

Introduction

1. My name is **Seamus Francis Kiernan**. I am a Pilot, flying night freight within New Zealand.
2. I hold an Airline Transport Pilots Licence (New Zealand and Canadian) and contract to Air Freight New Zealand, operating Convair 580 heavy turboprop freighter aircraft operating primarily between Auckland and Christchurch.
3. I was a supply officer in the RNZAF for approximately six and a half years before resigning to pursue a flying career. I worked in Northern Canada for 9 yrs in a variety of flying roles before returning to live in New Zealand where I have lived for 8 years. I am married with three young children. I have owned the property at 1107 Churchill Road jointly with my wife for nearly 6 years.
4. I have no legal background or other relevant experience.

Scope of Evidence

5. My Evidence will cover the following matters:
 - (a) I will discuss in general terms my concerns with aspects of the Waikato Wind Farm that impact on my family and me;
 - (b) I will highlight the specific areas of concern noted in my submission dated 24/10/08;
 - (c) I will address points raised in various submissions in support of the wind farm supporting infrastructure that directly effect me; and
 - (d) I will highlight some factually incorrect statements given in submissions as they relate to me.

General concerns

6. This wind farm may be an exercise in legal practicalities to the board. To those of us directly affected it is something of an ongoing nightmare. This is my home and my families' future and financial security. To have that investment arbitrarily eroded so that a large corporation can improve its profit is unconscionable. Contact make statements concerning the "chronic underinvestment in the national grid" (**Note 1**) but I feel their motives are far less altruistic and are driven purely by profit seeking.
7. Trying to deal with the technical issues and read hundreds of pages of quite detailed information in order to try to prepare a rational and comprehensive submission is a daunting and oppressive task to a layman. I still have my regular employment responsibilities and long days looking after my young family, in combination with my nightshift career. I am not in a financial position that allows me to instruct legal counsel to act on my behalf on this matter, so therefore I am attempting to deal with it as best I am able. The feeling that I am going up against a corporation with extensive financial resources on little more than a whistle and a prayer is difficult to shake.
8. Trying to live with the ongoing knowledge of the impending decrease of my homes value and peaceful outlook is highly stressful. The fact that Contact is seeking up to a 10 yr lapse period (**Note 2**), only increases the stress I feel due to the huge uncertainty surrounding Contacts plans at the Orton switchyard and the realignment of the existing **HLY-OTA** line.

Visual Amenity

9. I have several overlapping concerns as regards the visual impact of the Orton substation on my home and lifestyle, as well as concerning the proposed removal of a pylon from the current **HLY-OTA** line (identified by Contact as T65) as part of the realignment to the proposed switchyard and its replacement pylon (designated by Contact as Dev 6).
10. Firstly, there is considerable uncertainty surrounding the degree of visibility I will have from my house of the Orton switchyard site, surrounding earthworks and access road. Regardless, it is unrealistic to assume that rural property owners spend all their time “in their homes” and that because something “may not be visible from the home” it has no effect. My family and I chose to live here because of the peaceful rural outlook. There is presently a view of the existing **HLY-OTA** line but we accepted that when we moved here. The cumulative effects of the changes proposed by Contact amount in my view to a considerable decrease to our lifestyle and peace of mind.
11. I am constantly out and about on my property working and improving it and having what amounts to a large industrial complex essentially just over my back boundary is inherently stressful and unsettling. “Out of sight” is definitely not “out of mind”. The knowledge that it will more than likely be built there and questioning exactly to what extent it will or will not be visible (**Note 9**) constantly preys on my mind and affects my day to day existence to a real degree. This stress is added to by the 10 year lapse period Contact is seeking, as we now live with constant uncertainty. I have no wish to sell my home and feel that it would be morally unsupportable to do so to another purchaser who would then be in my position.
12. I note also that Contact proposes to install lighting towers in the proposed Orton switchyard that would be up to 30 m tall (**Note 3**). This concerns me greatly as it implies that the site will be constantly lit during night hours. I feel this is totally unnecessary, given the remote rural location of the facility and I request that Contact be directed that the lighting be arranged in such a way that it is only switched on at night for maintenance or emergency requirements, to avoid ongoing light pollution.
13. The proposed realignment of the existing **HLY-OTA** line will, whilst on paper improve my outlook, in fact have the opposite effect. My home was aligned so as to (as much as possible) remove Pylon T65 from sightlines from the living and working areas of my home. While Contact propose to remove it and install a new pylon (Dev 6) further away from my house by a distance of a few dozen meters, it is (apparently) going to move further north towards Churchill road. The effect of this will be that it will become substantially more visible and therefore far more distracting and irritating. I say “apparently” because to date I have had no contact with, or approaches from, Contact as regards this issue and thus have only anecdotal evidence on which to proceed.(**Note 4**)
14. The fact that it will be replaced by “angles in the line and heavier strain towers” (**note 5**) only adds insult to injury. While this existing line has been in place since before I moved here, this proposed pylon “movement” will in effect be creating a “new” pylon at a very close distance to my house in a far more highly visible location. Contacts’ own information describes pylons at such a close distance as highly visible. To date I have had no contact or approach from Contact as regards this.(**Note 4**)
15. According to Contacts’ information, I am regarded as a Tier 2 contact and as a result of this I have had very little information from them and no direct discussion and/or negotiation (**Note 4**), having to rely on neighbours and other interested parties for much information. Contact make much in various people’s submissions about how their design team has minimized the visual impact on people, without taking any real steps to improve things for those unfortunate few of us who are so affected (**Note 6**), in effect hoping that we will just quietly fade into the night.

