

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of a notice of requirement issued by **WEL NETWORKS LIMITED** pursuant to section 168(2) of the Act for designations (3) to authorise the implementation of the Western Network Upgrade Project

**OUTLINE OF SUBMISSIONS IN REPLY OF COUNSEL  
FOR WEL NETWORKS LIMITED**

**1. INTRODUCTION**

- 1.1 Over the last four days you have heard evidence and submissions in relation to the three notices of requirement issued by WEL for designations to authorise the implementation of the Western Network Upgrade Project (“WNUP”), made by WEL Networks Limited (“WEL”), namely to establish and operate two substations, one at Te Kowhai and one at the Te Uku Wind Park and the sub-transmission lines necessary to carry the electricity between them.
- 1.2 Comprehensive evidence was presented by WEL's 12 witnesses, and a substantial quantity of further material was submitted to deal with issues as they arose throughout the course of the week. The further evidence presented was as follows:
- (a) Supplementary evidence of John van Brink (10 March 2009) – Number and type of outages experienced in the Western Area and the need for, and benefits of, the upgrade project.
  - (b) Supplementary evidence of Ron Jackson (10 March 2009) – Type and number of helicopter movements.
  - (c) Supplementary evidence of Nevil Hegley (10 March 2009) – Noise generated by helicopters and ability to comply with the Construction Noise Standard.

- (d) Supplementary evidence of David Mansergh (10 March 2009) – Positive effects of the rationalisation of the existing network.
- (e) Supplementary evidence of Chris Dawson (12 March 2009) – Mitigation measures proposed to address submitters' issues and number of dwellings that can be located on submitters' properties.

1.3 We also produced the following additional documents to deal with issues raised:

- (a) Copy of page 146 NOR - Objectives of the project (9 March 2009);
- (b) Electricity Transmission NPS (9 March 2009);
- (c) Pre-hearing report (9 March 2009);
- (d) Aerial photograph (with 2m contours) of Gibbs/Williamson properties (10 March 2009);
- (e) Section elevation of line route (10 March 2009);
- (f) Photograph of an actual 110 kV termination structure (Tramway Road, Hamilton) (10 March 2009);
- (g) Letter from Mr Samujh confirming issues resolves (10 March 2009);
- (h) Email from Mr Sutton confirming issues raised in submission addressed (11 March 2009);
- (i) View Location 2 – Photomontage showing the Wind Park and Proposed 110kV/33kV lines (11 March 2009);
- (j) Mansergh graphical evidence, marked up with pole numbers and property owners (11 March 2009);
- (k) Schedule of alternatives considered (12 March 2009).
- (l) Tui G MOU dated 24 October 2008 (12 March 2009).

1.4 Our perception is that most of the issues which arose during the course of the presentation of WEL's case hearing were addressed in this way and therefore do not need to be re-visited in any detail (or at all) in this reply.

1.5 Other issues were raised as a result of submissions and evidence presented by the submitters who attended the hearing, or by WDC officers.

- 1.6 The majority of the WEL team is assembled to deal on a “workshop” basis with any issues that may arise.

### **Scope of reply submissions**

- 1.7 The purpose of this reply is to briefly canvass issues arising from WEL’s material that may still require some expansion or explanation and to respond to the issues raised by submitters who appeared at the hearing (all other issues raised by submitters having been addressed in WEL’s evidence in chief).
- 1.8 It is proposed to address the following issues in reply:
- (a) Proposed conditions (Section 2);
  - (b) Issues raised by the commissioner (Section 3);
  - (c) Issues raised by the four submitters who appeared at the hearing (Wilson, Fletcher, Cox and Hope (Sections 4 - 7); and
  - (d) Concluding comments and WEL’s principal submission (Section 8).

## **2. PROPOSED CONDITIONS**

- 2.1 A set of conditions has been agreed as between WEL and WDC officers. I reiterate WEL’s gratitude for the assistance we have received in that regard.
- 2.2 A final set of the conditions as they have “landed”, showing tracked changes by reference to the conditions recommended in the WDC Report are **attached**, together with a brief explanation of the rationale for the suggested amendments made. No further comment is made in this document but rather to “turn the pages” on the conditions to clarify any issues which may arise. It is proposed that we do that now.

## **3. ISSUES RAISED DURING THE PRESENTATION OF WEL’S CASE**

- 3.1 This section will touch on issues raised by you or WDC officers during the presentation of WEL’s case during the presentation.

