

Waitomo District Council

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an application by Taumatotara Wind Farm Limited to vary conditions of a land use consent for the Taumatotara Wind Farm (TWF) that was originally granted consent in 2008 from a site (Section 12 and Section 22 Block V Kawhia South Survey District; Section 1 Survey Office Plan 58558; and Section 2 Block V Kawhia South Survey District) located at Taumatotara West Road, Te Anga.

Minute 1 in relation to the application by Taumatotara Wind Farm Limited

Request for legal submissions regarding processing of the application under s88 or s127 of the RMA

Introduction

I have been advised by the Council that there has been an ongoing debate since the application was made in 2019 regarding whether it should be processed, and a decision made under either s88 or s127 of the RMA.

Sections 88 and 127 require different approaches, and ultimately whichever is applied will require assessment by the reporting officer and other planning experts. I understand that at least one other party to these proceedings has requested clarity on this matter. I have decided to make a procedural determination to be made to inform the preparation of the s42A Report and subsequent planning evidence.

Request for Submissions

To assist my decision making, I invite legal or planning submissions from any party to these proceedings regarding the following matters:

- What are the relevant legal tests for determining if a modification to a consented proposal should be considered under s127 or as a new application under s88 of the RMA?
- How do those legal tests apply to the current Taumatotara Wind Farm application? Specifically:
 - Is the comparison of any differences in adverse effects of the current application to be against the original 2006 consent or the consent as varied in 2011?
 - What aspects of the proposal are relevant to determining any differences in adverse effects?
 - What is the relevance of whether the consent for which variation is now sought, has been exercised or not?
- Any other relevant matters that would assist my determination on this matter.

Written submissions on this matter must be provided electronically to Hearing Administrator Kayla Hemara no later than **4pm on Friday 22 September 2023**.

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Contact

Kayla Hemara is the Hearings Administrator for this hearing. All hearing and administrative matters shall be directed to Kayla at Kayla.Hemara@waitomo.govt.nz or (07)8780800.



Stephen Daysh
INDEPENDENT HEARING COMMISSIONER

12 September 2023