

**Before the Wellington Regional Council Hearing Panel
Hearing Submissions on the Proposed Natural Resources Plan**

In the matter of: the Resource Management Act 1991

**And: Submissions Lodged on the Proposed
Natural Resources Plan by:**

(a) Meridian Energy Limited and

(b) Carterton District Council.

Statement of Evidence of Christine Anne Foster

**Called by Meridian Energy Limited
And
Carterton District Council**

Dated 5 May 2017

PART A

**EVIDENCE PERTAINING TO SUBMISSION
POINTS OF MERIDIAN ENERGY LIMITED**

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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.
- 4 Based on previous work undertaken for Meridian Energy Limited (*'Meridian'*) and the Wind Energy Association, including appearing as a witness at Environment Court hearings, I have a broad understanding of the renewable energy generation sector generally, of the imperatives that drive the generation industry and of the realities that confront an

energy generator in operating and developing wind farms under the RMA.

MY ROLE TO DATE

- 5 I assisted Meridian to prepare its original (first-round) submission and further submissions on the proposed Natural Resources Plan ('PNRP'). I was asked by Meridian to consider the analysis and recommendations of the officers' reports that pertain to the decisions requested in Meridian's first-round submission and further submissions. I am authorised by Meridian to present this statement of evidence to the Panel.

CONTEXT

- 6 Meridian operates three wind farms within the Wellington Region¹:
- West Wind (142.6 MW generation capacity) commissioned in 2009
 - Mill Creek (59.8 MW generation capacity) commissioned in 2014
 - Brooklyn Turbine (a new Enercon E44 turbine installed 2016 with 0.9 MW generation capacity).
- 7 Meridian's submissions on the PNRP focus on the regional plan provisions that potentially influence the operation, maintenance and upgrading of those generation assets and the development of new generation capacity in the region. Meridian also lodged submissions on the draft NRP.
- 8 Meridian also has numerous electricity generation assets throughout the country and participates in the development of district and regional plans elsewhere. Meridian's interest is to ensure that Plan provisions are broadly consistent, give particular regard to the benefits derived from the use and development of renewable energy as required by section 7 (j) of the RMA and that they give full effect to the National Policy Statement for Electricity Generation 2011 ('NPS-REG').

¹ These generation facilities are shown on the map attached to the statement of evidence of Paul Botha

EXECUTIVE SUMMARY

- 9 This statement of evidence identifies the decisions requested by Meridian that are not supported by the officers' reports and provides an assessment of the matters that appear to be in dispute. My statement concentrates on the issues of primary concern to Meridian, which can be summarised as:
- 9.1 The definition of 'regionally significant infrastructure'
 - 9.2 The definition of 'renewable energy generation activities';
 - 9.3 The definition of 'upgrade';
 - 9.4 The objectives and policies that recognise and provide for regionally significant infrastructure and the absence from some key policy provisions of any acknowledgement of the locational, operational requirements and functional needs of regionally significant infrastructure;
 - 9.5 Concerns about the requests of other submitters to adopt policy wording that seeks avoidance of adverse effects in all circumstances.

DEFINITION OF 'REGIONALLY SIGNIFICANT INFRASTRUCTURE'

- 10 GWRC s. 42A Report Reference: Beneficial Use & Development paragraphs 261-273 (S82/004, FS32/005, FS32/006). The officer recommends no change to the definition.
- 11 Meridian's first-round submission supported the definition (which replicates the definition in the RPS). Meridian subsequently supported the submissions of Wellington Electricity Lines Ltd and Powerco that requested clarification of the expression 'network' in the definition.
- 12 The officer states (paragraph 265) that the definition is not intended to include the local electricity network. The 'local electricity network' isn't defined in the PNRP or anywhere else to my knowledge. The Electricity Industry Act 2010 does, however, define the following expressions:

lines means works used or intended to be used to convey electricity

distribution means the conveyance of electricity on lines other than lines that are part of the national grid

national grid means the lines and associated equipment used or owned by Transpower to convey electricity

network means a distributor's lines and associated equipment used for distribution

- 13 The PNRP definition includes in the fifth bullet point: '*facilities for the generation and transmission of electricity where it is supplied to the **electricity distribution network**, including the national grid...*' (my highlighting). Given that 'distribution', by definition in the relevant legislation, involves all lines other than the national grid, it appears that the fifth bullet point of the definition includes all lines. That is appropriate in my view and no change to the definition is required to include the WELL and Powerco networks. However, the discussion in the s.42A report highlights an issue that warrants clarification.
- 14 Paragraph 262 of the s.42A report presents only one scenario for electricity distribution: it is correct that West Wind connects directly to the national grid. However, the Mill Creek Wind Farm supplies electricity direct to the Wellington Electricity Lines Ltd distribution network. Whether these are 'local electricity lines' or not is irrelevant, in my view, in terms of the relevant legislation. If supply to the national grid (for on-supply to consumers) qualifies as regionally significant, why does not supply to the distribution network? The supply to the distribution network by either means has equivalent regional significance.
- 15 On its face, the definition actually treats the two distribution networks equally (national grid and distribution network). This is appropriate, in my view, in terms of regional significance. Surely, all parts of the distribution network support necessary regional social, economic and health outcomes. I support the current definition on the basis that it includes electricity generation and transmission (supply) of electricity to both the national grid and the electricity distribution network. Helpful

clarification may be provided by referencing the Electricity Industry Act definition of 'distribution' and 'network' – for example:

'facilities for the generation and transmission of electricity where it is supplied to the electricity distribution network (as defined in the Electricity Industry Act 2010), ~~including~~ and the national grid...'

