
PROPOSED PLAN CHANGE 26 TO THE MACKENZIE DISTRICT PLAN
JOINT WITNESS STATEMENT OF PLANNING EXPERTS
30 MAY 2024

Attendees: Liz White (consultant planner for Mackenzie District Council) ("LW")
Sue Ruston (consultant planner for Meridian Energy Limited) ("SR")
Richard Matthews (consultant planner for Genesis Energy Limited) ("RM")

1. This Joint Witness Statement ("JWS"):
 - (a) Relates to the provisions of Proposed Plan Change 26 on which submissions were made by Meridian and Genesis; and
 - (b) Reports on the outcome of expert conferencing between the planning experts ("the Planners") identified above.
2. The expert conferencing was held online via Teams on 30 May 2024.
3. The experts involved confirmed that they have all read Appendix 3 of the Environment Court Practice Note and confirmed compliance with it.
4. In particular (and as set out in paragraphs 1(a) and (b) of Appendix 3 of the Environment Court Practice Note):
 - (a) The Planners acknowledge that the JWS is to clearly record the issues agreed and not agreed between them. Succinct reasons are to be captured in the JWS. This will assist all parties and ultimately the decision-maker in focusing on matters that remain in dispute and the significance of them; and
 - (b) Expert conferencing is not a forum in which compromise or a mediated outcome between the experts is anticipated. Unlike mediation, the aim is not resolution. Rather, the aim is clear identification of and narrowing of points of difference.
5. The provisions considered by the Planners are set out in Table 1 below.
6. To assist the Panel, the changes to the REG chapter provisions agreed by all the Planners are set out in **Appendix 1** to this JWS, using **orange underlining** and **orange strikethrough** to indicate the changes agreed.

Table 1

PROVISION	POSITIONS	AGREED CHANGES
REG Chapter Introduction – Narrative	<p>The Planners agree with the additions suggested in SR's evidence.</p> <p>SR and RM would equally support the additional two paragraphs set out in the Meridian and Genesis submissions (and RM's evidence) but accept that this would make the introduction to this chapter different from the approach taken in other chapters. While they think this is acceptable because REG is subject to its own national policy statement, they are comfortable with only SR's addition, because these will give stronger acknowledgement to the matters raised in the submissions.</p> <p>LW does not support inclusion of the additional two paragraphs set out in the Meridian and Genesis submissions as they are not consistent with the drafting used across the introductory sections of the Plan which are more narrowly focussed on providing a summary of what the provisions in the chapter relate to and what they are driven by in an RMA context. However, she supports the changes proposed by SR as they align with and expand on the NPSREG without being overly detailed.</p>	<p>...</p> <p><i>Energy efficiency and the use and development of renewable energy are matters the District Plan must have particular regard to under section 7 of the Act. The District Plan must also give effect to the National Policy Statement for Renewable Electricity Generation 2011 (NPS-REG), which requires <u>recognition of that the national significance of renewable electricity generation and the national, regional, and local benefits of renewable electricity generation activities, such as increasing electricity capacity and security of supply while displacing greenhouse gas emissions, are recognised and provided for in district plans.</u></i></p> <p>...</p> <p><i>The NPS-REG directs that the development, operation, maintenance and upgrading of both new and existing renewable electricity generation activities is provided for, in order to increase the proportion of electricity generated from renewable energy sources, <u>thereby displacing use of non-renewable energy sources and reducing carbon emissions</u>. These activities often have a functional need or operational need to be in a particular location, but can have adverse effects on the environment, particularly in areas which have important natural values or mana whenua values. This chapter provides direction on how renewable electricity generation activities are to be provided for, while <u>appropriately managing the potential adverse effects of these activities</u>.</i></p>
REG Chapter Introduction – Relationship	The Planners agree with altering the way that the relationship with other chapters is set out in the Introduction, to address the concerns raised in SR's evidence. Additional wording is proposed to ensure it is clear that in some cases reference to	<p><u>The provisions in other chapters of this District Plan do not apply to activities managed in this chapter, except where specified within the provisions of this chapter, and as follows:</u></p> <p><u>In addition to the provisions in this chapter, the provisions in Table X also apply to renewable electricity generation activities.</u></p>

