

ANNEX C

EPA Internal Review Correspondence and Regulatory Reliance Record
(Evidentiary Annex to Statement of Matters of Public Interest)

C1. Purpose and Scope

C1.1

This Annex records EPA correspondence, environmental auditor verification statements, Freedom of Information outcomes, and related regulatory representations relevant to EPA's reliance posture concerning the Lal Lal Wind Farm.

C1.2

This Annex chronologically records:

- (a) environmental auditor verification statements and their evolution;
- (b) EPA statements concerning regulatory reliance and compliance posture;
- (c) representations concerning commencement of operation;
- (d) material relevant to background monitoring and turbine presence during monitoring;
- (e) regulatory interpretation statements concerning NZS 6808:2010 and the Environment Protection Regulations 2021;
- (f) Freedom of Information outcomes relevant to document custody and continuity; and
- (g) the sequence of regulatory engagement between EPA and the wind energy facility.

C1.3

This Annex records the disclosed regulatory and public record only. It does not determine compliance, legality, fault, or liability.

C1.4

References to Lal Lal Wind Farm in this Annex relate to the facility comprising the Elaine and Yendon sections, as operated and represented for regulatory purposes as a single wind energy facility.

PART A — Auditor Verification Record (Regulation 131D)

C2. Stage 1 — Elaine (June 2022)

C2.1

Environmental auditor verification statements dated 22 June 2022 and 28 June 2022 relating to the Elaine component expressly state that:

- the verification was undertaken pursuant to regulation 164(ca)(i);
- the verification assessed compliance with regulation 131D(2);
- regulation 131D(2) requires that the post-construction noise assessment:
 - be conducted in accordance with NZS 6808:2010; and
 - demonstrate compliance with noise limits set in accordance with NZS 6808:2010.

C2.2

These June 2022 verification statements expressly record verification against regulation 131D(2).

C3. Stage 1 — Elaine (Revised Report, November 2023)

C3.1

Auditor verification material dated 13 November 2023 relates to a revised post-construction noise assessment following correction of a transcription issue affecting receiver K15aa.

C3.2

The November 2023 verification states that verification was undertaken for assessment of compliance with Planning Permit Conditions 23 and 25.

C3.3

The November 2023 verification includes the statement:

“LLWF must also comply with the verification requirements of Regulation 131D under the EP Regulations.”

C3.4

The November 2023 verification does not expressly state that verification was undertaken pursuant to regulation 164(ca)(i) for the purposes of regulation 131D(2), nor does it repeat the earlier express 131D verification wording.

C4. Stage 1 — Yendon (December 2023)

C4.1

Auditor verification material dated 7 December 2023 relates to the Yendon component.

C4.2

The verification records that:

- between 85–90% of measurement data was excluded under the 0.1 dB “NCTP method”;
- an alternative 0.5 dB screening method was adopted;
- under the 0.1 dB method, compliance was assessed with relatively small margins at certain wind speeds;
- under the 0.5 dB method, marginal exceedances were identified at certain receivers;
- the exceedances were attributed to seasonal extraneous noise.

C4.3

The auditor records that the assessment did not demonstrate compliance for all receivers under Planning Permit Condition 23.

C4.4

The auditor records that there was insufficient data to determine compliance and recommends further measurements.

C5. Consolidated Record of Express Regulation 131D Verification

C5.1

Based on the disclosed verification material:

- (a) the June 2022 Elaine verification expressly records verification under regulation 131D(2);
- (b) the November 2023 Elaine revised verification does not repeat that express wording;
- (c) the December 2023 Yendon verification does not include an express 131D verification statement;
- (d) no consolidated auditor report expressly verifying regulation 131D(2) for the facility as a combined operation has been identified on the disclosed record.

C5.2

This Annex records the presence and absence of express verification statements without determining regulatory sufficiency.

PART A2 — Stage 2 Post-Construction Assessment (20 September 2024)

C6. Combined Stage 2 Report — Appendix H (Receiver K15aa)

C6.1

The Stage 2 Post-construction Noise Assessment dated 20 September 2024 relates to the combined Elaine and Yendon facility.

C6.2

Appendix H records that during 2019 monitoring periods:

- aspects of early commissioning had commenced;
- a 5 MW exemption had been received;
- up to 15 turbines were operated at certain times;
- modelling adjustments were applied to background data.

C6.3

Appendix H forms part of Stage 2 assessment material following earlier Stage 1 verification.

C7. Scope of Stage 2 Verification

C7.1

The Stage 2 verification dated 24 September 2024 records that verification was undertaken specifically for compliance with Planning Permit Conditions 23 and 25.

C7.2

The verification states that LLWF must also comply with Regulation 131D.

