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**BEFORE THE ENVIRONMENT COURT**

*In the matter of* appeals under clause 14 of the First Schedule to the Resource Management Act 1991 concerning proposed One Plan for the Manawatu-Wanganui region.

*between* **MERIDIAN ENERGY LTD**  
**ENV-2010-WLG-000149**

*and* **MIGHTY RIVER POWER LTD**  
**ENV-2010-WLG-000147**

*and* **TRUSTPOWER LTD**  
**ENV 2010-WLG-000145**

*and* **GENESIS POWER LTD**  
**ENV-2010-WLG-000159**

*Appellants*

*and* **MANAWATU-WANGANUI REGIONAL COUNCIL**  
*Respondent*

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**STATEMENT OF PLANNING EVIDENCE BY CLARE BARTON ON THE TOPIC  
OF OUTSTANDING NATURAL FEATURES AND LANDSCAPES, INCLUDING  
SCHEDULE F, ON BEHALF OF MANAWATU-WANGANUI REGIONAL  
COUNCIL**

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Dated: 31<sup>st</sup> January 2012



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### Terms

TEB	=	technical evidence bundle
NV	=	notified version of POP
DV	=	decisions version of POP
MV	=	mediated version of POP
MCB	=	mediation compilation bundle
NPS REG	=	National Policy Statement on Renewable Energy Generation
NZCPS	=	New Zealand Coastal Policy Statement
RMA	=	Resource Management Act 1991

### Introduction

#### **Qualifications and experience**

1. My name is Julie Clare Barton and I am a Senior Consents Planner at Manawatu Wanganui (Horizons) Regional Council. I have been employed by Horizons in this capacity since May 2010. I hold a Bachelor of Regional Planning degree (Honours) from Massey University, Palmerston North.
2. I have 22 years experience in New Zealand in the profession of planning. I have worked both as employee and consultant to local government authorities, the Ministry for the Environment and private consultancy firms. I was, until November 2009, a Director of the consulting firm Environments by Design Limited (EBD). EBD consulted predominantly in Palmerston North, Horowhenua, Taranaki and Wellington in relation to a range of resource management matters. I worked in the Resource Management Directorate of the Ministry for the Environment from 1991 to 1994 and worked on preparing recommendations to select committees on both the Resource Management Act and its first amendment. I have been involved in the development of District Plans and in various Private Plan Change applications. I have assessed and reported on many applications for

Resource Consents, including matters that have been decided in Hearings and in the Environment Court.

3. As the appeal points at issue in this statement of evidence relate to renewable energy issues in relation to regionally outstanding natural features and landscapes I should note that I have acted as consultant planner either to energy companies or the Manawatu Wanganui Regional Council (MWRC) in relation to five wind farm applications as follows:
  - (a) Trustpower Ltd - Stage II of the Tararua Wind Farm (for the applicant).
  - (b) NZ Windfarms Ltd – Stage I of the Te Rere Hau Wind Farm (for the applicant).
  - (c) Allco Energy Ltd – Motorimu Wind Farm to the stage of the Council Hearing (for the applicant).
  - (d) Meridian Energy Ltd – Project Central Wind Farm (for the Council).
  - (e) Contact Energy Ltd – Waitahora Wind Farm (for the Council).
4. I have also acted as Council Planner in the early stages (i.e. pre-lodgement) for the Genesis Energy's Castle Hill Wind Farm (2011), Mighty River Power's Puketoi Wind Farm (2011) and Meridian Energy's Mt Munro Wind Farm (2012).
5. I have worked for the Regional Council firstly on a consultancy basis within the Consents Section since December 2006 and in the Policy Section since 2009. I became involved in the preparation of the Proposed One Plan during the hearings phase.
6. I became an employee of MWRC in May 2010 and was seconded to work full-time in the Policy Section in 2011 to focus on the Proposed One Plan appeals process. During that time I have attended many meetings with appellants and represented MWRC at all of the Court assisted mediation on this topic.
7. I am therefore familiar with the issues and process involved in the development of the Proposed One Plan and I have a good understanding of

the issues that have arisen in the implementation of the provisions of the Proposed One Plan. I also have an excellent understanding of the consenting issues involved with renewable energy projects.

8. I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Notes. I agree to comply with that code of conduct.

### Summary of Key Issues

9. I understand there are two substantive unresolved appeal issues and two minor issues concerning Chapter 7 *Indigenous Biological Diversity, Landscape and Historic Heritage* of the DV POP and specifically the topic of Landscapes and Natural Features including Schedule F. All other appeal points in relation to Landscapes and Natural Features including Schedule F have been resolved and are in the process of being presented to the Court for consent orders.
10. The two substantive issues both relate to Policy 7-7. In summary, Policy 7-7 *Regionally Outstanding Natural Features and Landscapes* contains two sub-clauses. Clause (aa) requires the avoidance of significant adverse cumulative effects on the characteristics and values of the outstanding natural features and landscapes listed in Schedule F. Clause (a) requires that all other adverse effects on the characteristics and values of the outstanding natural features and landscapes listed in Schedule F are avoided as far as reasonably practicable and otherwise adverse effects are remedied or mitigated.
  - (a) **Key Issue 1:** Appellants seek to have Policy 7-7 clause (aa), dealing with cumulative effects, either deleted or a cross reference made to Chapter 3 *Infrastructure, Energy, Waste, Hazardous Substances and Contaminated Land*. The issue centres on concerns by energy company interests in particular that:
    - (i) The policy 7-7(aa) sets an unreasonable requirement of avoidance.
    - (ii) The policy sits in isolation without reference to the policies in Chapter 3 (not appealed) supporting renewable energy.

- (iii) In the context of renewable energy does not give effect to the NPS on renewable energy.
- (b) **Key Issue 2:** TrustPower Ltd's appeal on Policy 7-7 is more limited. It focuses on the 'consenting risk' that Policy 7-7 may raise in obtaining consent approval for the upgrade of its existing generation portfolio on the Tararua Ranges (known as T1, T2 and T3). TrustPower is concerned that clause (aa) would require the avoidance of significant adverse cumulative effects in relation to any resource consent to upgrade the Tararua Wind Farm which may hinder using different turbines since the existing smaller turbines are no longer manufactured.
11. The two minor issues relate to Schedule F *Regionally Outstanding Natural Features and Landscapes* that have not been formally resolved by memorandum but have been the subject of conferencing between the planners and landscape architects for the parties. These arise from an appeal by Mighty River Power Limited. These two issues are:
- (a) **Issue 3:** The inclusion and wording of item (da) Skyline of the Puketoi Ranges and Associated Characteristics and Values in Schedule F.
- (b) **Issue 4:** The inclusion and wording of item (ia) Skyline of the Ruahine and Tararua Ranges and Associated Characteristics and Values in Schedule F.
12. Mighty River Power Ltd seeks to have the reference to skyline in relation to the Puketoi Ranges deleted and the references to the Ruahine and Tararua Ranges including the references to skylines deleted.
13. Issues 3 and 4, as listed in paragraph 11 above, are addressed in tabular form in Attachment A attached to this evidence. As there has been agreement between those experts who attended conferencing on these two issues I consider that these issues are to all intents and purposes resolved. I briefly comment on these issues in paragraphs 105 to 111 of this evidence because, as there is not (as at the time of writing this evidence) a signed memorandum of agreement, they are still issues that require resolution by the Court.

## Executive summary of matters raised in this evidence

14. In achieving the purpose of the RMA, sustainable management requires the recognition of the limitations on resource capacity of ONFL's. Inappropriate development on outstanding natural features and landscapes arises if an activity, for example renewable energy activities, exceeds that resource capacity unless there are other compelling reasons for consent to be granted. It is therefore appropriate that the POP in the total mix of policies recognises the issue of significant adverse cumulative effects on outstanding natural features and landscapes.
15. The word 'significant' has a range of meanings and comparable words include 'noteworthy', 'remarkable', 'important', 'serious', or 'momentous'. In that range significant in this context is more likely to mean 'serious' or 'notable'. Significant adverse cumulative effects in the context of Policy 7-7 are most appropriately assessed on a case by case basis and the overall importance of any breach of Policy 7-7 will be assessed under a s104 assessment.
16. The amendments I propose to Policy 7-7 are those of the DV POP including the modifications agreed to through the mediation process. I consider these amendments to meet the Statuary Test for an RPS policy and to be a more appropriate method for achieving Objective 7-2 *Outstanding natural features and landscapes, and natural character*<sup>1</sup> of the DV POP.
17. I consider it most appropriate that Policy 7-7 remain general in its application, such that it does not exempt, or otherwise specify, particular activities from consideration of effects, and importantly significant adverse cumulative effects.
18. I do accept that the policy suite within the DV POP could be better supported in relation to the upgrade of an existing wind farm, and I propose an amendment to include an additional sub-clause within Policy 3-4. This amendment is that which was discussed by representatives of Mighty River Power Ltd, TrustPower Ltd and Genesis Power Ltd at a planning discussion held on 19 January 2012.

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<sup>1</sup> DV POP, Chapter 7, page 7-5.

19. I consider the amendment I propose to Policy 3-4 meets the Statutory Tests for an RPS policy and to be a more appropriate method for achieving Objective 3-1 *Infrastructure and other physical resources of regional or national importance*<sup>2</sup> and Objective 3-1A *Energy*<sup>3</sup>, of the DV POP.
20. With regard to the two minor issues relating to Schedule F *Regionally Outstanding Natural Features and Landscapes*, I consider it most appropriate for item (da) *Skyline of the Puketoi Ranges* and item (ia) *Skyline of the Ruahine and Tararua Ranges* to remain in DV POP Schedule F, with proposed amendments to address issues of clarity. The amendments I propose are those agreed to through the Technical Expert Conferencing and Planner Expert Conferencing held in January 2012<sup>4</sup>.

### History of POP and key environmental issues

21. I have already provided evidence to the Court summarising the development of the POP in: *OVERVIEW STATEMENT, AS DIRECTED BY JUDGE BP DWYER (18 MAY 2011)*, dated 15 December 2011.
22. In that evidence I outline the process taken by MWRC during the development of the POP and how this led to identification of four key regional environmental issues: surface water quality degradation, increasing water demand, unsustainable hill country land use and threatened indigenous biodiversity.
23. These environmental issues were identified during extensive early public and stakeholder consultation and confirmed by research of the Regional Council's science team. Whilst regionally outstanding landscapes was not identified as one of the four key environmental issues it is nevertheless a significant issue for the region.
24. Section 7.1.3<sup>5</sup> Natural Features, Landscapes and Natural Character in the DV POP includes the following commentary which describes why the protection of outstanding natural features and landscapes is an issue of importance to the Region [emphasis added]:

<sup>2</sup> DV POP. Chapter 3, page 3-3.

<sup>3</sup> DV POP, Chapter 3, page 3-4.

<sup>4</sup> Technical Expert Conferencing 18 January 2012. Planner Expert Conferencing 19 January 2012.

<sup>5</sup> Chapter 7, page 7-2 of the DV POP



***"The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development is a matter of national importance. Outstanding natural features and landscapes are memorable, affording aesthetic pleasure and experiences that are shared and valued by a wider community. Outstanding natural features and landscapes have natural and cultural dimensions that are central to a community's identity and sense of belonging. They are places that reveal a community's history and a coherence and connectedness of people's lives through time and space.***

***A number of outstanding natural features and landscapes and their associated values are identified in Schedule F<sup>6</sup>. These outstanding natural features and landscapes exist on both public and private land and were originally identified by the Regional Council, in consultation with Territorial Authorities and the Department of Conservation, and included in the Regional Policy Statement for the Manawatu-Wanganui (August 1998). In determining these natural features and landscapes as being "outstanding and regionally significant" specific matters were considered, including geographical and geological features and their contribution to the Region's character, ecological significance, the cultural significance of the site or area, amenity, intrinsic, scientific and recreational values, and any recognised (national or regional) level of protection.***

***Territorial Authorities have the responsibility of managing the effects of land use, through district plan provisions and land use resource consent. Consequently, the management of competing pressures for the subdivision, use and development of land that may affect outstanding natural features and landscapes is most appropriately dealt with at a territorial level. However, to aid local decision-making, regional policies provide guidance for managing the effects of subdivision, use and development of land that may affect outstanding natural features and landscapes..."***

25. The Regional Council developed Policy 7-7 to address the risk to outstanding natural features and landscapes from inappropriate subdivision, use and development. Policy 7-7 provides strategic direction to territorial authorities

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<sup>6</sup> Schedule F is a component of Part I – the Regional Policy Statement.

in the development of second generation plans and consent processing. Policy 7-7A supports the identification of outstanding natural features and landscapes (ONFL) and their values. It sets out assessment factors that must be taken into account when identifying and listing in a district plan any ONFL including delineating its spatial boundaries. Policy 7-7A and associated Table 7.2 were developed through a series of pre-hearing meetings<sup>7</sup> held with submitters in response to submissions received on the NV POP from six Territorial Authorities (and supported by the seventh territorial authority in the Region), which requested the inclusion of 'strong signals' within the RPS to Territorial Authorities on how to deal with ONFLs, and clarification of how to give effect to Policy 7-7<sup>8</sup>. Significant community support for the need for that direction was also evident in the Manawatu. The need for strategic direction by regional councils to address accumulative effects of wind farming was identified by the Parliamentary commissioner for the Environment in *Wind Power People and Place*.<sup>9</sup>

### **Wind farming in the Manawatu-Wanganui Region – an overview**

26. Much of the constructed wind farm generation capacity in New Zealand is within the Manawatu-Wanganui region. Much of that is presently concentrated on the northern end of the Tararua Ranges on the outskirts of Palmerston North City. There is also recent consents for other wind farms in the region including the *Central Wind* project in the Ruapehu and Rangitikei districts and the Contact Energy Puketoi wind farm in the Tararua district.
27. As noted earlier, in 2006 the Parliamentary Commissioner for the Environment produced a report *Wind Power People and Place* to address community concerns regarding the visual and other effects of wind farming development particularly as it was a reasonably new phenomenon in New Zealand. That report included an international literature review and addressed current international practice on assessing cumulative effects as

<sup>7</sup> Noted on page 18 of the Planning Evidence and Recommendations Report – Horizons Regional Council's Planning Officer's Report on Submissions to the Proposed One Plan – landscapes and Natural Character February 2009

<sup>8</sup> Submissions received from Tararua District Council 172/54, Ruapehu District Council 151/108, Horowhenua District Council 280/58, Wanganui District Council 291/42, Manawatu District Council 340/68, Rangitikei District Council 346/54. Palmerston North City Council was a further submitter in support of each of these submissions (Further submitter 481).

<sup>9</sup> PCE 2006 recommendation 6 page 116.

well as a comparative analysis of the scale of wind farms in other jurisdictions. Key messages from that report included:

- (a) The relatively poor understanding of the impact and assessment of cumulative effects including cumulative visual effects on landscapes and people's experience of them and how other countries have addressed the issue.
- (b) The potential for very large scale wind farming activity to have significant adverse visual landscape effects.
- (c) Poor regional direction on the management of cumulative visual effects.

28. Table 7.1 of that report set out the consented wind farms in the Manawatu which is attached as Attachment B.
29. Since then on the northern end of the Tararua Ranges, the following additional consents have been granted for wind farming activity.

<b>Name</b>	<b>Turbines</b>	<b>Capacity</b>	<b>Comment</b>
Te Rere Hau eastern extension	56	23MW	Construction commenced
Turitea Reserve	60	138MW	Not constructed
Motorimu	57		Not constructed

30. The Motorimu consent has since been surrendered as part of the application by Mighty River Power Limited for the Turitea Reserve.
31. Attached as Attachment C is a plan view of the relevant section of the Tararua Ranges where wind farms existed or were consented on the northern end of the Tararua Ranges. This plan was produced by the planning witness, Mr J Baker, as part of his evidence to the Turitea wind farm Board of Inquiry. It does not include the Te Rere Hau eastern extension.

32. Te Apiti is located adjacent to the Manawatu Gorge. The turbines are approximately 110m high and three bladed. At the time it was consented it was identified as a regionally significant landscape under the operative regional policy statement.
33. T1, T2 and T3 are at the northern end of the Tararuas and contain a mixture of turbine types. The earlier stages (T1 in particular) have lattice tower turbines which are no longer manufactured. T3 comprises new generation turbines with approximate heights of 100m. T1 was one of the first wind farms constructed in the Manawatu and was developed by a former power generation company called Central Power Limited. The T1, T2 and T3 generation pod is now owned by Trustpower Limited that intends to upgrade some or all of the wind farm as the turbines reach the end of their maintenance lifecycle. Particularly, the smaller lattice tower turbines. All of these turbines were either located in or had visual effects that penetrated the skyline of the Tararua Ranges which was identified in the operative regional plan as an outstanding landscape.
34. The Motorimu wind farm owners Allco Energy Limited appealed the decision of the consent authority refusing consent for turbines on the Te Mata ridgeline. That appeal was determined by the Environment Court. The Environment Court determined that the Te Mata ridgeline was a special amenity landscape and declined the consent by reason of the landscape effects including visual dominance on rural residential properties. In that decision the Court noted that at this stage given the spatial separation from existing wind farms and the total length that cumulative effects were not considered to be significant. At that time the constructed and consented wind farm developments extended from Whariti peak to the southern edge of the Te Rere Hau wind farm with a spatial extent of approximately 15km.
35. The Turitea wind farm application proposed a wind farm of a different order of magnitude to any other wind farm previously established. Mighty River Power Limited originally proposed 132 turbines of which 60 were consented. The major ridgeline of the Turitea Reserve was identified as an outstanding landscape both in the operative Regional Policy Statement and determined as an outstanding landscape by the Board of Inquiry. Turbines from that location have, in most part, been excluded. Consent was granted for turbines between the Pahiatua Track and the northern end of the Turitea

Reserve where natural vegetation predominates. This is an accumulative addition of approximately 5km of turbines extending beyond the southern boundary of the Te Rere Hau wind farm. Cumulative landscape effects were not considered by the Court to be significant. The relevant ridgeline was identified as an ONFL.