- 16 That amendment would be minor, being simply a statement of legislative fact, and is within the scope of the submissions.
- 17 The s.42A report recommends (paragraph 295 s.42A Beneficial Use Report), in response to Transpower's submission (S165/021), that the definition of 'regionally significant infrastructure' be amended to refer to 'national grid' consistent with the definition in the Electricity Industry Act 2010. I understand Meridian supports that amendment. The suggested amendment to clarify the meaning of 'distribution network' is no less appropriate.
- 18 For completeness, I note that in addition to being an electricity generator, Meridian is also an 'electricity operator' for all of the purposes of the Electricity Act 1992 (gazetted in 2007). This means that Meridian has powers to install works within public roads (works include works for the conveyance of electricity – i.e. lines). That means that Meridian is an example of a generator who may also be responsible for the lines (including lines within local roads) that convey electricity from its generation facility.

DEFINITION OF 'RENEWABLE ENERGY GENERATION ACTIVITIES'

- 19 GWRC s. 42A Report Reference: Beneficial Use & Development paragraphs 281-284 (S82/005). The officer recommends no change to the definition.
- 20 Meridian supported the wording of the definition but with amendment to more explicitly include all necessary ancillary supporting infrastructure that is not necessarily a 'structure'. For example, access tracks and roads. That is to ensure that all parts of an application for a wind energy facility are considered against the policies that are relevant to those. That includes consideration of policies that recognise the

benefits of those facilities, recognising that the ancillary tracks, roads and activities are essential to allow the whole facility to function.

- 21 The PNRP definition mirrors the definition in the NPS-REG and is inclusive. The NPS definition doesn't prevent the PNRP from clarifying more fully what is included in the NRP definition. Meridian's primary concern is about the ancillary facilities and activities that are not strictly 'structures' and which are not already explicitly captured by the definition. Transmission equipment is captured. Access tracks for construction and roads for long-term access within sites are arguably not 'structures' and are not explicitly captured by the definition. Meridian's suggested, more explicit, wording is:

*The construction, operation and maintenance of structures **and ancillary facilities (including access tracks and roads)** associated with renewable energy generation, including small and community-scale distributed renewable generation activities and the system of electricity conveyance required to convey electricity to the distribution network and/or the national grid and electricity storage technologies associated with renewable electricity.*

- 22 The scheme of the PNRP is that, where a proposal triggers multiple Plan rules, the rule that will apply is to be the more specific of the rules. I note that Ms Greenberg recommends the insertion of some explanatory text that will make this intention even clearer (Emily Greenberg paragraph 133):

'If an activity is covered by more than one rule, then the rule that applies is the rule that is more specific for the relevant activity, area or resource. This does not apply where a proposal includes a number of activities which trigger separate specific rules. In that case, all rules are considered when assessing the proposal. An activity needs to comply with all relevant rules in the Plan, including those in Chapter 5.'

- 23 That doesn't necessarily assist where a proposal (an 'activity') comprises a number of component activities if these individual components are assessed as individual 'activities'. In practice, it would be unusual for an application for the construction and operation of a wind farm to be considered other than as an integrated whole. In my view, the amendment requested by Meridian simply formalises this

reality without expanding the scope of what is a renewable energy generation activity in any way.

- 24 The requested amendment is not inconsistent with the inclusive definition found in the NPS. Policy C1 of the NPS requires decision makers to have particular regard to the following (alongside other considerations):

*c) the location of existing structures **and infrastructure including, but not limited to, roads, navigation and telecommunication structures and facilities**, the distribution network and the national grid in relation to the renewable electricity generation activity, and the need to connect renewable electricity generation activity to the national grid; ...*

- 25 In this way, the NPS signals the importance of providing for not just the primary generation equipment but also the roads, navigation and telecommunication facilities necessary to support those primary activities. In this respect, the NPS requires consideration of not just ancillary electricity conveyancing equipment, but also roads, navigation and telecommunication structures and facilities. These latter facilities are not currently explicitly captured in the PNRP definition, but are captured by the wording proposed by Meridian (*'and ancillary facilities (including access tracks and roads'*).

- 26 Making the amendment would ensure that all necessary parts of a renewable energy generation activity, and the environmental effects of those component parts, will be considered against all of the relevant policy provisions that apply to these activities. These include the RMA provisions and NRP objectives and policies that recognise the benefits of those activities as well as provisions that seek to manage potential adverse effects. That is the intention of the RMA, of the NPS-REG and Meridian's suggested wording gives clearer effect to that intention than the current proposed wording.

- 27 The only other comment I would make is that the NPS-REG refers to 'renewable *electricity* generation activities' and not 'energy generation'. It would be appropriate to amend the expression to be consistent with

the NRP. Doing so would be a minor amendment, simply correcting nomenclature to be consistent with higher-order policy documents. For completeness, I note that the RPS defines only 'renewable energy' and not 'renewable energy generation activities'. No inconsistency would be created by making the amendment I propose.

- 28 I note that Meridian's submission referenced a definition in the One Plan. There is no equivalent definition in the One Plan and I'm not sure why that reference was included.

DEFINITION OF UPGRADE

- 29 GWRC s. 42A Report Reference: Beneficial Use & Development paragraphs 281-291 (S82/007). The officer recommends no change to the definition.

- 30 The evidence of Mr Paul Botha, Meridian's Wind Technical Strategy Manager, explains that there are two aspects to upgrading of wind farms: (a) enhancements to existing equipment and facilities and (b) re-powering.

