

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

**ENV-2022-AKL-000073**

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

Between

**Waikato Regional Council**

Appellant

and

**Waikato District Council**

Respondent

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

**21 March 2022**

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**BELL GULLY**

BARRISTERS AND SOLICITORS

N J GARVAN / L M LINCOLN

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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) *Waikato Regional Council v Waikato District Council* – ENV-2022-AKL-000073.
2. Genesis is a person who made a submission about the subject matter of the proceedings.
3. Genesis is not a trade competitor for the purposes of section 308C of the Resource Management Act 1991.
4. Genesis is interested in all of the proceedings.
5. In particular, Genesis is interested in the following parts of the proceedings:
  - (a) Part 1: Introduction and general provisions / Interpretation – Definition of “Flood Plain Management Area”;
  - (b) Part 1: Introduction and general provisions / Interpretation – Definition of “Significant Natural Area”; and
  - (c) Proposed District Plan Maps – Mapping of Significant Natural Areas.
6. Genesis is interested in the following issues:
  - (a) The proposed expansion of the definition of “Flood Plain Management Area” (**FPMA**) to areas beyond those identified on planning maps;
  - (b) The proposed expansion of the definition of “Significant Natural Area” (**SNA**) to include areas that meet one or more of the criteria

in Appendix 2 of the Proposed Plan, as assessed by a suitably qualified ecologist; and

- (c) Proposed amendments to the planning maps to include all SNAs mapped in the notified version of the Proposed Plan, unless evidence was submitted during the hearing process from a qualified ecologist establishing that the SNA or part of the SNA does not meet the criteria set out in 11A of the Waikato Regional Policy Statement (**WRPS**).

7. Genesis opposes the relief sought because—

- (a) The proposed amendments create unnecessary uncertainty in the Proposed Plan. Mapping of both SNAs and FPMAs is necessary to give plan users sufficient certainty about the provisions that apply to their activities;
- (b) Removing mapping of FPMAs unfairly shifts responsibilities and costs onto landowners to undertake flood assessments. Such assessments are unnecessary, and are an inefficient use of resources, when the Waikato Regional Council (**WRC**) and Waikato District Council (**WDC**) have such modelling readily available.
- (c) Genesis agrees with the Hearings Panel that the identification of SNAs on planning maps with rules that relate explicitly to those mapped sites provides far more certainty for plan users than other approaches, is favoured by the Draft National Policy Statement on Indigenous Biodiversity, and will not lead to perverse outcomes where a single tree on a site could be deemed to be an SNA<sup>1</sup>;
- (d) Expanding the definition of SNA to include areas that are not mapped but meet one or more of the criteria in Appendix 2 of the Proposed Plan places an onus on the landowner to have their land independently assessed by a suitably qualified ecologist.

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<sup>1</sup> Report and Decisions of the Waikato District Plan Hearings Panel, Decision Report 9: Significant Natural Areas at [5.3].

This approach is inconsistent with Policy ECO-P12 of the Proposed Plan which requires the WDC is jointly responsible with WRC to meet the costs of an ecological assessment that shows the area which meets one or more of the Appendix 2 criteria; and

- (e) Genesis agrees with the Hearings Panel that the data that informed the mapping of SNAs in the PDP was inaccurate<sup>2</sup> and therefore should not be relied on. Genesis supports the Panel's approach to the identification of SNAs, noting that its separate appeal on this issue relates to what appears to be an administrative error.

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



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N J Garvan / L M Lincoln  
Counsel for Genesis Energy Limited

Dated 21 March 2022

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<sup>2</sup> Report and Decisions of the Waikato District Plan Hearings Panel, Decision Report 9: Significant Natural Areas at [5.4].

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**Advice**

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