

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an appeal under clause 14 of
Schedule 1 to the Act
BETWEEN MERIDIAN ENERGY LIMITED
(ENV-2015-WLG-000070)
Appellants
AND HASTINGS DISTRICT COUNCIL
Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge C J Thompson sitting alone pursuant to section 279 of the Act.

IN CHAMBERS

CONSENT ORDER

Introduction

[1] The Court has read and considered the appeal and the parties' draft consent order received 2 September 2016.

[2] Trustpower Ltd, Hawke's Bay Regional Council, Horticulture New Zealand, Federated Farmers of New Zealand (Hawke's Bay Province) and Maungaharuru-Tangitu Trust gave notice of an intention to become parties under s 274 of the Act, and have signed the consent memorandum setting out the relief sought.

[3] The Court is making this order under s 279(1)(b) of the Act, such an order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for the present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order; and
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, including in particular Part 2.



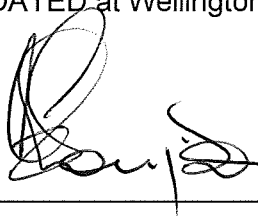
Order

[4] The Court orders, by consent, that the Proposed Hastings District Plan is amended as set out in Annexure A to this order, with additions shown in underline and deletions shown in strike-through.

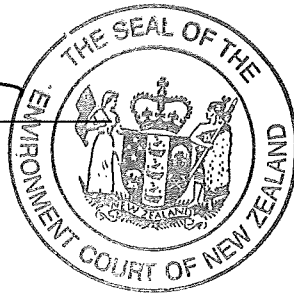
[5] This order disposes of all parts of the appeal other than the relief sought as described in paragraph 12 and 13 of the Notice of Appeal.

[6] There is no order as to costs.

DATED at Wellington this 6th day of October 2016



C J Thompson
Environment Judge



Annexure A – Changes to Hastings District Plan required by Consent Order

Section 5.2 – Rural Zone

(a) Amend Policy RZP5 as follows:

Require limits to be placed on the scale and intensity of any industrial and commercial activity locating within the Zone to ~~protect~~ maintain the amenity of the area, the sustainable management of the soil resources and the sustainability of the District's Commercial and Industrial Zones.

Section 20.1 – Indigenous Vegetation and Habitats of Indigenous Fauna

(b) Amend Policy INP3 as follows:

Include rules to maintain and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna (including Wetlands) not identified in Appendix 56 from being adversely affected by indigenous vegetation modification activities.

Section 22.1 – Network Utilities District Wide Activity

(c) Amend Rule Table 22.1.5.1 – Network Utilities District Wide Activity as follows:

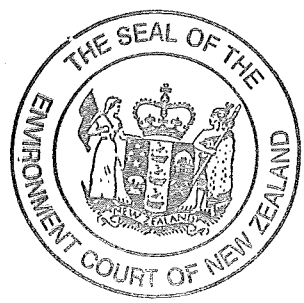
Rule	Land Use Activities	Activity Status
NU1	The refurbishment and upgrading of the following: (i) All network utilities in existence at the date of public notification of the Hastings District Plan provided non-compliance with the rules relating to the height, diameter or land area occupied, is not exceeded by more than 10%; or (ii) Lines, including electric lines at any voltage <u>provided the upgrade falls within the definition of minor upgrading.</u> where the refurbishment or upgrading (which may include the addition of circuits or conductors, reconductoring of the line, resagging of conductors, the addition of longer or more efficient insulators and the addition of earthwires) utilises the lines existing support structures or support structures of a similar scale	P



	and character, but does not include upgrading that increases the voltage of the line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage.	
NU2	<p>The construction, operation, maintenance, replacement, refurbishment or upgrading of the following*:</p> <p>....</p> <p><u>(ix) Wind monitoring Masts in the Rural Zone if:</u></p> <p>(a) <u>the height of the mast does not exceed 80 metres;</u></p> <p>(b) <u>the mast is setback at least 500 metres from any dwelling not located on the same property as the mast;</u></p> <p>(c) <u>the mast is setback at least 100 metres from any property boundary unless otherwise agreed with the affected property owner and occupiers;</u></p> <p>(d) <u>a notice of commencement is provided to Council prior to the construction of a mast; and</u></p> <p>(e) <u>the mast is removed and the land remediated within five years of the notice of commencement;</u></p> <p>(f) <u>the mast is setback at least 500 metres from a rural airstrip.</u></p>	P
...		
NU13	Aerials, masts, <u>wind monitoring masts</u> or antenna not meeting the <u>relevant height limits</u> under Rule 2(vi) and Rule 2(ix).	RD

(d) Amend section 22.1.9 Assessment Criteria – Restricted Discretionary and Discretionary Activities as follows:

9. Height of mast, wind monitoring masts, aerials or antenna.



- a) Whether the proposed structure will affect the flight path of the Bridge Pa or Rural airstrips.
- b) The structure will be temporary in nature.
- c) ~~Risk to the Hhealth~~ and safety of surrounding properties and occupiers will be maintained through the structure being located at an adequate distance from all properties boundaries.

Section 23 – Renewable Energy

- (e) Amend Objectives REO2 as follows:

To enable renewable electricity generation activities, given the practical constraints they face, while avoiding, remedying, or mitigating or offsetting their any adverse effects that are more than minor.

