



STAFF REPORT

Planning and Development

Subject: *LUB Amendments for Wind Energy Development*
To: Municipality of Argyle CAO and Council for March 30, 2023
Date Prepared: March 21, 2023
Related Motions: None
Prepared by: Erin Ferguson, LPP, MCIP, Senior Planner, WSP Canada Inc.

Summary

Municipal Planning Strategy (MPS) and Land Use Bylaw (LUB) Amendments related to wind energy development were brought forward to the Planning Advisory Committee (PAC) in November 2022. The proposed amendments to Section 8.1 of the LUB were deferred following the Public Hearing on December 13, 2022 to allow further consideration of public input. The remainder of the amendments were approved by Council at the December 2022 meeting. This report outlines three options related to the deferred amendments which were presented to the PAC at their meeting on February 21, 2022. At this meeting, the PAC recommended that Council approve the proposed Land Use Bylaw Amendments outlined in Option 2.

Council gave the proposed amendments presented in Option 2 first reading on February 22, 2023. The proposed amendments are set out in Attachment 1.

Financial Impact Statement

There is no immediate financial impact aside from the typical public engagement process and staffing requirements resulting from the application.

Recommendation

That Council give second reading and approve the proposed Land Use Bylaw amendments to facilitate wind energy development as outlined in the provisions associated with Option 2.

Background

The first wind farm in the province was established in 2005 at Pubnico Point and the Municipality established wind energy provisions within the Municipal Planning Strategy (MPS) and Land Use Bylaw (LUB). Since then, wind energy technology has evolved and there has been increasing interest in developing wind energy opportunities in other areas of the municipality.

WSP was asked to review the Municipality's wind energy policies and regulations to better support appropriate wind energy developments. As part of this review, WSP conducted a jurisdictional scan and best practice review. The findings from this analysis are presented in the Planner's report to PAC dated October 19, 2022. A series of proposed amendments to the MPS and LUB were developed from this research and a detailed review of the current Argyle planning documents was completed to determine where policy amendments were required. These amendments were presented for consideration at the November 8, 2022 meeting of the Planning Advisory Committee (PAC). Following PAC's recommendation, these amendments were brought forth to Council for First Reading on November 8, 2022 and proceeded to Public Hearing on December 13, 2022. The Municipality received public comments related to the proposed changes to the wind turbine setback requirements in Section 8.1 of the LUB and Council deferred decision on amending this section to allow for further consideration of these comments. The remainder of the proposed wind energy amendments were approved by Council at the December 2022 meeting.



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Discussion

The primary concern is that the proposed setback provisions shown in 8.1 (v) below will prevent the installation of wind turbines on long narrow lots common in the coastal areas of the municipality. Many of these lots have strong wind energy potential and are located more than 1 kilometer (1000 m) from permanent residences, therefore, would be considered appropriate locations for wind development. Based on the concerns raised through the public hearing process, WSP is proposing additional options for consideration.

Option 1 - Require a Large Wind Turbine to be Setback a Minimum Distance from a Lot Line (original proposal)

The original proposed amendment introduced a setback equal to the greater of two times the total turbine height or 300 m as shown in 8.1 (v) below. Proposed additions to the bylaw are shown in green text.

8.1 LARGE SCALE WIND TURBINE GENERATORS (See Definitions)

- i. A Development Agreement is required for a Large-scale Wind Turbine Generator or Wind Farm.
- ii. Large Scale Wind Turbine Generators are required to be removed from the site after a period of two years from the date of cessation of electrical power generation of the Wind Turbine Generator.
- iii. The required separation distance between Large Scale Wind Turbine Generators and existing dwellings shall be not less than 1 kilometre (1000 m).
- iv. For the purpose of determining the separation distance in 8.1(iii) above, a dwelling shall not include a Camp or Seasonal Dwelling.
- v. Large Scale Wind Turbine Generators shall be setback from lot lines by a minimum distance equal 2 times the height of the wind turbine or 300 m, whichever is greater. Turbine height is measured from grade to the highest point of a wind turbine at the top of the rotator's arc.
- vi. Notwithstanding 8.1 (v), where a lot line is common to two lots located within the same wind energy project, no setback is required from that common lot line.

The setback required in this option would be measured from any lot line to the wind turbine but would not apply to interior lot lines within a wind farm project. Any development or use of the adjacent property would be required to be at least 300 m from the wind turbine including seasonal dwellings or camps. The wind turbine would also be required to be at least 300 m from other uses such as commercial development, public roads, lakes and parks. As approval is done by Development Agreement, the 300 m setback distance could be increased or decreased to take into account site specific conditions at Council's discretion. The lot line setback in option 1 provides the greatest certainty for future development of adjacent lands.

