

HORIZONS REGIONAL COUNCIL

PROPOSED ONE PLAN GENERAL HEARING:

CHAPTER 3 INFRASTRUCTURE, ENERGY AND WASTE

SPEAKING NOTES FOR PRESENTATION TO THE HEARING PANEL 22TH JUNE 2009

Those Present on behalf of Horizons Regional Council are:

Barry Gilliland (Policy Advisor Horizons Regional Council and Chapter 3 Planning Officer)

Andrea Bell (Consultant Planner on Proposed One Plan for Horizons Regional Council)

Helen Marr (Proposed One Plan Manager)

John Maassen (Consultant Legal Counsel) Called away on urgent business

THIS PRESENTATION

1. The purpose of my presentation is to highlight the major elements of the approach taken in Chapter 3 and the main changes proposed in my most recent planning evidence. I refer the Panel to Part II of the Introductory Statement and Supplementary Recommendations Report (May 2009) and the green version of tracked changes as the most recent and therefore most up-to-date planning evidence and recommendations for chapter 3.
2. I have used the introductory paragraphs in Part I of the Introductory Statement and Supplementary Recommendations Report (May 2009) as the basis for these notes. I have shaded any significant changes or new paragraphs to assist the Panel identify this as additional to the Introductory Statement and Supplementary Recommendations Report.

KEY RMA PROVISIONS

3. The key RMA provisions relating to **Infrastructure** are:
 - (a) s30(1)(gb) sets out one of the functions of the Regional Council as “the strategic integration of infrastructure with land use through objectives, policies, and methods”.
4. The key provisions relating to **energy** are:
 - (a) s7(ba) - which states that “the efficiency of the end use of energy” is a matter that the Regional Council shall have particular regard to
 - (b) s7(i) - which states that “the effects of climate change” is a matter that the Regional Council shall have particular regard to
 - (c) s7(j) - which states that “the benefits to be derived from the use and development of renewable energy” is a matter that the Regional Council shall have particular regard to.

5. The key provisions relating to **waste, hazardous substances and contaminated land** are:

- (a) s30(1)(c)(v) sets out one of the functions of the Regional Council as “the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances”.
- (b) s31(1)(b)(ii) sets out that the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances is also a function of territorial authorities.
- (c) s62(1)(i)(ii) sets out that the Regional Policy Statement (RPS) must state how this shared function is to be apportioned between a regional authority and territorial authority.
- (d) s30(1)(ca) sets out the functions of the Regional Council as “the investigation of land for the purposes of identifying and monitoring contaminated land”.
- (e) s31(1)(b)(iia) sets out that the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land is identified as a function of territorial authorities.

NATIONAL GUIDANCE

Infrastructure

6. There is one National Policy Statement related to infrastructure. A National Policy Statement on Electricity Transmission was gazetted on 13 March 2008. The National Policy Statement makes the “need to operate, maintain, develop and upgrade the electricity transmission network” a matter of national significance. The National Policy Statement came into force after the Proposed One Plan was notified in May 2007. It is considered that policy provisions in the POP, in particular Policies 3-1 and 3-2, give effect to the National Policy Statement.

Energy

7. A Proposed National Policy Statement for Renewable Electricity Generation was released in 2008. The Proposed National Policy Statement seeks to make “the need to develop, upgrade, maintain and operate renewable generation activities throughout New Zealand” a matter of national significance. At this time I consider that the policies in Chapter 3 are not inconsistent with the Proposed National Policy Statement. However, a Board of Inquiry is currently hearing submissions on the Proposed National Policy Statement and its final content is uncertain.
8. There are two national strategy documents relevant to energy:

- (a) The **New Zealand Energy Strategy to 2050** (2007). The overarching vision of the NZES is for “a reliable and resilient system delivering New Zealand sustainable, low emissions energy”.

There are a number of policy commitments. The two most relevant to the Proposed One Plan are:

- maximising the contribution of cost-effective renewable energy resources while safeguarding our environment; and
- reducing greenhouse gas emissions.

The NZES has established a renewable electricity target that aims for 90% renewable electricity generation by 2025.

