

**WAITOMO DISTRICT COUNCIL REPORT ON A NON-NOTIFIED APPLICATION  
PURSUANT TO SECTION 127 OF THE RESOURCE MANAGEMENT ACT 1991 –  
WAITOMO DISTRICT COUNCIL LAND USE CONSENT RM050019A**

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<b>COUNCIL REFERENCE:</b>	RM050019A
<b>APPLICANT:</b>	Ventus Energy (NZ) Ltd
<b>PROPERTY ADDRESS:</b>	Taumatotara West Road, Te Anga
<b>LEGAL DESCRIPTION:</b>	Section 2 Block V Kawhia South Survey District (SA37A/26) Section 1 Survey Office Plan 58558 (SA47A/876) Section 12 and Section 22 Block V Kawhia South Survey District (SA31C/23) Section 1A Block V Kawhia South Survey District (SA37A/25)
<b>ZONING – WAITOMO DISTRICT PLAN:</b>	Rural
<b>PROPOSAL:</b>	An application has been made in accordance with Section 127 of the Resource Management Act 1991 to change the conditions of resource consent RM050019 to increase the maximum consented height of the 11 northernmost consented wind turbines to 121.5 metres. The current maximum consented height is 110 metres. The remaining consented turbines will remain at a maximum consented height of 110 metres.
<b>REPORT DATE:</b>	12 March 2011

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**1.0 BACKGROUND**

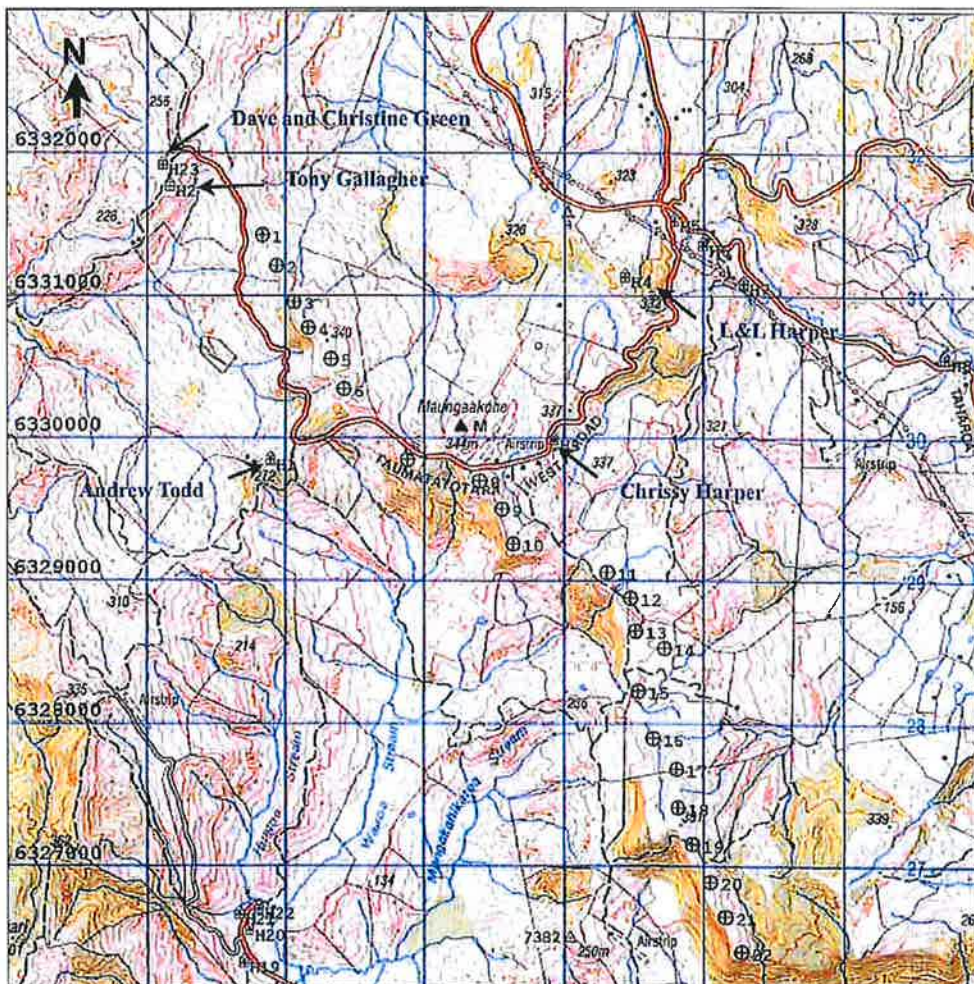
- 1.1 Waitomo District Council granted land use consent RM050019 to Ventus Energy (NZ) Ltd on 13<sup>th</sup> June 2006. The resource consent approval was for 22 wind turbines with a maximum height of 110 metres from the ground to the top of the vertically extended blade tip. The resource consent decision is subject to 53 conditions of consent, including an extended lapse period of eight years. Construction on the wind farm has not yet commenced.

