden for participants operating in more than one region in the NEM.

The AEMC have also been asked to consider the interaction between transmission and distribution planning, to help ensure that the national framework is robust within the context of climate change policies.

**VCEC INQUIRY INTO ENVIRONMENTAL REGULATION**

In July 2008, the Treasurer instructed the Victorian Competition and Efficiency Commission (VCEC) to conduct an inquiry into environmental regulation. The intent of the review is to identify opportunities for improving environmental regulation by, for example, reducing administrative and compliance burdens; reducing any overlap and duplication of Federal, state and local government regulation; reducing regulatory barriers to growth in areas of the economy that are responding to the emerging environmental sustainability challenges and improving institutional arrangements.

The Planning and Environment Act 1987 was not included in the VCEC inquiry as it is the subject of a separate review.

The VCEC released a draft report in March 2009 for further consultation, with the final report due in July 2009. The draft report noted that:

> Planning and land use issues are likely to become particularly pressing for renewable power sources, such as wind power and geothermal energy, which have to be located where the energy source is, and which is unlikely to be where
generation is currently concentrated. Similar issues are likely to arise for carbon capture and storage projects.

IMPROVING VICTORIA’S PLANNING SYSTEM

The review of the Planning and Environment Act 1987 (the Act) was announced in the Annual statement of government intentions 2008.

The Minister for Planning has appointed an expert panel to assist with the review to identify and enable opportunities to improve and modernise the operation of the Planning and Environment Act 1987. The panel will consider the workability of the current planning system (including strengthening certainty and timeliness of the planning process) and prepare advice on ways the Act can be improved to effectively meet Victoria’s planning challenges into the future.

The review is an opportunity to enhance the operation of Victoria’s planning system, with the objectives of the review including:

- ensuring that the Act provides a suitable framework to deliver policy outcomes into the future;
- enabling the planning system to better respond to the challenges of the future;
- reducing regulatory burden;
- increasing efficiency, effectiveness, certainty and transparency;
- improving the speed and quality of decision-making;
- delivering mechanisms that help to balance policy objectives in decision-making; and
- facilitating the transition to electronic planning systems.

REVIEW OF APPROVALS UNDER THE COASTAL MANAGEMENT ACT 1995

DSE is currently leading a review of approval processes for consents for such projects under the Coastal Management Act 1995 (CMA). Approval may be required under this Act for wave, tidal and offshore wind projects.

IMPROVED FACILITATION OF ENERGY SECTOR DEVELOPMENT

A recent restructure of responsibilities within the Department of Primary Industries (DPI) has established the Energy Sector Development (ESD) Division with a key responsibility to facilitate energy investment in Victoria. This facilitative role complements the activities of other departments and agencies, such as the Department of Innovation, Industry and Regional Development (DIIRD), by considering broad investment opportunities and assisting to facilitate timely resolution of systemic issues through market-based processes.