

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the submissions by
**GENESIS POWER
LIMITED** on Plan
Change 22 to the
Horowhenua District
Plan

STATEMENT OF EVIDENCE OF RICHARD JOHN MATTHEWS

4 November 2011

1. INTRODUCTION

Qualifications and Experience

- 1.1 I hold a Master of Science (Hons) degree, and have been working as a resource management adviser for more than thirty years, initially in the local government sector and since 1999 in private practice with the environmental consulting practice, Mitchell Partnerships Limited. I am a partner in this practice.
- 1.2 My specialist area of expertise is in the application of the Resource Management Act 1991 (“**RMA**”), and other relevant environmental management legislation, the development of Regional and District Plans and the acquisition and assessment of resource consent applications.
- 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 RMA. This has involved detailed analysis 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 of 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 Plan Change 22 to the Horowhenua District Plan (“**PC22**”).

Scope of Evidence

- 1.5 In my evidence I will:
- Discuss the relevance of the National Policy Statement on Renewable Electricity Generation (“**NPSREG**”) to PC22;
 - Discuss the relevance of the Manawatu – Wanganui Regional Council’s One Plan to PC22;

- Discuss the implications of the term ‘appropriate’ in relation to the protection of outstanding natural features and landscapes (“**ONFL**”) in accordance with section 6(b) of the RMA, and the ramifications for the objectives and policies being considered by this plan change;
 - Discuss the implications of a non-complying activity status for activities proposed within ONFL; and
 - Discuss the matters Genesis Energy has raised in its submissions and further submissions, and make comment on how they are addressed in the Officer’s Report;
- 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 described in the evidence from Mr J Stevenson-Wright, Genesis Energy is a major electricity and gas retailer in New Zealand with customers primarily located across the North Island, relying 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. The infrastructure required for the generation and transmission of electricity must typically be located where those natural and physical resources are located (such as on rivers for hydro systems or on ridgelines for wind generation systems).
- 2.2. Genesis Energy made submissions and further submissions on the provisions of PC22 from the perspective of ensuring that objectives, policies and rules are provided which enable the benefits of renewable electricity generation activities to be appropriately considered when such activities are proposed within an ONFL. Since that time the NPSREG has come into effect. Furthermore, the decisions on the Manawatu – Wanganui Regional Council One Plan (Regional Policy Statement section) (the “**One Plan**”) have been released, and appeals to those decisions have been the subject of Environment Court mediation. The One Plan has now

progressed to a point where many of the appeal points have largely been resolved, and in many instances is beyond further challenge. As required by section 75(3) of the RMA, the District Plan must give effect to both the NPSREG and the Regional Policy Statement of the One Plan.

- 2.3. While I note that it was not possible for the Council to consider the NPSREG before it was gazetted, s7(j) of the RMA requires that particular regard be given to the “benefits to be derived from the use and development of renewable energy” when making decisions on “managing the use, development, and protection of natural and physical resources”. In this regard, the matters addressed by the NPSREG are matters that are appropriately part of the consideration of PC22, and provide support for the submission points raised by Genesis Energy. I note also that the provisions of the NPSREG can be given effect to, to the extent the submissions and further submissions on PC22 enable.
- 2.4. Importantly, the identification of ONFL and the associated provisions being considered under PC22, must not contradict the objective and policies of the NPSREG or the One Plan. As required by section 75(3) of the RMA, the District Plan must give effect to both the NPSREG and the Regional Policy Statement of the One Plan.

3. NATIONAL POLICY STATEMENT ON RENEWABLE ELECTRICITY GENERATION

- 3.1. The NPSREG came into effect on 13 May 2011 and identifies the need to develop, upgrade, maintain and operate renewable electricity generation activities throughout New Zealand as a matter of national significance. The overarching objective of the NPSREG states:

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.