**2.0 THE SITE**

- 2.1 The site of the proposed wind farm is located on an unnamed ridgeline, situated approximately 6.5 kilometres south of Taharoa (from Turbine 1) and 2.5 – 3 kilometres to west of Te Anga.

- 2.2 The existing land use of the site is predominantly pastoral grazing (sheep and cattle) with scattered pockets of plantation radiata pines. Small fragments of native bush also exist in the surrounding area. The topography of the site ranges from moderate to very steep hill country. Surrounding land uses are predominantly rural.
- 2.3 Taumatotara West Road traverses through the centre of the site in an east-west direction, and effectively 'divides' the wind farm site into two parts, with turbines 1-6 located on the northern side of Taumatotara West Road, and turbines 7-22 located to the south.
- 2.4 The southern part of the ridgeline, in particular, is visually prominent with respect to a large but sparsely populated area of the nearby Marokopa Valley.
- 2.5 The application which has been made by Ventus Energy (NZ) Ltd relates specifically to the northern 11 consented wind turbines. Turbines 7 to 11 will be located just to the south of Taumatotara West Road while turbines 1 to 6 will all be located to the north and east of the road.
- 2.6 The nearest dwellings to turbines 1 to 11 are shown on the site layout plan provided by the Applicant as an appendix to the further information response dated February 2012. A scanned copy of the site layout plan is included as **Diagram 1** below.

**Diagram 1: Site Layout Plan with Turbine and Dwelling Locations**



- 2.7 All of the dwellings that are labelled with occupant names on the map (**Diagram 1**) are located on land that forms part of the wind farm site itself (Harper's and Gallagher's). Written approval to this application has been provided from the owners and occupiers of all five of these dwellings (see section 8 of this report).
- 2.8 The site is zoned Rural in the Proposed Waitomo District Plan, as are all of the adjoining properties. There are no designations, sites of significance or other special features affecting the site that are identified on the District Plan maps. However, the planning maps do denote three areas zoned 'Conservation' located in close proximity to the wind farm site (the Maungaakohe Scenic Reserve administered by DOC to the south-west, and two open space covenant areas to the north-east).
- 2.9 There are a number of agricultural airstrips in the surrounding area. The Applicant has consulted with the Civil Aviation Authority (CAA) in relation to the proposal, and their written comments are included in the appendices of the application.

### **3.0 THE PROPOSAL**

- 3.1 The proposal involves changes and deletions to conditions of resource consent RM050019 which authorised the construction and operation of a 22 turbine wind farm on the site.
- 3.2 The changes which are being sought are associated with a proposal to increase the maximum consented height of the 11 northernmost wind turbines from 110 metres to 121.5 metres. The existing height limit of 110 metres will be retained in respect of the 11 southernmost consented wind turbines.
- 3.3 The application explains that the increase in height is necessary because wind turbine design has evolved since the application was initially made. Turbines now typically have larger rotors and taller towers. Furthermore the wind monitoring data collected at the site has been independently analysed meaning the wind regime is now better understood. Taller towers will have the advantage of allowing for a reduction in the turbulent effect of wind closer to the ground. The Applicant considers that larger turbines (in respect of turbines 1-11) will therefore give better economic returns for the project.
- 3.4 The 121.5 metre proposed turbine height is based on a nominal turbine design with a 76 metre hub height and a 90 metre rotor diameter. A turbine with these dimensions would have a clearance between the blade tip and the ground of 31 metres.
- 3.5 The application seeks amendments to conditions 1, 3 and 11.

### **4.0 SECTION 127 RESOURCE MANAGEMENT ACT 1991**

- 4.1 Section 127 of the RMA states:

*"(1) The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent, subject to the following:*

*(a) the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and*

- (b) *no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.*
  - (2) *Repealed.*
  - (3) *Sections 88 to 121 apply, with all necessary modifications, as if –*
    - (a) *the application were an application for a resource consent for a discretionary activity; and*
    - (b) *the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
  - (4) *For the purposes of determining who is adversely affected by the change or cancellation, the consent authority must consider, in particular, every person who –*
    - (a) *made a submission on the original application; and*
    - (b) *may be affected by the change or cancellation.”*
- 4.2 The application is able to be processed under section 127 of the RMA as it seeks a variation to the consented activity, and the resulting effects will not be materially different. The overall nature of the activity will remain the same and the only change that will result relates to the height of turbines 1 to 11.
- 4.3 The effects of the proposed changes and cancellations are considered in section 6 of this report. Consideration has been given to all persons who made submissions to the original application as part of the notification assessment in section 8.

