

**Before the Hearing Panel Appointed by Waikato District Council
to Hear Submissions on the Proposed Waikato District Plan**

In the matter of: **the Resource Management Act 1991**

And: **Submissions and Further Submissions
Lodged on the Proposed Waikato District
Plan by Meridian Energy Limited**

**Statement of Evidence of Christine Anne Foster
Called by Meridian Energy Limited
In Response to the Evidence of Pauline Whitney for
Transpower New Zealand Ltd**

29 October 2020

INTRODUCTION

- 1 My name is Christine Anne Foster. I am a Planning Consultant and sole director of CF Consulting Services Limited, based in Wellington. I hold a Bachelor of Regional Planning and have worked as a resource management planner in New Zealand for over 35 years.
- 2 This statement of evidence is within my area of expertise as a resource management planner, except where I state that I rely on the evidence of others. I have read the Code of Conduct for Expert Witnesses set out in the 2014 Environment Court Practice Note (and, in particular section 7 in relation to an expert's duty to the Court). Whilst this hearing is not a hearing before the Court, I am aware of the obligations imposed on expert witnesses by the Code and agree to comply with the Code of Conduct. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 3 My planning experience has included the compilation of resource consent applications, assessment of the environmental effects of a variety of projects, community consultation and the drafting and implementation of resource management plan provisions. That experience has been gained in a number of roles including as a staff planner for local authorities, policy analyst with the Ministry for the Environment and, since 1992, as a consultant planner working on contract for a variety of clients including private developers, territorial authorities, regional councils and central government departments. I have assisted local authorities with the preparation of district and regional plans under the Resource Management Act 1991 (*the RMA*) and with plan changes and variations. I am a qualified RMA decision-maker (with chairperson endorsement) under the 'Making Good Decisions' programme and have heard and determined a number of proposed Plan changes.

MY ROLE TO DATE

- 4 I assisted Meridian in the preparation of its original (first-round) submission and further submissions on the proposed Waikato District Plan (*'the Plan'*). I was asked by Meridian to consider the analysis and recommendations of the officers' reports and submitters' evidence for the Plan hearings that pertain to Meridian's first-round submission and further submissions. I am authorised by Meridian to present this statement of evidence to the Hearing.

EVIDENCE OF TRANSPOWER NZ LIMITED

- 5 This statement of evidence addresses the evidence of Pauline Whitney, called by Transpower New Zealand Limited.

OBJECTIVE 3.2.1

- 6 Meridian's submission (S580.12) requested the deletion from Objective 3.2.1 of the words 'and enhanced'. That was on the basis that section 6 (c) of the RMA mandates 'protection' but does not require 'enhancement'. The Reporting Officer recommended submission point S580.12 be rejected, citing as the reason the 'requirement' of Policy 11.1 of the Waikato RPS to 'maintain or enhance'¹. Ms Whitney addresses the Reporting Officer's recommendation at paragraphs 13-15 of her evidence in chief. I agree with Ms Whitney's analysis.
- 7 The full wording of RPS Policy 11.1 (and the implementation methods that are relevant to Policy 11.1) is:

Policy 11.1 Maintain or enhance indigenous biodiversity

Promote positive indigenous biodiversity outcomes to maintain the full range of ecosystem types and maintain or enhance their spatial extent as necessary to achieve healthy ecological functioning of ecosystems, with a particular focus on:

- (a) working towards achieving no net loss of indigenous biodiversity at a regional scale;*
- (b) the continued functioning of ecological processes;*
- (c) the re-creation and restoration of habitats and connectivity between habitats;*
- (d) supporting (buffering and/or linking) ecosystems, habitats and areas identified as significant indigenous vegetation and significant habitats of indigenous fauna;*
- (e) providing ecosystem services;*
- (f) the health and wellbeing of the Waikato River and its catchment;*
- (g) contribution to natural character and amenity values;*
- (h) tāngata whenua relationships with indigenous biodiversity including their holistic view of ecosystems and the environment;*
- (i) managing the density, range and viability of indigenous flora and fauna; and*
- (j) the consideration and application of biodiversity offsets.*

Implementation methods

11.1.1 Maintain or enhance indigenous biodiversity

Regional and district plans shall maintain or enhance indigenous biodiversity, including by:

- (a) providing for positive indigenous biodiversity outcomes when managing activities including subdivision and land use change;*
- (b) having regard to any local indigenous biodiversity strategies developed under Method 11.1.11; and*

¹ Part 1 s. 42A Report (Objectives and Policies) paragraph 153

- (c) *creating buffers, linkages and corridors to protect and support indigenous biodiversity values, including esplanade reserves and esplanade strips to maintain and enhance indigenous biodiversity values.*

11.1.2 Adverse effects on indigenous biodiversity

Regional and district plans shall recognise that adverse effects on indigenous biodiversity within terrestrial, freshwater and coastal environments are cumulative and may include:

- (a) fragmentation and isolation of indigenous ecosystems and habitats;*
- (b) reduction in the extent and quality of indigenous ecosystems and habitats;*
- (c) loss of corridors or connections linking indigenous ecosystems and habitat fragments or between ecosystems and habitats;*
- (d) the loss of ecological sequences;*
- (e) loss or disruption to migratory pathways in water, land or air;*
- (f) effects of changes to hydrological flows, water levels, and water quality on ecosystems;*
- (g) loss of buffering of indigenous ecosystems;*
- (h) loss of ecosystem services;*
- (i) loss, damage or disruption to ecological processes, functions and ecological integrity;*
- (j) changes resulting in an increased threat from animal and plant pests;*
- (k) effects which contribute to a cumulative loss or degradation of indigenous habitats and ecosystems;*
- (l) noise, visual and physical disturbance on indigenous species, particularly within the coastal environment; and*
- (m) loss of habitat that supports or provides a key life-cycle function for indigenous species listed as 'Threatened' or 'At Risk' in the New Zealand Threat Classification System lists.*

- 8 I do not read RPS Policy 11.1, or its implementation methods, as *requiring* enhancement of indigenous biodiversity values as suggested in the section 42A Report. The active verb in Policy 11.1 is 'maintain'. The requirement for 'enhancement' in Policy 11.1 is specific to spatial extent (not biodiversity values within the current spatially defined SNAs).
- 9 Policy 11.1 provides for maintenance or enhancement. That makes sense: this provides for situations where indigenous biodiversity values are intact and strong, requiring that they should be maintained. It also provides for enhancing biodiversity values where they are degraded. It does not mandate the approach taken by the Reporting Officer that indigenous biodiversity values should be enhanced in all situations, including where they are already strong. Indeed, there may be situations where it is not possible to 'better' nature (where the values are already as strong as they can be). I endorse the amendment sought by Meridian (the deletion of 'and enhanced'). If the word 'enhanced' is to be retained, the 'and' should at least be amended to 'or'. That would be consistent with the RPS approach.

POLICY 3.2.3

- 10 Meridian supported Policy 3.2.3, subject to amendment to provide for environmental compensation as well as biodiversity offsetting. As publicly notified, the policy referred to avoiding 'significant' adverse effects. The Reporting Officer has recommended the amendments shown in red below to this policy:

3.2.3 Policy - Management hierarchy

(a) Recognise and protect indigenous biodiversity within Significant Natural Areas by:

- (i) avoiding the ~~significant~~ adverse effects of vegetation clearance and the disturbance of habitats ~~unless specific activities need to be enabled~~
- (ii) remedying any effects that cannot be avoided; then
- (iii) mitigating any effects that cannot be remedied; and
- (iv) after remediation or mitigation has been undertaken, offset any significant residual adverse effects in accordance with Policy 3.2.4.
- (v) if offsetting of any significant residual adverse effects in accordance with Policy 3.2.4 are not feasible then economic compensation may be considered.

- 11 Ms Whitney, for Transpower, has proposed in her evidence the following amendments (shown green):

Policy 3.2.3 Management hierarchy

(a) Recognise and protect indigenous biodiversity within Significant Natural Areas by:

- (i) avoiding ~~the significant~~ more than minor adverse effects of vegetation clearance and the disturbance of habitats ~~unless specific activities need to be enabled~~
- (ii) remedying any more than minor effects that cannot be avoided; then
- (iii) mitigating any more than minor effects that cannot be remedied; and
- (iv) after remediation or mitigation has been undertaken, consider offsetting any significant (more than minor) residual adverse effects in accordance with Policy 3.2.4.
- (v) If offsetting of any significant (more than minor) residual adverse effects in accordance with Policy 3.2.4. are not feasible then economic compensation may be considered.

- 12 In my opinion, the reference to 'significant' should be retained (in preference to 'more than minor'). In a mitigation hierarchy, avoidance should be reserved for significant adverse effects, not all effects or effects that are close to minor. It is appropriate that the other steps in the hierarchy address adverse effects that are less than significant. I agree with Ms Whitney that insertion of 'more than minor' into sub-clauses (a) (ii), (iii) and (iv) will improve the mitigation hierarchy. I also agree that it is appropriate to provide for biodiversity offsetting to be considered, as opposed to being required. I support Ms Whitney's proposed wording in this respect.
- 13 With those amendments, Policy 3.2.3 would read as follows:

Policy 3.2.3 Management hierarchy

(a) Recognise and protect indigenous biodiversity within Significant Natural Areas by:

- (i) avoiding **significant** adverse effects of vegetation clearance and the disturbance of habitats ~~unless specific activities need to be enabled~~*
- (ii) remedying any **more than minor** effects that cannot be avoided; then*
- (iii) mitigating any **more than minor** effects that cannot be remedied; and*
- (iv) after remediation or mitigation has been undertaken, **consider offsetting** any significant **(more than minor)** residual adverse effects in accordance with Policy 3.2.4.*
- (v) If offsetting of any significant residual adverse effects in accordance with Policy 3.2.4. are not feasible then economic compensation may be considered.*

Christine Foster

29 October 2020