
BEFORE THE MANAWATU- WANGANUI REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Submissions and Further Submissions lodged by **Meridian Energy Limited** to the Manawatu-Wanganui Regional Council on the Proposed Horizons One Plan: **Chapters 7 (Landscape and Natural Character) and 18 (Financial Contributions)**.

**STATEMENT OF EVIDENCE OF CATHERINE MARY CLARKE
FOR
MERIDIAN ENERGY LIMITED**

1.0 Introduction and Qualifications

- 1.1** My full name is Catherine Mary Clarke. I am a planner and senior principal of Boffa Miskell Limited, a national firm of consulting planners, ecologists and landscape architects. I hold the qualification of Bachelor of Regional Planning (1st Class Honours) from Massey University. I am a full member of the New Zealand Planning Institute and a past president of the Auckland branch.
- 1.2** I have approximately twenty years experience in planning and resource management. My professional experience includes approximately three years in district planning, nine years with the Auckland Regional Council ('ARC') and most recently eight years in private consultancy based in Auckland.
- 1.3** I have had a range of experience in the development and implementation of regional planning documents prepared under the Resource Management Act 1991 ('RMA'). While employed by the ARC, I was responsible for project managing the development of the Auckland Regional Plan: Sediment Control and was directly involved in the development of the Auckland Regional Policy Statement and Auckland Regional Plan: Coastal. I am presently engaged by the ARC to assist in the review of the Auckland Regional Policy Statement as part of the development of their second generation Regional Policy Statement. I have also acted for a number of

infrastructure providers and resource users, where I have provided planning advice, lodged submissions and presented expert evidence on regional and district planning documents that affect their activities.

1.4 I have read the Code of Conduct for expert witnesses in the Environment Court Practice Notes. I agree to comply with this Code of Conduct. I am satisfied that the evidence in this statement is within my area of expertise, except where I state that I am relying on the evidence of another person. I am also not aware of any material facts that I have omitted that might alter or detract from the opinions that I express in this evidence.

2.0 Scope of Evidence

2.1 I have been engaged by Meridian Energy Limited ('Meridian') to provide a planning analysis and evidence in respect of the following provisions in the Proposed Horizons One Plan ('the One Plan').

- Landscape and Natural Character provisions in Chapter 7; and
- Financial Contributions in Chapter 18.

2.2 The purpose of my statement of evidence is to comment on the main findings of my analysis and the matters of concern to Meridian raised in submissions and further submissions lodged. In particular my statement of evidence will provide comment on:

- The consistency of the landscape and natural character provisions in Chapter 7 with the management approach in the RMA and in particular Section 6(b) regarding the protection of outstanding natural landscapes and features from inappropriate subdivision, use and development.
- The role of the regional council in managing landscape and natural character under the RMA and the provisions in the regional policy statement section of the One Plan.
- The appropriateness of the financial contribution provisions in Chapter 18 of the One Plan.

2.3 To assist the Committee, I have attached to this statement, a revised version of the landscape and natural character provisions in Chapter 7 and the financial contribution

provisions in Chapter 18 of the One Plan, which includes the amendments I am recommending to address Meridian's submissions and further submissions and amends the tracked change version of Chapters 7 and 18 as set out in the relevant Section 42A reports. Words to be added to the current tracked change version are shown in underline and words to be deleted are shown in ~~strike through~~. Refer **Attachments 1 and 2**.

2.4 For the record I also wish to advise the Hearings Committee that I have not been party to any of the pre-hearing meetings or caucusing sessions in relation to the landscape and natural character and financial contributions provisions of the One Plan.

3.0 **General Matters of Agreement – Chapter 7 (Landscape and Natural Character)**

3.1 In general, I consider many of the amendments proposed to Chapter 7 in relation to landscape and natural character in the relevant Section 42A report are an improvement on the provisions in the notified version of the One Plan. Further, I concur with a lot of the supporting commentary and many of the changes now proposed in the tracked changes version of Chapter 7 attached to the report.

3.2 In particular, I note the Section 42A report provides an overview of the relevant RMA provisions with respect to landscape and natural character. Importantly the report notes the distinction between the words 'preserved' and 'protected' in Sections 6(a) and (b) of the RMA:

"The word 'preserved' in section 6(a) suggests the need to maintain natural character (of the coastal environment (including the coastal marine area) wetlands, and lakes and rivers and their margins) in its existing state. The expression 'protected' indicates a requirement to guard against and prevent inappropriate development ..." The RMA management approach for 'natural character' is 'preservation' and for 'outstanding natural features and landscapes' it is 'protection from inappropriate subdivision, use and development'.¹

3.3 I generally concur with these comments and consider the Section 42A report now recommends a number of amendments to Chapter 7 which makes the provisions more consistent with this management approach in the RMA. However, I still consider that further amendments are required. In particular I consider that some provisions in

¹ Refer Page 10, Paragraphs 1 and 2 ,Section 42A Report, February 2009

Chapter 7 still do not recognise that the Act provides for protection from “*inappropriate subdivision, use and development*” and instead still simply focuses on the protection of landscape and natural character values at all cost. This later approach does not promote sustainable management in a manner consistent with Section 5 and Part 2 of the Act. I have therefore recommended further changes to some provisions in Chapter 7 to ensure that the provisions are more consistent with the management approach outlined in the Act.

3.4 I also support the recommendations in the Section 42A report that the terminology used to describe the landscapes being managed is consistent throughout the One Plan and the adoption of the language in the RMA being “outstanding natural features and landscapes.”²

3.5 Further I support the changes recommended in the Section 42A report which seek to clarify the purpose of the list and maps in Schedule F. As stated in the report:

“The POP identified (in Schedule F) 12 ‘regionally important landscapes’ and describes in a summary table their characteristics and values. The 12 areas are then mapped in Figures F:1 and F:3.”³ Further the reports states “The maps included in Schedule F are intended to assist in the interpretation of the list of “outstanding natural features and landscapes” in Schedule F by providing an indication of the areas where the values and characteristics of the landscapes listed in Schedule F are located. The maps are not intended to suggest that all of the listed characteristics and values will be present everywhere through out the mapped area. The map boundaries are the outer extent of the area within which the listed characteristics and values can be expected to be present. They are intended in this way to be “value envelopes”. For these reasons, Policy 7-7 (Landscapes and Natural Features) is intended to relate directly to the list of landscapes in Schedule F. It is not intended to relate directly to the maps in Schedule F⁴”.

3.6 I also note the officer’s comments that Schedule F is a policy tool and there are no rules in the One Plan that rely on whether activities are within or outside the areas listed or mapped in Schedule F⁵. Given this approach, I consider the One Plan could be improved by the Plan explicitly stating it is the Council’s intent that Schedule F be used as a policy tool only.