## **5.0 PEER REVIEW**

### Visual and Landscape Effects

- 5.1 A specialist review of the visual and landscape effects of the proposed change has been undertaken by Mansergh Graham on behalf of the Waitomo District Council. The review was commissioned by the Council and with the agreement of the Applicant following a request made pursuant to Section 92(2) of the Resource Management Act 1991.
- 5.2 The Mansergh Graham assessment reports on the assessment of visual and landscape effects provided by the Applicant which was prepared by Opus International Consultants Ltd ('Opus'). The findings of the Mansergh Graham report are relied on for the purposes of this assessment. The main points and conclusions of the Mansergh Graham report are summarised below:
- The Opus report generally follows an acceptable methodological approach to the assessment of landscape and visual effects;
  - The effects of the turbine height increase on landscape and visual amenity values will be less than minor, as stated within the report prepared by Opus. This is principally due to the context of the consented wind farm, the relatively small proposed increase in the turbine size and the distance between potentially affected parties and the wind farm;
  - All properties around the application site have provided written approval and therefore shadow flicker is not expected to be an issue. Any shadow flicker effects beyond a theoretical 1.2km flicker effect limit are expected to be less than minor and will only occur for a relatively short period of time during the day when the top 11m of the turbine (the extension) is between the viewer and the sun.

## 6.0 ASSESSMENT UNDER SECTION 104 OF THE RMA

6.1 The variation is to be considered as a discretionary activity under Section 104 of the RMA (in accordance with Section 127(3)(a) of the Act). Section 104 sets out those matters that Council must consider when assessing an application for resource consent. The matters that are relevant to the consideration of this application (subject also to Part II, Purpose and Principles) are:

- “a) Any actual and potential effects on the environment of allowing the activity; and...*
- b) Any relevant provisions of –*
  - (vi) A plan or proposed plan; and*
- c) Any other matters the consent authority considers relevant and reasonably necessary to determine the application.”*

Each of the relevant matters is considered in the following sections of this report.

### 6.2 Section 104(1)(a) – Assessment of Actual and Potential Effects on the Environment of Allowing the Activity

6.3 The effects on the environment related to the proposed changes include visual and landscape effects, shadow flicker effects, ornithological effects and aviation effects resulting from the increased height of the turbines. Other effects, including noise, traffic and roading, geotechnical (earthworks) and cultural effects either will not change as a result of the proposal or will continue to be mitigated by existing conditions of consent.

#### Visual and Landscape Effects

6.4 The visual and landscape assessment undertaken by Opus on behalf of the Applicant has assessed the potential visual and landscape effects as a result of the proposal to increase the height of the 11 northernmost turbines. That report has been reviewed by Dave Mansergh of Mansergh Graham (Appendix A) on behalf of Waitomo District Council.

6.5 The Mansergh Graham review assessment has considered the assessment methodology and findings of the specialist visual and landscape assessment prepared by Opus which was submitted by the Applicant with the further information response dated February 2012. It concludes that the Opus report generally follows an acceptable methodological approach to the assessment of landscape and visual effects.

6.6 The Opus report concludes that the change in height of the turbines will be difficult to discern at dwellings to the south of the site based on the viewing distance, including at the nearest residences where approvals have not been provided on Coutts Road. On that basis the report concludes that there will be no discernible change to the effects on landscape character and visual amenity relative to the consented turbine height. The assessment also identifies that the increased height will potentially result in four properties along Coutts Road seeing part of one additional turbine relative to the consented turbine height. That assessment is supported by the wire frame images that are included within Appendix 3 of the Opus assessment. As the properties will only have a partial view of the additional turbine, the assessment concludes that the associated effects will be less than minor.

6.7 The Mansergh Graham report concludes that the effects of the turbine height increase on landscape and visual amenity values will be less than minor, as stated within the report

prepared by Opus. This is principally due to the context of the consented wind farm, the relatively small proposed increase in the turbine size and the distance between potentially affected parties and the wind farm.

- 6.8 The findings of the Mansergh Graham report are relied on for the purposes of this assessment. On the basis of the Mansergh Graham assessment, the visual and landscape related effects will be less than minor.

#### Shadow Flicker Effects

- 6.9 The Mansergh Graham review assessment also considers the effects of the proposed increase in turbine height in relation to the potential for shadow flicker to cause a nuisance.
- 6.10 Written approval to the application has been provided from the owners and occupiers of the dwellings nearest to turbines 1 to 11 (refer to section 8 of this report). Therefore effects on those dwellings must be disregarded in terms of this application. The nearest dwelling where written approvals have not been provided is approximately 3.2km from the nearest wind turbine.
- 6.11 The Mansergh Graham review report (Appendix A) confirms that any shadow flicker effects beyond a theoretical 1.2km flicker effect limit are expected to be less than minor and will only occur for a relatively short period of time during the day when the top 11m of the turbine (the extension) is between the viewer and the sun. The associated effects in terms of the proposed increase in turbine height are therefore considered to be less than minor.

