

## **ANNEX D — Cross-Agency Custody and Reliance Record**

(Council and DTP)

Evidentiary Annex to the Statement of Matters of Public Interest

### **D1. Purpose and Scope**

#### **D1.1 Purpose**

This Annex records document custody, record existence, and reliance positions of:

- the relevant municipal council (as Responsible Authority); and
- the Department of Transport and Planning (DTP) (as Planning Authority),

as evidenced through Freedom of Information (FOI) decisions and associated correspondence, in relation to noise assessment, baseline monitoring, and compliance material relied upon within the regulatory framework governing the Lal Lal Wind Farm.

#### **D1.2 Scope**

This Annex is confined to:

- identification of documents not held, not submitted, or not located;
- explanations provided by agencies regarding document non-existence or non-custody;
- reliance positions reflected in FOI decisions; and
- the relationship of those positions to the regulatory framework identified in the Statement.

#### **D1.3 What This Annex Does Not Do**

This Annex:

- does not assess compliance or non-compliance;
- does not assert breach, fault, or maladministration;
- does not characterise conduct as unlawful; and
- does not draw conclusions beyond the disclosed record.

It records custody, absence, and reliance facts only, as disclosed.

## **D2. Regulatory and Administrative Context**

### D2.1 Relevant Roles

This Annex records material relevant to:

- the Responsible Authority role exercised by Council in planning and administrative processes; and
- the Planning Authority role exercised by DTP in approving, incorporating, or administering planning permit conditions and incorporated documents (including Noise Compliance Test Plans).

### D2.2 Relationship to EPA Regulatory Framework

The matters recorded here:

- do not displace the EPA’s regulatory role;
- record how other agencies interacted with, relied upon, or did not hold foundational material forming part of the broader regulatory framework described in Sections 3 and 4 of the Statement.

## **D3. Council — FOI Findings on Baseline Noise Documentation (K15aa)**

### D3.1 FOI Request Scope

This section records a Council FOI request seeking access to a document described as:

“SLR 2018 Pre-construction Baseline Noise Monitoring Report @ location K15aa”.

### D3.2 Search Undertaken

The FOI decision records that Council undertook:

- searches of electronic and physical records;
- consultation with multiple senior planning and governance officers;
- review of document management and customer request systems; and
- consultation with the wind farm operator.

### D3.3 FOI Outcome — Document Non-Existence

The FOI decision states that:

- no such document exists in Council’s possession; and
- following extensive searches, Council was satisfied that no relevant document could be located

FOI Decision Letter - Owen Lewis

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#### D3.4 Operator Advice Relied Upon by Council

The FOI decision further records that Council was advised by the operator that:

- the reference to an “SLR 2018 Pre-construction Baseline Noise Monitoring Report @ K15aa” was a clerical error; and
- the intended reference was to noise limits derived from an SLR background report dated February 2021

FOI Decision Letter - Owen Lewis

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#### D3.5 Record Status

This section records that:

- no pre-construction baseline monitoring report for K15aa was held by Council; and
- Council’s understanding of the reference was informed by clarification provided by the operator following the FOI enquiry.

### **D4. Department of Transport and Planning — FOI Findings on Noise Assessment and Verification Material**

#### D4.1 FOI Request Scope

This section records FOI requests made to DTP seeking access to:

- pre-construction predictive noise assessments;
- verification or peer review material;
- post-construction noise assessments;
- operational environmental or noise management plans; and
- records evidencing submission dates of baseline monitoring reports.

#### D4.2 FOI Outcome — Partial Custody

DTP FOI decisions record that:

- only a limited subset of requested documents were located; and
- multiple foundational documents were not located after thorough searches

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#### D4.3 FOI Outcome — Baseline Report Submission

In relation to the February 2021 SLR Compliance Baseline Noise Monitoring Report, DTP records that:

- no documents were located evidencing submission of that report to the Department, the Minister, or the Responsible Authority; and

- DTP was advised that baseline studies are typically background inputs and not generally provided to the Department

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#### D4.4 Record Status

This section records that, on the disclosed record:

- DTP does not hold the baseline monitoring report underpinning noise limits;
- DTP does not hold records of submission dates; and
- DTP does not hold verification or peer review material for several foundational noise assessments.

### **D5. Cross-Agency Custody and Reliance Observations (Record-Based)**

#### D5.1 Custody Pattern

Across EPA (Annex C), Council (D3), and DTP (D4), the disclosed record indicates that foundational baseline noise material is not consistently held across agencies, and that references to such material appear in regulatory and administrative contexts as reflected in the respective records.

#### D5.2 Custody and Administrative Reference

This Annex records that:

- Council correspondence referenced baseline material later clarified as a clerical reference; and
- DTP planning administration proceeded on the basis of documents located through FOI searches, as recorded in D4.

#### D5.3 Evidentiary Limits

No inference is drawn as to how reliance was formed.

This section records only the state of custody and disclosure on the record.

### **D6. Relationship to Other Annexes**

#### D6.1 Relationship to Annex A (K15aa)

This Annex complements Annex A by recording:

- how references to K15aa baseline material were propagated administratively; and
- the absence of pre-construction baseline documentation at Council and DTP level.

#### D6.2 Relationship to Annex B (SAC-01)

This Annex does not address SAC identification or methodology, but records planning and administrative custody relevant to compliance frameworks incorporating SAC requirements.

### D6.3 Relationship to Annex C (EPA Regulatory Reliance)

This Annex records parallel custody gaps at Council and DTP level, without attributing responsibility or hierarchy.

## **D7. Public-Interest Relevance**

### D7.1 Administrative Context

The matters recorded are relevant to the public interest insofar as statutory noise regulation operates within a multi-agency framework and document custody and traceability form part of that administrative structure.

### D7.2 Evidentiary Function

This Annex is provided to assist oversight bodies in understanding:

- the distribution (or absence) of foundational records across agencies; and
- how reliance may be sustained in the absence of consistent document custody.

## **D8. Status of This Annex**

This Annex is:

- evidentiary only;
- confined to FOI-disclosed material; and
- intended to be read alongside, but not merged into, the Statement of Matters of Public Interest.