- 31 Meridian's first-round submission requested amended wording that would explicitly provide for both types of upgrading:

*'Use and development to bring existing structures or facilities up to current standards **or to improve the functional characteristics of structures or facilities, provided the upgrading itself does not give rise to any significant adverse effects on the environment and provided** that the effects of the activity are the same or similar in character, intensity and scale as the existing structure and activity **and (a) in relation to renewable electricity generation activities, includes increasing the generation or transmission capacity, efficiency or security of regionally significant infrastructure and replacing support structures within the footprint of authorised activities.***

- 32 The NPS-REG does not define 'upgrading' but refers to it in several places. The sole NPS objective is to:

*To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance **and upgrading** of new and existing renewable electricity*

generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation.

- 33 Under the heading '*Acknowledging the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities*', Policy C1 is:

Decision-makers shall have particular regard to the following matters:

a) the need to locate the renewable electricity generation activity where the renewable energy resource is available;

*b) logistical or technical practicalities associated with developing, **upgrading**, operating or maintaining the renewable electricity generation activity;*

- 34 Under the heading '*Incorporating provisions for renewable electricity generation activities into regional policy statements and regional and district plans*', Policies E1 to E3 require regional plans to include objectives, policies and methods to provide for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, to the extent applicable to the region or district. Mr Botha has presented some examples of how upgrading would be applicable for Meridian's generation assets in the Wellington region. The definition proposed by Meridian does not seek to authorise wholly new proposals, with different effects, under the guise of 'upgrading'. Meridian proposes, and I support, the caveat that the upgrading must not of itself create significant adverse effects and must not expand the effects of the activity beyond the character, intensity and scale of the existing facility.

- 35 Provision for upgrading, including explicit provision for re-powering, would also give effect to the RPS Objective 9 which is:

The region's energy needs are met in ways that:

- (a) improve energy efficiency and conservation;
- (b) diversify the type and scale of renewable energy development;
- (c) maximise the use of renewable energy resources;
- (d) reduce dependency on fossil fuels; and
- (e) reduce greenhouse gas emissions from transportation.

36 Meridian’s submission references a similar definition in the One Plan for a region that features multiple wind energy facilities. That definition (settled in the post-appeal operative Plan) is:

‘Upgrade means bringing a structure, system, facility or installation up to date or to improve its functional characteristics, provided the upgrading itself does not give rise to any significant adverse effects, and the character, intensity and scale of any adverse effects of the upgraded structure, system, facility or installation remain the same or similar.’

37 This provides settled precedent for wording of the kind proposed by Meridian’s submission and I commend it to the Panel.

RECOGNITION AND PROVISION FOR REGIONALLY SIGNIFICANT INFRASTRUCTURE – FUNCTIONAL NEED

38 GWRC s. 42A Report Reference: Beneficial Use & Development paragraphs 301-305 and 326-338 in relation to Objective O12 and Policy P12. The officer recommends no change in response to the decisions requested. Also, Overall Policy Framework Report paragraphs 563-590 where the officer recommends no change in response to Meridian’s further submission points in relation to Policy P4.

39 Meridian’s first-round submission supported Objective O12 (S82/008) and its further submissions supported, in some cases in part, the first-round submissions of NZTA, Ravensdown, Chorus and Spark² which sought amendments that explicitly acknowledge the functional needs

² FS32/013, FS32/030, FS32/031, FS32/032, FS32/033

and operational requirements of regionally significant infrastructure. Meridian's first-round submission supported Policy P12 and Meridian has had an opportunity consider the further submissions of Powerco, Z Energy Ltd, BP Oil Ltd, Mobil Oil NZ that supported Meridian's submission in part but sought explicit acknowledgement in Policy P12 of the functional needs and operational requirements of regionally significant infrastructure.

- 40 Policy C1 of the NPS-REG requires decision makers to have particular regard (amongst other matters) to functional needs and operational requirements:

'a) the need to locate the renewable electricity generation activity where the renewable energy resource is available;

b) logistical or technical practicalities associated with developing, upgrading, operating or maintaining the renewable electricity generation activity;

c) the location of existing structures and infrastructure including, but not limited to, roads, navigation and telecommunication structures and facilities, the distribution network and the national grid in relation to the renewable electricity generation activity, and the need to connect renewable electricity generation activity to the national grid;...'

- 41 It is relevant, in my view, for the PNRP policy framework to acknowledge these operational characteristics and operating locational constraints affecting large infrastructure facilities of the type operated by Meridian. In my opinion, it is appropriate to include that acknowledgement within the objectives and policies that recognise the benefits of this infrastructure. It is necessary, in my view, in light of the other protective policies of the NRP (such as Policy P4 which seeks to 'minimise' adverse effects). In some situations, the locational constraints (having to locate where the resource exists), logistical or technical requirements affecting renewable electricity generation activities make it difficult or impossible to reduce adverse effects to the smallest amount practicable or to consider alternative locations (as required by Policy P4).