#### Ornithological Effects

- 6.12 The Applicant has also provided a specialist assessment with the application from Kessels and Associates Ltd in terms of potential ornithological effects relating to the change. That assessment concludes that the proposed increase in turbine height will have “*no discernible increase on mortality risk associated with strike for birds and bats, nor will it increase habitat displacement*”. On the basis of this assessment, the ornithological effects of the change in turbine height will be negligible and less than minor.
- 6.13 The resource consent conditions include requirements for monitoring and reporting of ornithological effects as well as specific design requirements (conditions 37 to 44). Those conditions will remain and will not be amended.

#### Aviation Effects

- 6.14 The Applicant has provided a letter from the Civil Aviation Authority (CAA) which confirms their requirements in relation to the wind farm. The letter advises that the change in the height of the turbines will not impact on the CAA’s original determination. However, the letter also advises that the CAA policy has been updated since the time that the initial determination was made by the CAA.
- 6.15 The resource consent already includes conditions (33 to 35) which relate to requirements for obstacle lights. It is suggested that condition 33 should also be amended to include reference to the CAA letter included with the application (dated 23 August 2011). A recommendation to that effect is included in section 11 of this report.

### Noise Effects

- 6.16 The application identifies that the change in the height of turbines 1 to 11 will not have any additional noise effects relative to the consented turbine height.
- 6.17 Conditions 7 to 17 deal with noise from the wind farm. Those conditions will continue to apply. Amongst other things, the conditions require that compliance must be achieved with the standard *NZS6808:1998 Acoustics – The Assessment and Measurement of Sound from Wind Turbine Generators*. The onus of demonstrating compliance with that standard will be on the Consent Holder. In that regard, condition 9 requires that the Applicant must engage a person suitably qualified and experienced in acoustics to undertake background noise monitoring and condition 10 requires a person with the same qualifications and experience to prepare a noise report to demonstrate that the proposed turbines will achieve compliance with NZS6808:1998.
- 6.18 Condition 11 specifies that the wind turbines must not exceed a height of 110 metres or a sound power level of 107.2 dBA unless it can be demonstrated by a person specialising in acoustics and accepted by Waitomo District Council that higher turbine heights or sound power will still comply with NZS6808:1998. The Applicant has sought to change this condition. However, no expert assessment has been provided to support the increased turbine height.
- 6.19 It is considered that the condition as worded provides an opportunity for Council to approve higher wind turbine heights than 110 metres if it can be satisfactorily demonstrated that they will achieve compliance with NZS6808:1998. While the Applicant has applied to amend condition 11 so that it refers to 121.5 metres instead of 110 metres, that amendment is not considered to be necessary. Furthermore it would be inappropriate to make that change in the absence of expert assessment.
- 6.20 Accordingly a new advice note is recommended to clarify that an increase in the height of turbines 1 to 11 will be acceptable subject to the necessary acoustic reporting that is required by the current wording of condition 11. An advice note to that effect is included in the recommendation in section 9 of this report.
- 6.21 The existing noise conditions will control noise effects so that noise from the wind turbines must meet the appropriate noise standards. As those standards are not proposed to be changed, the effects of the increase in the height of turbines 1 to 11 will still need to be managed so that the effects will be no different to those anticipated and approved under the existing resource consent conditions.

### Traffic/Roading Effects

- 6.22 The application identifies that the proposal to construct taller turbines is based on an increase in the tower height. The tower height is not the critical component for transportation as the tower sections are shorter than the blades. The tower components also have a lesser weight than the nacelles. Therefore it is the blades and the nacelles that control the road upgrade and maintenance requirements.
- 6.23 Conditions 18 to 28 deal with traffic and roading effects. The conditions include a requirement for a traffic management plan during the transportation of the wind turbine components, as well as requirements for monitoring, upgrading and maintenance of public roads used to transport the wind farm infrastructure to the site. The Applicant does not seek

to amend any of those conditions and they will therefore continue to adequately control traffic and roading related effects.

- 6.24 The effects of the change in the height of turbines 1 to 11 will therefore be negligible in relation to traffic and roading related effects.

#### Other Effects

- 6.25 The application identifies that there will be no changes in respect to effects relating to matters including geotechnical stability, vibration, radio and television communications, hydrology, archaeological/heritage and cultural related impacts.

- 6.26 Furthermore, there are existing resource consent conditions which will continue to apply in respect of some of these matters. Those conditions are commented on as follows:

- Geotechnical stability will continue to be subject to requirements for further investigations and detailed design (condition 36). Conditions imposed on the resource consents issued by Waikato Regional Council also address land stability issues.
- Condition 47 deals with effects relating to radio and television communications. The condition requires the consent holder to rectify any issues in terms of disruption to those services if problems arise following the wind farm construction. That condition will remain in place and will continue to apply.

- 6.27 Vibration related effects were considered during the processing of the original resource consent application for the wind farm. Mr Nevil Hegley of Hegley Acoustic Consultants was engaged to review the noise and vibration aspects of the application. Mr Hegley confirmed at that time that the turbines will not generate adverse effects with regards to vibration. Therefore it follows that the increase in wind turbine height will not result in any vibration related effects.