36. The Puketoi wind farm was declined at the consent authority stage. The wind farm was redesigned and more spatially contained by the deletion of turbines. The deletion of turbines was also informed by the need to protect some landscape values. This modified proposal was consented by the Environment Court. The skyline of the Puketoi Ranges is identified as an ONFL in the operative RPS. The Environment Court did not consider that the effects of the activity significantly adversely affected the values and characteristics of the skyline and landscape of the Puketoi Ranges.
37. From the Manawatu-Wanganui regional experience one can discern that:
  - (a) The context of each application is intensely individual and each application is assessed as such with the relevant weighting of policies reflecting those individual circumstances.
  - (b) In some cases the nature and scale of development on an ONFL is acceptable and appropriate depending on the impact on the characteristics and values of that landscape.
  - (c) Within each successive wind farm there is an appropriate and detailed consideration of the cumulative effects of development. Anecdotal evidence suggests the rigour and depth of that analysis has improved over time.
  - (d) Often wind farms are scaled back as a result of consent authority or Environment Court decisions in response to cumulative effects on the characteristics and values of an ONFL.
  - (e) Thresholds for the trigger for significant cumulative effects are not particularly low based on recent experience.

**The general approach taken in the DV POP to dealing with outstanding natural features and landscapes**

38. In order to discuss the issues raised in appeals, it is desirable to outline the approach taken in the DV POP to the recognition and protection of ONFL's.
39. Issue 7-2<sup>10</sup> within the DV POP identifies as a significant resource management issue the risk to the Region's ONFL's associated with the adverse effects of land use activities and development, including the potential for significant adverse cumulative effects. The issue also identifies that developments with the potential for greatest impact include wind farm developments, residential subdivision and other major structures.
40. The DV POP identifies 15 "*Regionally Outstanding Natural Features and Landscapes*" in Schedule F Table F1<sup>11</sup> along with a description of the characteristics and values associated with each item.
41. Objective 7-2(a)<sup>12</sup> addresses issue 7-2 by seeking that the characteristics and values of the Region's ONFL's, including those identified in Schedule F Table F1 (i.e. the listed Regional ONFL's), are protected from inappropriate subdivision, use, and development.
42. There are two policies that support Objective 7-2(a). Policy 7-7 provides direction to decision makers on consent applications and territorial authorities in developing their plans regarding the management of effects of subdivision, use and development only in relation to those items listed in Schedule F Table F 1. Policy 7-7 states: *Note: the underlining and strikethrough shown in the wording of the Policy below have been agreed to by the parties to mediation:*

***"Policy 7-7: Regionally Outstanding Natural Features and Landscapes***

*The natural features and landscapes listed in Schedule F Table F1 must be recognised as regionally outstanding and must be spatially defined in the review and development of district plans. All subdivision, use and*

<sup>10</sup> Chapter 7, page 7-4 of the DV POP.

<sup>11</sup> Schedule F, Pages F-1 to F-4 of the DV POP.

<sup>12</sup> Chapter 7, page 7-5 of the DV POP.

*development directly affecting these areas must be managed in a manner which:*

*(aa) avoids any significant adverse cumulative effects on the characteristics and values of those outstanding natural features and landscapes, and*

*(a) except as required under (aa), avoids adverse effects as far as reasonably practicable and where avoidance is not reasonably practicable, remedies or mitigates adverse effects on the characteristics and values of those outstanding natural features and landscapes.”*

43. Included in Attachment D is the wording of Policy 7-7 as contained in the NV POP.
44. The policy emphasis of Policy 7-7 is on avoiding significant adverse cumulative effects and then avoiding other adverse effects as far as reasonably practicable, and where this is not reasonably practicable, remedying or mitigating adverse effects on the characteristics and values of those natural features and landscapes.
45. Policy 7-7A provides direction to the Regional Council and Territorial Authorities by requiring that a specific set of factors (Table 7-2 *Natural Feature and Landscape Assessment Factors*<sup>13</sup>) are taken into account when:
  - (a) Identifying outstanding natural features and landscapes.
  - (b) Considering changes to Schedule F.
  - (c) Considering the inclusion of outstanding natural features or landscapes into any district plan.
  - (d) Establishing the relevant values to be considered when assessing effects of an activity on an item in Schedule F Table F1 or any other outstanding natural feature or landscape.

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<sup>13</sup> Chapter 7, Table 7.2, Page 7-9 of the DV POP.

46. Table 7-2 *Natural Feature and Landscape Assessment Factors* are to be taken into account by decision makers both through plan development and plan review processes and through a resource consent application process.
47. Table 7-2 *Natural Feature and Landscape Assessment Factors* stipulates seven assessment factors, each with an associated scope statement to assist with the interpretation and application of each factor. These assessment factors and the associated scope statements for each are based on the *Pigeon Bay*<sup>14</sup> criteria. This set of assessment factors aims to provide a more consistent and robust approach across the Region when assessing natural features and landscapes both in the development of District Plans and through the resource consent process.
48. Policy 7-7 and Policy 7-7A (and associated Table 7-2) are implemented through the district planning processes and through consent decision making processes, in giving effect to the Regional Policy Statement.
49. Policy 7-7 and Policy 7-7A are also implemented through two non-regulatory methods in Chapter 7 of the DV POP:
- (a) Method 7-7 *District Planning – Natural Features, Landscapes and Indigenous Biological Diversity*<sup>15</sup> outlines that the Regional Council will:
    - (i) Seek changes to District Plans to ensure provisions are in place to provide an appropriate level of protection for outstanding natural features and landscapes.
    - (ii) Submit on resource consent applications received by a territorial authority for land use activities where there is potential for effects on outstanding natural features or landscapes.
  - (b) Method 7-7A *Consistent Landscape Assessment*<sup>16</sup> aims to develop a consistent and robust characterisation of the landscape within the Region and consistent identification of outstanding natural features and landscapes. It provides for the Regional Council and Territorial Authorities to develop and adopt a consistent methodology (including

<sup>14</sup> *Pigeon Bay Aquaculture Ltd v. Canterbury Regional Council* [1999] NZRMA 209 and further *Wakatipu Environmental Society Inc v Queenstown Lakes District Council* [2000] NZRMA 59”.

<sup>15</sup> Chapter 7, page 7-13 of the DV POP.

<sup>16</sup> Chapter 7, page 7-14 of the DV POP.



consideration of Table 7-2 *Assessment Factors*) for undertaking outstanding natural feature and landscape assessments. The Regional Council also commits through the method to making relevant resource data available.

**How responsibilities are allocated between the Regional Council and Territorial Authorities in relation to managing outstanding natural features and landscapes.**

50. The DV POP is clear on how responsibility for managing outstanding natural features and landscapes is to occur. The division of responsibilities can be summarised as follows:
51. The **Regional Council**:
- (a) Identifies through Schedule F Table F1 the 15 "*Regionally outstanding natural features and landscapes*".
  - (b) Provides strategic direction (through Objective 7-2(a), Policy 7-7 and Policy 7-7A) in relation to resource consent applications and plan development as to how to manage adverse effects on outstanding natural features and landscapes.
  - (c) Provides strategic direction (through Objective 7-2(a), Policy 7-7 and Policy 7-7A) in relation to consent applications and plan development on the factors to take into account when assessing outstanding natural features and landscapes (Table 7.2).
  - (d) Is responsible for engaging in the non-regulatory method to seek District Plan changes and to submit on resource consent applications where there is potential for adverse effects on outstanding natural features or landscapes.
  - (e) Is responsible for engaging in the non-regulatory method to develop, in conjunction with Territorial Authorities, a robust methodology for landscape assessment and data sharing to enable a consistent characterisation of the Region's landscape.

52. The Regional Council has no rules within Part II DV POP relating to ONFL's. The function for developing rules on land use addressing landscape and visual effect matters rests with the territorial authorities.<sup>17</sup>

53. **Territorial Authorities** will:

- (a) Give effect to the RPS (specifically Objective 7-2(a), Policy 7-7 and Policy 7-7A) through district plan provisions and through decision making processes on resource consent applications for land use.
- (b) Develop, in conjunction with the Regional Council, a robust methodology for landscape assessment to enable a consistent characterisation of the Region's outstanding landscapes.

**Monitoring compliance in second generation district plans to ensure that outstanding natural features and landscapes are being adequately catalogued.**

54. The Regional Council is actively monitoring compliance with Objective 7-2(a), Policy 7-7 and Policy 7-7A for outstanding natural features and landscapes through their involvement with territorial authority District Plan reviews and changes and on resource consent applications, including in recent times submissions and evidence for:

- (a) The Ruapehu Proposed District Plan (2011).
- (b) Horowhenua District Plan - Proposed Plan Change 22 (2011).
- (c) The Proposed Tararua District Plan (2008).
- (d) The Proposed Rangitikei District Plan (2010).
- (e) Mighty River Power's Turitea Wind Farm resource consent application (2009).
- (f) Contact Energy's Waitahora Wind Farm (2009).
- (g) Genesis Energy's Castle Hill Wind Farm (2011).
- (h) Mighty River Power's Puketoi Wind Farm (2011).

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<sup>17</sup> Section 31(1)(a) RMA 1991.

- (i) Meridian Energy's Mt Munro Wind Farm (2012).

55. The Regional Council will continue to be involved in resource consent processes and district plan reviews.

### **Relevant planning instruments**

56. Included in Attachment E to this evidence is a summary of what I consider to be the relevant planning instruments under the RMA and a summary of each instrument and how they are relevant to the resolution of the key issues.

57. In summary, in relation to relevant planning instruments, I consider that:

- (a) The NZCPS 2010 is relevant to the extent that if the wording in Policy 7-7 is altered there is the potential for an alteration in how adverse effects are to be managed within the coastline (which is an identified ONFL in Schedule F). Objective 2 in the NZCPS 2010 seeks: To preserve the natural character of the coastal environment and protect natural features and landscape values. Policy 7-7 and the associated objective and Schedule F seek to achieve this.
- (b) The provisions of the NPS REG 2011 are relevant. The relevance is confined to instances where the POP natural feature and landscape policies are to be applied to Schedule F items where there is the potential for or there is existing renewable electricity generation. The Objective of the NPS REG 2011 is to recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation. The policies in Chapter 3 DV POP seek to recognise the national significance of renewable electricity generation.
- (c) Section 6 of the RMA identifies the protection of outstanding natural features and landscapes from inappropriate subdivision, use and

development as a matter of national importance under s6 (b) and therefore is particularly relevant to the resolution of the Key Issues outlined in this evidence in Paragraph 10. Policy 7-7 and the associated objective and Schedule F of the DV POP recognise and provide for s6(b).

- (d) Section 7 of the RMA matters includes s7(b) the efficient use and development of natural resources and s7(j) the benefits to be derived from the use and development of renewable energy. Chapter 3 *Infrastructure, Energy, Waste, Hazardous Substances and Contaminated Land* in the DV POP must also be considered either in a resource consent application process or the development of a plan. The provisions of Chapter 3 explicitly set out that particular regard must be given to the benefits of the use and development of renewable energy. The emphasis in the wording of both Policy 3-4 and s7 RMA are the same i.e. "*must have particular regard to... the benefits of renewable energy*".

### **Key Issue 1 - The need for and the wording of Policy 7-7**

58. Policy 7-7 does not seek to protect the regionally outstanding natural features and landscapes in Schedule F from subdivision, use, and development. Rather it seeks to:
- (a) Protect ONFL's from significant adverse cumulative effects;
  - (b) Otherwise manage adverse effects such that they are avoided as far as reasonably practicable, and where avoidance is not reasonably practicable, remedies or mitigates adverse effects on the characteristics and values of those ONFL's.
59. This approach does not prevent renewable energy projects in ONFL's. They must however, avoid significant adverse cumulative effects on the ONFL's. This approach does not prescribe any requirements for lower order landscapes such as regionally significant special amenity landscapes.

#### **The resource management risk that Policy 7-7 seeks to address.**

60. The following identifies the resource management risk that Policy 7-7 seeks to address.
- (a) The characteristics and values of the ONFL's included in Schedule F require direction as to their management as they are important to the community identity, sense of place and provide a strong source of appreciation and social richness. They are particularly at risk within the Region from a scale of renewable energy development that seriously undermines those characteristics and values.
  - (b) A particular risk that Policy 7-7 seeks to address is the potential for significant adverse cumulative effects on the characteristics and values of the ONFL's included in Schedule F. The expression cumulative effect is defined in the RMA under Section 2 and includes two concepts – effects arising over time; and effects arising in combination with other effects. In terms of the relevant case law the following can be stated regarding the current position as to the scope of cumulative effects:
    - (i) Cumulative effects can and must be considered when determining a resource consent.
    - (ii) Cumulative effects include the effects that would result if the activity for which consent is sought is approved, in combination with the effects of other existing activities which are likely to arise over time.
    - (iii) Cumulative effects include effects of other possible but not yet occurring permitted activities, and granted consents which have not yet been implemented.

Significant cumulative effects are those that are 'serious' or 'noteworthy'. Policy 7-7 is concerned with serious synergetic effects of development that compromise the values and characteristics of an ONFL. Policy 7-7 attempts a narrative description at a regional level of avoiding an ONFL's capacity to provide the benefits implicit in the identified values and characteristics for present and future generations. 'Enough is enough' when the cumulative effects on ONFL's become significant.

- (c) I accept Mr Anstey's comment that outstanding natural features and landscapes are particularly vulnerable to adverse cumulative effects. Mr Anstey makes the following statement in his evidence (paragraph 15, page 5):

*"Development in landscapes that are valued by communities can, over time and as a result of incremental changes, lead to a deterioration in both character and quality due to cumulative and adverse effects on critical resource characteristics and values. In this regard, outstanding natural features and landscapes are particularly vulnerable to adverse cumulative effects. The management of such cumulative effects is critical in the sustainable management of landscapes, and in particular the sustainable management of outstanding natural features and landscapes over time. In my opinion, significant adverse cumulative effects on outstanding natural features and landscapes are inappropriate, and avoidance of them is desirable."*

- (d) Finally, Policy 7-7 addresses the potential risk that significant cumulative effects are given insufficient attention in the assessment of effects by placing that issue squarely before decision makers and prospective applicants.

**Examples of where that resource management risk has already manifested itself.**

61. As discussed in Mr Anstey's evidence (paragraphs 22 to 25, pages 6 and 7) the Tararua Ranges provides an example of where the presence of a particular resource within an outstanding natural feature or landscape, in this case the wind resource, has put significant pressure on that landscape to absorb increased wind farm development. With the number of wind farm developments increasing on the Tararua Ranges (i.e. through the recent consented expansion of Stage II Te Rere Hau and the Turitea Wind Farm) and the likelihood of future upgrades, the vulnerability of the landscape to significant adverse cumulative effects is plain.
62. In particular, Mr Anstey states in his evidence (paragraph 22, page 6):

*"Both the wind resource and the proximity to the national grid has resulted in a focus on the Northern Tararua's with cumulative effects becoming an*

*increasingly significant issue, particularly for new wind farms south of Pahiatua Track. This is because the Tararua Ranges are an important backdrop for Palmerston North City and the surrounding plains. Wind turbines are seen as a threat to the integrity and natural character of the Tararua Ranges."*

**An assessment of the policy rationale behind Policy 7-7 and the requirement to avoid significant adverse cumulative effects. What Policy 7-7 seeks to achieve in terms of resource consent applications and the development of second generation district plans, specifically in relation to energy generation activities.**

63. The Hearing Panel considered that any significant adverse cumulative effects on ONFL's should be avoided. I consider that specifying significant adverse cumulative effects and requiring the avoidance of them is appropriate and sets clear guidance to decision makers on this particular set of effects.
64. I support Mr Anstey's statement in his evidence (paragraphs 34 and 35, page 10):

*"The concept of "significant cumulative effects" is not the same as "significant effects". It draws on the concept of resource capacity and there being limits to what can be sustainably absorbed; at some point 'enough is enough'. Dealing with cumulative effects can be a very challenging requirement for developers. While accepting the need to deal with the effects of a proposal at the local scale, within the immediate environment, considering effects in relation to the wider landscape requires an understanding of the wider landscape and the effects of existing activities already occurring within it. This is why local authorities need to assist in assessing and articulating the values of this wider context in consultation with their constituents. Recurring effects spreading across the landscape are cumulative and with time can become excessive and unacceptable.*

*In my opinion significant adverse cumulative effects on outstanding natural features and landscapes are inappropriate, and this is generally a thread in the decisions that have been made on wind farm developments in the Manawatu-Wanganui region. Therefore, avoidance is desirable."*

65. Policy 7-7 seeks to achieve, and is intended to have, the following consequences:
- (a) Significant adverse cumulative effects of subdivision, use and development, on the characteristics and values of the ONFL's included in Schedule F, is avoided where this achieves the purpose of the RMA having considered other relevant s 104 matters, including other relevant policies in the RPS and any relevant NPS.
  - (b) Second generation District Plans are developed giving effect to Policy 7-7 such that significant adverse cumulative effects of inappropriate subdivision, use and development, on the characteristics and values of the ONFL's included in Schedule F, is avoided, where this achieves the purpose of the RMA having considered other relevant matters, including other relevant policies in the RPS and any relevant NPS.
  - (c) Consent applications for subdivision, use and development received by Territorial Authorities fully consider and address the issue of significant adverse cumulative effects on the ONFL's included in Schedule F.
  - (d) Territorial authorities give consideration to the potential for significant adverse cumulative effects when giving effect to the NPS on renewable energy where the resource is a s6(b) RMA ONFL resource.
  - (e) Design of wind farms recognise and are sensitive to the characteristics and values of those ONFL's in Schedule F.
66. In my opinion, Policy 7-7 meets the tests for being a good policy in that it:
- (a) Implements Objective 7-2 and sets a path for a defined environmental outcome, and links to Schedule F which defines what the characteristics and values for the ONFL's are.
  - (b) Is certain.
  - (c) Provides clear direction to those making decisions on rules and implementing methods.
  - (d) Sets out where the policy applies.



