

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a notice of requirement for a designation issued to **HAMILTON CITY COUNCIL** by **WEL NETWORKS LTD** to authorise the establishment and operation of a zone substation (the Cobham Drive Substation) on the Corner of Cobham Drive and Anglesea Street, Hamilton.

**DECISION OF WEL NETWORKS LIMITED PURSUANT TO SECTION 172
OF THE RESOURCE MANAGEMENT ACT 1991**

1. INTRODUCTION

1.1 This is the decision by WEL Networks Limited ("WEL"), in its capacity as a requiring authority pursuant to section 172 of the Resource Management Act 1991 ("RMA"), on a recommendation made by the Hamilton City Council ("the Council"). This decision relates to a notice of requirement to designate land for the establishment, construction, operation, maintenance, replacement, repair, upgrading of, and entrance to and exit from an electricity substation, and parts of and works for, or relating to, electricity transformation and distribution at a site on the corner of Cobham Drive and Anglesea St, Hamilton.

1.2 The decision of WEL is:

- (a) That the recommendation by the Council's Statutory Committee that the notice of requirement be confirmed subject to conditions is accepted.
- (b) That the notice of requirement is confirmed subject to the conditions contained in **Schedule A** to this decision report, being the same conditions that the Council recommended be imposed on the designation.

Scope of decision report

- 1.3 The purpose of this decision report is to set out WEL's reasons for accepting the Council's recommendation. In doing so it is proposed to set out the following:
- (a) Procedural background - (section 2);
 - (b) Statutory context - (section 3);
 - (c) Decision and reasons – (section 4).

2. PROCEDURAL BACKGROUND

- 2.1 In June 2009 WEL issued a notice of requirement ("NOR") to the Council for a designation to provide for the establishment, construction operation, maintenance, replacement, repair, upgrading of, and entrance to and exit from an electricity substation, and parts of and works for or relating to, electricity transformation and distribution under section 168 of the RMA. The site requiring the designation is located on the corner of Cobham Drive and Anglesea Street in Hamilton.
- 2.2 The Council publicly notified the notice of requirement and submissions closed on 19 August 2009. Three submissions were received on the proposal, one in support and two in opposition. A.

Planner's report, hearing and recommendation

- 2.3 On 4th February 2010, the proposal was heard by the Council's Statutory Committee at the Hamilton City Council Chambers. Following the hearing the Statutory Committee made its recommendation to WEL pursuant to section 171(2) of the RMA. The statutory committee recommended that WEL confirm the notice of requirement to designate land in the Hamilton City Proposed District plan for an "Electricity Substation" subject to the conditions proposed during the hearing. These conditions are attached as **Schedule A** to this report.
- 2.4 The Statutory Committee issued its written recommendation on 5 February 2010 and was received by WEL on 8 February 2010.
- 2.5 The Committee's Final Decision recommended that the NOR be approved subject to conditions as follows:

"That the Statutory Management Committee having had regard to the provisions of the Resource Management Act 1991 and in

*particular Part II and Part VIII; and having considered the effects on the environment of allowing the requirement; and having particular regard to the provisions of all the relevant planning instruments, the alternative sites and methods considered, whether the designation is reasonably necessary, and any other matter reasonably necessary in order to make a recommendation on the requirement; and having considered the evidence presented by the Requiring Authority, the submissions received and the evidence tendered at the hearing in support of those submissions, and the planning report, recommends that WEL Networks Limited **confirms the notice of requirement** to designate land in the Hamilton City Proposed District Plan for an 'Electricity Substation', subject to the conditions stated below:"*

- 2.6 The decision report then set out the conditions which are attached as Schedule A hereof.
- 2.7 The Reasons for the recommendation of the Statutory Committee were stated as follows:
1. *It is considered that the proposal is consistent with Part II of the Act, and the relevant policy statements and plans.*
 2. *It is considered that the requiring authority has given sufficient consideration to alternative sites and methods for undertaking the work, and Council is satisfied that the works and designation are reasonably necessary for achieving the objectives of the Requiring Authority.*
 3. *The notice of requirement is consistent with the objectives and policies of the Hamilton City Proposed District Plan, and not contrary to the relevant national and regional policy statements and plans.*
 4. *The extent of adverse environmental effects are no more than minor and can effectively be avoided, remedied or mitigated through conditions on the designation"*

3. STATUTORY ASSESSMENT

3.1 Notices of requirement are required to be assessed against the considerations in section 171 of the RMA which states:

*"(1) When considering a requirement and any submissions received, the territorial authority must, **subject to Part II, consider the effects on the environment** of allowing the requirement, having particular regard to –*

*(a) **any relevant provisions of -***

- (i) a national policy statement;*
- (ii) a New Zealand coastal policy statement;*
- (iii) a regional policy statement or proposed regional policy statement;*
- (iv) a plan or proposed plan; and*

*(b) **whether adequate consideration has been given to alternative sites, routes, or methods of undertaking work if -***

- (i) The requiring authority does not have an interest in the land sufficient for undertaking the work; or*
- (ii) It is likely that the work will have a significant adverse effect on the environment; and*

*(c) **whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and***

*(d) **any other matter** the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

(2) The territorial authority may recommend to the requiring authority that it –

- (a) confirm the requirement;*
- (b) modify the requirement;*
- (c) impose conditions;*
- (d) withdraw the requirement.*

(3) The territorial authority must give reasons for its recommendation under subsection (2)."

Assessment under section 171

- 3.2 The matters set out in section 171 which require assessment are considered below.

