

From: [Allie Dunn](#)
To: [REDACTED]
Subject: Response to request for information re S125 Lapse-date extensions for FTCA consents
Date: Thursday, 27 November 2025 4:30:00 pm
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[5 March 2025 - ISSUED Decision Notice 5 March 2025 - Application to Extend ~ - Changes to Consent - 376 North Range Road, Tararua Range - 205.2024.92.4.PDF](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)

Kia ora

I refer to your official information request dated 13 November 2025 for information re S125 Lapse-date extensions for FTCA consents.

The Tararua District Council has received and determined an application under s125 RMA 1991 for the Te Rere Hau wind farm repowering consent which was granted under the FTCA.

The Council reference number for the extension is 205.2024.92.4.

Please find attached a copy of the decision as requested.

Ngā mihi



Allie Dunn | Manager Democracy Services | Deputy Electoral Officer

Democracy Services | Tararua District Council

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If you have received it in error, please take no action based on it, copy it, or show it to anyone.

Please return to the sender and delete your copy. Thank you.

From: Simone Anthony

Sent: Thursday, 13 November 2025 11:15 am

To: [REDACTED]

Subject: RE: LGOIMA request

Kia ora

This email is to acknowledge receipt of your request for information, regarding S 125 Lapse-date extensions for FTCA consents (COVID-19 Fast Track).

We will endeavour to respond to your request as soon as possible and in any event no later than 11 December 2025, being 20 working days after the day your request was received. If we are unable to respond to your request by then, we will notify you of an extension of that timeframe.

As part of our commitment to openness and accountability, we are now proactively publishing copies of requests for information and the responses provided to these requests, on our website. In doing so, we will ensure we comply with the provisions of the Privacy Act 2020 and redact any personal / identifying information from any response published.

If you have any questions about this, please don't hesitate to get in contact with me.

Ngā mihi,



Simone Anthony | Democracy Support Officer

Democracy Services | Tararua District Council

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From: [REDACTED]

Sent: Thursday, 13 November 2025 12:01 am

To: officialinformation@aucklandcouncil.govt.nz; lgoima@cdc.govt.nz; info@codc.govt.nz; officialinformation@ccc.govt.nz; officialinformation@dcc.govt.nz; officialinformation@fndc.govt.nz; officialinformation@hcc.govt.nz; customerservice@hdc.govt.nz; LGOIMAOfficer@horowhenua.govt.nz; informationrequest@kapiticoast.govt.nz; mdc@marlborough.govt.nz; info@mpdc.govt.nz; official.information@porirua.govt.nz; informationrequest@qldc.govt.nz; info@rangitikei.govt.nz; info@rotorualc.govt.nz; oia@selwyn.govt.nz; LGOIMA@stdc.govt.nz; Info - Tararua District Council <Info@TararuaDC.Govt.NZ>; lgoima@tasman.govt.nz; info@tauranga.govt.nz; customer.services@tcdc.govt.nz; officialinformation@waidc.govt.nz; records@wmk.govt.nz; official.information@wcc.govt.nz; info@whakatane.govt.nz; officialinformation@waipadc.govt.nz; info@southwaikato.govt.nz; contact@huttcity.govt.nz

Subject: LGOIMA request

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**Filename not
specified.**

[REDACTED]
Consultant | Advisor | Project Manager

Disclaimer: This e-mail may contain information which is confidential and/or privileged. If you are not the intended recipient you may not disclose, copy, or use the information contained in it. If you have received this e-mail message in error, please delete it and notify me. Please also note: I do not currently provide legal services.

Thank you.

NOTICE OF DECISION

APPLICATION DETAILS:

THE APPLICANT:	NEW ZEALAND WINDFARMS LIMITED C/- AURECON NEW ZEALAND LIMITED
LOCATION:	376 NORTH RANGE ROAD, AOKAUTERE
ZONING:	RURAL (PALMERSTON NORTH DISTRICT) AND RURAL MANAGEMENT AREA (TARARUA DISTRICT)
ACTIVITY STATUS	NOT APPLICABLE
PROPOSAL:	UNDER SECTION 125 OF THE RESOURCE MANAGEMENT ACT 1991, EXTEND THE LAPSE DATE OF THE TE RERE HAU WIND FARM REPOWERING PROJECT RESOURCE CONSENTS (LU 13.2023.7453.2 AND 205.2024.92.2, PREVIOUSLY REFERENCED AS FTC-71), GRANTED UNDER THE COVID-19 RECOVERY (FAST-TRACK CONSENTING) ACT 2020, BY A FURTHER THREE YEARS (PROVIDING A TOTAL LAPSE PERIOD OF FIVE (5) YEARS); BEING A LAPSE DATE OF 13 JUNE 2028.
APPLICATIONS:	LU 13.2023.7453.3 (PALMERSTON NORTH CITY COUNCIL) AND 205.2024.92.4 (TARARUA DISTRICT COUNCIL)

