

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an application by **Tararua Wind Power Ltd** (RM200234) to construct, operate and maintain up to 19 wind turbines within a defined project envelope on the property at 379 Maitahi Road, Omamari legally described as Lot 1 DP 201886.

Memorandum regarding the reconvening of the hearing and the filing of the Department of Conservation's legal submissions.

Pursuant to section 34 and 34A of the Resource Management Act 1991 (RMA), the Kaipara District Council has appointed independent hearing commissioners Greg Hill (Chair) and Ms Sheena Tepania as well as Councillor Victoria del la Varis-Woodcock (as a Commissioner) to hear and decide this resource consent application. The appointment includes dealing with any procedural matters.

Reconvening of the Hearing

The hearing of this application commenced on the 17 August 2021 and was adjourned at the end of that day. This was due to the Government's announcement of the level 4 'lock down' at 11.59 on the 17 August 2021 due to the positive covid case discovered in Auckland.

The Applicant, in a Memorandum dated 18 August 2021, requested the Hearing Panel to proceed to put in place arrangements for reconvening the hearing virtually. The Memorandum stated at paragraphs 2 and 3:

Currently there is no certainty that the COVID-19 Level 4 lockdown restrictions will be lifted at the conclusion of the 3 day nationwide order period or the 7 day (Auckland and Coromandel) order period. Indeed that eventuality seems to us to be unlikely at least in terms of Auckland (noting many of the participants in the hearing reside in the Auckland Region). That being a possible outcome, we respectfully request that the Panel proceed to putting into place arrangements for reconvening the hearing virtually. The alternative is to adjourn the hearing for an unknown and possibly lengthy period and TWP does not support that course of action.

Whilst acknowledging that virtual hearings present some technical challenges, we suggest these can be managed with suitable protocols being adhered to.

Reluctantly, the Hearing Panel does not support reconvening the hearing virtually. The reasons for this include:

- Given the nature of the contested issues remaining (ecological and planning issues) it will be logistically too difficult to run an efficient and effective hearing in relation to those contested matters;
- There are likely to be a significant number of people who need to be 'at the hearing' (Applicant and Submitter legal counsel and witnesses, the Council section 42A authors and

Counsel, the three Commissioners and the Administrative staff). Managing this number of people, particularly in relation to the issues in the bullet point above, will be logistically difficult;

- We would like to have the DoC experts and Mr Fuller and Mr Turner in the room together so we can question them all together to better understand the areas of disagreement between them; and
- It is highly desirable for the Hearing Panel to be together so that questioning can be coordinated and we can converse on issues raised.

At this stage we are not recommending a date to reconvene the hearing. We require greater certainty as when the 'lock down' may be ended and/or when a hearing can be held safely face to face. We are likely to have a better idea of this at the end of the initial 7 day lock down period that applies to Auckland and the Coromandel. We will re-visit this matter then.

However, we request the parties advise Council's Planning Technical Support Officer (email contact below) of dates that they would be available for a 'face to face' reconvened hearing in September or October (likely to be one day, with an additional day as a contingency), should we be able to hold such a hearing. Responses should be filed no later than **5.00 pm Tuesday 24 August 2021**.

Department of Conservation Legal Submissions

The Applicant's Memorandum set out at paragraph 6:

Finally, we note that it would be helpful for the Department's legal submissions to be filed and served given that in the normal course of events those submissions were to be presented today [18 August 2021]. Given the disruption that may have arisen last evening, we respectfully suggest it is reasonable for such filing and service to be effected by 3.00pm 19 August 2021.

We agree that it would be helpful to the Hearing Panel and the Applicant if the Department of Conservation's Legal Submissions were filed. The Department will now have had time to review the rebuttal evidence of Mr Fuller and Mr Turner, and drafted their submissions (given they were to be presented on the 18 August 2021).

We accept that the lock down may have made it more difficult for those submissions to be completed. Accordingly, we request the legal submissions be filed with the Council's Planning Technical Support Officer no later than **5.00 pm Tuesday 24 August 2021**.

Any enquiries regarding this Memorandum or any related matters should be directed to the Council's Planning Technical Support Officer, by email at rmanotified@kaipara.govt.nz



Greg Hill – Chair
19 August 2021