

**BEFORE THE HEARING COMMISSIONERS
AT PALMERSTON NORTH**

IN THE MATTER of the Resource Management Act 1991
(the Act)

AND

IN THE MATTER of a review by **PALMERSTON NORTH CITY
COUNCIL** of the conditions of consent for
Te Rere Hau Windfarms under section
128 of the Act

**JOINT MEMORANDUM OF COUNSEL IN RELATION TO HEARING
PROCEDURAL MATTERS
7 AUGUST 2017**

MAY IT PLEASE THE COMMISSIONERS:

1. This memorandum is filed by counsel for Palmerston North City Council (PNCC) and counsel for NZ Windfarms Limited (NZWL).
2. This memorandum requests that the Commissioners issue procedural directions for the section 128 review of conditions for Te Rere Hau (TRH) windfarm, addressing the following matters:
 - (a) Evidence;
 - (b) Expert witnesses;
 - (c) Order of business at the hearing;
 - (d) Site visit; and
 - (e) Timetabling.

Evidence

3. Counsel understands that the Commissioners are likely to wish to pre-read the pre-circulated evidence and reports in advance of the hearing.
4. If so, counsel respectfully suggests that the Commissioners issue a Minute:
 - (a) Confirming that all evidence and reports filed in advance will be pre-read;
 - (b) Providing all witnesses who have pre-circulated evidence the opportunity to present a 30 minute oral summary of their evidence at the hearing – supported by powerpoint presentations if desired; and
 - (c) Setting an expert evidence exchange timetable (refer below).

Expert witnesses

5. Both PNCC and NZWL intend on calling independent expert planners and independent acoustic engineers.

6. NZWL considers expert conferencing would be useful and seeks a direction that such conferencing occur after all pre-circulated evidence is lodged and before the hearing. PNCC considers conferencing can be arranged privately and that no direction is necessary or permitted under the RMA.

Order of business at the hearing

7. Counsel suggest the following order of business at the hearing:
 - (a) Commissioners' opening remarks;
 - (b) PNCC opening remarks in relation to s 42A report;
 - (c) NZWL opening legal submissions and evidence;
 - (d) Submitter evidence;
 - (e) NZWL closing legal submissions;
 - (f) PNCC closing remarks;
 - (g) Commissioners' closing remarks.


Site visit

8. Counsel understand that the Commissioners are likely to want to undertake a site visit of the windfarm site and surrounding areas.
9. NZWL is happy to accommodate a site visit on the windfarm site. Due to health and safety requirements, the Commissioners will need to be accompanied by an inducted health and safety employee on the site visit.
10. NZWL suggests that it make an employee available who is not participating in the hearing to assist with the site visit. PNCC has confirmed that it is comfortable with this approach.
11. For scheduling purposes it would be helpful if the Commissioners could indicate what day that they would like to undertake the site visit. A place holder date has been included in the timetabling suggestions noted below.

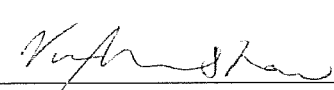
Timetabling

12. To enable the evidence to be pre-read and for expert conferencing to occur prior to the hearing, counsel for PNCC and NZWL respectfully request that the Commissioners provide a timetabling direction as follows:
- (a) **18 August 2017** – PNCC to provide NZWL and all submitters with an electronic copy of its s 42A report and expert evidence;
 - (b) **25 August 2017** – NZWL to provide PNCC and all submitters with an electronic copy of its evidence;
 - (c) **1 September 2017** – Submitters to provide PNCC and NZWL with an electronic copy of any expert evidence they intend to call;
 - (d) **7 September 2017** – an electronic copy of any joint expert statements to be provided to PNCC, NZWL and all submitters;
 - (e) **11 September 2017** – Site visit; and
 - (f) **12 - 15 September 2017** – Hearing.

Dated this day of 2017



John Maassen
Legal Counsel for Palmerston
North City Council



Vicki Morrison-Shaw
Legal Counsel for NZ
Windfarms Ltd

BEFORE THE PALMERSTON NORTH DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991 ('the RMA')

AND

IN THE MATTER OF a review by PALMERSTON NORTH CITY COUNCIL of the
conditions of consent for Te Rere Hau Windfarm under
section 128 of the RMA

MINUTE OF THE HEARINGS PANEL

11 AUGUST 2017

INTRODUCTION

- 1 Pursuant to section 34A of the Resource Management Act 1991 (RMA), independent commissioners Paul Rogers (Chair), Gina Sweetman and Dr Kym Burgemeister have been appointed by the consent authority Palmerston North City Council (PNCC) as the Hearing Panel for the hearing for the review of resource consent conditions for Te Rere Hau Windfarm.