- 42 It is appropriate and necessary, in my opinion, to include policy acknowledgement of these functional needs and operational requirements in order to properly give effect to the NPS-REG. That provision could sit within Policy P4 or within the suite of O12 and P12 provisions that recognise and provide for regionally significant infrastructure. Wherever it sits, it is my view that amendment is required to explicitly recognise the functional needs and operational requirements that affect regionally significant infrastructure, including renewable electricity generation activities. There is scope available, in my view, within the submissions and further submissions to allow insertion of policy provisions to this effect.
- 43 I note that the One Plan includes, albeit in its RPS section, a policy that provides a useful example of wording that addresses this reality of functional need and operational requirements. Although it is in the RPS section of the One Plan, it is highly directive in approach in the manner one would expect in a regional plan:

'Policy 3-3: Adverse effects of infrastructure and other physical resources of regional or national importance on the environment

In managing any adverse environmental effects arising from the establishment, operation, maintenance and upgrading of infrastructure or other physical resources of regional or national importance, the Regional Council and Territorial Authorities must:

- a. Recognise and provide for the operation, maintenance and upgrading of all such activities once they have been established,*
- b. Allow minor adverse effects arising from the establishment of new infrastructure and physical resources of regional or national importance, and*
- c. Avoid, remedy or mitigate more than minor adverse effects arising from the establishment of new infrastructure and other physical resources of regional or national importance, taking into account:*

- i. *the need for the infrastructure or other physical resources of regional or national importance,*
- ii. *any functional, operational or technical constraints that require infrastructure or other physical resources of regional or national importance to be located or designed in the manner proposed.'*

REVERSE SENSITIVITY

44 GWRC s. 42A Report Reference: Beneficial Use & Development paragraphs 360-366 in relation to Objective O13 (S82/009). The officer recommends no change to the objective.

45 Meridian requested amendment to Objective O13 which addresses the protection of regionally significant infrastructure from reverse sensitivity effects. Meridian's submission addressed two points:

46 Firstly, that adverse reverse sensitivity effects can be created by changes to existing established activities near regionally significant infrastructure facilities and not only by wholly new activities. To avoid any future argument over whether changes in use of existing buildings are 'new' activities or not, Meridian requested deletion of the word 'new' as follows:

*'Regionally significant infrastructure and renewable energy generation activities shall be protected from **new** incompatible use and development occurring under, over, or adjacent to it'*

47 The effect of that amendment would simply mean that regionally significant infrastructure, including renewable electricity generation activities, are protected from *all* potential sources of reverse sensitivity effects. This submission point does not appear to have been addressed directly in the s.42A report.

48 Secondly, Meridian requested that the scope of Objective O13 be expanded beyond the coastal marine area to apply throughout the region. I appreciate the point made in the s.42A report that the PNRP is a regional Plan and not an RPS and that the objectives and policies

should relate to matters within the jurisdiction of the Plan. However, the PNRP includes objectives and policies that address more than just the strict jurisdiction of coastal marine area, beds of lakes and rivers, water and discharges of sections 12 to 15 of the RMA. The PNRP includes Objective O38 and Policies P48, P49 and P134 which address 'special amenity landscapes', although that expression is not defined in the PNRP. The reasons presented in the s.42A report for confining the Objective O13 protection against reverse sensitivity apply equally wherever the PNRP extends its policy jurisdiction.

- 49 The NPS-REG clearly requires regional plans to avoid reverse sensitivity effects on consented and existing renewable electricity generation activities, wherever those occur (Policy D). In my view, confining the protection to the coastal marine area as the PNRP currently does, fails to give full effect to this requirement of the NPS-REG. I have identified one suite of potential effects (visual effects in so-called 'special amenity landscapes') where it is relevant to extend the reverse sensitivity protection. There may be others. If the change requested by Meridian is made in Objective O13, it means that the protection will apply wherever it is relevant. If it isn't relevant to a particular environment or GWRC jurisdiction, it won't be applicable. The most efficient approach is, in my opinion, to include a single 'reverse sensitivity' objective in Objective O13 that has application, wherever relevant, throughout the region as intended by the NPS-REG.

AVOIDANCE POLICY APPROACH ADVOCATED BY SOME SUBMITTERS

- 50 GWRC s. 42A Report Reference: Beneficial Use & Development paragraphs 339-349 and 367-375 in relation to Policies P13 and P14 (FS32/035, FS32/040). The officer recommends no change to the objective.
- 51 Meridian's first-round submission supported Policy P13. Rangitane o Wairarapa requested a new policy that would require avoidance of adverse effects on sites identified in Schedules A to F, H and J. Meridian opposed the complete avoidance approach advocated and endorses the officer's recommendation to reject this further submission.

The requested amendment expands the avoidance of effects in scheduled areas to all adverse effects and not just significant adverse effects or 'inappropriate subdivision, use and development' which is the concern of the relevant section 6 RMA matters.

- 52 In similar vein, Meridian's first-round submission supported Policy P14. Rangitane o Wairarapa requested amendments that would have the effect of requiring avoidance of all adverse effects on sites identified in Schedules A to F, H and J. Meridian opposed the complete avoidance approach advocated and endorses the officer's recommendation to reject this further submission.
- 53 I support the officer's recommendations in respect of these submission points.

CONCLUSION

- 54 I commend to the Hearing Panel the amendments discussed in the preceding paragraphs. I understand that Meridian would welcome an opportunity to participate in any refinement of wording if there are any matters of detailed wording that need to be reconciled between the changes requested by different submitters.



Christine Foster

05 May 2017

PART B

EVIDENCE PERTAINING TO SUBMISSION POINTS OF CARTERTON DISTRICT COUNCIL

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INTRODUCTION

55 My name is Christine Anne Foster. I confirm that my qualifications and experience are as stated in the preceding Part A statement of evidence and I reaffirm my commitment to abide the Code of Conduct for Expert Witnesses set out in the 2014 Environment Court Practice Note.

MY ROLE TO DATE

56 I assisted Carterton District Council ('CDC') to prepare its original (first-round) submission and further submissions on the proposed Natural Resources Plan ('PNRP'). I was asked by CDC to consider the analysis and recommendations of the officers' reports that pertain to the decisions requested in CDC's submission and further submissions. I am authorised by CDC to present this statement of evidence to the Panel.

