

IN THE MATTER of the Resource
Management Act
1991

AND

IN THE MATTER of the submissions by
**GENESIS POWER
LIMITED** on the
Horizons Regional
Plan One Plan –
Chapter 3
(Infrastructure,
Energy and Waste)

STATEMENT OF EVIDENCE OF RICHARD JOHN MATTHEWS

July 2009

1. INTRODUCTION

- 1.1 My qualifications and experience are set out in my 'Overall Plan Evidence' given at the opening hearing on the Horizons Regional Plan One Plan on 1 July 2008.
- 1.2 In summary, I specialise in the application of the Resource Management Act 1991 ("**RMA**") and other relevant environmental management legislation, the development of Regional and District Plans and the acquisition and assessment of resource consent applications.
- 1.3 In relation to statutory planning, I have been involved in the preparation and audit of plans and policy statements since the passing of the RMA in 1991. This has involved detailed analyses of plan provisions, assisting Councils to prepare planning documentation, preparation of submissions, presentation of evidence at hearings, and provision of advice regarding the lodging and resolution of Environment Court references. I have participated in several Council hearings relating to policy and plan development, and have attended a number of court-assisted and council initiated mediation sessions.
- 1.4 I have been asked to present evidence for this hearing in relation to the Genesis Power Limited (trading as "**Genesis Energy**") submissions and further submissions in respect to Chapter Three (Infrastructure, Energy and Waste) and Chapters Seven (with respect to Landscape and Natural Character) of the Horizons Regional Plan One Plan ("**One Plan**").

Scope of Evidence

- 1.5 In my evidence I will:
- Discuss the overall RMA framework within which the specific Genesis Energy submissions should be considered, with particular reference to the recognition and provision for renewable energy;
 - Discuss the matters Genesis Energy has raised in its submissions relating to Chapter 3 (Infrastructure and Energy) of the One Plan;

- Discuss the matters Genesis Energy has raised in its submissions relating to the landscape and natural character provisions of Chapter 7 of the One Plan; and
- Conclude my evidence.

2. BACKGROUND TO SUBMISSION

2.1 Genesis Energy has made a number of submissions and further submissions on the infrastructure and energy and landscapes and natural character provisions of the One Plan from the perspective of seeking to recognise the role natural and physical resources play in the generation of electricity, and the policy implications the proposed provisions could for infrastructure and renewable energy proposals.

2.2 Overall, I support the inclusion of Chapter Three in the One Plan and the approach that recognises the benefits of infrastructure and energy. As I detailed in my earlier evidence it is important that overall the One Plan recognises the benefits from resource use, and that this is reflected in the objectives and policies throughout the plan.

2.3 I also support the inclusion of objectives and policies in Chapter 7 relating to landscape and natural character, however, I consider several amendments are required to simplify the proposed provisions such that they provide a more appropriate framework for managing the regions outstanding natural features and landscapes in the manner intended by the RMA.

3. RMA PART II FRAMEWORK

3.1 In my earlier evidence¹ I outlined the purpose and principles of the RMA as set out in Part II (sections 5, 6, 7 and 8). I consider, in the overall framework of Part II, that significant weight must be given to the fact that electricity (and therefore electricity generation) is an essential component enabling people and

¹ Presented 1 July 2008

communities to provide for their social and economic well being, and for their health and safety.

- 3.2 I will not repeat that evidence here, other than to emphasise that the One Plan must recognise the role of resource use in the Horizons Region, and specifically, the importance of electricity generation in the region. It must also have particular regard to the benefits derived from the use and development of renewable energy, noting also that the existing renewable electricity infrastructure is a physical resource that is to be sustainably managed. I summarised this in my earlier evidence² regarding the “Overall Plan”:

“it is important to recognise and provide for electricity generation activities within a planning instrument such as the One Plan as it is to provide for the range of other matters specifically identified in Sections 6, 7 and 8 of the RMA.”