DECISION: EXTENSION TO LAPSE DATE (LU 13.2023.7453.2 - PALMERSTON NORTH CITY COUNCIL) AND 205.2024.92.2 (TARARUA DISTRICT COUNCIL)

Pursuant to Section 125(1A)(b) of the Resource Management Act 1991 (**'the Act'**), the Palmerston North City Council and Tararua District Council (**'the Councils'**) **grant** the application made by Aurecon New Zealand Limited on behalf of New Zealand Windfarms Limited (**'the applicant'**) to extend the lapse date of resource consents granted by an Expert Consenting Panel under the COVID-19 Recovery (Fast-Track Consenting) Act 2020 for the Te Rere Hau Wind Farm Repowering Project (LU 13.2023.7453.2 and 205.2024.92.2, previously referenced as FTC-71), by three years. The consents shall now lapse on 13 June 2028.

REASONS FOR DECISION

Clause 37(8) of Schedule 6 of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 provides for a default duration for Fast Track Consents to lapse, which is within two (2) years on which the consent commenced. Clause 42(5) of Schedule 6 of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 expressly provides local authorities with the ability to grant an extension of the lapse period of Fast Track Consents, in accordance with s125(1A) of the Resource Management Act 1991.

Section 125(1A)(b) of the RMA allows the Councils to grant an application for an extension to the lapse date of a resource consent, provided that such an application is received prior to the date of expiration, and provided the following matters have been taken into account:

(i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and

(ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and

(iii) the effect of the extension on the policies and objectives of any plan or proposed plan.

The application is granted for the following reasons:

1. The application to extend the lapse date has been received prior to the date of expiration of the consents; and
2. Pursuant to section 125(1A)(b) of the Act:
 - a. The applicant has demonstrated that substantial effort has been, and continues to be made, towards giving effect to the consent;
 - b. no persons are considered adversely affected by the granting of an extension to the lapse date;
 - c. there is no effect of the extension of the lapse date on the objectives and policies of the Tararua or Palmerston North District Plans.

Report prepared by Anita Coplestone (Consultant Principal Planner)

Dated this 5th day of March 2025



Jeff Baker – Planning Services Manager (Palmerston North City Council)



Aimee Charmley – Planning Services Manager (Tararua District Council)

PALMERSTON NORTH CITY COUNCIL AND TARARUA DISTRICT COUNCIL

ADVICE NOTE

1. Pursuant to Sections 125(1B) and 357A of the Resource Management Act 1991, if you disagree with this decision made under s125(1A)(b), you may lodge an objection in writing to the Planning Services Managers at the Palmerston North City Council and Tararua District Council. The objection must be received within 15 working days of the receipt of this written decision.

DECISION REPORT

1. INTRODUCTION

This report assesses an application made by New Zealand Windfarms Limited (**'the applicant'**) on behalf of Palmerston North City Council and Tararua District Council (**'the Councils'**) for the purposes of recommending whether an extension to the lapse date of the Te Rere Hau Wind Farm Repowering Consents should be granted.

The application was made to the Councils and Manawātū-Whanganui Regional Council (**'Horizons'**). The application seeks to authorise an extension to the lapse date of the Te Rere Hau Wind Farm Repowering Decision (LU 13.2023.7453.2 and 205.2024.92.2, previously referenced as FTC-71¹) by a further three (3) years, providing a total lapse period of five years from the date of commencement (being a lapse date of 13 June 2028).

2. BACKGROUND

In May 2023 New Zealand Windfarms Limited (**'NZ Windfarms'**) was granted resource consents by an Expert Consenting Panel under the COVID-19 Fast Track Consenting Act 2020, to repower the Te Rere Hau Windfarm on the Tararua Range (**'the Repowering Consent'**). The Repowering Consent (LU 13.2023.7453.2 and 205.2024.92.2, previously referenced as FTC-71) enables the repowering of the existing Te Rere Hau Wind Farm, which includes redesign of the wind farm layout, the replacement of the existing 97 smaller two-bladed turbines with up to 30 larger three-bladed turbines, and associated construction and electrical works to improve the generating capacity of the windfarm (**'the Repowering Project'**). Consents granted under the COVID-19 (Fast Track Consenting) Act 2020 have a lapse date of no later than two years from the date of commencement. The date of commencement was the 13 June 2023.

After obtaining the Repowering Consent, NZ Windfarms applied for and was granted consent under the COVID-19 (Fast Track Consenting) Act 2020 to extend the Te Rere Hau Wind Farm onto adjacent land to the north and north-east, in the Aokautere Forest Block (**'the Aokautere Extension Consent'**). The Aokautere Extension Consent (FTC-110) authorises up to 9 large three-bladed turbines, associated infrastructure and internal access tracks, general construction and electrical activities (**'the Extension Project'**). The Aokautere Extension Project complements the Repowering Project and will connect into and utilise infrastructure that is both existing and part of the Repowering Project.

