

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of the hearing of Submissions to the
Proposed Horizons Regional Council's
Proposed One Plan:

Chapter 3: Infrastructure, Energy, and
Waste

Statement of Evidence of David John McEwing

Introduction

1. My full name is David John McEwing. I am Programme Manager, New Zealand Windfarms Limited. I hold a Masters in Business Administration, a Bachelor in Applied Science (Environment) and Royal Society of Health Diplomas (Public Health and Air Quality). My previous employment in local and regional government has been as Programme Manager-Environment, Strategy and Planning, Christchurch City Council; Portfolio Manager, Policy and Planning, Environment Canterbury and Environmental Protection Manager, North Shore City Council.

Background to Submission by NZWF

2. NZWF lodged a submission in support of the One Plan Objective 3-1 because, in NZWL's view, this Objective explicitly recognises the benefits of enabling the generation of renewable energy. However, it has become clear that the associated policies do not give effect to that Objective.
3. NZWF fully acknowledges that there is a balancing required between the enablement of wind power generation and potential adverse effects of such provision. However, NZWL did not appreciate the extent to which the policies as notified failed to provide the required degree of balance when it lodged its submission, which supported the

provisions of Chapter 3. It has not lodged submissions in opposition to the policies concerned, nor is it a further submitter.

4. However, it is considered appropriate that NZWL be heard on this matter for the following reasons:
 - i. There are submissions from other renewable energy generators seeking similar relief, and hence there should not be any prejudice to any parties;
 - ii. The consideration of the objectives and policies in a Proposed Plan is part of a wider public participation process leading to the identification of a resource management framework for the region in contrast to specific issues of detail affecting a particular development;
 - iii. The matters of concern to NZWL have also been addressed to a degree in the Officers report.
5. In these circumstances, NZWL seeks some tolerance from the Hearings Panel to enable it to address matters relevant to the objective which it supports, and the disjunct to its successive policies. Such matters are raised within submission points by other energy generators to the One Plan.

Purpose of this evidence

6. I am appearing on behalf of the submitter NZWL.
7. My brief of evidence will cover the following key aspects related to the link between the statutory environment for renewable wind energy generation facilities, and technical and engineering decisions relating to site selection.
 - a. One Plan Submission
 - b. Renewable Energy Directions – Higher order plans and statements
 - c. Purpose of Chapter 3;
 - d. Recommended Amendments
 - e. Comment on submissions
 - f. Comment on Officer’s Report;
 - g. Conclusions

8. As has been stated by Mr Chris Freear, I also understand that the NZWF submission is in support of the Chapter 3 provisions of the Proposed One Plan as notified, and that furthermore, NZWL is not a further submitter in any regard. However, I consider that there is sufficient scope through a number of submissions to the Proposed One Plan to further clarify the enablement of renewable energy generation and associated facilities, and where I have recommended any text changes I will note the submission(s) that provide such scope.
9. I have read in full the Council Officer's report from Mr David Armour and Mr Barry Gilliland on behalf of the Horizons Regional Council, and acknowledge the comprehensive report that they have compiled. I am also familiar with the Tararua Ranges, the site of NZWL's Te Rere Hau Windfarm.

One Plan Submission

10. As has been stated above, the One Plan submission from NZWL on Chapter 3 'Infrastructure Energy and Waste' is supportive, and as a consequence this submission cannot be utilized to provide for any subsequent amendments.
11. This section of the NZWL submission on the various provisions can be summarized as follows:

Provisions in POP in which NZ Windfarms Ltd. support		
Chapter	Provision type	Provision No. & Name
Infrastructure, Energy & Waste (IEW)	Scope & Background	Renewable energy, pg no 3-1
IEW	Issues	Issue 3-1 Infrastructure & energy, pg no 3-1
IEW	Objectives	Objective 3-1 Infrastructure & energy, pg no 3-2
IEW	Policies	Policy 3-1 Benefits of infrastructure, pg no 3-3
IEW	Policies	Policy 3-2 Adverse effects of other activities on infrastructure, pg no 3-3
IEW	Policies	Policy 3-3 Adverse effects of infrastructure on the environment, pg no 3-4
IEW	Policies	Policy 3-4 Renewable energy, pg no 3-4
IEW	Explanations and Principal Reasons	3.7.1 Infrastructure and energy, pg no 3-9
Glossary	Definition	Infrastructure, pg no 5

