

**In the Environment Court
I Mua I Te Kōti Taiao O Aotearoa
Auckland Registry
Tāmaki Makaurau Rohe**

ENV-2020-AKL-000096

In the matter of the Resource Management Act 1991
And in the matter of an application under Section 274 of the Act

Between

Director-General of Conservation

Appellant

and

Waikato Regional Council

Respondent

**Notice of Genesis Energy Limited's wish to be party to
proceedings**

21 September 2020

BELL GULLY

BARRISTERS AND SOLICITORS

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To: The Registrar
Environment Court
Auckland

1. Genesis Energy Limited (**Genesis**) wishes to be a party to the following proceedings:

(a) ENV-2020-AKL-000096 *Director-General of Conservation v Waikato Regional Council*.

2. Genesis made a submission about the subject matter of the proceedings and has an interest in the proceedings that is greater than the interest that the general public has as the owner and operator of nationally significant electricity generation facilities within the Waikato River Catchment.

3. Genesis is not a trade competitor for the purposes of section 308C of the Resource Management Act 1991 (**RMA**).

4. Genesis is interested in part of the proceedings.

5. Genesis is interested in the following parts of the proceedings:

Diffuse discharges

(a) Policy 5/ Te Kaupapa Here 5;

Point source discharges

(b) Policy 12/ Te Kaupapa Here 12;

(c) Policy 13/Te Kaupapa Here 13;

3.11.3 Implementation methods/ Ngā tikanga whakatinana

(d) Method 3.11.3.3;

(e) Method 3.11.3.4;

3.11.6 *List of tables and maps/ Te rārangi o ngā ripanga me ngā mahere*

- (f) Table 3.11-1: Short-term water quality attribute states and 80-year attribute states for the Waikato and Waipā River catchments/ Te Ripanga 3.11-1: Ngā āhuatanga ā-kounga wai o ngā riu o ngā awa o Waikato me Waipā i ngā taupoto, I ngā tau e 80 anō hoki.
6. Genesis is interested in the following particular issues:
- (a) The inclusion of additional attributes; and
- (b) Offset and compensation measures.
7. Genesis supports the relief sought in regard to Policy 13 to provide more clarity on the meaning of the terms “high water quality” and “high level of contamination reduction” and how these will be measured.
8. Genesis opposes the relief sought to the remainder of the policies, methods and table detailed above because –
- (a) A “net” environment benefit or gain arising from an offset/compensation measure should not be a mandatory requirement. A “net environmental benefit” requirement included in Policy 5 and 12 significantly extends the requirements on consent holders past the RMA requirements to avoid, remedy and / or mitigate effects.
- (b) Genesis agrees with the Independent Hearings Panel (**IHP**) that requiring offset and compensation measures to remain in place in perpetuity goes too far,¹ would likely be a difficult standard to meet, and should not be required.
- (c) The proposed amendments to include additional attributes is outside the scope of PC1. PC1 should be limited to the four key

¹ Proposed Waikato Regional Plan Change 1: Waikato and Waipā River Catchments: The Hearing Panel’s Recommendation Report dated 17 January 2020 at [1340] (**IHP’s Recommendation Report**).

contaminants and related attributes as set out in the notified version of PC1, the public notices of Variation 1, the s 32 Report, the Overview of Collaborative Stakeholder Groups Recommendations and the Scope Document.

- (d) The additional attributes Director-General of Conservation (**DOC**) sought to include in Methods 3.11.3.3 and 3.11.3.4 and Table 3.11-1, such as deposited sediment, dissolved oxygen (**DO**) and additional temperature monitoring, were found by the IHP to be out of scope, or otherwise inappropriate to include in PC1. For example, the IHP found that “temperature, heavy metals and hydrological attributes were out of scope- not being ‘on’ the Plan Change.”² The IHP also found that “while DO is an important water quality attribute, its direct relationship with the four contaminants is limited, and therefore it is of low value in assisting their management. On that basis, we have not included it as an attribute in Table 3.11-1.”³
- (e) There is a real risk that persons directly or potentially directly affected by the inclusion of additional attributes proposed by the DOC have been denied the opportunity to respond and participate in the PC1 process.
- (f) Whilst it is acknowledged there are other contaminants that need to be managed to achieve restoration and protection of the health and wellbeing of the Waikato and Waipā Rivers, the intent of PC1 was not to be a broad and all-encompassing plan change. Instead it was intended to contribute to the implementation of Te Ture Whaimana o Te Awa o Waikato, the Vision and Strategy, and be just be one of many changes and other measures which would as a whole give effect to the entire Vision and Strategy.
- (g) There has been no thorough assessment undertaken to quantify the scale and significance of the environmental, economic, social,

² IHP’s Recommendation Report at [41].

³ IHP’s Recommendation Report at [987].

and cultural effects, costs or benefits of including additional attributes in PC1.

9. Genesis agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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Dated 21 September 2020

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Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.