Since these consents were granted, NZ Windfarms have partnered with Meridian Energy Limited forming a Limited Partnership Company; the Te Rere Hau Project Limited Partnership (**'Te Rere Hau Project LP'**). The Te Rere Hau LP intend to implement the Repowering and Extension consents by constructing and operating the repowering and extension concurrently (i.e. as one project and referred to herein as **'the Project'**).

Since forming the Te Rere Hau Project LP, the applicant has commenced detailed design and engagement with windfarm suppliers. As a result of the detailed design review and the Te Rere Hau Project LP intentions to undertake the Repowering and Aokautere Extension as one project, NZ Windfarms made an application to change conditions of the Repowering Consent (FTC-71) under section 127 of the Act. This included changes to align the conditions of the Repowering and Aokautere Extension consents. Following approval of that application (November 2024), the Repowering Consent is now referred to by the following references: APP-2022203927.01 (Horizons), LU 13.2023.7453.2 (Palmerston North City Council) and 205.2024.92.2 (Tararua District Council). The same condition set is attached to all three consents.

Subsequent to the s127 consent, the Te Rere Hau Project LP has identified the need for further changes to the Project. These include changes to some of the turbine locations, the turbine foundations and laydown areas, the alignment of access track, the substation location and grid connection infrastructure, additional temporary

¹ As recently varied pursuant to s127 of the RMA, with the consents held now referred to as APP-2022203927.01, LU 13.2023.7453.2 and 205.2024.92.2.

construction compounds and earthworks. The Te Rere Hau Project LP also wishes to reorganise and restructure the consent conditions. An application (**‘amendments to authorise design changes application’**) to Horizons, Palmerston North City and Tararua District Councils was lodged on 11 December 2024, which seeks to authorise these changes. At the time of writing this report, the application is being processed by the three Councils.

The applicant is now seeking to extend the June 2025 lapse date to allow the Repowering Project and Aokautere Extension Project to be constructed as one project, and to provide additional time to complete pre-construction activities. Those activities include but are not limited to: forming the construction delivery partnership, obtaining approval for substantive changes to the Repowering Consent, preparing and certifying pre-construction management plans, detailed design, stakeholder engagement, financial approval and appointing turbine supplier and construction contractors.

3. SITE DESCRIPTION

The site to which this application relates is the Te Rere Hau Wind Farm Repowering site (**‘the project site’**). The site is shown in green in Figure 1 below. It is located at 376 North Range Road on the Tararua Range to the north of the Pahiatua-Aokautere Road.

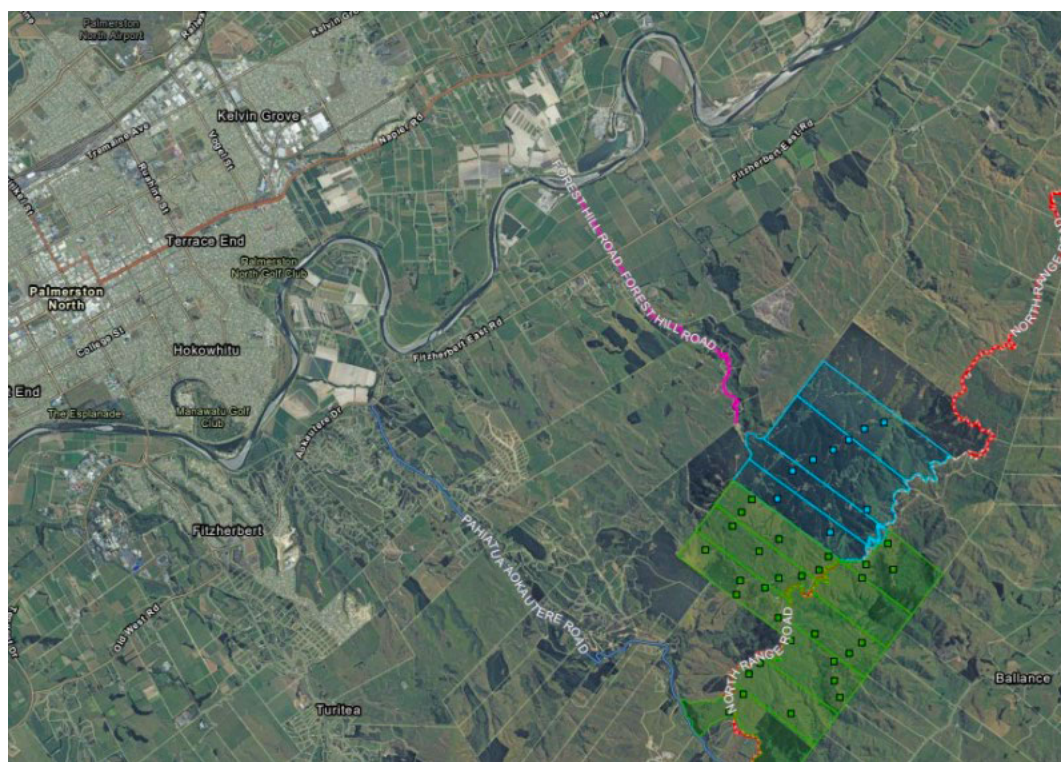


Figure 1 The Project site; comprising the Te Rere Hau Repowering Project site in green. Note the blue area denotes the Aokautere Extension project site.

