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**IN THE MATTER OF  
AND**

the Resource Management Act 1991

**IN THE MATTER OF**

The Proposed Horowhenua District Plan

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**STATEMENT BY LORELLE BARRY IN RELATION TO SUBMISSIONS BY**

**TODD ENERGY LTD (SUBMITTER NO. 80.00 & 514.00) AND**

**KCE MANGAHAO LTD (SUBMITTER NO. 92.00 & 515.00)**

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**HOROWHENUA DISTRICT COUNCIL  
PROPOSED DISTRICT PLAN – UTILITIES AND ENERGY**

**TO: HEARINGS PANEL**

1. My name is Lorelle Jane Barry. I have a Master of Arts, a Bachelor of Arts with Honours and a Bachelor of Law. I have been an associate member of the New Zealand Planning Institute since 2007. I am a planner employed by Sigma Consultants Ltd, a company based in Rotorua which provides planning, engineering and architectural services.
2. I have 7 years planning experience, much of which has related to preparing applications for resource consent under district and regional plans and reporting to district councils. Most of my work has been based in the Central North Island / Bay of Plenty but I have worked throughout the country including in the South Waikato and Manawatu Districts.
3. I have been engaged by the Todd Energy Ltd and KCE Mangahao Ltd to prepare evidence and attend this hearing on their behalf.
4. I have read the section 42A staff report received prior to this hearing.

**BACKGROUND**

5. Todd Energy Ltd owns land in the Tararua Foothills and provides management support for the Mangahao Power Station. This submission relates to provisions

in the Proposed Horowhenua District Plan (“PDP”) relating to the establishment and operation of electricity generation projects based on renewable resources.

6. KCE Mangahao Ltd owns the Mangahao Power Station in the Tararua Foothills and the associated reservoirs, dams and infrastructure supporting the power station. This submission relates to provisions in the Proposed Horowhenua District Plan (“PDP”) relating to the ongoing operation of the Power Station and associated infrastructure and the establishment of additional components to support its ongoing operation which is based on a renewable resource.
7. Todd Energy and KCE Mangahao have made submissions and further submissions on the Proposed Horowhenua District Plan. Both Todd Energy and KCE Mangahao (as Mangahao Joint Venture) were submitters on PC22, but not in relation to PC20.

## **INTRODUCTION**

8. The submissions by Todd Energy and KCE Mangahao related to both the Objectives and Policies contained within Chapter 12 (Utilities and Energy) and also the Rules in Chapter 22 (Utilities and Energy) contained within the Proposed Horowhenua District Plan.
9. In Chapter 12, the submitters opposed the lack of clarity in the chapter in assessing and providing a policy framework for utilities and energy. Specifically:
  - The chapter begins with a discussion about Utilities and Energy under separate headings. Energy is referred to in paragraph 2 of “Utilities” but the “Energy” section is very generic and does not provide a clear foundation for the issue discussion and objectives and policies that follow. It is suggested that the introduction should be revised to provide a clearer focus and discussion of renewable energy as is appropriate having regards to national energy policies.
  - At the bottom of page 12-4 there is a clear statement that recognises that the location of utilities is often dictated by operational requirements and this is reflected in Policy 12.1.6. This is strongly supported.
  - There is no policy direction for utilities to be established in HAL, although there is for ONFLs. The Explanation and Principal Reasons refer to HALs but policy is required to provide positive guidance.

- Bullet points 3 and 4 in Methods (page 12-5) refer to the need for resource consents for network utilities with “variable effects or which may have adverse effects if located in some localities”. The meaning is not clear.
- Issue 2.2 Energy requires a stronger introductory statement given the national renewable energy policy: “can have environmental benefits” should be phrased as “have” or similar.
- The Issue Discussion deals with renewable energy generation and design for efficient use. These two subjects require separate discussion to set the ground for the policies that follow, as they are separate issues and considerations. This would provide the opportunity for a focussed discussion of renewable energy resources which would be more consistent with the national policy direction.
- The inclusion of a definition of “wind energy facilities” and specific policies for developing renewable energy resources is supported subject to amendments, as follows. However, it is considered that clearer positive guidance could be given for considering wind energy facility development. The tension between suitable locations and their values is identified in the issue statement: the Explanation and Principal Reasons refer to potential effects. While it is accepted that effects and responses need to be assessed on a case by case basis, given the limited opportunity and identified sites, further policy guidance to weighing up the factors could be provided.
- In Chapter 12 (Utilities and Energy), Policy 12.2.4 requires that consideration is given to “adverse effects” and this needs to be qualified to relate only to significant adverse effects. Adverse effects may occur that are minor and the policy would require that all adverse effects must be avoided, remedied or mitigated in relation to new renewable electricity generation facilities.
- Policy 12.2.8 is similarly restrictive without giving clearer guidance, and there is wording missing.
- There is no explanation in this chapter or throughout the PDP as to how Policies 12.2.9 and 12.2.10 are to be achieved. These policies relate to providing for the identification and assessment of potential sites and energy sources for renewable electricity generation (12.2.9), and

encouraging research for exploratory-scale investigations into renewable electricity generation technologies and methods (12.2.10). However, this does not appear to be supported by specific provisions. It would be helpful to be able to respond to the proposed implementation of these policies.