- (f) Amend Policy REP3 as follows:

To recognise the environmental, functional, operational and technical constraints of ~~manage~~ new existing renewable electricity generation activities.

Explanation

There is a practical need to locate renewable electricity generation activities where the renewable energy resource is available. This needs to be balanced against other important factors concerning sensitivity of the landscape, and areas of cultural, historical or ecological importance.

It recognised that there may be environmental, functional, operational or technical constraints associated with construction, operating, maintaining or upgrading renewable electricity generation activities. Necessary associated structures and infrastructure include, but are not limited to, roads, navigation and telecommunication structures and facilities, wind monitoring masts, the distribution network and the national grid (and connection to it) in relation to the renewable electricity generation activity.

- (g) Amend Rule Table 23.1.5 as follows:

Rule	Land Use Activities	Activity Status
RE3	<p>Wind Monitoring Masts:</p> <ul style="list-style-type: none"> (i) <u>Rural Zone – not exceeding a height of 80 metres and not located closer than 500 metres to any zone boundary.</u> (ii) <u>Other Zones – not exceeding 25m in height within all zones a height of 25 metres.</u> 	P



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- (h) Amend Section 23.1.7 Assessment Criteria, 23.1.7.2 Discretionary Activities as follows

...

- (k) The effects of the proposal on traffic safety (including blade glint ~~and shadow flicker~~ if involving wind turbines).

...

- (o) The extent to which any adverse effects will be avoided, remedied or mitigated by the following: proposed siting, colour and design of the structures, including ancillary structures.

~~(i) alternative siting of the structure(s) including any ancillary structure(s);~~

~~(ii) alternative design of the structure(s) including any ancillary structures(s);~~

~~(iii) alternative colour of the structure(s) including any ancillary structures(s);~~

...

Section 25.1 - Noise

- (i) Amend Objective NS01 as follows:

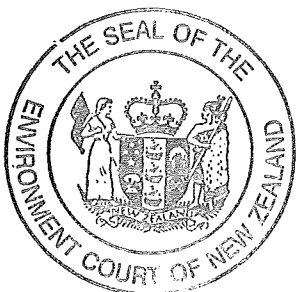
To manage the emission and mitigate the adverse effects of noise so as to maintain or enhance the acoustic environment.

Section 27.1 – Earthworks, Mineral, Aggregate and Hydrocarbon

- (j) Amend section 27.1.7 Assessment Criteria Restricted Discretionary and Discretionary Activities, 27.1.7F Earthworks within Outstanding Natural Landscapes (ONFL) as follows:

Earthworks within an ONFL will be designed and located to minimise adverse visual effects. ~~This shall include reference to the proposed location and screening of any earthworks. In particular, the extent to which any such development shall will:~~

- a) ~~Avoid~~ Where practicable, minimise the location of large scale earthworks on prominent rural ridgelines, hill faces and spurs.



- b) Be designed to minimise cuttings across hill faces and spurs.
- c) ~~Avoid~~ Where practicable, minimise the number of finished contours that are out of character with the natural contour.
- d) Demonstrate what visual mitigation is proposed to minimise the visual intrusion of the work, including proposals to ensure the successful establishment of any plantings.

Section 30.1 Subdivision and Land Development

- (k) Amend Objective SLDO4 as follows:

To ensure that land which is subdivided is, or can be, appropriately serviced to provide for the likely or anticipated use of the land, ~~and that~~ so as to ensure the health and safety of people and communities, and the maintenance or enhancement of amenity values ~~and the avoidance of reverse sensitivity effects.~~

- (l) Insert new Objective SLDO4A, above Policy SLDP16, as follows:

To ensure that reverse sensitivity effects are avoided where practicable, or mitigated where avoidance is not practicable.

- (m) Amend Policy SLDP16 as follows:

To ensure that, when assessing the subdivision of existing sites, the potential effects of reverse sensitivity effects are considered when assessing the subdivision of existing sites and avoided where practicable or otherwise mitigated.

Explanation

Inappropriately designed or located subdivision has potential to create reverse sensitivity effects, particularly when residential and lifestyle development encroach on ongoing rural production, horticultural or industrial activities and existing public works, network utility and renewable electricity generation sites. Such effects can severely impact on the ability of existing activities to continue their day to day operations. Recognising and preventing reverse sensitivity effects when planning for land use will provide for the continued efficient, affordable, secure and reliable operation and capacity of existing adjoining land uses.

And amend the side note to Policy SLDP16 as follows:

Relates to Objective SLDO4A

Section 33 - Definitions

- (n) Add the following new definition as follows:

Minor upgrading (in relation to existing Network Utilities): means to increase the carrying capacity, efficiency,



safety or security of existing network utilities, where the effects of that utility remain the same or similar in character, scale and intensity as those that existed prior to the commencement of the minor upgrading. This includes an increase in the power-carrying capacity, efficiency or security of any line (such as adding additional circuits, reconductoring with higher capacity conductors, resagging of conductors, fitting longer or more efficient insulators, or the addition of earth wires which may contain telecommunication lines, earth peaks and lightning rods), utilising existing support structures or structures of similar scale and character. A change in voltage will only be included where a line has been constructed to operate at a certain voltage but has been operating at a lesser voltage. It also includes the installation of fibre-optic cables onto existing transmission lines.

