

Attachment 2

The EIS must include an assessment of the potential impact of the development on existing land uses on the site and adjoining land, including the development potential of that land in accordance with the guidance below.

Transitional guidance for development rights and wind energy

The applicant may need to consider whether the proposed development would impact the right for neighbouring landholders to develop their land for the purpose of any of the following permitted land uses:

- residential accommodation
- tourist and visitor accommodation
- eco-tourist facility.

In considering the impacts, applicants and consent authorities should only assess impacts on vacant land. That is, land in which there is a development right that has not been acted upon and is vacant of buildings and structures.

Additionally, an assessment should only be undertaken if the land is vacant prior to **12 November 2024**, and would:

- be partly or wholly within the visual impact setback in the Wind Energy Guideline - Technical Supplement for Landscape and Visual Impact Assessment,
- experience exceedances of the relevant noise criteria, or
- be subject to significant risk from blade throw, ice throw or other risks.

The assessment should consider whether the proposed development would unduly impact the development potential of the vacant land. In determining the impact, it may be relevant to consider:

- whether the vacant land is part of a broader contiguous property holding with an existing dwelling, building or structures,
- if a future development could be designed, sited and oriented to avoid or reduce significant impact from the project, and
- any mitigating effects including topography and vegetation.

An example assessment is provided in Appendix B of the Wind Energy Guideline.

If, **as of 12 November 2024**, the vacant land is subject to:

- a development application that has been lodged but is yet to be determined, and/or
- a development application or complying development certificate has been determined/granted but the development is yet to physically commence¹, the applicant should consider measures to mitigate the impacts on these rights.

Measures may include:

- helping affected landholders modify the existing consent
- seeking a new development consent that would minimise impacts
- screening or landscaping treatments.

For the avoidance of doubt, these approvals should not be treated as existing dwellings, or other receivers for the purpose of conducting a visual impact assessment or noise impact assessment.

Any consents or approvals that have physically commenced **as of 12 November 2024** should be treated as existing dwellings, or other receivers for the purpose of conducting a visual impact assessment or noise impact assessment.

¹ 'Physically commence' has the same meaning as that in section 96 of the [Environmental Planning and Assessment Regulation 2021](#).