- (b) The **New Zealand Energy Efficiency and Conservation Strategy 2007**. This Strategy is basically the action plan for increasing the uptake of energy efficiency and conservation, and renewable energy. It gives effect to a number of objectives set out in the NZES, including the realisation of the renewable electricity target.

9. I consider the policy provisions in Chapter 3 of the Plan as currently recommended are not inconsistent with these national strategies.

Waste, Hazardous Substances and Contaminated Land

10. There is one national strategy relating to waste. The **New Zealand Waste Strategy** was released in 2002. It sets voluntary national targets for waste minimisation, organic wastes, special wastes, construction and demolition wastes, hazardous wastes, contaminated sites, organochlorines, trade wastes and waste disposal. I consider the policy provisions in Chapter 3 as currently recommended are not inconsistent with this national strategy.
11. The Waste Minimisation Act 2008 has come into force since the Proposed One Plan was notified in May 2007. The purpose of the Act is to encourage waste minimisation and a decrease in waste disposal in order to:
- (a) protect the environment from harm, and
 - (b) provide environmental, social, economic, and cultural benefits.
12. No role for Regional Councils is specified in the Act.

APPROACH TAKEN TO THE INFRASTRUCTURE AND ENERGY PROVISIONS IN THE PROPOSED ONE PLAN:

13. The policy provisions of Chapter 3 recognise that the establishment, maintenance and upgrading of infrastructure is regionally and nationally important for the social, economic and cultural wellbeing of people and communities. This is done by generally providing for the establishment of new infrastructure and allowing the maintenance and upgrading of existing infrastructure. In effect these policy provisions to show how the benefits of infrastructure will be given a little more weight by decision-makers than other activities.
14. Chapter 3 also recognises that the Region has potential for further development of renewable energy resources and that this development may be required to meet the predicted shortfall in national energy requirements in the future. This is done by recognising the benefits of use and development of renewable energy resources.
15. Waste, hazardous substances and contaminated land are not identified as one of the four priority areas for the Regional Council, so the Regional Council does not seek a major leadership role in this area. In general, the policy approach seeks to reduce the risks from these activities by encouraging good practice and by working with territorial authorities to identify potential issues and manage them as it becomes necessary.
16. Chapter 3 provides broad policy guidance for managing these activities where other chapters contain no specific policy provisions for these activities. Some chapters of the RPS contain specific policy relating to how the adverse effects of these activities are managed. These specific policy provisions should not be inconsistent with the policy

provisions in Chapter 3. The general policies in Chapter 3 provide direction for the Regional Plan in Part II and district plans which must give effect to the RPS.

EVIDENCE FROM SUBMITTERS WHO HAVE ALREADY PRESENTED ALL OR PART OF THEIR SUBMISSION

17. On Tuesday 8 July 2008 a number of submitters presented all or part of their submissions and will not be attending the individual topic hearings, including this General hearing dealing with Infrastructure, Energy and Waste.
18. I note that Dr Alan Palmer presented evidence on Class I and II land on behalf of Gordon McKellar at this hearing. This matter is also subject to recommendations in Recommendation IEW_ADD 1 in the Addendum to the Planning Evidence and Recommendations Report on submissions to Chapter 3. I draw the Panel's attention to this previous presentation because it is my understanding Gordon McKellar will not be presenting evidence on this matter at the General hearing:

Submitter Name	Submitter number, further submission number
GORDON MCKELLAR	354, X531