- 6.28 Effects relating to hydrology predominantly relate to land disturbance works necessary to construct the wind farm. The resource consent issued by Waikato Regional Council deals with these matters. The proposal to increase the height of turbines 1 to 11 is not expected to create any new effects in respect of hydrology.

- 6.29 Effects relating to archaeology, heritage and cultural matters will not change. The existing environment includes 22 consented (but not yet built) wind turbines. It is not proposed to change the location of any of the wind turbines and the increase in height therefore will not result in any new effects in respect of these matters.

#### **6.30 Section 104(1)(b) – Assessment of relevant provisions of the Operative Waitomo District Plan**

- 6.31 The objectives and policies of most relevance to this application are those relating to the Rural Zone, as set out in Section 11 of the Operative Waitomo District Plan. The relevant objectives and policies have been extracted and are included below.

#### ***Objectives***

- 11.3.1 *To promote the Rural Zone as a productive working environment where the use and development of its natural resources, consistent with meeting environmental safeguards, is encouraged.*



- 11.3.3 *To ensure that significant archaeological, historical and cultural features are protected from adverse effects arising from the removal of vegetation, or other development of land. See also Section 21, Heritage Resources.*
- 11.3.4 *To protect areas of significant indigenous vegetation and significant habitat of indigenous fauna.*
- 11.3.5 *To ensure that rural development and land use does not give rise to increased erosion and thus degradation of water quality.*
- 11.3.8 *To promote use of rural land in a manner which encourages maintenance and enhancement of amenity values of the rural environment, protects outstanding natural features and landscapes from inappropriate use and development, and preserves the natural character of the coastal environment, wetlands, lakes and rivers, and their margins.*
- 11.3.9 *To encourage maintenance and enhancement of rural visual character.*
- 11.3.12 *To ensure the adverse effects of rural buildings situated close to boundaries, and large non-farm buildings, are avoided, remedied or mitigated.*

**Policies**

- 11.4.1 *To ensure the Rural Zone functions as a productive working environment where the use and development of its natural resources, consistent with meeting environmental safeguards, is encouraged.*
- 11.4.4 *To avoid, remedy or mitigate any effects of the use or development of rural land that gives rise to erosion which adversely affects water quality.*
- 11.4.10 *To avoid, remedy or mitigate the adverse effects of removal of areas of significant indigenous vegetation and significant habitat of indigenous fauna.*
- 11.4.12 *To ensure that all rural activities, including extractive industries, are established and operated so as to avoid, remedy or mitigate adverse effects on amenity or on neighbours, or on significant karst features.*
- 11.4.13 *To encourage mitigation of the adverse effects of all rural activities, including afforestation and forestry clearance, on adjacent sites. Particularly that mitigation should occur in areas that are visually sensitive, including areas with significant tourist resources, areas of high landscape quality and in the coastal environment.*
- 11.4.17 *To avoid, remedy or mitigate the adverse effects of rural buildings situated close to boundaries, and large non-farm buildings, on sunlighting, privacy, landscaping and amenity.*

6.32 The wind farm was assessed in terms of these same objectives and policies during the processing of the initial resource consent application. They are generally of little relevance in terms of the effects of the change and the amended wind farm incorporating higher turbines 1 to 11 will not be contrary to them.

## **7.0 RESOURCE MANAGEMENT ACT 1991 – PART II**

7.1 Applications considered under Section 104 are also subject to Part II of the Act (Purpose and Principles). Part II outlines and promotes the concept of sustainable management, lists matters of national importance as well as other matters related to achieving the purpose of the RMA, and requires the principles of the Treaty of Waitangi to be taken into account.

7.2 In particular, the following sections of Part II are applicable to this application:

### **5. Purpose**

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while –*
  - (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

### **7. Other Matters**

*“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –*

- (b) *The efficient use and development of natural and physical resources:*
- (c) *The maintenance and enhancement of amenity values:*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (i) *The effects of climate change:*
- (j) *The benefits to be derived from the use and development of renewable energy”.*

### **8. Treaty of Waitangi**

*“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi.”*

7.3 In respect to Section 5(a), the wind farm proposal is an important means of harnessing a natural resource to provide for the energy needs of New Zealand. Wind energy is a renewable resource and therefore the proposal will provide for the ability of future generations to meet their needs. One of the needs of future generations will be electricity and energy, and the use of wind to meet that need is sustainable. The proposal is therefore consistent with Section 5(a).

