



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information X	Recommendation ☐	Decision Request ☐	Councillor Activity ☐
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To: Mayor Zebian and Members of West Hants Regional Municipal Council

Submitted by: _____

Kari Fougere, Acting Director of Planning and Development

Date: 2025-03-25

Subject: Regulations for Wind Farm Development

LEGISLATIVE AUTHORITY

Municipal Government Act, Part VIII, Planning and Development

RECOMMENDATION OR DECISION REQUEST

The report is being provided for information purposes only.

BACKGROUND

On January 14, 2025 the Municipality received correspondence from the Province in regards to proposed amendments to the West Hants Municipal Planning Strategy (WHMPS) and the West Hants Land Use By-law (WHLUB). The amendments pertaining to increased separation distances of wind turbines was approved with additional amendments that ultimately reduced separation distances and removed criteria around visual intrusiveness.

At the January 28, 2025 Council meeting Council passed a motion to direct staff to review potential options for additional amendments to the WHMPS that would speak to a maximum height of windmills, a maximum number of windmills/turbines permitted within an area/the region or the potential for a moratorium or means to limit the total volume of wind turbines within WHRM, and if these were options for Council to consider.

MOVED BY COUNCILLOR IVEY AND LEARY-PINCH THAT COUNCIL DIRECT THE CAO TO REVIEW POTENTIAL OPTIONS FOR AMENDMENTS TO THE MUNICIPAL PLANNING STRATEGY (MPS), SUCH AS WINDMILL HEIGHT, VOLUME AND OTHER MEANS WHICH MAY SERVE TO LIMIT THE TOTAL VOLUME OF WIND TURBINES WITHIN THE WEST HANTS REGION OVER TIME.

On March 7, 2025 the municipality received a letter from the Minister of Municipal (Attachment 1) stating that the Municipal Government Act (MGA) has been amended to implement a maximum setback for commercial wind turbines, and further, that visual impact or aesthetic appearance of wind turbine development is not a matter Council can consider prior to approval. All municipalities will have to ensure their existing wind turbine requirements are consistent with these regulations.

Large scale wind turbine developments, or wind farms, are subject to requirements from the provincial government, federal government (in certain circumstances) and municipal policies and regulations. Currently, the WHMPS and WHLUB require large scale wind turbines to only be considered by development agreement which are subject to WHMPS Policy.

A development agreement is a contract between an owner of land and the Municipality to allow Council to consider a use that is not a listed permitted use within a zone on a specific lot. The ability for Council to consider a development agreement must be stated in the Land Use By-law and the Municipal Planning Strategy must identify the kinds of uses Council may consider in each area. In a Municipal Planning Strategy Council usually identifies both specific and general criteria which must be considered when making decisions regarding a development agreement, these criteria must be consistent with MGA requirements. A proposal being considered must be measured against only the specific and general criteria in the Municipal Planning Strategy and not any other criteria. Provisions within the development agreement are negotiated but must be reasonably agreed upon and subject to Municipal Planning Strategy policies.

Previous jurisdictional scans of other municipalities across Nova Scotia show that they have different requirements, such as as-of-right development, or specific requirements for these developments. However, with the recent announcement from the Province, municipalities will be required to amend their planning documents to be consistent with the new MGA requirements. This will create a consistent standard across the Province for wind turbine development.

At the provincial level, all wind energy projects over 2MW in size are required to undertake a provincial Environmental Assessment (EA), administered by the Department of Environment. The EA requires proponents to register required information on the environmental effects of any proposed project. EA registration information submitted by the proponent is made available for public review, and all stakeholders have the opportunity to submit comments on the project. Registration information is then reviewed by experts within the provincial and federal government. Evaluation by these experts, along with issues raised by the public, is considered by the Minister when making a decision. Decision options of the Minister include: granting approval with conditions, request for more details/analysis, or rejection.

This report was also presented to the Planning and Heritage Advisory Committee on March 13, 2025.

Property ☒	Public Opinion ☐	Environment ☒	Social ☐	Economic ☐	Councillor Activity ☐
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DISCUSSION

With respect to the question regarding moratoriums on wind farm development, in February, 2024, a legal opinion from the Municipal Solicitor determined that a resolution of Council to put a moratorium on large wind turbine developments would be and of no force or effect.

Municipal planning documents enable applications to be made and granted if they conform with the planning documents and a resolution of Council to over-ride that statutory process would be contrary to the Municipality's obligations under Part VIII of the MGA. A moratorium is not a planning construct recognized within the MGA and essentially would amount to totally banning an entire class of development activity and would also contradict new MGA requirements and provincial interests.