INFORMATION PROVIDED TO THE HEARING PANEL

19. The Hearing Panel has been provided with the **Planning Evidence and Recommendations Report – July 2008 (2008/EXT/908)** prepared by Dave Armour and myself which summarises the submissions on this chapter and makes recommendations on whether those submissions should be accepted in whole, or in part, or not at all, and how the provisions of the POP should be changed to reflect those submissions. This report was circulated in July 2008.
20. The Hearing Panel has also been provided with an **Addendum to the Infrastructure, Energy, and Waste Planning Evidence and Recommendations Report – January 2009 (2009/EXT/908)**. This addendum summarises submissions unintentionally omitted from the Planning Evidence and Recommendations Report. This report contains further evidence about management of Class I and II land.
21. The Hearing Panel has also been provided with a **section 42A report by John Maassen – March 2009**, concerning the inclusion of provisions in Part I of the POP regarding versatile soils.
22. The Hearing Panel has been provided with a **Introductory Statement and Supplementary Recommendations Report – May 2009** and a **section 42A Report by Andrea Bell – May 2009** regarding Objective 3-1 and Policy 3-3. As stated in clause 1, the Introductory Statement and Supplementary Recommendations Report (May 2009) and the green version of tracked changes are the most recent and therefore can be considered my most up-to-date planning evidence and recommendations for chapter 3.
23. Pre-circulated evidence from submitters has also been provided to the Panel and is listed in detail in Part Two of the Introductory Statement and Supplementary Recommendations Report. I have reviewed this evidence when evaluating appropriate changes to my original recommendations.

PRE-HEARING MEETING AND CAUCUSING

24. A pre-hearing meeting was held on 16 February 2009 in relation to the infrastructure and energy provisions of the POP. It was attended by representatives from the “linear network operators” (Powerco Ltd and the NZ Transport Agency), “electricity generators” (Trust Power Ltd, Genesis Energy Ltd, Meridian Energy Ltd, Mighty River Power Ltd and NZ Windfarms Ltd), the Energy Efficiency and Conservation Authority, Tararua-Aokautere Guardians and Palmerston North City Council. Transpower NZ Ltd’s representative was not present but conveyed general support for a draft track changes document (dated 10 February) I had prepared for discussion at the pre-hearing meeting.
25. Planning experts for the “electricity generators” met prior to this pre-hearing meeting to see if agreement could be reached on their requested changes. As a consequence of that meeting the “electricity generators” presented a consistent view at the pre-hearing meeting. Although modified by caucusing, that view was generally consistent with Meridian Energy Ltd’s submission and Catherine Clarke’s evidence for Meridian Energy Ltd received in August 2008. I refer the Panel to Pre-hearing Report 33 which has been previously circulated to the Hearing Panel.
26. I prepared a draft track changes version (dated 10 February) of the infrastructure and energy provisions of Chapter 3 for discussion at the pre-hearing meeting. The amendments made in that version resulted from re-evaluation of the original submissions and consideration of expert evidence received on the original Planning Evidence and Recommendations Report (July 2008). This version had no formal status but it did provide a basis for subsequent versions offered by the “electricity generators” and Transpower Ltd (termed the “Linear Network Version”). These versions can be found in evidence provided in April 2009 by David Le Marquand for Transpower NZ Ltd, Catherine Ross for Powerco Ltd, Robert Schofield for Trust Power Ltd, and Richard Matthews for Genesis Energy. (Note: The appendices attached to David Le Marquand’s evidence contain all three versions referred to in this report)
27. There was no overall resolution of issues raised by submitters, but the pre-hearing meeting was very helpful in clarifying the issues the “electricity generators” have with Chapter 3. As a result the Regional Council agreed to further consider a number of the infrastructure and energy provisions following the meeting. This forms much of the basis of supplementary recommendations made in this report related to the infrastructure and energy provisions.
28. It was clear that Policy 3-3 is a major issue for the “electricity generators”. They were united in their opposition to Policy 3-3 as written and sought its removal in favour of a policy restricted to dealing with the functional, operational and technical constraints of infrastructure. However, the Regional Council remained of the opinion that it is helpful for adverse effects to be dealt with in Policy 3-3 and that, subject to further changes to acknowledge electricity generator concerns, it should remain in Chapter 3.

INFORMAL MEETINGS

29. Informal meetings have also taken place with representatives from Palmerston North City Council (20 February 2009), Horticulture NZ Ltd (13 May 2009) and the NZ Defence Force (15 May 2009) to discuss and clarify matters raised in their submissions. This has been helpful in understanding their submissions and in some cases has led to an amendment to an original recommendation in the Planning Evidence and Recommendations Report. No formal record of these meetings was taken.