### **Scope of Te Uku Wind Park designation**

- 3.2 I confirm that WEL wishes to formally amend its NOR for the Te Uku Wind Park Substation to avoid the wetland area as discussed during the Wind Park hearing, this is shown in Drawing 211108/HW/WN0120706/16-2 Version F in the March 2009 plans produced for the hearing.

### **Shrinking of designations**

- 3.3 WEL accepts that the designation should be reduced in size once the line and structures are complete and all arrangements in relation to land tenure and access have been finalised. This can be achieved by removing parts of the designation under section 182 of the RMA in due course. A condition to that effect is proposed – Te Kowhai – Condition 2.5; Lines – Condition 1.4; Te Uku – Condition 2.4.
- 3.4 Out of an abundance of caution, WEL prefers that the timing of that further process be triggered by completion of land arrangements rather the completion of construction. On that basis, the proposed condition has provided two years to remove the unneeded part of the designations, i.e., that which is not required to accommodate conductor swing, access and maintenance.

### **Specificity of notice of requirement and need for outline plan**

- 3.5 An issue was raised as to whether in the circumstances it is necessary for WEL to file an outline plan pursuant to section 176A of the RMA and whether a condition should be imposed which would trigger the need for an outline plan in due course. This issue arose in the context of a question as to the number of poles to be installed.
- 3.6 Section 176A(1) of the RMA which requires that:

*“An outline plan of the public work, project, or work to be constructed on designated land must be submitted by the requiring authority to the territorial authority to allow the territorial authority to request changes before the construction is commenced.”*

- 3.7 WEL wishes to advise that it is happy to comply with the legal obligations arising under this provision. This obligation arises unless the work has been otherwise approved under the RMA (section 176A(2)(a)); the details of the proposed work are “incorporated into designation” (section 176A(2)(b)); or the council waives the requirement for an outline plan (section 176A(2)(c)).
- 3.8 WEL has made clear throughout the NOR process that the design of the components of the project as set out in the NOR documents and in the evidence presented is “conceptual” and that it will ultimately be for the contractor who undertakes the project to provide the final design.
- 3.9 Clearly, the evidence which has been presented in terms of the line route, types of poles, pole locations, etc., has been reasonably detailed insofar as it reflects the manner in which the project would be undertaken by WEL engineers with a great deal of experience in the area and, to that extent, recognises technical constraints,

environmental considerations and the outcome of the process of engagement which WEL has entered into. However, the NOR documents and the evidence presented does not represent the final design and it would not be appropriate for that information to be “incorporated into the designation” in terms of section 176A(2)(b) such that an outline plan could be dispensed with. The information was developed and compiled primarily to provide a highly reliable basis upon which the “envelope” of effects associated with the project could be appreciated and assessed, particularly from a visual perspective and in terms of construction methodology. Thus, even though WEL is not prepared to have all of this detail incorporated into the designation, you can be confident that the generated effects will be within the envelope which has been predicted for the purpose of assessing the project in terms of section 171 of the RMA. In that regard, the designations provide that the works are to be undertaken “generally in accordance” with the NOR documents and other plans filed.

- 3.10 For these reasons, WEL does not wish the precise number or type of poles to be “incorporated in the designation” nor any of the other fine detail which should be left to the contractor in accordance with normal commercial practice, except to the extent that they are captured by the reference to being “generally in accordance with” the aforementioned plans, etc.
- 3.11 In terms of a mechanism which would enable an outline plan to be dispensed with, we have suggested an amendment to the conditions of each designation which makes clear that the outline process provided for by section 176A of the RMA needs to be followed if the actual works to be undertaken are not “generally in accordance” with the plans, etc., but contemplates that that requirement can be waived in terms of section 176A (2)(c) if the plans are generally being followed. That will of course depend on the final design that the independent contractor contracted to undertake the work finally arrives at. This means that works which are within the envelope of effects which you have considered, an outline plan will not be necessary – if not, an outline plan process will follow. WDC will obviously be the key decision-maker in that regard.
- 3.12 To the extent that there is any residual concern about addressing the effects of the final form of the project if it is not proposed that it be undertaken in general accordance with the NOR plans, etc., this can be addressed by the jurisdiction of WDC to request changes to the outline plan under section 176A(1). In that context, it is worth noting that an outline plan is required, under section 176A(3) to show:

“(a) *The height, shape, and bulk of the public work, project, or works; and*

- (b) *The location on the site of the public work, project, or works; and*
- (c) *The likely finished contour of the site; and*
- (d) *The vehicular access, circulation, and the provision for parking; and*
- (e) *The landscaping proposed; and*
- (f) *Any other matters to avoid, remedy, or mitigate any adverse effect on the environment.”*

3.13 Given that the obligation to follow an outline plan arises under section 176A of the Act, no conditions are required in the designation to address this issue.