- 3.2. The supporting policies enable the sustainable management of renewable electricity generation under the RMA. In basic terms, they direct that decision-makers shall:

- Recognise and provide for the national significance of renewable electricity generation activities (Policy A);
- Have particular regard to the practical implications of achieving New Zealand's target for electricity generation from renewable resources (Policy B);
- Have particular regard to the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities (Policy C1); and
- Manage activities to avoid reverse sensitivity effects on consented and existing renewable electricity generation activities (Policy D).

3.3. In addition to the four central policies noted above, the NPSREG includes six policies which direct local authorities to include objectives, policies and methods (including rules within plans) in regional policy statements, regional plans and district plans, that provide for renewable electricity generation activities.

3.4. At paragraph 38 of the section 42A report, the Officer states:

PC 22 does not seek to meet the Council obligations in terms of the NPS. This will be addressed as part of the wider Plan Review which is currently in the early Plan preparation phase. However, notwithstanding this the RPS must be taken into account in making decisions on this Plan Change.

3.5. Whilst I agree that the NPSREG must be “taken into account”, I consider that it must also be given effect to, to the extent that it can and needs to be in terms of the submissions made on PC22.

3.6. PC22 seeks to manage land that also has the potential to be identified for renewable electricity generation. Given the national significance of renewable electricity generation, it is important that the NPSREG is duly considered as part of PC22. To this extent, the opportunity needs to be taken to ensure that the ONFL provisions of the District Plan are not contrary to (and give effect to) those of the NPSREG.

4. ONE PLAN – REGIONAL POLICY STATEMENT

- 4.1. The Manawatu-Wanganui Regional Council has prepared the One Plan, which seeks to combine the Regional Policy Statement and all six Regional Plans for the region into one document. As previously stated, appeals to the decisions on the Regional Policy Statement of the One Plan have been the subject of extensive Environment Court mediation, which has resulted in agreement on several appeal points. The One Plan has now progressed to a point where many of the appeal points have been resolved and the provisions are effectively beyond challenge.
- 4.2. In particular, the One Plan Regional Policy Statement section includes a number of policies that are relevant to renewable energy. The Environment Court appeals in relation to these policies have largely been resolved as a result of mediation to date. Policies that are in my opinion relevant to PC22 are included in **Appendix I** to my evidence. The renewable energy policies state that territorial authorities must allow for minor effects from new infrastructure and avoid, remedy, or mitigate any effects that are more than minor. In doing so, the territorial authority must also take into account the need for such infrastructure, any locational constraints, and any offsetting of more than minor effects that cannot be avoided, remedied, or mitigated (Policies 3-3(b) and (c) of the One Plan). Territorial authorities must also have particular regard to the benefits of the use and development of renewable energy, the Region's potential for such development, and the need for renewable energy activities to be located where the renewable energy resource is located (Policy 3-4 of the One Plan).
- 4.3. In addition to the energy policies in Chapter 3 of the One Plan, outstanding natural features and landscapes are addressed in Chapter 7 of the One Plan, in Policies 7-7 and 7-7A in particular. While appeals in relation to these provisions have not yet been resolved¹, I note that Policy 7-7 requires generally that adverse effects on outstanding features are avoided, remedied or mitigated, but specifically that adverse cumulative effects on those areas are avoided. The appeals do not seek to set a higher threshold for effects other than adverse cumulative effects, rather, the main issue is whether there should be provision for remedying or mitigating cumulative effects. In this regard, the One Plan accepts that there can be development or use of

¹ The main appeal regarding Policy 7-7 is by Genesis Energy, seeking that the policy be amended to make provision be made for adverse cumulative effects to be avoided, remedied or mitigated.

outstanding natural features and landscapes that have significant effects, provided that those effects are avoided, remedied or mitigated.

- 4.4. As required by section 75(3)(c) of the RMA, a District Plan must give effect to the relevant regional policy statement. This requirement extends to the consideration of plan changes, and as such, PC22 must give effect to the One Plan Regional Policy Statement, and in particular those provisions I have noted above.
- 4.5. Genesis Energy made a number of submissions and further submission in relation to the objectives and policies associated with PC22. Where relevant, I make reference later in my evidence to the need for those objectives and policies to be consistent with those of the One Plan.