INFORMATION / DIRECTIONS

- 2 The Panel shall undertake a site visit on Monday 11th September 2017. Should any parties have suggestions as to the matters the Panel should consider on the site visit, please send these suggestions to Carly Chang, Committee Administrator as soon as possible, but no later than 12noon Friday 8th September.
- 3 The hearing shall commence at 9am Tuesday 12th September at the PNCC chambers. At this stage, the hearing is scheduled for four days, Tuesday 12th to Friday 15th September inclusive, unless otherwise directed by the Chair.
- 4 With the assistance of Carly Chang, Committee Administrator, the Panel will endeavour to issue a hearing schedule to provide all parties with indicative hearing times.

Accordingly we direct:

- 5 Pursuant to section 103B(2) of the RMA, the Panel directs that PNCC (Consent Authority) section 42A reports be provided to the parties, by way of email, directing the parties to the PNCC website (or by direct service at the address provided for service) no later than 5pm on **Friday 18th August 2017**.
- 6 Pursuant to section 103B(3) of the RMA, the Panel directs that the Applicant is to provide written briefs of all their evidence to Carly Chang, Committee Administrator at PNCC no later than 12noon on **Friday 25th August 2017**.
- 7 The Panel requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 6, PNCC provides a copy to all other parties to these proceedings by way of email (or by direct service at the address provided for service), directing the parties to the PNCC website and advising that hard copies are available at the PNCC office on request.
- 8 Pursuant to section 103B (4) of the RMA, the Panel directs that if any person who has made a submission intends to present expert evidence at the hearing,

including expert planning evidence, then that party is to provide a written brief of that expert evidence to Carly Chang, Committee Administrator at PNCC no later than 12noon on Friday 1st September 2017.

- 9 The Panel requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 8, PNCC provides a copy to all other parties to these proceedings by way of email (or letter), directing the parties to the PNCC website and advising that hard copies are available at the PNCC office on request.
- 10 In terms of Directions 5, 7 and 9 the reports and evidence should be provided to PNCC electronically by email or be made available for downloading from the PNCC website <http://www.pncc.govt.nz/>. Hard copies of the evidence should only be provided on request.
- 11 Pursuant to s41C(1) of the RMA, the Panel directs that in respect of expert evidence pre-circulated in accordance with these Directions, the hearing will be conducted in the following manner:
 - The section 42A report(s) will be taken as read;
 - The Applicant or submitter that have provided the pre-circulated evidence is to call the witness in person;
 - The witness should be introduced and asked to confirm his or her qualifications and experience and the content of their pre-circulated evidence;
 - The witness will then be given an opportunity to draw to the attention of the Panel the key points in the brief. The witness should present a summary of their pre-circulated evidence (supported by powerpoint presentations if desired), endeavouring not to exceed 30 minutes. No new evidence shall be introduced, unless it is specifically in response to matters raised in other pre-circulated briefs of evidence supplied by another party – in such cases the new evidence shall be presented in written form as an Addendum to the primary brief of evidence and it may be verbally presented by the witness. If there is any variation between what the witness says and what is in the brief of evidence, the Panel will assume that the written brief is the evidence unless the content of the brief is specifically amended by the witness;
 - The witness may then be questioned by the Panel.

- 12 Non-expert evidence (including submitter lay evidence and legal submissions) should be tabled and read aloud on the day that the relevant party appears at the hearing.
- 13 The Panel also requests that all parties (the PNCC reporting officers, NZ Windfarms Limited as the Applicant, and submitters) calling expert witnesses liaise amongst themselves in order to facilitate their respective experts conferencing on matters relevant to their specific areas of expertise prior to the preparation of their reports or evidence (including any applicable conditions of consent). The aim of the conferencing should be to identify areas of agreement and disagreement which can then be noted in the reports and evidence.
- 14 The Panel will attempt to focus on the issues of contention during the hearing and in deliberations thereafter and so the assistance of the parties to clearly identify areas of expert agreement and disagreement in this manner will be greatly appreciated.

