

**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

---

**STATEMENT OF EVIDENCE OF RICHARD JOHN MATTHEWS**

**1 July 2008**

---

## 1. INTRODUCTION

- 1.1 I hold a Master of Science (Hons) degree, and have been working as a resource management adviser for more than twenty-nine years, initially in the local government sector and since 1999 in private practice with the environmental consulting practice, Mitchell Partnerships. I am a partner in this practice.
- 1.2 My specialist area of expertise is in the application of the Resource Management Act 1991, and other relevant environmental management legislation, the development of Regional and District Plans and the acquisition and assessment of resource consent applications. I have been providing advice on these matters for more than twenty-seven years.
- 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 Resource Management Act in 1991 (“**RMA**”). 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 court-assisted and council initiated mediation sessions.
- 1.4 I have been asked to present evidence to this hearing in relation to the Genesis Power Limited (trading as “**Genesis Energy**”) submissions and further submissions in respect of the Horizons Regional 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;

- Introduce the matters covered by the Genesis Energy submissions on the One Plan;
- Discuss the matters Genesis Energy has raised in its submissions relating to the One Plan that are addressed in Horizons Planning Evidence and Recommendations Report (the “**Officer’s Report**”); and
- Conclude my evidence.

1.6 I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions I express.

## **2. BACKGROUND TO SUBMISSION**

2.1 As discussed by Mr Weir, Genesis Energy depends on the utilisation of natural and physical resources (water, land, air and structures) for the generation of hydro, thermal, and wind powered electricity, and for the transmission of that electricity to end users. It is important to note that the infrastructure required for the generation and transmission of electricity must be located where those natural and physical resources are located, but should also be as close as practicable to where the electricity is being used.

2.2 Genesis Energy has made a number of submissions and further submissions on the provisions of the One Plan from the perspective of assessing the policy implications for existing operations such as the Tongariro Power Scheme as well as in relation to future renewable energy proposals.

2.3 In particular, in an overall sense, these submissions seek that the provisions of the One Plan promote the purpose of the RMA, and specifically that it provides an appropriate framework for the management of natural and physical resources such as land, water, air, and existing infrastructure that are of importance to the nation and the region. In particular, the Genesis Energy submissions are seeking the recognition of the role of natural and physical

resources and their contribution to enabling people and communities to provide for their social, economic, and cultural well being.

### 3. RMA PART II FRAMEWORK

3.1 The purpose of the RMA is set out in section 5:

#### 5. Purpose

(1). The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2). In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

3.2 The purpose of the RMA is to be given practical expression through all decision making under the Act, including policies, plans, and resource consents.

3.3 Section 5 requires an overall broad judgment on whether or not a proposal promotes the sustainable management of natural and physical resources. That approach allows for a comparison of conflicting considerations, their scale or degree, and their relative significance. This approach should therefore not place a specific focus on the protection of the environment, landscapes, water quality etc alone, but be considered with the use of resources and the provision for social and economic wellbeing, and the health and safety of people and how any adverse effects can be avoided, remedied, or mitigated.

3.4 As detailed by Mr Weir, electricity is an essential commodity in today's society, and is fundamental to enabling people and communities to provide for their social and economic well being and their health and safety. Without it, hospitals cannot function effectively, water supplies and wastewater treatment

would be affected, road safety would be compromised a host of business and commercial activities would be restricted, and domestic uses would be limited.

- 3.5 The Environment Court has identified the critical role of electricity in providing for the well-being of people and communities, for example:

“Electricity is a vital resource for New Zealand. There can be no sustainable management of natural and physical resources without energy, of which electricity is a major component”<sup>1</sup>

“From a national level, electricity is an essential commodity to New Zealand households (directly they spend in excess of \$2 billion on it) and industry. It provides the basis for our economic prosperity and way of life. Unlike in some other countries, electricity cannot be imported, and for some purposes it has no practical alternatives”.<sup>2</sup>

- 3.6 In light of increasing demand, the Environment Court has also acknowledged the importance of maximising existing generation output:

“Over recent years, New Zealand’s demand for electricity has been growing faster than new generation. We were told ... that for the year 2005 the growth rate was 2.5%... [It was] ...stressed that because of the potential for electricity shortages combined with the uncertainty surrounding new generation, it is very important that existing generation is at least retained where possible, if not increased. [It was] ... said:

‘From an economic perspective, it is important that resource consent conditions do not have the effect of reducing generation output, unless it is absolutely necessary to achieve sustainable management.’<sup>3</sup>

- 3.7 Similarly, the Environment Court has stated the full utilisation of generation facilities is in the national interest.<sup>4</sup>

- 3.8 In my opinion, it is therefore as 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. Sections 6, 7 and 8 of the RMA set out the principles to be applied in achieving the purpose of the Act and state:

---

<sup>1</sup> Genesis Power Limited v Franklin District Council [2005] NZRMA 541 at [64].