67. I do not agree that there is any case for exempting renewable energy proposals from the application of Policy 7-7.
68. The benefits to be derived from renewable energy are recognised in Part 2 of the RMA but that requirement is to *"have regard"* to that matter. Section 6(a) on the other hand requires that the regional council recognise and provide for the protection of ONFL's from inappropriate subdivision, use and development. That is, in my view, a higher order imperative. Significant cumulative effects would be generally inappropriate. In those exceptional cases where it might be appropriate, the overall judgment called for under s.5 provides a pathway for consent and a corresponding adjustment to the weighting of Policy 7-7. This imperative is not in my opinion undermined expressly or by necessary implication by the NPS on renewable energy.
69. Chapter 3 *Infrastructure, Energy, and Waste, Hazardous Substances and Contaminated Land* in the DV POP gives particular regard to the particular needs of any benefits to be derived from the use and development of renewable energy and the development of regionally important infrastructure, and is the appropriate place within the POP structure to give effect to the NPS REG objectives and policies and s7(j) RMA. Specifically Policies 3-3, 3-4 and 3-5<sup>18</sup> in the DV POP are all relevant.
70. In any decision making process under the RMA, where relevant, Policy 7-7 and the policies in Chapter 3 would all be taken into account in determining what is or is not an appropriate renewable energy project. The POP cannot specifically determine where renewable energy projects may or may not be appropriate as this requires a careful consideration of the effects of any specific proposal and situation.
71. Richard Turner, Planning Manager - Natural Resources for Meridian Energy Limited provided evidence to the Hearing Panel and included in his evidence is the following statement<sup>19</sup>:

*"Meridian has also sought through its submission to ensure that Chapter 3 of the One Plan is only focused on providing for, enabling and maintaining infrastructure and renewable electricity generation, rather than also focusing*

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<sup>18</sup> Chapter 3, pages 3-7 to 3-8 in the DV POP.

<sup>19</sup> Paragraph 51 of the Statement of Evidence of Richard Turner for Meridian Energy Ltd. A copy of which is attached as Attachment J.

*on the adverse effects of these activities and how these should be managed. Meridian considers that Chapter 3 does not need to focus on adverse effects as the other chapters of the regional policy section of the One Plan also focus on managing the effects of development and that attempts to reconcile the tension between enabling infrastructure and renewable electricity generation with the protection of natural values should occur at the regional plan, district plan or resource consent application assessment level."*

72. Mr Turner, in my view, accurately reflects that the tension of enabling renewable electricity generation and protecting natural values (including outstanding landscapes) is one that needs to be drilled down through the development of a District Plan or through a detailed assessment of a resource consent application.
73. I completely agree with the statement made by Christine Foster, Consultant Planner to the Regional Council in the End of Hearing Report where she states:<sup>20</sup>

*"It is, in my view, not necessary or appropriate for Chapter 7 provisions to single out any particular type of activity (such as infrastructure) for particular mention. The provisions of Chapter 3 stand alongside those of Chapter 7. I am in no doubt they would be referred to and fully canvassed in an application and in evidence in any hearing of a proposal involving infrastructure in or near any of the features that are the focus of Chapter 7."*

74. The Hearing Panel in the Reasons for Decisions<sup>21</sup> deleted Policy 7-7(c)<sup>22</sup> in the NV POP which contained a cross reference to Chapter 3 because:

*"We note that Genesis sought the deletion of Policy 7-7 in its entirety and, while we do not consider that to be appropriate, we find that Policy 7-7(c) should be deleted as we accept the advice of Mrs Foster<sup>23</sup> who stated: "It is my opinion that no reference to the policies in Chapter 3 is required in Policy 7-7 either as a note or as a matter specified within the policy .... The*

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<sup>20</sup> Proposed One Plan Chapter 7 (Landscape and Natural Character) End of Hearing Report, page 9 paragraph 25.

<sup>21</sup> Page 7-39 - *Decisions on Submissions to the Proposed One Plan Volume 1 – Reasons for the Decisions* August 2010.

<sup>22</sup> Refer to Attachment D to this evidence for the wording of Policy 7-7 as contained in the NV POP.

<sup>23</sup> Foster, End of Hearing Report, 10 August 2009, page 9, paras 24-25.

*provisions of Chapter 3 stand alongside those of Chapter 7. I am in no doubt that they would be referred to and fully canvassed in an application and in evidence in any hearing of a proposal involving infrastructure in or near any of the features that are the focus of Chapter 7". We note that Mr Le Marquand<sup>24</sup> echoed Mrs Foster's opinion when we queried him orally on that same matter, as did Mr Peterson<sup>25</sup>. We therefore reject the submissions<sup>26</sup> calling for additional cross referencing to Chapter 3."*

75. I do not consider it necessary or appropriate for there to be a cross reference within Policy 7-7 to the Chapter 3 provisions given the content of both chapters will be considered in any given situation.

### **Range of options**

76. The risk to the Region's ONFL's of the adverse effects of inappropriate subdivision, use and development, including the potential for significant adverse cumulative effects is identified as an issue of regional significance (Issue 7-2(a)). Also identified in Issue 7-2(a) is that developments with the potential for greatest impact include wind farm developments, residential subdivision and other major structures.
77. Any constraints on development within outstanding natural features and landscapes in Schedule F will be set through the objectives, policies and rules of District Plans and through decisions on resource consent applications. The Regional Council has no direct function covering subdivision, use and development. There are a range of options available to the Regional Council as a policy response to Issue 7-2(a), including:
- (a) **Do nothing:** Having identified an issue of regional significance, this response would not fulfil the Regional Council's responsibility under the RMA Section 30 (1)(b) to prepare objectives and policies in relation to any potential effects of the use, development, or protection of land which are of regional significance. Importantly, this response would not be effective in recognising and providing for the protection of ONFL's which is a matter of national importance (s6(a) RMA). Hence, the Regional Council would not fulfil its obligations under s6(a). In

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<sup>24</sup> Le Marquand, oral response to Panel.

<sup>25</sup> For Mighty River Power.

<sup>26</sup> Transpower, Mighty River Power, Trustpower, Powerco and Meridian.

addition, this response would not fulfil obligations under s 8 to have particular regard to the principles of the Treaty of Waitangi, where outstanding natural features and landscapes in Schedule F have associated cultural and spiritual values for tangata whenua. A 'do nothing' response exposes the Region to a risk that s.6 resources are inappropriately developed.

- (b) **Implement Policy 7-7 as presently formulated in the decisions version (with modifications as agreed through mediation and as set out in paragraph 42 above).** The Policy is an appropriate response to an issue of regional significance. Outstanding natural features and landscapes are vulnerable to significant adverse cumulative effects. Policy 7-7 specifically requires the avoidance of significant adverse cumulative effects and leaves room for the consideration of the practicability of avoidance, and remediation and mitigation measures for other adverse effects, within the context of any particular outstanding natural feature and landscape and any proposed development. This response:
- (i) Meets the Regional Council's responsibility under the RMA specifically section 30 (1)(b).
  - (ii) Is effective in recognising and providing for the protection of outstanding natural features and landscapes which is a matter of national importance (s6(a) RMA).
  - (iii) Fulfils obligations under s6(e) RMA in recognising and providing for relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
  - (iv) Fulfils obligations under s8 RMA to have particular regard to the principles of the Treaty of Waitangi, where outstanding natural features and landscapes in Schedule F have associated cultural and spiritual values for tangata whenua or historic heritage values.
- (c) **Some less restrictive policies that limit avoidance to circumstances where a greater level of effects is sustained than significant adverse cumulative effects.** I consider any

higher threshold than that provided in Policy 7-7(aa) does not give effect to Part II RMA and is not required by the NPS REG.

### **Conclusion On Key Issue 1 - The need for and wording of Policy 7-7**

78. I consider that the provisions of the DV POP Policy 7-7, subject only to the modifications agreed at mediation, are appropriate.
79. The activities that pose the greatest risk to ONFL's in the Region have been identified in Issue 7-2(a) as wind farms, residential subdivision and other major structures. The nature of the debate on Policy 7-7 focuses on the needs of energy companies, and in particular wind farm activities, and the application of Policy 7-7 in instances where the wind resource coincides with an ONFL included in Schedule F.
80. By virtue of the wind resource within the latitudes of the Region, a number of ONFL's may feasibly be used for renewable energy (for example, the Ruahine and Tararua Ranges and the Coastline of the Region). Policy 7-7 provides for the full consideration of effects, and in particular significant adverse cumulative effects.
81. With regard to the management of significant adverse cumulative effects, I note that Mr Anstey states in his evidence (paragraphs 14 and 15, page 5):

*"...However, it is important to consider the landscape in its entirety and ensure that the landscapes capacity to absorb culturally imposed change is not exceeded.*

*Development in landscapes that are valued by communities can, over time and as a result of incremental changes, lead to a deterioration in both character and quality due to cumulative and adverse effects on critical resource characteristics and values. In this regard, outstanding natural features and landscapes are particularly vulnerable to adverse cumulative effects. The management of such cumulative effects is critical in the sustainable management of landscapes, and in particular the sustainable management of outstanding natural features and landscapes over time. In my opinion, significant adverse cumulative effects on outstanding natural features and landscapes are inappropriate, and avoidance of them is desirable."*

82. In achieving the purpose of the RMA, sustainable management requires the recognition of the limitations on resource capacity of ONFL's. Inappropriate development on outstanding natural features and landscapes arises if an activity, for example renewable energy activities, exceeds that resource capacity unless there are other compelling reasons for consent to be granted. It is therefore appropriate that the POP in the total mix of policies recognises the issue of significant adverse cumulative effects on outstanding natural features and landscapes. The word 'significant' has a range of meanings and comparable words include 'noteworthy', 'remarkable', 'important', 'serious', or 'momentous'. In that range significant in this context is more likely to mean 'serious' or 'notable'. Significant adverse cumulative effects in the context of Policy 7-7 are most appropriately assessed on a case by case basis and the overall importance of any breach of Policy 7-7 will be assessed under a s104 assessment.
83. An assessment against the statutory tests for an RPS relevant to Policy 7-7 is provided in Attachment F, attached to this evidence.

**Issue 2 - The application of Policy 7-7 to the upgrading of an existing wind farm**

84. The appeal point which remains unresolved is by TrustPower Ltd. It seeks to exclude the operation, maintenance and the upgrading of wind farms from the consideration of Policy 7-7 and in particular from the consideration of Policy 7-7(aa) which is the avoidance of significant adverse cumulative effects.
85. To address this issue the parties have discussed:
- (a) An exemption for an upgrade of an existing wind farm from Policy 7-7, in particular from the consideration of significant adverse cumulative effects (Policy 7-7 (aa)); and
  - (b) Refining the definition of "upgrade" to not confine the definition to "existing use right tests"; and
  - (c) Either providing greater linkages within Policy 7-7 to Chapter 3 *Infrastructure, Energy, Waste, Hazardous Substances and*

*Contaminated Land* and/or providing for specific policy direction within Chapter 3 regarding upgrades to existing wind farms.

86. I address points (a) to (c) of paragraph 85 in the following sections of my evidence.

**An exemption from Policy 7-7 for an upgrade of an existing wind farm**

87. For all of the reasons set out under Issue 1 above I do not consider it appropriate to provide an exemption within Policy 7-7 for the upgrade of an existing wind farm. I reach this conclusion because:
- (a) The management of significant adverse cumulative effects remains a valid concern in the sustainable management of ONFL's over time. Indeed authorised development does not in itself provide a justification for opening the door to a greater scale of effects. This approach leads to an insidious decline in landscape values.
  - (b) On upgrade the existing consent provides an appropriate baseline of effects because the receiving environment is already subject to the existing wind farm. Other or further effects from an upgrade that cause significant adverse cumulative effects on an ONFL should be avoided.
  - (c) The specifics of a proposed upgrade need to be considered in the context of the facts of the case. It is my understanding that an upgrade to TrustPower Limited's wind farm may include, for example, the replacement of older, smaller lattice tower turbines that are potentially obsolete with larger new turbines, which is likely to result in a change in the character and scale of effects. They may also include a reduction in the total number of turbines within the same original wind farm footprint, which is likely to result in a change in the intensity of effects. At this point in time I am not aware of the specifics of any upgrade.
  - (d) A wind farm upgrade should in principle be capable of being designed within its existing footprint that does not generate significant adverse cumulative adverse effects. I understand that TrustPower Ltd

proposes fewer but taller turbines within the existing footprint. A reconfiguration causing significant adverse effects beyond those already existing should be able to be avoided. The simultaneous, successive and sequential visual effects could be covered in the design so they will not be greater. Presumably, fewer turbines are an inevitable consequence of larger turbines to avoid wind disturbance between turbines.

88. Any change in the character, intensity and scale of an activity has the potential to result in adverse effects, and therefore includes a potential for significant adverse cumulative effects. I consider that it would not be appropriate to exclude wind farm upgrades from Policy 7-7. Depending on how an upgrade is configured there is potential for adverse effects, including a potential for significant adverse cumulative effects. The effects of any upgrade will vary and can therefore only be adequately assessed during the course of considering an upgrade proposal in the context of the particular ONFL. There is no reason however, why an upgrade could not be designed so as to not trigger the potential policy obstacles.

### **Refining the Definition of Upgrade**

89. The Provisional Determination of the General Hearing Panel included a definition for "upgrade"<sup>27</sup> but noted that this definition would be rationalised when the final decisions were released. Mr Gilliland suggested the re-casting of that definition, for the Hearing Panel to consider when developing the final decisions, to address a lack of guidance (or test) for the level or scale of adverse effects that will be accepted when the activity is undertaken.<sup>28</sup> Mr Gilliland made the following statement in his response to the General Hearing Panel on the Preliminary Determination for Infrastructure and Administration<sup>29</sup>:

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<sup>27</sup> Glossary-15 of the Provisional Determination and Requests of the General Hearing Panel 20 November 2009.

<sup>28</sup> Paragraph 7 page 2 Proposed One Plan – Responses to General Hearing panel on Preliminary Determination for Infrastructure and Administration from Barry Gilliland on behalf of Horizons Regional Council (undated).

<sup>29</sup> Paragraph 9 page 3 Proposed One Plan – Responses to General Hearing Panel on Preliminary Determination for Infrastructure and Administration from Barry Gilliland on behalf of Horizons Regional Council (undated).



90. *"In the context of the Proposed One Plan the term upgrade is used to describe the actions taken to improve something that is old or outdated provided there are no significant adverse environmental effects in doing so."*

91. The Hearing Panel inserted a definition for "upgrade" and gave the following reasons for that decision, in relation to Policy 3-2<sup>30</sup>:

*"Consistent with the NPS on Electricity Transmission and our findings on the definition of infrastructure, we conclude that the policy should focus on the "operation, maintenance and upgrading" of infrastructure and other physical resources of regional or national importance. ....As a consequence of the above amendments we have inserted definitions of "maintenance" and "upgrade" in the Glossary. We derived the definitions from other regional plans and invited comments on them in our Provisional Determination. We are grateful to Mr Gilliland and the TA Collective<sup>31</sup> in particular for their helpful comments on our definitions, which we have largely adopted."*

92. The definition of upgrade contained in the DV POP is:

*"Upgrade means bringing a structure, system, facility or installation up to date or to improve its functional characteristics provided the upgrading itself does not give rise to any significant adverse effects, and the character, intensity and scale of any adverse effects of the upgraded structure, system, facility or installation remain the same or similar."<sup>32</sup>*

93. Policy 3-3<sup>33</sup> covers adverse effects from the establishment, operation, maintenance and upgrading of infrastructure. Initially I had considered that an amendment to the definition of upgrade to clarify that it captures an upgrade associated with increased capacity such as that at a wind farm. I considered the following potential amended wording for the definition of upgrade:

*"Upgrade means bringing a structure, system, facility or installation up to date or to improve its functional characteristics to increase its capacity, efficiency, security or safety provided ~~the upgrading itself does not give rise to any significant adverse~~*

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<sup>30</sup> Page 7-22 Decisions on Submissions to the Proposed One Plan Volume 1 – Reasons for the Decisions August 2010 Section 7.6.2.6.

<sup>31</sup> A copy of the TA Collective, Memorandum, 29 January 2010 is attached to this evidence, Attachment G.

<sup>32</sup> Glossary page 15 of the DV POP.

<sup>33</sup> Chapter 3, page 3-7 of the DV POP.

~~effects, and the character, intensity and scale of any adverse effects of the upgraded structure, system, facility or installation remain the same or similar.~~"

94. The amendment to the definition of "upgrade" would change the criteria that must be met to be considered an "upgrade", and in relation to existing wind farms would strengthen Policy 3-3(a) which requires that the Regional Council and Territorial Authorities must allow for the operation, maintenance and upgrading of all such activities once they have been established, no matter where they are located. The amendment would remove reference to adverse effects and instead require the character, intensity and scale of the *upgraded structure, system, facility or installation [emphasis added]* to remain the same or similar.
95. I have reflected on the impact of changing the definition for upgrade and determined that the changed definition is inappropriate given:
- (a) The definition applies to a number of activities throughout the POP. There may be unintended consequences of changing the definition in terms of how it is applied elsewhere in the POP.
  - (b) The definition in the DV POP included a deliberate focus on the adverse effects of any such upgrade.
  - (c) The definition of "upgrade" would have a wider application by considering whether the character, intensity and scale of the *structure, system, facility or installation* is the same or similar, rather than focusing on specific changes in effects.

**Providing linkages within Policy 7-7 to Chapter 3 and/or providing for specific policy direction within Chapter 3 regarding upgrades to existing wind farms.**

96. For the reasons outlined in paragraphs 68 to 69 of my evidence I do not consider it appropriate to refer to Chapter 3 within Policy 7-7. Both chapters will be considered in a resource consent process or the development of a plan.
97. The NPS REG 2011 Policy E3 requires regional policy statements and regional and district plans to include objectives, policies and methods to provide for the development, operation, maintenance and upgrading of new

and existing wind energy generation activities to the extent applicable to the region or district.

