

**IN THE ENVIRONMENT COURT AT WELLINGTON**

**IN THE MATTER** of the Resource Management Act  
1991 ("**the Act**")

**AND**

**IN THE MATTER** of clause 14 of the First Schedule of  
the Act

**BETWEEN** **MIGHTY RIVER POWER LIMITED**

ENV-2010-WLG-000139

**AND** **TRUSTPOWER LTD**

ENV-2010-WLG-000145

**AND** **FEDERATED FARMERS OF NEW  
ZEALAND**

ENV-2010-WLG-000148

**AND** **MERIDIAN ENERGY LTD**

ENV-2010-WLG-000149

**AND** **MINISTER OF CONSERVATION**

ENV-2010-WLG-000150

**AND** **PROPERTY RIGHTS IN NEW ZEALAND**

ENV-2010-WLG-000152

**AND** **NEW ZEALAND TRANSPORT AGENCY**

ENV-2010-WLG-000153

**AND** **HORTICULTURE NEW ZEALAND**

ENV-2010-WLG-000155

**AND** **WELLINGTON FISH & GAME COUNCIL**

ENV-2010-WLG-000157

**AND** **A DAY**

ENV-2010-WLG-000158

**AND** **GENESIS POWER LTD**

ENV-2010-WLG-000159

**AND**

**WATER & ENVIRONMENTAL CARE  
ASSOCIATION INC.**

ENV-2010-WLG-000160

**Appellants**

**AND**

**MANAWATU-WANGANUI REGIONAL  
COUNCIL**

**Respondent**

---

**STATEMENT OF EVIDENCE BY LYNETTE PEARL WHARFE FOR  
HORTICULTURE NEW ZEALAND IN RELATION TO THE APPEALS ON  
THE PROPOSED ONE PLAN FOR MANAWATU WANGANUI  
REGIONAL COUNCIL ON BIOLOGICAL DIVERSITY  
(17 FEBRUARY 2012)**

---



## QUALIFICATIONS AND EXPERIENCE

1. My name is Lynette Pearl Wharfe. I am a planning consultant with The AgriBusiness Group. I have a BA in Social Sciences and post graduate papers in Environmental Studies, including Environmental Law, Resource Economics and Resource Management.
2. I have been a consultant with The AgriBusiness Group since 2002. The Agribusiness Group was established in 2001 to help build business capability in the primary sector.
3. I have spent over 12 years as a consultant, primarily to the agricultural industry, specialising in resource management, environmental issues, and environmental education and facilitation.
4. In my years as a consultant I have worked primarily in the rural sector. Some of the projects I have been involved in that I consider are particularly relevant in this context are:
  - (a) Project Manager and facilitator for a Sustainable Management Fund ("**SMF**") Project 'Reducing nitrate leaching to groundwater from winter vegetable crops', to develop management tools for vegetable growers to implement best practice for fertiliser applications, to assist in changing fertiliser usage.
  - (b) Managed an SMF project for NZ Agrichemical Education Trust communicating the revised NZS 8409:2004 Management of Agrichemicals to local authorities throughout NZ, including development and leading workshops with councils.
  - (c) Revised the Manual for the Introductory GROWSAFE® Course for the NZ Agrichemical Education Trust, to make the Manual more user friendly and accessible and to align it with the Hazardous Substances and New Organisms legislation.
  - (d) Programme Manager, MAF Agricultural Recovery Programme (Government response to February 2004 storm and flood event in the Lower North Island –

including the Manawatu Wanganui region) March – August 2004.

- (e) Chair, Crop Committee, MAF Agricultural Recovery Programme Sept 2004 – 2006.
  - (f) Managing the research component for SFF project – SAMSIN – developing a framework for the development of Sustainable Management Systems for agriculture and horticulture.
  - (g) Project Manager MAF Operational Research Project Effectiveness of Codes of Practice investigating the use of codes of practice in the agriculture and horticulture sectors.
  - (h) Project team member for MfE Hill Country Erosion scoping study.
  - (i) Undertook a review of Current Industry and Regional Programmes aimed at reducing pesticide risk, including assessing a number of Codes of Practice.
5. I have been involved as a consultant to Horticulture New Zealand on the Proposed One Plan ("**POP**") since its inception. This has involved consultation meetings, initial discussions, submissions on draft plans, submission and further submissions on the Proposed One Plan and participation in hearings and mediation.
6. I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court's Consolidated Practice Note dated 1 November 2011. I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

#### **OVERVIEW OF THE MATTERS THAT THIS EVIDENCE RELATES TO**

7. This evidence is in response to the planning evidence by Clare Barton on behalf of Manawatu-Wanganui Regional Council ("**Council**") on Biological Diversity.

8. The focus of this evidence is on provisions as they relate to horticultural operations, particularly the activity status of rules and identification of areas.
9. Horticulture New Zealand concerns relate to Sites of Significance Aquatic which are identified as 'at-risk habitats'.