<sup>2</sup> Rotokawa Joint Venture Ltd and Mighty River Power Ltd v Waikato Regional Council (A41/07) at [422].

<sup>3</sup> Rotokawa Joint Venture Ltd and Mighty River Power Ltd v Waikato Regional Council (A41/07) at [425].

<sup>4</sup> Ngati Rangī Trust v Manawatu-Wanganui Regional Council (A67/04) at [402].

## **6 Matters of National Importance**

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- (f) the protection of historic heritage from inappropriate subdivision, use, and development.
- (g) the protection of recognised customary activities.

## **7. Other Matters.**

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) Kaitiakitanga:
- (aa) The ethic of stewardship:
- (b) The efficient use and development of natural and physical resources:
- (ba) the efficiency of the end use of energy:
- (c) The maintenance and enhancement of amenity values:
- (d) Intrinsic values of ecosystems:
- (e) Repealed.
- (f) Maintenance and enhancement of the quality of the environment:
- (g) Any finite characteristics of natural and physical resources:
- (h) The protection of the habitat of trout and salmon:
- (i) the effects of climate change:
- (j) the benefits to be derived from the use and development of renewable energy.

## **8. Treaty of Waitangi**

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

3.9 The principles contained in sections 6, 7 and 8 are subordinate to the overall purpose of the Act. Each plays a part in the overall consideration of whether the purpose of the Act has been achieved in a particular situation. These

matters are not an end in themselves; they are an accessory to the principal purpose.

3.10 In particular, the High Court in *NZ Rail Ltd v Marlborough DC [1994] NZRMA 70 (HC)*, in respect of natural character established that:

“[The proposed development] is “inappropriate” from the point of view of the preservation of natural character in order to achieve the promotion of sustainable management as a matter of national importance. It is, however, only one of the matters of national importance, and indeed other matters have to be taken into account. It is certainly not the case that preservation of the natural character is to be achieved at all costs. The achievement which is to be promoted is sustainable management and the questions of national importance, national value and benefit, and national needs, must play their part in the overall consideration and decision.”

3.11 This hierarchy applies to all of the principles set out in sections 6, 7 and 8 of the RMA. For example, for the Proposed Plan decisions it means that the requirement to recognise and provide for the preservation of the natural character of the coastal environment and the protection of it from inappropriate subdivision, use and development does not have primacy in its own right and is not an absolute requirement.

3.12 All the provisions of sections 6, 7 and 8 are simply components of the overall decision of whether the application meets the primary test of promoting the sustainable management of natural and physical resources.

3.13 In the overall framework of Part II, I consider that as electricity (and therefore the generation of electricity) is an essential component of enabling people and communities to provide for their social and economic well being, and for their health and safety it must also be given significant weight.

3.14 I also observe that the national importance of electricity generation and related infrastructure for transmission is emphasised by the development of the National Policy Statement on Electricity Transmission (gazetted in March 2008), which recognises that efficient transmission of electricity on the national grid plays a vital role in the wellbeing of New Zealand, its people and the environment. It provides that electricity transmission is a matter of national significance under the RMA and prescribes an objective and policies to guide

the making of resource management decisions. The National Policy Statement should be taken into account in decisions made on the One Plan.

- 3.15 To complement the National Policy Statement on Electricity Transmission, the Ministry for the Environment is currently developing two national environmental standards (“**NES**”), for electricity transmission namely the “transmission activities” NES and the “transmission risks” NES. These proposed standards set out a framework of permitted activities and consent requirements for the operation, maintenance and upgrading of existing transmission lines and provide for an increased national security of supply by protecting the national grid.
- 3.16 In addition to the overall consideration in terms of Section 5 of the RMA, renewable energy resources are given specific recognition as a matter to which particular regard must be had. In my opinion, consideration of renewable energy (section 7), and the benefits of its use and development must therefore be “had particular regard” to.
- 3.17 The desirability of a national policy statement on renewable electricity generation was announced with the release of the New Zealand Energy Strategy in October 2007, again reflecting the national significance of electricity generation. The national policy statement is a key component of the New Zealand Energy Strategy and will also complement the New Zealand Energy Efficiency and Conservation Strategy, to create a stronger policy framework for renewable energy and the reduction of greenhouse gases.
- 3.18 A national policy statement on renewable electricity generation will set out the Government’s objectives for future energy development in New Zealand, assisting to guide often competing values surrounding the benefits of renewable energy in light of local environmental impacts. The Proposed Policy Statement is due to be released by the end of June 2008 for public comment.
- 3.19 The overall framework of the One Plan must not just address the “natural environment”. It must also address the socio-economic wellbeing that is derived from the use and development of resources, recognising 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.