The site is within both the Tararua District and Palmerston North District. The site is within the Rural Management Area Zone in the Tararua District and within the ‘Skyline of the Tararua Ranges’ (ID No. 302) in the Schedule of Natural Features and Landscapes listed in Appendix 3.3 of the Tararua District Plan. The skyline is given a classification of ‘B’, and is listed for its “scenic values, particularly as viewed from adjacent plains”.

Within the Palmerston North District, the site is in the Rural Zone. No overlays or notations apply to the site.

A description of the site is contained in section 2 of the Assessment of Environmental Effects² submitted with the Fast-Track resource consent application for the Repowering Project (FTC-71).

I consider this to be an accurate description and rely on it here.

3.1. CONSENTED ENVIRONMENT

All works and activities, and their associated effects authorised by the Repowering Consent (as amended by the granted section 127 application – APP-2022203927.01, LU 13.2023.7453.2 and 205.2024.92.2) and the Aokautere Extension Consent form part of the existing environment.

Section 2.2 of the Assessment of Environmental Effects accompanying the amendments to authorise design changes application,³ sets out the consented environment as follows.

Repowering Consent	Aokautere Extension consent
<ul style="list-style-type: none"> • Works to decommission and remove the 92 existing two-bladed turbines (with a hub height of approximately 30m, a rotor diameter of 33m and a total height of approximately 47m); • Works to construct and operate 30 new three-bladed turbines with a hub height of approximately 102m, a rotor diameter of 126m, and a total height of approximately 162m; • Works to widen, upgrade and establish approximately 13kms of internal access tracks including culverts; external road improvements to facilitate access to the Project Site and haul road; • Works to improve, upgrade and establish new turbine foundations and pads for each turbine; • Culverts to reconnect streams crossed by the proposed works; • A concrete batching plant; • Laydown areas for items such as a concrete batching plant, site compound benches and general laydown areas; • Works to construct and operate associated infrastructure including hardstand areas, sediment retention ponds, borrow pits, underground or overground electrical and communication cables, substation installation and/or upgrades, and grid connection equipment; • Associated works including cut and fill earthworks, creation of spoil disposal sites and 	<ul style="list-style-type: none"> • Works to construct and operate nine new three bladed turbines with a hub height of approximately 102m, a rotor diameter of 132m and a total height of approximately 162m; • Works to establish, and thereafter upgrade, maintain or improve new turbine foundations and pads for each turbine; • Works to construct and operate associated infrastructure including hardstand areas, sediment retention ponds, borrow pits, underground or overground electrical and communication cables, substation installation and/or upgrades, and grid connection equipment; • Works associated with the construction of platform laydown areas for turbine storage, materials, plant and stores, crane erection; • Works to establish, widen, upgrade and maintain approximately 4km of internal access tracks as well as temporary haul routes to new turbine sites, connected to and extended via new accesses authorised by the neighbouring Repowering Project; and • Associated works including cut and fill earthworks and vegetation removal and site planting / rehabilitation.

² Prepared by Aurecon New Zealand Limited, titled 'Te Rere Hau Repowering Project Assessment of Effects on the Environment' dated 2022-11-14.

³ Prepared by Aurecon New Zealand Limited, titled 'Te Rere Hau Wind Farm Assessment of Effects on the Environment' dated 2024-12-11.

<p>vegetation removal and site planting / rehabilitation; and</p> <ul style="list-style-type: none"> • Transmission line upgrades comprising Grid Connection Option 1 (rerating the existing grid connection) or Grid Connection Option 2 (a new transmission line). 	
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4. APPLICATION

The application seeks to extend the lapse date for the repowering consent from 13 June 2025 to 13 June 2028. The extension, if granted, would extend the lapse date by three (3) years, providing a total lapse period of five (5) years from the date of commencement. The current lapse period is two years, which is the maximum period that was able to be specified under the COVID 19 Recovery (Fast-Track Consenting) Act 2020 (Schedule 6, Clause 37(8)).

The processing of the application was suspended, at the request of the applicant, under Section 91D on the 13th January, 2025. The applicant requested that the suspension be uplifted on the 17th February, 2025.

5. APPLICATION ASSESSMENT

Section 125 of the Act provides direction on the lapsing of consents. Pursuant to s125(1A) a resource consent does not lapse on the specified date if either the consent is given effect to, or the council grants an extension to the lapse date, having taken into account the following matters:

- Section 125(1A)(b)(i) – whether substantial progress or effort has, and continues to be, made towards giving effect to the consent; and
- Section 125(1A)(b)(ii) – whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and
- Section 125(1A)(b)(iii) – the effect of the extension on the policies and objectives of any plan or proposed plan.

