

**BEFORE THE MANAWATU- WANGANUI REGIONAL COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Submissions and Further Submissions lodged by **Meridian Energy Limited** to the Manawatu-Wanganui Regional Council on the Proposed Horizons One Plan – Chapters 6, 13 15, and 16 (referred to as the ‘Water Chapters’ by the Hearings Panel.).

---

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF**

**CATHERINE MARY CLARKE**

**FOR MERIDIAN ENERGY LIMITED**

---

**1.0 Scope of Supplementary Evidence**

1.1 This evidence I will present today is intended to simply supplement the earlier statement of evidence which has already been submitted to the Hearings Panel, being:

- Statement of Evidence on provisions in Chapters 6, 13, 15 and 16 of the Proposed One Plan dated 19 October 2009.

1.2 In this supplementary evidence, I will simply comment on a few matters that have arisen since my earlier statement of evidence was submitted. In particular I will briefly address matters arising from the most recent amendments to the Water Provisions as recommended in the Supplementary 42A Report (prepared by Clare Barton and Natasha James -dated 23 November 2009) and the latest Track Changes (referred to the “Pink Version”) of Chapters 6 (*Water*), 13 (*Discharges to Land and Water*), 15 (*Takes, Uses and Diversion of Water*) and 16 (*Structures and Activities involving the Beds of Rivers, Lakes and Artificial Watercourses*).

## **2.0 Addition of Cross References between Objectives and Policies in Chapter 6**

2.1 Firstly I support the changes proposed by Ms Barton in the Supplementary 42A Report that have sought to improve the linkages in Chapter 6 of the Plan by including cross references beneath each objective and policy to the relevant issue or objective, to which the provision relates. These change will achieve consistency with cross references already proposed within other Chapters of Part I of the Plan and will also assist users of the Plan in the interpreting of the provisions in Chapter 6.

## **3.0 Definition of “Operation” and cross references to Chapter 3 in the Water Chapters of the One Plan**

3.1 In a number of instances in my earlier evidence, I referred to submissions by Meridian seeking that specific recognition is given to the use of freshwater for the generation of renewable energy in the policy directives and planing controls in Chapters 6, 13, 15 and 16 of the Plan and the linkages with Chapter 3 (Infrastructure, Energy and Waste) of the Plan be strengthened.

3.2 I note since submitting my earlier evidence, the provisional determination of the Hearing Panel on Chapter 3 has been released whereby the Hearings Panel at this time, has continued to support the officers’ recommendation to amend the definition of “*operation*” in the Plan, to exclude “*water abstraction, discharges of contaminants, and occupation of the coastal marine area.*” Meridian continues to oppose this restrictive definition of “*operation*” in Chapter 3 (as outlined in previous evidence presented to the Hearings Panel). I also note that if this restrictive definition of “*operation*” of infrastructure is retained in the final decision of the Hearings Panel, thereby excluding any consideration of *water abstraction* and *discharges of contaminants* when having regard to Objective 3-1, and Policies 3-1 and 3-2 (in Chapter 3 – Infrastructure, Energy and Waste) then I consider it even more important that that provisions regarding water abstraction and the discharge of contaminants in the Water Chapters of the Plan, refer to the use of freshwater for the generation of renewable energy.

3.3 I also refer the Panel to the discussion in Paragraph 5.2 of my earlier evidence and how if restrictive definition of “*operation*” is adopted in the final decision of the Hearings Panel, then Policy 6-19(b)(iii), now proposed in Supplementary Report to become Policy 15-11(b)(iii), appears to lead to a problems when interpreting of this

Policy – whereby a policy on apportioning takes in times of minimum flow will would not allow any consideration of the abstraction of water, as by virtue of the definition of the “*operation of industries*” whereby the definition of “*operation*” excludes “*water abstraction*”.

#### **4.0 Cross referencing to Chapter 3 in Chapters 13, 15 and 16**

4.1 My earlier evidence details why I consider that the linkages between the provisions in Chapter 3 and Chapter 15 and 16 should be strengthened.

