

4 May 2017

Palmerston North City Council

**NOTIFICATION REPORT PURSUANT TO SECTIONS 95A TO 95F
OF THE RESOURCE MANAGEMENT ACT (RMA) 1991**

TE RERE HAU WINDFARM – S.128 RMA REVIEW

THE APPLICANT: NEW ZEALAND WINDFARMS LTD
LOCATION: 355-573 NORTH RANGE ROAD
LEGAL DESCRIPTION: SECS 3, 5, 7 BLOCK II MANGAHAO SD
ZONING: RURAL

INTRODUCTION

1. New Zealand Windfarms Limited (NZWL) obtained resource consent approval from the Palmerston North City Council (PNCC) in 2005 to install, operate and maintain 97 wind turbines generators (WTG) on the Tararua Ranges at 355-573 North Range Road, Palmerston North.
2. 65 WTGs have been erected and are operating. The remaining 32 WTGs are yet to be constructed.
3. PNCC were alerted to potential problems with the wind farm when neighbours started complaining about noise in 2009. PNCC has received approximately 1750 noise complaints since then.
4. To determine whether or not NZWL were complying with their resource consent, PNCC instigated proceedings in the Environment Court that eventually concluded in the Court of Appeal process.
5. This has resulted in this s.128 RMA review process of the conditions of the existing resource consent.

THE SITE AND SURROUNDING AREA

6. The site is located on top of the Tararua Ranges which are to the south east of Palmerston North urban area. The windfarm is approximately 11 kilometres from the city centre in a direct line to the south east.

7. The nearest dwellings on Harrisons Hill Road and Forrest Hill Road are approximately 1100 metres in a direct line from the closest WTGs.
8. The terrain is undulating with large gullies and ridges.
9. The majority of complaints have come from residences on Forrest Hill Road (in a northerly direction from the windfarm), Harrisons Hill Road, Ridgeview Road and Pahiatua Aokautere Road (in a south westerly direction from the windfarm).
10. Pahiatua Aokautere Road (known colloquially as the Pahiatua Track) is a major road that provides a link between the Manawatu and Wairarapa regions and provides access to many of the dwellings in the locality as well as to the windfarm. This is approximately 1.5 kilometres to the south west of the windfarm.
11. The windfarm gains access from North Range Road which is a gravel road that comes off Pahiatua Aokautere Road at the top of the Tararua Ranges.

APPLICATION AND BACKGROUND

12. This report is a notification decision for the review of the conditions of the windfarm.
13. The resource consent application stated that there would be nil effects but this was based on a sound power level that was inaccurate.
14. The application also stated that there would be no special audible characteristics (SACs) in the noise generated by the windfarm but NZWL have since stated that SACs are present.
15. When the application for the windfarm was publicly notified, the public made decisions about how fully they would participate in the process or if at all based on the information in the resource consent application. Therefore there is the possibility that some members of the public chose not to participate in the resource consent process based on promises made in the application or did not investigate their options or oppose the windfarm because they were told they would not be affected.
16. The Court of Appeal has stated that a review of the conditions of the resource consent was required.
17. 1750 noise complaints is evidence that residents are being disturbed. The level of disturbance needs analysis. PNCC have been told by neighbours that they want to have their say about the type of disturbance they are experiencing. They also want to know what NZWL are doing about reducing the disturbance.
18. There is a level of public interest in the review of the conditions of the resource consent for the windfarm. It is predominantly from neighbours who live near to the windfarm and are affected by noise from the windfarm. It is yet to be fully determined if the effects at residents' dwellings are at an appropriate level or not.

19. One option is to only notify the neighbours who have complained.
20. However other residents may have thought that complaining is pointless because they were involved in the resource consent process and submitted their concerns and were told that the effects generated were satisfactory.
21. PNCC conducted public meetings and the numbers of people attending and number of complaints have reduced over time. At these meetings the public said that they were getting worn down by having to continually complain with no immediate results or remedies as the legal process followed its course.
22. This makes it difficult to confidently identify adversely affected parties to a limited range of neighbours in a limited notification process.

NOTIFICATION ASSESSMENT

23. Section 95A RMA is titled "Public notification of consent application at consent authority's discretion."
24. Sections (2) and (4) state,
 - (2) *Despite subsection (1), a consent authority must publicly notify the application if—*
 - (a) *it decides (under section 95D) that the activity will have or is likely to have adverse effects on the environment that are more than minor.*
 - (4) *Despite subsection (3), a consent authority may publicly notify an application if it decides that special circumstances exist in relation to the application.*
25. Section 95A(2)(a) poses the question whether the activity will have or is likely to have adverse effects that are more than minor. Certainly if the activity is defined as the current consented activity without the changes made by this review process as proposed by the Council then the effects are assessed as more than minor for the reasons identified in the Environment Court decisions and the known impacts on neighbours. The original decision was to publicly notify the application and the same justification applies now. A potential outcome of this process is the windfarm subject to no greater limitations than are presently in place.
26. If the activity is as defined by the terms of the review conditions then it is difficult to answer whether the effects are more than minor as highlighted in the Resonate Acoustics report.