² Refer Meridian Submission 363/105 and 363/106

³ Refer Paragraph 3, Page 11, Section 42A Report, February 2009

⁴ Refer Paragraph 4, Page 15, Section 42A Report, February 2009

⁵ Refer Paragraph 5, Page 15, Section 42A Report, February 2009

3.7 I also note that representatives from Meridian attended the relevant prehearing meetings on the landscape provisions in 2008 and generally support the proposal to include landscape assessment criteria in the One Plan in the form of Table 7.2 and provide policy guidance on the use of these criteria in both regional and district policy development (“*to be used by the Regional Council and Territorial Authorities when they undertake (further) assessment of landscapes at regional or district level*”) and evaluation of activities requiring resource consents (“*to be referenced in evaluating the effect of activities on the characteristics and values of identified outstanding natural features and landscapes (whether in Schedule F or in a district plan.*”).

3.8 Despite the above, I still have specific matters of concern and these have been outlined below.

4.0 **Outstanding Matters of Concern - Chapter 7 (Landscape & Natural Character)**

Section 7.1.1 Scope

4.1 Meridian’s submission⁶ sought that Section 7.1.1(2) be amended so that it is consistent with the Act and refers to the protection of outstanding landscapes and the management of the natural character of the coastal environment, wetlands, rivers, lakes and rivers “*by protection from inappropriate subdivision, use and development.*” I support the relief sought in Meridian’s submission and consider Section 7.1.1 – Scope needs to be amended so that it is consistent with the RMA and also importantly the related objectives and policies and methods that follow in the chapter. As stated above, the additional words sought by Meridian are important and make it clear that Section 6(b) of the RMA, and accordingly the One Plan, is not solely concerned with protecting outstanding natural features and landscapes, but rather their protection from inappropriate subdivision, use and development. I note the officers recommend rejecting Meridian’s submission for the reason “*it is not intended that the Scope wording necessarily reflect the exact wording in the RMA instead it is intended to be more ‘user-friendly*’⁷. I do not consider the words ‘inappropriate subdivision, use and development’ are not ‘user-friendly’. These words are commonly used in many resource management plans. However most importantly the Plan should signal up-front to any reader of Chapter 7 that the provisions in this

⁶ Refer Meridian Submission 363/102

⁷ Refer Paragraph 5, Page 38, Section 42A Report, February 2009

chapter are not focussing on the absolute protection of all landscape and natural character values, but more appropriately on protection from inappropriate subdivision use and development. I therefore recommend the following amendments to Section 7.1.1(2).

Section 7.1.1 (2) Scope

“Landscapes and natural character – the protection of outstanding landscapes and the management of the natural character of the coastal environment, wetlands, rivers, lakes and their margins by protection from inappropriate subdivision, use and development.”

Issue 7-2 Natural Features, Landscapes and Natural Character

- 4.2** Meridian’s submission opposed Issues 7-2(a) and (b) and sought the deletion of the words ‘at risk’ and the singling out of the Tararua and Ruahine Ranges in subclause (a)⁸. The Section 42A report recommends rejecting Meridian’s submission.
- 4.3** While I agree with the overall intent of Issue 7-2, I am also uncomfortable with the use of the term “*at risk*” as raised in Meridian’s submission. This term could be considered emotive. Further the wording does not seem to align with the fact that most development on the Region’s outstanding natural features and landscapes can not occur without resource consent. Further, this statement provides no recognition that some use and development may be appropriate in Region’s outstanding natural features and landscapes. In particular use and development that has a functional requirement to locate in such landscapes and overall is considered to promote sustainable management in a manner consistent with the RMA (for example, a renewable energy generation facility such as a wind farm). I consider the wording “*can be adversely affected*” is more appropriate and consistent with the wording in the RMA and should be adopted in Issue 7-2.
- 4.4** I also support Meridian’s submission that the specific reference to the Tararua and Ruahine Ranges should be deleted from Issue 7-2(a). As stated in Meridian’s submission, these ranges are only two of a range of regionally outstanding landscapes identified in Schedule F that can be potentially affected by inappropriate use and development. While I acknowledge a range of submissions have identified adverse effects on the landscapes values of Tararua and Ruahine Ranges as an issue for the region, I also importantly note the officers have not recommended a special objective

⁸ Refer Meridian Submission 363/107

or policy response to these submissions⁹. Therefore, if the provisions in Chapter 7 are to be consistent, it would seem inappropriate to now have a special reference to effects on the landscape values of the entire Tararua and Ruahine Ranges in Issue 7-2(a).

4.5 It is therefore recommended that Issue 7-2 be amended as follows:

Issue 7-2: Natural features, Landscapes and natural character

- (a) The Region's outstanding natural features and landscapes ~~can be adversely affected by~~ ~~are at risk from the effects of land-use activities and~~ development, particularly the Tararua and Ruahine Ranges. Adverse effects of development on regionally outstanding natural features and landscapes include the potential for significant adverse cumulative effects. Developments with the potential for greatest impact include wind farms, residential subdivision and other major structures.
- (b) The natural character of coastal environment, wetlands, rivers, lakes and their margins ~~can be adversely affected by~~ ~~is at risk from the effects of~~ land-use activities and development, particularly new river works, drainage and subdivision in areas with a high degree of natural character. ~~naturalness~~.

Objective 7-2 Natural Features, Landscapes and Natural Character

4.6 As stated above, I support the changes to Objective 7-2 which make it clearer that Schedule F identifies the characteristics and values of the regionally outstanding natural features and landscapes. I further support the recommendation in the Section 42A report accepting that part of Meridian's submission¹⁰ seeking the inclusion of the words 'inappropriate subdivision, use and development' for the reasons I have already outlined.

4.7 However the recommendation by the officer to now include the wording "*including those identified in Schedule F*" in Objective 7-2 implies there are other areas considered to have regionally outstanding natural features and landscapes in the Region. This is inconsistent with the officer's directives in the Section 42A report that states "*Objective 7-2 addresses the ... key issues the following way. (a) seeking the protection of the characteristics and values of the outstanding landscapes identified in Schedule F*"¹¹." The inclusion of the wording *including those identified in Schedule F* introduces an element of uncertainty to the outcomes sought by Objective 7-2 and appears to be inconsistent with the overall recommendations of the

⁹ Refer Paragraph 9, Report by John Maassan, Section 42A Report, February 2009.

¹⁰ Refer Meridian Submission 363/114

¹¹ Refer Paragraph 3, Page 11, Section 42A Report, February 2009

officer in the Section 42A report. Accordingly, I recommend that the words “including those”, as now proposed by the officers, be deleted from Objective 7-2(a).

Objective 7-2: Natural features, Llandscapes and natural character

- (a) The characteristics and values of the regionally outstanding natural features and landscapes ~~including those~~ identified in Schedule F are protected from inappropriate subdivision, use and development ~~as far as practicable~~.
- (b) Adverse effects, including cumulative adverse effects, on the natural character of the coastal environment, wetlands, and rivers, lakes and their margins are:
 - (i) avoided in areas with a high degree of naturalness-natural character
 - (j) avoided, remedied or mitigated in other areas.

This Objective relates to Issue 7-2.