5. SUBMISSIONS MADE BY GENESIS ENERGY

- 5.1. Genesis Energy made five submissions (112A – 112E) in relation to PC22. In my evidence below, I assess each of the Genesis Energy submissions against the Officers Report recommendations. Genesis Energy also made further submissions in support of submissions made by others. These are discussed in section 5 of my evidence.

Objective 4.3

- 5.2. Objective 4.3 as notified sought to ensure that subdivision, use and development did not adversely affect ONFL. Genesis Energy's submission (112A) opposed the wording of this objective on the basis that stating there shall be 'no adverse effects' is inconsistent with the sustainable management promoted by the RMA. The Officers Report recommends² that the wording of Objective 4.3 be amended, largely as submitted by Genesis Energy, but includes the *'adverse effects' of inappropriate subdivision, use and development...*
- 5.3. The inclusion of the term 'adverse effects' in Objective 4.3 implies that the 'appropriateness' or otherwise of an activity is solely based on the degree to which it

² Page 24 of the s42A report.

adversely affects the ONFL. I do not consider that such a narrow focus can be supported in terms of the overall purpose of the RMA.

- 5.4. Section 6(b) of the RMA provides for “*the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development*”. Importantly, it does not seek to protect ONFL from the ‘adverse effects’ of such use. Section 6(b) requires the assessment of what use or development is appropriate or inappropriate. That assessment should be undertaken in the context of what the effects of that use or development are, but is not necessarily determined by those effects.
- 5.5. In my opinion, the ‘appropriateness’ of an activity needs to be considered on a case-by-case basis and includes a broad determination of various matters, including the adverse effects of that activity, but also what benefits are associated with that activity. Accordingly, I consider that Objective 4.3 should be amended to read as follows:

Ensure that the District’s Outstanding Natural Features and Landscapes are protected from ~~the adverse effects of inappropriate subdivision, use and development~~ does not adversely affect outstanding natural landscapes and features and that also has regard is had to other landscapes having high amenity landscapes.

- 5.6. I note that this wording aligns with the changes to Objective 4.3 set out in the submission by Genesis Energy.

Policy 4.12

- 5.7. Genesis Energy made a submission (112B) in partial support of Policy 4.12. Despite accepting the Genesis Energy submission in part³, the Officers Report recommends that Policy 4.12 be retained as notified. I note that Policy 4.12 simply repeats what is already stated in Objective 4.3. I consider that this policy would provide a better policy outcome by specifying how the adverse effects of an activity within an ONFL should be managed.
- 5.8. The submission by Genesis Energy sought to provide a hierarchy for addressing potentially adverse effects, whereby the avoidance of such effects should be the

³ Page 31 of the s42A report.

principal objective. Only when avoidance cannot be achieved should the options of remedying or mitigating those effects be considered.

- 5.9. In this regard, Policy 4.12 would provide better direction for consent applicants and decision makers if amendments were made as per the Genesis Energy submission. I note that such changes as that being sought are also consistent with the appeal by Genesis Energy with respect to Policy 7-7 of the One Plan, which as noted above, is still subject to appeals to the Environment Court. I consider that wording of Policy 4.12 as follows would address the Genesis Energy submission:

~~*Ensure that specified outstanding natural landscapes and features are protected from inappropriate subdivision, use and development.*~~

All subdivision, use and development affecting areas of outstanding natural landscape shall be managed in a manner which:

(a) avoids adverse effects as far as reasonably practicable and, where avoidance is not reasonably practicable, remedies or mitigates adverse effects on the characteristics and values that make the particular landscape outstanding.

(b) protects them from inappropriate subdivision, use, and development.

Policy 4.13

- 5.10. Genesis Energy sought the amendment of Policy 4.13 so that it better reflects the intent of the RMA for the management of amenity values. The Officers Report largely recommends adopting the proposed wording by Genesis Energy⁴ as follows, and I concur with that recommendation.