- Policy 12.2.11 is unclear. The policy relates to subdivision and land use activities not adversely affecting renewable electricity generation operation. If the avoidance of reverse sensitivity issues is the key focus of this policy, then specific reference to reverse sensitivity issues should be made in the policy and the policy made more explicit.
- The decision of the Commissioners on Plan Change 22 recommends a “Renewable Energy” section of the proposed district plan to give appropriate emphasis in accordance with national policy. Rewriting the Energy Issue Discussion under 2 headings would assist here.

10. The submitters sought the following decision from the Council in relation to Chapter 12:

- Todd Energy Ltd supports the inclusion of specific provisions for renewable energy projects in the PDP but seeks that the objectives and policies reflect existing and proposed renewable electricity generation projects more strongly and clearly.
- Issue Discussion Energy should be re-written to provide a focussed discussion on renewable energy generation.
- Provisions are required to support policies providing for the identification and assessment of potential sites for renewable energy generation (including wind energy facilities) and in particular how they will be implemented.

11. Further, in relation to Chapter 22, the submitters opposed the lack of provision for “energy” in the chapter. Noting that:

- There is provision for utilities but not for “energy”.
- The submitters supported Rule 22.1.10 (Maintenance, Replacement and Upgrading Network Utilities). The explanatory notes are clear and highlight what constitutes “maintenance and replacement” and also “minor upgrading” of electricity and telecommunication utilities. However, there is no apparent provision for “energy” activities.

12. The submitters sought clarification from Council in relation to Chapter 22 and the intended purpose of this chapter in relation to “energy”.
13. Further submissions were also lodged both in support and opposition of the submissions lodged by Genesis Power Ltd, Federated Farmers of NZ, Horticulture NZ, Transpower NZ and the NZ Wind Energy Association. These will be discussed as and where appropriate in the course of my evidence.

## **GENERAL**

14. The work undertaken since submissions closed and as explained in the section 42A staff report both accepts and refuses the changes sought. For brevity, where the staff report has recommended that the relief sought by Todd Energy and KCE Mangahao in relation to submission’s 514.18, 514.13, 515.13, 80.06, 92.06, 80.08, 92.08, 80.09, 92.09, 514.00, 515.00, 514.05, 515.05, 514.11, 515.11, 99.26, 80.17, 80.15, 92.15, 514.06, 515.06, 514.04, 515.04, 514.07, 515.07, 514.15, 515.15, 514.12, 515.12 be accepted and, in some cases, accepted in-part, this is supported. Therefore the Commissioners are asked to accept the reporting officer’s recommendations here.
15. The following considers the staff report in relation to chapter 12 and the utilities and energy rules in Chapter 22, where it has been recommended that the relief sought by Todd Energy and KCE Mangahao be accepted in-part and/or rejected. The following is set out in the same order as the headings in the staff report.

### **4.13 NEW POLICY 12.1.X**

16. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to an additional policy being added under Objective 12.1.1 providing for positive guidance in relation to the establishment of utilities in domains of high landscape amenity be accepted in-part. The staff report provides that because there is a “suite” of policies under this objective, and because it is considered that by adding the words “domains of high landscape amenity” to proposed Policy 12.1.4, it is considered to reflect the approach of the Proposed Plan in that an additional level of protection is required where network utilities are established in such “sensitive” areas. This reasoning does not address the submission. There is still no clear policy directive provided in

terms of positive guidance for the establishment of utilities in domains of high landscape amenity. Rather, the changes to the policy seem more restrictive. It is for this reason that the Commissioners are asked to reject this recommendation.

#### **4.17 ISSUE DISCUSSION FOR ISSUE 12.2**

17. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to the Issue Discussion for 12.2 be rejected. Todd Energy and KCE Mangahao have requested that the Issue Discussion separates out the two discussions concerning renewable energy generation; and design for efficient use. The staff report provides that “[f]or energy, it is efficient to discuss renewable energy and energy efficiency together” for a total picture of the energy issues in Horowhenua. However, as contended in their submissions, Todd Energy and KCE Mangahao still consider that these two subjects require separate discussion to set the ground for the policies that follow, as they set forth separate issues and considerations. This would provide the opportunity for a more focussed discussion of renewable energy resources which would be more consistent with the national policy direction. By combining the two subjects and providing little individual discussion, the staff report does not recognise the importance given to each through national policy statements like the National Policy Statement for Renewable Electricity Generation (NPS REG). It is for this reason that the Commissioners are asked to reject this recommendation.

