

**IN THE ENVIRONMENT COURT  
AT WELLINGTON**

**I TE KŌTI TAIAO O AOTEAROA  
KI TE WHANGANUI-A-TARA**

**Decision No. [2024] NZEnvC 003**

IN THE MATTER

of an originating application for waivers and directions under ss 281 and 291 of the Resource Management Act 1991 in relation to a proposed direct referral under s 87G(2) for resource consents to construct, operate and maintain a windfarm on Mt Munro, Eketāhuna

BETWEEN

MERIDIAN ENERGY LIMITED

(ENV-2024-WLG-001)

Applicant

AND

TARARUA DISTRICT COUNCIL,  
MASTERTON DISTRICT COUNCIL,  
MANAWATŪ-WHANGANUI  
REGIONAL COUNCIL AND  
WELLINGTON REGIONAL  
COUNCIL

Consent Authorities

Court: Environment Judge L J Semple sitting alone under s 279 of  
the Act

Hearing: In Chambers at Wellington

Last case event: 22 December 2023

Date of Decision: 25 January 2024

Date of Issue: 25 January 2024



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**DECISION ON *EX PARTE* NOTICE OF MOTION BY MERIDIAN  
ENERGY LIMITED FOR WAIVERS AND DIRECTIONS**

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RE MERIDIAN ENERGY LTD

A: Waivers and directions granted on an anticipatory basis as set out in paragraph [11].

## REASONS

[1] Meridian Energy Ltd (Meridian) lodged applications with the Tararua District Council, Masterton District Council, Manawatū-Whanganui Regional Council and Wellington Regional Council (the Councils) on 22 May 2023, seeking consents to construct, operate and maintain a wind farm on Mt Munro, south of Eketāhuna (the application).

[2] On 1 November 2023, the Councils granted Meridian's request for the application to be directly referred to the Environment Court rather than being heard and determined by the Councils.

[3] The Court does not yet have an extant proceeding in relation to this matter, however, in anticipation of the matter being directly referred to the Environment Court, Meridian has filed an *ex parte* notice of motion dated 22 December 2023 seeking anticipatory waivers and directions with the stated aim of “simplify[ing] the process of filing and serving section 274 notices” and “facilitat[ing] electronic case management of the application”.

[4] In support of the notice of motion, a comprehensive Memorandum of Counsel was filed by Mr Beatson and Ms Taffs on behalf of Meridian addressing the rationale for the anticipatory waivers and directions and setting out the Court's jurisdiction to grant them. Although no affidavit was filed in relation to the Notice of Motion, I consider the Memorandum of Counsel to provide the requisite information and rationale and as such the requirement to file an affidavit is waived.

[5] The Memorandum of Counsel specifically referred the Court to *Panuku Development Auckland Ltd v Auckland Council* [2018] NZEnvC 064 which sets out in some detail the basis upon which anticipatory directions and waivers may be granted

prior to the Court having an extant proceeding. That decision reflects the Courts' decisions in both *Re Auckland Council* [2016] NZEnvC 153 and *Re Auckland Council* [2017] NZEnvC 207, which cite *inter alia* the decision in *Re Clifford Bay Proposed Port*<sup>1</sup> where the Court confirmed that:

It does not appear that the Court's jurisdiction is confined to a proceeding already before the Court. That is relevant because the application by the Council here is an originating proceeding.

[6] I am satisfied that pursuant to ss 281 and 291 of the Act, the Court has jurisdiction to grant waivers and issue directions in respect to this matter despite the substantive proceeding not yet being filed. I am also satisfied that the granting of the waivers and directions sought will assist in progressing the matter in a more streamlined and efficient manner and reduce the administrative burden on s 274 parties to the proceedings.

[7] With specific reference to the waivers and directions sought, I am advised that there are some technical limitations on the use of a dedicated Environment Court webpage relating to the size of documents and the speed of uploading. For that reason, the service of documents by email remains the most effective method of ensuring all parties receive information in a timely manner. The directions reflect this.

[8] I am not satisfied that there is a need for this decision to be served on submitters at the time the Councils issue their s 87F Report. At that point an election is still to be made by Meridian as to whether to continue the direct referral. As such, I consider it more appropriate that the decision is appended to Meridian's notice to submitters under s 87G if it elects to progress in that manner.

[9] In the Court's experience, the appointment of a Special Advisor to assist unrepresented parties is of significant benefit in direct referrals. As such, the appointment of Mr Forrest is supported and the directions reflect this.