98. Within the structure of the POP, Chapter 3 gives effect to the NPS REG. Of particular relevance to Key Issue 2, Chapter 3 are the following policies:
- (a) Policy 3-1 which requires the recognition of the benefits of infrastructure and other physical resources of regional or national importance.
  - (b) Policy 3-2 which requires that the adverse effects of other activities on infrastructure and other physical resources of regional or national importance be avoided as far as reasonably practicable.
  - (c) Policy 3-3 which requires specific management of the adverse effects of infrastructure and other physical resources of regional or national importance, including and in particular Policy 3-3(a) requires that the Regional Council and Territorial Authorities must allow for the operation, maintenance and upgrading of all such activities once they have been established, no matter where they are located.
  - (d) Policy 3-4 requires that the Regional Council and territorial authorities must have particular regard to the benefits of the use and development of renewable energy, the Region's potential for the use and development of renewable energy and the need for renewable energy activities to locate where the renewable energy resource is located.
  - (e) Policy 3-5 covers energy efficiency.
99. Having considered the policy suite within Chapter 3, I do consider there is a potential gap. The policies in Chapter 3 do not specifically cover the benefits associated with allowing for an upgrade of an existing wind farm. I am therefore proposing (refer to the proposed wording in paragraph 101 below) to add an additional clause to Policy 3-4 to cover this.

**Proposed approach and the rationale for the approach.**

100. I consider it most appropriate that Policy 7-7 remain general in its application, such that it:

- (a) Does not exempt, or otherwise specify, particular activities from consideration of effects, and importantly significant adverse cumulative effects.
  - (b) Does not exempt, or otherwise specify, inappropriate subdivision, use and development from the requirement to avoid significant adverse cumulative effects.
  - (c) Does not exempt, or otherwise, subdivision, use and development from the requirement to avoid adverse effects as far as reasonably practicable, and where this is not reasonably practicable, to remedy or mitigate adverse effects.
101. With regard to existing wind farms, I understand that upgrades using larger and fewer turbines on the same footprint if properly configured and designed may not cause *significant* adverse cumulative effects. This is supported in the evidence of Mr Anstey (paragraph 41, page 11) where he states:
- "It is not possible to anticipate the likely cumulative effects of particular development proposals for an industry that is highly innovative and evolving. Depending on how the upgrade is designed and configured, it is possible (and even likely) that an upgrade of TrustPower's wind farm would improve its internal character and visual qualities. It is possible that an upgrade using larger and fewer turbines on the same footprint, if properly configured and designed, may not cause significant adverse cumulative effects, but this can only be determined through a robust assessment of the particular proposal within the context of the wider landscape."*
102. I do accept that the policy suite within the DV POP could be better supported in relation to the upgrade of an existing wind farm by the inclusion of an additional sub-clause within Policy 3-4. The amendment I propose is that which was discussed at the Technical Expert Conferencing and Planner Expert Conferencing held in January 2012, as follows (proposed wording is underlined):

***Policy 3-4 Renewable Energy***

(a) *The Regional Council and Territorial Authorities must have particular regard to:*

(iv) the benefits of enabling the increased generation capacity and efficiency of existing renewable electricity generation facilities.

103. An assessment against the statutory tests for an RPS relevant to Policy 3-4 is provided in Attachment H, attached to this evidence.

**Issues 3 and 4 – Schedule F - Item (da) Skyline of the Puketoi Range and item (ia) Skyline of the Ruahine and Tararua Ranges**

104. Schedule F item (da) *Skyline of the Puketoi Ranges* was not in the NV POP, it was inserted into Schedule F through the decisions of the Hearing Panel in response to submissions by Dr Shepherd (TEB PP 4147-4156)<sup>34</sup> and Grant John Stephens<sup>35</sup>. Dr Shepherd's submission expressed his concern that there is no specific policy to protect outstanding landscapes and landforms that are not included in Schedule F and that there are many landscapes not included in Schedule F that could be considered outstanding. He provided evidence of the Puketoi Ranges as an example of a landscape that warrants inclusion in Schedule F. Mighty River Power Limited was a further submitter<sup>36</sup> opposing those submissions. While there was discussion regarding the Puketoi Ranges at the Hearing, to my knowledge this particular matter was not addressed in any Officer Reports or any written Technical Evidence provided by Mr Anstey.

105. With regard to Schedule F item (da) *Skyline of the Pukeoti Ranges*, the Hearing Panel made the following comments<sup>37</sup>:

*"The skyline of the Puketoi Ranges was included as an outstanding and regionally significant feature in Policy 8.3(y) of the operative RPS. However, the skyline of the Puketoi Ranges was not included in Schedule F as notified. We were provided with no satisfactory evidential basis for that exclusion. Submitters requested that the skyline of the Puketoi Ranges be inserted into Schedule F. Dr Shepherd presented us with evidence regarding the Puketoi*

<sup>34</sup> Submitter 196 - submissions 196/3 and 196/4.

<sup>35</sup> Submitter 369 – submissions 369/29 and 369/30.

<sup>36</sup> Further Submitter X519/396 and 519/397.

<sup>37</sup> Page 7-36 Decisions on Submissions to the Proposed One Plan Volume 1 – Reasons for the Decisions August 2010 Section 7.7.2.8

*Range. He called it a "textbook example of an asymmetrical landform termed a cuesta, with steep scarp and extensive dip slopes", and karst, dolines and bogaz landforms. He concluded "There can be no doubt that the Puketoi Range is a regionally outstanding landscape, possibly one of national significance, but it is not included in Schedule F". We heard no evidence to the contrary. We find that it is appropriate to include the skyline of the Puketoi Ranges in Schedule F. The operative RPS lists the appropriate values and characteristics of that area for inclusion in Schedule F."*

106. The inclusion of Schedule F item (da) *Skyline of the Pukeoti Ranges* in the DV POP is appealed by Mighty River Power Limited and the appellant questioned the scope for its inclusion<sup>38</sup>. The parties agreed to put the issue of scope to one side on the basis that wording could be agreed. On this basis, Council has proceeded to resolve this matter through Mediation and Technical and Planner conferencing.

107. With regard to Schedule F item (ia) *Skyline of the Ruahine and Tararua Ranges*, the Hearing Panel made the following comments<sup>39</sup>:

*"Therefore, we reject the submissions asking for the skylines of the Ruahine and Tararua Ranges to be excluded from Schedule F. We also reject submissions seeking that the reference in Schedule F be limited to "the very highest skyline". We prefer the evidence of Mr Anstey who advised us "Importantly, the skyline is not limited to the highest ridge. The implication is that any ridgeline when seen against the sky becomes a feature to be protected from inappropriate subdivision, use and development. I support this more inclusive and flexible approach to skylines, an approach which acknowledges that the skyline moves with the viewer and many ridgelines in an outstanding landscape can assume prominence when viewed against the sky".*

*We find that it is appropriate to include the skyline of the Ruahine and Tararua Ranges in Schedule F. The operative RPS lists the appropriate values and characteristics of those areas to use in Schedule F."*

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<sup>38</sup> Memorandum Regarding Outstanding Issues From Appeal By Mighty River Power Limited Dated 22 June 2011.

<sup>39</sup> Page 7-37 Decisions on Submissions to the Proposed One Plan Volume 1 – Reasons for the Decisions August 2010 Section 7.7.2.9

108. The landscape architects and planners for the appellants and respondent have undertaken conferencing on the issue of altering or deleting items (da) and (ia) covering the Puketoi, Ruahine and Tararua Ranges in Schedule F. There was a consensus amongst those parties present on potential wording changes to both items in Schedule F and agreement therefore that the provisions remain. The proposed wording changes are included in Attachment I.
109. The changes are proposed to address the appellant's concerns regarding the clarity of the descriptions given for Schedule F item (da) and item (ia). Issues raised by the appellant included lack of clarity regarding the extent of the skyline for each item, lack of clarity regarding what would constitute a "sufficient distance" from which to view the skyline for each item, debate over whether a skyline, in and of itself, could constitute an outstanding natural feature or landscape under the *Pigeon Bay*<sup>40</sup> criteria set out in DV POP Table 7.2.<sup>41</sup> The changes I propose address these issues, in particular by:
- (a) clarifying that it is the ridge(s) and hilltops that are the outstanding natural feature or landscape;
  - (b) clarifying that the skyline is one of the characteristics or values attached to that natural feature or landscape;
  - (c) further defining the extent of the skyline;
  - (d) removing reference to "sufficient distance".
110. Issues 3 and 4, as listed in paragraph 11 above, are addressed in tabular form in Attachment A attached to this evidence.



**CLARE BARTON**  
**SENIOR CONSENTS PLANNER**

<sup>40</sup> *Pigeon Bay Aquaculture Ltd v. Canterbury Regional Council* [1999] NZRMA 209 and further *Wakatipu Environmental Society Inc v Queenstown Lakes District Council* [2000] NZRMA 59.

<sup>41</sup> Chapter 7, page 7-9 of the DV POP.





# Attachment A

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## Technical and Planning Evidence for Issue 3 and Issue 4

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## Technical and Planning Evidence for Issue 3 and Issue 4.

Provision in DV POP.	Appellant and s274 parties.	Summary of Appeal Request.	Planner Evidence of Clare Barton, including proposed amendments.  Additional wording <u>underlined</u> Deleted wording <del>strike through</del> .	Technical Evidence of Clive Anstey.
<p><b>Schedule F Table F1 Item (da) Skyline of the Puketoi Ranges.</b></p> <p>Column 1 Outstanding Natural Features or Landscapes reads:</p> <p><i>"(da) The skyline of the Puketoi Ranges defined as the boundary between the land and sky as viewed at a sufficient distance from the foothills so as to see the contrast between the sky and the solid nature of the land at the crest of the highest points along the ridges."</i></p> <p>Column 2 Characteristics/Values reads:</p> <p><i>"(i) Visual and scenic characteristics, particularly the visual prominence of the skyline in the eastern part of the Region</i> <i>(ii) Geological features, particularly the asymmetrical landform termed a cuesta"</i></p>	<p>Appellant:</p> <p>Mighty River Power Ltd #6</p> <p>S274 parties:</p> <p>ADAMS 2 – O FFNZ 1 – S HORT 6 – HUATAU 2 – O MERIDIAN 7 – S MILDON 1 – O MOC 1 – O NZHPT 3 – O RMILDON 1 – O TAG 1 –</p>	<p>Delete reference to the skyline of the Puketoi Ranges in clause (da) from Schedule F.</p>	<p>Discussions with the appellant included potential ways to further define "sufficient distance". The appellant's Technical Expert presented potential viewing distances to better define and to limit the extent of the ONFL. The viewing distance approach was unacceptable to Council and Council's Technical Expert.</p> <p>At Technical Conferencing 18 Jan 2012, the Landscape Expert for the appellant, Mighty River Power, and for the Council agreed to amendments to Item (da). At the time of writing, the Landscape Expert for Meridian (s274 party) is yet to confirm agreement or otherwise with this amendment. The amendment was agreed to at the Planner Conferencing 19 January 2012.</p> <p>I proposes the following amendment to Item (da) as agreed to at the Technical Conferencing 18 January 2012 and Planner Conferencing 19 January 2012, as follows:</p> <p>Column 1 Outstanding Natural Features or Landscapes be amended to read:</p> <p><i>"(da) The <u>main and highest ridge skyline along the full extent</u> of the Puketoi Ranges. <del>defined as the boundary between the land and sky as viewed at a sufficient distance from the foothills so as to see the contrast between the sky and the solid nature of the land at the crest of the highest points along the ridges"</del></i></p> <p>Column 2 Characteristics/Values be amended to read:</p>	<p>Mr Coombs, Technical Expert on behalf of the appellant, argued that 'Skyline' can be difficult to define because it moves with a viewer and, in itself, a "skyline" does not necessarily constitute an outstanding natural feature or landscape.</p> <p>Mr Coombs provided useful material to illustrate his contention and essentially argued that to attribute value to a skyline it was necessary to establish that the attributes with which the skyline was associated made it worthy of special recognition. In other words, the highest ridges and hilltops along the ranges may be outstanding for a number of reasons, <i>one of which could be their location on a prominent skyline.</i></p> <p>In both the Board of Enquiry deliberations over the Turitea Wind Farm proposal on the Tararua Ranges and the Environment Court Decision on the Waitohora Wind Farm proposal for the northern Puketoi, it was accepted that the highest ridges required recognition and protection as outstanding features. That these features constituted a skyline in some views was clearly taken into account but was not the only attribute to which value was assigned.</p> <p>The ridge of the Puketoi Range is prominent and distinctive, particularly when viewed from the eastern side. The steep and inaccessible escarpment on the eastern side, with considerable areas of naturally regenerating native trees and shrubs, adds to the prominence and unique character of the ridgeline.</p> <p>I consider that amendments proposed by Clare Barton to Item (da) and agreed to at Technical Conferencing 18 January 2012 and Planner Conferencing 19</p>

Provision in DV POP.	Appellant and s274 parties.	Summary of Appeal Request.	Planner Evidence of Clare Barton, including proposed amendments.  <b>Additional wording <u>underlined</u></b> <b>Deleted wording <del>strike through</del>.</b>	Technical Evidence of Clive Anstey.
			<p><i>"(i) Visual, natural and scenic characteristics of the skyline of the Puketoi Ranges, as defined by the main and highest ridge along the full extent of the Puketoi Range, particularly the visual prominence of the skyline in the eastern part of the Region</i></p> <p><i>(ii) Geological features, particularly the asymmetrical landform termed a cuesta"</i></p>	January 2012 provide improved clarity and certainty, and recognise the concerns raised by submitters and appellants during the POP development process. The need to recognise the importance of the <i>full extent</i> of the skyline is clear and the resource to be protected is clear; the ridge is a distinctive physical feature that, in many views, is prominent on the skyline.
<p><b>Schedule F Table F1 Item (ia) Skyline of the Ruahine and Tararua Ranges.</b></p> <p>Column 1 Outstanding Natural Features or Landscapes reads:</p> <p><i>"(ia) The skyline of the Ruahine and Tararua Ranges - defined as the boundary between the land and sky as viewed at a sufficient distance from the foothills so as to see the contrast between the sky and the solid nature of the land at the crest of the highest points along ridges. The skyline is a feature that extends along the Ruahine and Tararua Ranges beyond the areas in (h) and (i) above"</i></p> <p>Column 2 Characteristics/Values reads:</p> <p><i>"(i) Visual and scenic characteristics, including aesthetic cohesion and continuity, its prominence throughout much of the Region and its backdrop</i></p>	<p>Appellant:</p> <p>Mighty River Power #10</p> <p>S274 Parties:</p> <p>S274 parties: ADAMS 2 – O FFNZ 1 – S HDC 7 – O HUATAU 2 – O MERIDIAN 7 – S MILDON 1 – O MOC 1 – O NZHPT 3 – O RMILDON 1 – O TAG 1 –</p>	<p>Unresolved parts of appeal point – Request the deletion of the references made to the skylines of these ranges from Schedule F, clause (ia).</p>	<p>Discussions with the appellant included potential ways to further define "sufficient distance". The appellant's Technical Expert presented potential viewing distances to better define and to limit the extent of the ONFL. The viewing distance approach was unacceptable to Council and Council's Technical Expert.</p> <p>At Technical Conferencing 18 Jan 2012, the Landscape Expert for the appellant, Mighty River Power, and for the Council agreed to amendments to Item (ia). At the time of writing, the Landscape Expert for Meridian (s274 party) is yet to confirm agreement or otherwise with this amendment. A further minor amendment was agreed to at the Planner Conferencing 19 January 2012.</p> <p>I proposes the following amendment to Item (ia) as agreed to at the Planner Conferencing 19 January 2012, as follows:</p> <p>Column 1 Outstanding Natural Features or Landscapes be amended to read:</p> <p><i>"(ia) The <u>series of highest ridges and highest hilltops skyline along the full extent</u> of the Ruahine and Tararua Ranges, <u>including within the Forest Parks described in items (h) and (i).</u> – defined as <u>the boundary between the land and sky as</u></i></p>	<p>The amendments to item (ia) more clearly defines the resource to be managed for its outstanding attributes, and provides clarity in terms of location. The characteristics and values are now more appropriately attributed to 'the series of highest ridges and highest hilltops'. I consider that both the highest ridges and highest hilltops could inform parts of the prominent skyline, and that a hilltop could be separate to the series of highest ridges.</p> <p>At both the Motorimu and Turitea wind farm hearings it was generally accepted by the landscape experts (as well as those experts representing ecological and cultural values) that there was more than one prominent ridge to which value could be attributed and that there were particular hilltops or high points along the ranges that were distinctive and of cultural and heritage significance to tangata whenua.</p> <p>I consider that amendments proposed by Clare Barton to Item (ia) and agreed to at Planner Conferencing 19 January 2012 provide improved clarity and certainty, and recognise the concerns raised by submitters and appellants during the POP development process. The need to recognise the importance of the <i>full extent</i> of the skyline is clear, and the resource to be protected is clear; the series of highest ridges and highest hilltops are distinctive physical features which together inform the skyline.</p>

Provision in DV POP.	Appellant and s274 parties.	Summary of Appeal Request.	Planner Evidence of Clare Barton, including proposed amendments.  Additional wording <u>underlined</u> Deleted wording <del>strike through</del> .	Technical Evidence of Clive Anstey.
<p><i>vista in contrast to the Region's plains</i></p> <p><i>(ii) Importance to tangata whenua and cultural values</i></p> <p><i>(iii) Ecological values including values associated with remnant and regenerating indigenous vegetation</i></p> <p><i>(iv) Historical values</i></p> <p><i>(v) Recreational values"</i></p>			<p><i><del>viewed at a sufficient distance from the foothills so as to see the contrast between the sky and the solid nature of the land at the crest of the highest points along ridges. The skyline is a feature that extends along the Ruahine and Tararua Ranges beyond the areas in (h) and (i) above"</del></i></p> <p>Column 2 Characteristics/Values be amended to read:</p> <p><i>"(i) <u>Visual, natural and scenic characteristics of the skyline of the Ruahine and Tararua Ranges, as defined by the series of highest ridges and highest hilltops along the full extent of the Ruahine and Tararua Ranges, including the skylines aesthetic cohesion and continuity, its prominence throughout much of the Region and its backdrop vista in contrast to the Region's plains.</u></i></p> <p><i>(ii) Importance to tangata whenua and cultural values</i></p> <p><i>(iii) Ecological values including values associated with remnant and regenerating indigenous vegetation</i></p> <p><i>(iv) Historical values</i></p> <p><i>(v) Recreational values"</i></p>	