30. A number of meetings have been held with the representatives of the Territorial Authority (TA) Collective as part of ongoing engagement with them around all Proposed One Plan matters. These have been very successful in clarifying positions and reaching agreement where possible.
31. The results of this work are reflected in Part Two of the Introductory Statement and Supplementary Recommendations Report. Several changes to the original recommendations are recommended, and these are also reflected in revised track changes version ('green version') of Chapter 3

PRELIMINARY QUESTIONS FROM THE HEARING PANEL

32. Responses to preliminary questions raised by the Hearing Panel subsequent to posting the Introductory Statement and Supplementary Recommendations Report are attached to these speaking notes. Any questions that arise during the course of the hearing can be dealt with during the hearing, or, if a more detailed response is necessary, answered at the end of the hearing.

SUPPLEMENTARY RECOMMENDATIONS

33. Changes to recommendations in the original Planning Evidence and Recommendations Report as made in this Supplementary Report have resulted from:
- (a) further consideration of the policy provisions for infrastructure and energy following the pre-hearing meeting;
 - (b) consideration of the responses of the "electricity generators" and "linear network operators" to the Regional Council's track changes document dated 10 February;
 - (c) further consideration of evidence received to the Planning Evidence and Recommendations Report (July 2008); and
 - (d) further consideration of policy provisions following informal meetings.
34. It is considered that these changes will result in some narrowing of submitter issues, although changes that meet with approval from the infrastructure and electricity providers are likely to remain issues for other submitters such as the Tararua-Aokautere Guardians. I note here it is probable that **Policy 3-3 will remain an unresolved issue** at the Hearing, although I recommend significant changes to this policy in an attempt to meet the concerns of the "electricity generators" while retaining the overall purpose of including this policy in Chapter 3.
35. The Panel will also note amendments to some provisions in the source track changes document not dealt with in this supplementary report. These amendments are as a result of:
- a. changes to wording to clarify the level of obligation and appropriate framework linkages to be consistent with the recommendations in Andrea Bell's section 42A Report on Chapter 5: Land;
 - b. ensuring consistent terminology with other parts of the Plan; and
 - c. proofing changes such as annotation of glossary and RMA definitions that have no impact on the meaning of the provisions.

Scope and Background (Recommendation IEW 2A)

36. The recommended changes provide:
- additional commentary on the importance of infrastructure and its constraints;
 - reference to the National Policy Statement for Electricity Transmission that has come into force since the Plan was notified; and
 - a fuller explanation of the national context for renewable energy
37. I consider these changes to provide helpful context and improve the flow through to the provisions that follow.

Issue 3-1 Infrastructure and Energy (Recommendation IEW 3A)

38. I consider that redrafting Issue 3-1 into separate issues for infrastructure and energy, and redrafting the content to reflect the matters raised in the version of Chapter 3 by the “electricity generators” and “linear network operators” will provide more clarity and be consistent with the way that these matters are dealt with later in the chapter.
39. I propose an amended issue for infrastructure and a new issue for energy in my supplementary recommendation, in which I have attempted to capture the essence of the versions of this provision proposed by the “electricity generators” or “linear network operators”.

Objective 3-1 Infrastructure and Energy (Recommendation IEW 6A)

40. I have reconsidered my position on Objective 3-1 and conclude that:
- (a) The objective can be improved by splitting it into two objectives (infrastructure and energy). This is consistent with the way other parts of the POP have been crafted and provides a better flow from issues to policies in Chapter 3;
 - (b) It is not necessary to include adverse effects as part of this objective. The objective should describe a desired environmental outcome or set an environmental direction. A general reference to adverse effects does neither of these things. The Regional Council and territorial authorities are still required to manage adverse effects as an obligation under the RMA;
 - (c) I do not consider it is appropriate that a separate objective is developed for energy efficiency as sought by some submitters. My reason for this is that generally in crafting the POP, the Regional Council has sought to make one issue statement, followed by one objective and then a suite of related policies. An additional objective for energy efficiency would be inconsistent with this approach; and
 - (d) There is scope to redraft the objectives to make them outcome-based and more consistent with the other policy provisions of this chapter as modified by consideration of expert witness evidence, the pre-hearing meeting and versions of Chapter 3 by “electricity generator” and “linear network operator”.
41. I recommend an amended objective for infrastructure and a new objective for energy in my supplementary recommendation. I refer the Hearing Panel to Andrea Bell’s section 42A report on Objective 3-1 for additional evidence on this matter.