Any correspondence to the Panel should be directed through Carly Chang, Committee Administrator at PNCC. Email: Carly.Chang@pncc.govt.nz or Private Bag 11034, Palmerston North, Phone (06) 3568199.



Paul Rogers
Independent Commissioner – Chair
11/08/2017

BEFORE THE PALMERSTON NORTH DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991 ('the RMA')

AND

IN THE MATTER OF a review by **PALMERSTON NORTH CITY COUNCIL** of the
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section 128 of the RMA

MINUTE OF THE HEARINGS PANEL
NOTIFICATION OF REQUEST FOR INFORMATION

14 AUGUST 2017

PURPOSE OF MINUTE

- 1 The purpose of this minute is to make all participants aware of the Panel's request for and consideration of, the expert reports and documents set out below, to enable participants to undertake whatever steps they consider appropriate when preparing evidence and/or submissions.

NOTIFICATION OF REQUEST FOR EXPERT REPORTS AND DOCUMENTS

- 2 We have reviewed the information available on the Palmerston North City Council website¹ in respect of the Te Rere Hau Windfarm.
- 3 A number of expert reports and documents have been referred to within the information contained on the website, including the following:
 - (a) *Marshall Day Acoustics, Te Rere Hau Noise Compliance – Noise Survey Results and Discussion, Report reference Rp008 R02 2011095W, dated 18 February 2014* – referred to in the Notification Report and Appendix 5: Report by Resonate Acoustics dated 27 October 2016; and
 - (b) *Evidence of Nigel Lloyd and Gustaf Reutersward* – referred to in Appendix 3, Environment Court Decision [2015] NZEnvC 70; and
 - (c) *Marshall Day Acoustics Letter to the Applicant (MDA Letter Lt 020.2001095W)* – referred to in Appendix 6: Further Report dated 15 March 2017.
- 4 We consider these documents could be relevant to the Hearing as they may assist the Panel in better understanding issues.
- 5 We have therefore requested these documents from Carly Chang, Committee Administrator and the Panel will undertake a review of them.

Any correspondence to the Panel should be directed through Carly Chang, Committee Administrator at PNCC. Email: Carly.Chang@pncc.govt.nz or Private Bag 11034, Palmerston North, Phone (06) 3568199.



Paul Rogers

Independent Commissioner – Chair 14/08/2017

¹ <http://www.pncc.govt.nz/yourcouncil/consultations/review-of-resource-consent-conditions-for-te-rere-hau-windfarm/>

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MINUTE OF THE HEARINGS PANEL
REQUEST TO BE HEARD VIA AUDIO VISUAL LINK
31 AUGUST 2017

REQUEST TO PRESENT VIA AUDIO VISUAL LINK

- 1 The Panel has received a request from submitter Mr Lawrence Hill to present at the hearing by way of audio visual link.
- 2 Initial advice from the Palmerston North City Council was that it was not possible to present in this way as the Council Chambers are not set up to accommodate a two-way audio visual communication.
- 3 After further discussion between the Commissioners, and to facilitate public participation in the hearing, the Panel will endeavour to accommodate the request of Mr Hill by utilising Palmerston North City Council equipment and that of the Commissioners.
- 4 We do note that presenting in this manner is not without risk and in the event the audio visual link fails, the hearing will proceed as scheduled. If Mr Hill wishes to avoid this risk, we suggest attending the hearing in person.

DIRECTIONS

- 5 We direct Carly Chang, Committee Administrator to liaise with:
 - (a) Mr Hill, advising that the Panel will hear from him on Wednesday 13 September at 9.00am and informing Mr Hill of the technology he requires to utilise an audio visual link; and
 - (b) the IT staff at Palmerston North City Council and arrange for the audio visual link to be set up ready for use at 9.00am Wednesday 13 September.
- 6 If either the Committee Administrator or Mr Hill face insurmountable issues relating to the above directions, they are to advise the Panel immediately and Mr Hill's evidence shall be either:
 - (a) Presented in person at the hearing; or
 - (b) Presented by telephone conference; or
 - (c) Taken as read.



Paul Rogers

Independent Commissioner – Chair 31/08/2017