12. A significant component of this support turned on Objective 3-1 'Infrastructure and Energy' which states:

"Resource use activities associated with the provision, maintenance and upgrading of infrastructure, and / or with the use of renewable energy, will be recognized and enabled."*

13. However, upon closer examination of the respective Chapter 3 policies and methods, it is my view, that the Objective outcomes were not reflected adequately, specifically in relation to:

- The policies (as notified) did not recognize the nationally significant renewable energy resources, in particular wind, that the Region has;
- The extent to which national and international directives and statements reflect an increasing focus on renewable energies proportionally increasing their role in the overall portfolio of energy production in the Country;
- That there are a number of factors, or values, that constrain the development of renewable energy production to particular localities, placing a premium on such sites to be used and developed efficiently. Consequently, where appropriate such sites should be relatively balanced within the statutory planning process to recognize the benefits of such infrastructure, or at least some certainty provided to limit the debate to where there would be a direct conflict between a significant (or more than minor) adverse effect on a matter of some National Importance (Section 6 RMA1991 matters); and lastly
- The degree of overlap between Policy 3-3 'Adverse effects of infrastructure' and other Chapters of the One Plan, such as Chapter 7 which for example seeks to identify and protect, as far as possible, those outstanding landscapes identified in Schedule F.

14. The NZWL submission in relation to Chapter 3, subsequently commenced with full support for Objective 3-1. However, as stated above there are, upon closer examination, concerns as to how this then translates to the associated policies and methods. I have been advised that amendments to Section 32 of the RMA 1991 in 2004, now require any evaluation of a policy or method, having regard to its efficiency and effectiveness, as to whether it is the most appropriate for implementing an objective. I have also been advised, that where an objective or policy is challenged, there is a need to judge such provisions against superior documents, including any national standards or policy

statements. I respectfully request that these two key considerations be kept in mind by the Panel in its deliberations of these matters.

Renewable Energy Direction

15. Amendments to section 7 of the RMA and recent national strategy and policy in relation to renewable energy, including the New Zealand Energy Strategy – Power Our Future (2007) and the New Zealand Energy Outlook to 2030 (2006) set out a clear direction on renewable energy and related infrastructure. Clear themes and guiding principles on energy emerge including:
 - protecting the security of supply;
 - responding to climate change and tackling carbon emissions by promoting low emission energy production;
 - encouraging as much renewable production from renewable sources as possible; and
 - promoting investment in energy efficiency measures.
16. Section 8 of the NZES document addresses the long term security of electrical supply and observes that this requires:
 - Building enough generation capacity to meet peak demands;
 - Ensuring there is enough fuel (taking into account the uncertainty of hydro inflows and wind flows) to generate sufficient electricity at all times;
 - Building and maintaining a transmission system to convey power from generation plants to consumers; and
 - Making the most of cost-effective energy efficiency opportunities.
17. Table 8.1 of the NZES then lists the potential generation projects which could contribute to these aims (including the consented Te Rere Hau project), but notes that not all of these will be built or given consent. Section 8.4 then refers to the importance of distributed generation as being necessary to support security of supply and achieve the target of a 90% reduction in fossil based energy production by 2050.
18. Wind farming is uniquely placed to make a significant contribution to the government's renewable energy direction and to help achieve the purpose and principles of the RMA, specifically:

- i. Section 5: sustainable management by managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing health and safety,
 - ii. Section 7: having particular regard to -
 - (b) the efficient use and development of natural and physical resources,
 - (i) the effects of climate change,
 - (j) the benefits to be derived from the use and development of renewable energy.
19. It is acknowledged that such matters as above are required to be considered against the remainder of the statutory criteria of Part II, and accorded due weight as indicators of matters of environmental, social and cultural significance. However, any of the matters of Part II, including Section 6 matters are not, in my view, expressed as an outcome or objective in its own right, but underpin the primary purpose of the Act which is to promote the sustainable management of natural and physical resources.