~~*Ensure that Ssubdivision, use and development affecting domains with in-high amenity landscapes amenity shall be undertaken in a manner that gives particular regard to the maintenance and enhancement of does not detract from the amenity values of that landscape.*~~

- 5.11. I note that the Officers Report recommends⁵ that the Genesis Energy submission (112C) in relation to Policy 4.13 be rejected, although I assume that this is an error given the recommended adoption of the Genesis Energy wording.

⁴ Para 109 of the s42A report.

⁵ Page 32 of the s42A report.

Policy 4.14

- 5.12. Genesis Energy sought the deletion of Policy 4.14, as it prejudices the appropriateness or otherwise of an activity within an ONFL. The Officers Report recommends that the Genesis Energy submission (112D) be rejected and that the policy be retained, but with some modification to the wording, by referring to avoiding development which adversely affects the 'values' of ONFL. The recommended wording for this policy states:

Avoid the development of ~~large~~ buildings where they will adversely affect the values of ~~an Outstanding Natural Features and Landscapes, and outstanding natural features.~~

- 5.13. As indicated earlier in my evidence, I consider that the initial matter to consider with regard to an activity proposed within an ONFL, is the 'appropriateness' of that activity. 'Appropriateness' should be determined on a case-by-case basis, over a range of matters taking into account the scale of effects, which may be positive or adverse. Policy 4.14 predetermines that a building which adversely affects the values on an ONFL is inappropriate and needs to be avoided. In my opinion, this policy extends beyond the scope of section 6(b) of the RMA, because it does not consider the appropriateness of the building in that location, and it should therefore be deleted.

Rule 19.9.3

- 5.14. The notified version of Rule 19.9.3 provided for any building or network utility with a height of more than 3 metres, or any earthworks within any ONFL as a non-complying activity. Genesis Energy made a submission (112E) opposing the activity status and considers that a discretionary activity status is more appropriate.
- 5.15. The Officers Report recommends that the Genesis Energy submission be accepted in part, although the only effective change recommended is that the 3 metre height limit in Rule 19.9.3, be extended to 7 metres. Any building or network utility between 3 and 7 metres in height would be a discretionary activity under a new rule (19.6(b)). I note that the new rule is silent on any associated earthworks, so resource consent for a non-complying activity would still be required if the 7 metre height limit is not exceeded, but earthworks are still required.

- 5.16. Notwithstanding this potential issue with the discretionary activity rule, the non-complying activity status for buildings and network utilities above 7 metres in height within an ONFL is inappropriate. This is of particular concern in regards to renewable electricity generation, given that the objective of the NPSREG is to provide for renewable electricity generation activities through the provisions of regional and district plans. A non-complying activity status as provided by Rule 19.9.3 is contrary to this objective, particularly where there are no other provisions explicitly providing for renewable electricity generation activities in the District Plan.
- 5.17. The NPSREG identifies the need to develop renewable electricity generation and the benefits of the same, as matters of national significance. Section 6(b) of the RMA also recognises the protection of ONFL as a matter of national importance. When these provisions are of relevance to the same activity, a judgement needs to be made as to the potentially adverse effects of the activity, against the potential benefits. Such consideration can only be undertaken on a case-by-case basis, and a discretionary activity status allows for that consideration to take place. In contrast, a non-complying activity status predetermines that judgement, which cannot be supported by the RMA, given that both matters are regarded as being of either national significance, or national importance.
- 5.18. Similarly, Policy 3-4 of the One Plan identifies the need to have “*particular regard to ... the benefits of the use and development of renewable energy resources*” (refer to **Appendix I** of my evidence). The non-complying activity rule (19.9.3) as proposed by PC22 is in my opinion contrary to the renewable energy policies of the One Plan. As discussed below, a non-complying activity status makes renewable electricity generation activities extremely difficult to establish within an ONFL, which is contrary to the One Plan policies, which seek a more balanced consideration of the benefits and adverse effects of such activity. In addition, the non-complying activity rule cannot be said to give effect to Policy 7-7 of the One Plan as the rule relates to a far wider range of activities than just the “adverse cumulative effects” of activities.
- 5.19. A non-complying activity status also has implications in terms of the section 104D gateway test. To consider an application for a non-complying activity, that activity must first pass one of the two limbs of the gateway test, prior to assessing the actual effects of such an application in terms of s104. One limb of the test⁶ is that the