CONTEXT

57 CDC operates water supply, wastewater treatment and disposal and stormwater collection and disposal infrastructure facilities which fall within the definition of 'regionally significant infrastructure'. CDC's primary interest is to ensure that the proposed PNRP policy framework appropriately supports the operation, maintenance and upgrading of those facilities. In preparing its submission on the PNRP, CDC worked together with the other two Wairarapa territorial local authorities. Their individual submissions are similar although there are differences in the scope of issues raised by CDC.

EXECUTIVE SUMMARY

58 This statement of evidence identifies the decisions requested by CDC that are not supported by the officers' reports and provides an assessment of the matters that appear to be in dispute. My statement concentrates on the issues of primary concern to CDC, which can be summarised under the broad topic headings of the s.42A reports as:

s.42A Report: Overall Policy Framework:

- a. Reliance on on-line GIS;
- b. Definition of 'Māori Customary Use'
- c. Lack of acknowledgement, within the policy direction towards removal of treated wastewater from surface water, that time will be required to enable wastewater treatment and disposal systems to be adapted to completely remove treated municipal wastewater from surface water;
- d. Absence from Policy P4 (minimising adverse effects) of any acknowledgement of the functional needs and operational requirements of regionally significant infrastructure;

S.42A Report: Sites With Significant Mana Whenua Values:

- e. Concern about the virtual power of veto inherent in the proposed Policy P45 requirement to obtain the written approval of iwi;

S.42A Report: Beneficial Use and Development:

- f. Policy P14 protecting regionally significant infrastructure from adverse reverse sensitivity effects.

59 In addition to the above matters, the s.42A reports address other submission points and further submission points made by CDC. Where these are not addressed directly in the following statement of evidence, I understand that CDC endorses or accepts the recommendations contained in the Hearing Stream 1 s.42A reports in respect of those matters.

OVERALL POLICY FRAMEWORK:

Reliance on On-Line GIS

60 GWRC s. 42A Report Reference: Overall Policy Framework Report B paragraphs 140-141 (submission S301/012).

- 61 At the time of preparing its submissions on the draft NRP, CDC found the maps describing scheduled sites and river classifications difficult to read and difficult to relate to the draft provisions. At the time of preparing its submission on the PNRP, CDC found the maps still difficult to read and found inaccuracies in the on-line GIS system then available. The officer makes a valid point that many district and regional plans are becoming available on Council web sites and that the GIS layering technology and zoom facility potentially enables better image resolution. I have used the on-line GIS PNRP maps recently and found them much more user-friendly.
- 62 Provided one has an accurate parcel description or places the cursor on the right parcel, and provided the user has selected all of the relevant layers, the GIS presents the relevant data for that property. However, one has to know what one is looking for and the system relies on 100% accurate selection of property parcels to bring up all relevant information about scheduled values. On-line availability of mapped information is helpful, provided it is always accessible and accurate.
- 63 Anything that impedes accessibility and any inaccuracies or incomplete information have the potential to undermine the reliability and integrity of any on-line statutory Plan. It is important, for ensuring accurate shared understanding of the mapped features that any maps printed from the publicly available layered GIS accurately depict all requirements. Having the mapped features available in printed format and at readable scale (unlike, for example, the maps depicting river classes presented in the publicly notified PNRP), integrated within the body of the PNRP would ensure there is a guaranteed inarguable reference to rely on. I find the on-line maps useful but, for some purposes, would also find it useful to be able to refer to and rely on a printed (or pdf) source document, the accuracy of which is unaffected by whether/which GIS layers are turned on or off.

The Time Necessary to Plan and Implement Wastewater Upgrades to Remove Treated Wastewater from Surface Water

- 64 GWRC s. 42A Report Reference: Overall Policy Framework s.42A Report B paragraphs 211-214 and 529 (submission points S301/024 to S301/033 and FS85/070).
- 65 CDC's wastewater treatment and disposal system currently relies on the discharge of treated wastewater to the Mangatāre Stream. Noting the policy direction of the PNRP which favours discharge of treated wastewater to land over discharge to rivers and seeks to avoid new discharges to surface water, CDC's submission made a general point that it will take time to convert treated wastewater systems to land-disposal systems. It is likely that this outcome will take longer than the 10-year life of the PNRP to achieve. The submission sought, in relation to several objectives and policies, some policy-level acknowledgement of this reality.
- 66 CDC's submission should not be taken as meaning that CDC is resistant to removing treated wastewater from streams. CDC has a stated commitment to minimising discharges of treated wastewater to stream and has recently lodged applications for consent that will double the area of land able to be used for land disposal of treated municipal wastewater and will provide 200,000 cubic metres storage capacity for treated wastewater. This will allow CDC to significantly reduce the volume, occasions and duration of treated wastewater discharged to water within the next 5 years. But it will not remove the need for discharge to water during high stream flows and times of high inflows to the treatment system.
- 67 The proposal applied for represents over 7 years of investigations and planning and millions of dollars of ratepayer funding. It would take many more years and considerable additional ratepayer funding to achieve a wastewater system that is able to contain all treated wastewater on land without discharge, at some times, to river. CDC is fortunate. It acquired a 64-hectare farm property adjacent to its wastewater treatment plant (at considerable cost) within which it has developed a centre pivot irrigation system for treated wastewater. The

applications recently lodged will enable expansion of the irrigated area and the farm area available can also accommodate the large reservoirs required to achieve 200,000m³ of storage.