### **Electricity issues**

3.14 Mr van Brink presented supplementary evidence in relation to the frequency of outages in WEL’s western area and the benefits of the WNUP in terms of both security and reliability of supply.

### **Helicopter movements**

3.15 Mr Jackson presented supplementary evidence on helicopter movements, including frequency and duration to augment the evidence of Tony Keyte in relation to such movements. Mr Hegley presented specific supplementary evidence on the issue.

3.16 In light of that evidence and the questions raised, the following is noted:

- (a) WEL’s evidence confirms that works close to roads and in the vicinity of houses will be undertaken by vehicle with pole installation being via cranes or hiabs, etc.
- (b) The Gibbs property is the nearest property to the line where helicopter operations are necessary. I can confirm that the dwelling is 125m (not 200m) from the nearest part of the line, and WEL acknowledges that real care will need to be taken to ensure that compliance with the Construction Noise Standard and to ensure that “unneighbourly” conduct (in terms of the applicable guidelines) does not occur
- (c) Mr Hegley confirmed that the Construction Noise Standard (NZS 6803:1999) can be met using the heaviest type of helicopter likely to be available, and that the key determining factor in that regard is the period of time the helicopter is in the area. Mr Hegley considered that compliance could be achieved as long as helicopter-crane operations do not exceed ten minutes.

Mr Jackson's evidence was that, as long as the workforce is properly mobilized, the placing of a pole could be effected in five minutes or less.

- 3.17 Overall, it is submitted that the proposed conditions would put in place an appropriate framework for dealing with potential effects of helicopters, both in terms of noise mitigation and ensuring that locals are kept informed so as to plan around proposed helicopter operations (including moving stock, etc.)

#### **Setback to nearest buildings**

- 3.18 The proximity of dwellings to the 110kV line may be seen as relevant in terms of Rule 25.58A.1 of the WDC Proposed Plan which provides that construction or alteration of a dwelling is permitted activity if it is set back at least 20m from the centreline of any electricity transmission line designed to operate at 110kV or more. If a 20m setback cannot be achieved, the construction or alteration becomes a restricted discretionary activity under Rule 25.58A.2. WDC's discretion is restricted to health related issues such as electromagnetic fields, location and orientation of habitable rooms, safety of people and property, etc.

- 3.19 This rule appears to be the basis for the clarification sought by Ms Nicholson of WDC in relation to the proximity of the nearest dwelling house to the sub-transmission line.

- 3.20 I can confirm in that regard that the closest dwellings to the line are:

- (a) The Clark house – 23m distant;
- (b) Christian Camp – 27m distant-

so that the desirable separation distance contemplated by the rule is achieved in the context of this project, even though that is not how the rule is intended to operate.

- 3.21 Both landowners have provided their written approval – see Volume 3 in the NOR and referenced Mr Dawson's evidence.

- 3.22 Once the line is in place, future development will need to comply with a 20m setback or require resource consent. Whether one agrees with the need for such a rule or not, it is submitted that its operation should not influence the outcome of this process.

#### **4. ROB WILSON**

- 4.1 Mr Wilson noted that he has issues with WEL's proposal to establish a new zone substation at Whatawhata. Obviously that issue is not relevant here, other than perhaps to inform WDC as to the motivation for opposing this important project.

- 4.2 Mr Wilson owns a conservation block on The Deviation. The closest boundary of that property to the proposed 110kV line is 530m (as shown on an aerial photograph produced by Mr Jackson - **attached**). Mr Wilson may establish a dwelling on that property at some point but only in the nominated building location at the southern end of the property, some 1.5km from the nearest part of the line. It is not understood that there was any serious suggestion of an adverse effect of the sub-transmission line on Mr Wilson's conservation lot.
- 4.3 Consistent with his original submission, Mr Wilson's position was more general in nature and concerns were raised as a result of Mr Wilson's concern for the environment and the local community, particularly those in the Karakariki Road area. Mr Wilson made three key requests.
- (a) That the substations be the minimum possible size and be located in buildings to minimise visual effects.
  - (b) That as much consideration as possible be given to residents in the Karakariki Road area
  - (c) That much of the land along the route of the line has been stripped of native forest and developed and that WEL should provide \$1 million for 200,000 trees to "give something back" to the environment.