⁶ Section 104D(1)(b) of the RMA.

activity is not contrary to any of the relevant objectives and policies of the District Plan. The District Plan's objectives and policies do not expressly provide for renewable electricity generation as required by the NPSREG. This is not surprising given that a plan change to give effect to the NPSREG has yet to be initiated. Furthermore, the objectives and policies as recommended in PC22 place significant emphasis on the protection of ONFL (for example, Objective 4.3, Policies 4.12, 4.13 and 4.14). Accordingly, the ability of a renewable electricity generation activity to pass this gateway test would be difficult.

- 5.20. The second limb of the test⁷ is that the adverse effects of the activity on the environment will be minor. It is important to note that this gateway test does not allow for the positive effects of an activity to be considered, only those which are deemed to be adverse. Therefore only the potentially adverse effects of a renewable electricity generation activity could be considered, and no regard is given to the positive effects including any social, economic and environmental benefits.
- 5.21. To this extent, I disagree with the statement in paragraph 208 of the Officer's Report, that the benefits of an activity would be considered as part of an application for a non-complying activity. Those benefits can only be considered in assessing the effects of the proposal in terms of section 104 of the RMA. Prior to that, the application must first pass one of the two limbs of the section 104D gateway test, where the benefits of a proposal cannot be considered, only the adverse effects. As noted above, a renewable generation project is likely to be considered contrary to the objectives and policies of the District Plan, particularly when there are no objectives or policies promoting renewable electricity generation.
- 5.22. A discretionary activity status allows for a more balanced assessment of an activity against all the relevant objectives and policies. It also provides for a more balanced assessment of the effects, allowing for the consideration of the benefits of a proposal as well as any potentially adverse effects. I consider that this approach to the activity status in the District Plan would be more consistent with the objectives and policies of the NPSREG and the One Plan.
- 5.23. I agree with the Genesis Energy submission (112E) seeking a discretionary activity status for any activities undertaken in an ONFL and consider that the Genesis

⁷ Section 104D(1)(a) of the RMA.

Energy submission on Rule 19.9.3 should be accepted. However, if the Commissioner's are of the view that a non-complying activity status for all such activities is too broad, then *renewable electricity generation activities* proposed within an ONFL could be expressly provided for as a discretionary activity. This would ensure consistency with the NPSREG. The following additional text in Rule 19.6 would give effect to this amendment.

Any renewable electricity generation activity, and any associated earthworks on land shown or specified as an Outstanding Natural Feature and Landscape on Planning Maps 32 and 33.

5.24. The above approach would require the inclusion of a definition for *renewable electricity generation activity*. Mighty River Power Limited (“MRP”) made a submission (22/087N) seeking the inclusion of *wind energy facility* as a definition and Genesis Energy made a further submission in support of that submission. In light of the NPSREG, I consider a definition of *renewable electricity generation activity* to be more appropriate. I refer to this later in my evidence.

5.25. Notwithstanding the above proposal for a discretionary activity status for renewable electricity generation activities, I note that there are other structures that could equally be considered as “appropriate” in an ONFL, such as installations for facilitating communication systems (which often require elevated locations to be effective), or systems for the transmission of electricity, where there may be few alternatives to locating in an ONFL.

6. FURTHER SUBMISSIONS BY GENESIS ENERGY

6.1. Genesis Energy made four further submissions in support of submissions made by MRP (22/087F, 22/087L, 22/087N and 22/087O). My evidence assesses each of these submission points in further detail below.