- 3.3 The importance of electricity generation in New Zealand was also detailed in the earlier evidence³ of Mr Weir as follows:

“the New Zealand economy and the welfare of the population are dependent on a secure electricity supply, both now and for the years to come”.

- 3.4 The changes sought by Genesis Energy in submissions and further submissions on Chapter Three and Chapter Seven recognise the importance of infrastructure and energy and have particular regard to matters required under Part II of the RMA.

4. SUBMISSIONS MADE BY GENESIS ENERGY ON CHAPTER 3 (INFRASTRUCTURE AND ENERGY)

Introduction

- 4.1 As I noted above, Genesis Energy made a number of submissions and further submissions on the issues, objectives, policies, methods and rules contained within Chapter Three to clarify the benefits derived from the use of natural and

² Presented 1 July 2008

³ Presented 1 July 2008

physical resources within the region and the other matters identified in sections 6, 7 and 8 of the RMA.

- 4.2 As outlined in my earlier evidence⁴, I support the inclusion of Chapter Three in the One Plan, subject to matters discussed in more detail below, which I consider are required to give appropriate recognition of the renewable energy resource base of the region, and the importance of a reliable and secure energy supply.
- 4.3 I note that I made some initial suggestions for changes to the Chapter 3 provisions in my earlier evidence⁵. I have since taken the opportunity to review the comments made at that earlier hearing in relation to this Chapter, the caucusing undertaken with other “generators” on Chapter 3 as directed by the Panel, revised provisions provided by Council Officer’s for discussion at a prehearing meeting regarding Chapter 3 held in Palmerston North on 16 February 2009, and the discussion undertaken at that prehearing meeting. I have therefore updated my proposed amendments accordingly.
- 4.4 In this evidence, the opinions I express in relation to the proposed provisions relate to the original notified provisions rather than those presented in the Officers Report in August 2008. It is not clear to me whether the August 2008 Officers Report now reflects Council Officers current thinking on this chapter, given the evidence already presented and the subsequent caucusing and pre hearing meeting. Since the Officers Report was released in August, the hearing has been deferred, Officers have produced different provisions for discussion at a prehearing meeting and a prehearing meeting has been held in which the Officers participated in debate on those revised provisions.
- 4.5 As recorded in Prehearing Report 33, the resolutions from that meeting included several agreed changes to the Chapter 3 provisions, and undertakings by Horizons Regional Council staff to review the wording of some sections. These agreements supersede the comments made in the Officers Report but have not yet been translated into proposed text for the parties to consider.

⁴ Presented 1 July 2008

⁵ Presented 1 July 2008

Proposed Amendments

- 4..6 I support the inclusion of Objective 3-1 as notified and that it focuses on the benefits of infrastructure, recognising adverse effects are dealt with conclusively elsewhere in the plan. However, in my opinion an amended version, providing additional detail is appropriate. My proposed wording is as follows:

Objective 3-1

~~Resource use activities associated with the provision, maintenance and upgrading of infrastructure*, and/or with the use of renewable energy, will be recognised and enabled.~~

- ~~(i) To recognise the local, regional and national benefits of activities associated with the development, operation, maintenance, and upgrading of infrastructure.~~
- ~~(ii) To recognise the local, regional and national benefits of and to provide for the increased development and use of the regions renewable resources.~~
- ~~(iii) To encourage efficiency in energy use.”~~

- 4.7 With respect to Policy 3-1 (Benefits of infrastructure) I agree with its intent, however, in my opinion some slight amendments are required. I propose that the policy should read as follows:

2.2 Policy 3-1: Benefits of infrastructure

- ~~(a) All persons exercising functions and powers under the RMA shall recognise the following infrastructure within the Region as being physical resources of regional and national importance:
 - ~~(i) facilities for the generation of electricity where the electricity generated is supplied to the electricity grid and facilities and infrastructure to transmit the electricity generated into the electricity grid~~
 - ~~(ii) the electricity grid, as defined by the Electricity Governance Rules 2003~~
 - ~~(iii) the strategic road and rail network as defined in the Regional Land Transport Strategy~~
 - ~~(iv) the Palmerston North Airport~~
 - ~~(v) the RNZAF airfield in Ohakea~~
 - ~~(vi) telecommunications and radiocommunications facilities~~
 - ~~(vii) community wastewater and water treatment plants managed by Territorial Authorities.~~~~
- ~~(b) In making decisions about the establishment, maintenance, alteration, upgrading, and expansion of infrastructure within the Region, including the infrastructure of regional and national importance listed in subsection (a), the benefits derived from the infrastructure at a local, regional and national level shall be taken into account.~~
- ~~(c) Existing and future infrastructure shall be managed in a manner which achieves as much consistency across local authority boundaries as is reasonably possible.~~

- (a) All persons exercising functions and powers under the RMA shall recognise the following infrastructure* as being physical resources of regional and / or national importance:
- (i) facilities for the generation of more than 1 MW of electricity and its supporting infrastructure where the electricity generated is supplied to the electricity transmission and distribution networks
 - (ii) electricity transmission and distribution networks defined as the system of transmission lines, sub-transmission, and distribution feeders (6.6kV) and above) and all associated substations and other works used to convey electricity;
 - (iii) Pipelines, and gas facilities used for the transmission and distribution of natural, and manufactured gas;
 - (iv) The strategic road and rail network as defined in the Regional Land Transport Strategy;
 - (v) The Palmerston North and Wanganui Airports;
 - (vi) The RNZAF airport at Ohakea;
 - (vii) Telecommunications and radiocommunications facilities;
 - (viii) Public sewerage treatment plants and distribution systems;
 - (ix) Flood protection and drainage schemes managed by a local authority;
 - (x) Port of Wanganui
- (b) All persons exercising functions and powers under the RMA in relation to the establishment, upgrading, maintenance and operation of infrastructure* including the infrastructure of regional and / or national importance listed in subsection (a), shall recognise and provide for the benefits derived from the infrastructure* at a local, regional and national level.
- (c) Existing and future infrastructure* shall be managed in a manner which achieves as much consistency across local authority boundaries as reasonably practicable.”

4.8 This wording incorporates my interpretation of the agreements made at the prehearing meeting, as recorded in Prehearing Report 33.

4.9 Similarly, I agree with the intent of Policy 3-2, in that adverse effects of other activities on infrastructure within the region should be avoided. However, similar to Policy 3-1, I consider some improvements should be made to the wording as follows:

Policy 3-2: Adverse effects of other activities on infrastructure

Adverse effects from other activities on infrastructure shall be avoided by using the following mechanisms:

- (a) ensuring that current infrastructure corridors are taken into account in all resource management decision-making, and any development that will adversely affect the efficiency or effectiveness of infrastructure within these corridors is avoided
- (b) ensuring that any new activities that will adversely affect the efficiency or effectiveness of infrastructure are not located near existing infrastructure, and that there is no change to existing activities that increases their incompatibility with existing infrastructure
- (c) notifying the owners or managers of infrastructure of consent applications that may adversely affect the infrastructure that they own or manage
- (d) giving effect to the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001), prepared under the Electricity Act 1992, when establishing rules and considering applications for buildings, structures, and other activities near overhead electric lines and conductors
- (e) ensuring that any planting does not interfere with existing infrastructure, including giving effect to the Electricity (Hazards from Trees) Regulations 2003 promulgated under the Electricity Act 1992 Infrastructure, Energy, and Waste
- (f) Ensuring effective integration of transport and land-use planning in growth areas of the Region, including protecting the function of the strategic road and rail network.