with Other Chapters	<p>other provisions in the Plan is made within the provisions in this chapter.</p> <p>The Planners agree with deleting the third column in the table recommended in the s42A report, on the basis that the applicability of future provisions should be considered at the time those provisions are proposed.</p> <p>The Planners agree with amending the wording to be clear that the EIB chapter only applies to REG activities insofar as is already set out in that chapter (i.e. to the activities managed in Rules 2.1.1 and 2.2.1 and related policy framework)</p>	<p><i>Beyond the provisions listed in Table X, no other provisions in this plan apply to renewable electricity generation activities, except where specified within the provisions of this chapter.</i></p> <ul style="list-style-type: none"> — <i>Natural Hazards</i> — <i>Historical Heritage</i> — <i>Notable Trees</i> — <i>Ecosystems and Indigenous Biodiversity, but excluding Policies 2 and 3.</i> — <i>Activities on the Surface of Water</i> — <i>Light</i> — <i>Noise</i> — <i>Signs</i> <p><i>[Note – amendments to table are set out in Appendix 1 and not included here.]</i></p>
Application of Earthworks Chapter	<p>The Planners agree that it is more consistent with the approach taken to the REG Chapter being as standalone as possible, to manage earthworks associated with REG activities, including those associated with new roads and tracks, within the REG provisions.</p> <p>The Planners agree that if the potential effects of earthworks associated with REG activities are managed as part of the REG provisions, it is important to ensure that the REG provisions comprehensively manage such potential affects. The Planners agree that specific management is required in relation to new roads and access tracks for those activities managed under REG-P5 and REG-P6, which are otherwise permitted activities. The preferred drafting approach is to require that these comply with the conditions and standards set out in EW-R4.</p> <p>Where the conditions and standards in EW-R4 are not complied with, the Planners preference is for the activity status to be RDIS (except for non-compliance with the National Grid standard, which would be non-complying), with reference made to the matters of discretion in EW-R4. This is because it ensures that the matters of discretion associated with a breach of any particular standard can be taken into account.</p>	<p>Amend the titles of REG-R5, REG-R6 and REG-R7 to explicitly refer to "<i>Earthworks for Roads and Access Tracks</i>"</p> <p>Add the following permitted activity condition to REG-R5 and REG-R6:</p> <p class="list-item-l1">X. <i>The earthworks associated with any new road or access track comply with the permitted activity conditions and standards in EW-R4.</i></p> <p>Add the following where the new condition is not met:</p> <p><i>Activity status when compliance is not achieved with R5.Y, but EW-S6 is complied with: RDIS</i></p> <p><i>Matters of discretion are restricted to:</i></p> <ol style="list-style-type: none"> 1. <i>The visual effects on landscape values.</i> 2. <i>Where any earthworks are within a SASM, those matters in SASM-MD1 Activities in a SASM.</i> 3. <i>Where compliance with EW-S1, EW-S2, EW-S3 or EW-S4 is not achieved, the matters of discretion set out in the relevant standard.</i> <p><i>Activity status when compliance is not achieved with EW-S6: NC</i></p>

REG-O1	All Planners agree with the reasons for, and addition to, REG-O1, as set out in the evidence of SR.	<i>The output from renewable electricity generation activities in the District for national, regional and local use is maintained or increased to support achievement of the New Zealand Government's national target for renewable electricity generation.</i>
REG-O2	<p>The Planners agree with adding reference to recognising and providing for the national significance of REG activities as part of the management of adverse effects, to better reflect the NPSREG.</p> <p>RM is comfortable that the additional wording sought in his evidence relating to functional and operational needs is not required, as this is already encompassed through recognising and providing for REG.</p> <p>The Planners are comfortable that removing reference to "appropriately" is still consistent with the policy and rule framework, which manages REG activities differently depending on their nature, scale and location. This is because they agree that how the overall outcome is achieved – of managing adverse effects – will necessarily need to be different depending on the adverse effects of any particular activity (which is dependent on the nature, scale and location of the REG activity). At an outcome level, it is not otherwise clear what "appropriate" management might be.</p>	<i>The adverse effects of renewable electricity generation activities are appropriately managed in a way that recognises and provides for the national significance of renewable electricity generation activities.</i>
New Policy	<p>The Planners agree that it is good planning practise to provide a policy leading to a permitted activity status.</p> <p>The Planners agree that there is a gap in the policy framework whereby REG-R1 and REG-R2 are not clearly supported by a policy (REG-P2 and REG-P3 relate instead to controls contained in REG-R3 and REG-R4). LW notes that there is a reference to "use" in REG-P2, but accepts that this is not clearly aligned with the terms "operation, maintenance and upgrade" which are referred to in REG-R1 and REG-R2. SR also notes that the reference to land owned at 1 October 2011 (in REG-P2) is more limited than what REG-R1 and REG-R2 cover. The Planners therefore agree with providing an additional policy to directly support REG-R1 and REG-R2.</p>	<i>REG-PX Opuha Scheme and the Waitaki Power Scheme</i> <i>Despite REG-P2 and REG-P3 enable the operation, maintenance and upgrade of the Opuha Scheme and the Waitaki Power Scheme within its existing footprint and core sites.</i>