Purpose of Chapter 3

20. There is typically a tension between balancing economic benefits against social and environmental outcomes, particularly in regard to the development of large scale energy generation infrastructure. The purpose of this Chapter of the Proposed One Plan, in my view, is to give effect to the Council's responsibilities under Section 30 of the Act, including Section 30(1)(gb) which states:
- "the strategic integration of infrastructure with land use through objectives, policies and methods"*
21. Chapter 3 should clearly articulate the benefits of infrastructure, and provide guidance to persons exercising functions and powers under the Act about how to weigh up the local and adverse effects of infrastructure against the regional, national and international benefits. However, the One Plan notified, in my view provides a disjunct between what appears to be a clear enabling directive, consistent with the NZES and the RMA1991 as outlined in Issue 3-1 and Objective 3-1, and what should be its supporting policies, specifically 3-3 'Adverse Effects', and to a lesser extent 3-4 'Renewable Energy'.
22. It is important to note the relative contrast between the typical scale of wind farming infrastructure and other energy generation infrastructure and the associated significant social, economic, and environmental benefits (as outlined in paragraph 29 of Mr Fears statement) and the reduced environmental impact post-construction.

Recommended Amendments to Policy 3-3 and 3-4

23. Given the constraints in site selection for wind farms, as set out in Mr Chris Freear's evidence, the overall sustainable benefits gained from wind farming and the contribution to government's renewable energy direction, I consider that it is important to ensure that appropriate regard is given to the effective resource allocation of available wind farm sites. In this regard, I make the following comments with regard to Policy 3-3 and Policy 3-4:

Policy 3-3

24. Policy 3-3, as notified, in my view had as its intention a way in which infrastructure, could as a whole be clarified, from other land use types, in terms of a greater recognition of their benefits when considering the adverse environmental effects of such activities. This was apparent from the splitting up of the Policy in terms of two subsections:
- (a) denotes which environments, features or zones, as explicitly identified would be treated to the same extent as other activities, unless 'functional constraints' limited site options, in which case effects would need to be mitigated; and
 - (b) identifies that in all other respects minor adverse effects of infrastructure would be tolerated recognising their benefits, including explicitly the benefits of renewable energy.
25. The issues that I see with the notified wording of the Policy are:
- i. There would appear to be little need for the first part of this Policy, as has been identified within the Planner's report (para 4.12.3) "*with the exception of sites of significance to Maori, the location of these sites (and policy requiring their recognition) are specified elsewhere in the proposed One Plan.*" Policy 3-3(a)(i) could be retained in that the reference to sites of significance to maori can be incorporated within the body of the Policy, as has been outlined in the suggested reworded policy below.
 - ii. The policy as currently drafted limits its application to "*making decisions on consent applications regarding infrastructure*". With respect, the limitation of such a policy to only the consenting framework (Part 6 of the Act) would appear to explicitly limit its application by not taking into account situations where a Territorial authority is preparing and changing its district plan subject to s74(2)(a), and in terms of

considering other planning mechanisms such as zone changes, designations and its own land use policies. Given the broad definition of infrastructure in the One Plan (Section 3.3), which includes such infrastructure as roading network, airports and ports, such a narrow focus for this policy to the consenting process appears incomplete and unduly restrictive. It would appear from my understanding of Objective 3-1, and also the Officers report (first paragraph Section 4.12.3) that the intent of the policy is to seek to either lower hurdles for infrastructure subject to balancing the need for environmental conditions, but not explicitly narrowed in terms of statutory delivery.