#### **4.21 POLICY 12.2.4**

18. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to Policy 12.2.4 be rejected. Todd Energy and KCE Mangahao have requested that this policy is amended by way of qualifying adverse effects as “significant”. As submitted, adverse effects may occur that are minor and the policy as it is currently proposed would require that all adverse effects are avoided, remedied or mitigated in relation to renewable electricity generation. The staff report states that all adverse effects should be considered and questions how “significant” would be defined. In response to this, it is suggested that it is up to an applicant to put forward a case as to whether an adverse effect is significant and it is then up to the consent authority

to determine whether this assessment is correct in terms of the Resource Management Act. It is for this reason that the Commissioners are asked to reject this recommendation.

#### **4.25 POLICY 12.2.8**

19. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to Policy 12.2.8 be rejected. This policy seeks to ensure that development of renewable electricity generation facilities do not interrupt or intrude views of the Tararua Ranges when viewed from public spaces within the Levin urban area. This is an extremely high standard to meet and fails to acknowledge the appropriate use of mitigation measures to minimise such visual interruption or intrusion. In submissions, Todd Energy and KCE Mangahao opposed the policy as it is too restrictive. In further submissions, Todd Energy and KCE Mangahao both supported the NZWEAs opposition to the policy, agreeing with their reasoning that it would be virtually impossible for a wind farm proposal located in or near an ONFL or the Tararua ranges to satisfy Policy 12.2.8. The NZWEA sought that the policy be deleted, or amended and recommended wording to the effect that the development of renewable electricity generation facilities “minimises visual interruption or intrusion of views of the Tararua ranges when viewed from public spaces within the Levin urban area”. The staff report reflects the relief sought in further submissions, and has recommended the inclusion of the wording in the relief sought by the NZWEA. This amendment is supported, and the Commissioners are asked to accept this recommendation.

#### **4.32 NEW POLICY 12.2.X**

20. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to clearer positive guidance for wind energy facility development be rejected. The staff report reasons that it is unnecessary to have a policy that considers such an issue noting that the resource consent process is the appropriate method to deal with such considerations. While, Todd Energy and KCE Mangahao accept that the resource consent process is the appropriate forum to consider such a request, the Horowhenua district is a unique location which is suitably placed and recognised for wind energy facility development, perhaps more so than other districts, and as such there is a need

to recognise this unique situation in the District Plan, via a policy mechanism or similar. As such, it is for this reason that the Commissioners are asked to reject this recommendation.

#### **4.34 METHODS FOR ISSUE 12.2 & OBJECTIVE 12.2.1**

21. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to the explanation or provisions to achieve Policies 12.2.9 and 12.2.10, be rejected. These policies relate to providing for the identification and assessment of potential sites and energy sources for renewable electricity generation (Policy 12.2.9), and encouraging and providing for research and exploratory-scale investigations into renewable electricity generation technologies and methods (Policy 12.2.10). The relief sought by Todd Energy and KCE Mangahao included the request for methods and any other provisions required to support these policies, including providing for the identification and assessment of potential sites for renewable energy generation (including wind energy facilities). The staff report identifies that “[i]t is not the intent or purpose of the District Plan to identify suitable sites for renewable energy generation and assessment would occur as part of a consent process...” Todd Energy and KCE Mangahao disagree with this reasoning, as it is one of the main functions of a District Plan to identify areas (zones) for development including potential development, and supply the rules around these. Hence the inclusion of Planning Maps. If the District Plan is unable to give direction as to appropriate land uses in appropriate locations, what other mechanism provides this in a district wide sense? As such, it is for this reason that the Commissioners are asked to reject this recommendation.

#### **4.36 CHAPTER 12 – GENERAL MATTERS**

22. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to Chapter 12 be accepted in-part. The relief sought by Todd Energy and KCE Mangahao is for the provision of a clear introduction, and clear policies and objectives, particularly in relation to existing and proposed renewable electricity generation projects. The staff report considers that the policies as provide (including the recommended amendments in the report) do provided the necessary clarity to recognise existing electricity generation infrastructure and the need for these facilities to be able to continue



to operate, be maintained and upgraded. The staff report invites the submitters to suggest an appropriate reference for consideration if the submitters were seeking reference in the Plan to a specific existing facility or project. It is with this in mind that as part of the relief sought, Todd Energy and KCE Mangahao wish to have express reference made to the Mangahao Power Station and its continued operation as a key contributor to national renewable energy generation as part of either the Introduction, Policies or Objectives section. Although, it is noted that Chapter 12 would benefit from more clarity and stronger policy links, with the inclusion of the reference to the Mangahao Power Station, the Commissioners are asked to accept this recommendation in-part.

