

BEFORE THE INDEPENDENT HEARINGS PANEL FOR THE PROPOSED WAIKATO
DISTRICT PLAN

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Proposed Waikato District Plan, Stage 1: Hearing 22 –
Infrastructure

**REBUTTAL STATEMENT OF EVIDENCE BY RICHARD
MATTHEWS**

6 October 2020

FOR GENESIS ENERGY LIMITED SUBMITTER #924

INTRODUCTION

1. My name is Richard John Matthews. I hold the qualifications of Master of Science (Hons) degree specialising in Chemistry and have been working on resource consent applications (and their former descriptions under legislation prior to the commencement of the Resource Management Act 1991) since 1979 and advising on Regional and District Plan provisions since 1991.
2. I have outlined my qualifications and experience in previous evidence for the Proposed Waikato District Plan and in my evidence in chief (“**EIC**”) for Hearing 22.
3. 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

4. I have read the statements of evidence provided by witness for the Hearing 22. My rebuttal evidence discusses the evidence of Lynette Pearl Wharfe on behalf of Horticulture New Zealand. This statement of rebuttal evidence addresses Ms Wharfe’s evidence in respect of reverse sensitivity and the associated provisions recommended in the Section 42A Report (“**s42A Report**”).

OBJECTIVE 6.1.6 AND POLICY 6.1.7

5. In her evidence in chief, Ms Wharfe opposes the wording that the s42A Report author and I¹ supported for Objective 6.1.6 and Policy 6.1.7. As I understand from reading her evidence, Ms Wharfe’s opposition is based, at least in part, on:
 - (a) The wording proposed in the s42A Report for Objective 6.1.6 and Policy 6.1.7 relying on the wording of Policy 10 in the National Policy Statement for Electricity Transmission (Ms Wharfe’s paragraphs 5.33 – 5.35);
 - (b) Ms Wharfe’s opinion that Waikato Regional Policy Statement (“**Waikato RPS**”) Objective 3.12g seeks to minimise the potential for reverse sensitivity whereas the proposed Objective 6.1.6 proposes a “much higher test” of “protecting”

¹ Matthews EIC, paragraph 25.

infrastructure from reverse sensitivity effects (paragraph 5.38); and

- (c) Waikato RPS Policy 6.6 does “not specifically mention reverse sensitivity, nor does Method 6.6.1 [of the RPS]” (paragraph 5.39).

6. I do not agree with Ms Wharfe’s interpretation of the provisions of the Waikato RPS for the following reasons:

- (a) In my opinion, using Waikato RPS Objective 3.12 to support opposition to the proposed wording of Objective 6.1.6 of the PDP is based on a partial reading of the Waikato RPS as a whole as Objective 3.12 (g) is not the only provision in the Waikato RPS relating to reverse sensitivity, for example:
 - 1. Policy 4.4 refers to “*avoiding or minimising the potential for reverse sensitivity*”;
 - 2. Implementation Method 4.4.1 states that “*District and regional plans should provide for regionally significant industry and primary production by ... (d) recognising the potential for regionally significant industry and primary production activities to have adverse effects beyond its boundaries and the need to avoid or minimise the potential for reverse sensitivity effects*”;
 - 3. Implementation Method 6.1.2 Reverse sensitivity states that “*Local authorities should have particular regard to the potential for reverse sensitivity ... consideration should be given to discouraging new sensitive activities, locating near existing and planned land uses*”;
 - 4. Policy 6.16 Commercial development in the Future Proof area “g) ... iv) *the extent and character of industrial land and associated physical resources, including through the avoidance of reverse sensitivity effects*”.
- (b) In addition, the Waikato RPS does not use the term “minimise the potential for reverse sensitivity” in isolation, for example Objective 3.12 Clause (g)² seeks to minimise land use conflicts, not just the potential for reverse sensitivity, while policies 4.4 and 6.16 refer to avoiding reverse sensitivity effects;
- (c) The Waikato RPS “language” is not limited to use of the term “reverse sensitivity” to refer to the effect of concern, for example, Objective 3.12 (e) refers to “*recognising and protecting the value and long-term benefits of regionally*