16. Contact has made no effort to negotiate with, or indeed raise any concerns with me whatsoever (**Note 4**). I found buried in the submission of Mr Daysh (**Note 7**) a reference to a “Landscape mitigation plan” and (**Note 8**) “landscape mitigation on private land”. While both of these would appear on first reading to be an attempt to hide the cumulative visual effects, it is obvious that any planting would take years, if not decades to reach a height whereby it would be effective in “mitigating” the adverse visual aspects and is therefore of very limited value, at least for an extended period of years.
17. Whilst I continue to oppose the switchyard for reasons discussed above, I have tried to take a pragmatic approach. In addition to landscape planting, it occurs to me that given the large amount of earth to be moved to prepare the switchyard site, an additional method of visual mitigation exists. Could a large earthen berm be constructed on the northern perimeter of the switchyard and the mitigating planting be planted on top of this? If a berm 5 meters or higher were to be constructed it would go some way to reducing the time the planting would take to become effective. This would also be of benefit to Contact in that it would reduce the amount of earth to be removed from the site to zero.
18. I also understand that Contact has now made arrangements as regards ownership of the land where the switchyard is proposed to be built. With that in mind I request consideration be given to moving the switchyard as far south/southwest as is reasonably practical (within the planned area) in order to increase its distance from me. This would have the added benefit of raising it further above the flood plain.
19. Regardless of the above, due to the cumulative adverse effects of my proximity to the proposed switchyard site and the new pylons’ visual impact I believe I should be classified as a Tier 1 contact, and be dealt with accordingly in terms of updating information and negotiated compensation.
20. In terms of my request for compensation I am aware that Contact may have concerns about setting a precedent for paying compensation to someone who does not have either a tower or turbine on their property. While I understand their concern, I believe it is important that every individual case is judged on its own merits and not simply denied for fear of precedent.
21. I understand their reluctance to “pay out” in some fashion to anyone anywhere who may have a distant view of a pylon on the horizon. I am not seeking payment for a view of a pylon or two. I will be in relatively close proximity to a large industrial switchyard; totally out of context in the rural setting I live in, whose very nature causes me disturbance and stress. My property is one of the very few in the whole project whose visual impact is assessed as “moderate” (**Note 9**). As none of the towers transverse my property and the switchyard is not on my property, it appears to be Contact’s position that my request for compensation for loss of visual amenity and loss of enjoyment is unrealistic. Contact may also feel that the benefits to my property gained by moving the line slightly further away from me will counter-balance the loss in value I perceive as a result of the switchyard proximity. As the affected person I can assure the board that this is not so. This argument and the associated fear of setting a precedent is, in my opinion, unsustainable. At the end of the day Contact’s engineers will build the project and go home; the switchyard will still be just over my boundary and every day for the rest of my life living here I will look at it and feel angry and resentful at what was forced upon me.
22. I think it is unreasonable, unjust and simply unfair that a corporation who claims to be making every effort to deal fairly and reasonably with those who are affected can draw such an arbitrarily unfair “line in the sand” and fail to compensate me merely for fear of “precedent”. All I am seeking is simple, natural justice. I have not opposed the whole project; I am not even saying “not in my backyard”, all I am saying is why should my family and I suffer for Auckland’s benefit and receive no compensation in return?