#### **SCOPE OF THIS EVIDENCE**

10. This evidence will address the following matters:
  - (a) Horticulture New Zealand's appeals;
  - (b) Should at-risk habitats - sites of significance aquatic be identified on maps in the POP?
  - (c) The appropriate activity classifications in rules for at-risk habitats;
  - (d) Policy 7-2A;
  - (e) Exclusion of cultivation within at-risk habitats - sites of significance aquatic;
  - (f) Provisions for pest control.
11. Horticulture New Zealand has a number of appeal points that relate specifically to at-risk habitats - sites of significance aquatic. The concerns are:
  - (a) identification of sites based on Schedule E;
  - (b) the restrictions on cultivation in those areas, and the activity status;
  - (c) management of pest plants.
12. The habitats that are most likely to exist adjacent to horticultural operations are sites of significance-aquatic. These areas include a 20 metre buffer from the site. All activities within that 20 metres are subject to resource consent requirements.
13. The structure of Schedule E makes it difficult to identify exactly where the sites are located. Unless sites are easily identified growers will be unaware that such a site may exist

adjacent to their growing operation. This is compounded by the nature of industry operations where land is leased, shared and rotated on a regular basis.

14. Chris Keenan (Manager Environment and Resource Management at Horticulture New Zealand) and I spent time with Horizons staff looking at the GIS information about sites of significance-aquatic, particularly where such sites exist near horticultural growing areas.
15. Generally it appeared that most horticultural operations would occur outside of the sites of significance aquatic. However in some instances sites could impact on horticultural operations.
16. The provisions in Schedule E are for a 20 metre setback from the site of significance-aquatic so the activity will not take place within the actual location of the species of concern. In all the situations where a site may be adjacent to a horticultural operation the extent of inclusion was only a few metres, not the full 20 metres.
17. Changes were sought to Schedule E to accurately maps areas where species of concern are known to exit and an appropriate management approach id developed in conjunction with affected land owners.
18. This issue is addressed in Ms Barton's evidence as Key Issue 4 Para 66- 74 and concludes that:

Real time, as required sites assessment has considerable practical advantages for both landowners and MWRC in managing activities in rare, threatened and at-risk habitats.
19. Therefore no changes are proposed to the current approach in the DV POP.
20. It is recognised that there are logistical challenges associated with identification and mapping of sites. However I also consider that landowners need greater certainty as to whether they are likely to trigger Rule 12-6 or not.
21. The key issue is that the current format in Schedule E will mean that most growers will be unaware of the location of sites and continue activities unaware of the implications.

22. In most cases the extent of the affected area will be relatively small and part of existing production land activities that have been undertaken over a number of years. The fact that the site of significance aquatic is present indicates that the effects of cultivation on these limited number of sites has not been so extensive that the site no longer warrants listing in Schedule E. Therefore I consider that requiring a discretionary consent for these discrete areas for an existing activity is not commensurate with the level of effects or the policy framework in the POP.
23. While Ms Barton states that free of charge site assessments are provided, the concern is that growers will not even be aware that a site assessment may be required.
24. Because of this concern Horticulture New Zealand has sought changes to exclude cultivation from the policies and rules for sites of significance-aquatic.
25. Ms Barton's evidence states (Para 22 e) that the effects of cultivation in rare, threatened and at-risk habitats need to be assessed.
26. Cultivation will be subject to provisions in Chapters 5 and 12 and I consider inclusion of specific provisions relating to cultivation of existing horticultural land adjacent to sites of significance-aquatic within the Chapters 5 and 12 framework would be appropriate.

#### **Activity status**

27. The appeals relating to activity status are made by Minister of Conservation and Wellington Fish and Game seeking a differentiation between activity status for threatened and rare habitats and the at-risk habitats.
28. The appeals are based on the fact that there is differentiation in the policy framework for the respective habitat types so there should also be differentiation in the rule framework.
29. The evidence of Ms Barton considers this issue (Para 46- 57) and concludes that, in her opinion, the discretionary activity classification is sufficient to achieve the RMA's purpose with the support of the policies.

30. I agree that a Discretionary status is appropriate for threatened and rare habitats. If differentiation of the rule framework is sought it may be appropriate to consider that at-risk habitats be classed as a Restricted Discretionary Activity, given that these are not s6(c) habitats.

### **Policy 7-2A**

31. The Hearing Panel added Policy 7-2A in the DV of the POP. It provides for the regulation of activities affecting indigenous biological diversity. One matter to be considered is that regulation must not unreasonably restrict the existing use of production land.
32. The appeal of Minister of Conservation seeks to delete this provision from the policy.
33. Ms Barton states that it is appropriate that Policy 7-2A require a consideration of the existing use of production land (Para 22 c).
34. I support that conclusion and seek that the provision is retained in Policy 7-2A.

### **Pest control**

35. Ms Barton is recommending changes to Rule 12-6 to better provide for pest control for the purposes of protecting or enhancing the habitat (Para 22 g).
36. The change is consistent with the Memorandum regarding Mediation Agreement, 17 June MCB TB 4 and the wording agreed at Court assisted mediation for the Air Topic. (MCB A1).
37. I agree with Ms Barton that this is an appropriate change to make to Rule 12-6.

### **CONCLUSION**

38. Ms Barton considers the statutory tests for a Regional Policy Statement and Regional Plan, including s32, in Attachment 4 of her evidence and refers to the Hearing Panel Decision Report in this respect. Of particular note is the conclusion that the use of existing production land should not be unreasonably restricted activities.



39. While the Decisions Report and the evidence of Ms Barton support the general approach of Schedule E I retain concern about the application of the Schedule and its workability, especially for small sites of significance-aquatic.

**L P Wharfe**

**17 February 2012**