C7.3

The auditor records that verification was not undertaken against compliance with the Environment Protection Regulations.

C8. Amplitude Modulation (AM)

C8.1

The verification records that the UK IOA Amplitude Modulation Procedure differs from the fixed +5 dB penalty specified in the Noise Compliance Test Plan.

C8.2

The auditor records that further discussion with EPA and DTP is required before proceeding with additional regulatory assessment.

PART B — Noise Management Plan (NMP) Custody and Verification Chronology

C9. NMP Dated 18 October 2022

C9.1

The Noise Management Plan (Document 0467385) is dated 18 October 2022.

C9A.1

On 15 May 2023, EPA requested the Lal Lal Wind Farm Noise Management Plan in response to noise-related inquiries.

C9A.2

On 2 June 2023, the operator provided the Noise Management Plan to EPA together with associated compliance material.

C10–C16 (Condensed for Coherence)

C10.1

On 31 January 2024, EPA correspondence identified the NMP (0467385) as a document relied upon in assessing compliance. The correspondence did not describe the NMP as a draft.

C11.1

Under FOI-002-2024, EPA granted access in full to the NMP dated 18 October 2022. The released document does not state that it is a draft.

C12.1

EPA correspondence confirms that auditor verification of the Noise Management Plan was requested in November 2023 and that this request was confirmed in correspondence dated 24 June 2024.

C13.1

Under FOI-060-2024, EPA identified zero documents responsive to the request for an auditor verification of the NMP.

C14.1

On 22 May 2024, EPA correspondence stated that the NMP dated 18 October 2022 was still undergoing revisions and had not been reviewed by an EPA-appointed auditor.

C14A.1

On 31 January 2024, prior to the confirmation of completed auditor verification, EPA identified the Noise Management Plan (0467385) as a document used in assessing compliance.

C15.1

On 7 February 2025, EPA stated that it had seen a Noise Management Plan described as draft by LLWF.

C15.2

No separate draft version has been identified on the disclosed regulatory record.

C16.1

Under FOI-100-2025, EPA again identified the NMP dated 18 October 2022.

C16A.1

In correspondence dated 3 February 2025, LLWF advised EPA that the Noise Management Plan was in draft form and would be finalised once updates to the Noise Compliance Test Plan were complete.

C16A.2

LLWF further stated that environmental auditor review of the Noise Management Plan would commence only once the updated Noise Compliance Test Plan was finalised.

C16.2

No later or amended NMP has been identified on the disclosed record.

PART C — Commencement of Operation

C17.1

Appendix H records turbine operation during 2019 monitoring periods, including operation of up to 15 turbines during background monitoring.

C18.1

SLR reported interim monitoring between October and December 2020 during constrained operation under AEMO ramp-up conditions prior to full generation capacity.

C19.1

Public material states that post-construction monitoring commenced “now that Lal Lal Wind Farm is fully operational.”

C20.1

On 13 September 2024, EPA stated that commencement of operation occurs when the facility commences exporting electricity to the common electrical grid.

C21.1

On 20 February 2025, EPA stated it had been advised that commencement occurred on 6 April 2022 and that five-year monitoring would be calculated from that date.

C22.1

On 28 February 2025, EPA stated that the commencement date was advised in writing by LLWF.

C22A.1

In response to EPA Information Gathering Notice IGN-00008382 (14 April 2025), LLWF stated that the phrase “commences operation” is not defined in the Environment Protection Act 2017 or the Environment Protection Regulations 2021 and should be given its ordinary meaning.

C22A.2

LLWF further stated that commissioning was completed on 10 December 2020 and that the facility had commenced operating prior to 1 November 2021 for the purposes of regulatory applicability.

PART D — NZS 6808:2010 Clause Reliance and Regulatory Interpretation

C23.1

EPA stated that Regulation 131B enables an authorising document to modify NZS 6808:2010 procedures and that the endorsed Noise Compliance Test Plan forms part of the authorising document.

C24.1

EPA provided the NZS 6808:2010 definition of “Noise Sensitive Location” and the 20 metre notional boundary.

C25.1

In correspondence dated 21 August 2024, EPA stated that Regulation 131B, item 3, in Part 5.3 Division 5 of the Environment Protection Regulations 2021 enables an authorising document (including incorporated documents of that authorising document, such as a compliance test plan) to modify the procedures set out in NZS 6808:2010.

C25.2

EPA further stated that, where the Lal Lal Wind Farm Noise Compliance Test Plan is incorporated into the planning permit and modifies measurement location requirements, that

modification would be factored into assessments conducted under the Environment Protection Regulations 2021.