- iii. *“Functional constraints”* has not been defined within the document and provides little guidance as to the rationale or criteria for specific infrastructure types. There may be a host of reasons associated with site selection including, where there are: sound value based reasons for why such sites are appropriate subject to mitigation, where possible; whether it be in infrastructure efficiency terms; or in the absence of sites with similar levels of viability. The phrase *“no practical alternative”* as suggested as a possible alternative in the Officers report (para 4.12.3) is opposed for also being to overly narrow and undefined.
- iv. The reference to *“financial contributions”* is supported, although as with the remainder of the first part of this policy, references in other parts of the One Plan (in the case of such instruments in Chapter 18) it is considered that such considerations are already present within this document, and that the reference here simply represents unnecessary duplication.
- v. That other provisions of the Plan, for example Policy 7-7, Policy 18-1(a) seek the avoidance, remediation (minimisation) or mitigation of adverse effects, whereas the commencement of Policy 3-3(a) starts with the more restrictive “the following adverse effects of infrastructure shall be avoided (my underlining). Clearly, this would appear to run counter intuitive to the intent of this Policy which in my view can only have any benefit if it has been included to ensure that some weight is provided to the positive benefits of infrastructure against their adverse effects. I note that the Officers report appears to identify that such a change is necessary in the amended Policy 3-3, and the Officer’s recommendation in this instance is supported, should the first part of the Policy remain.

26. With regard to the above, Policy 3-3 in my view should be amended to read:

Policy 3-3 Adverse effects of infrastructure on the environment

“The provision of infrastructure in a way where the adverse effects are managed in a manner, that with the exception of effects on waahi tapu, waahi tupuna and other site of significance to Maori, tolerates minor adverse local effects, and takes into account:*

(i) the benefits of infrastructure, particularly the benefits of regionally or nationally important infrastructure*;*

(ii) the integration of the infrastructure with land use;

(iii) the benefits to be derived from the use and development of renewable energy;

A financial contribution may be sought in order to provide the option of offsetting or compensating for adverse effects, rather than requiring adverse effects to be avoided, remedied or mitigated, in accordance with the policies for financial contributions in Chapter 18 of the Plan.”

27. Submissions that could be utilised to provide such wording amendments include Transpower New Zealand Sub 265/7; Meridian Energy Limited Sub 363/33; and Land Link Sub 440/16.

Policy 3-4

28. The intention of Policy 3-4 as notified appears to be on the basis of providing recognition to infrastructure associated with developing and using renewable energy resources over non-renewable resources. As such, subject to the caveats below, I consider that the amendments to policy as recommended within the Officer’s section 42A report, gives effect to those matters of Section 7 introduced through the 2004 (Energy and Climate Change) Amendment to the Act.
29. There are two concerns with Policy 3-4 as notified, and these can be identified as:
- i.* The policy as notified stopped short of providing full recognition of Section 7(j) in that *“the benefits to be derived from the use and development of renewable energy”* should be had regard to. The policy as notified simply states a “preference” for renewable energy resources;
 - ii.* The policy as notified forfeits an opportunity to recognise the nationally significant renewable energy resource values that the region has, although I do not agree with the submission from The Energy Efficiency and Conservation Authority Sub 307/7 that the policy should go as far as spatially identifying sites that exhibit such values.
30. It is my view that the Officers report (Section 4.13.4.1 – Recommendation IEW 12) identifies these concerns, as has been raised within submissions other than that of

NZWL, and has recommended amendments to the Policy as notified. As such, these amendments are supported.