Wind Energy Facility

6.2. The MRP submission (22/087N) sought the inclusion of a definition for *wind energy facility*. Wind turbines are currently included under the definition of a *network utility*, which in my opinion, does not correctly account for *wind energy facilities* or any *renewable electricity generation activities*. The definition of *network utility* either

implicitly, or explicitly, applies only to the activities undertaken by *network utility operators*. *Network utility operators* are defined under section 166 of the RMA and electricity generators such as Genesis Energy cannot be a *network utility operator* for the purposes of operating electricity generation facilities. As a consequence, the ability of Genesis Energy (and any other entity that is not a *network utility operator*) to rely on the *network utility* provisions of a District Plan is restricted. Conversely, a *network utility operator* (such as a Lines Company, responsible for the distribution of electricity rather than generation of electricity) can rely on those provisions.

- 6.3. The Officers Report recommends that the MRP submission be rejected⁸ on the basis that the *network utility* definition adequately provides for the activities covered by a *wind energy facility*.
- 6.4. The Genesis Energy further submission was made in support of the definition of *wind energy facility* as proposed by MRP. However, in light of the NPSREG, I consider a more effective outcome would be achieved by including definitions in the District Plan for *renewable electricity generation* and *renewable electricity generation activity*, and for these definitions to be separate from, and not linked to, the definition of *network utility*.
- 6.5. The NPSREG provides for the definitions of *renewable electricity generation* and *renewable electricity generation activity*, and in my opinion these definitions should be included in the District Plan as follows:

Renewable electricity generation – means generation of electricity from solar, wind, hydro-electricity, geothermal, biomass, tidal, wave, or ocean current energy sources.

Renewable electricity generation activities – means the construction, operation and maintenance of structures associated with renewable electricity generation. This includes 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.

- 6.6. However, if the above definitions of *renewable electricity generation* and *renewable electricity generation activity* are not considered appropriate, then the following definition of a *wind energy facility* as proposed by MRP should be included in the District Plan, separate from, and not linked to, the definition of a *network utility*.

⁸ Page 60 of the s42A report.

Following on from this, a discretionary activity status for *wind energy facilities* located within an ONFL, should also be provided for in Rule 19.6.

Wind energy facility – including any land, building, substations, turbines, structures, underground cabling, earthworks, access tracks and road associated with the generation of electricity by wind force and the operation of the wind energy facility.

- 6.7. Regardless of the definitions adopted, reference to wind turbines in the *network utility* definition should be deleted.

Assessment Criteria

- 6.8. MRP made a submission (22/087L) seeking that the benefits of an activity be included in the Assessment Criteria for activities within an ONFL, and that the Assessment Criteria include consideration of the locational constraints that may require an activity to be positioned within an ONFL. The Officers Report recommends that the submission be rejected in part⁹ on the basis that the Assessment Criteria already makes reference to the consistency of a proposal with any relevant provisions in a National Policy Statement¹⁰. In this regard, the NPSREG includes provisions relating to the matters that MRP seeks recognition of in the Assessment Criteria.
- 6.9. Whilst the Officer's recommendation accords with the interests of any renewable electricity generation activity, it does not account for the locational requirements and benefits of any other activity that is seeking to locate within an ONFL. For this reason, I consider that the MRP submission should be accepted and additional Assessment Criteria be included in the District Plan as follows:

The extent to which the activity will generate benefits relating to the social, economic, and environmental well-being of communities,

and

The extent to which the location and design of the activity is constrained by functional, operational, and technical constraints.

⁹ Page 59 of the s42A report.

¹⁰ Assessment Criteria: 24A.2(i) of the District Plan.