Policy 7-7 (a): Regionally Outstanding Natural Features and Landscapes

- 4.8 Meridian’s submission sought significant amendments to Policy 7-7 or that the policy be deleted in its entirety. These submissions are recommended as being rejected by the officer in the Section 42A report. Despite the rejection of Meridian’s submissions on Policy 7-7, I do support a number of the amendments to the policy now recommended in the Section 42A report.
- 4.9 Firstly, I support the recommendation to include the wording “*as far as reasonably practicable*” in Policy 7-7(a) in relation to avoiding adverse effects. I consider this wording is more consistent with the management approach in Section 6(b) of the RMA and acknowledges that natural features and landscapes are to be “protected” from inappropriate subdivision use and development, and not simply “protected” at all cost as discussed above. I also acknowledge that the wording “*as far as reasonably practicable*” is generally consistent with the wording adopted in other policies in the Plan.
- 4.10 I do however have outstanding concerns with the officer’s recommended two tier approach to Policy 7-7 where it is stated “*I suggest that it would be more constructive for the Policy to adopt a two – tier approach: seeking avoidance in the first instance, where reasonably practicable, and where not reasonably practicable, seek remediation or mitigation*”¹²“ As stated the officer considers that all adverse effects

¹² Refer Paragraph 2, Page 71, Section 42A Report, February 2009

on natural features and landscapes listed in Schedule F, Table F1, are to be either be avoided, remedied or mitigated.

- 4.11** I consider that Policy 7-7(a) as now proposed in the Section 42A report, is now more restrictive than the policy as notified, which originally required use and development to be managed in a manner that “*avoids or minimises to the extent reasonable*” any adverse effects on the characteristics and values specified in Schedule F, Table F1. It needs to be recognised that due to the nature of some activities, it is simply not possible to remedy or mitigate all adverse effects on natural features and landscapes as is now proposed by the officers in Policy 7-7(a). For example, the Environment Court has found that the development of some renewable energy generation facilities is appropriate in areas with outstanding landscapes and that while there were adverse effects on outstanding landscapes that could not be avoided, remedied or mitigated, the developments were still deemed to be appropriate given the benefits and positive effects that would be derived when considered in the overall context and purpose of the RMA. It is therefore considered that if the amendments to Policy 7-7(a) recommended by the officers are to be adopted, then the wording “*to the extent necessary*” must be included in Policy 7-7(a) to recognise that any adverse effect are to be avoided in the first instance and where avoidance is not practicable that they are remedied or mitigated “*to the extent necessary*” to achieve the sustainable management of natural and physical resources.
- 4.12** With respect to proposed Policy 7-7(a), clause (ii), I note the Section 42A report states “*cumulative effects have the potential to become significant cumulative adverse effects and are worthy of particular mention in the case of natural features and landscapes.*” While I am happy to accept the officer’s comments that significant adverse cumulative effects are worthy of particular mention in Policy 7-7, I do not agree with the further comments that “*in Policy 7-7 clause (b) that adverse cumulative effects are to be taken into account and avoided. That is a rigorous requirement and as it relates to cumulative adverse effects I consider it is appropriate¹³.*” I consider the requirement to completely avoid all significant cumulative adverse effects is very rigorous and furthermore is inappropriate in the context of Section 5 and Part 2 the RMA. I note also that no where in the Section 42A report does the officer appear to justify why they consider avoidance is the only appropriate response to any significant adverse cumulative effects on the regionally outstanding natural features and landscapes in Schedule F, and further why they

¹³ Refer Paragraph 3, Page 73, Section 42A Report, February 2009

consider that mitigation or minimisation of such effects is not appropriate. I consider that significant adverse cumulative effects may be able to be mitigated to a point that they are no longer considered significant. Further that Policy 7-7(a)(ii) should be amended to provide applicants with the opportunity to explore mitigation measures, as opposed to simply having to avoid the activity. For example in the case of a wind farm proposal, mitigation measures could include removing turbine structures, reducing the size of structures or altering the location of structures to a point where the effects are no longer considered to be significant. Accordingly I consider that Policy 7-7(a)(ii) should be amended as set out below.

4.13 I also wish to advise that Meridian has no issue with the deletion of clause (iii) from Policy 7-7(a), provided appropriate amendments are made to the provisions in Chapter 3 to make it clear the provisions seeks to recognise and provide for activities involving renewable energy and infrastructure, and that any adverse effects arising from such activities are dealt with in the appropriate resource-based chapters of the One Plan and not in Chapter 3. This matter is addressed in more detail in the evidence of Mr Richard Turner from Meridian in relation to Chapter 3.

4.14 The following amendments to Policy 7-7(a) as in the Section 42A report are therefore recommended.

Policy 7-7(a): ~~Regionally Outstanding~~ Regionally Outstanding natural features and landscapes

The natural features and landscapes listed in Schedule F Table F1 shall be recognised as regionally outstanding. All subdivision, use and development affecting these areas shall be managed in a manner which:

- (i) ~~avoids adverse effects as far as reasonably practicable and where avoidance is not reasonably practicable remedies or mitigates to the extent necessary, any adverse effects or minimises to the extent reasonable any adverse effects~~ on the characteristics and values specified in Schedule F Table F1 for each regionally outstanding natural feature or landscape
- (ii) ~~takes into account and~~ avoids or mitigates any significant adverse cumulative adverse effects.
- (iii) ~~takes into account the policies in Chapter 3 when assessing activities involving renewable energy and infrastructure of regional importance.~~

Policy 7-7 (b): Identifying other outstanding natural features and landscapes.

4.15 It is considered important that the provisions in Policy 7-7(b) consistently refer to both the functions of the Regional Council and Territorial Authorities when they undertake assessments either as part of the development of regional and district plans

or in the assessment and determination of applications for resource consents. Some further minor amendments to Policy 7-7(b) and (c) are therefore recommended.

Policy 7-7(b) Identifying other outstanding natural features and landscapes

For the purposes of identifying any natural feature or landscape as outstanding and the inclusion of that natural feature or landscape in Schedule F Table F1 or in any District Plan or Regional Plan, the Regional Council, and Territorial Authorities shall take into account, but shall not be limited to, the assessment factors in Table 7.2.

This Policy relates back to Issue 7-2 and Objective 7-2

Policy 7-7(c) Assessment of effects on outstanding natural features and landscapes

In considering the extent to which any subdivision, use or development has the potential to adversely affect the characteristics and values of any outstanding natural feature or landscape listed in Schedule F Table F1 or in any District Plan, the Regional Council and Territorial Authorities in exercising their powers and functions under the RMA including the assessment of effects, shall take into account, but shall not be limited to, the factors listed in Table 7.2

This Policy relates back to Issue 7-2 and Objective 7-2.

Policy 7--8; Natural Character

- 4.16 Similar to the comments already made, Policy 7-8 also needs to recognise that both the Regional Council and Territorial Authorities may choose to consider natural character matters in both the development of regional and district planning documents, and also in the assessment and determination of resource consent applications. Accordingly the amendments to Policy 7-8 are proposed below.

Policy 7-8: Natural character

The natural character of the coastal environment, wetlands, rivers lakes and their margins shall be preserved and protected from inappropriate subdivision, use and development, by encouraging the natural character of these areas to be restored where appropriate and ~~by taking into account in making decisions on applications for resource consent applications that take into account at that~~ Territorial Authority level Territorial Authorities in exercising their powers and functions under the RMA shall take into account whether ~~a proposed~~ the activity:

- (a) is compatible with the existing level of modification to the environment,
- (b) ~~is necessarily~~ needs to be located in the coastal marine area in or near ~~the~~ any wetland, river or lake and whether any alternatives exist,
- (c) is of an appropriate form, scale and design to blend with the existing landforms, geological features and vegetation

- (a) ~~does will~~ not by itself or in combination with effects of other activities, significantly disrupt natural processes or existing ecosystems.
- (e) will not compromise (and if so, to what extent) the components of natural character of the coastal environment, wetland, river or lake.