Comment on Submissions

31. There is a recurring theme through a number of submissions to Chapter 3, which range from those (usually Energy Operators) identifying that greater recognition should be provided to the benefits of infrastructure provision from both a policy and consenting framework; to those (usually locally based), who seek tighter controls on infrastructure provision primarily based on the scale of adverse effects that could be generated from networks or infrastructure of a substantial scale.
32. As has been stated, NZWL submission in support of Chapter 3 in its entirety was based on notified Objective 3-1, which in my view correctly encapsulates the Manawatu Wanganui Regional Council's statutory responsibilities under the Act. As such, and cross referencing my earlier comments in para 14, even for no other reason, amendment to the policies is necessary simply to ensure that policies actually implement the objective, as required under Section 75(1)(b) and Section 32(3)(b). The Objective properly identifies that there is significant direction both nationally and internationally to recognising the benefits of renewable energy. I would certainly be concerned should the policies and methods be modified as a consequence of submissions to narrow the ability for persons exercising their functions under the Act to give weight to the benefits of infrastructure when considering local or wider environmental effects.
33. I am not of the view that there should be no barriers to the development of infrastructure in terms of mitigating, avoiding or remedying the adverse effects of infrastructure. However, submissions particularly in relation to Policy 3-3 which seek the avoidance of the adverse effects of infrastructure on those values identified in 3-3(a), such as Tararua – Aokautere Guardians Inc (Sub 395/10) are not in my view consistent with the purpose of the Act as encapsulated in Part II, and instead are seeking to elevate Section 6 matters of the Act as end goals in themselves. As stated in paragraph 15 above, it is my view that such matters are accessory to the primary purpose of the Act to promote the sustainable management of natural and physical resources, i.e. social and economic wellbeing under s5 which includes the provision of energy.

Officers Report

34. As has been stated, I consider that the Officer's report provides a reasoned and comprehensive discussion of the submissions and the statutory responsibilities of the Manawatu Wanganui Regional Council with regard to infrastructure. I commend the Officer on the recommended modifications to Policy 3-4, but believe as stated above, that there are further improvements that could be made to Policy 3-3 as I have identified.

Conclusions

35. To conclude, the key points of the NZWL submission to Chapter 3 of the One Plan, includes:

i. Desire for elevation of status and certainty (paragraphs 31. & 32.)

There are significant national, international and community benefits to be derived from wind farming, which in turn contribute towards government's strategic direction on energy. Given these benefits balanced against the adverse effects it is considered that it would be appropriate to specifically recognize wind farms and other forms of renewable energy in the POP as infrastructure that have significant social, economic and environmental benefits.

ii. Guidance in weighing up local effects of infrastructure against regional and national benefits (paragraphs 17.)

Chapter 3 should clearly articulate the benefits of infrastructure and provide guidance to persons exercising the functions and powers under the Act about how to weigh up the local and adverse effects of infrastructure against the regional, national and international benefits. This should involve ensuring policies 3-3 "Adverse effects" and 3-4 "Renewable Energy" are consistent with the clear enabling directive outlined in Issue 3-1 and Objective 3-1.

iii. Recommended Amendment to Policy 3-3

In line with the issues outlined in paragraph 21 it is respectfully recommended that Policy 3-3 be amended to read:

Policy 3-3 Adverse effects of infrastructure on the environment

*"The provision of infrastructure*in a way where the adverse effects are managed in a manner, that with the exception of effects on waahi tapu, waahi tupuna and other sites of significance to maori, tolerates minor adverse local effects and takes into account:*

- (i) *the benefits of infrastructure*, particularly the benefits of regionally or nationally important infrastructure*;*
- (ii) *the integration of the infrastructure with land use;*
- (iii) *the benefits to be derived from the use and development of renewable energy;*

A financial contribution may be sought in order to provide the option of offsetting or compensating for adverse effects, rather than requiring adverse effects to be avoided, remedied or mitigated, in accordance with the policies for financial contributions in Chapter 18 of the Plan.

Submissions that could be utilised to provide such wording amendments include Transpower New Zealand (Sub. 265/7); Meridian Energy Ltd (Sub. 363/33); and Land Link (Sub. 440/16).

iv. Recommended Amendment to Policy 3-4

The recommended amendments in the Officers report, Section 4.13.4.1 – Recommendation IEW 12, address the issues set out in paragraphs 25 and 26 and are accordingly supported.

David John McEwing

Dated 29 July, 2008