With respects to further amendments to the WHMPS and WHLUB: The MGA allows for municipalities to lawfully enact restrictions into their Municipal Planning Strategies and Land Use By-laws on height and density of developments; however, policies and regulations must be consistent with the Statements of Provincial Interest (SPI) and other requirements in the MGA. The MGA also allows planning documents to identify uses that are permitted or prohibited for each zone or designation however development may not be totally prohibited, unless prohibition is permitted within the MGA. Further, any new or amended policies within the MPS are subject to approval or amendments by the Province. The Province has the authority to approve, reject or approve with their own amendments, new policies.

Municipal policies and regulations are subject to MGA requirements and are based off of and grounded in land use incompatibilities. Height and density of turbines are not grounded in land use incompatibilities such as noise, smell, or other; height and density of turbines relate more to visual intrusiveness as issues such as noise and shadow flicker, which may be legitimate concerns for land use incompatibility and can have an impact on surrounding land uses, are addressed through the EA approval process with the Province and now within our current WHMPS policies. Other environmental concerns are also address through the EA approval process. Turbine height and density could be considered to relate to visual intrusiveness and/or the aesthetics of wind farm developments, which is no longer a matter Council can consider.

Currently, in the WHMPS, DAs for wind farms are only to be considered in the Agriculture and Resource designations. Through the MGA, Council does have the authority to limit the consideration of DAs to certain designations within Municipal Planning Strategies. However, it is important to consider that wind farms are most appropriately placed in resource designations, over other designations, as they are considered resource-type development and these areas are typically characterised as rural. Further, wind farms can be compatible land uses within agricultural areas due to their small land footprint and ability to allow agricultural activities to still take place. These designations were likely chosen in the WHMPS due to no major land use

incompatibilities and further the WHMPS states that *“the intent of the [WHMPS] is to minimize potential conflicts and to treat resource activity as paramount in these areas”*. Restricting wind farms to a single designation as a way to limit the number of wind farm developments could also be seen as further restricting wind farm development and it may be unlikely an amendment as such be granted ministerial approval.

Through the more recent process to amend the WHMPS to include greater setbacks, it was determined through the ministerial review of the amendments that the increased setbacks, and consequently, visual intrusiveness, was determined to be in contravention to the SPI. Further amendments to the WHMPS to include additional restrictions that would limit wind turbine development could also be seen as being in contravention to the SPI as well as new requirements within the MGA.

Based on the correspondence received from the Department of Municipal Affairs, it is unlikely that any potential amendments to the existing planning documents to restrict or limit wind turbine development would be granted ministerial approval.

NEXT STEPS

N/A

FINANCIAL IMPLICATIONS

There are no financial implications in relation to the filing of this report.

ALTERNATIVES

N/A

ATTACHMENTS

Attachment 1: Letter from Municipal Affairs-Office of the Minister re: MGA Amendments for Wind Turbine Development

CHIEF ADMINISTRATIVE OFFICER REVIEW

Report Prepared by: _____
Kari Fougere, Acting Director of Planning and Development

Report Reviewed by: _____
Alex Dunphy, Senior Planner

Report Reviewed by:  _____
Mark Phillips, Chief Administrative Officer



**Municipal Affairs
Office of the Minister**

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March 7, 2025

Dear Mayors and Wardens:

I am writing to inform you that the Minimum Planning Regulations under Section 214 of the *Municipal Government Act* (MGA) and Section 229 of the *Halifax Regional Municipality Charter* (HRMC) have been amended to implement a maximum setback for commercial wind turbines.

The new regulations will require that the maximum distance between a commercial wind turbine and a dwelling cannot be more than either four times the height of the turbine, or the distance needed to keep noise levels below 40 decibels outside the home and limit shadow flicker to no more than 30 minutes a day or 30 hours a year.

Additionally, the amendments stipulate that visual impact or aesthetic appearance of a wind turbine development is not a matter Council can consider prior to approval.

The Government of Nova Scotia is committed to reaching 80% renewables by 2030. These regulatory amendments will support this goal by providing consistent standards across Nova Scotia's municipalities, making it easier for wind energy projects to move forward, while also protecting residents from negative impacts from wind development projects such as noise and shadows.

You can find the updated Minimum Planning Regulations using the following links:

- *Halifax Regional Municipality Charter*
<https://novascotia.ca/just/regulations/rxaa-l.htm#hrmcmpr>
- *Municipal Government Act*
<https://novascotia.ca/just/regulations/rxam-z.htm#mgampr>

I have also included a Question-and-Answer document that provides further information about the updated regulations.