# Attachment B

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## Table 7-1 Wind farms in the Manawatu

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**Table 7-1 Wind farms in the Manawatu**

Name	Applicant	Local authority	Year of consent	No. of turbines	Installed capacity	Status	Submissions
<b>Tararua Stage 1</b>	Tararua Windpower Ltd	Tararua District Council	1996	48	37.7MW	Built	Notified, consent granted 23 submissions, 9 in opposition
<b>Tararua Stage 2</b>	Wind Farm Developments Ltd	Tararua District Council and PNCC	2001	55	36.3MW	Built	Non-notified, consent granted n/a
<b>Te Apiti</b>	Meridian Energy Ltd	Tararua District Council	2003	55	90.8MW	Built	Notified, consent granted 20 submissions, 11 in support
<b>Tararua Stage 3</b>	Trustpower Ltd	Tararua District Council and PNCC	2005	40 (9 refused)	93MW	Under construction	Notified, consent granted 340 submissions, 106 in support, 230 in opposition
<b>Te Rere Hau</b>	New Zealand Windfarms Ltd	PNCC	2005	104 (7 withdrawn through Consent Order)	48.5MW	Partly built (2.5MW)	Notified, consent granted 71 submissions, 27 in support, 44 in opposition



# Attachment C

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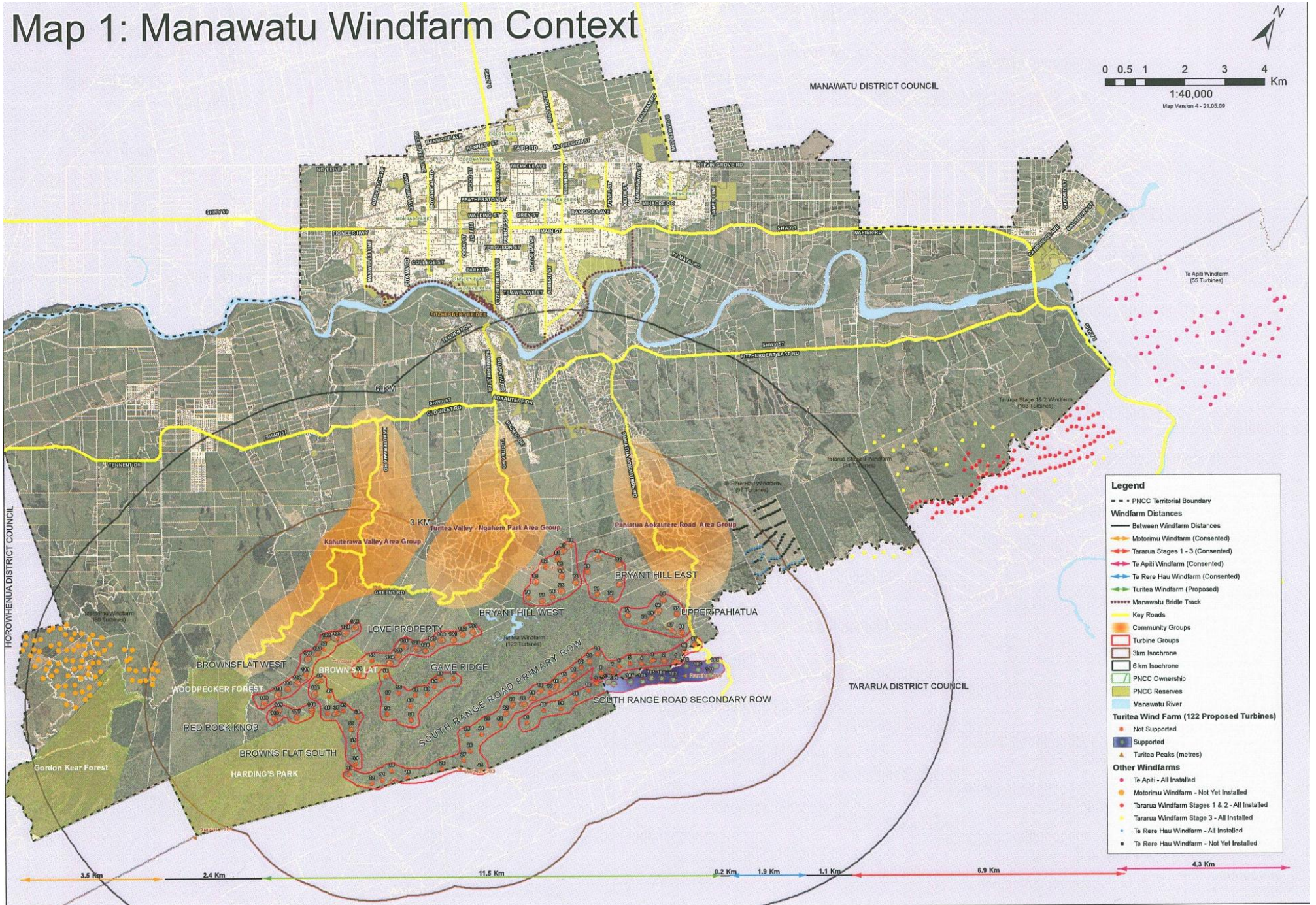
**Plan view showing where wind farms  
existed or were consented on the  
northern end of the Tararua Ranges**

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# Map 1: Manawatu Windfarm Context







# Attachment D

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**Policy 7-7 as contained in the NV-POP,  
Chapter 7 Section 7.4.2, page 7-7**

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**“Policy 7-7: Outstanding landscapes**

The landscapes listed in Schedule F shall be recognised as outstanding. All subdivision, use and development affecting these areas shall be managed in a manner which:

- (a) avoids or minimises to the extent reasonable any adverse effects on the characteristics and values specified in Schedule F for each landscape
- (b) takes into account and avoids any cumulative adverse effects
- (c) takes into account the policies in Chapter 3 when assessing activities involving renewable energy and infrastructure of regional importance.”



# Attachment E

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**Relevant planning instruments in the  
hierarchy that inform or govern the  
content of the RPS**

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## **RELEVANT PLANNING INSTRUMENTS IN THE HIERARCHY THAT INFORM OR GOVERN THE CONTENT OF THE RPS.**

**The following outlines of the relevant planning instruments in the hierarchy that inform or govern the content of the Regional Policy Statement (RPS).**

### **Resource Management Act**

1. The purpose of the Resource Management Act 1991 (the Act), as set out in s5 of the Act, is to promote the sustainable management of natural and physical resources. Sustainable management in the Act means 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 and for their health and safety while (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.
2. S6 of the Act sets out the matters of national importance and requires that all person exercising functions and powers under it shall recognise and provide for those matters.
3. S7 of the Act sets out other matters and requires that all person exercising functions and powers under it shall have particular regard to those matters.
4. S8 of the Act requires that all person exercising functions and powers under the Act shall take into account the principals of the Treaty of the Waitangi (Te Tiriti o Waitangi).
5. The functions of the Regional Council are set out in s30 of the Act which includes; clause 1(a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region; and clause 1(b) the preparation of objectives and policies in relation to any potential effects of the use, development, or protection of land which are of regional significance.

6. s61 RMA requires that the regional policy statement (RPS) should be designed in accordance with the Regional Council functions under s30 so as to achieve the purpose of the Act.
7. When preparing its regional policy statement the regional council must give effect to any national policy statement or New Zealand Coastal Policy Statement (s62(3)RMA), and must also have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations; and to consistency with policy statements and plans of adjacent regional councils (s 61(1) RMA). It must also take into account any relevant planning document recognised by an iwi authority (s61(2A) RMA) and must not be inconsistent with a water conservation order (s62(3)RMA) .

### **National Policy Statements**

8. The Regional Policy Statement must give effect to National Policy Statements including the New Zealand Coastal Policy Statement. The National Policy Statements relevant to outstanding natural features and landscapes provisions of the POP are:
  - a. The New Zealand Coastal Policy Statement 2010 (NZCPS 2010); and
  - b. The National Policy Statement for Renewable Energy Generation 2011 (NPS REG 2011).

**The following outlines relevant planning instruments to the extent that they are relevant to the resolution of the Key Issues 1 and 2, outlined in paragraphs 56 and 57 of the statement of evidence, which relate to outstanding natural features and landscapes.**

### **The Resource Management Act 1991**

9. Section 6 of the Act Matters of national importance, includes:

- a. Section 6(b) of the Act the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development as a matter of national importance;
  - b. Section 6(e) the relationship of Mmaori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and taonga;
  - c. Section 6(f) the protection of historic heritage from inappropriate subdivision, use, and development.
10. Section 6(b) of the Act identifies the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development as a matter of national importance, which shall be recognised and provided for. Section 6(b) then is particularly relevant to Policy 7-7 and Key Issue 1 and Key Issue 2.
11. Section 6(e) and Section 6(f) are relevant to the extent that if the wording in Policy 7-7 is altered there is the potential for an alteration in how adverse effects are to be managed within the items identified as a "*Regionally outstanding natural feature and landscape*" in Schedule F<sup>1</sup> of the DV POP, where those items include tangata whenua and/or historic heritage values.
12. Section 7 of the Act Other matters, includes:
- a. Section 7(b) the efficient use and development of natural resources;
  - b. Section 7(i) the effects of climate change;
  - c. Section 7(j) the benefits to be derived from the use and development of renewable energy.
13. Section 7(b) 7(i) and (j) are relevant to Key Issue 1 and Key Issue 2 to the extent that if the wording in Policy 7-7 is altered there is the potential for an alteration in how adverse effects are to be managed within the items identified as a "*Regionally outstanding natural feature and landscape*" in Schedule F<sup>2</sup> of the DV POP, where those items include the potential for or existing renewable energy generation activities.

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<sup>1</sup> Schedule F, page F-1 to F-4 of the DV POP

<sup>2</sup> Schedule F, page F-1 to F-4 of the DV POP

14. Section 8 of the Act Treaty of Waitangi, requires that all persons exercising functions and powers under it shall take into account the principles of the Treaty of Waitangi. In the appendix to the Rangahaua Whanui National Overview Report (Volume ii), Dr Janine Hayward discussed the emergence of four reconciling Treaty principles, but notes:

*"Therefore, new principles are constantly emerging from the Treaty and existing ones are modified. Professor Gordon Orr of the Waitangi Tribunal has observed that it may never be possible to formulate a comprehensive or complete set of principles because the Tribunal has dealt with only a limited ranges of cases and has not yet speculated about principles relevant to cases yet to be heard. Secondly, and perhaps most importantly, the provisions of the Treaty itself should not be supplanted by the principles emerging from it."<sup>3</sup>*

15. Section 8 of the Act is relevant to Key Issue 1 and Key Issue 2 to the extent that if the wording in Policy 7-7 is altered there is the potential for an alteration in how adverse effects are to be managed within the items identified as a "*Regionally outstanding natural feature and landscape*" in Schedule F<sup>4</sup> of the DV POP, where those items include tangata whenua values.

### **Iwi Management Plans**

16. I am aware of two active iwi management plans. These are the Ngati Rangi Waterways document (2002), which is focused on the management of waterways and the environmental outcomes that Ngati Rangi seek, and the Ngati Tuwharetoa Environmental Iwi Management Plan (2003), which is focused on the management of the environment and the environmental outcomes that Ngati Tuwharetoa seek.
17. It is my understanding that both of these documents were taken into account during the development of the POP, and in particular during the development of Chapter 4 Te Ao Maori Chapter<sup>5</sup>. Chapter 4 Table 4.1 of the DV POP sets out the resource management issues of significance to iwi and identifies the provisions that address those issues in the DV POP. I note that there are a

<sup>3</sup> National Overview, Volume ii, Professor Alan Ward, Waitangi Tribunal Rangahaua Whanui Series, Waitangi Tribunal 1997, Appendix - The Principles of the Treaty of Waitangi, page 475.

<sup>4</sup> Schedule F, page F-1 to F-4 of the DV POP

<sup>5</sup> Chapter 4, Table 4.1, page 4-14 to 4-22 of the DV POP



number of references in Table 4.1 to Chapter 7, however none specifically refer to outstanding natural features or landscapes. Therefore, these documents have little direct relevance to the resolution of Key Issue 1 and Key Issue 2.

### **New Zealand Coastal Policy Statement 2010**

18. The NZCPS 2010 includes a number of objectives and policies relating to natural features and natural landscapes (including outstanding natural features and outstanding natural landscapes) within the coastal environment, the relationship of tangata whenua with the coastal environment, and renewable energy generation and infrastructure within the coastal environment.
19. The NZCPS 2010 then is relevant to the extent that if the wording in Policy 7-7 is altered there is the potential for an alteration in how adverse effects are to be managed within the Coastline of the Region which is identified as a "*Regionally outstanding natural feature and landscape*" in Schedule F<sup>6</sup> of the DV POP .
20. The particular provisions of the NZCPS 2010 of relevance to Key Issue 1 and Key Issue 2 are:
  - a. Objective 2: To preserve the natural character of the coastal environment and protect natural features and landscape values.
  - b. Objective 3: To take into account the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment. This objective includes recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources; and recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.
  - c. Objective 6: To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use and development, while recognising specific matters, including:

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<sup>6</sup> Schedule F, page F-3 of the DV POP

- i. the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;
  - ii. some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;
  - iii. functionally some uses and developments can only be located on the coast or in the coastal marine area;
  - iv. the coastal environment contains renewable energy resources of significant value;
  - v. the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;
  - vi. historic heritage in the coastal environment is extensive but not fully known and vulnerable to loss or damage from inappropriate subdivision, use, and development.
- d. Policy 1: Extent and characteristics of the coastal environment. Policy 1(2) requires the recognition that the coastal environment includes:
- Policy 1(2)(f) elements and features that contribute to the natural character, landscape, visual qualities or amenity values; and
  - Policy 1(2)(i) physical resources and built facilities, including infrastructure, that have modified the coastal environment.
- e. Policy 2: The Treaty of Waitangi, tangata whenua and Maori heritage.
- f. Policy 6: Activities in the coastal environment.
- i. Policy 6(1) In relation to the coastal environment includes the following matters:

Policy 6(1)(a) recognise that the provision of infrastructure, the supply and transport of energy including the generation and transmission of electricity, and the extraction of minerals are activities are important to the social, economic and cultural well-being of people and communities;

Policy 6(1)(g) take into account the potential for renewable resources in the coastal environment, such as energy from wind, waves, currents and tides, to meet the reasonably foreseeable needs of future generations;

Policy 6(1)(h) consider how adverse visual impacts of development can be avoided in areas sensitive to such effects, such as headlands and prominent ridgelines, and as far as practicable and reasonable apply controls or conditions to avoid these effects.

ii. Policy 6(2) In relation to the coastal marine area:

Policy 6(2)(c) recognise that there are activities that have a functional need to be located in the coastal marine area, including the potential for renewable marine energy to contribute to meeting the energy needs of future generations;

Policy 6(2)(d) recognise that activities that do not have a functional need to be located in the coastal marine area generally should not be located there.

g. Policy 7 Strategic planning. This Policy requires that in preparing regional policy statements, and plans:

i. Policy 7(1)(b) identify areas of the coastal environment where particular activities and forms of subdivision, use, and development:

Policy 7(1)(b)(i) are inappropriate; and

Policy 7(1)(b)(ii) may be inappropriate without the consideration of effects through resource consent

application, notice of requirement for designation or Schedule 1 of the Act process;

and provide protection from inappropriate subdivision, use and development in these areas through objectives, policies and rules.

- ii. Policy 7(2) identify in regional policy statements, and plans, coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects. Include provisions in plans to manage effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specific acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided.
  
- h. Policy 15 Natural features and natural landscapes. This Policy requires the protection of the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:
  - i. Policy 15(a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment;
  
  - ii. Policy 15(b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment;
  
  - iii. Policy 15(c) identifying and assessing the natural features and natural landscapes of the coastal environment of the regional or district, at minimum by land typing, soil characterisation and landscape characterisation having regard to a list of matters (clauses (i) through (x));
  
  - iv. Policy 15(d) ensuring regional policy statements and plans, map or otherwise identify areas where the protection of

natural features and natural landscapes requires objectives, policies and rules.

### **National Policy Statement for Renewable Energy Generation 2011**

21. The NPS REG 2011 identifies the need to develop, operate, maintain and upgrade renewable electricity generation activities and to the benefits of renewable electricity generation, as matters of national significance.
22. The Objective of the NPS REG 2011 is to recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation.
23. The provisions of the NPS REG 2011 are relevant to Key Issue 1 and Key Issue 2. The relevance is confined to instances where the DV POP natural feature and landscape policies are to be applied to items identified as "*Regionally outstanding natural feature and landscapes*" in Schedule F<sup>7</sup> where there is the potential for or there is existing renewable electricity generation.
24. The particular provisions of the NPS REG 2011 of relevance to Key Issue 1 and Key Issue 2 include:
  - a. Policy A Recognising the benefits of renewable electricity generation activities. This Policy requires decision makers to recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities, and includes a list of matters (clauses (a) through(e)).
  - b. Policy B Acknowledging the practical implications of achieving New Zealand's target for electricity generation form

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<sup>7</sup> Schedule F, page F-1 to F-4 of the DV POP

renewable sources. This Policy requires decision makers too have particular regard to a list of matters (clauses (a) through (c)).

- c. Policy C Acknowledging the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities. This Policy includes:

- i. Policy C1 requires decision makers to have particular regard to a list of matters, including:

Policy C1(a) the need to locate the renewable electricity generation activity where the renewable energy resource is available;

Policy C1(b) logistical or technical practicalities associated with developing, upgrading, operating or maintaining the renewable electricity generation activity;

Policy C1(c) the location of existing structures and infrastructure including, but not limited to, roads, navigation and telecommunication structures and facilities, the distribution network and national grid in relation to the renewable electricity generation activity to the national grid;

- ii. Policy C2 When considering any residual environmental effects of renewable electricity generation activities that cannot be avoided, remedied, or mitigated, decision makers shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected.