Policy 3-1 Benefits of Infrastructure (Recommendation IEW 9A)

42. It was agreed at the pre-hearing meeting that some amendments would be made to Policy 3-1. The purpose of these amendments is to provide more certainty for Plan users about which infrastructure is included as being physical resources of regional or national importance (Policy 3-1(a)) and how the policy would be applied (Policy 3-1(b)). I note here that Tararua-Aokautere Guardians did not support amendment of Policy 3-1(b) to include the words “recognise” and “provide for” in this clause.
43. The Regional Council sought feedback from the “linear network operators” on appropriate wording for amendments related to transmission and distribution lines and this has resulted in deletion of Policy 3-1(ii) and amendment to Policy 3-1(iii). The other changes recommended are as a result of the pre-hearing meeting, except those mentioned in the following paragraphs.
44. Two submitters seek additions to the list of infrastructure of regional or national importance.
 - Braden Austin for the Territorial Authority Collective presented evidence to support inclusion of “solid waste infrastructure managed by territorial authorities” and “the existing lined landfills at Hokio (Horowhenua District Council) and Bonny Glen (Rangitikei District Council)”
 - Emily Grace for NZ Defence Force presented evidence supporting the inclusion of NZ Defence Force facilities as infrastructure of regional or national importance.
45. The definition of infrastructure in the Plan is the same as that defined in the RMA and neither of these facilities appears to fall within the definition. In my opinion although Policy 3-1 can contain a subset of those structures identified as infrastructure in the RMA, it is inappropriate to add to that list. I expect the Panel will hear evidence from both submitters on this matter at the hearing.
46. My evaluation of the request for additions to Policy 3-1 (a) has identified an error in Recommendation IEW 9. Submissions seeking inclusion of flood protection and drainage schemes managed by a local authority as infrastructure of regional or national importance were accepted, however, I have re-examined the RMA definition and can find no reference that would cause them to fall within that definition. Therefore, using the same argument for not accepting the changes sought by the Territorial Authority Collective and NZ Defence Force, I recommend a change to Recommendation IEW 7 to the effect that these structures are not included in Policy 3-1(a).
47. I also note here that I have made amendments to this policy and in other parts of this chapter to provide a consistent description of activities. The original text included a number of terms such as: development, establishment, maintenance, alteration, upgrading, expansion, efficiency and effectiveness to describe the activities relating to infrastructure covered by Chapter 3. For the purpose of clarity, I recommend consistent use of the terms establishment, operation, maintenance and upgrading in all parts of the plan. I have chosen these terms because they are consistent with those used in the National Policy Statement on Electricity Transmission and the Proposed National Policy Statement for Renewable Electricity Generation. I also note that these terms, except for the term “operation”, are already used in track changes I have seen for the Land and Biodiversity provisions.
48. I record here that the meaning of the term “operation” is viewed very differently by the “electricity generators” and the Regional Council. The “electricity generator” view is that

it should include the associated resource use of infrastructure, e.g., the use of water in hydro-electricity generation schemes. The Regional Council view is that it was not intended or contemplated that Chapter 3 will cover associated resource use. The Regional Council view is supported by the way that renewable energy generation activities are defined in the Proposed National Policy Statement for renewable Electricity Generation. In this document it is defined as “the construction, operation, and maintenance of structures associated with the generation of renewable energy.” To ensure the meaning of “operation” is clear I recommend it be defined as “*operation of structures and parts of structures defined as infrastructure*” in the One Plan Glossary. The “electricity generators” have signalled that this will be the subject of evidence to the General Hearing.

