

Judge Harland
Environment Court
Auckland

Tipapa
40 Motunau Beach Road
Greta Valley
26 March 2012

Your Honour

Hurunui wind. Meridian Energy. ENV-2011-CHC-090

I write in response to the Memorandum by Buddle Findlay on behalf of the Hurunui District Council dated 26 March 2012.

The above Memorandum requires me to place before the Court the following information and request.

On 16 June 2011 the Hurunui District Council voted at an Extraordinary Council meeting to have Meridian's Hurunui Wind proposal Directly Referred to the Environment Court. The influencing factor was that prior to the Council meeting Meridian Energy Ltd undertook to the Council that should Councillors approve Direct Referral at their 16 June meeting Meridian would pay all Council's costs, including the costs of their experts, related to the Environment Court case. The central condition of this undertaking was that the Hurunui District Council did not oppose, in the Environment Court, their application to have Hurunui Wind consented, and that Council would take a neutral position. Following on from this undertaking by Meridian to Council Buddle Findlay, Council's lawyer and Bell Gully Meridian's lawyer, prepared a draft contract of terms which included the No Opposition clause. This was available to Councillors at their meeting on 16 June. A short while after the meeting a contract was signed between Meridian and the Hurunui District Council formally entering into the terms. Buddle Findlay and Bell Gully would be able to provide to the Court a copy of the contract.

Whilst I have been aware for several months of the conflicts of interest that are inherent in this contract with Meridian paying all Hurunui Council's costs, the Memorandum sent by Buddle Findlay to the Court today 26 March has, in my opinion, exposed the manner whereby the executive arm of Hurunui Council are working in tandem with Meridian. As a result it requires the Court to be advised, and the Court to make a ruling as to the legality of this contract in view of the central term set out above, and the extent to which it compromises the case before the court.

This contract, that requires Hurunui Council not to oppose Meridian's application and to remain neutral impacts, in my opinion, the independence of the Council appointed experts and staff members. The reason being that they are paid by Meridian, as well as are the Council's staff members assigned to the project for the time they work on the project and their direct costs. Should either the experts, staff members, or lawyers working for Hurunui District Council directly or indirectly oppose any part of the application, or not cooperate with Meridian which could be deemed as opposition, the Council are then in opposition whether it be in whole or part of the

application, and in breach of their contract with Meridian. As a businessman of some thirty years standing I consider that this contract crosses the boundary of legality.

I ask the Court at the earliest opportunity to request a copy of this contract, and make a decision as to its legality and meanwhile put the process on hold. The effect of this contract, and the above referred to Memorandum is evidence of it, leaving aside Environment Canterbury, there are in fact only two parties in this court case. The first Meridian and Hurunui District Council acting as one party seeking or undertaking not to oppose consent versus the submitters, who are severely compromised by this contract, being the other party. I question whether this was the intent of Direct Referral when it was introduced, whereby the applicant can manipulate the process by paying off the local Council to neutralize them.

Should the Court, upon viewing the contract referred to above find it to be illegal and therefore set the contract aside I ask the Court to throw out Meridian's application for Hurunui wind altogether. Failing that to reset the process whereby the whole process starts from the beginning with the Council having to appoint entirely new experts and staff members assigned to the project. Further that Hurunui District Councillors be obliged to reconsider whether to submit the application for Direct Referral or to appoint Commissioners to hear the application in the first instance. It is very clear that the Submitters have been severely compromised by the manner in which Meridian have abused the process. In the current circumstances I am of the opinion that all the Submitters have no platform of fairness whatsoever, and I believe their legal rights and their position have been very severely impacted should this application continue as is through the preliminary process and then the Court case.

As regards a direct response to the Memorandum I totally reject the claims made by Buddle Findlay, and I refer the Court to my reply, dated 23 March, to Bell Gully's Memorandum of 22 March. I also specifically refer to paragraph clause 6(b). I find it extraordinary that Buddle Findlay, on behalf of Hurunui District Council should state that "their freedom of movement would be restricted." The restriction of movement that this pending Court case is already and will increasing place on all submitters, who unlike every other party who are paid for what they do, if it proceeds, will be several hundred times greater than one or possibly two visits to the Court by each witness summoned.

I look forward to the Courts ruling on the above matter, which I consider of the utmost importance, at the earliest possible date. Thank you.

Yours faithfully

John Carr on behalf of Tipapa limited.