- 7.4 Section 5(b) requires that the life supporting capacity of air, water, soil and ecosystems be safeguarded. The proposal will have minimal effect on the life supporting capacity of the air and soil, and is not expected to have any significant effect on the water resource. Conditions require that issues relating to land stability are addressed as part of detailed design. The proposal is not expected to have any effect on the life supporting capacity of ecosystems. The proposal is therefore consistent with section 5(b).
- 7.5 Section 5(c) requires any adverse environmental effects to be avoided, remedied or mitigated. The environmental effects associated with the wind farm will continue to be mitigated by the existing (and amended) conditions of consent. The proposal is therefore consistent with section 5(c) of the Act.
- 7.6 Section 7(b) requires regard to be had to the efficient use and development of natural and physical resources. The Applicant has identified that the proposed increase in the height of turbines 1 to 11 will enable the wind farm to more efficiently harness the wind resource at the site. The proposal is therefore considered to represent an efficient use and development of the land and wind resource. The use of wind (a renewable resource) to generate electricity is considered an efficient use and development of natural resources.
- 7.7 Section 7(c) relates to amenity values. The predominant amenity related effect will be in terms of visual amenity. Those matters have been given consideration in the Opus landscape and visual effect assessment provided by the Applicant and in the review undertaken by Mansergh Graham. The Mansergh Graham review (see Appendix A) concludes that the *“effects of the turbine height increase on landscape and visual amenity values will be less than minor”*. Accordingly in my opinion the amenity value of the area will be generally maintained by the proposal and the application is therefore consistent with Section 7(c) of the Act.
- 7.8 With regard to Section 7(f), the maintenance and enhancement of the quality of the environment has been considered. The section 2 definition of ‘Environment’ includes ‘ecosystems and their constituent parts, including people and communities’, ‘all natural and physical resources’, ‘amenity values’ and ‘social, economic, aesthetic and cultural conditions’. As previously stated, the proposal will generally maintain amenity values. Conditions of consent will continue to address effects on ecosystems and on people and the local community. The proposal is therefore consistent with section 7(f).
- 7.9 Subsections 7(i) and 7(j) are particularly relevant to this proposal. These two subsections were added by the *Resource Management (Energy and Climate Change) Amendment Act 2004* and reflect the Government’s commitment to its obligations under the Kyoto Protocol to reduce greenhouse gases and promote the generation of energy from renewable sources. The proposal will support the feasibility of the construction of the consented wind farm, which in turn will yield national benefits in terms of the use of a renewable energy source (as opposed to the burning of fossil fuels), contribution to security of energy supply, providing energy to meet the needs of communities and potential economic growth that could derive from the energy generated. The proposal is therefore consistent with sections 7(i) and (j).
- 7.10 Section 8 of the Resource Management Act requires that in considering the application the Council take into account the principles of the Treaty of Waitangi. Local groups representing tangata whenua interests were involved during the processing of the original application. The change will not significantly alter the environmental effects relative to the original application, nor will it result in any increase in terms of cultural effects or impacts

on any sites of significance. The wind turbine locations will not change, only the maximum consented height of turbines 1 to 11. The proposed change and the process that has been followed in relation to the wind farm proposal is considered to be consistent with section 8 of the Act.

## 8.0 NOTIFICATION

8.1 The provisions of the Resource Management Act 1991 (“RMA”) relevant to an assessment of notification are sections 95A to 95F, with the consideration of effects limited to effects resulting from the changes proposed only.

8.2 Section 95A states as follows:

*“ Section 95A Public notification of consent application at consent authority's discretion*

- (1) A consent authority may, in its discretion, decide whether to publicly notify an application for a resource consent for an activity.*
- (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;*
  - or*
  - (b) the applicant requests public notification of the application; or*
  - (c) a rule or national environmental standard requires public notification of the application.*
- (3) Despite subsections (1) and (2)(a), a consent authority must not publicly notify the application if—*
  - (a) a rule or national environmental standard precludes public notification of the application; and*
  - (b) subsection (2)(b) does not apply.*
- (4) Despite subsection (3), a consent authority may publicly notify an application if it decides that special circumstances exist in relation to the application.”*

8.3 Section 95D of the RMA sets out the way in which a consent authority must decide whether the effects are likely to be more than minor for the purpose of reaching a determination under Section 95A. In this case there are no relevant trade competition effects.

8.4 However, a number of parties have provided written approval to the application. Effects on those persons must be disregarded when undertaking the assessment in terms of notification and in terms of assessing the resource consent application under section 104 of the Act. The parties who have provided written approval are listed in Table 1 which follows. The location of the properties where written approvals have been provided is shown on the diagram in Appendix C.

**Table 1: Written Approval List**

<b>Name</b>	<b>Owner/Occupier</b>	<b>Description</b>
Andrew Todd and Doreen Rangitata Putaranui	Occupier	Occupier of H1
Tony Gallagher	Occupier	Occupier of H2
David Green	Occupier	Occupier of H23
Kris Harper	Occupier	Occupier of H3
John Gallagher and Glenice Gallagher (G and J Gallagher Farm Ltd)	Owner	See Appendix C for land ownership. Owner of H1, H2, H23.
Larry and Lynette Harper	Owner & Occupier	See Appendix C for land ownership. Owner of H3. Owner and occupier of H4.

