

BEFORE THE ENVIRONMENT COURT RMA /2008

<i>In the matter of</i>	An appeal under S 121 of the Resource Management Act 1991
<i>Between</i>	Tui G Incorporated <i>Appellant</i>
<i>And</i>	Waikato District Council <i>Respondent</i>
<i>And</i>	WEL Networks Limited <i>Applicants</i>

NOTICE TO ENVIRONMENT COURT OF APPEAL ON DECISION ON APPLICATION CONCERNING RESOURCE CONSENT

To The Registrar
Environment Court
Auckland

1. Tui G Incorporated Society (TUI G) appeal a decision on the following matter:
 - a) The grant of consent to WEL Networks Limited to authorize the establishment, operation and maintenance of twenty eight wind turbines for the generation of electricity and associated activities on the Wharaurua Plateau near Te Uku..
2. TUI G made a submission on the application.
3. TUI G received notice of the decision on 30 May 2008.
4. The decision was made by the Waikato District Council (Respondent).
5. The decision TUI G is appealing is:
 - a) The decision in its entirety.
6. The reasons for the appeal are as follows:

General matters

The decision to grant resource consent for the wind turbines is contrary to ss 5, 6 (b) and(c); 7 (b), (ba),(c), (d), (f) and (g); 8; 16; 36 (a) 1) c); 88, 104, 108, and Schedule 4 of the Resource Management Act 1991 (RMA).

Specific matters

7. In particular, but without limiting or derogating from the general matters mentioned above, in making the decision to grant resource consent for the wind turbines the Commissioners gave undue weighting to:
 - a) the evidence submitted on behalf of the applicant, together with the disqualification of public interest matters raised by TUI G, and in so doing failed the implicit duty of inquiry required as Commissioners.
 - b) statements of Government policy on renewable energy, in instances where that policy has not been subject to the rigour and inquiry of a proposed National Policy Statement.

8. In particular, but without limiting or derogating from the general matters mentioned above the grant of consent for the wind generation turbines, fails to promote sustainable management of natural, physical, cultural and spiritual resources and gives rise to adverse effects on the environment which cannot be satisfactorily avoided, remedied, or mitigated because the consent granted:
 - a) Does not promote the sustainable management of the rural environment of the Wharaurua Plateau as required by s 5 of the RMA;
 - b) Does not adequately recognise and provide for the preservation of the natural character of the Wharaurua Plateau and the protection of it from inappropriate subdivision, use and development as required by s 6(b) of the RMA;
 - c) Does not adequately recognise and provide for the protection of the Wharaurua Plateau and its immediate catchment as an outstanding landscape deserving protection as a matter of national importance because of its natural landscape values and its historic and cultural significance as required by ss 6(b) and (c) RMA;
 - d) Is contrary to the aims and objectives of the Waikato District Plan – Operative (in particular Objective 9.1.6 and Policy 9.2.9) and will have effects on the environment that are more than minor.
 - e) Is contrary to the aims and objectives of the Waikato District Plan – Proposed (in particular Objective 13.2.1 and Policy 13.2.4; Objective 13.2.6 and Policy 13.2.7; Objective 13.4.1 and Policy 13.4.2 (a), (b) and (c); Objective 13.6.1 and Policy 13.6.2 (a) and (c)) and will have effects on the environment that are more than minor.
 - f) Fails to adequately take into account the cumulative degradation that such development represents to the natural ecology, natural landscape character and visual amenity values of the Wharaurua Plateau
 - g) Fails to adequately account for the lack of project viability and while not limiting a general consideration specifically in regards to the claimed

- i. Energy capacity,
 - ii. CO2 footprint,
 - iii. Financial costs to the community.
- h) Fails to adequately take into account the adverse effects of the wind generation turbines in regard to
 - i. Noise
 - ii. Health
 - iii. Property values
 - iv. Tourism
 - v. Traffic
- i) Fails to impose adequate conditions to ensure adverse effects will be avoided, remedied or mitigated.

9. TUI G seeks the following relief:

- a) That the Respondent's decision be cancelled;
- b) That the grant of resource consent be refused;
- c) In the alternative, and without prejudice to the primary grounds for relief in paragraphs (6) to (8) above, that consent be granted subject to appropriate conditions which address the general and specific matters raised in this appeal;
- d) Such further or alternative relief as the Court may consider appropriate;
- e) Costs.

10. TUI G **attaches** the following documents to this notice:

- a) A copy of the submission made by TUI G;
- b) A copy of the Respondent's decision;
- c) A list of the names and addresses of the persons served with a copy of this notice.

.....
 William Leslie McNatty
*(person authorised to sign on
 behalf of TUI G)*

Date.....

Address for service:

c/- Ms Vera vander Voorden
209 Ohautira Rd
Te Uku
Ph: 09 4208070
Mob: 021 0320423
Email: bill@mcnatty.net
Contact person: Bill McNatty

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

If you wish to become a party to the appeal, you must lodge a notice in form 33 with the Environment Court within 30 working days after this notice was lodged in the Environment Court.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the timing requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the relevant submission, or the relevant decision. Copies of these documents may be obtained, on request, from the Appellant.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department of Courts in Auckland.

Contact details of Environment Court for lodging documents

Documents may be lodged with the Environment Court by lodging them with the Registrar.

The Auckland address of the Environment Court:

8th Floor Justice Building
3 Kingston Street
Auckland

Its postal address is:

P O Box 7147
Wellesley St
Auckland

And its telephone and fax numbers are:

Telephone: (09) 9169091
Fax: (09) 9169090