- d. Policy E Incorporating provisions for renewable electricity generation activities into regional policy statements and regional and district plans. This Policy includes:

- i. Policy E3 Wind resources. This Policy requires regional policy statements and regional and district plans to include

objectives, policies and methods (including rules within plans) to provide for the development, operation, maintenance and upgrading of new and existing wind energy generation activities to the extent applicable to the region or district.





# Attachment F

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## Statutory Tests RPS Policy 7-7

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Statutory tests for regional policy statements	Statutory references	Assessment Narrative Policy 7-7
<b>A. General requirements.</b>		
1. A regional policy statement should be designed in accordance with the functions of the regional council so as to achieve the purpose of the Act.	s.59, s.61	The DV POP is designed so as to achieve the purpose of the Act by providing an overview of the resource management issues of the Region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.
2. When preparing its regional policy statement the regional council <b>must give effect to</b> any national policy statement or New Zealand Coastal Policy Statement.	s.62(3)	<p><b>New Zealand Coastal Policy Statement (NZCPS 2010)</b></p> <p>While the NV POP and DV POP were developed prior to the New Zealand Coastal Policy Statement (NZCPS 2010) coming into effect<sup>1</sup>, the RPS DV POP Chapter 7 provisions relating to natural features and landscape are not inconsistent with the NZCPS 2010 provisions relevant to natural character and landscapes. The DV POP Chapter 7 provisions relevant to natural features and landscapes include:</p> <ul style="list-style-type: none"> <li>– Issue 7.2 Outstanding natural features and landscapes and natural character;</li> <li>– Objective 7.2 Outstanding natural features and landscapes, and natural character;</li> <li>– Policy 7-7 Regionally outstanding natural features and landscapes;</li> <li>– Policy 7-7A Assessing outstanding natural features and landscapes and related table 7.2 natural Feature and Landscape Assessment Factors;</li> <li>– Method7-7 District Planning – Natural Features, Landscapes and Indigenous Biological Diversity</li> <li>– Method 7-A Consistent Landscape Assessment</li> </ul> <p>These provisions are described in more detail in paragraphs 38 to 49 of this evidence.</p>

<sup>1</sup> New Zealand Coastal policy Statement 2010 issued by notice in the New Zealand Gazette on 4 November 2010 and takes effect on 3 December 2010.

		<p>The relevant provisions of the NZCPS 2010 are outlined in Attachment E, attached to this evidence.</p> <p>In particular the amendment to Policy 7-7 I propose (which is Policy 7-7 as presently formulated in the DV of the POP, with modifications as agreed through mediation) and which is detailed in paragraph 42 of this evidence, would give effect to those parts of the provisions in the NZCPS 2010 relevant to natural features and landscapes including parts of Objective 2, Objective 3, Objective 6, and in particular Policy 7 Strategic Planning<sup>2</sup> and Policy 15 Natural features and natural landscapes.</p> <p><b>National Policy Statement for Renewable Electricity Generation 2011 (NPS REG 2011)</b></p> <p>While the NV POP and DV POP were developed prior to the National Policy Statement for Renewable Electricity Generation 2011 (NPS REG 2011) coming into effect<sup>3</sup> the RPS DV POP Chapter 3 is not inconsistent with the NPS REG 2011.</p> <p>The relevant provisions of Chapter 3 in the DV POP are described in more detail in paragraph 97 of this evidence.</p> <p>The relevant provisions of the NPS REG 2011 are outlined in Attachment E, attached to my evidence.</p>
<p>3. When preparing its regional policy statement the regional council must also:</p> <ul style="list-style-type: none"> <li>• <b>have regard to</b> any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries</li> </ul>	s.61(1)	<p>Regard was given to the Historic Places Register in terms of the items in DV POP Schedule F. The items included in DV POP Schedule F were included in the operative Regional Policy Statement for the Manawatu-Wanganui Region 1998 and carried over</p>

<sup>2</sup> NZCPS Policy 7(1)(a) and (b) and Policy 7(2).

<sup>3</sup> National Policy Statement for Renewable Electricity Generation 2011 *Issued by notice in the gazette on 14 April 2011.*

<p>regulations; and to consistency with policy statements and plans of adjacent regional councils;</p> <ul style="list-style-type: none"> <li>• <b>take into account</b> any relevant planning document recognised by an iwi authority; and</li> <li>• <u>not</u> have regard to trade competition;</li> <li>• must not be inconsistent with a water conservation order</li> </ul>	<p>s.61(3) s.62(3)</p>	<p>into the NV POP. A number of these items have recognised associated historic values.</p> <p>The New Zealand Historic Places Trust (NZHPT) appealed a number of DV POP Schedule F items requesting increased detail reading the description of historic values, and in some cases the addition of historic values to specific items. The NZHPT appeal requests were based on information held by NZHPT on the heritage values of these items. At the time of writing this report, I understand these appeal points to have now been resolved and are no longer the subject of appeal.</p> <p>In this Region Horizons Regional Council are aware of two active iwi management plans</p> <ul style="list-style-type: none"> <li>- Ngati Rangi Waterways document (2002)</li> <li>- Ngati Tuwharetoa Environmental Iwi Management Plan (2003).</li> </ul> <p>I understand that these documents were taken into account during the drafting of the RPS provisions for Chapter 4 NV POP. DV POP Table 4.1 Chapter 4 sets out the Resource Management Issues of Significance to hapu and iwi and specifies the relevant chapter of the DV POP that addresses those issues. There are no direct references in DV POP Table 4.1 to Chapter 7 with regard to outstanding natural features and landscapes or natural character.</p> <p>I am aware of two conservation orders that exist within the natural features and landscapes included in DV POP Schedule F, as follows;</p> <ul style="list-style-type: none"> <li>• Manganui O Te Ao River and its main tributaries, including the the Waimarino, Makatote, Oruautoha and the Mangatururu Rivers are protected by a national water conservation order, in recognition of the outstanding wild and scenic characteristics,</li> </ul>
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		<p>and wildlife and fisheries values of these rivers.</p> <ul style="list-style-type: none"> <li>• Parts of the Rangitikei River and its tributaries are protected by a national water conservation order in recognition of their outstanding scenic, wildlife habitat, recreational and fisheries values.</li> </ul> <p>DV POP Objective 7.2, Policy 7-7, Policy 7-7A, Policy 7-8, and the Schedule F descriptions, values and characteristics provided for these items are not inconsistent with these water conservation orders.</p>	
4.	The regional policy statement must be prepared <b>in accordance with</b> any regulation;	s.61(1)	There are no regulations at present. Not Applicable
5.	<p>The formal requirement that a regional policy statement <u>must</u> also state:</p> <ul style="list-style-type: none"> <li>• The significant resource management issues for the region;</li> <li>• The objectives, policies and methods;</li> <li>• The principal reasons for adopting the objectives, policies and methods and;</li> <li>• the environmental results anticipated from the implementation of the policies and methods;</li> <li>• The processes to be used to deal with cross-boundary issues;</li> <li>• The local authority responsible for specifying objectives, policies and methods for the control of the use of land relating to natural hazards, hazardous substances, and indigenous biological diversity;</li> <li>• The procedures to monitor the efficiency and effectiveness of the policies or methods in the regional policy statement.</li> </ul>	<p>s.62(1)(a) s.62(1)(c)-(e) s.62(1)(f) s.62(1)(g) s.62(1)(h) s.62(1)(i) s.62(1)(j)</p>	<p>Relevant to Outstanding Natural Features and Landscapes: The RPS DV POP includes:</p> <ul style="list-style-type: none"> <li>- Issue 7.2 Outstanding natural features and landscapes and natural character;</li> <li>- Objective 7.2 Outstanding natural features and landscapes, and natural character;</li> <li>- Policy 7-7 Regionally outstanding natural features and landscapes;</li> <li>- Policy 7-7A Assessing outstanding natural features and landscapes and related Table 7.2 natural Feature and Landscape Assessment Factors;</li> <li>- Method 7-7 District Planning – Natural Features, Landscapes and Indigenous Biological Diversity</li> <li>- Method 7-A Consistent Landscape Assessment</li> <li>- Anticipated Environmental Results</li> <li>- Explanations and Principal Reasons: Natural Features and landscapes</li> <li>- The process to be used to deal with cross boundary is set out in Chapter 10A.</li> </ul>

		- The procedures for monitoring the efficiency and effectiveness of the policies and methods in the RPS are set out in Chapter 10A.
<b>B. Objectives [the section 32 test for objectives]</b>		
6. Each proposed objective in a regional policy statement <b>is to be evaluated</b> by the extent to which it is the most appropriate way to achieve the purpose of the Act.	s.32(3)(a)	DV POP Objective 7-2(a) for natural features and landscapes is largely similar to that of the Notified POP and therefore much of the original s32 analysis still applies.
<b>C. Policies and methods (excluding rules) [the section 32 test for policies and methods]</b>		
7. The policies are to <b>implement</b> the objectives, and the methods are to <b>implement</b> the policies;	s.62(1)(d) and (e)	DV POP Objective 7-2(a) is implemented through Policy 7-7 and Policy 7-7A (and associated Table 7.2)  Policy 7-7 and policy 7-7A are implemented through district planning mechanisms and resource consent decisions, and through Method 7-7 and Method 7-7A.
8. Each proposed policy or method is to be examined, <b>having regard to its efficiency and effectiveness</b> , as to whether it is the most appropriate method for achieving the objectives of the regional policy statement: (a) <b>taking into account:</b> (i) the benefits and costs of the proposed policies and methods; and (ii) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, or methods;	s.32(3)(b)  s.32(4)	DV POP Policy 7-7 natural features and landscapes has a similar intent to that of the NV POP and therefore much of the original s32 analysis comment regarding efficiency and effectiveness and costs and benefits still applies.  The most significant amendments specifically to Policy 7-7 in the DV POP (in relation to the remaining appeal points on Policy 7-7) are to Policy 7-7 which now specifies that "significant adverse cumulative effects" are avoided, and that other

	<p>effects are avoided, as far as reasonably practicable, or otherwise remedied or mitigated<sup>4</sup>. The NV POP required adverse effects to be avoided or minimised to the extent reasonable, and required avoidance of “any cumulative effects”<sup>5</sup>.</p> <p>The Hearing Panel Decisions included the following comment with regard to amendments to Policy 7-7: <i>“We have amended Policy 7-7 so that it refers to regionally outstanding features. This was sought by a number of submitters<sup>161</sup>. We have deleted Policy 7-7(b) as notified as the matter of cumulative effects is now dealt with in new Policy 7-7(aa). We have also deleted Policy 7-7(c). We note that Genesis sought the deletion of Policy 7-7 in its entirety and, while we do not consider that to be appropriate, we find that Policy 7-7(c) should be deleted as we accept the advice of Mrs Foster who stated “It is my opinion that no reference to the policies in Chapter 3 is required in Policy 7-7 either as a note or as a matter specified within the policy .... The provisions of Chapter 3 stand alongside those of Chapter 7. I am in no doubt that they would be referred to and fully canvassed in an application and in evidence in any hearing of a proposal involving infrastructure in or near any of the features that are the focus of Chapter 7.</i></p> <p><i>We note that Mr le Marquand echoed Mrs Foster’s opinion when we queried him orally on that same matter, as did Mr Peterson. We therefore reject the submissions calling for additional cross-referencing to Chapter 3.</i></p> <p><i>For other matters raised in submissions we adopt the evaluation contained in the Planning Evidence</i></p>
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<sup>4</sup> DV of the POP, Chapter 7, page 7-8.

<sup>5</sup> NV of the POP, Chapter 7, page 7-7.

	<p><i>and Recommendations Reports and subsequent officers' reports listed in the footnotes to this decision.</i>"<sup>6</sup></p> <p>The amendments to DV POP Policy 7-7 I propose in paragraph 42 of this evidence are those modifications agreed through mediation. I would note however that Genesis did not sign the Mediation Memo Mediation. These amendments provide further direction to Territorial Authorities to include the spatial extent of the landscapes listed in Schedule F in their District Plans. These amendments add certainty that in the future District Plans will, over time, include spatial definitions for the items included in Schedule F.</p> <p>There are potential additional costs to Territorial Authorities in relation to these amendments through the expectation that District Plan reviews will include the spatial definition of the items in Schedule F, however, a number of the Territorial Authorities are already in the process of District Plan review including landscape assessments as part of those review processes.</p> <p>The benefits include improved guidance to decision makers to inform resource consent decision making and plan development processes, and in the future improved certainty for consent applicants regarding the spatial extent of the items included in Schedule F.</p> <p>Taking into account the Hearing Panel decision, the range of options presented in paragraphs 76 and 77 of this evidence, the resource management risk presented in paragraphs 60 to 62 of this evidence, and the costs and benefits associated with the</p>
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<sup>6</sup> Proposed One Plan As Amended by Decisions Volume 1 paragraph 7.7.3.5 Policy 7-7: Outstanding landscapes.



		amendments proposed, I consider that the DV POP Policy 7-7 (with the modifications agreed through mediation) to be most appropriate method, in conjunction with Policy 7-7A, for achieving Objective 7-2.
<b>E. Other statutes:</b>		
9. Finally regional councils may be required to comply with other statutes.		
<b>F. (On appeal)</b>		
10. On appeal the Environment Court must <b>have regard to</b> one additional matter – the decision of the regional council.	s.290A	Relevant decisions of the Hearing Panel are included in the discussions for Key Issue 1 in my evidence and in section C.8. of this Table (above).



# Attachment G

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**Copy of the TA Collective, Memorandum,  
29 January 2010**

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## MEMORANDUM

To: Proposed One Plan General Hearing Panel

From: Territorial Authority Asset Managers

Date: 29 January 2010

Subject: Proposed One Plan - General Hearing Panel Requests

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1. In its 'Provisional Determination and Requests of the General Hearing Panel' (dated 20 November 2009) the Panel has invited further input from relevant submitters by Friday 29 January 2010. In the case of the Territorial Authorities, the following invitation for further input has been made:
  - "c) Clarification on the intent of Policy 3-1(c) and how it could be further amended to provide more clear and certain policy guidance. Input is sought in particular from the Territorial Authorities and Regional Council officers;
  - d) The Glossary definitions of "maintenance" and "upgrade". The definition of these terms developed by the General Hearing Panel differs from those developed by the Land Panel and this requires resolution which will occur before final decisions are released. However, at this stage input is sought on the General Hearing Panel's definitions in particular from the Territorial Authorities, the energy infrastructure companies and Regional Council officers;
  - e) The inclusion of the term "public roads" in policies 14-1(e) and 14-2(d) - input is sought in particular from the Territorial Authorities, Horticulture New Zealand and Regional Council officers;"

The Territorial Authority (TA) Asset Managers have met and considered the Panel's requests and resolved to respond to each of these requests as follows.

**2. Policy 3-1(c): Infrastructure and Cross Boundary Consistency**

Policy 3-1(c), as stated in the General Hearing Panel's Provisional Determination, reads as follows:

*"(c) The Regional Council and Territorial Authorities<sup>^</sup> shall manage existing and future infrastructure-<sup>^</sup> ~~shall be managed~~ in a manner which achieves as much consistency across local authority<sup>^</sup> boundaries as is reasonably possible."*

The Asset Managers are not exactly clear, in this instance, as to what the Panel is seeking from the TAs and Regional Council officers, given that the intent of the policy appears to be quite simple ie that where infrastructure which is linear by nature (eg roads, railways, pipelines, transmission lines) crosses a local authority boundary, the manner in which the infrastructure is managed on either side of the boundary should be consistent.

In other words, if the means of management consists primarily of provisions in statutory (RMA) plans, these provisions should be consistent (ie the same or similar) in their effect.

Assuming this interpretation is correct, the Asset Managers suggest that Policy 3-1(c) could be made clearer, or more certain by adding after the word "infrastructure", the words "which crosses local authority boundaries...". Thus, Policy 3-1(c) would read as follows:

"(c) The Regional Council and Territorial Authorities<sup>^</sup> shall manage existing and future infrastructure- which crosses local authority boundaries,<sup>^</sup> ~~shall be managed in~~ a manner which achieves as much consistency across local authority<sup>^</sup> boundaries as is reasonably possible."

### 3. Glossary definitions of "maintenance" and "upgrade"

3.1 The definition of "maintenance" in the General Hearing Panel's provisional determination is as follows:

*"Maintenance means all actions which have the objective of retaining or restoring a structure<sup>^</sup>, system, facility or installation in or to a state in which it can perform its required function and where the character, intensity and scale of the structure<sup>^</sup>, system, facility or installation remains the same or similar. Maintenance includes:*

- (a) *the reconstruction, alteration, removal or demolition of part of a structure<sup>^</sup>, system, facility or installation*
- (b) *trimming and removal of vegetation encroaching on a structure<sup>^</sup>, system, facility or installation*
- (c) *the erection and removal of a temporary structure<sup>^</sup>, system, facility or installation*
- (d) *the maintenance of access to a structure<sup>^</sup>, system, facility or installation*
- (e) *the maintenance of a track<sup>\*\*\*</sup>*

The Land Panel has defined "maintenance" as part of a general definition of "maintenance and repair", as follows:

*"Maintenance and repair, in relation to structures, means to keep or restore a structure to good condition and includes the reconstruction or alteration of part of a structure, provided that:*

- (a) *the maintenance does not result in any increase in the base area of the structure*
- (b) *the activity does not change the character, scale or intensity of any effects of the structure on the environment (except to reduce any adverse effects or increase any positive effects)."*

As a consequence of the Asset Managers' concerns about the limitations imposed by the Land Panel's clause (a) above, the scope of the General Hearing Panel's definition is preferred subject to a minor amendment. To be consistent with the intent of the RMA, it is suggested that the words "the effects of" be inserted into the third line of the definition after the words "...and scale of...", so that the definition refers to the character, intensity and scale of the effects remaining the same or similar, not the structure per se. This alteration would also make the definition consistent with the Land Panel's definition, where in part (b) of the definition, reference is made to "... the character, scale or intensity of any effects of the structure on the environment...".