- 68 CDC estimates that the *net* amount of land that would be needed to irrigate all of Carterton's wastewater is about 160 hectares (excluding unusable areas like gullies and streams). This means that at least 250 hectares would be needed overall. Securing suitable land relatively close to the existing Wastewater Treatment Plant and storage reservoir will present a challenge. Leasing land for the purpose is a potential option but there can be resistance by landowners to having treated wastewater irrigated onto their asset, and concern that any irrigated land may be identified as a contaminated site.
- 69 CDC has put forward, in its recent applications, what it considers to be the best practicable option for the foreseeable future given its land availability and funding constraints (and the financial commitment is large for a community of this size). CDC is making genuine progress towards preferential discharge of treated wastewater to land rather than to river and its proposal responds constructively to the policy direction of the PNRP. CDC's submission is essentially requesting that the policy direction be moderated to provide for the continuation of partial discharge of treated wastewater to rivers for the foreseeable future.
- 70 The s.42A report clarifies that the 10-year life of the NRP does not create an expectation that all existing discharge of treated wastewater to rivers will have to cease within that time period. And I agree that there is no PNRP policy requiring that. However, the issue for CDC is that, because of the way the PNRP defines 'new discharge', its proposal to improve instream water quality actually gets captured by Policy P83 which is to avoid such discharges to water. To explain:
- 71 Policy P83 of the proposed Natural Resources Plan states that 'new discharges' of wastewater to freshwater are to be avoided. CDC's proposal is to continue to discharge treated wastewater from the CDC WWTP to the Mangatārere Stream. That is defined in the PNRP as an 'existing discharge'. However, CDC's proposal involves shifting the point

of discharge and changing the discharge regime to improve instream water quality. Whilst those features of the proposal are improvements and the proposal essentially continues (but reduces the effects of) a long-established existing discharge, the proposal must be considered as a 'new' discharge which Policy P83 explicitly seeks to avoid.

72 Under the PNRP an 'existing discharge' is defined *a discharge **already authorised by resource consent** at the time of application for a new resource consent relating to the same activity* [emphasis added]. A 'new discharge', means *a discharge **not authorised by resource consent** at the time of application for a resource consent, or a discharge that was authorised by a resource consent at the time of application for a new consent but is to be increased **or otherwise altered by a new resource consent*** [emphasis added].

73 In discussion with GWRC officers in preparing CDC's application, it became clear that the intention of the definitions was to discourage wholly new discharges of wastewater to water and to discourage changes to existing discharges that would worsen the instream effects. The intention was not to discourage positive improvements to existing discharges. CDC's submission also requests amendments to the above definitions to resolve this unintended technical difficulty. Until such time as this technical matter is resolved (and this is not part of Hearing Stream 1), CDC remains concerned about the avoidance emphasis of Policy P83 in the absence of any acknowledgement anywhere in the PNRP of the time that will be required to achieve the Policy P83 outcome. In my opinion, shifting from an environment where discharge of treated wastewater to surface water is an essential element of municipal wastewater management (certainly in the Wairarapa) to one that achieves full land disposal of treated wastewater is not achievable except over a very long time frame.

Instream Water Quality Limits

74 GWRC s. 42A Report Reference: Overall Policy Framework Report B paragraph 235. CDC lodged a further submission on requests by other submitters that sought more stringent instream water quality standards (FS85/086, FS85/113). The officer notes that these water quality

requests will be addressed in a later s.42A report and CDC will address its evidence on these requests to that later Hearing Stream.

- 75 CDC also lodged a further submission on requests by Fish and Game that sought more stringent instream water quality standards (FS85/086, FS85/112-113). CDC neither supported nor opposed the submission but registered its interest in participating in any hearing to determine numeric values for instream standards. The officer notes that these water quality standards will be set through the Whaitua process so proposes no changes at this time. I endorse that proposed approach and reiterate the points made earlier (paragraphs 64 to 73 above) that time will be required to completely remove all discharges of treated wastewater from surface water, and likely longer than the 10-year life of the PNRP.

Definition of 'Māori Customary Use'

- 76 GWRC s. 42A Report Reference: Overall Policy Framework Report B paragraphs 423-425. CDC's first instance submission (S301/018, S301/068) requested greater clarity in the definition of 'māori customary use' and CDC's further submission supported others who also requested greater clarity (FS85/022-024, FS85/073-074). The explanation given in the s.42A report is that the expression is intentionally 'inclusive' and that an indication of the range of uses included is given in Schedules B and C. I do not find the ranges of activities described in Schedules B and C assist in providing clarity or certainty about what the expression will mean in any particular circumstance. As with all defined expressions, the expression should be capable of being understood on the plain meaning of the words in the definition. The definition currently falls short and is unhelpful.
- 77 I note the officer's opinion that clarification of what the expression means should be accessed directly from the mana whenua group concerned. However, that does not assist in understanding whether or where ordinary activities an asset owner, such as CDC might need to undertake, will give rise to 'māori customary use' effects. It simply confirms that this could mean a wide range of effects depending on the circumstances and depending on whom one speaks to. In my opinion,

as currently worded, the expression is not capable of being applied or interpreted with certainty and needs to be refined to achieve greater clarity and certainty.

Objective O5 (Fresh and Coastal Water)

- 78 GWRC s. 42A Report Reference: Overall Policy Framework Report B paragraph 574. CDC lodged a further submission in respect of Fish and Game's submission requesting the insertion of more protections into Objective O5 (FS85/069). The officer notes that these water quality requests will be addressed in a later s.42A report and I understand that CDC will address its evidence on these requests to that later Hearing Stream.