- 8.5 The original land use consent application was processed on a notified basis. A total of fifteen submissions were received to the application.
- 8.6 A table which lists the submissions received and the issues raised in each submission is included in Appendix B. The table demonstrates that although some submissions related to visual and/or landscape effects, the minor nature of the increase in turbine height and the distance to the nearest dwellings will ensure that the change in effects will be less than minor. That assessment is supported by the reporting undertaken by Opus and by Mansergh Graham.
- 8.7 Other effects associated with the change have been assessed in section 6 of this report. That assessment concludes that the effects of the change will be less than minor in respect of those matters. The assessment also concludes that the existing resource consent conditions will continue to avoid, remedy and mitigate the effects of the wind farm.
- 8.8 Having had regard to the notification provisions of the RMA, the notification report prepared in relation to the application determined that the application did not require notification for the following reasons:
- a) The landscape and visual effects assessment prepared by Opus Consultants and provided with the application concludes that landscape and visual related effects will be 'less than minor'. This finding is supported by the findings of the peer review report undertaken by Mansergh Graham. Therefore landscape and visual effects will be less than minor.
  - b) There are no other adverse effects related to the proposed change that will be minor or more than minor.
  - c) The submissions that were received to the original resource consent application have been considered. None of the submitters are considered to be affected parties in relation to the change.
  - d) There are no special circumstances that justify public notification.

## **9.0 CHANGES TO CONSENT CONDITIONS**

- 9.1 In assessing the conditions of consent, the following changes are recommended (additions shown underlined and deletions shown in ~~strikethrough~~):

- a) Amend condition 1 so that it reads as follows:

"The wind farm development shall be constructed, operated and maintained in general accordance with the information, plans and drawings submitted with the application and received by Council on 23<sup>rd</sup> December 2005; and the additional information received on 30<sup>th</sup> January 2005 and 8<sup>th</sup> March 2005 except as otherwise amended by the s127 application dated 21<sup>st</sup> November 2011 and the further information response dated 28<sup>th</sup> February 2012. The application documentation comprises of:

- (a) Taumatotara Windfarm Assessment of Environmental Effects, Volume 1 – Main Report, dated March 2005;
- (b) Taumatotara Windfarm Assessment of Environmental Effects, Volume 2 – Book of Figures, dated March 2005.
- (c) Further information received 30<sup>th</sup> January 2005 and 8<sup>th</sup> March 2005.
- (d) Further Information provided in respect of the revised proposal approved as part of the change to the conditions of consent in accordance with Section 127 of the Resource Management Act 1991, namely :
  - i. Report dated 21<sup>st</sup> November 2011; titled 'Taumatotara Windfarm Assessment of Environmental Effects for a Turbine Tip Height Increase', prepared by Ventus Energy (NZ) Ltd;
  - ii. Further information response dated 28<sup>th</sup> February 2012; titled 'Taumatotara Windfarm Further Information for a Turbine Tip Height Increase', prepared by Ventus Energy (NZ) Ltd;
  - iii. Report dated 24<sup>th</sup> February 2012; titled 'Taumatotara Wind Farm Landscape and Visual Assessment for S92(1) Further Information Request', prepared by Opus International Consultants Ltd."

- b) Amend condition 3 so that it reads as follows:

"The turbines shall have a maximum height of ~~110 metres~~ measured from the ground to the top of the vertically extended blade tip as follows:

- (a) Turbines 1 to 11 inclusive – maximum height of 121.5 metres
- (b) Turbines 12 to 22 inclusive – maximum height of 110 metres".

- c) Amend condition 33 so that it reads as follows:

"The consent holder shall comply with the Civil Aviation Authority (CAA) Determinations issued to Ventus Energy Limited dated 7 February 2006 and 23 August 2011."

- d) Insert a new advice note 7:

"For the purposes of condition 11, a height greater than 110 metres will be approved for turbines 1 to 11 inclusive subject to the necessary confirmation being provided in respect of compliance with NZS6808:1998. Condition 3 also requires that the maximum height of turbines 1 to 11 inclusive must not exceed 121.5 metres and that the maximum height of turbines 12 to 22 inclusive must not exceed 110 metres."

- 9.2 The changes that are recommended above are consistent with the changes that were requested by the Applicant with one exception. The Applicant sought for condition 11 to be amended to refer to a maximum turbine height of 121.5 metres. Condition 11 states:

*“The wind turbines shall not exceed a rotor tip height of 110 metres above ground level and a sound power of 107.2dBA unless it can be demonstrated by a person specialising in acoustics and accepted by the Manager, Policy and Planning, Waitomo District Council that higher turbine heights or sound power will still comply with the requirements of NZS6808:1998.”*

- 9.3 It is considered that the condition as worded provides an opportunity for Council to approve higher wind turbine heights than 110 metres in respect of turbines 1 to 11 inclusive if it can be satisfactorily demonstrated that they will achieve compliance with NZS6808:1998. An amendment to condition 11 is therefore not considered to be necessary. Furthermore it would be inappropriate to make that change in the absence of an expert acoustic assessment.
- 9.4 The recommended advice note 7 will clarify that an increase in the height of turbines 1 to 11 will be acceptable subject to the necessary acoustic reporting that is required by the current wording of condition 11.