[10] Finally, a draft timetable is appended to the Memorandum of Counsel in

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<sup>1</sup> *Re Clifford Bay Proposed Port* C79/97, 1 August 1997.

support of the Notice of Motion. The Court has some time available in August and could accommodate a hearing at this time however, there are some processes in the draft timetable leading to that date which appear ambitious. Specifically, the Court does not consider that holding a pre-hearing conference 2 working days after the end of the s 274 period closing is necessary or appropriate in these circumstances. Section 274 parties are likely to require more time to arrange their affairs in order to attend a pre-hearing conference and the Court considers a 2 week period to be more appropriate for that purpose. Further, the provision of only 2 days for mediation seems “light” given the range of issues expected to be in dispute and the possible number of parties. In the Court’s view, a more realistic timetable would therefore see a few more weeks factored into the timetable and a hearing in early September rather than late July.

[11] On the basis of the above, I order and direct as follows:

- (a) If Meridian elects to progress this matter as a direct referral:
  - (i) It must append this decision to its notice to submitters under s 87G(2)(b)(ii) and specifically draw submitters’ attention to the content of the orders and directions in paragraphs [11(b)] to [11(h)];
  - (ii) Meridian and the Councils must upload this decision to any relevant project page on their respective webpages relating to the application;
- (b) Other than as provided below, all s 274 notices filed in relation to this application must meet the requirements of s 274 of the Act including the requirement in s 274(3)(b) to state whether the proceedings are supported or opposed and the reasons for that support or opposition;
- (c) Section 274 notices may be filed by way of a single electronic copy (signed or unsigned) sent by email to the Court at [EnvironmentCourt@justice.govt.nz](mailto:EnvironmentCourt@justice.govt.nz) or by way of a single paper copy (signed) delivered to the Environment Court at District Court Building,

Level 5, 49 Ballance Street, Wellington 6011;

- (d) The requirement to lodge a signed original and one copy of any s 274 notice with the Court is otherwise waived;
- (e) All s 274 notices are to be served on Meridian at its address for service being either (by email) [Lynley.Fletcher@MeridianEnergy.co.nz](mailto:Lynley.Fletcher@MeridianEnergy.co.nz) and [Ellie.Taffs@MeridianEnergy.co.nz](mailto:Ellie.Taffs@MeridianEnergy.co.nz) or (by delivery), Meridian Energy Limited, Level 2, Awly Building, 287-293 Durham Street North, Christchurch, Attention: Ellie Taffs. Service by email is encouraged where possible;
- (f) All s 274 notices are to be served on the Councils at their address for service being either (by email) [Lauren.Edwards@horizons.govt.nz](mailto:Lauren.Edwards@horizons.govt.nz) and [SJohnston@crlaw.co.nz](mailto:SJohnston@crlaw.co.nz) or (by delivery) Horizons, 11-15 Victoria Avenue, Palmerston North, Attention: Lauren Edwards. Service by email is encouraged where possible;
- (g) The requirement for s 274 parties to serve their notices on all other parties is waived. The Court will upload all s 274 notices received to a dedicated Environment Court webpage and advise parties of the link to that page. If a party advises that it does not have access to the webpage the Court will make alternative arrangements to provide copies of all s 274 notices by post;
- (h) Unless specifically stated otherwise by the Court, all documents related to the proceeding are to be filed and served electronically on all parties. For the avoidance of doubt this relates to documents filed by s 274 parties as well as Meridian and the Councils. When all s 274 notices are received, the Court will provide all parties with an email setting out the address for service of all other parties. The Court will also upload all documents to the dedicated project webpage. If any party does not have an email address or access to a computer, such party must contact the Registry at District Court Building, Level 5, 49 Ballance Street, Wellington 6011 in order that alternative arrangements can be made for

the timely receipt and provision of information.

[12] In accordance with the request contained within the Notice of Motion, the Court appoints Mr David Forrest as a special advisor to unrepresented s 274 parties in this proceeding. Mr Forrest's role is to:

- (a) Provide assistance to interested parties who do not already have professional assistance, on matters of process and procedure;
- (b) Where appropriate, assist interested parties with common interests to combine their submissions and evidence preparation; and
- (c) Provide guidance on the differences between submissions and evidence.

[13] It is not the function of Mr Forrest to comment or advise on the merits of the application or any party's submission on it nor is he able to make directions which are binding on the Court or parties in any way.

[14] Leave is reserved to any party including any person who becomes a party to these proceedings by virtue of s 274 to apply to amend or add to these orders and directions if necessary.



**L J Semple**  
**Environment Judge**

