

**Before the Hearing Panel Appointed by Waikato District Council
to Hear Submissions on the Proposed Waikato District Plan**

In the matter of: **the Resource Management Act 1991**

And: **Submissions and Further Submissions
Lodged on the Proposed Waikato District
Plan by Meridian Energy Limited**

**Statement of Evidence of Christine Anne Foster
Called by Meridian Energy Limited**

9 October 2019

INTRODUCTION

- 1 My name is Christine Anne Foster. I am a Planning Consultant and sole director of CF Consulting Services Limited, based in Wellington. I hold a Bachelor of Regional Planning and have worked as a resource management planner in New Zealand for over 35 years.
- 2 This statement of evidence is within my area of expertise as a resource management planner, except where I state that I rely on the evidence of others. I have read the Code of Conduct for Expert Witnesses set out in the 2014 Environment Court Practice Note (and, in particular section 7 in relation to an expert's duty to the Court). Whilst this hearing is not a hearing before the Court, I am aware of the obligations imposed on expert witnesses by the Code and agree to comply with the Code of Conduct. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 3 My planning experience has included the compilation of resource consent applications, assessment of the environmental effects of a variety of projects, community consultation and the drafting and implementation of resource management plan provisions. That experience has been gained in a number of roles including as a staff planner for local authorities, policy analyst with the Ministry for the Environment and, since 1992, as a consultant planner working on contract for a variety of clients including private developers, territorial authorities, regional councils and central government departments. I have assisted local authorities with the preparation of district and regional plans under the Resource Management Act 1991 (*the RMA*) and with plan changes and variations. I am a qualified RMA decision-maker (with chairperson endorsement) under the 'Making Good Decisions' programme and have heard and determined a number of proposed Plan changes.
- 4 Based on previous work undertaken for Meridian Energy Limited (*'Meridian'*) and the Wind Energy Association, including appearing as a witness at Environment Court hearings, I have a broad understanding of the renewable energy generation sector generally, of the imperatives that drive the generation industry and of the realities that confront an energy generator in operating and developing wind farms under the RMA.

MY ROLE TO DATE

- 5 I assisted Meridian in the preparation of its original (first-round) submission and further submissions on the proposed Waikato District Plan (*'the Plan'*). I was asked by Meridian to consider the analysis and recommendations of the officers' reports for the Plan hearings that pertain to Meridian's first-round submission and further submissions. I am authorised by Meridian to present this statement of evidence to the Panel.

CONTEXT

- 6 Meridian operates the Te Uku Wind farm, comprising 28 wind turbines, on land near the western coast of the Waikato District. Meridian also operates the following wind farms elsewhere in New Zealand:
- Te Apiti (Ruahine Ranges, Manawatu Gorge): 55 turbines generating up to 90.75 MW of electricity (commissioned in 2004);
 - White Hill (Southland): 29 turbines generating up to 58 MW of electricity (commissioned in 2007);
 - West Wind (Makara coast, Wellington): 62 turbines generating up to 142.6 MW of electricity (commissioned in 2009);
 - Mill Creek (Ohariu Valley, Wellington): 26 turbines generating up to 59.8 MW of electricity (commissioned in 2014);
 - Brooklyn Turbine (a single Enercon E44 turbine with 0.9 MW generation capacity (first installed in 1993 and upgraded in 2016);

MERIDIAN'S SUBMISSIONS

- 7 Meridian's submission and further submissions on the Plan focus on the provisions that potentially affect the company's wind farm interests in the Waikato District and the extent to which the Plan gives effect to the NPS-REG and has regard to section 7 (j) of the RMA. Accordingly, most of Meridian's submission points relate to Chapters 6 (Infrastructure and Energy objectives and policies), 14 (Infrastructure and Energy Rules), 3 (Natural Environment objectives and policies), and 22 (Rural Zone Rules). According to the published 'Hearing Order', submissions on these chapters are scheduled to be considered at Hearings 21, 22 and 23 in 2020.

8 The section 42A report for Hearing 3: Strategic Objectives (30.11.19) does, however, contain recommendations about one of the objectives in Chapter 6 that is the subject of a further submission by Meridian: that is Objective 6.1.1 (a).

9 Meridian's first-round submission did not include a submission point on Objective 6.1.1 (a) (Meridian was content with the text and placement of Objective 6.1.1 (a)). Meridian's further submission (WDC reference 1258.60) supported Transpower's submission point S576.73. Transpower's submission point S576/73 requested that Objective 6.1.1 (a) be retained, but amended to provide for the upgrading of infrastructure as follows:

'Objective 6.1.1 - Development, operation and maintenance of infrastructure

(a) Infrastructure is developed, operated and maintained and upgraded to benefit the social, economic, cultural and environmental well-being of the district, region and nation.'