3.20 In terms of decisions on individual submissions on separate parts of the One Plan arising from the upcoming range of hearings relating to the various sections of the One Plan, while the specific decisions and provisions are important in their own right, the overall purpose of the RMA and the points made above must form part of the decision making. In that sense, decisions on individual sections of the One Plan must take into account the overall effect and direction afforded by the One Plan, and must ensure that a balanced policy framework is established that provides appropriate weight to the relevant considerations under Part II of the RMA. It is not sufficient for each section to simply provide a framework for the use of a particular resource, the One Plan as whole must promote the purpose of the RMA.

3.21 I note that in a general sense, subject to the matters discussed in more detail later in this evidence, and the specific matters identified in relation to each individual sections of the Plan, the Proposed One Plan provides an overall balance which, in my opinion, requires minimal amendment to recognise the benefits of resource use and to provide for the development of renewable energy.

#### **4. SUBMISSIONS MADE BY GENESIS ENERGY**

##### **Introduction**

4.1 As noted above, the policies, objectives, methods and rules contained within the proposed One Plan provide an overall framework that in my opinion is capable of promoting the sustainable management of natural and physical resources with the adjustments outlined later in this evidence. These amendments are required to clarify several of the provisions in the various sections of the One Plan that will be discussed in forthcoming hearings, but substantial wording changes in these sections are not required.

4.2 In particular, I generally support the inclusion of Chapter Three of the One Plan that recognises the benefits of infrastructure and energy. While more specific comment on the objectives and policies in the infrastructure section of the One Plan will be made for the infrastructure hearing, I acknowledge the importance of Objective 3-1 and Policy 3-1:

**Objective 3-1: Infrastructure and Energy**

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.

**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.

4.3 I also consider the provision for electricity generation within Chapter Sixteen – Beds of Rivers and Lakes is appropriate, and while more specific comment on the objectives, policies and rules in Chapter Sixteen will be addressed in the allocated hearing, I note the importance of Rule 16-5 and Rule 16-6 relating to Permitted Activities:

### **Rule 16-5 Use of Structures - Permitted Activity**

The use of a structure located in, on, under or over the bed of a river or lake pursuant to s 13(1) RMA, and any associated:

- (a) damming or diversion of water pursuant to s 14(1) RMA, excluding the damming of water associated with dam structures (which is regulated by the rules in Section 16.5)
- (b) discharge of sediment or water pursuant to s 15(1) RMA. For the avoidance of doubt, this rule includes the “use” of a dam structure, but excludes the damming of water by a dam structure (under s 14(1) RMA).

### **Rule 16-6 Maintenance and Repair of Structures, and Associated Removal of Bed Material and Plants - Permitted Activity**

- (a) Structures - The maintenance or repair of a structure located in, on, under or over the bed of a river or lake pursuant to s 13(1) RMA, and any associated:
  - (i) disturbance of the river or lake bed pursuant to s 13(1) RMA
  - (ii) damming or diversion of water pursuant to s 14(1) RMA
  - (iii) discharge of water or sediment pursuant to s 15(1) RMA.
- (b) Associated removal of bed material and plants - The removal of bed material or plants pursuant to s 13(1) or s 13(2) RMA for the purpose of maintaining the functional integrity of a structure located in, on, under or over the bed of a river or lake, including flushing accumulated bed material, and any associated:
  - (i) damming or diversion of water pursuant to s 14(1) RMA
  - (ii) discharge of water or sediment pursuant to s 15(1) RMA
  - (iii) deposition of removed bed material or plants in or on the bed pursuant to s 13(1) RMA
  - (iv) discharge of removed bed material or plants onto or into land pursuant to s 15(1) RMA.