Policy on Effects Assessment

- 6.10. MRP made a submission (22/087F) seeking the inclusion of an additional policy that ensures a number of specific criteria are considered when assessing a proposed activity within an ONFL. The Officers Report recommends that the MRP submission be rejected¹¹.
- 6.11. In my opinion, the District Plan should provide clear direction as to the particular matters to consider in terms of whether an activity is an appropriate use or development within an ONFL, or whether the effects of such activities in these areas are acceptable. The policy proposed by MRP would provide such direction and accords with Policy 7-7A of the One Plan. On that basis, I consider the following policy should be included in the District Plan:

When considering an application for resource consent, a notice of requirement or a change, variation or replacement to the District Plan, the following factors will be taken into account in determining the appropriateness of an activity:

- a) Will the activity generate significant adverse effects on the values of Outstanding Natural Landscapes, Outstanding Natural Features or High Amenity Landscapes?
- b) Can any adverse effects, not able to be reasonably avoided, remedied or mitigated, be offset by another form of environmental compensation using a 'no net loss' approach?
- c) Will the activity generate benefits relating to the social, economic and environmental well-being of communities?
- d) Are there any functional, technical or operational constraints that require the activity to be located and designed in the manner proposed?

Assessment of ONFL

- 6.12. MRP sought a more robust methodology for the assessment of ONFL be included as part of the PC22 process (22/087F). Genesis Energy made a further submission supporting this submission in part and seeking that the classification of landscape units be undertaken in accordance with the direction provided by the One Plan. The submission was accepted in part by the Officers Report and has largely been given effect to by the peer review by undertaken by Boffa Miskell Limited. I note that the review by Boffa Miskell was undertaken in accordance with the One Plan's

¹¹ Page 32 of the s42A report.

requirements for evaluating ONFL. Accordingly, I accept the Officers Report recommendation in regards to the MRP submission.

7. CONCLUSION

- 7.1. I consider that even with the recommended changes to PC22 to the Horowhenua District Plan, the change itself will be contrary to the provisions of the NPSREG and does not necessarily give effect to the One Plan. Whilst the Horowhenua District Council has until April 2013 to undertake a plan change to give effect to the NPSREG, it must still be considered and given effect to in any prior plan changes before them, to the extent that the submissions on the plan change allow. In particular, I consider there is a need to recognise renewable electricity generation activities as being discretionary when located within an ONFL.
- 7.2. The objective and policies of section 3 of the District Plan need to accurately account for the 'appropriateness' of an activity within an ONFL, and the need to consider a broad range of matters in making that conclusion. This approach would provide greater consistency between those objectives and policies and those of the NPSREG and the One Plan.
- 7.3. Adopting the changes recommended in my evidence will ensure that appropriate recognition is given to the matters of national significance raised in the NPSREG, and identified in the One Plan whilst not diminishing the importance of the identified ONFL.

Appendix I

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) *allow recognise and provide for the operation*, maintenance* and upgrading* of all such activities once they have been established, no matter where they are located,*
- (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,*
 - (iii) *whether there are any reasonably practicable alternative locations or designs, and*
 - (iv) *whether any more than minor adverse effects[^] that cannot be adequately avoided, remedied or mitigated by services or works can be appropriately offset, including through the use of financial contributions.*

Policy 3-4: Renewable energy[^]

- (a) *The Regional Council and Territorial Authorities[^] must have particular regard to:*
 - (i) *the benefits of the use and development of renewable energy[^] resources including:*
 - (A) *contributing to reduction in greenhouse gases,*
 - (B) *reduced dependency on imported energy sources,*
 - (C) *reduced exposure to fossil fuel price volatility, and*
 - (D) *security of supply for current and future generations,*
 - (ii) *the Region's potential for the use and development of renewable energy[^] resources, and*
 - (iii) *the need for renewable energy[^] activities to locate where the renewable energy[^] resource is located.*
- ~~(aa) *The Regional Council and Territorial Authorities[^] must give preference to the development of renewable energy[^] generation and use of renewable energy[^] resources over the development and use of non-renewable energy[^] resources in policy and plan development and decision-making, except with regard to providing for security of supply in "hydro dry" years.*~~
- (a) *The Regional Council and Territorial Authorities[^] must generally not restrict the use of small domestic-scale renewable energy[^] production for individual domestic use.*