

Jenna Silcock

From: Kerry Smith
Sent: 23 April 2012 17:39
To: Jenna Silcock
Cc: Pat Evans
Subject: FW: Letter for Judge Harland. Please forward.
Attachments: CCE22042012_00000.jpg; CCE22042012_00001.jpg; CCE22042012_00002.jpg; CCE22042012_00003.jpg; CCE22042012_00004.jpg

-----Original Message-----

From: John Carr [<mailto:johncarr@tipapa.com>]
Sent: 22 April 2012 19:03
To: tipapaevents@tipapa.com
Subject: Letter for Judge Harland. Please forward.

To. Judge Harland

From. John Carr, Tipapa, Greta Valley, North canterbury

Date. 22 April 2012.

Subject. Hurunui Wind . ENV-2011-CHC--90. Traffic matters.

Your Honour.

I am writing to you seeking directions on a specific matter that is becoming increasingly important. Please find attached the following;

1. A letter from me to Judge Borthwick dated 27 January.
2. A Minute from Judge Borthwick dated 3 February 2012. With specific reference to paragraph 8.
3. Confirmation of a unanimous decision by Hurunui District Councillors at a meeting on 12 April 2012, uploaded onto the Council website.

As you can see from this correspondence there is concern that Meridian's applied for access route via Motunau Beach Road for their proposed wind farm is suboptimal as regards the safety of road users.

My letter to Judge Borthwick of 27 January sought guidance as regards the Court considering an alternative access route. Judge Borthwick's Minute of 3 February paragraph 8 seemed to confirm with the words in brackets, "(nor is this outcome excluded)", that the Court will give consideration to alternative access routes. Hurunui Councillors have now acknowledged by unanimous vote that the Motunau Beach Road access does have safety issues as set out on their website. At their meeting Councillors decided to seek a report on the Reeces Road access for a comparison with the Motunau Beach Road access.

With Hurunui Councillors adding their weight to this important safety issue, and with Meridian having now supplied me with further information on the Reeces Road alternative access route, see note 5 of my witness list submission, subject to funding, I would like to proceed with appointing an additional traffic expert as notified in my list of expert witnesses supplied to the Court on 16 March 2012 item 3.

Following Judge Borthwick's Minute of 3 February, Meridan have written

to the Court stating that they will not consider any other access route than that they have applied for. In view of their stated position, and the safety issues surrounding this part of their application, which have now been acknowledged by unanimous vote of Hurunui District councillors, I request directions as follows;

Please confirm that I have interpreted Judge Borthwick's words in paragraph 8 of her Minute correctly. In that Her Honour has confirmed that the Court will give equal consideration to an alternative access route to be presented to the Court, supported by the expert evidence of Mr Rhys Chesterman, or another expert appointed by Hurunui District Council if he is not available, as set out on the Council's website, in addition to any additional expert appointed by myself.

Please also confirm that the evidence of these experts will be admissible as late evidence, as it is only now become fully apparent to Hurunui District Councillors, following a submission to the Council by myself and Mr Murray Messervy on 29 March, of these safety issues and the potential of significant road safety improvements if accessed via Reeces Road. In addition Meridian's application indicates there to be a viable access route, with much reduced environmental impact, onto the proposed wind farm site.

Thank you for your consideration of this important matter, and I await your Directions.

yours faithfully,

John Carr
On behalf of Tipapa Limited.

Judge Borthwick
Environment Court
Christchurch

Tipapa
Greta valley
North Canterbury
27 January 2012

Your Honour

Meridian Energy - Hurunui Wind

I write in connection with your reply to my letter of 4 January 2012. I appreciate your responses to my various questions. I regret however having to write to you again regarding one matter referred to in your reply.

I refer to Paragraph 4. Your last sentence.

"I am prepared to review this decision (on application if Mr Carr (or any other party) engages an expert to give evidence in relation to traffic and road management and ,It transpires, that their experts hold different opinions from either Meridian or the Council's".

I refer to the expert evidence of Hurunui Councils expert Rhys Chesterman of Via Strada, to the Court page 11 paragraph 49. Mr Chesterman referring to my proposed alternative access writes, commencing line 9 as follows.

"In terms of access only,I can however confirm that the access onto State Highway could be located such that sight visibility would be acceptable(the access would be located along a near one kilometre length of straight road). In this respect this access location could be supported- albeit subject to more detailed design in terms of localised road widening and appropriate separation distances from the railway line etc. Such access would also eliminate a need for vehicles to pass over Omihi Saddle and through Greta Valley,and the Motunau Road intersection (which has been identified as a concern by some submitters). While this would appease some submitters,it would not align with NZTA policy which prefers access from a local road rather than State Highway directly.(See note 10). The applicant has however applied for site access location off Motunau Beach Road and this location can also be supported."

Note 10 reads "from transit (now NZTA) Planning Policy Manual,Access standards and guidelines." The NZTA will consider applications for access off SH1. I have very recently been formerly granted by NZTA an access off SH1 onto my property.

1. I have spoken now to Mr Chesterman and am advised by him,exclusively from a traffic and road management aspect,that it is his understanding that he is only able to comment, caucus, and discuss in Court on what is formerly put in front of him in Meridian's traffic application. He is not allowed to bring into the discussion an entirely new alternative not put forward by the applicant. He has confirmed to me that he would be happy to do a detailed expert assessment of the alternative route if he was asked to do so.