Policy 3-2: Adverse effects of other activities on infrastructure

Adverse effects from other activities on infrastructure* shall be avoided by using the following mechanisms:

- (a) ensuring that current infrastructure* corridors are taken into account in all resource management decision-making, and any development that will adversely affect the efficiency or effectiveness of infrastructure* within these corridors is avoided.
- (b) Ensuring that any new activities that will adversely affect the efficiency or effectiveness of infrastructure are not located near existing infrastructure; infrastructure allowed by unimplemented resource consents; or infrastructure allowed by other RMA authorisations such as designations. Ensuring that there is no change to existing activities that increases their incompatibility with existing infrastructure or unimplemented resource consents, or other RMA authorisations which allow for infrastructure.
- (c) notifying the owners or managers of infrastructure of consent applications that may adversely affect the infrastructure* that they own or manage
- (d) giving effect to the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001), prepared under the Electricity Act 1992, when establishing rules and considering applications for buildings, structures, and other activities near overhead electric lines and conductors
- (e) giving effect to the operating code standard for Pipelines - Gas and Liquid Petroleum (NZ/AS2885), when establishing rules

and considering applications for buildings, structures and other activities near transmission gas pipelines.

- (f) ensuring that any planting does not interfere with existing infrastructure*, including giving effect to the Electricity (Hazards from Trees) Regulations 2003 promulgated under the Electricity Act 1992 and Section 6.4.4 External Interference Prevention of the operating code standard for Pipelines - Gas and Liquid Petroleum (NZ/AS2885).
- (g) Ensuring effective integration of transport and land-use planning in growth areas of the Region, including protecting the function of the strategic road and rail network.

4.10 With respect to Policy 3.3, most of the matters it addresses are now proposed to be addressed within other sections of the plan. The exception is recognition of the functional, operational and technical constraints which require infrastructure to be designed a particular way and to be located in a particular place. This was recognised at the prehearing meeting, and in my opinion Policy 3.3 should be deleted and replaced with the wording proposed below:

~~Policy 3-3: Adverse effects of infrastructure on the environment~~

~~When making decisions on consent applications regarding infrastructure, the adverse effects of infrastructure on the environment shall be managed in the following manner:~~

- ~~(a) Effects to be avoided — The following adverse effects of infrastructure shall be avoided to the same extent required of other types of activities:~~
 - ~~(i) effects on waahi tapu, waahi tupuna and other sites of significance to Māori~~
 - ~~(ii) effects on specified waterways valued for natural state and sites of significance (aquatic)~~
 - ~~(iii) effects on rare and threatened habitats as defined in Chapter 7~~
 - ~~(iv) effects on the outstanding natural features and landscapes identified in Chapter 7~~
 - ~~(v) effects on protection zones in the coastal marine area as identified in Chapter 9 unless functional constraints make this impossible, in which case adverse effects should be mitigated. Mitigation may include the use of financial contributions in accordance with the policies in Chapter 18.~~
- ~~(b) Other effects — All other adverse effects of infrastructure will be managed in a manner that tolerates minor adverse local effects and takes into account:~~
 - ~~(i) the benefits of infrastructure, particularly the benefits of regionally or nationally important infrastructure~~
 - ~~(ii) the integration of the infrastructure with land use (iii) the benefits to be derived from the use and development of renewable energy. A financial contribution may be sought in order to provide the option of offsetting or compensating for adverse effects, rather than requiring adverse effects to be avoided, remedied or mitigated, in accordance with the~~

~~policies for financial contributions in Chapter 18 of this Plan.~~

Policy 3-3 Particular Characteristics of Infrastructure

All persons exercising functions and powers under the RMA shall take into account any functional, operational, and technical constraints which require infrastructure to be located and designed in the manner proposed.

- 4.11 As I presented in my earlier evidence⁶ and outlined above, Policy 3-1 of Chapter Three appropriately recognises the benefits of infrastructure associated with electricity. However Policy 3-4 goes further and instructs that use of renewable energy be preferred over use of non renewable energy resources. In my opinion, the One Plan should not pre-determine a preference between “renewable” and “non-renewable” energy resources. This should be determined on a case by case basis depending on the circumstances and effects in each particular case. In addition, Policy 3-4 should have greater regard for existing uses of renewable energy within the region, and should acknowledge the wider benefits that may be derived from the use of renewable energy.
- 4.12 In paragraph 5.10 of my earlier evidence⁷ I proposed a possible alternative for Policy 3-4 that explicitly recognised and provided for renewable energy generation. With the benefit of the discussion that has now taken place specifically in relation to these provisions, I now propose the following wording for Policy 3-4 which includes additional matters of detail:

Policy 3-4: Renewable energy

- ~~(a) The development of renewable energy generation and use of renewable energy resources shall be preferred to the development and use of non-renewable energy resources in policy development and resource consent decision making.~~
- ~~(b) Local authority decisions and controls on land use should generally not restrict the use of small domestic scale renewable energy production for individual domestic use.~~
- (a) All persons exercising functions and powers under the RMA shall have particular regard to:
- i. The social, economic and environmental benefits of the use and development of renewable energy including electricity generation from renewable energy including the;
- Benefits to social and economic wellbeing;

⁶ Presented 1 July 2008

⁷ Presented 1 July 2008

- Contribution to a reduction of greenhouse gases in New Zealand, and globally;
 - Benefits for security of supply for current and future generations.
- ii The Manawatu-Wanganui Region's potential for the use and development of renewable energy resources
 - iii The need for renewable energy activities to locate where the renewable energy resource is located
 - iv The development of electricity generation from renewable energy and use of renewable energy resources in policy development and resource consent decision making.

4.13 Finally, while I agree with the intent of Policy 3-5, in my opinion the revised version of Policy 3-5 proposed by EECA and supported by parties at the prehearing meeting is more appropriate. The support an amendment to Policy 3-5 as follows:

Policy 3-5: Energy efficiency

- ~~(a) — The efficient use of energy shall be taken into account in consent decision making processes for large users of energy.~~
- ~~(b) — Local authority decisions and controls on subdivision and housing, including layout of the site and layout of the lots in relation to other houses/subdivisions, should encourage energy efficient house design and access to solar energy.~~
- ~~(c) — Local authority decisions and controls on subdivision and land use should ensure that sustainable transport options such as public transport, walking and cycling can be integrated into land use development.~~

District and regional plans shall include objectives, policies and rules that:

- (i) recognise and provide for the development, operation, maintenance and upgrade of renewable energy activities; and
- (ii) recognise the social, economic and environmental benefits of the production and transmission of renewable energy, including national and regional benefits; and
- (iii) recognise the functional need for renewable energy facilities to locate where the renewable energy resource is; and
- (iv) Manage activities that adversely affect renewable energy infrastructure, including reverse sensitivity

Further Submissions

5.1 Genesis Energy also made several further submissions on the submissions of other parties to the One Plan.

5.2 In particular, Genesis Energy supported the Mighty River Power submission regarding the addition of a new issue (Sustainable utilisation of natural

resources in the region for renewable energy production). However, in my opinion an amendment to Issue 3-1 appropriately addresses the matter. I consider that Issue 3-1 should be reworded as follows:

Issue 3-1: Infrastructure and energy

~~There is potential for concerns about local adverse effects to prevail over the regional and national benefits of developing infrastructure* and renewable energy.~~

- ~~(i) The use and development of infrastructure and renewable energy resources is essential to the economic, cultural, social and environmental wellbeing of people and communities and offers potentially significant national and regional benefits.~~
- ~~(ii) There is potential for concerns about local adverse effects to prevail over the regional and national benefits of developing infrastructure and renewable energy~~
- ~~(iii) Energy conservation and efficiency measures will assist, but alone, will not be sufficient to meet future energy demands.~~
- ~~(iv) Additional electricity generation will be needed to meet regional and national growth in energy demand. To meet national renewable energy targets the region needs to provide for additional electricity generation through the use and development of its renewable energy resources in a manner consistent with the RMA.~~
- ~~(v) The Manawatu-Wanganui region contains significant potential for the use and development of new renewable resource, However the use and development of new renewable energy generation facilities face a number of barriers including securing access to natural resource, an operational and technical factors which constrain the location , lay out, design and generation capacity of renewable energy facilities.~~

5.3 As recorded in Prehearing Report 33, there was general agreement at the meeting to expand the issue statement to address the matters identified above, although the parties reserved their positions pending the actual wording proposed.