Section 171(1) – Assessment of effects

- 3.3 The HCC planners report provided a summarised analysis of actual and potential environmental effects of the proposed Cobham Substation designation as was outlined in the Assessment of Environmental Effects of the NOR. In addition, WEL presented expert evidence from a range of experts in urban design and visual assessment (Michael Graham, Mansergh Graham; Gavin Robins, Stiles and Hooker), traffic (Mark Apeldoorn, Traffic Design Group) and statutory assessment (Mike Robinson, The Environmental Challenge) which addressed the potential effects of the proposed substation.
- 3.4 In all cases the environmental effects of the proposed substation were deemed to be no more than minor or otherwise acceptable.

Section 171(1)(a) – relevant planning instruments

- 3.5 The relevant planning instruments considered in relation to this NOR were the operative Hamilton City Proposed District Plan, the part operative Waikato Regional Plan and the Waikato Regional Policy Statement. WEL adopts the Councils recommendation in that the proposal is consistent with the objectives of the Hamilton City Proposed District Plan and not contrary to the relevant regional policy statement and regional plan.

Section 171(1)(b) – consideration of alternatives

- 3.6 Under section 171(1)(b) of the RMA, it is necessary to consider alternative sites where:
- (a) WEL does not own the land (or have sufficient interest in the land to undertake the works); or
 - (b) The adverse effect of the proposal is likely to have a significant adverse effect on the environment.
 - (c) The proposal has been assessed as having effects on the environment that will be no more than minor.

- 3.7 WEL has undertaken a consideration of alternatives which satisfies the legal requirements of section 171(1)(b). Five sites were investigated and evaluated using specific criteria. This was presented by WEL in the NOR document (Annexure 2) and addressed comprehensively in the evidence presented by WEL's Network Asset Investment Advisor, David Mollekin.
- 3.8 The Statutory Committee concluded that: "*The requiring authority gave sufficient consideration to alternative sites and methods for undertaking the works*"
- 3.9 WEL adopts the recommendation of the Statutory Committee.

Section 171(1)(c) – Is the designation reasonably necessary to achieve the objectives of the requiring authority

- 3.10 The designation was required to ensure a reliable power supply to the area and in particular to the Waikato Hospital. This was also addressed comprehensively in the evidence presented by David Mollekin.
- 3.11 The Statutory Committee accepted that WEL had demonstrated that the work and designation is reasonably necessary to achieve its objectives. WEL adopts the recommendation in that regard.

Section 171(1)(d) – Any other matter considered reasonably necessary to make a recommendation

- 3.12 The planners report considered the Councils Urban Design Strategy (CityScope and Vista) in making her recommendation in the planning report. She concluded that: "*The proposed substation meets the intent and aspirations of CityScope and Vista*".
- 3.13 This was confirmed in the evidence presented by Michael Graham of Mansergh Graham.

Part 2 matters

- 3.14 The assessment of notices of requirement in section 171 is "subject to Part 2" of the RMA (sections 5 to 8).
- 3.15 Part 2 commences with the purpose of the RMA, which is set out in section 5. The works are consistent with section 5 as the substation will ensure a reliable supply of electricity to the Hamilton area and in particular the Waikato Hospital. This will

enable WEL to provide for the social and economic well being and the health and safety of that community. The substation will have no potential adverse effects which cannot be adequately avoided, remedied or mitigated by way of conditions. In particular, there will be no adverse effects in terms of health and safety as a result of the operation of the substation.

- 3.16 Section 6 sets out matters of national importance which may or may not be relevant to the determination of any particular requirement or resource consent application which, if relevant, the consent authority must “recognise and provide for” in making its recommendation or decision. In this case, it is not considered that there are any matters raised by the proposal which are relevant in terms of section 6.
- 3.17 Section 7 sets out other matters which the consent authority needs to “have particular regard to”, where relevant. The only section 7 matters that need to be recognised and provided for are sections 7(b) and 7(c) and 7(f), namely the efficient use and development of natural and physical resources, and maintenance and enhancement of amenity values and the quality of the environment.
- 3.18 Section 8 requires consent authorities to take into account the principles of the Treaty of Waitangi. There are no section 8 matters requiring consideration in relation to this proposal.
- 3.19 This was addressed in the evidence of Mike Robinson, which confirmed the above.

4. DECISIONS AND REASONS

4.1 Having regard to the above, WEL's decision on the recommendation by the Council is that the notice of requirement be confirmed subject to conditions is accepted in full.

4.2 The reasons for this decision are detailed in this report, the planners report and the recommendation and can be summarised as follows:

- (a) The proposed substation is required to fulfil WEL's objective to ensure the secure supply of electricity to the Hamilton CBD and the Waikato Hospital.
- (b) The establishment of the Cobham Drive Substation will ensure a secure and efficient supply of electricity which is essential to the economic and social well-being and the health and safety of people in the Hospital and the Hamilton Central area. In that regard, the proposed substation promotes the sustainable management purpose of the RMA set out in section 5.
- (c) The effects of the proposed substation are no more than minor and there are no adverse effects that cannot be avoided remedied or mitigated through the imposition of conditions.
- (d) The quality of the environment and amenity values will be maintained and enhanced in terms of sections 7(c) and 7(f) via the design of the substation and landscaping of the site.
- (e) The proposal represents the efficient use and development of the current switching station site in terms of section 7(b).
- (f) Section 8 matters have been appropriately addressed via consultation with relevant iwi and adoption of recommended archaeological protocol.
- (g) The proposal is not contrary to the objectives, policies or rules in the relevant planning instruments.
- (h) Overall, when all relevant considerations are weighed and balanced it is clear that the sustainable management purpose of the RMA is addressed by confirming the NOR subject to the conditions set out in Schedule A.

DATED this 12 February 2010

WEL NETWORKS LIMITED by its authorised agent:



M J Robinson