## **10.0 CONCLUSION**

- 10.1 This assessment has demonstrated that the proposed changes to conditions of resource consent RM050019 will have less than minor effects on the environment. Furthermore, the amended proposal will be consistent with the objectives and policies of the Operative Waitomo District Plan.
- 10.2 The proposal is considered to be consistent with section 127 and Part II of the Resource Management Act 1991. It is therefore recommended that the resource consent conditions be amended to incorporate the changes set out in sections 9 and 11 of this report. The full set of resource consent conditions incorporating the amendments resulting from this application is included in Appendix D.

## 11.0 RECOMMENDATION

That pursuant to Section 127 of the Resource Management Act 1991, the Waitomo District Council hereby grants consent to Ventus Energy (NZ) Ltd to change the conditions of Waitomo District Council land use consent reference RM050019. The land use consent shall be amended as follows:

a) Amend condition 1 so that it reads as follows:

*“The wind farm development shall be constructed, operated and maintained in general accordance with the information, plans and drawings submitted with the application and received by Council on 23<sup>rd</sup> December 2005; and the additional information received on 30<sup>th</sup> January 2005 and 8<sup>th</sup> March 2005 except as otherwise amended by the s127 application dated 21<sup>st</sup> November 2011 and the further information response dated 28<sup>th</sup> February 2012. The application documentation comprises of:*

- (a) Taumatotara Windfarm Assessment of Environmental Effects, Volume 1 – Main Report, dated March 2005;*
- (b) Taumatotara Windfarm Assessment of Environmental Effects, Volume 2 – Book of Figures, dated March 2005.*
- (c) Further information received 30<sup>th</sup> January 2005 and 8<sup>th</sup> March 2005.*
- (d) Further Information provided in respect of the revised proposal approved as part of the change to the conditions of consent in accordance with Section 127 of the Resource Management Act 1991, namely:*
  - i. Report dated 21<sup>st</sup> November 2011; titled ‘Taumatotara Windfarm Assessment of Environmental Effects for a Turbine Tip Height Increase’, prepared by Ventus Energy (NZ) Ltd;*
  - ii. Further information response dated 28<sup>th</sup> February 2012; titled ‘Taumatotara Windfarm Further Information for a Turbine Tip Height Increase’, prepared by Ventus Energy (NZ) Ltd;*
  - iii. Report dated 24<sup>th</sup> February 2012; titled ‘Taumatotara Wind Farm Landscape and Visual Assessment for S92(1) Further Information Request’, prepared by Opus International Consultants Ltd.”*

b) Amend condition 3 so that it reads as follows:

*“The turbines shall have a maximum height of ~~110 metres~~ measured from the ground to the top of the vertically extended blade tip as follows:*

- (a) Turbines 1 to 11 inclusive – maximum height of 121.5 metres*
- (b) Turbines 12 to 22 inclusive – maximum height of 110 metres”.*

e) Amend condition 33 so that it reads as follows:

*“The consent holder shall comply with the Civil Aviation Authority (CAA) Determinations issued to Ventus Energy Limited dated 7 February 2006 and 23 August 2011.”*

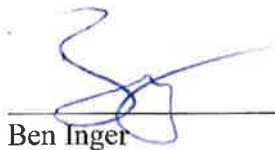


c) Insert a new advice note 7:

*“For the purposes of condition 11, a height greater than 110 metres will be approved for turbines 1 to 11 inclusive subject to the necessary confirmation being provided in respect of compliance with NZS6808:1998. Condition 3 also requires that the maximum height of turbines 1 to 11 inclusive must not exceed 121.5 metres and that the maximum height of turbines 12 to 22 inclusive must not exceed 110 metres.”*

**Reasons for the Decision:**

1. The application is considered to satisfy Sections 127 and 104 of the Resource Management Act 1991. The proposal is also consistent with Part II of the Act.
2. The application is able to be processed under section 127 of the RMA as it seeks a variation to the consented activity, and the resulting effects will not be materially different. The overall nature of the activity will remain the same and the only change that will result relates to the maximum height of turbines 1 to 11.
3. The proposal is consistent with the objectives and policies of the Operative Waitomo District Plan.
4. A specialist assessment relating to the landscape and visual effects of the proposal has been submitted with the application. The findings of the report support Council’s own assessment that the effects on the environment relating to the change will be less than minor in terms of visual and landscape effects.
5. The peer review of the landscape and visual effects aspects of the application undertaken by Council concludes that the effects of the change will be less than minor.
6. The existing and amended conditions of consent will ensure that any adverse environmental effects that may arise from this proposal will continue to be adequately avoided, remedied or mitigated.



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Ben Inger  
Planner – Bloxam Burnett & Olliver Ltd

Approved/Declined

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John Moran – Planning and Policy Manager

Date: \_\_\_\_\_