I have sought legal advice on the scope of my assessment under s125(1A)(b). Based on that advice, I understand that the matters listed in s125(1)(b) are factors for consideration rather than a strict test that must be met before an extension can be granted. That is, the Councils may determine that the extension is justified if, based on the circumstances, the overall justification is strong under one or two factors, even if another is less compelling. These are mandatory considerations for the Council’s decision, but the law signals that what is required is a broad evaluation of the justification for an extension, in light of the purpose of the lapse date⁴.

Purpose of a lapse date

The Courts have provided that the purpose of a lapse date is to ensure that an activity is incentivised and implemented within the timeframe proposed⁵ - so that consents do not exist for lengthy periods without being put into effect⁶. This is important because consents are granted in light of the present and foreseeable circumstances at the time of granting, and those circumstances can change over time. The relevant circumstances include for example, the physical and social environment, the operative district plan provisions,

⁴ Email communication from Nick Jessen, Partner, CR Law, dated 3 February, 2025

⁵ Koha Trust Holdings Limited v Marlborough District Council [2016] NZEnvC 152, at [47].

⁶ Friends of Nelson Haven and Tasman Bay Inc v Marlborough District Council [2018] NZEnvC 61, at [17].

current knowledge and people. The courts have ruled that a consent “cannot properly remain a fixed opportunity in an ever-changing scene”⁷.

‘Given effect to’

An extension to the lapse date is required if a consent has not been ‘given effect to’.

The applicant has provided me with a copy of the legal advice it received from Vicky Morrison-Shaw, which informed the lapse date application⁸. My understanding of that advice, and the case law it refers to, is that “given effect to” requires an evaluation of what ‘has and has not been done and why’. It is not an evaluation of whether a consent should or should not lapse, but a factual enquiry which should consider:

- The nature of the activity authorised by the consent;
- Why it has not been completed;
- If the activity has been discontinued, why, and was that voluntary and justified?

‘Given effect to’ does not necessarily require that the consented work be fully completed or operational before the lapse date, and this may often not be possible for large scale and complex projects. In an RMA consenting context, the Courts have previously ruled that in complex consenting situations, the preparation of management plans, letting of contracts and undertaking of preparatory works may suffice⁹.

However, while a Council may consider that a consent has been given effect to, any person can seek a determination on this issue, for example by applying to the Environment Court under s.311 of the RMA for a declaration that the consent has lapsed, or by seeking an enforcement order under s.316 of the RMA if works have continued past the lapse date and the person considers a consent has not been given effect to and no extension to the lapse has been sought.

I have reviewed the considerations for evaluation identified above, including the nature of the consented activities (as outlined in the Repowering Consent and in Table 1 above) the applicant’s description of the commercial, resource management, pre-construction and construction physical activities which have been undertaken to date (as detailed in section 3 of the Assessment Report¹⁰), and the reasons for delay in implementing the consent. I have also considered the purpose of the Fast-Track process and legislation, i.e. to accelerate the benefits and investment associated with implementation of consented projects. Based on this review, I do not consider that the consent has been “given effect to”.

If a consent obtained under the COVID 19 Recovery (Fast-Track Consenting) Act 2020 has not formally been “given effect to” within the 2 year lapse period, a consent holder is able to apply to the consent authority for an extension of that period under s.125(1A) of the RMA. Once a fast track consent has been granted, a local authority has the same powers in relation to that consent as if it had been granted the consent under the RMA and the COVID 19 Recovery (Fast-Track Consenting) Act 2020 expressly states that the relevant local authority has this power to determine applications for lapse date extensions¹¹.

⁷ Friends of Nelson Haven and Tasman Bay Inc v Marlborough District Council [2018] NZEnvC 61, at [17].

⁸ Letter addressed to the Te Rere Hau Project LP, dated 10 June 2024

⁹ Biodiversity Defence Society Inc v Solid Energy New Zealand [2013] NZHC 3283, at [85]-[87].

¹⁰ Submitted with this application and prepared by Aurecon New Zealand Limited, titled ‘Te Rere Hau Wind Farm – Application for Extension to Consent Lapse Period Assessment under Section 125(1A) of the Resource Management Act 1991’, dated 2024-12-18 reference P526592.

¹¹ s.12, and cl.42(5) of Sch.6 of the COVID 19 Recovery (Fast-Track Consenting) Act 2020

In the following sections I assess the relevant matters in s125(1A) which inform a recommendation as to whether the lapse date extension sought should be granted.

5.1. SECTION 125(1A)(B)(I) – HAS THE APPLICANT MADE SUBSTANTIAL PROGRESS OR EFFORT TOWARDS GIVING EFFECT TO THE CONSENT

In section 2.1.1 of the application, the applicant provides a summary of the legal advice which it has obtained from Vicki Morrison-Shaw, on the interpretation of substantial progress or effort. Of particular note in that summary of the legal advice is the following:

- *It includes both past substantial progress and effort as well as that which is currently being made.*
- *It does not require the primary activity enabled by the consent to have been undertaken prior to the lapse date.*
- *Physical works are not always required.*
- *It can include the practical and economic realities of constructing and completing a major development, including fluctuations in market demand and a need to raise finance.*
- *It can include expenditure on giving effect to the consents.*
- *It can also include offsite activities such as the preparation of management plans, letting of contracts and the undertaking of preliminary works as distinct from commencing activities at the heart of the suite of consents.*
- *Application for or the obtainment of a further consent or consents to enable the project are a relevant consideration.*
- *A lack of substantial progress does not have the same significance as simply substantial effort can be enough, provided it is directed to the end of giving effect to the consent.*

Section 3 of the applicant's Assessment Report¹² outlines the progress and effort made towards giving effect to the consent, including commercial activities, resource management activities and pre-construction and construction physical activities.

