Pyrenees Shire Submission to the Environment and Communications Legislative Committee regarding the:

Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012

Under the current Victorian planning system wind farm applications are required to submit a series of noise reports addressing the requirements of either NZ6808:1998 or NZ6808:2010, which are the two noise standards currently in use in Victoria. These are outlined as follows:-

a) Before the development starts – at the planning permit assessment stage.
b) Before the use commences operating (background measurements at a broad range of points and the modelling measured based on the sound power outputs of the final turbine design selected by the operator)
c) Monitoring after the wind farm has been constructed and commissioned to ensure compliance with the relevant New Zealand noise standard can be determined, and any issues of non-compliance addressed.

Council's role in the approval and management is currently limited, as under current Victorian planning law the State Government is the responsible planning authority both for determining the permit as well as for the on-going administration and enforcement of the permit conditions for all projects over 30 megawatts in size. A number of legal opinions (including one from Simon Molesworth QC) have been obtained by various Councils which support the position espoused above.

Noise regulation and proposed powers to suspend accreditation:

Audible noise complaints were first received by Council and DPCD from residents living in close proximity to the Waubra wind farm in late 2009. A number of concerns have also been received by residents in relation to the lack of access that has been provided to the noise reports and data prepared by the operator's acoustic consultants.

To Councils understanding there has been no final sign off on the noise reports for this project, as is required under the permit conditions. Both the Pyrenees Shire and the public at large are currently in the dark as to whether this material was provided and whether indeed the facility is currently operating in accordance with the requirements of NZ6808:1998. The operators would also currently be in breach of the timelines provided for under their planning permit if the final noise modelling report and data had not been provided to the satisfaction of the relevant state government agency, being DPCD.

For the reasons outlined above the Pyrenees Shire Council supports the position regarding the proposed legislative requirement for all noise reports associated with from wind farms to be made publically available. This will ensure that the community

can have access to the data, and the increased confidence in the transparency of the noise assessment process.

It should be noted that some of the noise data would need to be confidential, as its publication could breach commercial in confidence issues of the proponents, otherwise all such information should be made public and if viable the continuous monitoring results of post commissioning noise monitoring be available via an on-line source.

While we also support in principal the proposal to provide regulating authorities with further the legislative power through the proposed amendment to *Section 30E (4)* of the *Renewable Energy (Electricity) Act*. It should be noted that the responsible authority (Minister for Planning) for enforcing these permits currently has the power, should they have reasonable grounds to believe there has been a breach of permit noise conditions to apply to the Victorian Civil and Administrative tribunal (VCAT) for an enforcement order. This same action can also be taken should be operator fail to provide noise reports and compliance data within the timeframes stipulated on any planning permit.

We would also recommend that rather than adopting a national noise level outlined in proposed Section 14(2) (a) that the relevant state standards for noise compliance be maintained. In the case of the NZ6808:1998, which is the standard used to measure noise at most wind farms in Victoria is a noise level not exceeding 5dBA above the background noise level when measured outdoors 10 metres from a dwelling or 40dBA, whichever is the greater.

It should also be noted that the condition requirements for some large wind farms permits issued in Victoria, generous timeframes are provided to the operators to rectify potential noise compliance breaches and no powers are written into the conditions given the power to the Responsible Authority the power to order the shutting down of turbines. An example of this is the permit for the 157 turbines approved as part of the Stock Yard Hill wind farm, where the operators are provided with 180 days to bring non-conforming turbine/s into compliance with the noise standards. This is a matter that could be addressed for future permits through changes to the current Victorian Wind Farm Assessment Guidelines.

We recommend that if the changes espoused to Section 30E(4) are implemented that legal advice be sought as to whether they can override timeframes stipulated on currently issued permits for wind farm developments.

If the proposed amendments to amend Section 30E(4) of the Renewable Energy (Electricity) Act are enacted we believe that the Responsible Authority, being DPCD will need to be suitably resourced with both staff that have the required technical knowledge and testing equipment required to determine compliance with the noise standard. Alternatively they will need to make the financial resources available to engage independent acoustic consultants to assess and determine compliance with the relevant noise standards. One possible solution would be to charge a fee to the applicant to cover the costs associated with having a noise report peer reviewed.

We also recommend that a nationally consistent protocol for the assessment of ‘sub-audible’ noise impacts outside of the dBA scale be considered for adoption once the results of the current Human Health and National Acoustics Laboratories study have been completed and the recommendations considered for adoption.