### **Specific Submissions**

4.4 Genesis Energy has submitted on specific, individual parts of the One Plan including parts of:

- **Chapter Three** – Infrastructure, Energy and Waste.
- **Chapter Four** – Te Ao Maori.
- **Chapter Five** – Land.
- **Chapter Six** – Water.
- **Chapter Seven** – Living Heritage.
- **Chapter Twelve** – Land and Biodiversity.
- **Chapter Thirteen** – Discharges to Land and Water.
- **Chapter Fifteen** – Takes, Uses, and Diversions of Water and Bores
- **Chapter Sixteen** – Beds of Rivers and Lakes.

- **Schedule D Part One** – Values that apply to waterbodies in the Manawatu-Wanganui Region.

4.5 I note that the specific submissions and further submissions will be addressed in the subsequent hearings but in general terms these matters relate to clarification of the proposed provisions.

### **General Submissions**

4.6 Genesis Energy has also submitted on parts of the One Plan in terms of the framework of the general plan, and matters that need to be reflected throughout the Plan.

4.7 The specific submissions relating to the whole of the One Plan made by Genesis Energy are as follows:

- **Renewable Energy** – The need to recognise the renewable energy resource base of the region and the importance of a reliable and secure energy supply system.
- **Provision of Existing Infrastructure** – The need to protect the existing infrastructure in the region and to make a distinction between natural and man made habitats when referencing rare and threatened habitats.

4.8 Genesis Energy also made a further submission supporting a Mighty River Power submission seeking a new section in the Regional Policy Statement to include objectives and policies which expressly recognise the benefits that people and communities obtain from the use and development of natural and physical resources.

4.9 I will discuss each of these matters in sections five and six of my evidence and will recommend changes to the One Plan as appropriate.

## **5. RENEWABLE ENERGY AND THE BENEFITS OF RESOURCE USE**

- 5.1 The Manawatu – Wanganui region is important in that it contains natural resources of sufficient quality that are able to be harnessed for renewable energy generation of national and regional significance. There is significant potential for further hydro and wind power developments in the region, to add to the already substantial renewable electricity generation developments in the region.
- 5.2 While the Proposed One Plan addresses, in some way, the infrastructure associated with the use and development of renewable energy, it does not specifically provide for the benefits arising from use of renewable resources. I consider that further consideration should be given to identifying the benefits derived from such energy sources in the One Plan and that this would further support current government policy regarding electricity generation and the provisions of Part II of the RMA.
- 5.3 The existing and any future generation and transmission infrastructure and developments will contribute significantly to the social and economic wellbeing of the community, and to its health and safety. As noted earlier, it is important that the overall One Plan recognises the benefits from resource use as providing this, and that this is reflected in the objectives and policies throughout the plan.
- 5.4 As I have set out in section three of my evidence, Section 7 of the RMA makes the consideration of the benefits of the use and development of renewable energy a specific matter that particular regard must be given to.
- 5.5 The One Plan should provide direction on how the benefits that accrue from the development of renewable energy resources can be realised while avoiding, remedying or mitigating adverse effects. If the use of renewable energy resources and the benefits that accrue from that are to be recognised, then the direction within the One Plan needs to reflect that in some instances the development of renewable energy resources of the region may take precedence over the protection and maintenance of other values.

5.6 As set out in Mr Weir's evidence, the Government has set a target for 90 percent of New Zealand's electricity to be generated from renewable sources by 2025 – through the New Zealand Energy Strategy. In respect to this, the One Plan needs to provide for the development of new renewable electricity generation and transmission infrastructure and to recognise the renewable energy resource base of the region, but must also protect the significant investment already made in existing infrastructure such as that described by Mr Bowler.

5.7 To reflect the provisions of Part II of the RMA, and as requested in the “whole of plan” submission by Genesis Energy, changes are required to the objectives, policies and rules within the One Plan to give effect to the matters set out below:

- The recognition of the importance of a reliable and secure energy supply system as a pivotal component to the sustainable management of natural and physical resources.
- The incorporation of policy directions which recognise that in some instances that the use and development of renewable resources will take precedence over other values.
- The recognition of the renewable energy resource base of the region.

5.8 I consider that the present Chapter Three policies are not complete in that Policy 3-1 covers the benefits of infrastructure and Policy 3-4 only addresses a “preference” for renewables over non renewables. As I have set out earlier in section 3 of my evidence, I generally support Policy 3-1. However, Policy 3.4, which ostensibly provides explicitly for renewable energy, simply provides that renewable energy should be preferred over non renewable energy.

