

10 December 2020

Terrena Kelly
General Manager Strategy and Environment
Waitomo District Council
By email: Terrena.Kelly@waitomo.govt.nz
cc: cdawson@bbo.co.nz

Dear Terrena

Waitomo District Council: Request for Further Information under Section 92 of the Resource Management Act 1991 (RMA) – Application number RM200019 to amend conditions of the existing consent – Taumatotara Wind Farm Limited

Thank you for the Section 92 request letter of 7 September 2020 in which you request further information on the above consent application.

This letter and the appendices, responds to that request for further information.

I wish to qualify this response, in line with discussions held with your consulting team, after receiving legal advice from our counsel, and after Stuart Ryan wrote to you on 25 November.

On reading your 7 September 2020 request for further information, it became clear to us that, far from your Council being undecided as to whether the application would be a S127 or S88 application, the questions were couched in a way that your consultants expected us to provide further information as if the application was a S88 application. For example, your traffic consultant requested extensive traffic information related more to a new application as opposed to an application to simply vary conditions restricted to the tip height and blade length of the turbines. In fact, the questions went far beyond that normally required for a new application and are more relevant to a traffic management plan for an oversize permit application.

We have received advice from two Barristers representing Taumatotara Wind Farm on this matter – Martin Williams, and Stuart Ryan. Without repeating the discussions Mr Williams undertook with your Council's counsel, Theresa Le Bas, and the contents of Mr Ryan's comprehensive assessment set out in his letter of 25 November 2020, the advice of both is that the application should be considered as a S127 application.

We have endeavoured to reply to all your questions. In some cases, however, we consider the questions to be unreasonable or regardless, beyond what is required for a S127 application.

The information attached is responded to in the order it was requested. In some cases, the responses are in this letter, but mostly our consulting team have reported separately and their responses are in appendices.

Additional reports have been prepared to respond to a number of issues including Noise, Ecology, Landscape and Visual, and Transport.

We are in the progress of consulting with Te Hauauru RMC and will report back once this is complete. We have had several discussions so far, but the processing is ongoing and cannot be rushed – see the comments in the attached response.

Please contact me if you have any queries re this response document and accompanying documentation.

Lastly, I wish to support Mr Ryan's suggestion that an independent commissioner be appointed to consider the application from this point forward. The two sides (of applicant and consenting authority) seem too far apart in terms of perspective, and communications are becoming more difficult. A commissioner appointed may be able to provide a fresh perspective and allow fresh air to blow into the room.

Meanwhile, I hope you and your team and families have a great Christmas/New Year.

Yours faithfully,



Craig Shearer
Principal

S92 Requests and Responses

Consultation with tangata whenua

Question 1: *Please provide written feedback from Te Hauauru RMC in relation to the windfarm proposal. The contact person for this RMC is Ronald Takerei who can be contacted at takerei@xtra.co.nz or 027 576 6253.*

Response:

We have yet to receive written feedback from Te Hauauru. We are however in the process of consulting with them. On 6 October 2020 information on the project was forwarded to Ronnie Takerei of the RMC. Subsequent to that time, Tipene Wilson, Glenn Starr, and Craig Shearer met with Ronnie Takerei and Tasha Willison (Marakopa Marae) to explain and discuss the project, and to find out what further information was required. This was duly sent with the minutes.

Both Iwi representatives are from Marakopa Marae and there have been several exchanges to try and organise a further meeting with them at the Marae. At this stage the meeting is likely to occur in late January. Much of the effort to date has revolved around explaining the project and the changes proposed to it.

We recognise and respect that Te Hauauru RMC (and Marakopa Marae) need time to assimilate the changes being proposed to the project. We will report to the Council as soon as they are comfortable with putting their feedback to the project in writing.

2. Landscape and Visual

Question 2

Response:

See Appendix 1 and 1B: Landscape and Visual Effects (WPS Opus) attached for the response to question 2.

3. Noise

Questions 3 - 12

Response:

See Appendix 2 from Altissimo Consulting for the response to questions 3 - 12.

4. Ecology

Questions 13, 14

Response:

Question 13. Pages 9-11 of the original ecological assessment (Kessels & Associates Ltd 2004) are missing from the 2005 AEE. Can the applicant please provide a copy of these missing pages.

Response: Please see Appendices 6 and 7. Appendix 6 is the full 2004 report, and Appendix 7 is a 2005 report dealing specifically with the ecology around turbines 18-22, which are to be deleted with this proposal.