#### **Te Uku Wind Park Substation**

- 4.4 The Te Uku Wind Park Substation is in a very remote location with the result that the number of people who will view it is very small. Mr Mansergh's evidence confirms that the views of the substation will be restricted to partial, distant views from the upper flanks of Mt Karioi and that the visual effects will be inconsiderable due to extreme distance. Mr Sherriff's evidence is that any adverse landscape or visual effects on the environment from the Te Uku Substation will be *de minimis* and on that basis he does not consider it necessary to enclose the substation in a building or to have it screened with landscaping as Mr Wilson has requested. That represents WEL's position.

#### **Te Kowhai Substation**

- 4.5 As far as the Te Kowhai Substation is concerned, WEL again relies on the evidence of Mr Mansergh which is that the views of the Te Kowhai Substation are restricted and that the proposed substation will be screened from view by the existing substation and existing mitigation planting. Mr Mansergh's evidence is also that views of the proposed extension are unlikely to change the appearance of the existing

substation from public view locations and that the visual effects will be “inconsiderable”. Mr Sherriff’s evidence is that any adverse visual effects on the environment will be minor.

- 4.6 This evidence demonstrates that no further modifications to WEL’s proposals are warranted to address Mr Wilson’s concerns.

#### **Karakariki Road residents**

- 4.7 As far as the residents of Karakariki Road are concerned, you have heard evidence that the alignment of the sub-transmission line route through that area was the result of agreement reached by the residents in the area and that has been WEL’s primary driver as regards the location of the line in that area. You have heard evidence from both Mr Mansergh and Mr Dawson as to WEL’s efforts to consult with locals in that area and as to the type of mitigation which has been proposed, including offers to Ms Fletcher to undertake landscaping to screen any views of the lines on Karakariki Road which is some 230m from her house, and provide fenced stock protection. (I return to address Ms Fletcher’s evidence presently.)

#### **Environmental compensation**

- 4.8 WEL’s position is that the request that 200,000 trees at a value of \$1 million be provided is manifestly excessive, particularly having regard to the significant benefits of the project and the relatively low level of adverse effects associated with the project. This is underpinned by the level of agreement which has been reached with landowners and submitters along the full length of the sub-transmission corridor.
- 4.9 WEL’s submission is that there has to be some relativity between the level of generated effects and any environmental compensation of this nature. Based on the evidence of its highly qualified experts, it is clear that any potential adverse effects do not even approach the level in which this level of compensation is warranted.
- 4.10 In that context, it is also important that the effects of the WNUP need to be seen as something entirely separate and distinct from the effects of the Te Uku Wind Park project. That project is already consented and comprehensive conditions were imposed to address potential adverse effects, including ecological and landscape / visual effects generated by the project. On top of that, and outside the ambit of the consent, WEL’s memorandum of understanding with Tui G in the context of the Wind Park consents involved a Community Fund of \$100,000 (applied over a 5 year period) and a \$50,000 mitigation fund to enable the local community to undertake mitigation

planting, as the local community sees fit to address effects associated with the Wind Park. (See Tui G MOU dated 24 October 2008.)

4.11 It is also worth bearing in mind that WEL has committed to a significant amount of environmental mitigation and compensation works along the sub-transmission line route in excess of \$25,000, including:

- (a) Environmental compensation works in the Kahikatea grove on Mr Cunningham's property.
- (b) Screen planting on Mr Sutton's property.
- (c) Proposed works on Ms Fletcher's property as described by Mr Mansergh during the hearing.

4.12 It is submitted that it is also relevant to consider in this context that WEL, as a community focused organisation, already makes significant contributions to the community. Mr van Brink's evidence touched on WEL's customer programmes. The Trust's assistance provides significant value via a variety of energy efficiency related projects for the betterment of its customers. The aim is to make energy efficient technologies affordable and accessible to the community and for those on lower incomes it provides significant financial assistance to achieve these goals.

