



All correspondence to:

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as Trustee of the **Owen Robert Inter Vivos Trust**

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NOTICE

Documentary Reconciliation of EPA's Current Regulatory Position

Lal Lal Wind Farm – K15aa

This Notice forms part of the Trustee's continuing Administrative and Evidentiary Record concerning the Lal Lal Wind Farm.

To:

The Chief Executive Officer
Environment Protection Authority Victoria

Delivered via the existing EPA Legal correspondence: legal@epa.vic.gov.au

cc: Joss.Crawford@epa.vic.gov.au
enver.erdogan@parliament.vic.gov.au

1. Purpose

The Trustee has completed a reconciliation of the governing statutory framework, the governing planning framework, the incorporated technical standard, and the documentary material obtained through statutory disclosure concerning the Lal Lal Wind Farm.

This Notice records that reconciliation and respectfully requests that the Environment Protection Authority identify the documentary pathway by which EPA reconciles its present regulatory position with the governing framework identified below.

2. EPA's Current Regulatory Position

EPA has advised the Trustee that it:

"...maintains its position that the Lal Lal Wind Farm is currently complying with its obligations under the Environment Protection Act 2017 (the Act) and Environment Protection Regulations 2021 (the Regulations)."

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EPA has further advised:

"Regulation 131B of the Environment Protection Regulations 2021 is a defining regulation, not one that imposes a direct compliance obligation. That is, it sets the relevant noise standard when there is a planning control in place ("authorising document"). An authorising document may also set out conditions that modify or replace the 1998 Standard or the 2010 Standard as the relevant noise standard."

EPA has also advised:

"EPA considers commencement of operation to be when the facility commences exporting electricity to the common electrical grid."

EPA has further advised that compliance is generally demonstrated by consultants conducting monitoring and assessment, with that work independently verified by an auditor.

3. Governing Legislative Framework

The Trustee's reconciliation identifies the following governing statutory provisions.

Environment Protection Act 2017

Section 19 provides:

"Actions or decisions under this Act should be based on the best available evidence in the circumstances that is relevant and reliable."

Environment Protection Regulations 2021

Regulation 131B

Regulation 131B identifies the relevant noise standard by reference to the applicable authorising document.

For an authorising document issued on or after 1 January 2011, the relevant noise standard is:

NZS 6808:2010

unless modified or replaced by the authorising document.

Regulation 131BA

Regulation 131BA provides:

"Subject to subregulations (2) and (3), the noise limit for a wind energy facility must be determined in accordance with the relevant noise standard for that facility."

Regulation 131C

Regulation 131C provides:

"An operator of a wind energy facility must take all applicable actions set out in this Division to manage and review the wind turbine noise from the facility."

Regulation 131CA

Regulation 131CA provides that:

- the operator must ensure compliance with the applicable noise limit (or approved alternative monitoring point criterion); and
- assessments undertaken for that purpose must be conducted by a suitably qualified and experienced acoustician.

4. Governing Planning Framework

Planning Permit PL-SP/05/0461 incorporates NZS 6808:2010.

Condition 23 provides that:

"...the operation of the wind energy facility must comply with New Zealand Standard 6808:2010... at any noise sensitive location..."

Condition 23 further requires that wind farm sound levels be determined:

"...in accordance with the Standard..."

Condition 24 required preparation of a Noise Compliance Testing Plan by a suitably qualified acoustics expert.

Condition 25 required that the Noise Compliance Testing Plan be accompanied by an auditor's report concerning the methodology adopted.

Noise Compliance Testing Plan

The endorsed Noise Compliance Testing Plan records:

"Background noise dependent limits have been determined in accordance with the Planning Permit (Condition 23) and NZS 6808:2010..."

The NCTP further records in relation to K15aa:

"Prior to commencement of operation of the wind farm, an updated background noise report is to be submitted to the responsible authority, detailing the monitoring results for K15aa..."

