

**Before the Independent Hearings Panel
At Wellington City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing submissions and further submissions on the
Proposed Wellington City District Plan – Hearing Stream 9

**Statement of supplementary planning evidence of Joe Jeffries on behalf of
Wellington City Council**

Date: 4 June 2024

INTRODUCTION

1 My full name is Joe Jeffries. I am employed as a Principal Planning Advisor in the District Plan Team at Council.

2 I have read the statement of evidence of Christine Foster (Planning) provided on behalf of Meridian.

3 I have prepared this statement of supplementary evidence in response to specific points raised in the evidence of Christine Foster on the Renewable Electricity Generation (REG) chapter.

4 As set out in her statement of evidence, Ms Foster supports a number of the recommendations contained in my section 42A report. Most notably Ms Foster supports my recommended amendments to introduce a new policy REG-PX and to amend REG-P10.

5 There are only a few areas where Ms Foster holds a different view to my section 42A recommendations. These are:

- The definition of 'Wind farm'
- REG-P7
- REG-P8
- REG-R5
- REG-R6
- REG-S8
- REG-S11

6 In this statement of supplementary evidence I address Ms Foster's evidence on the provisions mentioned above and recommend further amendments to the definition of 'wind farm', REG-S8 (and a related consequential change to REG-R4), and REG-S11 in response.

7 I recommend retaining my s42A recommendations on REG-P7, REG-P8, REG-R5, and REG-R6.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 8 The REG chapter section 42A report sets out my qualifications and experience as an expert in planning.
- 9 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

RESPONSE TO EXPERT EVIDENCE

Wind farm Definition

- 10 In my section 42a report I recommended amending the wind farm definition as follows:

Wind farm	means wind turbines (and support pylons or towers) used to generate electricity from the wind which is then conveyed to <u>by</u> the distribution network or National Grid. It includes ancillary access roads and tracks, buildings and structures (including substations, <u>transmission lines and poles/supporting structures</u>), communications equipment, electricity storage technologies, and the system of electricity conveyance required to convey the electricity to an associated substation.
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- 11 The first amendment (~~to~~ by) above was in response to the submission of Wellington Electricity Lines Limited (WELL). The second amendment was in response to the Meridian submission and is supported by Ms Foster.
- 12 In her statement of evidence Ms Foster opposes the ~~to~~ by amendment for the following reason:

I do not support the amendment requested by WELL to change 'conveyed to' the distribution network or National Grid to 'conveyed by' the distribution network or National Grid. The word 'to' has a specific purpose in the context of Meridian's wind farms. That is, that the conveyance to the distribution network (e.g. the National Grid) is not always

undertaken by a separate network provider or Transpower. The function of transmission of electricity by the distribution network or National Grid is addressed by other definitions and other provisions. The amendment proposed appears minor but actually cuts across the original intention of this definition.

13 I agree with this comment from Ms Foster and support returning this specific wording to the notified version. I had not appreciated that the WELL amendment materially alters the definition. On a closer read I agree that the definition should refer to electricity that is “conveyed to the distribution network or National Grid” as that network may sit outside of the windfarm.

14 I therefore recommend that the wind farm definition is amended as follows as set out in Appendix 1:

Wind farm	means wind turbines (and support pylons or towers) used to generate electricity from the wind which is then conveyed <u>to</u> the distribution network or National Grid. It includes ancillary access roads and tracks, buildings and structures (including substations, <u>transmission lines and poles/supporting structures</u>), communications equipment, electricity storage technologies, and the system of electricity conveyance required to convey the electricity to an associated substation.
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REG-P8 – Upgrading existing large scale REG

15 In my section 42a report I recommended deletion of REG-P8 which provided the policy for upgrading existing large scale REG activities.

16 I note that there was a minor error in my s42A report at paragraph 168 in respect of this recommendation. This paragraph set out recommendation HS9-REG-Rec29 “That REG-P8 is amended to merge the content of REG-P11 as set out in Appendix A”. This was slightly inaccurate and was meant to state a recommendation that “REG-P8 is *deleted* as set out in Appendix A”. I note that the text above this in

paragraph 164 of the s42a report, and my recommended amendments to provisions in Appendix A of the s42A report accurately made my recommendation to delete REG-P8 as intended. However, I apologise for any confusion raised by the error in paragraph 164 of the s42A report.