#### **4.41 RULE 19.1(k) PERMITTED ACTIVITY RULE – RURAL ZONE**

23. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to this rule be accepted in-part and on further submission, accepted and rejected. This rule lists those activities which are permitted in the Rural Zone, including under (k) those network utilities and energy generation activities that are proposed to be permitted. The staff report more clearly identifies the background to this rule and it is suggested that this explanation be incorporated in the Proposed District Plan to avoid uncertainty. The staff report also makes note that the minor upgrading referred to in Rule 19.1(k) relates to the upgrading or replacement of lines rather than buildings. However, as the staff report has invited comment on this point, we can confirm that the submitters would support the inclusion of a reference in this rule to the minor upgrading of buildings being not more than an increase of 15% in floor area. The selection of 15% has been based on discussions with architects and what in their view would constitute a minor upgrade of a building. This would then prevent the need to obtain resource consent for such a minor work. Therefore, the Commissioners are asked to accept the staff this recommendation provided the amendment suggested above is included.

#### **4.57 RULE 22.1.10 MAINTENANCE, REPLACEMENT AND UPGRADING NETWORK UTILITIES**

24. The relief sought by Todd Energy and KCE Mangahao is the lack of apparent provision for energy activities within this rule, that is, it would be clearer if this rule made reference to “including generation and distribution utilities for

renewable sources of energy” in the title. The staff report has given no recommendation on this submission point as the reporting officer is unclear what is meant by “energy activities”. Therefore, the submitters suggest that the inclusion of the above wording would clarify this. Therefore, the Commissioners are asked to accept the amendment as suggested above.

#### **4.59 CHAPTER 22 – GENERAL MATTERS**

25. The relief sought by Todd Energy and KCE Mangahao is the inclusion of more specific wording that provides for energy generation and distribution. Again, the staff report is unclear what is meant by “energy activities” and has not suggested any recommendation, inviting discussion of this at the hearing. Chapter 22 in relation to the rules for utilities and energy, seems to focus on general utilities and would benefit with the inclusion of the wording “including generation and distribution utilities for renewable sources of energy” within the text of Chapter 22. While it can be inferred from the chapter that the rules relate to all types of energy, the specific inclusion of the words “renewable sources of energy” would promote both clarity in terms of the chapter and will also reflect national policy documents such as the NPS REG. Therefore, the Commissioners are asked to consider and accept the amendment as suggested above.

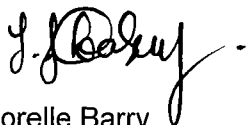
#### **4.61 RULE 25.7.13 ASSESSMENT CRITERIA – WIND ENERGY FACILITIES**

26. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to further submissions on Rule 25.7.13 and the assessment criteria for wind energy facilities be rejected. Todd Energy and KCE Mangahao support Genesis Power Ltd’s opposition to the rule and subsequent deletion of this rule based on the reasoning that “the effects of a windfarm should be based on the information supplied in an application and balanced with a broad judgement of effects of the development accordingly.” While it is acknowledged in the staff report that assessment criteria are useful tools within a district plan, there is merit in advocating an approach such as in Genesis Power’s submission in relation to determining effects of an activity on a case by case basis. If the Commissioners are not inclined to accept Genesis Power’s submission, Todd Energy and KCE Mangahao are willing to provide

support for NZWEAs submission which suggests consequential amendments to the wording of this rule.

## CONCLUSIONS

27. The recommendations provided in the section 42A staff report in relation to the Utilities and Energy sections of the Proposed Horowhenua District Plan have been discussed by way of reference to the submissions and further submissions lodged by Todd Energy Ltd and KCE Mangahao Ltd. Where necessary, it has been indicated where these recommendations are supported or rejected by the submitters. The most relevant of which have been considered in the above.
28. It is iterated that the Proposed Plan must provide clear policy links between schedules and strategies and the rules governing activities so that the implications for and on land use are clear and unequivocal. More clarity is both in the interests of the administrators and users of the Proposed District Plan.
29. It is for the above reasons that the Commissioners are asked to consider and accept this evidence, and where relevant the support and/or rejection of the recommendations proposed.



Lorelle Barry

Planner

Sigma Consultants Ltd

On behalf of

TODD ENERGY LTD

And

KCE MANGAHAO LTD

24 April 2013