Policy 3-2 Adverse Effects of Other Activities on Infrastructure (Recommendation IEW 10A)

49. I have reviewed the wording of Policy 3-2 in accordance with suggestions from the “electricity generators” and “linear network operators”. These suggestions were forwarded to the Regional Council in the versions of Chapter 3 provided by these groups. The recommended changes clarify the provisions by ensuring that other activities do not constrain unimplemented resource consents or other RMA authorisations that allow for infrastructure. I consider these changes consistent with the purpose of the policy and helpful in clarifying the provisions
50. I have also reviewed the evidence provided by David Murphy and Jonathan Ferguson-Pye for Palmerston North City Council. This evidence seeks greater regional direction on the need for the strategic integration of infrastructure with land use. I note that the matter is not one of the key resource management issues identified for the Region and that growth in the Region is very low with the exception of the Palmerston North area. In my view it is not a significant issue for the Region, However, after reviewing the evidence provided, I agree that the Regional Council could provide more direction to fulfil its function under section 30(1)(gb) of the RMA relating to strategic integration of infrastructure with land use.
51. I therefore consider that the appropriate response by the Regional Council is to provide policy direction to territorial authorities in growth areas to recognise the need to adequately plan for infrastructure and to ensure that other activities that would impede the establishment of such infrastructure are not allowed. This direction can be included as part of Policy 3-2(g) which already provides policy provisions for effective integration of transport and land use planning. This policy would be implemented through decision-making at a territorial authority level.

Policy 3-3 Adverse Effects of Infrastructure on the Environment (Recommendation IEW 11A)

52. The “electricity generators” vigorously opposed both the notified Policy 3-3 and the amended version presented to the Pre-Hearing meeting. This opposition was consistent with a common view that the adverse effects of infrastructure should not be dealt with in Chapter 3 because they were already considered in the resource-based chapters of the POP. I note the concerns raised about Policy 3-3 in expert evidence include the restrictive use of the term “avoid” in when compared to the “enabling” intent of Objective 3-1, conflict between Policy 3-3 and less restrictive policies in resource-based chapters; and the potential for confusion and uncertainty due to the duplication of

policies relating to adverse effects of infrastructure in this policy and the resource-based chapters.

53. The Tararua-Aokautere Guardians held an opposing view and, in fact, sought to have more detail added to the Policy 3-3. I note here that David le Marquand for Transpower NZ Ltd advised the Regional Council prior to the meeting that Policy 3-3 as amended for the pre-hearing meeting was acceptable.
54. Following the pre-hearing meeting versions of Chapter 3, including Policy 3-3, were provided by the “electricity generators” and “linear network operators.” As mentioned previously these can be found attached to David le Marquand’s 2009 brief of evidence as appendices. They show that the two groups have very different views on the matter and as a consequence support two very different versions of the policy. The “electricity generators” seek a policy that is restricted to dealing with functional, operational and technical constraints while the “linear network operators” essentially seek confirmation of Policy 3-3 as amended in the Regional Council’s track changes 10 February 2009 draft presented to the pre-hearing. This version deals with the adverse effects of infrastructure.
55. I consider that Policy 3-3 can add value to the policy provisions of Chapter 3 provided the pitfalls identified by “electricity generators” can be avoided. I believe this is possible but substantial redrafting of Policy 3-3 is required to achieve that. I refer you to Andrea Bell’s section 42A report on Policy 3-3 for additional evidence on this matter.
56. The redraft of Policy 3-3 recommended is an attempt to meet the concerns expressed by the “electricity generators”, retain the support of the “linear network operators” and retain the original intent of a balanced approach to policy in Chapter 3 by recognising the benefits of infrastructure, ensuring other activities do not constrain infrastructure, and recognising the importance of infrastructure by providing broad guidance on how any adverse effects are treated a little more favourably than other activities in decision-making processes.
57. I consider the benefits of such a policy are:
- To provide policy guidance where other chapters in Part I contain none, e.g., Landscape and Natural Character;
 - To provide policy guidance in Part I chapters that contain specific policy but only to the extent that such policy should not be inconsistent with that in Chapter 3; and
 - To provide direction for policies in Part II of the Plan and district plans because they must give effect to them.
58. I anticipate this matter will remain unresolved at the Hearing as the redraft of Policy 3-3 may not resolve the strongly expressed concerns of the “electricity generators” or those of the Tararua-Aokautere Guardians, who are likely to perceive the recommendation as being too generous to infrastructure activities.
59. I have considered a worked example of an infrastructure development where it is determined that granting a consent as sought by the applicant will result in significant cumulative adverse effects on a Schedule F, Table F1 landscape.