5.4 Finally I support the submission by Mighty River Power to amend all sections of the One Plan such that any resource consent required for a renewable energy project is at most a discretionary activity. In my opinion other chapters of the One Plan provide the appropriate controls and provisions to manage the regions environment, and to give effect to the purpose and principles of the RMA with respect to the use and development of renewable energy, discretionary activity status would be appropriate for renewable energy activities. This could be achieved by a rule in Chapter 3 simply stating:

Notwithstanding any rule in the One Plan prescribing an activity status more restrictive than discretionary, any activity involving or related to

the use and development of renewable energy resources shall be considered as either a controlled, restricted discretionary, or discretionary activity.

6. SUBMISSIONS MADE BY GENESIS ENERGY ON CHAPTER 7 (LANDSCAPE AND NATURAL CHARACTER)

- 6.1 As noted earlier, Genesis Energy made submissions and further submissions on the Landscape provisions of Chapter 7, particularly Objective 7-2 and Policy 7-7.
- 6.2 I note since those submissions were made, I have participated in a prehearing meeting on those provisions, and amended provisions have been proposed within the Officers Report.
- 6.3 To some extent I note the outcome of these additional proceedings has allayed some of my concerns regarding the content of the proposed landscape provisions, however, in my opinion there are still some provisions, particularly within Objective 7-2 which are inappropriate, and should be revised.

Proposed Relief

- 6.4 In their original submission, Genesis Energy raised concern that Objective 7-2(b) contained provisions that were inappropriate, and sought that clause (b) of Objective 7-2 be deleted in its entirety. In my opinion such action remains appropriate. Objective 7-2 as notified reads as follows:

Objective 7-2: Landscapes and natural character (Notified Version)

- (a) The characteristics and values of the outstanding landscapes identified in Schedule F are protected 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
 - (ii) avoided, remedied or mitigated in other areas.

- 6.5 Notwithstanding amendments discussed below that are required to the terminology used within Objective 7-2 such that it is consistent with that of the RMA, in my opinion the basic philosophy behind the inclusion of clause (b) of Objective 7-2 is flawed, in that its provisions do not acknowledge the need to consider the appropriateness of a proposed development in a natural character area.
- 6.6 The Officer's report argues that in specifying that in areas of high natural character adverse effects should be avoided, and in other areas adverse effects should be avoided, remedied or mitigated, the provisions are in essence specifying that within the Horizons Region "preservation" of natural character (as required by section 6(a) of the RMA) should occur where there is a high degree of "naturalness", and that "protection" should occur in other areas. By doing so the Officers report notes that Objective 7-2(b) provides important guidance for planning and decision making, and "adds clarity" to section 6(a) of the RMA by further specifying the level of protection that is to be achieved in addressing section 6(a). Furthermore the Officers report argues that the proposed provisions are helpful and appropriate in that they provide guidance to planning and decision making by either (a) clearly specifying what would be considered 'inappropriate' or (b) by indicating the factors to be considered in determining what would be 'inappropriate'.
- 6.7 In my opinion, Objective 7-2(b) gives limited guidance as to what an appropriate development could be, particularly given the extensive case law addressing what constitutes "inappropriate development" in the context of section 6 of the RMA. Furthermore it is inconsistent with section 6 of the RMA, which does not intend that areas considered to possess high natural character be isolated from activities that may have adverse effects on those values.
- 6.8 My understanding of section 6(a) is that it does not contemplate that natural character be "preserved" in areas considered to have "high natural character" and be "protected" in other areas. Rather my understanding is that section 6(a) simply seeks that across the board, irrespective of its quality, recognition for and provision is made for the preservation of the natural character of the coastal environment, wetlands, and lakes and rivers and their margins, and that the natural character that is present in each case be protected from inappropriate development. Section 5(2)(c) of the RMA provides the appropriate legislative

guidance for the adverse effects of activities on the environment to be avoided, remedied or mitigated. The key issues then become identification of the areas of significant natural character and of what constitutes “inappropriate” development in the context of the natural character present in a particular case. The latter should be determined on a case by case basis considering the individual circumstances of that particular case.