	<p>The Planners also agree it is necessary to ensure that the relationship between any new policy and REG-P2 and REG-P3 is clear.</p> <p>The Planners agree that SR's suggested drafting would appropriately address the gap and is clear with respect to how it relates to REG-P2 and REG-P3.</p>	
REG-P4	<p>In response to questions from the Panel, the policy has been amended to make it clear that it applies to both investigation and identification of REG sources as well as to enabling small-scale REG activities.</p> <p>LW accepts that there are difficulties with referring to values not being compromised as this could place a "bottom line" requirement on such activities.</p> <p>The Planners agree that the direction should be limited to managing adverse effects, as the management of such effects will necessarily need to take into account the values of the surrounding environment and the rule framework reflects this, by targeting management according to the nature, scale and location of the activity.</p>	<p><i>Enable:</i></p> <p><i>1. investigation and identification of renewable electricity generation sources; and</i></p> <p><i>2. small-scale renewable electricity generation activities</i></p> <p><i>while managing adverse effects on the environment relative to the sensitivity where they do not compromise the values of the area in which they are located</i></p>
REG-P5	<p>The Planners agree with referencing REG-P2 and the new policy in REG-P5 to ensure the relationship between these is clear.</p> <p>The Planners accept that retaining the direction to "Provide for" is consistent with the drafting style used in the Plan, whereby it is implemented through a restricted discretionary activity rule (whereas 'enable' is used alongside permitted activities). For the avoidance of doubt, the Planners agree that a direction to enable would still be consistent with the NPSREG, because an activity can be provided for by enabling it; however for the reason given above, accept that it is appropriate that this policy uses 'Provide for'.</p>	<p><i>Provide for renewable electricity generation (not otherwise specified in REG-P2, REG-P3, REG-PX, REG-P4 or REG-P6), while managing adverse effects by:</i></p> <p>...</p>
REG-P6	<p>The Planners agree, for the reasons set out in RM's evidence, that it is appropriate to amend clause 4 to refer to 'significant' residual adverse effects.</p>	<p><i>Provide for renewable electricity generation activities (not otherwise specified in REG-P3 and REG-P4) within areas of significant indigenous vegetation and significant habitats of indigenous fauna, Outstanding Natural Landscapes, Outstanding</i></p>

<p>The Planners also agree with amending the wording at the end of the policy to clarify its relationship with REG-P2, in accordance with the drafting set out in RM's evidence. SR agrees that this means that reference to REG-P2 is no longer needed in the stem of the policy.</p>	<p><i>Natural Features, Sites and Areas of Significance to Māori, riparian areas, or within area of Highly Productive Land, where:</i></p> <ol style="list-style-type: none"> 1. <i>there is a functional need or operational need for the activity to be in that location;</i> 2. <i>adverse effects on the values of the area are avoided as far as practicable, including through site, route or method selection, design measures and other management methods;</i> 3. <i>adverse effects on the values of the area that cannot be avoided are remedied or mitigated, where practicable;</i> <i>X. other adverse effects (that do not affect the values of the area) are avoided, remedied or mitigated as far as practicable;</i> 4. <i>regard is had to any proposed offsetting measures or environmental compensation, where there are significant residual adverse effects that cannot be avoided, remedied or mitigated; and</i> <i>X. particular regard is had to the practical constraints associated with renewable electricity generation activities, including the:</i> <ol style="list-style-type: none"> a. <i>location and efficient use of existing electricity generation, transmission and distribution infrastructure; and</i> b. <i>the need to locate the renewable electricity generation activity where the renewable energy resource is located.</i> 5. <i>following application of 1. – 4. above, there are no significant adverse effects remaining.</i> <p><i>except that where REG-P2 applies, the direction in REG-P6 does not apply in relation to effects on the outstanding natural landscape and features of Te Manahuna / the Mackenzie Basin.</i></p> <p><i>The direction in REG-P6 does not apply in relation to managing adverse effects on the outstanding natural landscape and</i></p>
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		<p><i>features of Te Manahuna / the Mackenzie Basin where REG-P2 applies.</i></p>
Managing effects on Indigenous Vegetation Clearance (Rule 1.2.5 in the EIB Chapter, REG-R5 and REG-R6)	<p>The Planners acknowledge that the NPS-IB does not apply to the development, operation, maintenance or upgrade of renewable electricity generation assets. However, the Planners agree that it is appropriate for adverse effects of indigenous vegetation clearance associated with REG activities to be managed along with other adverse effects of these activities.</p> <p>Beyond the activities managed by Rules 2.1.1 and 2.2.1 of Section 19, the Planners agree that it is appropriate to manage any indigenous vegetation clearance associated with REG activities within the REG Chapter.</p> <p>The Planners therefore agree with deleting Rule 1.2.5 from the EIB Chapter.</p> <p>The Planners also agree that the rules within the REG Chapter require subsequent amendment to ensure they appropriately manage effects on indigenous biodiversity. The Planners agree that the most appropriate way to do this is through:</p> <ol style="list-style-type: none"> 1. Addition of a new clause in each part of REG-R5 and REG-R6, which requires that for investigation activities and small-scale REG activities to be permitted activities, they must be located outside areas of significant indigenous vegetation and significant habitats of indigenous fauna; and 2. The inclusion of specific matters of discretion to be considered where this is breached. <p>With respect to 1. above, the Planners agreed that while Rule 1.2.5 would have applied to any indigenous vegetation clearance, that it is appropriate for the condition in these rules to apply only to <i>significant</i> areas. This is because the nature and scale of the REG-R5 and REG-R6 activities are limited, and therefore potential effects on other (non-significant) indigenous biodiversity is likely to be minimal. As such, it is not expected to compromise the Council's obligations under s31(1)(b)(iii) in terms of the overall maintenance of indigenous biodiversity. In having regard to the benefits of</p>	<p>Delete Rule 1.2.5.</p> <p>Amend the titles of REG-R5, REG-R6 and REG-R7 to explicitly refer to the "<i>Associated Clearance of Indigenous Vegetation</i>"</p> <p>Add the following permitted activity condition to REG-R5 and REG-R6:</p> <p class="list-item-l1"><i>X. The activity is outside areas of significant indigenous vegetation and significant habitats of indigenous fauna.</i></p> <p>Apply a RDIS activity status where this condition is not met, and apply the following new matters of discretion:</p> <p><i>REG-MD5 Significant Vegetation and Habitats</i></p> <p class="list-item-l1"><i>a. Whether there is a locational, functional, or operational need for the location of the activity.</i></p> <p class="list-item-l1"><i>b. The extent to which adverse effects on significant indigenous vegetation have been avoided, remedied, or mitigated; and where residual adverse effects on significant indigenous vegetation remain, any proposed offsetting or environmental compensation.</i></p>