5.9 I do not consider that there should be a preference explicitly stated in the One Plan, rather the determination of whether one form of electricity generation development should be preferred over another should be determined on the basis of the effects of the proposed activities, and the extent to which the proposal promotes the purpose of the RMA.

5.10 I therefore consider that Policy 3 (a) should be replaced in Chapter Three with a policy that explicitly recognises and provides for renewable generation along the following lines:

**Policy 3-4: Renewable energy**

**(a) The use of existing, and development of new, renewable energy generation infrastructure and use of renewable energy resources shall be recognised and provided for in resource consent decision making.**

~~(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.~~

5.11 I also consider that the present Section 3 only relates to energy and infrastructure, and that there is no overall provision in the Proposed One Plan recognising the importance and benefits to be derived from resource use within the region. As discussed in section 3 of my evidence, it is important that the One Plan provides an overall balance between the benefits of resource use (and the benefits to be derived from the use of renewable energy in particular) and the other matters that are identified in Sections 6, 7 and 8 of the RMA. At present, there is a focus in the One Plan on protecting, for example, landscapes, indigenous habitats or water quality, while there are no corresponding provisions recognising the benefits of appropriate resource use.

5.12 In general terms, I consider that this aspect can be addressed by the introduction of specific provisions in the objectives and policies in Chapters 11, 12, 13, 14, 15, 16 and 17, each of which follows the form set out below:

**Objectives**

*Enable people and communities to use the resources of the Horizons Region to provide for their social, cultural and economic wellbeing and for their health and safety.*

**Policies**

*When making decisions on resource consent applications, and setting consent conditions, the Regional Council will:*

*recognise the importance that resource use and development has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.*

5.13 I set out in Appendix 1 my proposed changes to the objectives and policies in Chapters 11, 12, 13, 14, 15, 16 and 17 to recognise and provide for the benefits of resource use and of renewable energy.

## **6. PROVISIONS FOR EXISTING INFRASTRUCTURE**

6.1 It is important that the One Plan properly recognises the existing electricity infrastructure of the region, whilst still protecting the environment. By way of an example, as Mr Bowler has described, the resource consent decisions have been made for the Tongariro Power Scheme (“**TPS**”) within a framework where significant weight has been given to the benefits accruing from resource use, using, for example, minimum flow provisions that have been long established for the various rivers and streams influenced by the TPS.

6.2 I note that in this context, as Mr Bowler has described, the considerable mitigation implemented for the TPS. For example, the minimum flow regimes adopted for the TPS activities are working in practice and has resulted in significant improvements in the natural environment. To protect existing infrastructure, to continue to realise the benefits of renewable resource use, and to promote the purpose of the RMA (as set out earlier in my evidence) in this instance, it is important to ensure that the ongoing contribution of TPS is not compromised.

6.3 I note also in this context, that it is important that the One Plan draws a distinction between natural habitats and 'man made' ones.

6.4 In that regard, Genesis Energy made a number of specific submissions highlighting that using the criteria detailed in Schedule E, the 'man made' lakes Otamangakau, Te Whaiiau and Moawhango could be classed as rare and threatened habitats.

6.5 These lakes should be exempt from policies and rules relating to Rare and Threatened Habitats (as will be detailed further in the specific topic hearings as allocated by the Horizons Regional Council). These policies and rules have the

potential to adversely affect existing infrastructure, such as the TPS, in that several of the activities associated with the TPS would become non-complying. This is an example of where it is important that the focus be on promoting the overall purpose of the RMA, rather than focusing on protecting a specific habitat using generic rules.

- 6.6 To provide further clarity, a distinction should be drawn for 'man made' lakes and other man made habitats by referring to all rare and threatened habitats as “naturally occurring” rare and threatened habitats.
- 6.7 It is important that the One Plan recognises, maintains and protects the existing infrastructure in the region and that people and communities are able to take and use water, and place structures in waterways for their social and economic wellbeing and their health and safety.
- 6.8 While the provisions I propose in section 5 of my evidence do this in part, the overall framework should be considered when decisions are made for each of the individual submissions and sections of the One Plan. By way of an example, Schedule D Table D2 of the One Plan does not identify or recognise the existing infrastructure and uses of water critical to the TPS. As noted by Mr Weir, the TPS plays an important role in providing renewable energy to the National Grid, typically contributing 1,800 Gigawatt hours per annum, which is approximately 4 percent of the country's total electricity generation.
- 6.9 The One Plan needs to recognise the importance of, and protect existing infrastructure supplying renewable electricity generation, and in particular the TPS. Within the overall context of promoting the purpose of the RMA, the benefits of resource use need to be recognised, and particular regard must be had to the benefits of using renewable energy. Accordingly, the appropriate Management Zones in Table D2 where the TPS is located should be identified as “Existing Infrastructure” with the consequent management objective of ensuring that the integrity of such infrastructure should not be compromised.
- 6.10 Specific changes sought will be addressed through the hearings on these topics.