4.13 Historically these programmes have included: heat pumps, energy efficiency compact fluorescent light bulbs, electric water heater cylinder wraps, refrigerator replacement and recycling and home insulation retrofit programmes. The total value of these projects including other sponsor support was:

- (a) 2004 \$1.774M
- (b) 2005 \$0.859M
- (c) 2006 \$0.757M
- (d) 2007 \$0.671M
- (e) 2008 \$0.865M

4.14 In addition, the Trust spends more than \$2m annually on its annual community grants programme.

4.15 Although WEL does not agree with the quantum requested by Mr Wilson, WEL supports the notion of providing some type of environmental compensation fund

which could be applied by a local organisation (which would probably need to be an incorporated society) and which would enable targeted planting to be undertaken to address effects associated with the sub-transmission line route in areas such as Karakariki Road. WEL is not requesting conditions in relation to such a fund, but would like to signal its willingness and desire to talk to Mr Wilson about the establishment of such a fund and the role which he and other members of the local community may be able to play in the implementation of such a concept. In that regard, it is noted that the Tui G mitigation fund was set at \$50,000 by reference to the \$200 million capital value of the Te Uku Wind Park. On that basis, and having regard to the \$30 million capital value of the WNUP, the fund would be more in the region of \$7,500 to \$10,000. The quantum of any further fund obviously to be seen in the context of the existing funds.

- 4.16 WEL will make contact with Mr Wilson to discuss these issues, but submits that there is no respect in which it is necessary to alter the proposed conditions to take account of Mr Wilson's comments – indeed, Mr Wilson did not suggest that the WNUP was not a worthwhile project given the improvement of electricity supply to Raglan and the environmental benefits of wind based renewable generation from Te Uku.

## **5. OLIVIA FLETCHER**

- 5.1 Ms Fletcher also appeared in support of her submission opposing the project. The key issue she raised related to traffic, visual intrusion and loss of trees on her boundary, and radiation / health. I will address each in turn.

### **Traffic**

- 5.2 Ms Fletcher commented on traffic hazards in the Karakariki Road area. On this basis, it is assumed that Ms Fletcher is concerned both about construction traffic effects and the placement of the poles.
- 5.3 As far as construction traffic is concerned, Condition 6.2 of the line designation will require the submission of a traffic management plan for approval of NZTA and WDC prior to any construction commencing in Karakariki Road. This is required to include provisions in relation to the methodology for managing construction traffic, compliance with site distances and a requirement to advise adjoining owners of the removal of vegetation.
- 5.4 As far as pole placement is concerned, these need to be approved by WDC (Condition 6.3), including requirements as to the distance from the centre line such poles are to be placed. Furthermore, Condition 6.7 requires that poles which are

located inside the clear zone are to be constructed with an Armco barrier. The 110kV line will thus result in less and better placed poles compared to the existing pole line positioned along Karakariki Road. On the basis of Mr Keyte's evidence and the comprehensive suite of conditions relating to the design and location of the line and the road reserve in the state highway, Mr Sherriff's evidence is that any potential adverse effects will be minor.

#### **Loss of tree and visual intrusion**

- 5.5 As noted, Ms Fletcher's house is 230m from Karakariki Road. It is acknowledged that Ms Fletcher's view will change as a result of the need to remove trees from the road reserve to install the line. That is why WEL has gone to considerable lengths to develop a landscaping proposal designed to specifically address those concerns and to continue to work with Ms Fletcher in that regard, not only from the point of view of visual impact, but also so as to meet her concerns about stock protection (from the sun and westerly prevailing wind).
- 5.6 WEL notes Ms Fletcher's request that her front boundary be surveyed prior to any construction works being undertaken to ensure that none of the trees on her property will be removed. I can confirm that it is standard WEL practice to survey the property boundaries along the line route to address such issues and that Ms Fletcher's property will be no exception in that regard.
- 5.7 Ms Fletcher advocates undergrounding as a means of addressing visual intrusion issues and indicated her view that, long term, the cost benefit would make undergrounding worthwhile.
- 5.8 WEL does not agree and relies on the evidence given by Mr Mollekin (paragraph 9.10) that undergrounding 110kV cables is significantly more expensive than the overhead lines and also that undergrounding parts of the line can cost \$350,000 compared with \$16,000 for overhead line (22 times more expensive).
- 5.9 Undergrounding of sections of the line also results in the establishment of unsightly termination structures of the type shown in the photograph produced by Mr Jackson (termination structure on Tramway Road produced as supplementary evidence on 10 March 2009). In other words, undergrounding the line past Ms Fletcher's property would result in the need for termination structures in front of her neighbours' properties. It is WEL's submission that this is not warranted in the circumstances.

