

**Before the Hearing Panel Appointed by Wellington City Council
to Hear Submissions on the Proposed Wellington City District Plan**

In the matter of: **the Resource Management Act 1991**

And: **Submissions and Further Submissions
Lodged on the Proposed Wellington City
District Plan by Meridian Energy Limited**

**Statement of Evidence of Christine Anne Foster
Called by Meridian Energy Limited**

**HEARING STREAM 7 – GENERAL RURAL ZONE
PROVISIONS**

5 March 2024

1. Introduction

- 1.1. My name is Christine Anne Foster. I am a Planning Consultant and sole director of CF Consulting Services Limited, based in Wellington. I hold a Bachelor of Regional Planning and have worked as a resource management planner in New Zealand for over 40 years. I presented evidence to Hearing Stream 1 and refer to the summary of my qualifications and experience given in that statement of evidence dated 3 February 2023.
- 1.2. This statement of evidence is within my area of expertise as a resource management planner, except where I state that I rely on the evidence of others or evidence presented in the Council's section 42A reports. I have read the Code of Conduct for Expert Witnesses set out in the Environment Court 2023 Practice Note. I reaffirm my commitment to abide the Code of Conduct stated in my statement of evidence to Hearing Stream 1 dated 3 February 2023. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

2. Scope of Evidence

- 2.1 In my statement of evidence to Hearing Stream 1, I explained the broad purpose of Meridian's submissions on the proposed Wellington City District Plan (**PDP**) which arises from its two wind farms (West Wind and Mill Creek) and the Brooklyn Turbine. Meridian's submission and further submissions on the PDP primarily focus on the provisions that potentially affect the company's three existing wind farm interests.
- 2.2 For Hearing Stream 7, there are two issues that Meridian raised in its first-round submission:
 - (a) To address potential adverse reverse sensitivity effects on its existing generation assets in the General Rural Zone, Meridian requested inclusion of a standard to require a minimum setback distance for all new 'sensitive activities' within the General Rural Zone rules. Meridian proposed wording for that standard, based on a 40 dBA contour in relation to the existing wind turbines at West Wind and Mill Creek wind farms and included a plan detailing that contour (to be included as a map layer to support the rule). Meridian's proposed wording is replicated in paragraph 111 of the s. 42A report. Meridian's submission requests insertion of this standard in three places: Rules GRUZ-R17 and GRUZ-R18 (construction, alteration of buildings) and Standard GRUZ-S5 (minimum setback distance for rural buildings); and
 - (b) Meridian's submission requested that the Rural Design Guide be amended to clarify that it does not apply to renewable electricity generation activities in the General Rural Zone.

3. Setback from Existing Wind Farms

- 3.1 The reporting officer addresses the requests and the opposing further submissions in the following parts of the S. 42A report (General Rural Zone):

- paragraphs 112 to 115 (re Standard GRUZ-S5)
- paragraphs 294 to 298 (re Rule GRUZ-R17)
- paragraphs 301 to 308 (re Rule GRUZ-R18)

3.2 The PDP includes objectives and policies, in the Strategic Objectives (SCA) and Renewable Electricity Generation (REG) chapters that support existing renewable electricity generation (**REG**) assets and the development of future additional REG. Meridian’s submission supported those objectives and policies.

3.3 For example, Objective REG-O3 is:

REG-O3: Adverse effects on renewable electricity generation activities

The efficient operation, maintenance and repair, and upgrading of renewable electricity generation activities are not constrained or compromised by effects caused by other activities, including reverse sensitivity effects.

3.4 Policy REG-P3 is:

Recognising the significance and benefits of the use and development of renewable energy

Recognise the national significance and the local, regional and national benefits of the use and development of renewable energy sources and renewable electricity generation activities, including: ...

3.5 Policy REG-P12 is:

Reverse sensitivity effects

Require new sensitive activities to be designed, located and undertaken to avoid conflict with, including reverse sensitivity effects on, existing renewable electricity generation activities.

3.6 The point at issue is essentially whether the rules and standards for the General Rural Zone give effect to the direction set in these REG objectives and policies. The REG objective and policies are clear and Policy REG-P12 is, intentionally, unequivocal and directive. It *requires* new sensitive activities to be designed, located and undertaken to *avoid* conflict with existing REG activities (explicitly including reverse sensitivity effects).

3.7 Sensitive activities are defined as including any:

- (a) residential activity;
- (b) marae/papakāinga;
- (c) hospital;
- (d) healthcare facility;
- (e) educational facility;
- (f) retirement village;
- (g) visitor accommodation; or
- (h) place of worship.