C25.3

In the same correspondence, EPA restated that a “notional boundary” in accordance with NZS 6808:2010 is a line 20 metres from any side of a dwelling or other building used for a noise sensitive activity, or the legal boundary where this is closer to such a building.

C25.4

This Annex records the EPA’s stated interpretive position concerning the interaction between Regulation 131B, incorporated compliance test plans, and NZS measurement procedures without determining its legal effect.

C26.1

EPA stated it was making internal enquiries regarding the notional boundary and subsequently stated it was seeking further internal advice regarding how the notional boundary relates to the General Environmental Duty and associated regulatory requirements.

C26A.1

The Noise Management Plan dated 18 October 2022 states that, at the time of writing, Revision 5 of the Noise Compliance Test Plan had been released in draft status and that the contents of the chapter would be superseded by any updated NCTP prepared to satisfy Planning Permit noise conditions.

C26A.2

On 8 July 2024, the Department of Transport and Planning advised that proposed changes to the Noise Compliance Test Plan were under consideration as part of a secondary consent amendment and that, once endorsed, the revised NCTP would be made publicly available in accordance with Planning Permit Condition 25(e).

C26A.3

The disclosed record indicates that, as at July 2024, revisions to the Noise Compliance Test Plan had not yet been endorsed.

C26A.4

In an amendment application dated 2 October 2025, it is proposed that Planning Permit Conditions 24 and 25 (requiring preparation and implementation of a Noise Compliance Test Plan) be deleted on the basis that post-construction noise compliance is regulated under the Environment Protection Regulations 2021.

C26A.5

This Annex records the sequence of NCTP draft status, proposed amendment, and proposed deletion without determining the regulatory effect of those changes.

PART E — EPA Compliance Position and Internal Review Record

C27.1

On 23 January 2025, EPA outlined obligations under sections 25(1) and 166 of the Environment Protection Act 2017 and regulations 131C, 131CA, 131D, 131E and 131F.

C28.1

EPA stated it had not received a final Noise Management Plan and had seen a version described as draft by LLWF.

C29.1

On 12 March 2025, EPA stated it was satisfied that the South West Region's actions were consistent with EPA's Compliance and Enforcement Policy and that monitoring would continue.

C30.1

On 21 January 2026, a formal Statement of Harm was issued by the Trustee and placed on the regulatory record.

No substantive response addressing the content of the Statement has been identified on the disclosed record.

C31.1

On 16 February 2026, EPA stated that it maintains the view that LLWF is complying with its obligations under the Act and Regulations and that no further regulatory action would be taken at that time.

The correspondence did not set out additional reasoning or evidentiary material supporting that position.

PART F — FOI-100-2025 (Unaddressed Categories and Shadow Flicker)

C32.1

EPA identified nine documents relevant to FOI-100-2025.

C33.1

The Notice of Decision does not identify documents responsive to certain requested categories and does not state whether such documents:

- do not exist;
- are not held; or
- are exempt from disclosure.

C33A. 2017 Shadow Flicker Assessment

C33A.1

Item 13 of FOI-100-2025 expressly sought the document described as the “Lal Lal Wind Farm Shadow Flicker Assessment dated 2017.”

C33A.2

The Notice of Decision dated 25 September 2025 does not identify a document corresponding to that item.

C33A.3

The Notice does not state whether such a document:

- does not exist;
- is not held by EPA; or
- is exempt from disclosure under the Freedom of Information Act 1982 (Vic).

C33A.4

This Annex records the absence of identification on the disclosed record and does not assert whether such a document exists or is required to exist.

C33B. Pollution Report — PRI-00106789 (Shadow Flicker)

C33B.1

A pollution report referencing shadow flicker was lodged with EPA on 15 July 2025 and allocated reference number PRI-00106789.

C33B.2

On 16 July 2025, EPA responded stating that it maintains the view that Lal Lal Wind Farm is currently complying with its obligations under the Act and Regulations and that no further regulatory action would be taken at that time.

C33B.3

The response did not identify any specific shadow flicker modelling document, assessment, or evidentiary material relied upon in reaching that view.

C33C. Current Freedom of Information Request — Shadow Flicker

C33C.1

A further Freedom of Information request relating to records associated with pollution report PRI-00106789 is currently on foot.

C33C.2

The outcome of that request is not recorded within this Annex.

PART G — Relationship to Other Annexes

C34.1

This Annex should be read together with:

- Annex A — K15aa: Baseline Integrity and Regulatory Reliance
- Annex B — SAC-01: Special Audible Characteristics
- Statement of Matters of Public Interest (19 February 2026)

C34.2

Each Annex is discrete, document-based, and records the disclosed regulatory material without drawing conclusions.