

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao O Aotearoa
Te Whanganui-a-Tara Rohe

ENV -

Under The Resource Management Act 1991

In the matter of an appeal under clause 14 of the First Schedule to the
Resource Management Act 1991

Between **Meridian Energy Limited**

Appellant

Greater Wellington Regional Council

Respondent

**Notice of Appeal against a decision of the Greater Wellington Regional Council
on Change 1 (and Variation 1) to the Regional Policy Statement**

15 November 2024

Appellant's solicitors:

Michael Garbett | Rebecca Kindiak
Anderson Lloyd
Level 12, Otago House, 477 Moray Place, Dunedin 9016
Private Bag 1959, Dunedin 9054
DX Box YX10107 Dunedin
p + 64 3 477 3973
michael.garbett@al.nz | rebecca.kindiak@al.nz

**anderson
lloyd.**

To: The Registrar of the Environment Court at Wellington

- 1 Meridian Energy Limited (**Appellant**) appeals parts of the decision of the Greater Wellington Regional Council (**Respondent**) to accept most, and reject some, of the recommendations of the Independent Hearings Panel (**Panel**) on Proposed Change 1 (and Variation 1) to the Regional Policy Statement for the Wellington Region (**RPSWR**) (**Decision**).
- 2 This appeal is made under clause 14 of the First Schedule of the Resource Management Act 1991 (**RMA**).
- 3 The Appellant lodged a submission and further submission on the RPSWR.
- 4 The Appellant is not a trade competitor for the purposes of Section 308D of the RMA.
- 5 The Appellant received a copy of the decision on 4 October 2024.
- 6 The Decision was made by the Respondent.

Parts of the RPS decisions appealed

- 7 The Appellant now appeals the Respondent's Decision in relation to:
 - (a) Objective CC.7;
 - (b) Policy 7; and
 - (c) Policy 47.

Reasons for appeal

Objective CC.7

- 8 The publicly notified wording of Objective CC.7 focused on what individual people need to know and do to respond to climate change.
- 9 The Appellant's submission point and evidence on Objective CC.7 sought to amend the objective to also refer to the need for people to understand that changes need to be made at a wider environment scale to respond to the challenges of climate change (including, for example, the development of increased renewable electricity generation) as well as changes by people individually.
- 10 The Hearing Panel's recommendation report records its view agreeing with the evidence and alternative wording presented on behalf of the Appellant (see paragraph 159 Hearing Panel Recommendation Report).

- 11 However, the wording recommended by the Hearing Panel and adopted in the Decision does not include the Appellant's suggested wording, and does not address the changes that are necessary at the wider environmental scale.
- 12 The wording of Objective CC.7 in the decisions version of the RPSWR focusses entirely on individual people's understanding of the effects of climate change and what they, individually, can do.
- 13 The Appellant considers that wording of Objective CC.7 in the decision is too limited and restrictive and fails to give effect to the purpose and principles in Part 2, in particular s7(i) of the RMA.

Relief sought

- 14 The Appellants seeks that CC.7 is amended as follows (changes shown in bold and underlined), or with wording changes to similar effect:

Objective CC.7

People and businesses understand:

(a) the current and predicted future effects of climate change **and** how these **effects** may impact them;

(b) how to respond to the challenges of climate change;

(c) **the changes that need to be made to respond to the challenges of climate change;** and

are actively involved in appropriate *climate change mitigation* and *climate change adaptation* responses.

Chapter 4.1 - Policy 7

- 15 The Appellant's submission point requested that Policy 7 (b) be worded as follows: "recognise *and enable* the social, economic, cultural and environmental benefits of regionally significant infrastructure".
- 16 The Hearing Panel's recommendation report agreed with the Appellant's evidence that it is necessary to have a regulatory framework that fosters, enables and encourages the development of renewable electricity generation.
- 17 The Appellant's uncontested evidence to the Hearing, accepted by the Hearing Panel, was that substantially increased renewable electricity generation needs to be developed in the near future to meet projected demand associated with transitioning from reliance on fossil fuels to a low emissions economy.
- 18 The Hearing Panel recommended inclusion in Policy 7 of a new clause (c) to state: "(c) **recognise and support the benefits of regionally significant**

infrastructure to that support contribute to reductions in greenhouse gas emissions, give effect to Te Mana o te Wai, mitigate natural hazards, and enable people and communities to be resilient to climate change".