The NCTP also confirms that:

"The measurements shall occur within 20 m of the dwelling."

and

"The measurements shall occur as close as practically possible to the location of the background noise monitoring..."

5. NZS 6808:2010

Section 2.1 provides:

"...the word 'shall' refers to requirements that are mandatory for compliance with this Standard, while the word 'should' refers to practices that are advised or recommended."

The Standard defines Background sound as:

"The A-frequency-weighted L90 centile level measured prior to the installation of any wind turbines in an area."

The Standard defines Noise sensitive location as the location of a noise sensitive activity associated with a habitable space, including locations within the notional boundary of qualifying buildings.

The Standard defines Notional boundary as:

"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."

Section 7.1.1 provides that sound level measurements are used to:

- define the noise limits;
- verify predicted wind farm sound levels; and
- confirm compliance with noise limits.

Section 7.1.3 provides:

"Every sound level measurement shall be made at clearly identified noise sensitive locations."

6. Documentary Record

The completed reconciliation incorporates the documentary record obtained through statutory disclosure.

That record includes:

- the Planning Permit;
- the endorsed Noise Compliance Testing Plan;
- EPA correspondence;
- Department of Transport and Planning correspondence;
- EPA Freedom of Information decisions;
- Department of Transport and Planning Freedom of Information decisions; and
- the documentary material subsequently released by those agencies.

The EPA Freedom of Information decision identified and released nine responsive documents, including the Planning Permit and the endorsed Noise Compliance Testing Plan.

The Department of Transport and Planning separately advised that it did not locate documents recording submission of the Lal Lal Wind Farm Compliance Baseline Monitoring Report 640.11872-R01 to the Department or Responsible Authority.

7. Documentary Reconciliation

Having completed that reconciliation, the completed reconciliation has not identified within the governing statutory framework, the Planning Permit, the endorsed Noise Compliance Testing Plan, or the documentary material released under the Freedom of Information Act 1982:

- an authorising document modifying the incorporated NZS 6808:2010 definition of Background sound;
- an authorising document modifying the incorporated NZS 6808:2010 definition of Notional boundary; or

- a document identified as satisfying the NCTP requirement that, prior to commencement of operation, an updated background noise report for K15aa be submitted to the responsible authority.

8. EPA Response Requested

Having regard to:

- section 19 of the Environment Protection Act 2017;
- Regulations 131B, 131BA, 131C and 131CA of the Environment Protection Regulations 2021;
- Planning Permit PL-SP/05/0461;
- the endorsed Noise Compliance Testing Plan;
- NZS 6808:2010; and
- EPA's stated regulatory position,

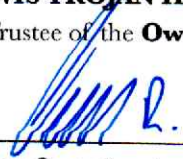
the Trustee respectfully requests that EPA identify the documentary pathway by which EPA reconciles its present regulatory conclusion that the Lal Lal Wind Farm is complying with the Environment Protection Act 2017 and the Environment Protection Regulations 2021, including, in particular:

1. the documentary basis upon which EPA reconciles Regulation 131B with the relevant authorising document;
2. the documentary basis upon which EPA concludes that the incorporated requirements of NZS 6808:2010 relating to Background sound, Noise sensitive location, Notional boundary, and the Standard's mandatory ("shall") measurement requirements have been satisfied or lawfully modified;
3. the documentary basis upon which EPA concludes that the requirement in the endorsed Noise Compliance Testing Plan for submission of an updated K15aa background noise report prior to commencement of operation has been satisfied; and
4. the documentary material upon which EPA relies in maintaining its present regulatory position that the Lal Lal Wind Farm is currently complying with the Environment Protection Act 2017 and the Environment Protection Regulations 2021.

Yours faithfully;

LEWIS TROJAN HORSE PTY LTD (ACN 693 680 509)

as Trustee of the **Owen Robert Inter Vivos Trust**

By: 

Name: Owen Lewis

Title: Director

Date: 16 / 07 / 2026

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