This Policy relates back to Issue 7-2 and Objective 7-2.

Section 7-5 Methods

4.17 I consider that Method 7-7 needs to be tempered with the inclusion of the word “may”. As proposed this method places a very onerous obligation on the Regional Council to submit on every resource consent application where there is a potential for any adverse effects on “*regionally outstanding natural features and landscapes or native habitats or areas that have a high degree of natural character*”. I also note the ability to submit on resource consent applications is a general power of the Regional Council and that any submission lodged will need to be consistent with the policy directives in all regional planning documents and plans of the Council including for example, the provisions in Chapter 3 of the Plan. Further, I consider that Method 7-7A needs to be amended so that it is consistent with the policy directives in Policy 7-7(b), whereby this policy refers to taking into account but shall not be limited to, the assessment factors in Table 7.2.

Project Name	
Method 7-7	
District Planning – Natural Features, Landscapes and Habitats and Natural Character	
Project Description	<p>The Regional Council may will formally submit on resource consent applications received by Territorial Authorities for land use activities where there is potential for <u>adverse effects</u> on <u>regionally outstanding natural features, and landscapes or native habitats or areas that have a high degree of natural character.</u></p> <p>The Regional Council may will formally seeks changes to dDistrict pPlans if required to ensure provisions are in place to provide an appropriate level of protection to for <u>regionally outstanding natural features, and landscapes and native habitats, and areas that have a high degree of natural character.</u></p> <p><u>The Regional Council may will formally seek changes to District Plans if required to ensure District Plan rules requiring protection of indigenous vegetation and the habitats of indigenous fauna do not duplicate rules on biodiversity in this Plan.</u></p>
Who	Regional Council and Territorial Authorities.
Links to Policy	This <u>Method implements project links to</u> Policies <u>7-1, 7-7 and 7-8</u>
Targets	<ul style="list-style-type: none"> • Submissions completed on consent applications. • District plan changes sought if necessary by 2008. <u>after this Plan becomes operative.</u>
Method 7-7A	
Consistent Landscape Assessment	
Description	<u>The purpose of this Method is to develop a consistent and robust characterisation of the landscape within the Region and consistent identification of outstanding natural features and landscapes (particularly where those span territorial authority boundaries).</u>

	<p><u>The Regional Council and Territorial Authorities will collaboratively develop and adopt consistent methodology for undertaking any assessment of landscape including for the purpose of identifying the outstanding natural features and landscapes within the Region. The methodology will take into account, but shall not be limited to, the assessment factors in Table 7.2. include consideration of the factors detailed in Table 7.2.</u></p> <p><u>The Regional Council will assist Territorial Authorities with their assessments of natural features and landscapes by providing to them relevant resource data including maps suitable to the study area description.</u></p>
Who	Regional Council and Territorial Authorities.
Links to Policy	This Method implements Policies 7-7(a) and (b)
Targets	<u>Methodology for assessment of natural features and landscape agreed between the Regional Council and Territorial Authorities within one year of this Plan becoming operative.</u>

Section 7.6 Anticipated Environmental Results

4.18 The AER for landscape and natural character in the notified version of the One Plan seeks that apart from change due to natural processes, that all the natural characteristics/values of natural features and landscapes identified in Schedule F be maintained. I consider that this AER is directly inconsistent with Objective 7-2 discussed above. This objective seeks to protect the characteristics and values of outstanding landscapes identified in Schedule F from inappropriate subdivision use and development. However, the word “maintain” in this AER suggests that landscapes are ‘preserved’ (i.e: “*The word ‘preserved in Section 6(a) suggests the need to maintain the natural character in its existing state*”). I consider the AER needs to be amended so that is consistent with both Section 6(b) of the RMA and Objective 7-2 of the One Plan.

4.19 I also note that the change to the wording to the AER as now recommended in the Section 42A report (being “*Except for change because of natural processes or change authorised by a resource consent*”) is consistent with the relief sought to the similar AER in Chapter 12 as set out in the applicable planning evidence for Meridian and also recommended in Helen Marr’s report on biodiversity dated 5 November 2008. These proposed changes to the AER in Chapter 7 are therefore supported.

Anticipated Environmental Results	Link to Policy	Indicator	Data source
Except for change because of natural processes <u>or change authorised by a resource consent</u> at 2017 the	Living Heritage Policies 7.7 and 7.8	<ul style="list-style-type: none"> ▪ Number of Schedule F outstanding landscapes and 	

<p>characteristics / <u>and</u> values of all <u>regionally</u> outstanding landscape and natural features identified in the Region (Schedule F <u>Table F1</u>) will be in the same state as assessed prior to this Plan becoming operative.</p>	<p>Administration Policies 2-1, 2-2, 2-3 and 2-5.</p>	<p>natural features where identified characteristics/ values have been damaged.</p> <ul style="list-style-type: none"> ▪ Level of protection afforded to Schedule F outstanding landscapes and natural features in Territorial Authority district plans. <p>Ratio of successful submissions versus total submissions made on outstanding landscapes and natural features to Territorial Authority consent planning processes.</p>	
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Schedule F, Table F1 Regionally Outstanding Natural Features and Landscapes

4.20 Meridian’s submission sought that Schedule F be deleted from the Plan. The officers have recommended that this submission be rejected. I am advised that Meridian now accepts the recommendation that Schedule F be retained in some form in the One Plan. However, the company does have outstanding concerns with the generic reference to “*The skyline of the Ruahine and Tararua Ranges*” in Table F1. Meridian instead seeks that the description of the landscape characteristics and values of the skyline of the Ruahine and Tararua Ranges is more clearly articulated to avoid debate over what parts of the skyline is considered a regionally outstanding landscape feature. Accordingly Meridian now seeks the description be amended to refer to the boundary between the land and sky at the highest point or at the highest ridge and not the lower ridges which may have a land/sky boundary when viewed at certain angles.¹⁴ Accordingly Meridian now seeks that Schedule F and Table F1 be amended as follows.

The skyline of the Ruahine and Tararua Ranges

- (i) 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 solid nature of the land at the crest of the highest points along the highest ridges.

¹⁴ Refer Motorimu Windfarm Ltd v. Palmerston North City Council (Decision No. W067/2008)

5. Financial Contributions

5.1 Meridian’s submission sought the deletion of Chapter 18 and the insertion of new provisions in Part I of the One Plan expressly recognising the concept of environmental compensation. In summary the reason for this relief sought, was that Meridian considered that the Plan should expressly recognise that there are opportunities for environmental compensation as part of the resource consent process, that are wider than the provisions in Section 108(9) which limits the financial contributions to money and land.¹⁵

5.2 Meridian have considered the discussion in the Section 42A report on Chapter 18 and have advised that they accept that a chapter providing the opportunity for the Council to impose conditions of consent requiring financial contributions under Section 108(9) of the RMA is appropriate. I concur with this approach of Meridian. However, there are still some outstanding concerns with the provisions in Chapter 18 – particularly some of the amendments now proposed in the Section 42A report. To assist the Hearings Committee, I have attached to my evidence a revised tracked changes version of Chapter 18 which sets out the changes I consider are needed. **Refer Attachment 2.** I will discuss these changes in turn.