17 The statement of evidence of Ms Foster states:

Mr Jeffries' proposed rationalisation deletes Policy REG-P8 in favour of the less directive REG-P11. That is not the outcome requested in Meridian's submission. I agree there is duplication between REG-P8 and REG-P11. My view is that the two policies could be successfully combined but that the 'provide for' element should be retained in a bespoke policy addressing upgrading. It was a positive feature of the draft PDP and the publicly notified PDP that upgrading of REG is provided for by the rule framework separately from new REG activities and has a bespoke policy framework supporting upgrading. There is no evidence supporting alteration of that approach.

18 For clarity, I did not intend to delete REG-P8 "in favour of the less directive REG-P11". Rather I intended to apply an amended REG-P9 and REG-PX in place of REG-P8. This would provide equally directive policy for consideration of upgrading existing large scale REG activities outside of identified overlay areas through an amended version of REG-P9.

19 In my view REG-P8 as notified provided insufficient recognition and protection of natural environment and coastal environment values given that it applies both within and outside of specified overlay areas (an issue raised by the Forest and Bird submission). In my view it also unnecessarily duplicated the policy direction of REG-P9, and overlapped with policy REG-P11 (an issue raised by the submissions of Meridian and M&P Makara Family Trust).

- 20 My solution to all of these issues, set out in the s42a report, was to delete REG-P8 and to adjust REG-P9 (large scale REG activities outside overlays) and the new REG-PX (large scale REG activities within overlays) so that they both also address *upgrading* existing large scale REG activities.
- 21 In my view there is no clear reason to have a separate policy for *upgrading existing* large scale REG activities in addition to the policies for *new* large scale REG activities. The matter of upgrading can be addressed by the policies for large scale REG activities (REG-P9 and the new REG-PX) while still maintaining a separation between *upgrading* and *new* large scale REG activities at a rule level through REG-R5 and REG-R6 (a rule structure supported by Meridian).
- 22 I note that the notified versions of both REG-P8 (upgrading existing large scale REG) and REG-P9 (new large scale REG) have near identical wording and both have 'provide for' policy wording. My amendments to delete REG-P8 and for REG-P9 to instead apply to all large scale REG activities outside of identified overlay areas, including upgrading, did not fundamentally alter the policy direction applying to upgrading existing REG outside of identified overlay areas.
- 23 The table below summarises the approach of this bundle of policies related to large scale REG activities as notified and as recommended in the s42a report.

	Notified version	S42A version
REG-P8	'Provides for' <i>upgrading of existing</i> large scale REG activities. Has near identical wording to REG-P9. Does not adequately provide	REG-P8 deleted. REG-P9 and REG-PX apply instead.

	for protection of natural environment and coastal environment values.	
REG-P9	'Provides for' <i>new</i> large scale REG activities.	'Provides for' all large scale REG activities, both <i>new</i> and <i>upgrading existing, outside of identified overlay areas</i> .
REG-PX	n/a	New policy introduced to address large scale REG activities (upgrading existing and new) in the General Rural Zone <i>within identified overlay areas</i> . Provides specific policy direction for protection of natural environment and coastal environment values.
REG-P11	Recognises benefits of upgrading existing REG activities.	Unchanged from notified. Recognises benefits of upgrading existing REG activities.