I consider that description provides appropriate evidence that at least substantial effort has been made to give effect to the consent, and continues to be made. While some elements are more loosely connected to implementation than others, the description of commercial activities and organisational steps, including financial management, appear reasonably documented. In particular, I note the applicants efforts to conclude land agreements with underlying landowners, progress on tender processes for initial and main construction works, and the preparation and submission of management plans for certification, in accordance with the consent conditions.

Pre-construction works have been fully funded, which reasonably demonstrates progress. However counter to that, formal financial approval for construction has not yet been secured. There is a possibility that approval will be obtained before the current lapse date, which would be significant in demonstrating intent to implement the consent. I understand this is programmed for quarter 2 of 2025.

The application also clearly identifies steps that directly relate to implementing consent conditions (such as the preparation of required management plans and other pre-construction activities) which have a clear link to demonstrating substantial progress. These steps are linked to specific consent conditions.

¹² Prepared by Aurecon New Zealand Limited, titled 'Te Rere Hau Wind Farm – Application for Extension to Consent Lapse Period Assessment under Section 125(1A) of the Resource Management Act 1991', dated 2024-12-18 reference P526592.

The applicant has subsequently provided further evidence (via email dated 17th February 2025), of the following additional efforts that have been made to give effect to the resource consents since the application was made:

- The first meeting of the Community and Stakeholder Liaison Group Meeting.
- All pre-construction management plans required by the consent conditions have been certified by the relevant Council's.
- Site Specific Erosion and Sediment Control Plans have been approved by Horizons Regional Council for the Substation, concrete batching plant platform and civil laydown area.
- NZ Windfarms have reached agreement with Airways to relocate Ballance Radar Station and a formal DOC Concession application has been lodged by Airways for a new facility offsite. NZ Windfarms provided a supplementary Environmental Impact Assessment, undertook a planning scope for an Alternative Sites Assessment, and has managed cultural engagement with Iwi / Hapu supporting the Repowering and Extension projects.
- The Site blessing and cultural induction workshop was held on 29th January 2025.
- Formal groundbreaking occurred on the 17th February 2025, for early works associated with Contractor compounds and the Te Rere Hau Substation.

In my evaluation, the justification provided, alongside the steps taken, supports a conclusion that the applicant genuinely intends to implement the consent, and has provided sufficient evidence to demonstrate that substantial effort has been made to give effect to the consent.

5.2. SECTION 125(1A)(B)(II) – HAS THE APPLICANT OBTAINED WRITTEN APPROVAL FROM PERSONS WHO MAY BE ADVERSELY AFFECTED

This factor focuses on whether the applicant has obtained approval from persons who may be adversely affected by the extension, rather than the environmental effects of the application itself. Prior written approvals for the original consent cannot be relied upon¹³.

There are two parts to this assessment – firstly, a determination of who may be adversely affected, and then, whether those persons have provided written approval. The legal advice referred to in the application, provides a summary of the Court's guidance¹⁴ on determining who may be adversely affected. Of particular relevance in that advice is the following:

(a) it is the adverse effects arising from the proposed lapse date extension, not the activity itself, which require consideration – it is not an opportunity to revisit the effects associated with the original grant of the consent;

(b) those adversely affected by an extension will not necessarily be the same as those who were considered adversely affected when the consent was granted (noting that fast track applications cannot be notified and the list of people invited to comment is set out in the legislation and referral order);

(c) consideration must be given to why or in what way they are affected;

(d) the use of the word "may" is a relatively low bar;

¹³ Email communication dated 3 February 2025, from Nick Jessen, Partner, CR Law

¹⁴ Body Corporate 97010 v Auckland City Council [2000] 3 NZLR 513 (CA), at [72]-[74]; and Ngāti Tama ki Te Waipounamu Trust v Tasman District Council [2018] NZHC 1081, at [84]-[85].

(e) whether a person is affected depends on circumstances which can include identity, location, sensitivity, public interest and physical effects;

(f) people may be adversely affected if the extension gives rise to unacceptable uncertainty for those living or working in the vicinity;

(g) where a project involves construction, the effects include construction taking place at a later time than originally envisaged; and

(h) where there have been changes to the physical environment or activities in the vicinity since the grant of the original consent, these will require consideration.

No written approvals have been obtained from any persons (as set out in Section 4 of the Assessment Report)¹².

