



4 July 2008

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Dear Robyn

Proposed Horizons One Plan - Overall hearing

Please find enclosed the following material (referred to in legal submissions and requested by the Chairperson at the hearing on Wednesday 2 July):

- North Shore City Council v Auckland Regional Council [1995] NZRMA 424 Court of Appeal;
- Geotherm Group Limited & Ors v Waikato Regional Council A 47/2006;
- Geotherm Group Limited & Ors v Waikato Regional Council A 151/2006;
- A copy of the Environment Court consent order finalising provisions of the Waikato Regional Policy Statement (Geothermal Module) dated 16 August 2006; and
- A copy of the relevant provisions from the Waikato Regional Policy Statement and Waikato Regional Plan (Policy 5 in Part 3.7.2.1; Policy 2 of Part 3.7.2.2 and Methods to implement Policy 2 of Part 3.7.2 in the Waikato Regional Policy Statement and Tables 7-5 and 7-6 of the Waikato Regional Plan).

The last four of these documents relate to the question whether a Regional Policy Statement can refer to Schedules that are part of a Regional Plan without infringing the legal principles surrounding 'material incorporated by reference', in the context of the Waikato Region.

The Environment Court in *Geotherm Group Limited v Waikato Regional* A 47/06 and A 151/06 did not *expressly* consider the issue of material incorporated by reference. Rather, those cases dealt with the general policy framework for the geothermal provisions of the Waikato

Regional Policy Statement and Regional Plan. The relevant provisions (to which I referred in submissions) were discussed in mediation, and were the subject of the consent order.

Mighty River Power intends to provide further legal submissions on this matter, and in particular on the provisions in Part 3 of the First Schedule to the Resource Management Act 1991. Counsel is unfortunately on leave next week (commencing 7 July), so that these further submissions will be provided immediately following return (in the week commencing 14 July).

Yours sincerely

Sarah Ongley

Senior Legal Counsel