3.2 "Upgrade" is defined by the two Panels as follows:

(General Hearing Panel definition)

*"Upgrade, for the purposes of Chapter 3, means replacing part of a structure<sup>^</sup>, system, facility or installation with a newer or better version, in order to bring the structure<sup>^</sup>, system, facility or installation up to date or to improve its operational characteristics and where the character, intensity and scale of the structure<sup>^</sup>, system, facility or installation remains the same or similar."*

**(Land Panel definition)**

*"Upgrade in relation to structures<sup>^</sup>, means all activities associated with improving the function of a structure<sup>^</sup> provided the activity:*

- (a) does not result in any increase in the base area of the structure<sup>^</sup>, and*
- (b) does not change the character, scale or intensity of any effects<sup>^</sup> of the structure<sup>^</sup> on the environment<sup>^</sup> (except to reduce any adverse effects<sup>^</sup> or increase any positive effects<sup>^</sup>).*

*Activities covered by this definition include:*

- (c) the reconstruction, alteration, removal or demolition of part of a structure<sup>^</sup>*
- (d) trimming and removal of vegetation for the purpose of improving the functional integrity of a structure<sup>^</sup>, and*
- (e) the erection and removal of temporary structures<sup>^</sup>.*

*This definition includes the upgrade\* of tracks as if they were structures<sup>^</sup>."*

Again, the less restrictive nature of the General Hearing Panel's definition of "upgrade" found favour with the TA Asset Managers, subject to a minor modification. In particular, the Asset Managers observed that there is no reference in this definition to there not being any increase in the base area of a structure. An upgrade of a TA structure asset such as a stopbank or a road, for example, may necessitate a widening of the base to achieve the desired upgrade, with the same or similar effects on the environment as existed previously. Hence the Asset Managers considered the Land Panel's definition to be unduly and unnecessarily restrictive by comparison with that of the General Hearing Panel. Also to be consistent with the definition of "maintenance" (and the approach suggested by the Land Panel), the Asset Managers suggest adding the words "effects of" after the words "scale of" in the second to last line of the General Hearing Panel's definition of "Upgrade". Thus the amended definition would read:

*"Upgrade, for the purposes of Chapter 3, means replacing part of a structure<sup>^</sup>, system, facility or installation with a newer or better version, in order to bring the structure<sup>^</sup>, system, facility or installation up to date or to improve its operational characteristics and where the character, intensity and scale of effects of the structure<sup>^</sup>, system, facility or installation remains the same or similar."*

#### **4. Policies 14-1(e) and 14-2(d) and "Public Roads" (in relation to Discharges to Air)**

The inclusion of "public roads" as an area for decisionmakers to "have particular regard to" in Policies 14-1(e) and 14-2(d) is acceptable to the Asset Managers, in principle. However, the Asset Managers suggest that the Hearing Panel may wish to consider the definition of "public roads", which presumably includes unformed (or 'paper') roads, and whether the reference to "public roads" ought to be limited to "formed legal roads".

We trust these comments will be of assistance in your deliberations.





# Attachment H

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## Statutory Tests RPS Policy 3-4

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Statutory tests for regional policy statements	Statutory references	Assessment Narrative POLICY 3-4
<b>A. General requirements.</b>		
1. A regional policy statement should be designed in accordance with the functions of the regional council so as to achieve the purpose of the Act.	s.59, s.61	The DV POP is designed so as to achieve the purpose of the Act by providing an overview of the resource management issues of the Region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.
2. When preparing its regional policy statement the regional council <b>must give effect to</b> any national policy statement or New Zealand Coastal Policy Statement.	s.62(3)	<p><b>National Policy Statement for Renewable Electricity Generation 2011 (PS REG 2011)</b></p> <p>While the POP NV and POP DV were developed prior to the National Policy Statement for Renewable Electricity Generation 2011 (PS REG 2011) coming into effect<sup>1</sup>, the Regional Policy Statement (RPS) DV POP is not inconsistent with the NPS REG, and in particular the provisions of Chapter 3 of the DV POP which includes:</p> <ul style="list-style-type: none"> <li>- Issue 3-1 Energy,</li> <li>- Objective 3-1 Infrastructure and other physical resources of regional importance,</li> <li>- Objective 3-1A Energy,</li> <li>- Policy 3-1 benefits of infrastructure and other physical resources of regional or national importance,</li> <li>- Policy 3-2 Adverse effects of other activities on infrastructure and other physical resources of regional or national importance,</li> <li>- Policy 3-3 Adverse effects of infrastructure and other physical resources of regional or national importance on the environment,</li> <li>- Policy 3-3A The strategic integration of infrastructure with land use, Policy 3-4 Renewable Energy,</li> <li>- Policy 3-5 Energy Efficiency.</li> </ul> <p>These Policies are described in more detail in paragraph 97 of this evidence .</p> <p>The relevant provisions of the NPS REG 2011 are outlined in Attachment E, attached to my evidence.</p> <p>In particular, the amendment I propose to Policy 3-4 in paragraph 101 of this evidence would give effect to NPS REG 2011 Policy E3 Wind resources. Policy E3 requires regional policy statements and regional and district plans to include objectives, policies and methods to provide for the development, operation, maintenance and upgrading of new and existing wind energy generation activities to the extent applicable to the region or district.</p>

<sup>1</sup> National Policy Statement for Renewable Electricity Generation 2011 *Issued by notice in the gazette on 14 April 2011.*

3.	<p>When preparing its regional policy statement the regional council must also:</p> <ul style="list-style-type: none"> <li>• <b>have regard to</b> any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations; and to consistency with policy statements and plans of adjacent regional councils;</li> <li>• <b>take into account</b> any relevant planning document recognised by an iwi authority; and</li> <li>• <u>not</u> have regard to trade competition;</li> <li>• must not be inconsistent with a water conservation order</li> </ul>	<p>s.61(1)</p> <p>s.61(3)</p> <p>s.62(3)</p>	<p>In this region Horizons Regional Council are aware of two active iwi management plans</p> <ul style="list-style-type: none"> <li>- Ngati Rangī Waterways document (2002)</li> <li>- Ngati Tuwharetoa Environmental Iwi anagement Plan (2003).</li> </ul> <p>I understand that these documents were taken into account during the drafting of the RPS provisions for Chapter 4 NV POP. DV POP Table 4.1 Chapter 4 sets out the Resource Management Issues of Significance to hapu and iwi and specifies the relevant chapter within the DV POP that addresses those issues. There are no direct references in DV POP Table 4.1 to Chapter 3 regarding matters of infrastructure or energy.</p>
4.	<p>The regional policy statement must be prepared <b>in accordance with</b> any regulation (there are none at present);</p>	<p>s.61(1)</p>	<p>There are no regulations at present. Not Applicable</p>
5.	<p>The formal requirement that a regional policy statement <u>must</u> also state:</p> <ul style="list-style-type: none"> <li>• The significant resource management issues for the region;</li> <li>• The objectives, policies and methods;</li> <li>• The principal reasons for adopting the objectives, policies and methods and;</li> <li>• the environmental results anticipated from the implementation of the policies and methods;</li> <li>• The processes to be used to deal with cross-boundary issues;</li> <li>• The local authority responsible for specifying objectives, policies and methods for the control of the use of land relating to natural hazards, hazardous substances, and indigenous biological diversity;</li> <li>• The procedures to monitor the efficiency and effectiveness of the policies or methods in the regional policy statement.</li> </ul>	<p>s.62(1)(a)</p> <p>s.62(1)(c)-(e)</p> <p>s.62(1)(f)</p> <p>s.62(1)(g)</p> <p>s.62(1)(h)</p> <p>s.62(1)(i)</p> <p>s.62(1)(j)</p>	<p>Relevant to Infrastructure and Energy: The RPS DV POP includes:</p> <ul style="list-style-type: none"> <li>- Issue 3-1 Energy,</li> <li>- Objective 3-1 Infrastructure and other physical resources of regional importance,</li> <li>- Objective 3-1A Energy,</li> <li>- Policy 3-1 benefits of infrastructure and other physical resources of regional or national importance,</li> <li>- Policy 3-2 Adverse effects of other activities on infrastructure and other physical resources of regional or national importance,</li> <li>- Policy 3-3 Adverse effects of infrastructure and other physical resources of regional or national importance on the environment,</li> <li>- Policy 3-3A The strategic integration of infrastructure with land use, Policy 3-4 Renewable Energy,</li> <li>- Policy 3-5 Energy Efficiency</li> <li>- There are no Non-Regulatory Methods</li> <li>- Anticipated Environmental Results (AER), including AER for efficient end use of energy and increased generation of energy from renewable sources in the Region.</li> <li>- Explanations and Principal Reasons</li> <li>- The process to be used to deal with cross boundary is set out in Chapter 10A.</li> <li>- The procedures for monitoring the efficiency and effectiveness of the policies and methods in the RPS are set out in Chapter 10A.</li> </ul>

<p><b>B. Objectives [the section 32 test for objectives]</b></p> <p>6. Each proposed objective in a regional policy statement <b>is to be evaluated</b> by the extent to which it is the most appropriate way to achieve the purpose of the Act.</p>	<p>s.32(3)(a)</p>	<p>DV POP Objective 3-1 Infrastructure and other physical resources of regional importance: "To have regard to the benefits of infrastructure and other physical resources of regional and national importance by enabling their establishment, operation, maintenance and upgrading."</p> <p>DV POP Objective 3-1 has similar intent to that of the NV POP Objective 3-1, but the DV POP Objective 3-1 now includes recognition of the benefits of infrastructure and other physical resources of regional or national importance. However, I consider that much of the original s32 analysis still applies.</p> <p>DV POP includes Objective 3-1A Energy which states <i>"An improvement in the efficiency of the end use of energy and an increase in the use of renewable energy resources within the Region"</i>.</p> <p>DV POP Objective 3-1 was not included in the NV POP, and addresses end use of energy and the generation of renewable energy in the Region.</p>
<p><b>C. Policies and methods (excluding rules) [the section 32 test for policies and methods]</b></p>		
<p>7. The policies are to <b>implement</b> the objectives, and the methods are to <b>implement</b> the policies;</p>	<p>s.62(1)(d) and (e)</p>	<p>DV POP Objectives 3-1 and 3-1A are implemented by:</p> <ul style="list-style-type: none"> <li>- Policy 3-1 benefits of infrastructure and other physical resources of regional or national importance,</li> <li>- Policy 3-2 Adverse effects of other activities on infrastructure and other physical resources of regional or national importance,</li> <li>- Policy 3-3 Adverse effects of infrastructure and other physical resources of regional or national importance on the environment,</li> <li>- Policy 3-3A The strategic integration of infrastructure with land use</li> <li>- Policy 3-4 Renewable Energy</li> <li>- Policy 3-5 Energy Efficiency</li> </ul> <p>These Policies are implemented by district planning mechanisms and resource consent decisions, and by decision making policies for resource consent in the DV POP Part II (Regional Plan).</p>
<p>8. Each proposed policy or method is to be examined, <b>having regard to its efficiency and effectiveness</b>, as to whether it is the most appropriate method for achieving the objectives of the regional policy statement:</p> <p>(a) <b>taking into account:</b></p> <p>(i) the benefits and costs of the proposed policies and methods; and</p>	<p>s.32(3)(b)</p> <p>s.32(4)</p>	<p><b>DV POP POLICY 3-4</b></p> <p>Policy 3-4 in the DV-POP is similar in intent to that in the NV POP. The amendments to Policy 3-4 through the Hearing process add further detail and a greater level of specificity such that DV POP Policy 3-4(a) now requires that the Regional Council and Territorial Authorities have particular regard to the following matters:</p> <ul style="list-style-type: none"> <li>(i) benefits of the use and development of renewable energy</li> <li>(ii) the Region's potential for the use and development of renewable energy resources,</li> </ul>

<p>(ii) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, or methods;</p>		<p>(iii) the need for renewable energy activities to locate where the renewable energy resource is located.</p> <p>DV POP Policy 3-4 (aa) continues to require preference to the development of renewable energy generation and use of renewable energy resources over the development and use of non-renewable energy resources in policy and plan development and decision making, with an exception for security in "hydro-dry" years.</p> <p>DV POP Policy 3-4(b) continues to require that the Regional Council and Territorial Authorities must generally not restrict the use of small scale renewable energy production for individual domestic use.</p> <p>The Hearing Panel Decision included the following comment with regard to Policy 3-4 and renewable energy:</p> <p><i>"We have discussed a number of the matters raised in the submissions under the principal issues of contention above. We accept the submission of Genesis that the promotion of renewable energy over non-renewable energy should not preclude providing surety of supply in "hydro dry" years. For other matters raised in submissions we generally adopt the evaluation contained in the Planning Evidence and Recommendations Report dated July 2008, as amended and updated by the subsequent officers' reports listed in the footnotes to this decision."</i></p> <p>The overall intent of Policy 3-4 DV_POP is largely similar to that in the NV-POP, therefore I consider that much of the original s32 analysis comment regarding efficiency and effectiveness and costs and benefits of Policy 3-4 still applies.</p> <p>As stated in my evidence paragraph 101 of this evidence <i>"I do accept that the policy suite within the DV POP could be better supported in relation to the upgrade of an existing wind farm by the inclusion of an additional sub-clause within Policy 3-4. The amendment I propose and which was discussed at Technical Expert Conferencing and Planner Expert Conferencing held in January 2012, as follows (proposed wording is underlined):</i></p> <p><i>"The Regional Council and Territorial Authorities must have particular regard to:</i></p> <p><i><u>(iv) the benefits of enabling the increased generation capacity and efficiency of existing renewable electricity generation facilities.</u></i>"</p> <p>I consider that the DV-POP Policy 3-4 and the amendment I propose to be the most appropriate method to achieve Objectives 3-1 and 3-1A. The amendments improve clarity and provide a greater level of specificity and as such are efficient and effective. There are no additional costs in relation to these amendments, there are however benefits in providing improved guidance to inform resource consent decision making and plan development processes.</p>
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		In summary, I consider that the amendment to Policy 3-4 that I propose is the most appropriate method, alongside Policies 3-1, 3-2, 3-3, to achieve Objectives 3-1 and Objective 3-1A Energy efficiency.
<b>E. Other statutes:</b>		
9. Finally regional councils may be required to comply with other statutes.		
<b>F. (On appeal)</b>		
10. On appeal the Environment Court must <b>have regard to</b> one additional matter – the decision of the regional council.	s.290A	Relevant decisions of the Hearing Panel are included in the discussions for Key Issue 2 in my evidence and in section C.8. of this Table (above).

<sup>i</sup> Proposed One Plan As Amended by Decisions August 2010 Volume 1 part 7, para 7.6.3.10.





# Attachment I

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## Proposed Skyline Definitions

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**Proposed wording changes to Schedule F table F1 Item (da) Skyline of the Puketoi Ranges and Item (ia) Skyline of the Ruahine and Tararua Ranges:**

Strike-through – wording deleted

Underlined – wording added

<b>Outstanding natural feature/landscape</b>	<b>characteristic/value</b>
<p><i>(da) <del>The main and highest ridge skyline along the full extent of the Puketoi Ranges defined as the boundary between the land and sky as viewed at a sufficient distance from the foothills so as to see the contrast between the sky and the solid nature of the land at the crest of the highest points along the ridges.</del></i></p>	<p>(i) <i>Visual, <u>natural</u> and scenic characteristics of the skyline of the Puketoi Ranges, as defined by <u>the main and highest ridge along the full extent of the Puketoi Range</u>, particularly the visual prominence of the skyline in the eastern part of the Region</i></p> <p>(ii) <i>Geological features, particularly the asymmetrical landform termed a <u>cuesta</u></i></p>
<p><i>(ia) <del>The series of highest ridges and highest hilltops skyline along the full extent of the Ruahine and Tararua Ranges, including within the Forest Parks described in items (h) and (i). – defined as the boundary between the land and sky as viewed at a sufficient distance from the foothills so as to see the contrast between the sky and the solid nature of the land at the crest of the highest points along ridges. The skyline is a feature that extends along the Ruahine and Tararua Ranges beyond the areas in (h) and (i) above</del></i></p>	<p>(i) <i>Visual, <u>natural</u> and scenic characteristics of the skyline of the Ruahine and Tararua Ranges, as defined by <u>the series of highest ridges and highest hilltops along the full extent of the Ruahine and Tararua Ranges</u>, including <u>the skylines</u> aesthetic cohesion and continuity, its prominence throughout much of the Region and its backdrop vista in contrast to the Region’s plains.</i></p> <p>(ii) <i>Importance to tangata whenua and cultural values</i></p> <p>(iii) <i>Ecological values including values associated with remnant and regenerating indigenous vegetation</i></p> <p>(iv) <i>Historical values</i></p> <p>(v) <i>Recreational values</i></p>



# Attachment J

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## Statement of Evidence of Richard Turner for Meridian Energy Ltd

**IN THE MATTER**

of the Resource  
Management Act  
1991

**AND****IN THE MATTER**

of the Proposed  
Horizons One Plan  
– Chapter 3  
Infrastructure,  
Energy and Waste

**STATEMENT OF EVIDENCE OF RICHARD JONATHON TURNER****Introduction**

1. My full name is Richard Jonathon Turner.
2. I am Meridian Energy Limited's (*Meridian*) Planning Manager – Natural Resources. I have held this position for one year. In this position I am responsible for managing Meridian's response and involvement in statutory planning processes that are of interest to Meridian's existing electricity generation activities and new electricity generation development opportunities.
3. In this role I have been responsible for preparing Meridian's submissions and hearing evidence to proposed national policy statements, regional policy statements, regional plans and district plans that are of relevance to Meridian's existing electricity generation activities and new development proposals. This has included responsibility for Meridian's involvement in the hearings on the Proposed Horizons One Plan (*One Plan*).
4. I am authorised to give this evidence on behalf of Meridian.
5. Prior to becoming Meridian's Planning Manager – Natural Resources, I held the position of Planner – Operations with Meridian for a period of two years. In that position I:
  - 5.1 Managed resource consent applications associated with the ongoing operation of Meridian's existing electricity generation activities;
  - 5.2 Managed Meridian's response to third party resource consent applications, including those involving water abstractions upstream of Meridian's hydro generation infrastructure; and
  - 5.3 Managed Meridian's response to statutory planning processes that were of interest to Meridian's existing electricity generation activities.
6. Before joining Meridian I was employed by TrustPower Limited as a Senior Environmental Officer where I was also involved in resource consenting, planning and environmental compliance matters. I have been directly employed in, or involved with, the electricity industry for approximately 9 years.