Policy 18-1 (a) to (e)

5.3 Firstly I support the officers recommended changes to Policy 18-1(a) that correctly now refers to financial contributions being imposed as conditions of consent imposed by the Council.

5.4 Policy 18-1(d) addresses providing financial contributions in order to offset effects on public access. While I support this notion, I consider that this policy should amended to clarify that a financial contribution can be imposed only where a proposed activity will restrict or prevent “*existing lawful and legal*” public access to or along the coastal marine area, a lake or a river. From research undertaken in preparing this evidence, I am aware that Policy 18-1(d) is very similar to a provision (that is effectively operative) in the Proposed Auckland Regional: Air Land and Water Plan (appeals version) which also addresses taking financial contributions for public access. These provisions in the Auckland Regional Plan are qualified by referring to

¹⁵ Refer Meridian Submission 363/191, 393/192

existing lawful and legal public access.¹⁶ I therefore consider that Policy 18-1(d) should be amended as follows to ensure that the Council can not impose financial contributions requiring applicants to offset any effects on public that does not presently exist or is not lawfully established.

Public access to and along the coastal marine area, lakes and rivers – A financial contribution may be imposed as a condition of consent for any type of activity that will restrict or prevent existing legal or lawful public access to or along the coastal marine area, a lake or a river, except in circumstances where such restrictions are necessary for public safety or are in accordance with the River Works Code of Practice (Horizons Regional Council, 2006). The purpose of the financial contribution shall-would be to provide for alternative public access in the vicinity of the activity or at another similar location.

- 5.5 In addition I also support the officers recommendation in the Section 42A report to delete the ‘catch all’ Policy 18(1)(e). I agree with the officers comments that this policy as notified, lacks appropriate certainty for both consent applicants and decision-makers and should be deleted.¹⁷

Policy 18-2 Amount of contribution

- 5.6 The Section 42A report proposes some significant changes to Policy 18-2(b). It is noted that the changes appear to be in response to Meridian’s submission on Chapter 18 where the officers have stated as follows: *“I do not consider that Chapter 18 will preclude an applicant from selecting and voluntarily offering the “non-financial” contributions as part of the general benefits that may accrue from an activity and consider these can be included in assessing the net adverse effects under Policy 18-2. Although I do not recommend Meridian Energy Limited’s submission be accepted in full there is value in ensuring non-financial contributions are taken into account if a financial contribution is determined. I recommend an amendment to this effect in Policy 18-2(b) as part of Recommendation FC4.¹⁸”* While I agree with the officers recommendation to accept in part Meridian’s submission and take into account any environmental compensation offered by an applicant when assessing the net adverse effects generated by an activity, I strongly oppose deleting the *“positive adverse effects of the activity”* as a matter to be taken into account when assessing the net adverse effects of the activity. It is imperative that the Council consider the positive effects of any activity, such as the renewable energy generation facility, when assessing the appropriateness of imposing financial contributions and importantly the

¹⁶ Refer Method 8.5.1, Proposed Auckland Regional Plan; Air Land and Water indicating appeals, June 2005

¹⁷ Refer Paragraph 8, Page 238, Section 42A Report, March 2009

¹⁸ Refer Paragraph 3, Page 230, Section 42A Report, March 2009

extent to which the significant positive effects of an activity may offset any unavoidable adverse effects arising from the activity. Further, I can find no submission that seeks the deletion of the “*positive effects of the activity*” from Policy 18-2(b) other than generic submissions that sought the deletion of Policy 18-2 in its entirety.

5.7 Again from research undertaken in preparing this evidence, I also note that Policy 18-2 draws in part on similar provisions in the Auckland Regional Plan: Coastal and the Proposed Auckland Regional Plan: Air Land and Water¹⁹ regarding matters to be taken into account when assessing the amount of financial contributions. Importantly both these plans refer to “*the positive effects of the activity*” and the extent to which these positive effects may in themselves offset any or all of the adverse effects of any activity.

5.8 For all these reasons I consider that Policy 18-2 (b) must retain reference to the positive adverse effects of the activity and that a new clause (c) also be inserted to recognise any environmental compensation that may have been offered by an applicant.

Policy 18-2: Amount of contribution

The amount of contribution ~~shall will~~ be an amount determined by the Regional Council to be fair, ~~proportional~~ and reasonable. ~~-, subject to -t~~The amount ~~shall~~ not exceed ~~ing~~ the reasonable ~~cost of funding positive environmental effects expenditure~~ required to offset the net adverse effects caused directly by the activity. For the purposes of this policy, the “net adverse effects” shall be a reasonable assessment of the level of adverse effects after taking into account:

(a) the extent to which significant adverse effects will be avoided, remedied or mitigated by other consent conditions

~~(b) the extent to which there will be positive effects of the activity which may offset any or all adverse effects and~~

~~(c) the extent to which environmental compensation is offered as part of the activity which may offset any or all adverse effects~~

[This Policy relates to Objective 11A-1](#)

¹⁹ Refer Policy 38.3(d) Operative Auckland Regional Plan: Coastal and Policy 8.6(c) Proposed Auckland Regional Plan: Air Land and Water indicating provisions repealed June 2005

6.0 Conclusion

- 6.1** In conclusion, I support some of the changes now being recommended by the officers in response to submissions and further submissions lodged in relation to the landscape and natural character provisions in Chapter 7 and the financial contribution provisions in Chapter 18 of the One Plan. I do however have a number of remaining concerns with some provisions that I consider are inconsistent with the purpose and principles and principles of RMA and importantly to do not appropriately recognise and provide for the appropriate use and development of renewable energy generation facilities in the region.
- 6.2** Accordingly I commend to the Hearings Committee a number of recommended changes to Chapters 7 and 18 as detailed in Attachments 1 and 2 of my statement.



Catherine Clarke
Senior Principal and Planner
Boffa Miskell Limited

20 April 2009

ATTACHMENT 1

**Chapter 7 of Proposed One Plan (Landscape and Natural Character)
as recommended by Officers as at February 2009**

**including further amendments now sought by Meridian Energy Limited
April 2009**

**Words to be added are underlined
Words to be deleted are shown in ~~strike-through~~**

7 LIVING HERITAGE

7.1 Scope and Background

7.1.1 Scope

This chapter addresses three matters:

- (1) Indigenous biological diversity – The maintenance of indigenous biological diversity, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the division of responsibilities between the Regional Council and Territorial Authorities for managing indigenous biological diversity.
- (2) [Natural features](#), Landscapes and natural character – the protection of outstanding [natural features](#) landscapes and the management of the natural character of the coastal environment, wetlands, rivers, lakes and their margins [from inappropriate subdivision, use and development](#).
- (3) Historical heritage – The protection of historic places and archaeological sites.