3.8 These are activities that are acknowledged to be potentially sensitive to noise effects.

3.9 In my opinion, the issue is partly an efficiency and effectiveness question (as hinted in paragraph 113 (a) of the s. 42A report. The more relevant question, in my opinion, is whether the PDP *will achieve* the relevant PDP objective, in the manner intended by the relevant PDP policies. The s. 42A report helpfully identifies other possible options, already within the General Rural Zone provisions, for addressing this issue:

3.10 Policy GRUZ-P1 enables activities that are deemed compatible with the purpose of the General Rural Zone, including residential activities and visitor accommodation. Policy GRUZ-P4 seeks to only allow *other* activities (other than those listed) where it can be demonstrated that, amongst other matters:

1. *They are compatible with the character and amenity values of the Zone;*
2. *They will not limit or constrain rural activities, or other lawfully established or permitted activities in the Zone;*
3. *A rural location is required, or the activity is associated with a rural activity, or the activity supports the needs of the local community;*
4. *There are measures in place to manage adverse effects, including reverse sensitivity effects; ...*

3.11 Policy GRUZ-P4 is, like Policy REG-P12, quite directive in requiring that ‘other’ activities do not constrain existing lawfully established activities and requiring that measures are in place to manage adverse reverse sensitivity effects. For ‘other’ activities that require a consent, Policy GRUZ-P4 will be a relevant consideration in determining an application. However, Policy GRUZ-P4 will not be invoked or a consideration for one of the activities listed in Policy GRUZ-P1 (residential activities) that are enabled as permitted activities in the General Rural Zone.

3.12 In this respect, while the policy framework appears to direct avoidance of adverse reverse sensitivity effects, the rules do not follow through for sensitive residential activities. The rules do not achieve the relevant PDP objective in this respect. Meridian’s proposed rule does, in my opinion, achieve the relevant REG objective and is more appropriate in terms of s. 32 of the Act. The proposed standard is clear, easily applied and will be effective in ensuring that new residential activities are aware of the wind farms and the setback rule. The proposed standard will be effective in ensuring that new residential and other sensitive activities are, either, located an appropriate distance away from turbines or are required to pursue an application for consent through which appropriate measures can be explored for addressing reverse sensitivity effect.

3.13 Compliance with the rule will not, of course, eliminate the potential for new residential and other sensitive activities located outside the 40 dBA contour from complaining

about noise. However, the evidence on which the consents for the West Wind and Mill Creek wind farms are based traversed the question of appropriate setback distances for the turbines and the 40 dBA contour represents an accepted and lawfully established reasonable setback. The proposed contour will be useful in providing spatial definition to what might, in future, be considered a reasonable basis for reverse sensitivity complaint. In this respect, Meridian's proposed standard is a more appropriate way to achieve the relevant PDP objective.

3.14 The reporting officer also points to Rule GRUZ-R4.1 that limits residential activities to one dwelling per site. Meridian's concern is not with existing but with future new residential activities and visitor accommodation. The absence from the permitted activity framework for these activities creates a risk of adverse reverse sensitivity effects for the existing wind farms. Meridian's proposal, in my opinion, overcomes that risk.

3.15 I accept the reporting officer's opinion (third bullet point under paragraph 113) that the matter of discretion for visitor accommodation and home business activities will allow Policies REG-P12 and GRUZ-P4 to be considered and provide a basis for ensuring reverse sensitivity effects are avoided. However, my expectation is that the greater risk lies with future new permitted activity residential activities. For these, it is my opinion that the PDP rules do not give effect to the clear policy directive and do not achieve the relevant REG objective.

3.16 For the above reasons, I do not agree with the reporting officer's conclusion and recommendations (paragraphs 114, 115, 296, 297, 298, 306, 307). I support insertion into the GRUZ rules GRUZ-S17 and GRUZ-R18 and Standard GRUZ-S5 the setback standard proposed in Meridian's submission.

4. Rural Design Guide

4.1 This request is addressed in paragraphs 370 and 379 of the s. 42A report (General Rural Zone).

4.2 In paragraph 379 of the s. 42A report, the reporting officer states that REG chapter already addresses REG activities such that it is not necessary to note the non-application of the Rural Design Guide to REG.

4.3 I understand and accept that the REG chapter is intended to be self-contained in setting out all of the rules applicable to REG activities. The preamble to the REG Chapter states that '*The provisions within this chapter apply on a City-wide basis and are specific to renewable electricity generation activities. As such, the **rules** in the Zone chapters, and the **rules** in the Infrastructure, Noise, Earthworks and Overlay chapters, do not apply to renewable electricity generation activities unless specifically stated within a renewable electricity generation rule or standard*'. The Rural Design Guide is not itself a 'rule' of the General Rural Zone.

4.4 However, I also note that the preamble to the General Rural Zone (paragraph 5) explains that subdivision and construction of new dwellings within the General Rural Zone will be assessed

against the Rural Design Guide. The text there does not state that other built development will be assessed against the Rural Design Guide. This is perhaps confusing because the Rural Design Guide, under the heading 'Application', states that the Design Guide '*applies to residential developments and other buildings that require consent in the Rural Zone of the District Plan. The Design Guides are a statutory part of the Wellington City District Plan. The Council will use the Design Guides to assess resource consent applications for development*'.

4.5 Meridian's existing wind farms are in the General Rural Zone, although not subject to the Zone rules. The Rural Design Guide is not relevant for developments comprising large vertical structures such as wind farms. Where an application for consent is necessary for any future change to the wind farms, it would be problematic in my opinion if any party sought to rely on the Rural Design Guide for assessment of landscape and visual effects. The s. 42A report suggests that the Rural Design Guide is not intended to be applied to applications for REG activities. That is useful to know. It would be more useful, in my opinion, for this to be put beyond doubt and explicitly stated (either in the 'Application' section of the Design Guide or in the preamble to the REG chapter).



Christine Foster
5 March 2024