- 24 The bundle of amendments I recommended in the s42A report to delete REG-P8 and adjust REG-P9 and REG-PX to provide for all large scale REG including *upgrading* existing large scale REG activities achieves the following:
- 24.1 Addresses the Forest and Bird submission point that REG-P8 as notified provides insufficient recognition and protection of natural environment and coastal environment values.
 - 24.2 Reduces duplication between REG-P8 and REG-P9 which provided near identical policy direction for *new* large scale REG activities, and *upgrading existing* large scale REG activities outside of identified overlay areas respectively.
 - 24.3 Does not alter the policy approach for *upgrading existing* large scale REG activities outside of identified overlays - it still has 'provide for' wording and enables similar considerations.
 - 24.4 Retains the Restricted Discretionary pathway for *upgrading existing* large scale REG activities through REG-R5. By contrast *new* large scale REG activities are a Discretionary activity under REG-R6.
 - 24.5 Addresses the overlap between REG-P8 and REG-P11, while still retaining the policy direction of REG-P11 to *recognise the benefits* of upgrading existing REG activities. While the notified versions of REG-P8 and REG-P11 perform distinct functions, in my view the s42a version makes the relationship between REG-P11 and the other policies clearer.
- 25 Though there may be no currently *existing* wind turbines in identified overlay areas such as SNAs, wind turbines could be established in the future in these areas as a discretionary activity under the s42a version

of REG-R6. Therefore, the plan needs to provide a pathway for consideration of upgrading existing REG activities in identified overlay areas in the future, and this pathway needs to allow appropriate consideration of natural environment and coastal environment values. This is achieved by the s42a version of policy REG-PX.

26 I note that Ms Foster’s recommended amendments to REG-P8 in her statement of evidence differ from the amendments sought by the Meridian submission, in that she recommends deletion of clause 1 of the notified version of REG-P8 which requires avoidance of significant adverse effects on the identified values of overlays. This specific recommendation appears to be outside the scope of submissions.

27 Accordingly, I recommend retaining the approach to REG-P8, REG-P9, REG-PX, and REG-P11 as set out in my s42A report. This includes deletion of REG-P8 and amending REG-P9 and REG-PX to provide for all large scale REG including *upgrading* existing large scale REG activities.

REG-P7

28 The Meridian submission sought amendment of the “only allow” policy wording in REG-P7 to “provide for”. I rejected this requested amendment in my s42a report¹.

29 In her statement of evidence Ms Foster supports Meridian’s submission point seeking amendment of the “only allow” wording in REG-P7 to “provide for”.

30 Ms Foster notes her view that that the language ‘provide for’ aligns with and better gives effect to the NPS-REG, and considers that the direction of a relevant NPS should not be constrained by a ‘style guide’.

¹ Para 143 – 144 [section-42a-report---renewable-electricity-generation.pdf \(wellington.govt.nz\)](#)

31 I agree that an NPS should not be constrained by a 'style guide' but disagree that this was the basis for my rejection of Meridian's requested relief. My position set out in the s42a report is that:

31.1 the combination of the "provide for" wording in REG-P6 for community scale REG activities in areas unconstrained by specific overlays, and the "only allow ..where" wording in REG-P7 within specific overlays and in other zones gives effect to Policy F of the NPS-REG.

31.2 the "provide for" wording in REG-P6 deliberately provides a contrast to the "only allow ..where" wording in REG-P7. This wording is consistent with the policy wording approach used for discretionary activities across the PDP as set out in the Wellington City District Plan Drafting Style Guide and already determined to date.

32 The second point above is not a claim that the style guide should constrain the NPS. Rather it is a secondary consideration. The primary consideration is that REG-P6 and REG-P7 together give effect to the NPS-REG, which I am satisfied is the case, particularly as the requirement in Policy F of the NPS-REG to "provide for" community scale REG is not a requirement to *provide for* this in an unconstrained manner in all locations. With this established, I consider that the "only allow ..where" wording in REG-P7 provides a useful contrast to the "provide for" wording in REG-P6 and is consistent with the policy wording approach adopted across the PDP. I therefore recommend retaining the s42a version of REG-P7.

REG-R5

33 REG-R5 provides the rule for upgrading existing large scale REG activities as a restricted discretionary or discretionary activity.

34 Meridian's submission sought the retention of Rule REG-R5 but requested deletion of the requirement to comply with the noise standards REG-S9 and REG-S10.

35 In her statement of evidence Ms Foster notes that:

The point raised by Meridian's submission relates to plan administrative efficiency rather than any resistance to the requirements of NZS6808 referred to in standards REG-S9 and REG-S10. Ultimately, the question of plan efficiency is a matter for the Council and I do not propose to pursue the requested deletion of the references to standards REG-S9 and REG-S10.