Traffic

23. Churchill Road is a secondary rural road and is not engineered or suitable for large volumes of heavy construction traffic such as could reasonably be expected to be associated with a project of this magnitude. I accept that the roads are for the use of everyone and all users must share them but one cannot reasonably expect to “force a golf-ball through a garden hose” without something giving way. I have read the evidence of Mr Galloway whose submission goes to Contacts traffic and road plans but it all seems to relate to the ‘wind-farm end’ with little mention of the Orton switchyard end.

Dust

24. Prevailing winds in NZ tend to be west-southwesterlies. This places the predominate winds blowing in my direction from the switchyard and access route. As stated above, without knowing exactly where the proposed site for the switchyard is and given the likely access routes as being through the Partridge property I am likely to incur significant environmental effects throughout the entire construction process and associated heavy traffic movements in support thereof.

25. I have read the report prepared for Contact wind by Beca (**Note 10**) and accept that they have made a good faith effort to address dust issues but still feel it is weighted towards the wind-farm end and see little reference to issues at my end of the line.

Waste Disposal

26. A construction project of this magnitude will require significant earthworks and traffic in preparation for the Orton switchyard and associated realignment of the existing line. I have concerns as regards to not only the heavy traffic in and out of the site, but the impact on my farms water supply (see below).

Water Issues

27. As regards the switchyard together with its associated earthworks being upstream from my farms’ water supply, my concerns as regards the likely impact on that water supply are obvious and, I feel, entirely reasonable. Sect 14 (3) (b) of the RMA “allows the taking of water for an individuals reasonable domestic needs and stock watering” without a resource consent and I have an easement that permits me to lead and convey water from the stream I currently utilise.

28. I note that Contact have advised my neighbour Mr Austin (who is also submitting on this matter) who utilises this same water supply that they will undertake an engineering assessment of possible water pollution possibilities but I am unhappy with this as a resolution and should Contact proceed with their plan I will effectively be barred from my legally accessible water source (**Note 12**).

29. Without safe reliable water (and unimpeded access to it) for my property I am restricted in my ability to raise stock and undertake other activities associated with living on a lifestyle block. Without access to the water supply as it currently stands now I am completely inhibited from the normal farming activities associated with livestock rearing. After extensive reading of (what seems like) thousands of pages of submissions I found buried in the evidence of Mr Mills an assurance that my water quality would “be maintained” (**Note 11**). My concerns relate not only to water quality but water access as discussed in Para 30 below. As far as I can see their assurance amounts to little more than “smoke and mirrors”. Who is going to be checking the water supply and with what frequency? What limits of pollution/discharge are acceptable? Who is going to pay for the testing? They will not be

monitoring it on a daily basis and any waterway pollution could well take time to work its way through the system leading to the point at which I access it for my properties use. The fact that Contact has made no effort to meet with me to discuss these issues despite their oft repeated assurances to the contrary leaves me with very little doubt that I would be “left out in the cold”.(Note 4)