## 7. OFFICER'S REPORT

7.1 I note that in the Officer's Report, one of the further submissions made by Genesis Energy was rejected and one submission was accepted in part. I address these decisions in turn below.

7.2 Mighty River Power (submission number 359 2) submitted that a new section should be inserted into the Regional Policy Statement that includes objectives and policies which expressly recognise the benefits that people and communities obtain from the use and development of natural and physical resources. As noted earlier, Genesis Energy supported this in a further submission (further submission number X 525 101), particularly with regard to the development of electricity generating facilities.

7.3 The Officer's Report recommended that these submissions be rejected, stating that:

A number of submissions ask for generic provisions which recognise the benefit to be gained by using natural resources, particularly so these benefits can be given regard to when assessing resource consent applications. To include a generic statement as to the benefits of using resources would be to state the obvious and would not add to the Proposed One Plan or add any useful interpretation of the RMA.

Most of the submitters who made general submissions about their interests dealt with here, have also made specific submissions on specific chapters and provisions of the Proposed One Plan. It is more appropriate to deal with their concerns by responding to those specific submissions.

7.4 As noted earlier in my evidence, I consider that the One Plan needs to have overarching policies which recognise the benefits that people and communities obtain from the use and development of natural and physical resources. In this respect, the benefits of resource use (and the use of renewable energy) should be afforded similar recognition in the One Plan other matters from Part II such as protection of landscapes, protection of indigenous habitats or protection of water quality.

7.5 In my opinion, the present focus of the One Plan tends to be on the "while" part of section 5 of the RMA, with its provisions being primarily based on sections 5(a), (b) and (c) to:

- Sustain natural and physical resources;
- Safeguard air, water, soil and ecosystems; and
- Avoid, remedy or mitigate any adverse effects.

7.6 I consider that there is a lack of recognition and provision for the use and development of resources to promote the purpose of the RMA in recognising the role of resource use in the region and its contribution to enabling people and communities to provide for the social, economic, and cultural well being. I have recommended objectives and policies to address this imbalance in Appendix 1.

7.7 A general submission made by Genesis Energy (submission number 268 53) sought that “wherever wording is proposed by Genesis Energy, such wording is included in the plan or words of like effect”. The purpose of this part of the submission was simply to note that while Genesis Energy proposed specific wording in relation to many of its submission points, it would equally be prepared to consider alternative wording should that achieve the same outcome as the wording it proposed.

7.8 The Officer’s Report recommended this be accepted in part and stated the following:

Submissions that seek that either their or someone else’s submission is accepted in its entirety are difficult to grant relief to. I recommend they are accepted in part; to the extent that the original submissions are accepted, and that this is reviewed as the hearings progress and final decisions are made.

Submissions seeking consequential amendments are common, and assist the committee in making those amendments which may not have been specifically requested, but are necessary as a result of granting the main relief sought. It is impossible to know at this stage if they will be necessary, so I recommend they be accepted in part, to the extent necessary to grant relief to main submissions, and the hearing panel will need to review this through the plan hearings.

7.9 I note in addition to the above, that through the hearing process, Genesis Energy will be providing evidence and seeking relief on specific points in relation to submissions on the specific One Plan areas. While I agree that it is difficult to grant such relief at this stage of the thematic hearing staging, I consider that all of the decision making should be subject to an overall review to

ensure that the appropriate framework is achieved to promote the purpose of the RMA.

- 7.10 In this context, I consider that it is important preserve the present Proposed One Plan framework, subject to inclusion of the more general changes proposed in this evidence, along with the specific changes to be sought in later hearings. As noted above, if there is alternative wording that achieves the same outcome that was sought in the Genesis Energy submission, then that can be incorporated in terms of the generic submission point.