10 Meridian's further submission point 1258.60 supported the retention of Objective 6.1.1 (a) and the requested text amendment, stating:

'The proposed amendment, to recognise the benefits of upgrading infrastructure, is appropriate to support the efficient use and development of electricity generation and transmission assets.'

11 The above submission points are not acknowledged in the s 42A report.

THE ISSUE RELEVANT FOR HEARING 3

12 In paragraphs 29 to 32 of the Hearing 3 section 42A report, Mr Matheson recommends that some objectives be shifted from topic chapters to become 'strategic objectives' in a new Plan Section 1.13. The relevant excerpts are reproduced below, with the pertinent reasoning highlighted in bold:

4.1.2 Analysis

29. Section 7 of the National Planning Standards sets out under the "Mandatory Directions" for the "Strategic direction", that this section in a district plan is to outline the key strategic or significant resource management matters for the district. The section may contain issues (if any) and objectives and policies to assist with decision making at the strategic level. Strategic directions may be included in a district plan as non-statutory provisions, whereas objectives (whether at the strategic or zone level) are mandatory.

30. In order to provide a clearer relationship between the strategic directions and objectives, one option would be to create a new chapter to be included at the start of Section B and titled “Strategic Direction”, which would be in accordance with the National Planning Standards. However, the National Planning Standards also requires that an Urban form and development chapter must be included under the Strategic Direction heading, along with each strategic direction matter in its own chapter. It is understood that reformatting the PWDP to be in accordance with the National Planning Standards will be undertaken once the plan becomes operative. **Accordingly, as an interim measure it is recommended that the relationship between the strategic directions and objectives be clarified and the strategic objectives identified.** This is the first step to restructure the PWDP to be in accordance with the “District Plan Structure Standard” set out in Section 4 and.

4.1.3 Recommendations

31. For the reasons outlined above, it is recommended that Section 1.12 be retained, but clarified to identify that these are ‘directions’ only **and that the strategic objectives are contained in a new Section 1.13 titled “Strategic Objectives”.**

32. New Section 1.13 to include:

- a. an introduction to explain the relationship between the directions and objectives; and
- b. **transfer the strategic objectives from the relevant chapters in Part B to Section 1.13 and cross reference the strategic objectives within Part B.**

- 13 To give effect to that recommendation, Mr Matheson recommends (in his Appendices 2 and 6), the deletion of Objective 6.1.1 (a) and insertion of a new ‘Strategic Objective’ 1.13.4 as follows:

Chapter 6: Infrastructure and Energy

6.1 General Infrastructure

~~6.1.1 Strategic Objective (refer to 1.13.4) Objective—Development, operation and maintenance of infrastructure~~

~~(a) Infrastructure is developed, operated and maintained to benefit the social, economic, cultural and environmental wellbeing of the district.~~

[Proposed New] 1.13 Strategic objectives for the district

1.13.1 Introduction

(a) This section sets out the District Plan’s strategic objectives addressing the directions set out in sections 1.12.3 – 1.12.8. These high level objectives are elaborated on by more detailed objectives and policies within the Part B chapters relating to zones and specific topics.

....

1.13.4 Strategic Objective – Infrastructure and Renewable Energy

(a) Infrastructure and renewable energy is developed, operated and maintained to benefit the social, economic, cultural and environmental well-being of the district.

(Addresses matters set out in sections:

- 1.5.1 – Compact urban form;
- 1.5.2 - Planning for urban growth and development;
- 1.5.5 – Services and general infrastructure;
- 1.5.6 – Transport and logistics;
- 1.5.7.3 – Water; and
- 1.5.7.7 – Energy)

- 14 As will be plain, the recommended excision of Objective 6.1.1 (a) conflicts with the relief requested by Transpower and endorsed by Meridian (that Objective 6.1.1 (a) be retained).
- 15 The structure of Chapter 6, which Meridian endorses, provides logically for discrete sets of policies tied to specific 'parent' objectives. In my opinion, the excision of 'parent' Objective 6.1.1 (a) will leave four policies 'orphaned' within Chapter 6 without any logical derivative objective – as demonstrated below:

Chapter 6: Infrastructure and Energy

6.1 General Infrastructure

6.1.1 Strategic Objective (refer to 1.13.4) Objective—Development, operation and maintenance of infrastructure

~~(a) Infrastructure is developed, operated and maintained to benefit the social, economic, cultural and environmental wellbeing of the district.~~

6.1.2 Policy - Development, operation and maintenance

(a) Provide for the development, operation, maintenance, repair, replacement, upgrading and removal of infrastructure throughout the district by recognising:

- (i) Functional and operational needs;
- (ii) Location, route and design needs and constraints;
- (iii) Locational constraints related to the need to access suitable resources or site;
- (iv) The benefits of infrastructure to people and communities;
- (v) The need to quickly restore disrupted services; and
- (vi) Its role in servicing existing consented and planned development.