Consideration of Policy 3-3 (c) will be relevant in this case. The tests would be:

- Can the significant effects be avoided, remedied or mitigated (to the level of minor adverse effects)?
- If not, can it be shown that this is impracticable due to functional, operational or technical constraints?
- If so, decision-makers would need to take into account:
 - (i) the need for the infrastructure;
 - (ii) the extent to which adverse effects can be practicably avoided, remedied or mitigated, including whether there are any practicable alternatives to the proposed location and design of the infrastructure; and
 - (iii) whether a financial contribution should be sought to offset or compensate for adverse effects that cannot be adequately avoided, remedied or mitigated.

Policy 7-7(a) would also need to be considered and the activity would be unlikely to meet the test:

- Does the development avoid any significant adverse cumulative adverse *effects*[^] on the characteristics and values of the outstanding natural features and landscapes listed in Table F1 of Schedule F?

In this situation I would suggest that Policy 7-7(a) would prevail over Policy 3-3 (c) unless there were extremely compelling reasons found in the consideration of Policy 3-3 (c)(i) and/or (ii).

Policy 3-4 Renewable Energy (Recommendation IEW 12A)

60. The changes to Policy 3-4 recommended are consistent with those agreed at the Pre-hearing Meeting and helpful in clarifying the specific benefits of the use and development of renewable energy resources.
61. Although some “electricity generators” sought removal of the expressed preference for the development and use of renewable energy resources over non-renewable energy resources in the Region I do not recommend this be accepted. I consider the clause is consistent with national policy and strategies for use and development of renewable energy resources.

Policy 3-12 Identification of Priority Contaminated Land (Recommendation IEW 20A)

62. I recommend changes to clarify the intent of Policy 3-12 and provide more certainty for Plan users. The purpose of using the term “expected to be subject to a change in land use” to replace “likely” is simply to provide more certainty that the policy is not intended to apply to all land that could conceivably be the subject of land use change.

Policy 3-13 Management of Priority Contaminated Land (Recommendation IEW 21A)

- 63. The informal meeting with Horticultur NZ Ltd highlighted that this policy could be very restrictive when implemented, e.g., the policy may prevent the use of engineering solutions such as capping, or constrain the development over a whole site when contamination is identified in a small area of it. I note that submission from Shell NZ Ltd, BP Oil NZ Ltd, Mobil NZ Ltd and Chevron NZ Ltd seeks amendments that have a “fit for purpose” philosophy, which would provide a more flexible policy approach.
- 64. The changes I recommend in Recommendation IEW 21A are designed to provide a more flexible policy approach while retaining the same environmental outcome sought by the Regional Council from the original Policy 3-12.

CLASS I AND II LAND

- 65. I have considered submissions seeking that the Plan address protection of Class I and II land from urban encroachment in Recommendation IEW_ADD 1 of the Addendum to IEW Planning Evidence and Recommendations Report (January 2009). I conclude that although loss of Class I and II land due to urban encroachment is a potential resource management issue, it is not currently a regional issue and is best dealt with at a territorial authority level.
- 66. I base this conclusion on the fact that data for the five year period (2003-08) indicate there appears to be a low level of loss of this land, there is low or no population growth in most of the Region and that all territorial authorities in the Region, except Ruapehu District Council which has very little Class I and II land, currently have appropriate policy provisions in district plans relating to Class I and II land.
- 67. The Panel will hear further evidence on this matter from submitters presenting evidence to this hearing.

CONCLUSION

- 68. That concludes my presentation and I now turn to the Panels pre-circulated questions.

Barry Gilliland
POLICY ADVISOR

22 June 2009