7.1.3 [Natural Features](#) Landscapes and Natural Character

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 the wider community. Outstanding natural features and landscapes have natural and cultural dimensions that are central to our identity and our sense of belonging; they are places that reveal our history and provide a coherence and connectedness in our lives through time and space.](#)

A number of outstanding ~~or unique regional~~ [natural features and](#) landscapes and their associated values are identified in Schedule F. [These outstanding natural features and landscapes exist on both public and private land and were originally identified by the Regional Council, in consultation with the Territorial Authorities and the Department of Conservation, and included in the Regional Policy Statement for the Manawatu-Wanganui Region \(August 1998\). In determining these natural features and landscapes as “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 controlling land use through exercising their powers and functions under the RMA including the development of district plans and the making determinations of applications for resource consents. Hence decisions on land use Although the issue of landscape change and the management of competing pressures for the subdivision, use and development of land that may affect natural features and landscapes is best most appropriately dealt with at a territorial level., However to aid local decision making some regional policies provide guidance for managing the effects of subdivision, use and development that may affect regionally outstanding natural features and landscapes. Other regional policies giving guidance on the appropriate balance between important infrastructure, including renewable energy, and other values, such as landscape, are provided in Chapter 3.](#)

Preservation of the natural character of the coastal environment, wetlands, rivers, lakes and their margins is also a matter of national importance. Natural character is generally accepted as being in expression of:

- natural landform
- natural water bodies (lakes, rivers and the sea)
- vegetation cover (type and pattern)
- natural processes associated with the weather and ecology
- wildness, exposure and the natural sculpturing of landforms and vegetation
- the wider landscape context and the site's relationship to this.

Natural character is a sliding scale and varies from a low degree of natural character naturalness, such as urban environments, to a high degree of natural character naturalness for example, Tongariro National Park).

The approach of the One Plan is to maintain the current degree of ~~naturalness~~ of the natural character of the coastal environment, wetlands, rivers, lakes and their margins by:

- Continuing to provide a regional policy on natural character to guide decision making
- Protecting and managing biodiversity, important wetlands, rivers and lakes from inappropriate subdivision, use and development as described elsewhere in this Plan.

The natural character of rivers, lakes and their margins can be adversely affected by activities, in particular structures and flood mitigation measures such as stop-banks. It is important that preservation of the natural character of rivers, lakes and their margins, where this is reasonable, is considered when making decisions on relevant activities. The natural character of wetlands can best be provided for by proactively managing the top 100 wetlands in the Region (as provided for in the sections of this chapter dealing with biodiversity).

The natural character of the coastal marine area is covered in Chapter 9. The natural character of the coastal environment landward of mean high water spring, wetlands, rivers, lakes and their margins is dealt with in this chapter.

The coastal environment has seen some change in the last 10 years. There has been and increase in residential subdivision on both the western and eastern coastlines. Within a 1-km inland coastal strip, however, this development accounts for only 4% of the area. Although residential development is expected to continue, it is unlikely to affect the natural character of the coast at a regional scale for some time beyond the life of this Plan. Nevertheless, it is important and appropriate for local decision-making on land use, particularly residential subdivision, to continue to take into account the natural character of a particular area.

7.2 Significant Resource Management Issues

Issue 7-2: Natural features, Landscapes and natural character

- (a) The Region's outstanding natural features and landscapes can be adversely affected by ~~are at risk from the effects of land-use activities and~~ development, ~~particularly the Tararua and Ruahine Ranges.~~ Adverse effects of development on regionally outstanding natural features and landscapes include the potential for significant adverse cumulative effects. Developments with the potential for greatest impact include wind farms, residential subdivision and other major structures.

- (b) The natural character of coastal environment, wetlands, rivers, lakes and their margins ~~can be adversely affected by-is at risk from the effects of~~ land-use activities and development, particularly new river works, drainage and subdivision in areas with a high degree of natural character naturalness.

7.3 Objectives

Objective 7-2: Natural features, Landscapes and natural character

- (a) The characteristics and values of the regionally outstanding natural features and landscapes including those identified in Schedule F are protected from inappropriate subdivision, use and development as far as practicable.
- (b) Adverse effects, including cumulative adverse effects, on the natural character of the coastal environment, wetlands, and rivers, lakes and their margins are:
- (i) avoided in areas with a high degree of ~~naturalness~~ natural character
 - (ii) avoided, remedied or mitigated in other areas.

This Objective relates to Issue 7-2.

7.4 Policies

7.4.2 Landscapes and Natural Character

Policy 7-7(a): Regionally Outstanding natural features and landscapes

The natural features and landscapes listed in Schedule F Table F1 shall be recognised as regionally outstanding. All subdivision, use and development affecting these areas shall be managed in a manner which:

- (i) avoids adverse effects as far as reasonably practicable and, where avoidance is not reasonably practicable remedies or mitigates adverse effects or minimises to the extent reasonable any adverse effects on the characteristics and values specified in Schedule F Table F1 for each regionally outstanding natural feature or landscape
- (ii) ~~takes into account and~~ avoids or mitigates any significant adverse cumulative adverse effects
- (iii) ~~takes into account the policies in Chapter 3 when assessing activities involving renewable energy and infrastructure of regional importance.~~

This Policy relates back to issue 7-2 and Objective 7-2.

Policy 7.7(b) Identifying other outstanding natural features and landscapes

For the purposes of identifying any natural feature or landscape as outstanding and the inclusion of that natural feature or landscape in Schedule F Table F1 or in any District Plan or Regional Plan, the Regional Council, and Territorial Authorities shall take into account, but shall not be limited to, the assessment factors in Table 7.2.

This Policy relates back to issue 7-2 and Objective 7-2.

Policy 7.7(c) Assessment of effects on outstanding natural features and landscapes

In considering the extent to which any subdivision, use or development has the potential to adversely affect the characteristics and values of any outstanding natural feature or landscape listed in Schedule F Table F1 or in any District Plan, ~~the assessment of effects~~ Territorial Authorities in exercising their powers and functions under the RMA shall take into account, but shall not be limited to, the factors listed in Table 7.2

This Policy relates back to issue 7-2 and Objective 7-2.