Section 4.1.1 of the Applicant's Assessment Report provides an assessment of potentially affected persons, including iwi authorities and treaty settlement entities, owners and occupiers of land within the project envelope, key stakeholder organisations, adjacent parties and parties within 3km of the site; and those who were invited to comment on the application through the Fast Track consent process.

Ms Morrison-Shaw's summary of the Court's guidance¹⁵ identifies that there is a 'relatively low bar', in terms of identifying persons who might be affected by an extension. Therefore the list of potentially affected persons could be broader than those originally considered to be adversely affected by the consent itself.

The application does not indicate whether any written approvals were sought and refused or even whether potentially affected parties are aware of the extension request.

As a consequence, I sought clarification from the applicant as to the means used to communicate with potentially affected persons (other than those underlying the Project), in order to determine whether those persons should be advised of the extension, and/or whether their written approvals are required to support the application. One of the reasons for this enquiry was the duration of construction works and the potential for associated nuisance on landowners bordering key routes for access to the Te Rere Hau Project site.

In an email dated 17th February, the applicant's agent advised that NZ Windfarms and TRH-LP have already established and held the first meeting of the Community Liaison Group ('CLG') (28th January 2025). The directive for the meetings (as required by the consent conditions), and the frequency that the group meets (which I understand is every 3 months, until two years after construction is complete), is to ensure a forum is available for key persons where there are genuine potential effects as a result of construction activities (which the applicant considers is limited in most aspects to construction traffic nuisance) to communicate concerns, and be made aware of upcoming road closures, improvement works, rehabilitation works and construction progress.

The CLG members include but are not limited to, the persons listed in Schedules 1 and 2 of the various resource consents for the Repowering Project. Discussions at these forums will centre on programme and milestones, and associated dates.

The applicant has also extended its communication reach to people within a 1.5km radius of the wind farm, through newsletter drops. The newsletter provides contact details for key project personnel, who can be contacted for further information. The first of the Repowering Project Newsletters was provided with this email, as evidence.

Subject to undertaking activities in accordance with the conditions of consent related to stakeholder communications and complaints (which are preserved in the same condition as those presented through the

¹⁵ Letter addressed to the Te Rere Hau Project LP, dated 10 June 2024

fast-track processes for the Repowering and Extension projects) and based on information provided to date, NZ Windfarms and TRH-LP consider that all potentially affected persons are aware of the project timeline, the nature of planned activities and their effects on those persons, and that there are no new or greater effects on those persons that would warrant notification or prior approval.

I also enquired whether the underlying property owners affected by the Project(s) may be affected by the extension, given the absence of written approval from those people. The applicant's agent advised¹⁶ that Te Rere Hau Wind Farm is secured through private Wind Rights Agreements between the developer / operator and property owners. The nature and terms of these agreements are broad, and copies cannot be provided to the Councils due to legal and privacy concerns held by both parties. However, terms that secure the Project(s) under the Wind Rights Agreement's that account for approval in respect of all occupation and operational activities of NZ Windfarms and its contractors, partnerships and subsidiaries include:

- Annual 'holding' payments made to property owners for each year construction is not commenced.
- Agreement terms of 30 years following first operation of the turbines, with two consecutive automatic rights of renewal of 30 years (i.e., 90 years total).

NZ Windfarms and TRH-LP consider these terms amount to approval in the context of the Project(s) and any impacts of the Wind Farm on those underlying properties for the duration sought by the application.

In light of this additional information, and my review of the application, I have considered whether there are any persons that might be adversely affected by the extension of the lapse date. The parties I have considered include:

- landowners and occupiers within the project envelope;
- road controlling authorities (being NZ Transport Agency Waka Kotahi, Palmerston North City Council and Tararua District Council);
- key stakeholders (being Transpower, Powerco, the Civil Aviation Authority and Airways, Mercury Energy, and the regional and district councils);
- iwi representative organisations (for Rangitāne o Manawatū, Rangitāne o Tāmaki nui-ā-Rua, Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua);
- landowners and occupiers living or within in the vicinity of the site or on the main haul routes.

I have considered whether any of these persons may be adversely affected by the lapse date, including due to unacceptable certainty, their location, physical effects, or construction taking place later than anticipated.

I consider the private Wind Rights Agreements the applicant holds with project site landowners; the various side agreements with the utility providers, as key stakeholders, along with the stakeholder communication and engagement conditions SC1 – SC2 mitigate the potential for unacceptable certainty for these parties, and issues of extended or delayed timing of construction activities. The preparation and certification of the management plans (required by conditions MP1-MP2 and CT1-CT5) mitigate the physical construction effects on these parties.

With respect to adjacent and nearby landowners, I consider the stakeholder communication and engagement consent conditions (SC1 – SC2) provide appropriate avenues for these parties to be kept abreast of the construction programme (and any extension or delay to this), and to raise any concerns arising from an extended lapse date. This includes, for invited parties, the ability to participate in meetings of the Community and Stakeholder Liaison Group. For the slightly broader geographical community, the Community Newsletter

¹⁶ In the email communication of 17th February referenced above

provides a source of information and key Project contacts. The project also has a website, which can be accessed by any interested party.