30. As mentioned above, I have as yet no firm idea as to whether Contact wish to utilise the Partridge property as their primary site access for the proposed switchyard, but as this is what their documentation states I can only proceed under that assumption. Additional to my concerns above, should (as seems likely) the Partridge property become the primary access point to the site, I will, in practice be denied access to my water supply entirely due to construction of an entranceway at exactly the point I draw water from and ongoing heavy construction traffic, thus rendering my lifestyle block essentially valueless. (Note 12)
31. I also read in Contacts submission that they seek permission to discharge “process and waste water” to ground where it may enter groundwater. While this would occur at the “wind farm end” rather than the “Orton switchyard end” and thus not directly affect me I am still firmly opposed to any discharge of water unless it is treated to an acceptable standard. In these times surely we are past the point of allowing large commercial operations to ride roughshod over the environment and I see no reason to allow Contact to dump their wastewater wherever they like, polluting waterways and aquifers as they go.

Property Value

32. The evidence offered by Mr Crighton and his report on Easement Compensation issues and Transmission Line property right requirements (Notes 13 and 14) covers the ground extensively. If I could quote a couple of points from his evidence:
- From Para 13 “There is potential for property value loss resulting from the presence of the proposed transmission line”
 - From Para 26 table 1 (b) “loss of value of land adjoining the transmission line”;
 - From Para 39 “Stigma, perception, public fear or distaste around transmission lines may cause a loss of value near the lines. This is an important consideration for all compensation assessments”.

I accept the quotes strictly apply to the transmission line but I feel it is acceptable to infer much the same feeling and perceptions would apply to the switchyard, possibly even at an increased level; There is considerable evidence given by Mr Crighton around public perception and the reasonableness of it and the fact that under the environment court authority the reasonableness of public fear is a relevant issue.

33. I further note Mr Crightons statement in Para 46 of his evidence “I have not inspected the properties...” Further statements made by Mr Crighton reiterate that “an estimate is just that” (Para 15 of his evidence). Both sides could no doubt pluck various paragraphs from Mr Crightons evidence and report to support their positions. What I would like to state for the record is that Mr Crighton may well be a respected professional valuer and while I cast no aspersions on his reputation, by his own admission he has not inspected my property, nor others affected, nor does he live here to *be affected*, he merely comments on how I should feel in terms of *being affected*.
34. I was told that the environment court is not required to take into account the effect of property values on decisions they make. I received this nugget of information with incredulity. I always thought that we live in a democracy, and that the courts existed in a free society to ensure the rule of law with an independent judiciary acting as one of the bulwarks

of our society, protecting the weak from the powerful. Given that this hearing is a board of enquiry rather than a formal court sitting I hope the board is able to allow a modicum of common sense into its deliberations on the matter. I freely admit my lack of knowledge as regards many of the finer points of our legal system and as I am unsure as to whether the board can direct Contact to make specific compensation amounts or merely direct Contact that they must engage in “good faith negotiations”, I will address the specific nature of my requests below.

35. If I cannot turn to those such as you, then to whom can I turn? I have not the financial resources to fight a corporation and so I must, of necessity, look to you to safeguard my interests and those of my family’s, while (of course) balancing those against that ephemeral entity known as “the greater good”. I realise that “property value” can be a complex and subjective value, given there are generally two opposing positions on it in any negotiation. If Contact gain approval for the project, to whom do I turn if they fail to live up to any agreement they might make with me as regards my concerns? Can I call up board members in five years time and say “Contact are not doing what they promised”? Obviously not, which is why I ask the Board to ensure Contact is **required** to abide by any agreements that are negotiated.
36. I have attempted throughout to take a pragmatic approach to dealing with this situation. Frankly I wish it had never arisen, but given that it has I am making every effort to be reasonable. I am under no illusions that my concerns carry sufficient weight to get the project consents denied. I have not confused Contact with the Lottery Commission; I seek no unfair or unreasonable compensation from Contact should they gain consent for this project, but neither do I feel I should be disadvantaged, either financially or practically, from it. To say that because I cannot “see it” that I am largely unaffected, is sophistry. I cannot see global warming or the hole in the ozone layer either, but they both have a real impact on my daily life, and so will this project if it goes ahead.