Table 7.2 Natural Features and Landscape Assessment Factors

<u>Assessment Factor</u>	<u>Scope</u>
<u>(a) Natural Science Factors</u>	<p><u>These factors relate to the geological, ecological, topographical and natural process components of the natural feature or landscape;</u></p> <ul style="list-style-type: none"> <u>(i) Representative; The combination of natural components that form the feature or landscape strongly typifies the character of an area.</u> <u>(ii) Research and education; all parts of the feature or landscape are important for natural science research and education.</u> <u>(iii) Rarity; the feature or landscape is unique or rare within the district or region and few comparable examples exist.</u> <u>(iv) Ecosystem functioning; the presence of healthy ecosystems is clearly evident in the feature or landscape.</u>
<u>(b) Aesthetic Values</u>	<p><u>The aesthetic values of a feature or landscape may be associated with:</u></p> <ul style="list-style-type: none"> <u>(i) Coherence; the patterns of land cover and land use are largely in harmony with the underlying natural pattern of landform and there are no or few discordant elements of land cover or land use.</u> <u>(ii) Vividness; the feature or landscape is visually striking widely recognised within the local and wider community and may be regarded as iconic.</u> <u>(iii) Naturalness; the feature or landscape appears largely unmodified by human activity and the patterns of landform and land cover are an expression of</u>

	(iv) <u>natural processes and intact healthy ecosystems.</u> <u>Memorability: the natural feature or landscape makes such an impact on the senses that it becomes unforgettable.</u>
<u>(c) Expressiveness (legibility)</u>	<u>The feature or landscape clearly shows the formative natural processes and/or historic influences that led to its existing character.</u>
<u>(d) Transient values</u>	<u>The consistent and noticeable occurrence of transient natural events such as daily or seasonal changes in weather vegetation or in wildlife movement contributes to the character of the feature or landscape</u>
<u>(e) Shared and recognised values</u>	<u>The feature or landscape is widely known and is highly valued for its contribution to local identity within its immediate and wider community</u>
<u>(f) Cultural and spiritual values for tangata whenua</u>	<u>Maori values inherent in the feature or landscape add to the feature or landscape being recognised as a special place.</u>
<u>(g) Historical associations</u>	<u>Knowledge of historic events that occurred in and around the feature or landscape is widely held and substantially influences and adds to the value the community attaches to the natural features or landscape.</u>

Policy 7-8: Natural character

The natural character of the coastal environment, wetlands, rivers lakes and their margins shall be preserved and protected from inappropriate subdivision, use and development, by encouraging the natural character of these areas to be restored where appropriate and ~~by taking into account in making decisions on applications for resource consent applications that take into account at that Regional Council and Territorial Authority level~~ Territorial Authorities in exercising their powers and functions under the RMA shall take into account whether the activity:

- (a) _____ is compatible with the existing level of modification to the environment,
- (b) _____ ~~is necessarily~~ needs to be located in the coastal marine area in or near ~~the~~ any wetland, river or lake and whether any alternatives exist,
- (c) _____ is of an appropriate form, scale and design to blend with the existing landforms, geological features and vegetation
- (d) ~~does will~~ will not by itself or in combination with effects of other activities, significantly disrupt natural processes or existing ecosystems.
- (e) will not compromise (and if so, to what extent) the components of natural character of the coastal environment, wetland, river or lake.

This Policy relates back to Issue 7-2 and Objective 7-2.

Policy 7-9: Public access

- (a) Activities within or near rivers and lakes shall be established and operated in a manner which readily provides for public access, and public access may be restricted only where necessary for safety, cultural or conservation purposes or to ensure a level of security appropriate for activities authorised by a resource consent.
- (b) Provision of pPublic access for recreational purposes shall recognise the need to protect ~~rRare Habitats~~ and ~~tThreatened hHabitats*~~ and ~~aAt-rRisk Hhabitats*~~.

This Policy relates back to Issue 7-2 and Objective 7-2

7.5 Methods

The main non-regulatory methods the Regional Council will pursue are outlined below as action plan summaries.

Project Name Method 7-7		District Planning – Natural Features, Landscapes and Habitats and Natural Character
Project Description	<p>The Regional Council may will formally submit on resource consent applications received by Territorial Authorities for land use activities where there is potential for <u>adverse</u> effects on <u>regionally</u> outstanding natural features, <u>and</u> landscapes or native habitats <u>or areas that have a high degree of natural character.</u></p> <p>The Regional Council may will formally seeks changes to dDistrict pPlans if required to ensure provisions are in place to provide an appropriate level of protection to <u>for regionally outstanding</u> natural features, <u>and</u> landscapes and native habitats. <u>and areas that have a high degree of natural character.</u></p> <p><u>The Regional Council will formally seek changes to District Plans if required to ensure District Plan rules requiring protection of indigenous vegetation and the habitats of indigenous fauna do not duplicate rules on biodiversity in this Plan.</u></p>	
Who	Regional Council and Territorial Authorities.	
Links to Policy	This <u>Method implements project links to Policies 7-1, 7-7 and 7-8</u>	
Targets	<ul style="list-style-type: none"> Submissions completed on consent applications. District plan changes sought if necessary by 2008. <u>after this Plan becomes operative.</u> 	

Method 7-7A Consistent Landscape Assessment	
Description	<p>The purpose of this Method is to develop a consistent and robust characterisation of the landscape within the Region and consistent identification of outstanding natural features and landscapes (particularly where those span territorial authority boundaries).</p> <p>The Regional Council and Territorial Authorities will collaboratively develop and adopt consistent methodology for undertaking any assessment of landscape including for the purpose of identifying the outstanding natural features and landscapes within the Region. The methodology will include consideration of the factors detailed in table 7.2.</p> <p>The Regional Council will assist Territorial Authorities with their assessments of natural features and landscapes by providing to them relevant resource data including maps suitable to the study area description.</p>
Who	Regional Council and Territorial Authorities.
Links to Policy	This Method implements Policies 7-7(a) and (b)
Targets	Methodology for assessment of natural features and landscape agreed between the Regional Council and Territorial Authorities within one year of this Plan becoming operative.

7.6 Anticipated Environmental Results

Anticipated Environmental Result	Link to Policy	Indicator	Data Source
Except for change because of natural processes or <u>change authorised by a resource consent</u> at 2017 the characteristics / <u>and</u> values of all outstanding landscape and natural features identified in the Region (Schedule F Table F1) will be in the same state as assessed prior to this Plan becoming operative.	<p>Living Heritage Policies 7.7 and 7.8</p> <p>Administration Policies 2-1, 2-2, 2-3 and 2-5.</p>	<ul style="list-style-type: none"> ▪ Number of Schedule F outstanding landscapes and natural features where identified characteristics/ values have been damaged. ▪ Level of protection afforded to Schedule F outstanding landscapes and natural features in Territorial Authority district plans. ▪ Ration of successful submissions versus total submissions 	<ul style="list-style-type: none"> ▪

		made on outstanding landscapes and natural features to Territorial Authority consent planning processes.	
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Explanations and Principal Reasons

Natural features and Landscapes

The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development is a matter of national importance. While the management of competing pressures for the subdivision use and development of land may affect natural features and landscapes is most appropriately this issue is best dealt with at a territorial level, it is considered important that this document should continue to provide a list of regionally outstanding natural features and landscapes and their associated characteristics and values. The objectives, policies and methods adopted here are to provide guidance and direction regarding how in the protection of these values should be protected.

Natural character

The pPreservation of the natural character of the coastal environment, wetlands, rivers, lakes and their margins is a matter of national importance. The approach of the One Plan is to maintain the current degree of naturalness of the natural character of the coastal environment, wetlands, rivers, lakes and their margins. The objectives, polices and methods adopted in this document aim to achieve this by

- (a) providing policy guidance on natural character to be taken into account when the Regional Council and Territorial Authorities are exercising their powers and functions under the RMA including the development of district plans and making decisions on applications, which may affect natural character, and
- (b) encouraging the restoration of natural character where appropriate, and
- (c) by actively protecting and managing biodiversity important wetlands, rivers and lakes as described in other parts of this document.