This approach works well for larger properties, but poses challenges for long narrow lots, many of which have strong wind energy potential. If this option was maintained, wind energy applicants seeking to install turbines on these long narrow lots would be unable to meet the setback requirement and would have to demonstrate to Council that a reduced setback is appropriate through the Development Agreement process. There is concern that this will deter wind energy developments from otherwise suitable locations.

Option 2 (recommended) - Require a Reduced Separation Distance of 300 m for Seasonal Dwellings and Camps

Rather than requiring a setback distance from a lot line, this option would require a wind turbine to be located a minimum distance of 300 m from any existing seasonal dwelling or camp. This approach helps to mitigate potential safety issues for seasonal dwellings and camps. The 300 m separation distance would not apply to other types of land uses on adjacent lands. However, as noted above, if the wind turbine was proposed on a property adjacent to another



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existing use such as a popular recreational destination, there is the ability in the development agreement to require the turbine to be located at a specified minimum distance should Council feel it is appropriate.

Under this option, the Land Use Bylaw would be amended as shown in the green text below and as set out in Attachment A.

8.1 LARGE SCALE WIND TURBINE GENERATORS (See Definitions)

- i. A Development Agreement is required for a Large-scale Wind Turbine Generator or Wind Farm.
- ii. Large Scale Wind Turbine Generators are required to be removed from the site after a period of two years from the date of cessation of electrical power generation of the Wind Turbine Generator.
- iii. The required separation distance between a Large Scale Wind Turbine Generator and existing dwellings shall be not less than 1 kilometre (1000 m) excluding a Camp or Seasonal Dwelling.
- iv. The required separation distance between a Large Scale Wind Turbine Generator and an existing Camp or Seasonal Dwelling shall be not less than 300 metres.

This option would better account for long narrow lot configurations while mitigating safety concerns related to nearby seasonal dwellings or camps. Appropriate separation distances between Large Wind Turbines and any other land uses would be determined through the Development Agreement process. This option does not address future development of adjacent lands after wind turbine installation.

Option 3 - Do Not Specify Setback or Separation Distances other than for Permanent Residences

In this option, the MPS policy to require a minimum separation distance of 1 kilometre between large wind turbines and permanent dwellings would be maintained however, there would be no additional setback or separation requirements for seasonal dwellings, camps or any other land uses in the MPS or Land use Bylaw. Any setback or separation requirements beyond the yard provisions in the Coastal Community or Rural Development Zones would be established by Council on a site-specific basis through the Development Agreement process. For this option the proposed LUB amendment would be the addition of Wind Farm to Section 8.1 as shown in green text below.

8.1 LARGE SCALE WIND TURBINE GENERATORS (See Definitions)

- i. A Development Agreement is required for a Large-scale Wind Turbine Generator or Wind Farm.
- ii. Large Scale Wind Turbine Generators are required to be removed from the site after a period of two years from the date of cessation of electrical power generation of the Wind Turbine Generator.

Public Participation

A public information meeting was held on February 21, 2023 to provide an opportunity for members of the public to learn more about the proposed amendments, and to provide their input prior to the proposed amendments going to Council. One wind energy developer was in attendance and spoke of challenges with lot line setbacks for wind turbines including siting difficulties for small or narrow lots and difficulties in determining property boundaries in some areas of the municipality.

A public hearing will be held March 30, 2023 in advance of consideration of 2nd reading. The public hearing was advertised in accordance with the *Municipal Government Act*. No public comments have been received to date.

Conclusion



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Each of the three options provides a reasonable approach to mitigate the potential safety risk of wind turbines on nearby residents. The approaches differ in how they address adjacent and future land uses and whether or not they establish a baseline expectation for appropriate separation distances. In all three options, the requirement that large wind turbines be located at least 1 kilometre from permanent residences is maintained.

Option 2 is recommended as it provides flexibility in siting wind energy development, accounts for long narrow lot configurations, and ensures there are appropriate setbacks in place for seasonal dwellings and camps as these are the land uses mostly likely to be impacted by adjacent wind turbine development.

Should Council approve the proposed amendments following Public Hearing, a notice of approval will be placed in the newspaper to begin the 14 day appeal period as outlined in Figure 1.



