

23 May 2024

Listed Projects Team
Ministry for the Environment
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By email

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MERCURY – PUKETOI WIND FARM PROJECT LISTING APPLICATION: RFI RESPONSE

Introduction

1. We act for Mercury New Zealand Ltd (“Mercury”) in relation its application for the proposed Puketoi Wind Farm (the “Proposal”) to be listed in Schedule 2A of the Fast-track Approvals Bill (the “Bill” and the “Listing Application”).
2. On 22 May 2024 Mercury received an email from the Ministry for the Environment’s (“MfE”) Listed Projects Team, with the following request for information (“RFI”):

Thank you for your application to have the Puketoi Wind Farm Project included in Schedule 2A of the Fast-track Approvals Bill.

Your application states that “Variations to existing, and applications for new, resource consents are sought to optimise and enable this development. Changes being proposed include the relocation of turbines and access tracks into more accessible locations, thereby reducing the overall volumes of earthworks required and the potential for habitat disturbance. The proposed changes will also significantly reduce the overall construction schedule.”

Clause 2(3)(a) of Schedule 4 of the Fast-track Approvals Bill states a person may apply under this Act for a change or cancellation of a condition of an existing resource consent, but only if the application accompanies a new listed or referred project and the change or cancellation of a condition in the existing consent is material to the implementation of the new project.

*Therefore, to determine if this project is able to be considered for inclusion in the Bill by the Advisory Group, could you please clarify any aspect of substantive change to the currently consented project, that would enable its consideration as a new project. Otherwise, if you would like to withdraw your application you can do so by emailing us to that effect. We would be grateful if you could provide your response by **5pm, Thursday 23 May 2024**.*

3. Below we set out Mercury’s response to the RFI.

Mercury's response

4. As outlined in Mercury's Listing Application, the Proposal site is subject to existing resource consents for a wind farm, from Tararua District Council, Palmerston North City Council, and Horizons Regional Council.
5. If the Proposal – which is regionally and nationally significant – is listed in the Bill, any resource consent application for the Proposal under the fast-track process:
 - (a) will include an application for new resource consents associated with the Project; and
 - (b) may also include an application for variations to existing resource consents (i.e. an application under s127 of the Resource Management Act 1991 ("RMA") to change or cancel conditions of an existing consent(s)).
6. Mercury is committed to advancing the Puketoi Wind Farm project and is currently progressing matters of detailed design. At this stage Mercury has not finalised its precise intended consenting approach with respect to what (if any) aspects of the Proposal will be advanced by way of variation to existing resource consents (as opposed to an application for new consents which, as outlined above, will be required). In any event, ultimately that will be a matter for determination during the substantive resource consent application process.
7. In our view it would be inappropriate for the Proposal not to be considered for listing in Schedule 2A of the Bill on the basis of clause 2(3) of Schedule 4 of the Bill. This clause is relevant at the time an application for resource consent is made for a listed or referred project. It does not represent an ineligibility criterion for the purposes of listing a project in Schedule 2 of the Bill,¹ and it would be inappropriate (and premature) to treat it as such.
8. Notwithstanding the above, to the extent any application for RMA approvals for the Puketoi Wind Farm Proposal under the proposed fast-track process does include an

¹ Criteria rendering projects ineligible for the proposed fast-track process are set out separately in clause 18 of the Bill ("Ineligible projects").

application for variations to existing resource consents, in our view such an application will satisfy clause 2(3)(a) of Schedule 4 of the Bill.² This is because it will:

- (a) accompany a *new* listed or referred project;³ and
- (b) the change or cancellation of conditions in the existing consents will be *material to the implementation of the new project*.

“New project”

9. For the purposes of clause 2(3)(a) of Schedule 4 of the Bill, the Proposal sought to be listed in Schedule 2A is a “new project”. In our view, this is clear given the context of the Proposal and the nature and scale of the differences between the Proposal and the consented wind farm project at the Proposal site.
10. The Proposal is materially and substantively different to the consented wind farm project at the Proposal site, including in the following key ways:
 - (a) New (different) turbine locations for the 53 wind turbine generators proposed. The Proposal is:
 - (i) generally to authorise additional flexibility in wind turbine generator locations, moving from the 50m micro-siting requirements provided for in the existing resource consents applying to the site to a 100m wide envelope that traverses the length of the ridgeline;
 - (ii) to locate (within a designated envelope) four wind turbine generators between 100-850m from the indicative locations provided for in the existing resource consents applying to the site.
 - (b) New (different) access road configurations, including additional flexibility by way of proposed “roading corridors” as opposed to fixed locations. The Proposal includes more than 40km of internal access roads. The earthworks volumes associated with the access roads for the Proposal are significantly reduced from those associated with the consented wind farm project at the site.

² Noting that the Bill is not yet law and is subject to change through the legislative process. Numerous parties, including Mercury, made submissions to the Environment Committee on the wording of clause 2(3) of Schedule 4 of the Bill.