Policy P4 (Minimising Adverse Effects)

- 79 GWRC s. 42A Report Reference: Overall Policy Framework Report B paragraphs 555 (e) and 588. CDC's first-round submission (S301/036) requested amendment of Policy P4 to incorporate consideration of the operational requirements and functional needs of regionally significant infrastructure. CDC's further submissions F85/116 and FS85/117 supported the submissions of others who requested similar amendments. The officer recommends no change in response to the decisions requested.
- 80 There is currently no acknowledgement within the policy provisions of the functional needs and operational requirements that constrain the ability of asset owners in terms of the location options and mitigation options for regionally significant infrastructure (other than in Policy P25 in relation to the coastal marine area). For CDC, the nature and location of its existing water supply and wastewater treatment systems and the historical investment in those assets constrain the options available for replacing or upgrading those. The collected wastewater is most efficiently managed in the existing location, close to the catchment it comes from. CDC's options available for water supply are constrained by the reliability of supply in a seasonally dry catchment. These are operational realities that direct the selection of location and the effects of the infrastructure activities.

- 81 Policy P4 requires consideration of:
- a. alternative locations and methods for undertaking the activity that would have less adverse effects, and*
 - b. locating the activity away from areas identified in Schedule A (outstanding water bodies), Schedule C (mana whenua), Schedule E*
 - c. (historic heritage), Schedule F (indigenous biodiversity), and*
 - d. timing the activity, or the adverse effects of the activity, to avoid times of the year when adverse effects may be more severe, or times when receiving environments are more sensitive to adverse effects, and*
 - e. using good management practices for reducing the adverse effects of the activity, and*
 - f. designing the activity so that the scale or footprint of the activity is as small as practicable.*
- 82 CDC is able to apply some of these considerations in the development, operation and maintenance of its regionally significant infrastructure assets. For example, CDC has proposed a discharge regime for its recent applications for discharge of treated wastewater that minimises the times of discharge during sensitive summer low stream flow periods. Also, CDC has developed a supplementary groundwater bore water supply field to minimise adverse effects on the Kaipaitangata Stream caused by its surface water abstraction for community drinking water purposes.
- 83 However, CDC's ability to adopt a different location for its wastewater treatment plant and discharge environment (e.g. stream or land discharge; Mangatārere Stream or Waiohine River discharge point) is strongly influenced and constrained by the functional needs of the infrastructure and operational requirements. Similar constraints apply to consideration of alternative locations or methods for any form of regionally significant infrastructure. Currently, there is no acknowledgement of these operational constraints in the list of Policy P4 considerations. CDC is not suggesting that these matters should be included in the Policy P4 list for all activities but only for regionally significant infrastructure. I support the inclusion in Policy P4 of consideration of functional needs and operational requirements that affect regionally significant infrastructure.

84 I note that the One Plan includes, albeit in its RPS section, a policy that provides a useful example of wording that addresses this reality of functional need and operational requirements. Although it is in the RPS section of the One Plan, it is highly directive in approach in the manner one would expect in a regional plan:

'Policy 3-3: Adverse effects of infrastructure and other physical resources of regional or national importance on the environment

In managing any adverse environmental effects arising from the establishment, operation, maintenance and upgrading of infrastructure or other physical resources of regional or national importance, the Regional Council and Territorial Authorities must:

- d. Recognise and provide for the operation, maintenance and upgrading of all such activities once they have been established,*
- e. Allow minor adverse effects arising from the establishment of new infrastructure and physical resources of regional or national importance, and*
- f. Avoid, remedy or mitigate more than minor adverse effects arising from the establishment of new infrastructure and other physical resources of regional or national importance, taking into account:
 - i. the need for the infrastructure or other physical resources of regional or national importance,*
 - ii. Any functional, operational or technical constraints that require infrastructure or other physical resources of regional or national importance to be located or designed in the manner proposed.'**

SITES WITH SIGNIFICANT MANA WHENUA VALUES

Policy P45 (Managing Effects and Requirement to Obtain Written Approval of Iwi)

85 GWRC s. 42A Report Reference: Mana Whenua Values Report paragraphs 176-181 (submission S301/041). The officer recommends no change to Policy P45.

86 Policy P45 requires, for sites identified in Schedule C, that:

'In the first instance, activities in sites with significant mana whenua values identified in Schedule C (mana whenua) shall be avoided. If the site cannot be avoided, more than minor adverse effects on the significant mana whenua values must be evaluated through a cultural impact assessment undertaken by the relevant iwi authority or iwi authorities. The adverse effects of activities shall be managed in accordance with tikanga and kaupapa Māori as recommended in the cultural impact assessment by:

(a) avoiding more than minor adverse effects, and

(b) where more than minor adverse effects cannot be avoided, remedying them, and

(c) where more than minor adverse effects cannot be remedied, mitigating them, and

(d) receiving written consent of the iwi authority.

Where more than minor adverse effects on significant mana whenua values identified in Schedule C (mana whenua) cannot be avoided, remedied or mitigated, the activity is inappropriate. Offsetting of effects in sites with significant mana whenua values is inappropriate.'

87 The particular requirement of Policy P45 that raises concern is part (d) (the requirement to obtain the written consent of the iwi authority). The explanation in the s.42A report is that, where a site is identified as a site of significance to mana whenua, iwi will be identified anyway as an affected party in the course of processing any application for consent. Policy P45 goes a lot further than simply recognising the relevant iwi as an affected party and creates a virtual power of veto. The policy is clear that, where adverse effects cannot be avoided, remedied or mitigated, the activity will be considered inappropriate and the threshold for effects is set at 'more than minor'. The effect of sub-clause (d) is to empower iwi to determine whether adverse effects are minor or more than minor and what mitigation is required. In my

opinion, this is somewhat unusual and goes substantially further than sections 6, 7 and 8 of the RMA.