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Recommended Motion

That Council give second reading and approve the proposed amendments to the Land Use Bylaw associated with Option 2 (**recommended option**).

Alternatives

1. Modify the proposed amendments to the Land Use Bylaw outlined in Attachment A. Should Council choose to modify the proposed amendments, specific direction on the modification is required. Depending on the nature of the modifications, another public hearing may also be required.
2. Refuse the proposed amendments.

Attachments

Attachment A – Proposed Amendments to the Land Use By-law

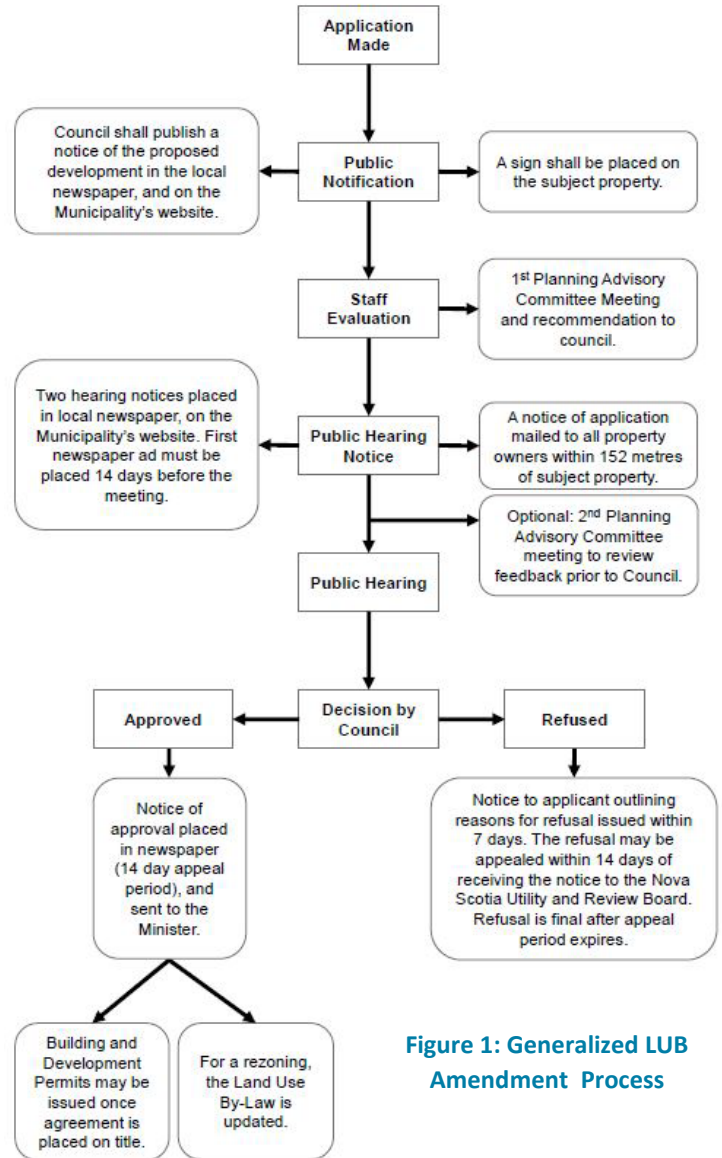


Figure 1: Generalized LUB Amendment Process



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Attachment A: Proposed Amendments to the Land Use By-law

BE IT ENACTED by the Council of the Municipality of the District of Argyle that the Land Use By-law is hereby further amended as follows:

1. Amend **Section 8.1** of the Land Use By-law to insert the text shown in **green**:
 - i. A Development Agreement is required for a Large Scale Wind Turbine Generator **or Wind Farm**.
 - ii. Large Scale Wind Turbine Generators are required to be removed from the site after a period of two years from the date of cessation of electrical power generation of the Wind Turbine Generator.
 - iii. **The required separation distance between a Large Scale Wind Turbine Generator and existing dwellings shall be not less than 1 kilometre (1000 m) excluding a Camp or Seasonal Dwelling.**
 - iv. **The required separation distance between a Large Scale Wind Turbine Generator and an existing Camp or Seasonal Dwelling shall be not less than 300 metres.**

I HEREBY CERTIFY that the amendments to the Municipality of Argyle Land Use By-law, as set out above, were duly passed by a majority vote of the Council of the Municipality of Argyle at a meeting held on the ___ day of _____, 20__.

GIVEN under the hand of the Clerk and the Corporate Seal of the Municipality of Argyle this

___ day of _____, 20__.

Municipal Clerk