36 Ms Foster also notes that REG-R5 requires consent as a restricted discretionary activity (where standards are met) or as a discretionary activity (where standards are not met), and noise effects are included in the matters of discretion including through reference to the relevant policies.

37 I do not agree that the generic references to noise in the matters of discretion and in relevant policies referenced in REG-R5 are sufficient to replace the detailed requirements set out in REG-S9 and REG-S10. In my view these generic references to noise do not provide clear enough guidance on the specific noise levels to be achieved to inform a resource consent assessment. I also note that the policies of the REG chapter were not intended to be used for this purpose without the supporting detail contained in REG-S9 and REG-S10.

38 While I acknowledge that there is a degree of duplication between REG-R5, REG-S9, REG-S10 and NZS6808:2010 I do not consider that the cost in terms of plan administrative efficiency is notable or significant. Although there is some duplication this has little down-side and adds value in clarification and in ensuring a comprehensive approach to managing noise effects.

39 I therefore recommend retaining the s42a version of REG-R5.

REG-R6

40 In her statement of evidence Ms Foster recommends amending REG-R6 to remove the requirement to comply with NZS 6808:2010, REG-S9, and REG-S10. Ms Foster also recommends deleting the non-complying activity status for activities that do not comply with these standards referenced in REG-R6.1.a. According to Ms Foster:

The requirements of the standards are already addressed by NZS6808 and can be addressed in full in the assessment of an application for discretionary activity consent under Rule REG-R6. There is no justification for assigning non-complying activity status only to allow consideration of noise effects. These are already able to be considered in full through an application for discretionary activity consent.

41 I disagree with Ms Foster on this point. With the amendments to REG-R6 proposed by Ms Foster there would be no means of requiring compliance with NZS 6808:2010 for new large scale REG activities through the District Plan. To the extent to which NZS 6808:2010 is required to be complied with outside of the District Plan through means such as industry standards, this is not enforceable by council and is not a relevant consideration for the District Plan.

42 With Ms Foster's recommended amendments noise effects could only be taken into account for a Discretionary assessment of large scale REG activities through generic references to noise in the REG chapter policies. In my view this does not provide clear enough guidance on the specific noise levels to be achieved to inform a resource consent assessment. I also note that the policies of the REG chapter were not intended to be used for this purpose without the supporting detail contained in REG-R6, REG-S9 and REG-S10.

43 In my view a non-complying activity status is appropriate for large scale REG activities that do not comply with REG-R6.1, and the effects of activities that do not comply with these standards are likely to be of a significance that justifies an onerous consenting pathway.

44 I also note that the amendments to REG-R6 recommended by Ms Foster in her statement of evidence go further than the Meridian submission in that they include deletion of reference to NZS 6808:2010 from REG-R6.1. As set out above, I am opposed to this amendment substantively, as it removes any ability to require compliance with NZS 6808:2010 through the District Plan, but I also consider that this amendment is outside the scope of submissions.

45 I therefore recommend retaining the version of REG-R6 set out in Appendix A of my s42a report without any further changes.

REG-S8

46 Standard REG-S8 places a limit on the cumulative area occupied by community scale freestanding solar panels of 150 square metres for restricted discretionary activities under REG-R4.1.

47 In my s42a report I rejected Meridian's request to increase the standard in REG-S8 from 150 to 1500 square metres for freestanding solar panels, on the basis that:

While it may be appropriate to provide for community scale solar panels over a cumulative area greater than 150m² per site this is able to be assessed as a Discretionary activity under REG-R4, with the assessment criteria of REG-S8 providing guidance for that assessment.

48 In her statement of evidence Ms Foster states that:

I am not able to point to any evidence or guidelines to assist determining what is a 'reasonable' area limit in a rural zone. I note Mr Jeffries' point that any larger area can be considered

as a discretionary activity, with the 150 square metres providing a baseline for comparison. Even in that sense, 150 square metres seems small, but I accept that 1,500 square metres may be too large. Something somewhere in between may be appropriate.