6.1.3 Policy - Technological advances

(a) Provide flexibility for infrastructure operators to use new technological advances that:

- (i) Improve access to, and enable the efficient use or development of infrastructure;
- (ii) Allow for the reuse of redundant infrastructure and structures where appropriate; and
- (iii) Result in positive environmental and community outcomes.

6.1.4 Policy – Infrastructure benefits

(a) Have regard to the benefits that infrastructure provides, including:

- (i) Enabling enhancement of the quality of life and residential standard for people and communities;
- (ii) Providing for public health and safety;
- (iii) Enabling the functioning of business and growth and development;
- (iv) Managing adverse effects on the environment;
- (v) Enabling the transportation of freight, goods and people;
- (vi) Enabling interaction and communication; and
- (vii) Providing for lifeline utility services.

6.1.5 Policy – Natural hazards and climate change

(a) Encourage the design and location of infrastructure to take account of natural hazards and the effects of climate change.

- 16 I understand the desire to 'get ahead' of the mandatory requirements of the National Planning Standards and take no issue with the insertion of additional 'strategic objectives', addressing strategic outcomes.
- 17 There is a subtle difference between the text in Objective 6.1.1 (a) and the proposed new 'strategic objective' for infrastructure. The proposed 'strategic objective' addresses 'infrastructure *and renewable energy*'. That is, it addresses the desired outcome for these natural and physical resources. It is appropriate for the strategic objective to focus on the outcome (for example, that renewable energy is able to be used and developed to create benefits).
- 18 By contrast, Objective 6.1.1 (a) addresses the development, operation and maintenance of *infrastructure* (the facilities and structures themselves) and it addresses *how* infrastructure is to be provided for. The Plan's definition of 'infrastructure' includes facilities for the generation of electricity (not the renewable energy resource itself). The policies that flow from Objective 6.1.1 (a), appropriately, focus on how infrastructure is to be provided for, on the range of benefits that should desirably be enabled by the development and use of infrastructure, on the matters that need to be considered in enabling development and use of infrastructure and on how potential effects are to be managed. Whereas the strategic objective (1.13.4) appears to address the outcome (the '*what*'), it is important that the next-level-down Chapter 6 objective (6.1.1 (a)) addresses the '*how*'.
- 19 Deletion of Objective 6.1.1 (a) is inconsistent with the structure and content of Chapter 6. Objective 6.1.1 (a) is necessary to the meaning, as well as to the structure, of Chapter 6 and should be retained (with its focus on infrastructure) within Chapter 6. Referencing 'strategic objective' 1.13.4 is no substitute for retaining Objective 6.1.1 (a) within the chapter.
- 20 I understand that Meridian does not oppose the addition of an additional 'strategic objective' 1.13.4 (although it is not entirely clear which submission point requested it). To the best of my knowledge, no submission point requested the deletion of Objective 6.1.1 (a) from Chapter 6. If one had, I expect that Meridian would have opposed it through a further submission.

SUGGESTED SOLUTION

- 21 If the Panel agrees that an additional 'Strategic Objective' is necessary in Chapter 1 to address renewable energy, my view is that it should be separate from, and additional to, the entire suite of Chapter 6 objectives. They serve different purposes. Mr Matheson's suggested wording for proposed new Objective 1.13.14 achieves the higher level strategic purpose. My view is that Objective 6.1.1 (a) should be retained, within Chapter 6, to make sense of, and provide the necessary 'parent' objective for, Policies 6.1.2 to 6.1.5 relating to how the use and development of infrastructure is to be managed.
- 22 I also endorse the text amendments requested by Transpower (to provide for upgrading and for wider regional and national benefits). Those amendments simply reflect the current reality: upgrading is necessary for the maintenance of benefits, and wider (regional and national benefits) are relevant for the purposes of section 7 (j) of the RMA.
- 23 Accordingly, I recommend that
- (a) Objective 6.1.1 (a) is not deleted from Chapter 6;
 - (b) Objective 6.1.1 (a) is retained (amended) within Chapter 6; and
 - (c) either as a result of decisions on Hearing 3 or Hearing 23 matters, Objective 6.1.1 (a) is amended as requested by Transpower's submission point to read:
- 'Objective 6.1.1 - Development, operation and maintenance of infrastructure*
- (a) *Infrastructure is developed, operated and maintained **and upgraded** to benefit the social, economic, cultural and environmental well-being of the district, **region and nation.***

Christine Foster

9 October 2019