³ On the basis the Proposal is listed in the Bill or is the subject of a successful referral application.

- (c) A new (different) substation location.
 - (d) New (different) transmission line route optionality.
 - (e) A new (different) operations and maintenance building location.
 - (f) A range of other new (different) construction methodologies.
 - (g) Given the new project associated with the Proposal, different non-RMA approvals under the following regimes will also likely (or may) be required:
 - (i) Wildlife Act 1953: relating to Wildlife Authorisations for ecological monitoring and management for bats and lizards;
 - (ii) Conservation Act 1987 and Reserves Act 1977: relating to property rights, including for airspace occupation by turbine blades and other works;
 - (iii) Heritage New Zealand Pouhere Taonga Act 2014: relating to archaeological authorities; and
 - (iv) Local Government Act 1974: relating to the stopping of, and/or other approvals for, an unformed road.
11. A detailed summary table outlining differences between the Proposal and the consented wind farm project at the site is included at **Annexure A**.
12. The Proposal will have a range of different environmental effects compared with the consented wind farm project at the site, as outlined in the Listing Application.⁴

“Material to the implementation of the new project”

13. As noted, to the extent a future fast-track application for the Proposal includes an application for changes or cancellation of conditions in existing resource consents, these will clearly be material to (i.e. central to) the implementation of the new proposed project, including to authorise the important features identified in paragraph 10 above.

⁴ For example, as outlined in the Listing Application, the turbine locations and access tracks associated with the Proposal will significantly reduce the volume of earthworks, and habitat disturbance, required compared to the consented wind farm on the site. The construction schedule for the Proposal is also expected to be significantly shorter than the construction schedule associated with the consented wind farm on the site.

Conclusion

14. We trust that the above is sufficient for present purposes. Mercury would be happy to provide additional information if that is needed.

Yours faithfully

ChanceryGreen



Jason Welsh
Partner

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ANNEXURE A

Summary of differences between the Puketoi Wind Farm Proposal and the consented wind farm project at the site

Wind Farm Aspect	Current Consent	The new Puketoi Proposal
Turbine Placement	Requires turbines placed as per drawings with a micro-siting allowance of only 50m.	Amend micro-siting allowance to a 100m envelope connected across the consented turbine alignment to allow for more flexibility in final design.
		Relocation of four turbines more than 100m and up to 850m from consented locations to reduce earthworks and habitat disturbance.
	No overhang into DoC land.	Numerous turbines occupy/overhang DoC land requiring an easement by way of a Concession.
	No turbines occupy Tararua District Council unformed road.	Numerous turbines occupy/overhang Tararua District Council unformed road.
Roading	Vehicle access on project site via local roads has restrictions that limit the access for over-dimension vehicles to a single entry/exit point to the turbine locations, giving rise to site traffic management issues with significant implications for construction timelines.	More sections of local roads to be enabled for over-dimension loads, and all other types of vehicles. This will result in significant improvements to Coonoor Road through to the access to the Turbine 01 location.
		Relocate one onsite haul road to a more suitable alignment and establish another new onsite access road.
	No flexibility in road locations, and design is as detailed in the plans submitted with consent application.	Provide additional flexibility for road layout to allow for changes during detailed design through the creation of 'roading corridors' up to 50m wide to provide for improved flexibility during detailed design.
	No provision for road widening needed for transportation of over-dimension roads that will encroach into DoC land through the Makuri Gorge.	Provide for widening into sections of DoC land through the Makuri Gorge to enable more efficient transport of turbine components. Will require an easement by way of a Concession and new resource consents.
Bridges	No provision for upgrade and/or replacement of public road bridges to accommodate over-dimension loads.	Provide for the upgrade and/or replacement of public road bridges.

Wind Farm Aspect	Current Consent	The new Puketoi Proposal
	Provision for temporary bridge crossing over the Makuri Stream.	Provide for permanent bridge crossing.
Substation	Located on current access road in the centre of proposed site.	Relocate substation to new location on the relocated access road.
Transmission Line	The transmission line connection from the proposed wind farm site to the Turitea Substation has only one alignment option.	Include an additional option to connect to Turitea Substation via a shorter more efficient route. Only concerns the final 1-2 kms of the 38km transmission line.
Balance of Plant	O&M building located West of the Makuri River.	Relocate to the east of the Makuri River and include an additional component laydown area between the river and Coonoor Road.
Minor variations	Construction activities limited Mon-Sat 7am – 7pm.	Provide for option to construct seven days a week and include option for 24hr activities for specific time sensitive construction activities such as turbine lifts and foundation concrete pours.
	Transport of overweight loads restricted to 7am-9pm on local roads. Additional restriction for these loads and over-dimension loads to 9am-3pm during school days on school bus routes.	Provide for transport outside of these hours to reduce effect on local road users.
	Seasonal limits of construction requiring site stabilisation by 30 April each year.	Remove restriction and allow for all season construction to reduce overall programme time.