ATTACHMENT 2

**Chapter 18 of Proposed One Plan (Financial Contributions)
as recommended by Officers as at March 2009**

**including further amendments now sought by Meridian Energy Limited
April 2009**

**Words to be added are underlined
Words to be deleted are shown in ~~strike-through~~**

18 Financial Contributions

18.1 Scope and Background

Where the Regional Council grants a resource consent, it may impose a condition requiring that a financial contribution be made. The term “financial contribution” is defined in s 108(9) of the RMA to mean a contribution of:

- (a) money
- (b) land, including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent), but excluding Māori land within the meaning of the Māori Land Act 1993 unless that Act provides otherwise, or
- (c) a combination of money and land.

Under s 109(10) of the Act a consent authority must not include a condition in a resource consent requiring a financial contribution unless:

- (a) the condition is imposed in accordance with the purposes specified in the plan or proposed plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect), and
- (b) the level of contribution is determined in the manner described in the plan or proposed plan.

Prior to this Plan, the Regional Council had provisions in former regional plans enabling the imposition of financial contributions on activities in the coastal marine area and on activities in the beds of rivers and lakes. At the time of writing this Plan, however, the Regional Council had never imposed a financial contribution on any consent.

To date, financial contributions have largely been used by Territorial Authorities as a mechanism for funding the infrastructure required as a consequence of land development (for example, roads, drainage, water supply and parking). By contrast, financial contributions have only been used to a very limited extent by regional councils. This is not surprising as regional councils are usually able to impose other types of consent conditions to adequately avoid, remedy or mitigate adverse effects of those activities that they control. The need for a separate financial contribution does not usually arise.

The Regional Council envisages making only limited use of financial contributions in the future. The policies that follow provide the Regional Council with the option of imposing financial contributions, should this be appropriate, on some resource consents. The policies below satisfy the requirements of the RMA regarding financial contributions, setting out:

- (a) [situations when financial contributions may be required and the purpose of obtaining](#) financial contributions
- (b) the manner in which the level of contribution will be determined
- (c) matters to be considered by the Regional Council when deciding whether to impose a financial contribution, and how to use any financial contributions that are collected.

18.2 Policies

Policy 18-1: Situations when financial contributions may be required and the purposes of obtaining financial contributions

A financial contribution may be imposed as a condition of consent for the following types of activities. and for the following purposes:

- (a) **Infrastructure** – A financial contribution may be imposed as a condition of consent for the establishment, maintenance, alteration, upgrading, or expansion of infrastructure*. The purpose shall be to offset significant adverse effects on the environment to fund positive effects of an equivalent or similar character, nature and scale as the adverse effects. would be to provide consent applicants with the option of providing a financial contribution to offset or compensate for adverse effects in circumstances where this is more cost effective than directly avoiding, remedying or mitigating adverse effects by way of other consent conditions, and where a financial contribution can be used to achieve an equivalent environmental outcome.
- (b) **Aquatic ecosystems and rivers** – A financial contribution may be imposed as a condition of consent for any type of activity that has significant adverse effects on aquatic ecosystems, fish passage, riverbank erosion, flow regimes or riparian vegetation, in circumstances where such adverse effects will not be adequately avoided, remedied or mitigated. The purpose of the financial contribution shall would be to offset the adverse effects by providing for the restoration or enhancement of aquatic ecosystems, fish passage, riverbank stability or riparian vegetation in the general area affected by the activity or, where this is not practical or desirable, in another location.
- (c) **Biodiversity** – A financial contribution may be imposed as a condition of consent for any type of activity that has significant adverse effects on biodiversity, in circumstances where such adverse effects will not be adequately avoided, remedied or mitigated. The purpose of the financial contribution shall would be to offset the adverse effects by providing for the protection, restoration or enhancement of biodiversity in a location with similar biodiversity values.
- (d) **Public access to and along the coastal marine area, lakes and rivers** – A financial contribution may be imposed as a condition of consent for any type of activity that will restrict or prevent existing legal or lawful public access to or along the coastal marine area, a lake or a river, except in circumstances where such restrictions are necessary for public safety or are in accordance with the River Works Code of Practice (Horizons Regional Council, 2006). The purpose of the financial contribution shall-would be to provide for alternative public access in the vicinity of the activity or at another similar location.
- (e) ~~**General environmental compensation** – A financial contribution may be imposed as a condition of consent for any type of activity that will have adverse effects that will not be adequately avoided, remedied or mitigated, and where those effects can be offset or compensated for by positive effects elsewhere. The purpose of the financial contribution would be to fund the works required to offset or compensate for the adverse effects.~~

This Policy relates to Objective 11A-1

Policy 18-2: Amount of contribution

The amount of contribution ~~shall will~~ be an amount determined by the Regional Council to be fair, ~~proportional~~⁴ and reasonable. ~~—subject to—~~The amount ~~shall~~ ^{shall} not exceed~~ing~~⁴ the reasonable ~~cost of funding positive environmental effects expenditure~~⁴ required to offset the net adverse effects caused directly by the activity. For the purposes of this policy, the “net adverse effects” shall be a reasonable assessment of the level of adverse effects after taking into account:

- (a) the extent to which significant adverse effects will be avoided, remedied or mitigated by other consent conditions
- ~~(b) the extent to which there will be positive effects of the activity which may offset any or all adverse effects and~~
- ~~(c) the extent to which environmental compensation is offered as part of the activity which may offset any or all adverse effects~~

[This Policy relates to Objective 11A-1](#)

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Policy 18-3: Matters to be considered for financial contributions

The Regional Council ~~shall will~~³ take into account the following matters when making decisions about the imposition and use of financial contributions.

- (a) For most consent applications the Regional Council ~~shall will~~³ place primary emphasis on requiring the adverse effects of an activity to be adequately avoided, remedied or mitigated by way of other types of consent conditions. Financial contributions, designed to offset or compensate for adverse effects, ~~shall will~~³ only be considered as a secondary measure.
- (b) Financial contributions ~~shall will~~³ not be used where the effects of activities are generally consistent with the purpose of the RMA and the resource management objectives and policies in this Plan.
- (c) Financial contributions ~~shall will~~³ be used where granting a consent subject to a financial contribution would be more effective in achieving the purpose of the RMA (including recognition of the social, economic and cultural benefits of the activity) and the resource management objectives and policies of this Plan, as opposed to declining consent or granting a consent without requiring a financial contribution.
- (d) Financial contributions shall ~~will~~³ not be used where a more suitable revenue collection power is available to the Regional Council.
- (e) The Regional Council ~~shall will~~ take into account cumulative effects in the financial contribution assessments under Policies 18-1 and 18-2.
- (f) The Regional Council ~~shall will~~ generally ensure that a financial contribution is used to fund measures as close as possible to the site where the adverse effects occur, or at one or more sites similar to that where the adverse effects occur, having regard to the location of any affected community.
- (g) The Regional Council does not intend that **all** net adverse effects ~~as defined in Policy 18-2 above~~ must be fully offset in every case by way of a financial contribution.

[This Policy relates to Objective 11A-1](#)