6.9 As indicated earlier, in my opinion some revision of the provisions of Objective 7-2 is also required such that it is consistent with the RMA. Firstly, reference to the term “high degree of naturalness” is vague and inconsistent with the terminology used in the RMA. I note the Officers report agrees with this, and has proposed that references to “naturalness” be replaced with “natural character”. In principle I agree with the Officer that “natural character” is the appropriate terminology in this case. In this regard I also agree with the Officer that reference within clause (a) of Objective 7-2 to “as far as practicable” creates uncertainty, and should be removed. Following on from my earlier point regarding clause (b) of Objective 7-2, I also consider it would be appropriate that reference to the protection of the regions outstanding natural features and landscapes from “inappropriate development” be added to clause (a) of Objective 7-2.

6.10 In this regard in my opinion it would be appropriate that Objective 7-2 be amended to read as follows:

Objective 7-2: Landscapes and natural character.

~~(a)~~ The characteristics and values of the region’s outstanding natural features and landscapes are protected ~~as far as practicable~~ from inappropriate development.

~~(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,~~
~~and~~

~~(ii)~~ ~~Avoided, remedied or mitigated in other areas.~~

6.11 With respect to Policy 7-7, Genesis Energy submitted that the notified provisions were unclear as to what form Policy 7-7(a) seeks to protect the

characteristics and values specified in Schedule F, and whether the policy would preclude certain types of development and resource use within outstanding landscapes, particularly given that a number of the ranges listed in Schedule F as outstanding may be suitable for wind farms. Secondly, Genesis Energy submitted that the reference to “avoiding” adverse effects in clause (b) is not consistent with the intent of the RMA that adverse effects be avoided, remedied or mitigated.

6.12 The Officers report has suggested an amended version of Policy 7-7 which in my opinion addresses the Genesis Energy submission point, subject to an amendment to 7-7(a)(b) as detailed below. I consider that cumulative effects can be considered as a subset of consideration of the appropriateness of a development. The amended policy proposed within the Officers report also contains additional provisions. In my opinion these additional provisions provide an appropriate framework within which to manage effects on outstanding natural features and landscapes within the Horizons Region. The amended (with my proposed change) policy would read:

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:

- (a) 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 specified in Schedule F Table F1 for each natural feature or landscape.
- (b) ~~avoids any significant adverse cumulative adverse effects.~~ protects them from inappropriate subdivision, use, and development.

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, 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 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 Feature and Landscape Assessment Factors

| Assessment Factor | Scope |
|-----------------------------|--|
| (a) Natural science factors | <p>These factors relate to the geological, ecological, topographical and natural process components of the natural feature or landscape:</p> <ul style="list-style-type: none"> (i) Representative: the combination of natural components that form the feature or landscape strongly typifies the character of an area. (ii) Research and education: all or parts of the feature or landscape are important for natural science research and education. (iii) Rarity: the feature or landscape is unique or rare within the district or region, and few comparable examples exist. (iv) Ecosystem functioning: the presence of healthy ecosystems is clearly evident in the feature or landscape. |
| (b) Aesthetic values | <p>The aesthetic values of a feature or landscape may be associated with:</p> <ul style="list-style-type: none"> (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. (ii) Vividness: the feature or landscape is visually striking, widely recognised within the local and wider community, and may be regarded as iconic. (iii) Naturalness: the feature or landscape appears largely unmodified by human activity and the patterns of landform and land cover are an expression of natural processes and intact healthy ecosystems. (iv) Memorability: the natural feature or landscape makes such an impact on the senses that it becomes unforgettable. |
| (c) Expressiveness | The feature or landscape clearly shows |

| | |
|--|---|
| (legibility): | the formative natural processes and/or historic influences that led to its existing character. |
| (d) Transient values | 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. |
| (e) Shared and recognised values | The feature or landscape is widely known and is highly valued for its contribution to local identity within its immediate and wider community. |
| (f) Cultural and spiritual values for tangata whenua | Maori values inherent in the feature or landscape add to the feature or landscape being recognised as a special place. |
| (g) Historical associations | 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 feature or landscape. |