- 88 Section 6 (e) requires that *all persons exercising functions and powers under the Act* shall recognise and provide for the relationship of māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. Section 7 requires *all persons exercising functions and powers under the Act* to have particular regard to kaitiakitanga and the ethic of stewardship. Section 8 requires *all persons exercising functions and powers under the Act* to take into account the principles of the Treaty of Waitangi. Those sections of the RMA devolve the relevant discretions to persons exercising functions and powers, and not to other parties (such as iwi representatives). The RMA envisages that the regional council as plan drafter and consent authority will exercise the relevant discretions in relation to the significance of adverse effects and necessity for mitigation, and not iwi representatives (in the absence of any formal delegation of powers).
- 89 I accept the point made in the s. 42A report that the sites identified as being significant to mana whenua (in Schedule C) are generally confined in geographical extent such that the requirement for obtaining iwi written approvals will not be a widespread requirement. However, that doesn't address the question of the validity of the proposed approach. If, as the officer states, all proposals for activities within Schedule C sites will be referred to the relevant iwi as a potentially affected party in any event, that would seem to provide an orthodox process whereby iwi can articulate the potential adverse effects and identify mitigation and have those matters adjudicated in the usual way by the *consent authority*. It is not clear what the need is for the additional step of requiring written approval *in addition* to the avoidance or mitigation of adverse effects that are more than minor.

BENEFICIAL USE AND DEVELOPMENT

Reverse Sensitivity

- 90 GWRC s. 42A Report Reference: Beneficial Use Report paragraphs 371-374 (submission S301/039). The officer recommends no change to Policy P14.
- 91 CDC requested amendment to Policy P14 which addresses the protection of regionally significant infrastructure from reverse sensitivity effects. CDC's submission addressed two issues:
- a. That adverse reverse sensitivity effects can be created by changes to existing established activities near regionally significant infrastructure facilities and not only by wholly new activities; and
 - b. That reverse sensitivity effects can be created by activities in the nearby vicinity and not only on directly adjoining land.
- 92 The s.42A report rationalises that RPS Policy 8 directs that regional plans *only* protect regionally significant infrastructure from incompatible *new* use and development *alongside*.
- 93 RPS Policy 8 and its explanation state:

'District and regional plans shall include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure.'

Explanation

Regionally significant infrastructure is an important physical resource that enables people and communities to provide for their social, economic and cultural wellbeing, and their health and safety. Regionally significant infrastructure is defined in Appendix 3. Incompatible subdivisions, land uses or activities are those which adversely affect the efficient operation of infrastructure, its ability to give full effect to any consent or other authorisation, restrict its ability to be maintained, or restrict the ability to upgrade where the effects of the upgrade are the same or similar in character, intensity, and scale. It may also include new land uses that are sensitive to activities associated with infrastructure. Protecting regionally significant infrastructure does not mean that all land uses or activities under, over, or adjacent are

prevented. The Wellington Regional Council and city and district councils will need to ensure that activities provided for in a district or regional plan are compatible with the efficient operation, maintenance, and upgrading (where effects are the same or similar in character, intensity, and scale) of the infrastructure and any effects that may be associated with that infrastructure. Competing considerations need to be weighed on a case by case basis to determine what is appropriate in the circumstances. ...'

94 I don't read RPS Policy 8 as being as limiting as suggested in the s.42A Report. Policy 8 addresses the potential reverse sensitivity effects of '*incompatible new subdivision, use and development*'. That is not exactly the same as the expression '*new incompatible use and development*' used in Policy P14. In my view, Policy 8 supports regional plan provision that protects existing regionally significant infrastructure from incompatible new subdivision and from incompatible use and development (including new and changed use and development). The RPS does not, in my opinion, prevent the amendments requested by CDC. The reality is that regionally significant infrastructure can be adversely affected by new uses and developments and by changes to existing uses and developments that introduce additional sensitive receivers. In my opinion, it is legitimate for the PNRP to address that reality.

95 CDC's requested amendment is:

'Regionally significant infrastructure and renewable energy generation activities shall be protected from new incompatible use and development ~~occurring under, over, or adjacent to it~~, by locating and designing any new use and development to avoid, remedy or mitigate any reverse sensitivity effects.'

96 The requested amendment did not explicitly address the issue of new and changed activities referred to earlier. However, I note that the submission of Meridian addresses this issue and that Meridian's submission requested deletion of the expression 'new' (discussed in paragraphs 44 to 49 of Part A of this statement of evidence).

97 Also, I do not read RPS Policy 8 as limiting the policy protection to *only* adjacent land as the s.42A report suggests. In my opinion, it requires that as a minimum the regional plan (PNRP) must include policies and

rules that protect regionally significant infrastructure from reverse sensitivity effects created by incompatible new subdivision, use and development on adjacent land. It does not prevent the regional plan from including policies that protect regionally significant infrastructure from incompatible subdivision, use and development in the near vicinity that also causes adverse reverse sensitivity effects.

- 98 The following wording could address both aspects of the issue and is within scope of the submissions:

'Regionally significant infrastructure and renewable energy generation activities shall be protected from ~~new~~ incompatible use and development ~~occurring under, over, or adjacent to it~~, by locating and designing any new or changed use and development to avoid, remedy or mitigate any reverse sensitivity effects.'

CONCLUSION

- 99 I commend to the Hearing Panel the amendments discussed in the preceding paragraphs. I understand that CDC would welcome an opportunity to participate in any refinement of wording if there are any matters of detailed wording that need to be reconciled between the changes requested by different submitters.



Christine Foster

05 May 2017