## **Radiation / health**

- 5.10 Ms Fletcher expressed the view that locating the 110kV line along the road reserve does not represent a cautious approach when it is possible to place the line in private property. As noted in WEL's evidence, WEL's locational philosophy is to locate the line on private land where that is possible but to generally avoid compulsory acquisition procedures where agreement with the landowner cannot be reached. Locating the line on private land cannot be justified for health and safety reasons in light of the very clear evidence from Mr Mitton that the electric and magnetic fields associated with the line are very small by reference to ICNIRP guidelines and Dr Black's evidence which demonstrates that there are no credible health risks associated with the line.
- 5.11 Overall, it is submitted that there are no issues raised by Ms Fletcher which would suggest that confirmation of the designation is not warranted.

## **6. SEAN COX**

- 6.1 Mr Cox's submission is to the effect that the sole reason for the project is to convey electricity generated from the Te Uku Wind Park to the National Grid and the Wind Park is inappropriate. In that regard, Mr Cox submitted that WEL did not adequately consider alternatives to the Wind Park and the work is not reasonably necessary to achieve WEL's objectives.
- 6.2 Mr van Brink and Mr Mollekin outlined in some detail WEL's objectives and the purposes of the WNUP – i.e., to convey electricity generated by the Wind Park and to improve security and reliability of supply to the Te Uku/Raglan area. Mr Mollekin explained that much of the electricity generated by the Wind Park will be used locally by WEL customers (either feeding straight to Te Uku/Raglan or to Hamilton via Te Kowhai) and eventually, all of that power will be used by WEL customers.
- 6.3 As noted in Opening, the fact that the project is needed to cope with power generated by the Te Uku Project does not mean that it is appropriate to raise via submissions and debate in this hearing the merits of wind power or the Te Uku Project, as Mr Cox seems determined to do. The issues that Mr Cox's submission raises do not relate to the issues raised by section 171 but rather issues relevant to the merits of the Te Uku Wind Park – in respect of which Mr Cox withdrew his appeal. These NORs are not the arena in which to revive that fruitless debate.

## **7. A C HOPE**

- 7.1 Mr Hope's submission is to the effect that the poles located on his boundary will be located on unstable land and will therefore cause a hazard and devalue his property.
- 7.2 Mr Keyte specifically addressed issues relating to land stability outside Mr Hope's property. His evidence was that suitable engineering solutions could be achieved and he communicated those to Mr Hope. Condition 6.5 of the lines conditions require that poles requiring geotechnical engineering design be designed by a certified engineer and submitted to the Council for approval. The pole outside Mr Hope's property will likely be one of those poles that need to be designed by an engineer, thus you can be confident that any potential land instability issues will be adequately addressed.
- 7.3 Given that the pole foundations can be designed so as not to cause a hazard and Mr Mansergh's assessment that the poles will not affect visual or amenity values from his dwelling, Mr Sherriff's assessment of the primary effects is that it is reasonable to conclude that those poles are unlikely to have an adverse impact on the value of Mr Hope's property.

## **8. CONCLUDING COMMENTS AND WEL'S PRINCIPAL SUBMISSION**

- 8.1 As a general comment, it is clear that key issues in contention between the parties - such as considering alternatives, electricity planning issues, traffic engineering and the highly technical issue of EMF - involve fields of endeavor which call for particular expertise in quantifying and characterising the potential effects arising. This comment also applies to visual amenity issues, although to a lesser extent, given that that assessment in relation to rural character and amenity involve value judgments and room for differences of opinion.
- 8.2 One of the fundamental rules of evidence is that witnesses can generally only give evidence in relation to matters of fact which they perceive or which is within their experience. Expert witnesses are in a unique position in that they are entitled to present opinion evidence in relation to matters falling within their area of expertise and experience.
- 8.3 Useful guidance as to the commissioner's consideration of expert evidence is provided in the training materials for the "Making Good Decisions" training material.