I want to thank you for taking the time to participate in the online survey from earlier this summer. Your feedback was invaluable throughout the regulation development process.

Sincerely,

Honourable John A. Lohr
Minister of Municipal Affairs and Housing

c: Juanita Spencer, NSFM
Chief Administrative Officers

Wind Turbine Setbacks

Summary of Changes

The Department of Municipal Affairs is making amendments to the Minimum Planning Requirements Regulations under Section 214 of the *Municipal Government Act* (MGA) and Section 229 of the *Halifax Regional Municipality Charter* (HRMC) to implement a provincial standard for wind turbine setbacks.

The new regulations will require that the maximum distance between a commercial wind turbine and a dwelling cannot be more than either four times the height of the turbine or the distance needed to keep noise levels below 40 decibels outside the home and limit shadow flicker to no more than 30 minutes a day or 30 hours a year.

Additionally, the amendments stipulate that visual impact or aesthetic appearance of a wind turbine development is not a matter Council can consider prior to approval.

Nova Scotia is committed to reaching 80% renewables by 2030. These changes support this goal by providing consistent standards across Nova Scotia's municipalities, making it easier for wind energy projects to move forward while protecting residents from negative impacts from wind development projects such as noise and shadows.

FAQ

Q: What are the benefits of Wind Energy in Nova Scotia

Wind energy does not result in emissions that cause the health problems associated with fossil fuels, such as sulfur dioxide, nitrous oxide, mercury, or the environmental problems that come from carbon dioxide - one of the greenhouse gases that contribute to climate change. Every megawatt of wind energy can reduce our greenhouse gas emissions by as much as 2,500 tonnes per year—enough clean energy to power 350–400 Nova Scotian homes.

Wind energy does not use up natural resources. Capturing and transforming the energy of wind into the energy of electricity is infinitely renewable.

Nova Scotia has legislated goals in the *Environmental Goals and Climate Change Reduction Act* (PDF) to get off coal and have 80% of electricity generated with renewables by 2030 – and to reach net zero by 2050. [Learn more here.](#)

Q: Should residents be concerned about the resulting noise and light flicker of Wind Turbines? What about concerns with the turbines causing illness?

It's important to remember that potential wind farms over 2 megawatts must undergo an environmental assessment which requires companies to identify the benefits of their project, its potential impacts on the environment and human health, and their plans to mitigate impacts. Projects must also obtain other required authorizations, permits and permissions from various levels of government before being built. There is no scientific evidence to support the belief that wind turbines cause illnesses.

The proposed regulatory changes will ensure municipalities have consistent standards regarding wind turbine setback distances that will ensure that residents will not be impacted by noise and light flicker.

Q: What about the threat to migratory birds that turbines present?

Wind turbines are attributable to less bird deaths than cats and tall buildings. Consideration of potential impacts to migratory birds as a result of a wind turbine project are included within the Government of Nova Scotia's environmental assessment process. Companies must ensure that they comply with federal migratory bird legislation.

Q: Why is the Nova Scotia Government Making this change?

Wind turbines do create noise and may not be appropriate for all locations. The Government of Nova Scotia is making this change to ensure that wind projects are properly developed and managed consistently across all municipalities.

Q: How would distance required for sound and shadow flicker be established?

Distance for sound and shadow flicker is based on project specific factors. The provincial Environmental Assessment process considers these factors prior to granting approval of commercial Wind Turbine projects (at least 2MW). A municipality may decide to incorporate the *Minimum Planning Requirements Regulations* about setbacks from wind turbines to dwellings, as written, into their Planning Documents for ease of implementation.

Q: How does a municipality determine if their existing requirements are consistent with the proposed maximums?

We understand that many municipalities who regulate wind turbines, have policies or bylaws including a distance setback (i.e., Kms). These policies or bylaws may be contrary to the *Minimum Planning Requirements Regulations* amendments. The Provincial Planners supporting your region and the NRR contact provided can help you consider how your existing requirements relate to the amendments to the *Minimum Planning Requirements Regulations*. You should also seek advice from your solicitor should you have questions regarding the regulations.

Q: Will there be a deadline for when municipalities that have existing wind requirements should be consistent with the new requirements?

There is no specific deadline set. It is expected that municipalities bring their setback requirements in line with the newly amended *Minimum Planning Requirements Regulations* as soon as reasonably possible.