The application was circulated to Rangitāne o Manawatū by Palmerston North City Council in accordance with section 35 of the Rangitāne o Manawatu Claims Settlement Act. Rangitāne o Manawatū responded via email (14 January 2025), that they had no concerns with the application. Tararua District Council circulated the application to Rangitāne o Tāmaki nui-ā-Rua and Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua in accordance with sections 34 of the Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017 and the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Act 2022. Ngāti Kahungunu responded via email (17 January 2025) that they were supportive of the application. Rangitāne o Tāmaki nui-ā-Rua responded via an email dated 22 January 2025, that they have no concerns with the application.

Based on the above responses, I do not consider the iwi to be adversely affected by the lapse date extension application. All three iwi have on-going involvement in the project, via the Community and Stakeholder Liaison Group (to which they are specifically invited members, as per Condition SC1(f)), on-going discussions with the applicant on the various resource consent applications, and through implementation of the Cultural Monitoring and Management Plan (Condition TW3).

Based on my assessment above, I do not consider any person would be adversely affected by the granting of an extension. Written approvals are a matter for consideration, but are not required in order to make a positive determination to grant a lapse date extension.

5.3. SECTION 125(1A)(B)(III) – EFFECT ON THE POLICIES AND OBJECTIVES OF ANY PLAN OR PROPOSED PLAN

This consideration relates to the effect of the extension on the policies and objectives of any plan or proposed plan. That is, “whether the planning situation has changed since the consent was granted, and if so, whether, in light of that changed situation, allowing the consent to be given effect to after the lapse date will affect the objectives and policies of any plan¹⁷.”

This consideration specifically refers to any “plan or proposed plan” under the RMA, which means regional or district planning documents (as defined in s 43AA), rather than National Policy Statements or other higher-level directives such as legislative changes related to renewable energy¹⁸.

Section 5 of the Assessment Report¹², submitted with the application, describes changes to the relevant regional and district plans (being the Manawatū-Whanganui Regional Council Regional Plan, Palmerston North City Council District Plan and Tararua District Council District Plan) since the repowering consent was granted and the effect of the extension on the policies and objectives.

The application also lists a number of other documents under the “policy environment” heading to demonstrate consistency with broader national direction on renewable energy generation. However, since s 125(1A)(b)(iii) is more narrowly defined to regional and district plans, I have not placed any weight on these broader considerations.

I agree with the application’s description of the changes to the relevant plans (being the Horizons One Plan – Regional Plan, the Tararua and the Palmerston North District Plan, and any proposed plan changes to those plans) that have occurred since the consent was granted. I do not consider that there have been any changes to the objectives or policies of these plans, such that these provisions would be materially impacted by the extension of the lapse date (in terms of implementation, or achievement). I note that informal public pre-

¹⁷ Ms Morrison-Shaw, letter of legal advice to applicant, dated 10 June 2024.

¹⁸ Advice from Nick Jessen, Partner, CR Law, 3 February 2025

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consultation on the Tararua District Plan review closed on the 1st of March and public notification under Schedule 1 is currently programmed for May 2025.

Although the pre-consultation version of the Tararua District Plan Review has no statutory weight, for completeness, I have reviewed the key objectives and policies in the Energy chapter, that would be directly relevant to this application. I do not consider there would be any adverse impact (on the achievement or implementation) of those objectives and policies, by granting the lapse date extension.

6. CONCLUSION

I have considered whether substantial progress or effort has been, and continues to be made, towards giving effect to the consent (Section 125(1A)(b)(i)). I conclude that the applicant has demonstrated it has made, and continues to make, substantial progress towards giving effect to the consents.

I have also considered whether the applicant has obtained written approval from persons who may be adversely affected by the granting of an extension (Section 125(1A)(b)(ii)). No written approvals have been obtained but I am of the opinion that no persons are adversely affected by the granting of an extension to the lapse period.

I have considered the effect of the extension on the objectives and policies of the relevant plans or proposed plan (Section 125(1A)(b)(iii)) (being those contained within the Operative Manawatū-Whanganui Regional Plan, Palmerston North City District Plan and Tararua District Plan, and any proposed plan changes to those plans). I have concluded that there is no adverse effect on the implementation or achievement of the objectives and policies of those plans or proposed plans.

Having taken into account the matters above, I am of the opinion the application to extend the lapse date to 13 June 2028 should be granted.

7. RECOMMENDATION

For the reasons outlined above, I recommend that the application to extend the lapse date for the Te Rere Hau Wind Farm Repowering consent (Palmerston North City Council reference LU 13.2023.7453.2 and Tararua District Council reference 205.2024.92.2) be **granted** pursuant to section 125 of the Act, which will have the effect of extending the lapse date by a term of three years, to 13 June 2028.

Anita Copplestone

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Palmerston North City Council
Tararua District Council