2. I have spoken to a traffic expert who I would like to act for me, and he believes that under the laws of the Environment Court, in their opinion that my alternative access proposal was from a traffic and road management point of view preferable and safer, that the court could not give consideration to it if the access proposed by the applicant is deemed to be acceptable.

Please advise me the following, as regards Environment Court procedure.

1. Is Mr Chesterman's comment to me set out in paragraph numbered 1 above correct? If so what is the point of his expert opinion on my alternative, as he has set out in his report, if he is not allowed to consider it. see extract from his report above. If his comment is incorrect, it appears clear that that your sentence in paragraph 4 of your minute of 16 January in which you state "I did not understand that the experts opinions diverged significantly", has been a misrepresentation of the facts to you by Meridian's lawyers since there clearly is an element of divergence. There are in fact two potentially supportable alternative access routes to be considered.

2. Is the comment to me by the traffic expert that I have spoken with, set out in numbered paragraph 2 above correct? If so what is the logic of my appointing an independent traffic and road management expert? The reason being that should my expert, and perhaps Hurunui Council's expert, arrive at a conclusion that my alternative, from a traffic and road management point of view, is preferable and a safer alternative and each gain NZTA approval, notwithstanding upon presentation to the Court, the Court has no jurisdiction to give it equal consideration to the access route proposed by the applicant.

If however the Court does have unfettered jurisdiction to consider both access routes equally and make a judgement as to which should be approved I will wish to proceed to appoint a traffic expert to make a full assessment, and ask the Hurunui Council to instruct Mr Chesterman to do likewise.

Thank you for your consideration of my further questions.

This letter is being circulated to all parties.

Yours Sincerely,

John Carr

ON behalf of Tipapa Ltd.

FROM HURUNUI DISTRICT COUNCIL WEBSITE

Council to seek report regarding access to proposed Hurunui Wind Farm

At the 29 March council meeting, two members of the public made deputations regarding their concerns about the proposed route for construction vehicles if the Meridian Energy Hurunui Wind Farm project goes ahead.

The council considered these deputations at their 12 April strategy and policy meeting, and resolved that they were concerned about the traffic safety issues of using the Motunau Beach Road option for access to the proposed Hurunui Wind Farm and asked for a report on access via the Reeces Road route identified by Meridian Energy.

The Committee further resolved that:

. The report be available in time for the Environment Court hearing in relation to the wind farm application.

. If Mr Chesterman is not available to do the report, the matter will be reported back to the 26 April 2012 Council meeting for consideration.

. The report be funded from the consultancy budget.

. The Council has not committed itself to a particular course of action in relation to the report; it will receive the report and consider any possible further action at that time.

THE ABOVE STATEMENT WAS UPLOADED ONTO THE HURUNUI DISTRICT COUNCIL WEBSITE FOLLOWING A MEETING OF THE COUNCIL ON 12 APRIL 2012 AT WHICH THE POTENTIAL DANGERS TO ROAD USERS OF MERIDIAN'S MOTUNAU BEACH ROAD ACCESS WAS DISCUSSED. THE COUNCILLORS VOTED UNANIMOUSLY TO HAVE THEIR TRAFFIC EXPERT MR CHESTERMAN TO PREPARE A REPORT ON AN ALTERNATIVE ACCESS VIA REECES ROAD AN ALTERNATIVE IDENTIFIED BY MERIDIAN ENERGY.

Minute to the Parties

[1] This Minute addresses the memoranda of Mr Carr dated 27 and 31 January 2012 and Meridian Energy Ltd dated 26 January 2012.

Friend of Submitters

[2] Meridian has declined to appoint a Friend of Submitters.

[3] At the court's directions, Environment Commissioner Charles Manning will provide advice to the parties as to the court's practice and procedures.

[4] It is not, however, Commissioner Manning's role (or the court's role) to provide legal advice to the parties. Nor does the court, as Meridian correctly points out, give advice in the nature of strategy or an assessment of the merits of an individual's case.

[5] Given the nature and frequency of Mr Carr's enquiries, I have directed the Registry to refer future correspondence, in the first instance, to Commissioner Manning. If the enquiry is a general one and in the nature of the court's process or procedures he may respond. The response will be in writing and sent to Meridian, the Councils and Mr Carr. Where court directions (or an application) are required, Commissioner Manning may provide guidance as to the procedure to do the same.

Conference of Tipapa Ltd and Meridian Energy Ltd

[6] It is not clear from Meridian's memorandum whether it seeks an amendment of directions made on 16 January 2012 in relation to this conference, at least in relation to the directions concerning proposed traffic and road management.

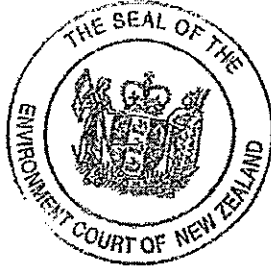
[7] The directions are confirmed. In addition, Meridian is further directed to attend the conference with its traffic witnesses. Mr Carr should do likewise.

[8] It does not follow from the directions that Meridian is obliged to amend the application for resource consent to provide alternative access (nor is this outcome excluded). The purpose of the directions is stated in clause 11 of the Draft Hearing



Procedures. The matters raised by Mr Carr on behalf of Tipapa Ltd are ideally suited for this type of conference.

DATED at CHRISTCHURCH this 3 day of February 2012



J E Borthwick
Environment Judge

Issued¹: 7 Feb. 2012.

¹ JEBWFDMMeridianMinute-1Feb2012.doc