7. I hold the qualification of Bachelor of Planning (Hons) from the University of Auckland, 2000. I am a full member of the New Zealand Planning Institute. However, this evidence is not planning evidence for the purpose of the hearings on the One Plan. Planning evidence on behalf of Meridian on the One Plan is being presented by Ms Clarke.

#### **Scope of Evidence**

8. Given that Meridian did not present evidence at the Overall Plan hearings in July 2008 my evidence will deal with the following matters:
- 8.1 An Introduction to Meridian Energy;
  - 8.2 The Importance of Electricity in Modern Day Life;
  - 8.3 New Zealand Electricity Demand Growth and New Generation Options;
  - 8.4 Meridian's Interests in the Horizons Region; and
  - 8.5 Meridian's Interests in the One Plan.

#### **Introduction to Meridian Energy**

9. Meridian is a limited liability company wholly owned by the New Zealand Government. It is one of three companies formed from the split of the Electricity Corporation of New Zealand (ECNZ) on 1 April 1999.
10. Meridian's Statement of Corporate Intent states that:
- "Meridian Energy's nature and scope of activities is the generation of electricity (including the ownership and operation of related assets), the management of water related infrastructure, and the marketing, trading and retailing of energy and wider complementary products, solutions and services, primarily within New Zealand."*
11. As a State Owned Enterprise, Meridian is required by statute to operate as a successful business. A component of that requirement is to be an organisation that exhibits a sense of social responsibility by having regard to the interests of the community.
12. Meridian's objectives include maximising long-term shareholder value by its commitment to sustainable management and the development of the natural, physical and human resources utilised in its business.
13. Meridian's Sustainability Policy is a cornerstone of our operating philosophy. It means we balance every decision we make according to the social and environmental as well as financial impacts it will have on communities, the country and the planet.
14. Meridian is the single largest generator of electricity in New Zealand. It has also been the largest developer of new renewable electricity generation infrastructure under the Resource Management Act 1991 (RMA). Meridian's generation and storage capacity accounts for approximately 34% of New Zealand's electricity generating capacity and 77% of New Zealand's hydro storage capacity. Needless to say, Meridian's electricity generation

infrastructure is critical to the performance of the New Zealand economy and to the social wellbeing of people and communities.

15. When Meridian was formed on 1 April 1999 the assets associated with the Waitaki Power Scheme in Canterbury, the Manapouri Power Scheme in Southland and the Brooklyn Wind Turbine in Wellington were acquired.
16. Since this time Meridian has continued to operate and develop these assets and investigate, prove, consent, design and build new generation assets such as the Te Apiti Wind Farm in the Manawatu (90MW), the White Hill Wind Farm in Northern Southland (58MW), and we are presently constructing the West Wind project on the south-west coast of Wellington, comprising 62 turbines generating up to 2.3MW each.
17. Meridian has also recently received the necessary resources consents from the Ruapehu and Rangitikei District Councils and the Horizons Regional Council for the construction, operation and maintenance of a 130MW wind farm (Project Central Wind) approximately 12km north of Taihape. Project Central Wind will be capable of generating between 375 and 400 GWh per annum. The decision of the joint hearing panel is under appeal and should be heard in the Environment Court some time during 2009.
18. On 22 November 2004 Meridian announced its commitment to generate electricity solely from renewable sources in the future. This decision was not made because we thought it would be easy or because it is one with high financial rewards. Meridian chose this path because it considered it was, and still is, the right thing for New Zealand now and in the future and it reflects international and domestic policy imperatives and the preference of the public of New Zealand.
19. Meridian is actively investigating and pursuing options for further new renewable generation capacity and is investigating a number of sites that have potential for wind and hydro development throughout New Zealand. Meridian is also keeping a watching brief on marine energy and solar developments both within New Zealand and internationally.
20. Meridian also continues to upgrade and enhance its existing hydro generation assets in the Waitaki Catchment and at Manapouri. These works have included the re-running of the turbines at the Aviemore Power Station, the Second Manapouri Tailrace Project and the half-life refurbishment of the Manapouri Power Station, and the current re-running of turbines and half-life refurbishment of the Benmore Power Station. All of these projects help ensure that Meridian's existing generation portfolio is operating as efficiently as possible and generation output is optimised.

### **The Importance of Electricity in Modern Day Life**

21. The electricity system, from its generation to its local distribution, is critical infrastructure in the New Zealand economy. Over the past 120 years electricity has reshaped how New Zealanders live and work. Electricity has also become so central to day to day life that there are frequently no substitutes, yet its availability is often taken for granted. This is due to its unique advantages over other forms of energy, specifically:
  - 21.1 flexibility – it can be transmitted over large distances instantly in the quantity required;



- 21.2 versatility – it can be converted into three major uses of energy: heat, light and motion power;
  - 21.3 efficiency – it can be controlled and used with unparalleled precision; and
  - 21.4 availability – it can be produced from a number of different sources.
- 22. As a result, reliable and cost-effective access to electricity is fundamental to the ongoing growth of both New Zealand and its economy.
  - 23. Electricity is an essential ingredient to industry and commerce. Without modern electric devices and technology New Zealand's industry would be uncompetitive in the world market.
  - 24. Consistent electricity supply is also critical to the ongoing operation of communication networks and other infrastructure, as well as the operation of banks, hospitals, schools and other public and private institutions that are the fabric of social, economic, and cultural wellbeing and the health and safety, of people and communities.
  - 25. The future electricity market outlook is determined by growth in demand and supply, and the design of the policy and regulatory framework. A key target of the Government is to restore New Zealand's per capita income to the top half of the Organisation of Economic Co-operation and Development (OECD) rankings. For this to happen, the capacity to generate electricity will need to increase.

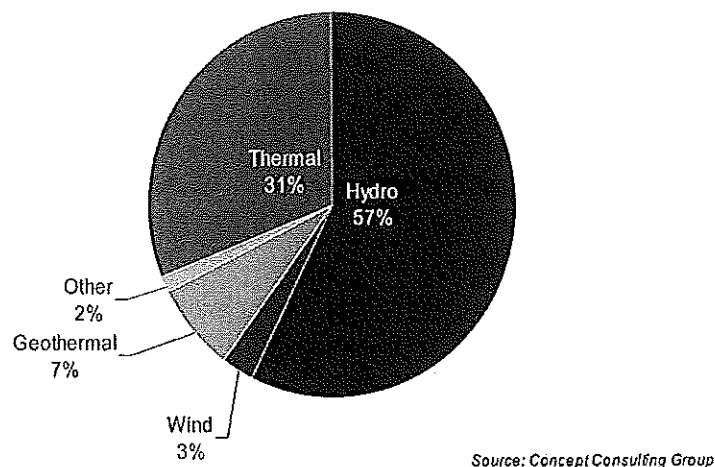
#### **New Zealand Electricity Demand Growth**

- 26. New Zealand's demand for electricity has grown consistently over the past 20 years. Electricity consumption has increased from approximately 30,000 GWh in 1990 to 42,000 GWh in 2008, an average growth rate of 2 percent per annum.
- 27. The need for new electricity generation is driven by energy requirements (GWh), taking into account energy demand growth and the retirement of existing generation, and the need for spare capacity to cover shorter term demand and supply uncertainties. Energy demand growth is driven by a range of econometric factors which are difficult to predict and over which commentators often have differing views.
- 28. It is also difficult to determine longer term trends in demand growth rates from observed trends. Year to year electricity demand fluctuations can be significant, due to climatic conditions, sectoral (for example dairy or forestry) or economy wide factors. Supply availability can also have a bearing (e.g. national electricity savings campaigns were instigated in 1992, 2001, 2003 and the 2008 winter given the low hydro inflows/lake levels and constraints in the transmission system). However, in recent years, it has been reasonable to assume that demand growth would continue at around 1.5%-2% per annum accepting that shorter term variations would occur.
- 29. It is also reasonable to expect that higher electricity prices will cause the rate of electricity demand growth to slow over the longer term although there are differing views as to the extent to which this will occur. Electricity

prices have risen in recent years with the cheap Maui gas supply dwindling and more expensive alternative developments being required.

30. Government's policy response to climate change is also further likely to increase electricity prices with some resultant changes in electricity supply and demand.
31. In October 2007, Government published its New Zealand Energy Strategy (NZES)<sup>1</sup>. In relation to electricity, a key Government objective is for 90% of electricity to be supplied from renewable generation sources by 2025 (based on average hydrological conditions).
32. As is depicted in Figure 1, renewable electricity generation (hydro, wind and geothermal energy) can, currently on average, meet approximately 70% of New Zealand's annual electricity generation requirements. Clearly there is quite a gap to close between 70-90% to achieve the target by 2025 which will need to be accomplished through further development of renewable electricity production to both meet the gap and fill the generation void left by retiring thermal plant. Closing this gap also works in the assumption that the output of existing hydro generation infrastructure is not eroded by changes in surrounding land uses (i.e. pressure for water to be allocated to third parties) or through changes in operating requirements as a result of consent review or re-consenting processes.

**Figure 1: Average Contribution to Electricity Generation Requirements**



### **New Generation Options**

33. Regardless of the future demand scenarios that actually occur, it is evident that significant investment in new renewable electricity generation infrastructure will be required between now and 2025 in order to achieve the 90% renewable target.
34. New generation in the future is likely to be sourced from a range of technologies. This is evidenced by public announcements relating to:

<sup>1</sup> "New Zealand Energy Strategy to 2050. Towards a sustainable low emissions energy system"; October 2007; New Zealand Government.

- 34.1 over 30 wind farm proposals at different stages of evaluation, planning or construction equating to approximately 18,000 GWh of new generation potential;
  - 34.2 over 3,000 GWh of hydro potential in publicly announced projects;
  - 34.3 over 6,000 GWh of geothermal projects that have been publicly announced; and
  - 34.4 over 10,000 GWh of new thermal projects that have been publicly discussed.
35. These projects have a combined production of around 37,000 GWh. In addition to these projects, there are other projects that are not yet in the public arena. In Meridian's view, many of these projects are unlikely to proceed, at least in the short to medium term due to a number of factors including project economics, technology, transmission and consentability.
36. Availability and price of fuel sources, consentability and transmission connections are key issues for new generation options. As outlined above new generation options can come from a range of technologies, though it is worth noting the following salient points, which impact on the current viability of some technologies.
- 36.1 The need for new gas finds to make gas viable - such a discovery is highly uncertain and the Government's 90% renewable target may limit the amount of new gas fired generation that can be built;
  - 36.2 Importation of liquefied natural gas (LNG) at current delivered prices is very likely to be uneconomic and also faces the issues associated with the Government's renewable electricity target;
  - 36.3 Most coal options, because of their infrastructural requirements, are very expensive and also face the Government's renewable electricity target issues;
  - 36.4 Geothermal development appears economic in proven brownfield sites but these are limited in their potential output. Much of the large scale growth will depend on development in still to be proven green field sites. Nonetheless, geothermal will be an important part of the new renewable generation mix;
  - 36.5 Wind energy is expected to supply an increasing proportion of New Zealand's electricity over the next few decades. However, wind is an intermittent source of electricity and in New Zealand we are able to develop significant amounts of wind energy because of the existing flexible hydro plant which acts as a support to wind's intermittent nature;
  - 36.6 Hydro, and particularly hydro with storage, has the ability to work well with wind energy, ramping up and down as required. As well as offering a number of operational benefits that wind does not, further hydro development is important to allow the ongoing development of wind resources in the future;

- 36.7 Marine energy is still at a very early phase of its development cycle and will need considerable time to establish technologies that are robust and commercially viable, together with the necessary understanding of our marine resources before it becomes a mainstream feasible option. That said, given New Zealand's significant coastal resources, it is likely to play a key role in a future renewable energy scenario for the nation; and
- 36.8 Biomass, because of its very limited output, and solar energy because of its high costs, are unlikely to make any significant contribution to new generation in the near future.
37. In summary, hydro, wind and geothermal are economic propositions now depending on the site and the resource. Marine and solar are renewable technologies of the future.
38. It also needs to be recognised that there will be regional and inter-island factors in relation to the type of renewable electricity generation that is developed and that some regions may need to contribute more to national demand than others. In this respect, given the resources available in the South Island it is highly likely that any new generation developed there will be either wind or hydro given the abundant water resources (i.e. rivers in Canterbury and West Coast) and wind resources (i.e. in Southland / Otago). New generation development in the North Island will also potentially involve wind and some hydro, with the added option of geothermal in parts of the Waikato, Bay of Plenty and Northland.
39. At a regional level the prevalence of one form of electricity generation over others will also be obvious. In this regard, regions such as Wellington will be more suited to wind energy, Canterbury to hydro, and the Waikato to geothermal and hydro. Other regions such as Gisborne may actually have very limited options for development and as such may not be support any renewable electricity generation of substance.
40. Demand side management ('DSM') can also be utilised to reduce electricity consumption and therefore ensure that the demand for electricity can be met by supply. DSM initiatives can range from measures to reduce electricity consumption by employing more efficient technologies, the use of alternative energy sources at a consumer level (including solar and gas), and the avoidance of energy use. Meridian promotes a range of DSM initiatives to its customers. These include the distribution of energy efficient light bulbs in Canterbury, new and more efficient domestic and commercial hot water heating solutions, co-marketing and development of energy efficient pumping and cooling systems for on-farm milking, and the promotion of efficiency and conservation measures to our customer base.
41. However, DSM alone will not meet the projected demand for electricity into the future regardless of which scenario eventuates. One of the most frequently used examples to illustrate this point is the Electricity Commission study<sup>2</sup> which estimated that the likely contribution of DSM is around 1,800 GWh by 2025.

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<sup>2</sup> Electricity Commission (2006). Scenarios for electricity demand: the next 25 years.

### **Meridian's Interest in the Horizons Region**

42. As I have outlined above, Meridian owns the Te Apiti Wind Farm which is located in the Tararua District. Meridian also has an active programme of investigating new wind and hydro opportunities throughout New Zealand, including the Horizons Region.
43. Meridian considers there is significant potential for additional renewable electricity generation in the Horizons Region. Any new renewable electricity generation in the region during the life of the One Plan is likely, in Meridian's opinion, to be either wind or hydro generation. This view is supported by Sinclair Knight Mertz Renewable Energy Assessment of the Horizons Region (prepared on behalf of Energy Efficiency and Conservation Authority, July 2006). This assessment identifies approximately 200 to 400MW of additional wind generation capacity in the region and up to 600MW of new hydro potential outside of Department of Conservation land. The harnessing of this renewable electricity potential is of course subject to a range of consentability and economic factors.

### **Meridian's Interest in the One Plan**

44. In light of the above, Meridian considers it important that regional and district planning documents such as the One Plan appropriately provide for existing electricity generation infrastructure and the potential investigation and development of new renewable electricity generation sources so as to provide for the social and economic well-being of people and communities.
45. As you will appreciate the benefits to be derived from the use and development of renewable energy is a section 7 matter in the RMA. As a result, Meridian has a particular interest in how the One Plan manages the use and development of natural and physical resources which are associated with renewable electricity generation.
46. Furthermore, as a prospective developer of new renewable electricity generation in the region, Meridian has a particular interest in how the One Plan seeks to manage the dual responsibilities of protecting natural and physical resources and enabling development.
47. The management of the region's water resources is one example of how the One Plan has the potential to either constrain or enable the future development of hydro generation. In this respect, a water management framework that is either inflexible or unwilling to contemplate the case by case issues associated with large takes or diversions of water for hydro generation will inevitably limit the consideration of such developments in the future.
48. Of particular interest to Meridian are the chapters of the One Plan which deal with renewable energy and infrastructure, natural character and landscape issues, biodiversity and areas of heritage values, and water allocation and water quality issues.
49. In relation to Chapter 3 (Infrastructure, Energy and Waste), which is the subject of this hearing, Meridian is keen to ensure the chapter accurately recognises the importance of regional / nationally important infrastructure and renewable electricity activities and the issues that make their development relatively unique when compared to other forms of land use and development. This includes the technical and functional constraints

which can limit the type and location of renewable electricity generation activities.

50. Technical and functional constraints include:
- 49.1 the need for wind turbines to be located in areas with high average wind speeds and a lack of turbulence, while hydro generation requires waterbodies with suitable head and available flow; and
  - 49.2 the fact that renewable electricity generation infrastructure needs to be located close to transmission infrastructure.
51. Meridian has also sought through its submission to ensure that Chapter 3 of the One Plan is only focused on providing for, enabling and maintaining infrastructure and renewable electricity generation, rather than also focusing on the adverse effects of these activities and how these should be managed. Meridian considers that Chapter 3 does not need to focus on adverse effects as the other chapters of the regional policy section of the One Plan also focus on managing the effects of development and that attempts to reconcile the tension between enabling infrastructure and renewable electricity generation with the protection of natural values should occur at the regional plan, district plan or resource consent application assessment level. This issue is discussed in more detail in the planning evidence of Ms Clarke.
52. In relation to the other chapters of the One Plan, Meridian has sought through its submissions to ensure that the objectives, policies and rules are consistent with the RMA to ensure the assessment of renewable electricity generation projects are suitably balanced.

### **Conclusions**

53. The provision of electricity is important to the social and economic well-being of people and communities. It is essential to the day to day functioning of people's lives. The Government has also set a target for 90% of New Zealand's electricity to be generated from renewable sources by 2025.
54. To achieve this target regional and district planning documents will need to give greater consideration to how they provide for existing and new renewable electricity generation activities. In this regard, compromises may need to be made between local adverse effects and regional and national benefits in order to allow new development to occur. This has already been recognised in some recent decisions of the Environment Court in relation to renewable electricity generation projects, but needs to be acknowledged in plans such as the One Plan.
55. Meridian also considered that the Horizons Region has a range of potential renewable electricity generation sources available which need to be considered in the formulation of the One Plan.
56. Finally, Meridian considers it appropriate that Chapter 3 of the One Plan is only focused on providing for and maintaining infrastructure and renewable electricity generation and the unique issues that impact on the locations selected for these types of developments.

Richard Turner  
17 April 2009