27. The report has discussed how the monitoring to date:
- (a) For near field tonal frequency identification, has not been carried out under crosswind or upwind conditions. The experience of the writer has shown that tonality from WTGs is normally greater in those conditions.
 - (b) For identifying tonality at the turbines, is limited to 10 metres above ground level at wind speeds of 6-10 metres per second. It is not uncommon for a tone to be radiated only outside this wind speed range.
 - (c) For amplitude modulation, that more data should be analysed using the United Kingdom Institute of Acoustics hybrid methodology and penalties should commence at a peak to trough variation of 3dB rather than 5 dB.
28. This indicates that there may be adverse effects but that adequate testing has not been undertaken to determine whether or not this is so.

ADVERSE EFFECTS

29. These are unable to be fully determined without further monitoring.

SPECIAL CIRCUMSTANCES

30. It is my opinion that there are special circumstances justifying public notification due to:
- (a) inaccuracies in the resource consent application;
 - (b) that there is public interest but to an undefined extent due to the resource consent inaccuracies;
 - (c) The history and background justify erring on the side of enabling full public participation;
 - (d) The Council is aware of complaints outside the 35 dBA isochrone and these people have participated in Court processes and they should be given the chance to make a submission.

DIRECT SERVICE

31. I consider that direct service should be to any property owner with a dwelling within the 35 dBA isochrone as anticipated by the Marshall Day Associates 2014 data monitoring report.
32. The attached list of neighbours are those within the 35 dBA isochrone.

NOTIFICATION RECOMMENDATIONS

33. On consideration of the above assessment it is my recommendation that the Section 128 review of the New Zealand Windfarms Ltd, Te Rere Hau windfarm requires full public notification.



Craig Auckram
SENIOR PLANNER

DECISION

That the above recommendations be adopted.

This decision is made on 4 May 2017 under delegated authority from the Palmerston North City Council by:



Simon Mori
HEAD OF PLANNING
PALMERSTON NORTH CITY COUNCIL

Name	Address	X coordinates	Y coordinates
Edwards/Price	84 Harrison Hill Rd	1829466.49	5524804.95
Olsson/Hill/Summers	19 Ridgeview Rd	1829003.98	5524781.79
Partridge	15 Ridgeview Rd	1829291.65	5524829.88
Whitelock	208 Forest Hill Rd	1830923.56	5528658.36
Parlane	96 Harrison Hill Rd	1829605/69	5524668.46
Gilbey/Tani	24 Ridgeview Rd	1829160.21	5525038.54
Jopson/ Elliott Jopson	20 Ridgeview Rd	1829194.09	5524997.78
Waltmann	41 Ridgeview Rd	1829027.16	5525123.48
Ellingham	47 Ridgeview Rd	1829004.40	5525176.82
Irvin	38 Ridgeview Rd	1829075.10	5525180.85
Willis	21 Ridgeview Rd	1829105.15	5524986.27
Tombleson	153 Harrison Hill Rd	1829392.21	5525254.74
Poff	658 Pahiatua Aokautere Rd	1830173.41	5524360.57
Malley	349 Forest Hill Rd	1831298.03	5527828.81
Towers/Seebeck	16 Harrison Hill Rd	1829292.67	5524607.09
Banks/Wallace	48 Ridgeview Rd	1828978.28	5525290.99
Griffiths	621 Pahiatua Aokautere Rd	1830128.98	5524515.32
Pugin	631 Pahiatua Aokautere Rd	1830262.23	5524559.68
Laven	265 Forest Hill Rd	1831168.24	5528466.55
Gordon	102 Harrison Hill Rd	1829681.07	5524775.81
Collett	662 Pahiatua Aokautere Rd	1830207.27	5524099.94
Moore	319 Forest Hill Rd	1831166.41	5528049.87
Broughan/Kennedy	696 Pahiatua Aokautere Rd	1830234.85	5523933.96
Harrison	239 Forest Hill Rd	1831049.64	5528647.5
Adams/Murphy	148 Harrison Hill Rd	1829451.27	5525245.73
Wood	140 Harrison Hill Rd	1829508/74	5525140.33

Brill	276 Forest Hill Rd	1831105.61	5528350.92
Coulon	104 Harrison Hill Rd	1829846.81	5524759.68
Little	186 Harrison Hill Rd	1829185.18	5525655.93

This table shows properties with dwellings within the 35 decibel isochrone from the Te Rere Hau windfarm that existed in 2004.

This was provided for the Environment Court on request by Judge Dwyer after the hearing for the Declaration proceedings that the PNCC instigated against New Zealand Windfarms Ltd.