

Evidence in respect of Genesis Energy Limited Submission #74052

BEFORE THE INDEPENDENT HEARINGS PANEL FOR PROPOSED WAIKATO
REGIONAL PLAN CHANGE 1

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Response to Hearings Panel questions to Waikato Regional
 Council Officers

EVIDENCE BY RICHARD MATTHEWS

19 JULY 2019

FOR GENESIS ENERGY LIMITED SUBMITTER #74052

Introduction

1. My name is Richard John Matthews.
2. I presented evidence on behalf of Genesis Energy Limited (**Genesis**) for the Part A and Part B Block 1 hearing and the Part C1 - C6 Block 2 hearing considering Proposed Plan Change 1 – Waikato and Waipā River Catchments (PC1). I have also prepared evidence in relation to the Joint Witness Statement with respect to the attributes in Table 3.11-1.
3. My qualifications and experience are as set out in my evidence for the Parts A, B and C1 - C6 hearings for PC1.

Code of Conduct

4. While not directly applicable to this hearing, I confirm that I have read the “Code of Conduct for Expert Witnesses” contained in the Environment Court Consolidated Practice Note 2014. I agree to comply with this Code of Conduct. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Scope of Evidence

5. The Hearing Panel Minutes dated 7 June and 6 July regarding responses to the questions and requests the Hearing Panel put to the Council Officers directed that any submitter may file “supplementary” evidence in relation to the officers' responses no later than 19 July 2019. This statement of planning evidence is specifically in relation to Question 19, policy 10 identified in the “Memo – Response to Hearings Panel questions” dated 5 July 2019 to the Hearings Panel from Matthew McCallum-Clark, Section 42A lead author:

Can Policy 10 be read as a Controlled Activity Rule policy? If that's not the intention can clarification of the correct intention be provided? (20 May)?

Response to Question 19

6. The section 42A report authors (Matthew McCallum-Clark) responded to this question from the Hearing Panel as follows:¹

That is one possible interpretation of Policy 10. In the Officers' opinion, "provide for" does not mean "permit" or "always grant", although it is accepted that it has quite an enabling implication. An alternative wording, considered during drafting of the s42A report, was to reduce this positive implication in the chapeau of Policy 10. At the time, on-balance, it was considered that the existing wording was better supported by the RPS. However, the RPS is not particularly directive on this matter. A revised wording, which may also have the appropriate balance is 'new' infrastructure or industry was to be included, could be:

*When deciding resource consent applications for point source discharges of nitrogen, phosphorus, sediment and microbial pathogens to water or onto or into land, ~~provide for~~ **have regard to the benefits of:***

- a. Continued operation of regionally significant infrastructure;
and*
- b. Continued operation of regionally significant industry.*

7. As I stated in response to a similar question from Mr Robinson during the presentation of my evidence in the Block 2 hearing on 19 June, I agree with Mr McCallum-Clarke that in some situations "provide for" can be interpreted to imply that a controlled activity rule may be appropriate for the activities identified in Policy 10.
8. I also agree with Mr McCallum-Clarke that "provide for" does not mean "permit" or "always grant" but it does have an enabling implication, although I would qualify "enabling" to be subject to avoidance or mitigation of adverse effects (and, where there are significant residual adverse effects, offsetting or environmental compensation of those effects as appropriate).
9. As I stated in response to the question on 19 June, in the context of Plan Change 1 ("PC1") and the Vision and Strategy, "provide for" in Policy 10 must be interpreted such that while restoring and protecting the Waikato and Waipā

¹ Paragraph 122, Memo to the Hearings Panel – Proposed Plan Change 1: Waikato and Waipā River Catchments from Matthew McCallum-Clark, Section 42A lead author regarding Questions to Waikato Regional Council Officers, dated 5 July 2019.

Rivers, the continued operation of regionally significant infrastructure and regionally significant industry must also be provided for.

10. In that context, “provide for” does not have to be by way of a controlled activity rule but can simply be policy advice to decision makers that regionally significant infrastructure and industry need to be afforded a higher priority than other infrastructure and industry, as is recognised in the policy wording referring to “*when deciding resource consent applications...*”.
11. However, I disagree with the suggested revised wording proposed by Mr McCallum-Clark. In my opinion, “have regard to the benefits of” does not reflect the direction provided in the Regional Policy Statement with respect to both regionally significant infrastructure and regionally significant industry, nor does it enable people and communities in the Waikato Region to continue to provide for their social, economic and cultural wellbeing, which the objectives of PC1 (Objective 2 in particular) seek.
12. The revised wording proposed by Mr McCallum-Clark does not, in my opinion, proffer the appropriate guidance in relation to the significant support regionally significant infrastructure provides with respect to the wellbeing of the regional community and to the importance of this infrastructure to New Zealand as a whole² or the important role that regionally significant industry plays in contributing to the economic, social and cultural wellbeing of people and communities.³
13. Policy 10 in PC1 was proposed with the knowledge of the present rules in the Waikato Regional Plan which in my opinion supports my assessment (outlined above) that Policy 10 is intended as policy advice to decision makers that regionally significant infrastructure and regionally significant industry need to be afforded a higher priority than other infrastructure and industry or other activities. I consider that policy advice for a decision maker to provide for regionally significant industry and infrastructure (in recognition of their significant social and economic benefits) in a resource consenting process provides appropriate support for these activities at the policy level.

² Waikato Regional Policy Statement, page 6-12.

³ Waikato Regional Policy Statement, page 4-11.

14. I therefore consider that the notified wording for Policy 10 should remain, as set out in my Block 2 evidence and below:

Policy 10: Provide for point source discharges of regional significance/Te Kaupapa Here 10: Te whakatau i ngā rukenga i ngā pū tuwha e noho tāpua ana ki te rohe

When deciding resource consent applications for point source discharges of nitrogen, phosphorus, sediment and microbial pathogens to water or onto or into land, provide for the:

- a. Continued operation of regionally significant infrastructure;
and*
- b. Continued operation of regionally significant industry.*

Richard Matthews

19 July 2019