	<p>REG activities, and the anticipated scale of effects, the approach is therefore considered to be efficient.</p> <p>With respect to 2. above, the Planners have considered the matters set out in Rule 1.2.5 and recommend that the intent of these is retained, but with the drafting rationalised, as several of these matters overlapped, and they can be reduced down. In particular, explicit reference to the NPS-IB principles has been removed, on the basis that these do not apply to REG activities – however consideration of any proposed offsetting or environmental compensation has been retained.</p> <p>With respect to REG-R7, no changes are considered necessary, as other REG activities within significant areas are already fully discretionary. Where a REG activity is proposed outside a significant area, the matters of discretion applying under REG-R7 (REG-MD4) already allow for the consideration of measures to avoid, remedy or mitigate adverse effects on indigenous biodiversity, and consider any proposed offsetting or compensation measures to manage significant residual adverse effects.</p>	
Timeframe in REG-R5	<p>The Planners agree, based on the evidence provided by Mr Feierabend, that it is appropriate to retain the notified timeframe in REG-R5 of 60 months</p>	<p>Amend REG-R5.1 and REG-R5.3 as follows:</p> <p><i>The investigation, identification or assessment activity is located on site for no more than 60 <u>36</u> months.</i></p>
REG-MD4	<p>The Planners agree, for the reasons set out in RM's evidence, that it is appropriate to amend matter b. to refer to 'significant' residual adverse effects.</p> <p>As explained at the hearing, RM no longer considers that functional needs should be deleted, provided that c. is amended, as recommended, to refer to the need to locate REG activities where the resource is available.</p>	<p>Amend REG-MD4 b. as follows:</p> <p><i>The effectiveness of any proposed offsetting or compensation measures to manage any significant residual adverse effects that cannot be avoided, remedied or mitigated.</i></p>
Energy Storage Facilities	<p>The Planners agree that this type of facility is likely to be best managed in the same way as other infrastructure. However, amending the definition of 'infrastructure' is outside the scope of PC26, and any changes to the definition would</p>	<p>No changes.</p>

	<p>affect other chapters in the Plan that are not in scope of these plan changes (e.g. Strategic Directions).</p> <p>While it is within the scope of PC26 to amend the INF chapter so that it also applies to energy storage facilities, this would not apply to other chapters, including ATC-03. Therefore, the Planners consider it more appropriate for Council to consider this matter through Stage 4.</p>	
Introduction to Other Chapters	<p>The Planners agree that it is not necessary to include a statement in the Introductions to other chapters regarding the provisions not applying to REG activities. This position is based on adoption of the changes recommended to the Introduction of the REG Chapter itself to make it explicitly clear what other provisions apply.</p>	No changes.

SIGNED ON XXX JUNE 2024



Liz White (Mackenzie District Council)



Sue Ruston (Meridian Energy Limited)



Richard Matthews (Genesis Energy Limited)