

**NOTICE IS HEREBY GIVEN THAT THE MONTHLY MEETING OF THE REGULATORY AND PLANNING COMMITTEE, WILL BE HELD IN THE COUNCIL CHAMBERS, 29 CIVIC AVENUE, GORE, ON TUESDAY 12 AUGUST 2008, FOLLOWING THE OPERATIONS COMMITTEE MEETING**

**Stephen Parry  
CHIEF EXECUTIVE**

**6 August 2008**

## ***A G E N D A***

1. Kaiwera Downs Wind Farm  
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2. Regulatory Bulletin  
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## REGULATORY AND PLANNING COMMITTEE AGENDA

AUGUST 2008

### 1. KAIWERA DOWNS WIND FARM

(Memo from Planning Consultant – 31.07.08)

Two appeals have been lodged to the decision granting consent to the Kaiwera Downs Wind Farm. The Resource Management Act 1991 requires that Council prepare a formal Reply to the appeals. That has been done. A copy of the appeals and associated reply is attached.

#### Appeal by TrustPower Limited

TrustPower has lodged an appeal in relation to three of the conditions of consent as follows:

24. The consent holder shall ensure that the extent of any shadow flicker caused by the wind turbines does not extend beyond the boundaries of those properties which are a part of the turbine envelope. The consent holder shall submit a report to the Chief Executive Officer, Gore District Council, within twelve months following the completion of construction of each stage of the project that demonstrates compliance with this condition.

In relation to Condition 24, the issue is whether shadow flicker should be assessed at any point beyond the boundaries of the properties on which the wind farm is located (as set out in the decision) or at any dwellings existing at the date of resource consent approval as preferred by TrustPower.

In replying to this matter the Council's formal position is that the evidence of one of TrustPower's witnesses at the hearing was that flicker effects will only occur within 900 metres of the location of any turbine. That satisfied that the Hearing Panel that such a condition was appropriate and that the Applicant will be able to comply with it.

74. The consent holder shall notify its intention to establish a Consultative Group for the Kaiwera Downs Wind Farm project by public notice. As a minimum, the consent holder shall invite the following to participate in the Consultative Group:
  - (i) A representative of property owners and occupiers on local roads identified for use by construction traffic as nominated by the Chief Executive Officer of the Gore District Council. (1 representative)
  - (ii) The operator of the school-bus routes in the area (1 representative)
  - (iii) An Elected Representative of the Gore District Council and one person appointed by the Chief Executive Officer of the Gore District Council (2 representatives)

- (iv) Southland District Council or relevant Community Board (1 representative)
- (v) The Southland Conservator or delegate of the Department of Conservation. (1 representative)
- (vi) Iwi representatives (1 representative)
- (vii) Local residents (3 representatives).

No owner or occupier of any property on which the wind farm is located may a member of the group. The consent holder shall not be in breach of this condition if any one or more of the above parties specified above do not wish to be members of the group or to attend any particular meeting.

In relation to Condition 74, the issue is whether an owner or occupier of property on which the wind farm is located should be a member of the Consultative Group.

In the formal reply it has been noted that such representation is not required because owners directly affected already have a communication channel to TrustPower. The purpose of the Consultative Group is to provide a mechanism for issues of concern to be raised that cannot be achieved by other means.

78. Prior to the granting of building consents relating to this consent for any stage of the project, the consent holder shall pay to the Gore District Council a commercial and industrial development contribution assessed at 0.2% plus GST of the value of the development for that stage of the project.

TrustPower has queried the validity of the District Plan provision that enables a financial contribution of up to 0.5% of the value of an industrial or commercial development to be paid to Council. In addition to this legal issue TrustPower states that the payment of the amount sought is unreasonable.

In the formal reply Council has stated that the District Plan provisions are valid and that the time for seeking a declaration as to the validity of the provisions has now passed. The reply also states the amount sought is reasonable having regard to the effects of the development.

#### Appeal by Upland Protection Society Inc.

This appeal opposes the granting of the consent in its totality and also raises the following concerns:

- (i) The use of the “development envelop” approach adopted in the application lodged, and the ability to assess the environmental effects of the proposal in that context, with particular reference to landscape, ecology and heritage values.
- (ii) The adequacy of the visual simulations submitted by the Applicant as part of the application lodged and in

evidence given at the hearing by the Applicant's expert witness, Frank Boffa.

- (iii) The noise effects of the wind farm during construction and in operation.
- (iv) The suitability of the site taking into account wind monitoring data collected by the Applicant.
- (v) The carbon footprint savings of the proposal.
- (vi) The efficiency of wind generation as a power source.

The Reply comments that the Hearing Panel was satisfied that it had sufficient information and assessment of effects to enable a decision to be made and for conditions to be imposed on the consent.

It is also considered that several of the issues raised in the Appeal go beyond what was dealt with in the original submission from the Society, and that a number of actions it wants the Court to take in response to the concerns are not legally obtainable. Given that no technical expert evidence was submitted by the Society at the hearing Council has asked the Court to determine the scope of issues that can be raised in any substantive hearing. It has also requested that the Society outline the issues on which it will call technical expert evidence, so that those issues can be better defined.

#### Where To From Here

These matters are now before the Courts. For that reason, it is not appropriate for them to be discussed by Council. This report is being presented for information purposes.

All of the parties involved have expressed a desire to enter into mediation. Council will be pursuing that option in order to resolve the appeals.

#### **RECOMMENDATION**

**THAT the report be noted.**

## 2. REGULATORY BULLETIN

(Memo from Chief Executive – 04.08.08)

Attached is a schedule of building consents issued for July 2008, together with comparisons with the previous two years.

A schedule of resource consents issued to 3 August is also attached.

### **RECOMMENDATION**

**THAT the information be received.**