4.2 I can now advise I support intent of the changes now proposed by the officers in the Supplementary Report which now recommends including references to the need to consider the matters in Chapter 3 when making decisions on resource consent application in terms of Policy 16-1 (*Consent decision making for activities in rivers, and lakes*) by inclusion of “(g) *have regard to the objectives and policies in Chapter 3.*” However I am unclear as to why the Supplementary Report does not recommend that such a reference to Chapter 3 be also added to Policy 16-2 (*Consent decision making for activities in the beds of artificial watercourses and artificial lakes*) and consider consideration of the provisions in Chapter 3 should also be referred to this policy.

4.3 I also continue to have some concerns with the inconsistency in how Chapter 3 is referred to, in the policy provisions in Chapters 13, 15 and 16 of the Regional Plan in the amendments proposed in the Supplementary Report. Presently it is recommended that Policy 13-1 (*Consent decision making for discharges to water*) and Policy 13-2 (*Consent decision making for discharges to land*) state the Regional Council when making decisions on resource consent applications “*will have particular regard to*” a range of matters including the objectives and policies of Chapter 3 to the extent that they are relevant the discharge.

4.4 However in the Supplementary Report, the officer disagrees with the recommendation in my earlier evidence to adopt similar wording, being “*will have particular regard to*” to the objectives and policies in Chapter 3 when making decisions on resource consents in terms of Policy 15-1 (*Consent decision-making for takes and uses of surface water and groundwater*), Policy 15-2 (*Consent decision making for diversions and drainage*) and Policy 16-1 (*Consent decision making for activities in rivers, and lakes*). The officer instead recommends the wording “*have regard to*” the objectives and policies of Chapter 3, (a lower threshold of

consideration). I consider the wording “*have regard to*” is really asking a decision maker on a resource consent to do nothing more than what Section 104(1)(b) of the RMA already seeks, being “*have regard to*” “*any relevant provisions of*” of a plan.

4.5 Therefore while I support the additional cross references to Chapter 3 recommended by the officers in the Supplementary Report, I continue to believe that these references to Chapter 3 should be further strengthened.

## **5.0 Provisions allowing for Alternative Minimum Flows and Policy 6-17.**

5.1 Meridian sought new provisions in the objective or policy provisions of Chapter 6 that would allow alternative allocation and minimum flow regimes from those specified in Schedule B, to be developed by applicants for resource consent. In particular, Meridian sought that wording be included in objective or policy provisions in the Plan in a manner consistent with wording already adopted in the Operative Bay of Plenty Regional Plan (December 2008).

5.2 In response to the recommendations in my earlier evidence seeking that objective or policy provisions be included in Chapter 6 including Policy 6-17 that would allow for alternative minimum flows to be developed, that depart from those specified in Schedule B, in appropriate circumstances, the officer has stated in the Supplementary Report that the “*The policy framework aims to set clear guidance as to what the allocation and minimum flow regime is. Any deviation from this framework can be considered through a resource consent application process albeit there are no specific policies to provide guidance.*”<sup>1</sup> I continue to support the points made in my earlier evidence that Chapter 6 state that in some circumstances alternative flows to those in Schedule B may be appropriate and that it would be helpful to provide specific policy guidance to decision makers when considering resource consent applications in such circumstances.

## **6.0 Policies 6-3, 6-4 and 6-5 and the Zone of Reasonable Mixing**

6.1 I have read the discussion in the Supplementary Report which responds to the recommendation in my earlier evidence that Policies 6-3, 6-4 and 6-5 explicitly refer to the zone of reasonable mixing when assessing compliance with water quality

---

<sup>1</sup> refer Appendix 3, Page 28 of 44 in the Supplementary Report.

standards in the Plan. Further I can advise I am accept the officers explanation<sup>2</sup> and am now satisfied that test of “*reasonable mixing*” is been adequately dealt with in Policy 6.8 which specifically refers to Policies 6.3 to 6.5 and reasonable mixing in relation to point source discharges, and is included as part of the standards in Table 16.1 and Schedule Ba.



**Catherine Clarke**

Senior Principal and Planner

Boffa Miskell Limited

10 February 2010

---

<sup>2</sup> refer Appendix 3, page 30 of 44 of the Supplementary Report.