Question 14. Given the time elapsed between the original 2004 ecological assessment and the 2020 application, the following information is required to confirm the ecological features that were identified on the wind farm site are still accurate and therefore determine if the assessment is appropriate:

a) *Indigenous vegetation maps;*

Response: Please refer to the attached Ecological Areas map, Appendix 3A. We know of no improvements to the indigenous vegetation on the site and in the environs.

b) *Proximity of different avifauna habitats (e.g. pasture, native forest, exotic forest, scrub/shrubland, wetland etc);*

Response: Please refer to the attached map, Appendix 3A. We know of no improvements to the indigenous vegetation on the site and in the environs.

c) *Recent site photos;*

Response: Attached as Appendix 3B. Photos along Taumatotara Road vegetation and general turbine site photos showing terrain and vegetation.

d) *Description of terrestrial and fresh water habitat and specie values present on the wind farm site.*

Response: The application is for a variation of tip height and rotor diameter plus removal of 11 wind turbines. The road accessing turbines 12 to 22 was to pass adjacent to and over some small wetlands and streams. These areas are shown on the attached map, Appendix 3A. This potential effect is now therefore avoided. The remaining road that accesses turbines 1 to 11 (and along Taumatotara West Road) is not a subject of the variation of conditions application as there is no change intended along this road. Please note that a Regional earthworks consent exists for the access road and turbine platforms.

We know of no improvements to the habitat on the site and its environs. The only change known to occur on the site is the removal of a small area of coniferous commercial forestry from around turbine no. 7.

Questions 16, 17 and 18

Response: see Appendix 4A, from Dr John Craig.

Questions 15 and 19

Response: see Appendix 4B, from Ecology New Zealand

Question 20 (Roading and civil works). It was noted in the original ecology assessment¹ that “the access roads pass through or besides stand of native forest and shrubland, and two small wetlands”. The current application states that “It is not anticipated that any road widening over that already approved for the existing consent will be necessary, and this is also the case with the site access roads”. Confirmation needs to be provided in the ecological assessment that no further vegetation clearance or wetland reclamation will be occurring as a result of the proposal, particularly in regard to the Significant Natural Areas (SNAs) that occur on the site and along the road. If additional vegetation is to be removed, that will need to be quantified and assessed.

Response: We can confirm that no additional vegetation will be cleared or wetland reclaimed as a result of the proposal.

Please see Appendix 3C which shows the SNAs in the wider area including the wind farm site. The consented 22 turbines are located on this aerial photograph. Note that turbine 12-22 will be removed from the project as part of the Change of Conditions application. In particular turbines 17 – 22 are all located close to the SNAs of Regional significance, but they will now be removed. Also note that the wetland and streams between turbines 11 and 22 (see Appendix 3A – Ecological Areas Map) will no longer be impacted by the project. As no additional vegetation will be removed, and further as the consented turbines adjacent to the most highly valued SNAs and streams/wetland are to be deleted from the project, then if anything, there should be a net ecological benefit of the revised project.

You have also asked about the SNAs along the road. The three SNAs close to turbines 3-6 will not be affected as it is not proposed to transport equipment along that part of the road (an access will be formed over the paddocks beginning just past turbine 7). Also refer to Appendix 3B which locates photographs taken (included in Appendix 3B) along Taumatotara West Road. There has been no discernible change to this vegetation since the original consent was issued, and regardless the modern transportation techniques (see the S127 application) proposed have markedly improved the ability to negotiate tight corners with long loads.

Of further note, the applicant company is proposing to undertake pest control in two Significant Natural Areas, one of which is QEII covenanted. These are circled in red in Appendix 3A.

5. Transportation

Questions 21 – 23

Response: See Appendix 5.

List of Appendices

Appendix 1: LVEA (WPS Opus)
Appendix 1B: Landscape Graphic Attachments
Appendix 2: Noise (Altissimo Consulting)
Appendix 3A: Ecological Areas Map
Appendix 3B: Photos of the vegetation along Taumatotara West Road and Site Photos
Appendix 3C: SNAs in the wider area
Appendix 4A: Ecology – Avifauna (John Craig)
Appendix 4B: Ecology – Bats (Ecology NZ)
Appendix 5: Transportation Response (TES Ltd)
Appendix 6: 2004 Ecological Report
Appendix 7: 2005 Ecological Report turbines 18-22