### ***"[2] Committee Consideration of Evidence***

*The role of the committee is to reach a decision based on the evidence before it. In a hearing, the committee:*

***should be satisfied that an expert witness is properly qualified in their area of expertise***

*is not obliged to accept any evidence*

***must take into account any expert opinion presented, although it:***

- *may reject expert evidence (even if it is not contradicted), such as where it is irrelevant to the case in hand*
- ***must give very good reasons for rejecting expert evidence that is central to the case***

*must identify areas, and the nature, of disputes*

*should resolve evidential and evaluative disputes through questioning*

***must form a judgement on the weight to be attached to particular evidence.***

8.4 In the present case, WEL has taken great care to ensure that the hearing had the benefit of evidence from highly qualified independent experts to address the issues in contention – that evidence is central to the case. There is no equivalent expert evidence from submitters and no serious attack on the qualifications of those experts. You have had the opportunity to test that evidence via questions to WEL’s witnesses and my perception is that none of that testing would have given rise for any issues in terms of the credibility or expertise of those witnesses.

8.5 Having regard to the guidance above, it is therefore submitted that you are justified in concluding that:

- (a) WEL’s expert witnesses are suitably (indeed, highly) qualified;
- (b) WEL’s expert evidence is central to the case – so that there needs to be very good reasons for rejecting it; and
- (c) The evidence presented by WEL’s experts is to be accorded significant weight - indeed; there is really nothing before you that could be seen as contradicting what they said.

8.6 WEL’s fundamental submission, therefore, is that WEL’s evidence addressed all the key issues which arose to a degree which should satisfy you that the project is entirely appropriate, that potential adverse effects can be adequately addressed by engineering measures or conditions and positive effects (benefits) significant. These conclusions were supported by the WDC report and verified by Ms D’Aubert.

### **Principal submission**

8.7 To conclude, it is appropriate to reiterate WEL’s principal submission from the opening legal submissions as follows:

*WEL's submission is that the evidence will demonstrate that WDC can recommend confirmation of the designation subject to conditions knowing that this is an important piece of infrastructure, with a high degree of confidence that any potential adverse effects can be appropriately addressed and that the sustainable management purpose of the RMA, insofar as it will enable WEL to continue to provide a reliable supply of electricity thus enabling those people and communities to provide for their economic and social wellbeing and their health and safety while appropriately avoiding, remedying or mitigating potential adverse effects.*

*To conclude, it is submitted that the following key conclusions can be drawn and findings made:*

*(a) The proposed substations and line are required to fulfil WEL's objective to ensure the secure supply of electricity to its western supply area. The secure and efficient supply of electricity is essential to the economic and social wellbeing and the health and safety of the people in the relevant communities. To that extent, the project overall fulfils the sustainable management purpose of the RMA.*

*(b) The proposal will have significant positive effects insofar as it will enable renewable energy to be used locally (with excess being used regionally or nationally) and will strengthen supply to the Raglan area which currently experiences interruptions to supply.*

*(c) The proposal is consistent with the objectives, policies or rules in the relevant planning instruments and there is nothing in those instruments which indicate that the notice of requirement should not be confirmed.*

*(d) Adequate consideration has been given to alternative sites, routes and methods and WEL is justified in preferring the site for each of the substations and the line route.*

*(e) The proposed Te Kowhai substation represents the efficient use of the proposed site in terms of section 7(b).*

*(f) The proposed substations will maintain and enhance amenity values (including noise and visual) in terms of section 7(c), particularly as they are located away from houses and screened from public view.*

*(g) The proposal will maintain and enhance the quality of the environment in terms of section 7(f).*

*(h) WEL has had independent experts carefully consider the effects of the proposed substation and these experts have concluded that any potential adverse effects of the proposal are minor and can be adequately addressed by way of the measures proposed and conditions on the designations. Based on those conclusions, WDC is justified in making findings to that effect.*

*Overall, when all relevant considerations are weighed and balanced it is submitted that the sustainable management purpose of the RMA is better addressed by recommending that the notices of requirement be confirmed with the minor modifications now proposed, and subject to conditions, than by recommending that it be withdrawn.*

8.8 It only remains for me, on behalf of counsel, WEL Networks and the WEL witness team to thank you for the informal and constructive manner in which this hearing has

been conducted, to thank Council officers for their efforts, and to acknowledge the assistance provided by the submitters.

**Dated**            **March 2009**

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**S J Berry**

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**J L Vella**

**Counsel for WEL Networks Limited**