49 Like Ms Foster, I am also unaware of any evidence or guidelines to assist determining what is a 'reasonable' area limit in a rural zone, and I agree that 150 square metres seems small for this purpose, even though non-compliance with this standard is able to be assessed as a Discretionary activity.

50 I note that even though REG-S8 is only explicitly referenced in relation to the General Rural, Industrial, and Airport Zones through the Restricted Discretionary rule REG-R4.1.a, the standard could still be used to inform a Discretionary resource consent assessment under REG-R4.4 (s42a version) in all other zones including residential.

51 The issue is that there is no means to guide a reasonable area limit for solar panels that is relevant in all contexts or zones, and any specific area specified will be somewhat arbitrary. However, in my view it is not strictly necessary to specify a size standard for solar panels, provided that the scale of a solar panel is able to be considered through a Restricted Discretionary or Discretionary assessment under REG-R4.

52 The submission of WCC ERG sought deletion of the size limitation on solar panels from standard REG-S8. In my s42a report I rejected this submission as I disagreed with the reasoning provided by the submitter. However, in light of the evidence of Ms Foster and the discussion above I would like to reconsider this position.

53 As stated above I do not consider it necessary to specify a size standard for solar panels, provided that the scale of a solar panel is able to be considered through a Restricted Discretionary or Discretionary assessment under REG-R4.

54 I therefore recommend deleting the size limitation on solar panels from standard REG-S8 in accordance with the WCC ERG submission. Consequential to this amendment, I also recommend amending the matters of discretion under REG-R4.1 to insert reference to “The scale, form and location of the panel” and “Landscape, streetscape, visual and amenity effects and the extent to which any effects can be mitigated including by alternative siting, design, colour, finish, or number of panels and any ancillary buildings or structures”. These recommended amendments are set out in Appendix 1.

REG-S11

55 In my section 42a report I recommended amending REG-S11 to require a wind turbine to not exceed the existing height by more than 5% rather than 10% as notified. My reason for making this recommendation was that I agreed with the submitter, M&P Makara Family Trust, that a 10% increase in height could significantly alter the effects of a wind turbine, that would have been granted resource consent predicated on specific visual amenity and noise assessments related to the scale of the original proposal.

56 Ms Foster has provided evidence supporting a return to a requirement to not exceed the existing height by more than 10%, though she notes that compliance with the standards of REG-S11 would likely not be achievable for upgrades and consent as a discretionary activity would likely be required in any event.

57 Having considered Ms Foster’s evidence and having undertaken a site visit of Meridian’s *West Wind* wind farm, I would like to reconsider the recommendation set out in my s42a report.

58 The site visit to West Wind gave me a greater appreciation of the visual scale of the wind turbines and of the operational necessity to replace the turbines at semi-regular intervals, likely with turbines of greater

height due to technology changes and efficiency of generation and maintenance.

59 Though a 10% increase in height may be a significant increase in height on its own, in my view this increase would likely be of limited perceptibility within the large scale of the existing turbines, and the distance at which they are likely to be viewed by the public.

60 I note that the activity status for upgrading activities that comply with REG-S11 is Restricted Discretionary under REG-R5. I agree with Ms Foster that this is a “fairly cautious approach”, particularly as the matters of discretion and the references to relevant policies enable consideration of adverse landscape, visual, amenity and noise effects. I take Ms Foster’s point that most upgrading activities are likely to exceed both a 5% or 10% standard and therefore will be assessed as discretionary activity. However, for the reasons stated above I consider it appropriate to provide a more lenient restricted discretionary consent pathway for upgrades that exceed existing height by up to 10%.

61 I therefore recommend returning the standard under REG-S11 to 10%, as notified, and as set out in Appendix 1.

Conclusion

62 In my view the recommended amendments as set out above and in Appendix 1 are more efficient and effective than the notified provisions in achieving the objectives of the Plan.

Date: 4 June 2024

Name: Joe Jeffries

Position: Principal Planning Advisor

Wellington City Council

Appendix 1: Tracked Changes to the REG Chapter