- 19 After the hearing Greater Wellington Regional Council officers gave advice to the Council about supporting regionally significant infrastructure generally (as opposed to renewable electricity generation). This view was not presented in evidence that could be contested at the hearing. The Appellant considers that this was procedurally unfair.
- 20 In accordance with the advice of the officers, the Council's decision does not include the words 'and support' in clause (c) as recommended by the Hearing Panel.

Relief sought

- 21 The Appellant seeks that clause (b) of Policy 7 is amended as follows (changes shown in bold and underlined), or with wording changes to similar effect:

recognise and enable ~~provide for~~ the social, economic, cultural and environmental benefits of energy generated from renewable energy resources and its transmission through an efficient, effective and resilient electricity transmission network, including (...)

Chapter 4.2 – Policy 47

- 22 The wording of Policy 47 in the decisions version of RPSWR, creates more stringent requirements than Policy 24D for the protection of significant indigenous biodiversity by renewable electricity generation and electricity transmission activities.
- 23 The Appellant supports the management regime for renewable electricity generation activities set out in the decisions version of Policy 24D.
- 24 The Hearing Panel noted that a joint witness statement of planners, having considered Policies 24 to 24D and 47 recommended that clause (l) of Policy 47 should not apply to renewable electricity generation or electricity transmission activities.
- 25 The Hearing Panel did not include the exception in clause (l) of Policy 47 due to concerns that it might suggest that these activities cannot remain where they are established. The Hearing Panel's recommendation report (paragraph 192) states that this is not the policy intent.

- 26 The effect of not including the exclusion for renewable electricity generation and electricity transmission in clause (I) is to apply more stringent requirements to renewable electricity generation and electricity transmission activities in Policy 47 than in Policy 24D.
- 27 The Appellant considers clause (I) is too protectionist and onerous when the overall framework is considered (i.e. especially when taking into account Policies 24 to 24D). The insertion of clause (I) also fails to give effect to the National Policy Statement for Renewable Electricity Generation (**NPS REG**) as required by section 62(3) of the RMA. Further, clause (I) is otherwise contrary to Part 2 and the purpose of the RMA being to promote the sustainable management of natural and physical resources.
- 28 The Appellant considers that the policy intent can be achieved by wording the exclusion differently within Policy 47.

Relief sought

- 29 The Appellants seeks that clause (I) of Policy 47 is amended as follows (changes shown in bold and underlined), or with wording changes to similar effect:

(I) enabling established activities affecting significant biodiversity values in the terrestrial environment to continue, where the effects of the activities:

(i) are no greater in intensity, scale and character; and

(ii) do not result in loss of extent, or degradation of ecological integrity, of any significant biodiversity values; **except that**

(iii) clauses (I) (i) and (ii) shall not apply to renewable electricity activities and electricity transmission activities; and....

Relief sought

- 30 The Appellant seeks that:
- (a) Objective CC.7 is amended as set out in paragraph 14 above, or with wording changes to similar effect;
- (b) Policy 7 is amended as set out in paragraph 21 above, or with wording changes to similar effect; and
- (c) Policy 47 is amended as set out in paragraph 29 above, or with wording changes to similar effect.

31 The Appellant also seeks such other relief or rewording that is appropriate to address the matters raised and/or consequential on the changes sought in this appeal, including as a result of changes to the Decision that may arise from other appeals and/or to implement the NPS REG.

32 Costs.

Mediation

33 The Appellant agrees to participate in an Environment Court assisted mediation/ADR process for this appeal.

Dated this 15th day of November 2024



Michael Garbett/Rebecca Kindiak
Counsel for the Appellant

Documents attached to appeal

- 34 The following documents to this notice of appeal:
- (a) Annexure 1: A copy of Meridian Energy Limited's submissions on the Proposed Change 1 (and Variation 1) to the Regional Policy Statement for the Wellington Region;
 - (b) Annexure 2: A copy of Meridian Energy Limited's further submissions on the Proposed Change 1 (and Variation 1) to the Regional Policy Statement for the Wellington Region;
 - (c) Annexure 3: A copy of the Decisions Version of the Proposed Change 1 (and Variation 1) to the Regional Policy Statement for the Wellington Region; and
 - (d) Annexure 4: A list of names and addresses of persons to be served with a copy of this notice.

Address for service of the Appellants

Anderson Lloyd

Otago House Level 12

477 Moray Place

Dunedin 9016

Phone: 03 4773973

Email: michael.garbett@al.nz

Contact persons: Michael Garbett

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must:

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the Appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission and (or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Wellington.