## **8. CONCLUSION**

- 8.1 New Zealand depends on the utilisation of natural and physical resources (water, land, air and structures) for the generation of hydro, thermal, and wind powered electricity, and for the transmission of that electricity to end users.
- 8.2 In my opinion, it is important that the One Plan to acknowledge and make appropriate provision for the generation of hydro, thermal, and wind powered electricity, and for the transmission of that electricity to end users in order to enable people and communities to provide for their social and economic wellbeing, and for their health and safety. This means that both existing infrastructure and development should be acknowledged, and access to new potential development should not be unduly hindered or constrained.
- 8.3 In this regard, the provisions of the One Plan should promote the purpose of the RMA and should provide for the management of resources such as land, water, and air that are of importance to the region, while recognising the role of resource use in the region, and its contribution to enabling people and communities to provide for the social, economic, and cultural well being.

# **APPENDIX 1**

**Changes Sought to the Proposed One Plan to Provide  
for the Recognition of Resource Use and the Use of  
Renewable Energy Resources in the Region**

## Background

Set out below are the relevant parts of the Objectives and Policies from Chapters 11 to 17 of the Proposed One Plan. The present wording is set out in “normal” text, while the changes proposed for each policy and objective are set in **bold** text and are underlined.

## Chapter 11

### 11.2.2 Objective

Objective 11-1: Resource management in the Manawatu-Wanganui Region

- (a) The regulation of activities in a manner which maximises certainty and avoids unnecessary costs on resource users and other parties.
- (b) The regulation of activities in a manner which gives effect to the provisions of Part I of this Plan, the Regional Policy Statement.
- (c) Enables people and communities to use the resources of the Horizons Region to provide for their social, cultural and economic wellbeing and for their health and safety.**

#### **New Policy 11.5:**

**Recognise the positive benefits that can arise from the use, development and protection of the regions natural and physical resources whilst ensuring that any adverse effects are avoided, remedied or mitigated.**

## Chapter 12

### **Policy 12-1: Consent decision-making for vegetation clearance and land disturbance**

When making decisions on resource consent applications, and setting consent conditions, for vegetation clearance\* and land disturbance\* the Regional Council will have particular regard to:

- (a) the objectives and policies of Chapter 5
- (aa) the importance that the use and development of land has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**
- (b) whether a whole farm business plan\* should be required as a condition of consent
- (c) any industry standards that are relevant to the activity in accordance with Policy 12-2
- (d) whether the vegetation clearance\* or land disturbance\* is for an important or essential activity as described under Policy 12-3
- (e)...

## Chapter 13

### Policy 13-1: Consent decision making for discharges to water

When making decisions on resource consent applications, and setting consent conditions, for discharges of water or contaminants into water the Regional Council will have particular regard to:

- (a) the objectives and policies of Chapter 6 regarding the values of waterbodies and the management of surface water quality and discharges
- (aa) the importance that resource use and development, and discharges in particular, has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**
- (b) avoiding discharges which contain any persistent contaminants that are likely to accumulate in a waterbody
- (c)...

### Policy 13-2: Consent decision making for discharges to land

When making decisions on resource consent applications, and setting consent conditions, for discharges of contaminants onto or into land the regional council will have particular regard to:

- (a) the objectives and policies of Chapter 6 regarding the management of groundwater quality and discharges
- (aa) the importance that resource use and development, and discharges in particular, has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**
- (b) where the discharge may enter water or have an adverse effect on water quality, the degree of compliance with the approach for managing surface water quality set out in Chapter 6
- (c) avoiding as far as practicable any adverse effects on any sensitive receiving environment or potentially incompatible land uses, in particular any houses, schools, churches, marae, public areas, wetlands, surface waterbodies, and the coastal marine area
- (d)...

## Chapter 14

### Policy 14-2: Consent decision-making for other discharges into air

When making decisions on resource consent applications and setting consent conditions for discharges of contaminants into air, the Regional Council will have particular regard to:

- (a) the objectives and policies of Chapter 8 including:
  - (i) the degree of consistency with the approach set out in Policy 8-1 for implementing the National Environmental Standards for ambient air quality
  - (ii) the degree of compliance with the regional standards for ambient air quality set out in Policy 8-2
  - (iii) for discharges of fine particles, the approaches for managing fine particles (PM10) in Policies 8-5 and 8-6, and the likely contribution of the proposed discharge to cumulative adverse effects in an unacceptable airshed or degraded area as identified under these policies.

**(aa) the importance that resource use and development, and discharges to air in particular, has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**

(b) the guidelines in Section 14.2 for managing noxious, dangerous, offensive and objectionable effects

(c)...