² Waikato RPS Clause g reads as follows:
“g) minimising land use conflicts, including minimising potential for reverse sensitivity”
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significant infrastructure”, part of which can involve avoiding reverse sensitivity effects;

- (d) Ms Wharfe states, at paragraph 5.39 that Waikato RPS Policy 6.6 does not specifically mention reverse sensitivity, nor does Method 6.6.1. In my opinion this ignores the intent of Policy 6.6 which requires that the built environment be managed so that the *“effectiveness and efficiency of existing and planned regionally significant infrastructure is protected”* (Policy 6.6 clause a). In my opinion, reverse sensitivity and conflict between land uses are ways in which the effectiveness and efficiency of regionally significant infrastructure can be compromised. I agree with Ms Wharfe that Method 6.6.1 does not specifically refer to “reverse sensitivity”; however, Method 6.6.1 does say (clause f) that amongst other matters, the District Plan provisions should provide for infrastructure in a manner that *“does not result in land uses that adversely affect the effective and efficient operation of existing and planned regionally significant infrastructure”*. Similarly, Method 6.6.4 states that Local Authorities should *“ensure that appropriate measures are implemented to avoid adverse effects of development of the built environment on the safe, efficient and effective operation of regionally significant infrastructure”*;
- (e) Ms Wharfe does not address Waikato RPS Policy 4.4 which specifically refers to avoiding reverse sensitivity effects, as well as minimising the potential for reverse sensitivity with respect to Regionally Significant Industry. As I have set out in other evidence relating to the Proposed Waikato District Plan provisions, the Huntly Power Station is an example of both a Regionally Significant Industry and Regionally Significant Infrastructure.
- (f) Waikato RPS Policy 6.1 requires that subdivision use and development of the built environment has regard to the principles in section 6A of the RPS. Implementation Method 6.1.1 then requires local authorities to have regard to the principles in section 6A when preparing, reviewing or changing district plans. The Development Principles in section 6A requires that new development *should not result in incompatible adjacent land uses (including those that may result in reverse sensitivity effects), such as industry, rural activities and existing or planned infrastructure* (clause o).
- (g) Ms Wharfe does not take account of Implementation Method 6.1.2 (with respect to Policy 6.1 – Planned and co-ordinated subdivision, use and development) which states that:

6.1.2 Reverse sensitivity

Local authorities should have particular regard to the potential for reverse sensitivity when assessing resource consent applications, preparing, reviewing or changing district or regional plans and development planning mechanisms such as structure plans and growth strategies. In particular, consideration should be given to discouraging new sensitive activities, locating near existing and planned land uses or activities that could be subject to effects including the discharge of substances, odour, smoke, noise, light spill, or dust which could affect the health of people and / or lower the amenity values of the surrounding area.

- (h) Ms Wharfe’s suggested approach ignores Waikato RPS Policy 6.16 (Commercial Development in the Future Proof Area) part g, which promotes avoidance of reverse sensitivity effects. I note that the “future proof area” includes existing industrial areas such as the Huntly Power Station and the policy seeks to avoid fragmentation of these areas and to ensure that such industrial zones can continue to provide an important part of the regional environment.
7. In my opinion, the wording that the s42A Report author proposed and I have supported (with minor modification) for Objective 6.1.6 and Policy 6.1.7 (seeking to avoid reverse sensitivity effects) is consistent with reading the Waikato RPS provisions collectively and applying those provisions to the infrastructure provisions in the Proposed Waikato District Plan, rather than the wording Ms Wharfe proposes which seeks only to minimise the potential for reverse sensitivity effects on infrastructure.
 8. I consider that provisions seeking to manage land use activities to avoid reverse sensitivity effects rather than managing land use to reduce the potential for such effects is more consistent with the Waikato RPS. For the reasons stated above, I do not agree with Ms Wharfe’s recommendations in respect of Objective 6.1.6 and Policy 6.1.7.

Richard Matthews

6 October 2020