Incorrect Statements in other submissions

37. Mr Lister (**Note 15**) makes the assertion that no-one raised either the switching station or the deviation of the existing **HLY-OTA** line as a concern in their submission. In my submission dated 24/10/08 I indicated on the reverse of the form that I opposed both those items.
38. Mr Crighton (**Note 16**) makes the assertion that there are no affected lifestyle blocks. I own and live on just such a lifestyle block, as do other submitters and interested party’s who may have chosen not to submit for many reasons and Contact are aware of that.

Conclusion/Summary

39. Should the board grant the necessary consents to Contact Energy to allow this project to proceed, I seek the following:

- That Contact negotiate with me on the same basis and terms that they do with people they identify as “Tier 1” in terms of financial compensation for loss of enjoyment to my home and lifestyle and loss of value to my property.
- That Contact install a functioning water bore for my lifestyle block, in recognition of the likelihood of impeded access to, and possible qualitative degradation of, my water supply (despite my easement right).
- That Contact proceeds with the Landscape mitigation schemes as outlined, in consultation with me.
- That Contact ensures that the Orton switchyard is not routinely lit at night, being done so only on an “as required” basis.
- That Contact negotiate with me the final position of the proposed pylon identified by them as Dev 6
- That Contact build the switchyard as far to the south/southwest as is functionally practical

SF Kiernan

Note 1 Volume 1 Evidence of Mr Geoghegan, Para 27

Note 2 Volume 7 Evidence of Mr Daysch Para 42

Note 3 Volume 8 Evidence of Mr Daysh Part 2 Exhibit SDG5 ORTON SWITCHYARD L08055 Exhibit Page 000226 Para 3.1 (a)

Note 4 I was finally visited by two representatives from Contact on Thursday March 19, after my submission was all but completed and just days before it was due. We had a discussion (without prejudice) on my concerns and what I would like to see as a result. I am awaiting their written response.

Note 5 Volume 4 Evidence of Mr Lister Para 240 “The deviation of the existing line to connect with the switching station will also generate some adverse visual effects because of the need to introduce angles in the line and heavier strain towers”

Note 6 Volume 1 Evidence of Mr Mills Para 114 “...there is not much than can be done to mitigate adverse visual effects for T2 neighbours whose dwellings are within 1 kilometre of proposed new transmission towers. However the reality is that there are very few who are adversely effected...”

Note 7 Volume 8 Evidence of Mr Daysh Exhibit SDG5 ORTON SWITCHYARD L08055 Exhibit page 000227 Para 5 “Landscape Mitigation”

- Note 8** Volume 8 Evidence of Mr Daysh Exhibit SDG5 GRID CONNECTION L08056 Exhibit page 000232 Para 10
- Note 9** Volume 4 Evidence of Mr Lister Appendix I Page 000092
- Note 10** Volume 2 Evidence of Mr James Exhibit CDJ35
- Note 11** Volume 1 Evidence of W. Mills Para 149 “Contact energy would be agreeable to a condition in its Notice of Requirement that provides Mr and Mrs Austin (and any other neighbours who draw on the same scheme) with necessary assurance that their potable water supply will be maintained in the event the Punga Punga scheme is adversely affected”
- Note 12** Volume 8 Evidence of Mr Daysh Exhibit SDG5 ORTON SWITCHYARD L08055 Exhibit Page 000229 Para 9.3 “Prior to construction work commencing, the requiring authority will construct an entranceway at the junction of the switchyard and Churchill road.”
- Note 13** Volume 3 Evidence of Mr Crighton paras 13, 26, 39
- Note 14** Volume 3 Evidence of Mr Crighton Exhibit TAC2 Exhibit pages 000005 – 000059 “WWF project proposed transmission line property right requirement report”
- Note 15** Volume 4 Evidence of Mr Lister Para 242 “No submissions raised the switching station or connection deviation as an issue”
- Note 16** Volume 3 Evidence of Mr Crighton Exhibit TAC2 Exhibit page 000032 Report Para 138(c) “However we reiterate that, within the context of the proposed Waikato wind farm transmission lines, there are no current “lifestyle blocks” as we define them in table 7, being areas generally less than 4ha.”