## **Chapter 15**

### **Policy 15-1: Consent decision-making for takes and uses of surface water and groundwater**

When making decisions on resource consent applications, and setting consent conditions, for takes and uses of surface water the Regional Council will:

(a) recognise and provide for the provisions of Chapter 6, in particular the Policies in Section 6.4.3

**(aa) recognise the importance that resource use and development, and use of water in particular, has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**

(b) seek to avoid any adverse effects on other lawful activities, particularly other water takes

(c) have regard to the objectives and policies of Chapters 2, 3 and 7 to the extent that they are relevant to the activity.

### **Policy 15-2: Consent decision-making for diversions and drainage**

When making decisions on resource consent applications, and setting consent conditions, for the diversion of water including diversions associated with drainage the Regional Council will:

(a) recognise and provide for the provisions of Chapter 6

**(aa) recognise the importance that resource use and development has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**

(b) manage effects on rare and threatened habitats\* and at-risk habitats\* in accordance with Chapter 7

(c) manage effects on the natural character of waterbodies in accordance with Chapter 7

(d) recognise and provide for the provisions of Chapter 10, in relation to flood risk

(e) seek to avoid any adverse effects on any other lawful activity, including water takes.

## **Chapter 16**

### **Policy 16-1: Consent decision making for activities in river and lake beds (including modified watercourses)**

When making decisions on resource consent applications, and setting consent conditions, for activities in, on, under or over the bed of a river or lake the Regional Council will:

(a) recognise and provide for the policies regarding the beds of rivers and lakes in Section 6.4.4, and have regard to the other provisions of Chapter 6 where appropriate

**(aa) recognise the importance that resource use and development has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**

- (b) have regard to the extent to which the activity is consistent with best management practices
- (c) seek to avoid where practicable any adverse effects on any other lawful activity in, on, under or over the bed of the river or lake, including existing structures
- (d) have regard to whether the activity is of a temporary nature or is associated with necessary maintenance work
- (e) recognise and provide for the provisions of Chapter 10 in relation to flood management.

**Policy 16-2: Consent decision making for activities in the beds of artificial watercourses and artificial lakes**

When making decisions on resource consent applications, and setting consent conditions, for activities in, on, under or over the bed of an artificial watercourse (including farm drainage canals and canals for the supply of water for electricity power generation) or artificial lake the Regional Council will:

- (a) recognise and provide for the purpose for which the artificial watercourse or artificial lake was established

**(aa) recognise the importance that resource use and development has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**

- (b) in circumstances where the artificial watercourse or artificial lake joins a river or lake, recognise and provide for the policies regarding the beds of rivers and lakes in Section 6.4.4, and have regard to the other provisions of Chapter 6 where appropriate
- (c) seek to avoid, remedy or mitigate adverse effects on any significant ecosystems intrinsic to the artificial watercourse or artificial lake
- (d) manage the activity in accordance with subsections (b) to (e) of Policy 16-1.

## **Chapter 17**

**Policy 17-1: Occupation of space by aquaculture**

The allocation of space for aquaculture shall be established through a plan change in accordance with Sections 12A and 165C of the RMA, and the following matters shall be given particular consideration:

- (a) the objectives and policies of Chapter 9 and any relevant policies in the New Zealand Coastal Policy Statement

**(aa) the importance that resource use and development, and occupation of the coastal marine area in particular, has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**

- (b) the impact of the proposed activity on neighbouring uses and the ecological carrying capacity of the area
- (c) the type and location of any land-use facilities that would be required
- (d) the effects on navigation safety, public access, natural character and marine ecosystems

- (e) available alternatives to the applicant's proposal and the applicant's reason for making the proposed choice.

**Policy 17-2: Consent decision making for occupation of space by other activities**

When making decisions on resource consent applications and the allocation of space for activities (excluding aquaculture), the Regional Council will have particular regard to:

- (a) the objectives and policies of Chapter 9 and any relevant policies in the New Zealand Coastal Policy Statement
- (aa) the importance that resource use and development, and occupation of the coastal marine area in particular, has in enabling people and communities to provide for their social, cultural and economic wellbeing and for their health and safety.**
- (b) enabling occupation where it is a fundamental requirement of an activity covered by another rule in this Plan
- (c) requiring efficient use of space in the CMA by using the smallest amount of space practicable for the activity and limiting the adverse effects on public access to the space
- (d) the effects on navigation safety, natural character, and marine ecosystems
- (e) requiring a plan change pursuant to s 165D of the RMA where there is demand for use of the same space by more than one party and a first-in-first-served consent process will not adequately manage the cumulative effects of the proposed activities
- (f) available alternatives to the applicant's proposal and the applicant's reason for making the proposed choice.