

BEFORE THE KAIPARA DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991 (“RMA”)

AND

IN THE MATTER of a resource consent application by Tararua
Wind Power Ltd under section 88 of the RMA
for the Kaiwaikawe Wind Farm

**MEMORANDUM OF COUNSEL FOR TARARUA WIND POWER LIMITED, THE
DIRECTOR-GENERAL OF CONSERVATION AND KAIPARA DISTRICT COUNCIL
REGARDING DIRECTIONS FOR FURTHER EVIDENCE AT THE RECONVENED
HEARING**

DATED 22 NOVEMBER 2021

MAY IT PLEASE THE HEARING PANEL:

Introduction

1. This memorandum is filed by counsel for Tararua Wind Power Limited (“TWP”), the Director-General of Conservation (“DOC”) and Kaipara District Council.
2. The Hearing Panel’s 20 October 2021 Direction requested parties to ascertain if any “*further ‘new’ evidence is to be provided, and if so the nature of that evidence and when it will be completed*”. Having conferred, counsel confirm the following matters of agreement and request directions accordingly.

Further Supplementary Evidence

3. The parties have agreed that further new evidence would assist the Hearing Panel. The further supplementary evidence is intended to be limited to outlining the further baseline monitoring that has been undertaken during the spring adjournment period. For TWP, that further baseline monitoring relates to the Australasian Bittern and Long Tailed Bats.¹
4. DOC has also undertaken further monitoring focussing on the matuku on public conservation land.²

¹ Further baseline monitoring undertaken by TWP has involved:

Australasian Bittern

- ARDs were set up in three wetlands on 25 September 2021
 - 5 to cover Omamari Station Wetland
 - 5 to cover Maitahi wetland QEII (within Pamu Farm)
 - 3 to cover arm of Omamari Wetland QEII
- ARDs removed on 21 October 2021.
- Three observers on site from 23 September to 27 September
 - Dawn and dusk surveys of Omamari Station and Maitahi
- Four observers on site from 17 October 2021 to 21 October 2021
 - Dawn and dusk surveys of Omamari Station, Maitahi and Omamari QEII
- Total observation count
 - Omamari Station 6 dawn, 5 dusk surveys
 - Maitahi Station 5 dawn, 5 dusk surveys
 - Omamari QEII 2 dawn, 2 dusk surveys.

Bats

- 25 ABMs were set up on 22 October 2021 (and another 5 have recently been deployed).
- Collection of 25 ABMs occurred this week (with the remaining five collected as appropriate).

² DOC has been undertaking matuku monitoring on public conservation land during the spring matuku booming season, as follows:

- Maitahi wetland - monitoring using ARDs (recorders) is nearly complete.
- Omamari wetland – as above for Maitahi wetland.
- Poutu – 2 rounds of monitoring using recorders being undertaken to complement the first round completed in 2020.
- No observers – recorders only.

5. Counsel confirm that further supplementary evidence is intended to be filed addressing the further monitoring undertaken/supervised by Mr Stephen Fuller (on behalf of TWP) and Dr Emma Williams (on behalf of DOC). With the further monitoring data still being analysed and collected,³ together with the intervening Christmas/New Year holiday period, the parties suggest that the further supplementary evidence of Mr Fuller and Dr Williams be filed and exchanged by **5pm 19 January 2022**.
6. Given the nature of the further supplementary evidence no rebuttal statements are intended, although the parties seek leave for Mr Fuller and Dr Williams to address the Hearing Panel orally should the need to respond to any points of disagreement arise. It is proposed that the section 42A team would comment on this supplementary evidence (if required) as part of their presentation to the Hearings Panel.

Legal submissions in relation to the outcome of expert conferencing and further evidence

7. In accordance with the Hearing Panel's directions, legal submissions in relation to the outcome of expert conferencing and any further evidence lodged are to be filed and exchanged by **5pm 21 January 2022**.
8. DOC's legal submissions will also include an updated set of proposed conditions, and will address any changes proposed.
9. The Council's s 42A report author Mr Daly will also provide an updated set of conditions that he supports with a further S 42A report addendum in due course.
10. TWP will present its final set of proposed conditions as part of its closing.

Dated 22 November 2021



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J R Welsh

Counsel for Tararua Wind Power Limited



³ 5 ABMs are currently in the field for long-tailed bats and data is still being collected.

Lisa Sutherland

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S Bradley/L Sutherland

Counsel for Director-General of Conservation

W Bangma

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W Bangma

Counsel for Kaipara District Council