Further Submissions

6.13 Genesis Energy also made several further submissions in relation to the landscape and natural character provisions which I shall now address.

6.14 Firstly there are several submissions (for example 416/24, 416/25, 28/1) requesting that the erection of new wind turbines be restricted to those areas already consented, or that any new turbines that are erected are done so out of the sight of the population. In my opinion such provisions would be inappropriate, and inconsistent with the provisions of the RMA which intend that such activities be assessed on a case by case basis, when and where an application is made for such an activity. Submissions of this nature should in my opinion be rejected.

6.15 Similarly there are also several submissions (for example 316/4) which request that the erection wind farms be classified as a prohibited activity within areas including the Tararua and Ruahine Ranges. In my opinion, in RMA terms there is no justifiable reason why wind farms within those areas should be classified

as a prohibited activity in such a broad brush way. In addition, to do so would be inconsistent with the purpose of the RMA, in that it would deny the community the opportunity to develop any significant wind resource present in those areas to generate electricity and provide for their social and economic wellbeing. The relative merits of a proposed wind farm compared with the merits of retaining a particular landscape or ecosystem can be readily assessed on a case by case basis.

- 6.16 There are several submissions (395/29, 467/29, 468/35) which seek the inclusion of a new policy which identifies those matters which should be considered when identifying the outstanding natural features and landscapes in the region. While I agree in principle that a policy which identifies what matters should be given regard would be useful, the matters proposed by those submitters are in themselves inappropriate. Rather, matters consistent with recognised case law should be included, and I note such matters are proposed within Policy 7-7 as proposed above.
- 6.17 Submission 468/54 seeks the inclusion of a definition for outstanding natural landscapes. In my opinion such a definition is not required as there is extensive, and well established case law which outlines the criteria which qualify a particular landscape or feature as outstanding in the context of section 6(b) of the RMA.
- 6.18 Finally there are several submissions which seek to include additional detailed discussion on the issues facing the regions landscape values (452/36, 467/36, 442/25, 467/25, 372/95, 396/36) included within the text of the One Plan. In my opinion such additional text is not necessary within the One Plan, and such submissions should be rejected. Clearly the relevant provisions in terms of developing regional and district plans and considering resource consent applications will be the objectives, policies and rules within the plan and the focus should be on ensuring that those provisions achieve the outcomes required.

7. CONCLUSION

- 7.1 Mr Weir in his earlier evidence⁸ emphasised the dependence in New Zealand on the utilisation of natural and physical resources for electricity generation, and the importance of electricity in providing for social and economic development.
- 7.2 Chapter Three of the One Plan relates only to energy and infrastructure. In my opinion, there should be a number of the amendments to the Chapter 3 provisions to recognise the importance and benefits to be derived from renewable energy resource use within the region, and to provide the appropriate policy balance between this chapter and the more “effects based” chapters in the One Plan.
- 7.3 I have presented in my evidence proposed changes to specific provisions that recognise the benefits of resource use and provide a balance with the other matters identified in Part II of the RMA, while acknowledging the relevant wording of the RMA, and where appropriate incorporating the agreements reached at prehearing meetings.
- 7.4 I have also presented in my evidence proposed changes to specific provisions within Chapter 7 which address outstanding natural features and landscapes. In my opinion the amendments proposed provide for a fair and balanced framework to facilitate the protection of the highly valued landscape values of the region, while not precluding the ability of the community to develop their valued wind resources for their social and economic wellbeing.

⁸ Presented 1 July 2008