

**IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-2011-CHC-090

In the matter of the Resource Management Act 1991

Between **MERIDIAN ENERGY LIMITED**

Applicant

And **HURUNUI DISTRICT COUNCIL and
CANTERBURY REGIONAL COUNCIL**

Consent Authorities

**SUPPLEMENTARY MEMORANDUM OF COUNSEL BY HURUNUI DISTRICT
COUNCIL AS REPORTING COUNCIL**

Dated 30 November 2011

BUDDLE FINDLAY
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MAY IT PLEASE THE COURT:

1. Since filing the reporting memorandum on 21 November 2011 Hurunui District Council has received completed questionnaires from Alec Baxter (and possibly Nancy Stanley because they have a combined s274 notice), Annette Marr, Glenmark Community Against Wind Turbines Inc ("**the Society**") and Kathryn and Mark Fitzsimmons.
2. This supplementary memorandum updates the reporting memorandum dated 21 November 2011 and is organised in the same manner.
3. The responses of Mr and Mrs Fitzsimmons are not addressed in detail. They only provided a definitive answer to the question about document service. For all other questions they either made no comment or said they were unsure.
4. For completeness the answered questionnaires used to prepare this memorandum have been filed separately.

PARTIES CONFERENCE AND PRE-HEARING CONFERENCE

Parties' conference

5. Ms Marr requested a parties' conference facilitated by an Environment Court Commissioner.

Further pre-hearing conference

6. The Society considered that a further pre-hearing conference would be required. It said that considering the likely witness developments and the involvement of a number of lay parties, it is unlikely that a hearing date could be set and final directions given at the first pre-hearing conference. Mr Baxter did not consider a further pre-hearing conference necessary. Ms Marr said she was unsure about this question.

Document service and availability of evidence and Court documents

7. Mr Baxter requested to serve and be served evidence by hard copy by post; Ms Marr and Mr and Mrs Fitzsimmons requested email service and the Society requested service by CD.
8. Mr Baxter, Ms Marr and the Society did not wish to waive their rights to service and instead to download evidence from a website.

9. Mr Baxter and the Society want copies of evidence and Court directions to be available on a website. Ms Marr said she was unsure about this question.

PRELIMINARY MATTERS

Drafting Hearing Procedures

10. None of these parties made any comments on the draft hearing procedures.

Directions regarding access to information held by other parties, or anyone else

11. Mr Baxter and the Society do not require any directions. Ms Marr's comment suggests she thought that such directions would be addressed at the pre-hearing conference.

Concerns about any matters which should be argued as preliminary points to the substantive hearing

12. None of these parties raised any concerns about the jurisdiction of the Court to hear and decide this referral, the standing of the parties or any other matters. Ms Marr said she did not understand the question about the standing of the parties and made no comment on the question about any other matters.

Essential legal issues

13. The Society was the only party who noted any essential legal issues. The issue noted was "*whether granting consent meets the statutory purpose*".

Essential issues of fact

14. Mr Baxter identified the following as essential issues of fact:
 - (a) Adverse effects on the environment;
 - (b) Landscape and amenity;
 - (c) Health; and
 - (d) Valuation/economic effects.
15. The Society said the essential issues of fact are the actual and potential effects on the environment if consent is granted including:
 - (a) Adverse effects on landscape, recreational and amenity value;

- (b) Adverse health effects;
- (c) Adverse effects on local land values;
- (d) Economic effects; and
- (e) Have any adverse effects been remedied, mitigated or avoided.

EXPERT WITNESSES

Witnesses to be summonsed

16. Mr Baxter and Ms Marr do not wish to summons witnesses. The Society said that it may wish to summons Hurunui District Council's s87F report writers, if they are not otherwise called to give evidence.

Expert witnesses

17. Mr Baxter does not intend to call expert witnesses. Ms Marr was unsure about this question.
18. The Society intends to call expert witnesses. While the identity of its witnesses is not known, it will call witnesses with the following expertise:
- (a) Landscape;
 - (b) Valuation;
 - (c) Economics;
 - (d) Acoustics; and
 - (e) Health.

The Society noted that every effort is being made to advise the Court and the parties of the names of its expert witnesses as soon as possible.

Expert witness conferencing

19. Mr Baxter and the Society said that expert conferencing should not occur. Ms Marr said she was unsure about this question but, that conferencing should be facilitated by an Environment Court Commissioner.

Order in which expert witnesses should be heard

20. None of these parties had any views on the order in which expert witnesses should be heard.

Should the Court call expert witnesses and, if so, in what field of expertise?

21. Ms Marr said that the Court should call any witnesses it requires to get a clear understanding of the application. The Society said that it was unsure about this question because it is not yet clear what witnesses are being called by the other parties. Mr Baxter made no comment.

EXCHANGE OF EVIDENCE

Proposed timetable for the exchange of evidence

22. Mr Baxter and the Society do not agree with the proposed timetable. Mr Baxter said that this is a busy time of the year for the farming community and the timetable should not commence until February 2012. The Society said that as they have not yet engaged its expert witnesses, it is unlikely to be able to comply with the proposed dates for expert conferencing or filing and serving evidence in chief. Ms Marr said she was unsure about this question.

Anticipated length of the hearing

23. Mr Baxter said that it would take him 30 minutes to present his submission. The Society thought it would take 2 to 3 days. However, the Society noted that it was difficult to provide an estimate, as it is anticipated that experts might be grouped together by field of expertise rather than by party. Ms Marr made no comment.

REQUIREMENTS FOR HEARING

Special requirements for the hearing

- (a) The timing of the hearing, including the availability of counsel or witnesses?**

24. The Society said that its counsel is unavailable between 28 May and 8 June 2012, due to a High Court trial in Auckland.

- (b) Venue**

25. The Society asked whether any parts of the hearing can be conveniently heard in the Hurunui district, as opposed to Christchurch.

- (c) The need for an interpreter**

26. None of these parties requested an interpreter.

(d) The use of supplementary sources of information or aids to understand the issues.

27. Ms Marr and the Society requested the use of supplementary sources of information or aids to understand the issues. Ms Marr requested anything that would help explain the process, in language that lay parties can understand. The Society noted that it is likely that one of its expert witnesses will need to give evidence via video link from the United States of America.

Matters which the parties consider that arrangements should be made or directions given to ensure the fair, orderly and efficient hearing of the proceedings

28. None of these parties identified any other matters on which they consider that arrangements should be made or directions given to ensure they are fair, orderly and efficient hearing of the proceedings. Ms Marr said she was unsure about this question.

SUPPLEMENTARY MATTER RELATING TO EXPERT WITNESSES

29. When preparing this supplementary memorandum Hurunui District Council reconsidered its list of expert witnesses in Schedule 9, Tab 9 of the reporting memorandum dated 21 November 2011. Two of the witnesses listed, Michael Trotter and Brian Handyside, are not its witnesses. The Council will not be calling Mr Trotter or Mr Handyside. With regard to its ecological witnesses, the Council confirms that they will reduce in number and that "Kevin Lloyd" should be Dr Kelvin Lloyd.

DATED this 30th day of November 2011


Signed for and on behalf of
Hurunui District Council by its Solicitors
and authorised agents Buddle Findlay
KG Smith
Solicitor for Respondent