

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 2: Hearing 27B
(Objectives, Policies and General Submissions), Hearing 27C
(Flood Hazards and Defended Areas) and Hearing 27F (Fire,
Climate Change and Definitions)

EVIDENCE SUMMARY – RICHARD MATTHEWS

5 May 2021

FOR GENESIS ENERGY LIMITED SUBMITTER # 2104

EVIDENCE SUMMARY

1. The submissions and further submissions made by Genesis in respect of the natural hazards provisions of the Proposed District Plan: Stage 2 (“PDP”) seek to ensure that the ongoing operation, maintenance and upgrading of the nationally significant Huntly Power Station (as Regionally Significant Infrastructure and a Regionally Significant Industry) is provided for.
2. My evidence addresses three of the s42A Reports for Hearing 27:
 - (a) The s42A Report for Hearing 27B: Natural Hazards: Objectives, Policies and General Submissions, prepared by Ms Yvonne Legarth.
 - (b) The s42A Report for Hearing 27C: Flood Hazards and Defended Areas, prepared by Ms Janice Carter.
 - (c) The s42A Report for Hearing 27F: Natural Hazards – Fire, Climate Change and Definitions, prepared by Mr Neil Taylor.
3. I consider that amendments are required to recognise and provide for the Huntly Power Station, which is a Regionally Significant Industry and Regionally Significant Infrastructure. The amendments include:
 - (a) The definition of “minor upgrading” to being amended to include “Infrastructure” as well as utilities;
 - (b) Policy 15.2.1.4 being amended to include “ancillary activities”;
 - (c) The rules within Chapter 15 providing for infrastructure as well as utilities; and
 - (d) The rules within Chapter 15 should be amended to provide for associated earthworks in High Risk Flood Areas in the same way as earthworks are provided for in the Flood Plain Management and Flood Ponding Area rules.
4. I have proposed amendments to the provisions identified above (using the s42A report recommended policy versions as the base and providing alternative wording as appropriate) as attached in Appendix One (with my suggested insertions in red underline and deletions in red ~~strikethrough~~).

Hearing 27B – Objectives, Policies and General Submissions

Submission # 2104.3 – Policy 15.1.4

5. Genesis sought that Policy 15.2.1.4 be amended to include reference to “ancillary activities”. Ms Legarth (at paragraph 246) recommends rejecting this on the basis that the term ancillary activities is too broad.
6. I do not agree with this rationale and consider that inserting “ancillary activities” to a policy in the PDP will not result in unintended activities such as earthworks, access tracks and structures being enabled. The construction of new infrastructure, and associated ancillary activities, would still need to meet the permitted activity standards within the PDP or for the proposal to be assessed through a resource consent process.
7. I agree with Ms Legarth that the policy is for infrastructure that cannot be located elsewhere (such as the HPS infrastructure for the taking of water from and discharge of water to the Waikato River) and consider that ancillary activities associated with that infrastructure would therefore need to be located or undertaken in that same place.

Hearing 27F – Fire, Climate Change and Definitions

Submission #2104.10 – Definition of “Minor Upgrading”

8. Genesis seeks an amendment to the definition of “minor upgrading” to include infrastructure alongside utilities so that the minor upgrading of infrastructure would be a permitted activity.
9. The proposed definition of “Utility” for the purpose of Chapter 15 includes the *“Transformation, transmission, generation or distribution of electricity...” but is limited to the generation of electricity by “network utility operators or requiring authorities”*. Electricity generators, such as Genesis, are not network utility operators nor are they requiring authorities meaning that rules applying to utilities would not apply to electricity generation infrastructure within the Waikato District.
10. In my opinion, it is apparent from the objectives and policies that it is intended that Chapter 15 applies to infrastructure (as defined in the PDP) and not just to utilities. For example, Policy 15.2.1.5 explicitly provides for the operation, maintenance and **minor upgrading of existing infrastructure** and utilities in all areas subject to natural hazards [emphasis added].

11. The definition of “minor upgrading” not including reference to infrastructure would frustrate the implementation of Policy 15.2.1.5 which provides for the minor upgrading of infrastructure. In the case of Genesis’ electricity generation assets, the fact that it is not a network utility operator means that the definition of “Utility” does not apply to its electricity generation activities.
12. In my opinion this definition of infrastructure appropriately limits the nature of infrastructure that the rules in Chapter 15 apply to. I see no reason why the rules in Chapter 15 that apply to utilities should not also apply to infrastructure (as defined in the PDP), especially given that the proposed objectives and policies in Chapter 15 apply equally to infrastructure and utilities.

Hearing 27C – Flood Hazards and Defended Areas

Submissions #2104.6 and #2104.7 – Rules 15.4.1 P5 and 15.4.1 P6

13. The objectives and policies of Chapter 15 relate to both infrastructure and utilities; however, several permitted activity rules only apply to utilities. There is no effects management reason in my opinion why the objectives and policies provide for both infrastructure and utilities equally, but some permitted activity rules only apply to utilities.
14. I consider that permitted activity rules 15.4.1 P5 and 15.4.1 P6 should be amended to include reference to “infrastructure” alongside utilities and can rely on the PDP definition of “infrastructure” to limit the breadth of activities that the permitted activity rules provide for.

Submissions 2104.8 and 2104.9 – Rules 15.5.1 P1 and 15.5.2 RD1

15. In addition to seeking that the construction, replacement, repair, maintenance, minor upgrading or upgrading of infrastructure be provided for as well as utilities in Rules 15.4.1 P5 and P6, the Genesis submission also seeks similar amendments to Rules 15.5.1 P1 and 15.5.2 RD1 which relate to activities within a High Risk Flood Area. I consider that the rules should reference “Infrastructure” and should also explicitly provide for earthworks in the High Risk Flood Area rules as requested in the Genesis submission.

Richard Matthews

5 May 2021

Appendix One: Summary of Proposed Changes

Hearing 27B Evidence Changes Recommended (Richard Matthews, 15 April 2021)

1. Policy 15.2.1.4

Amend the policy as follows (changes from the s42A report recommendation in red underline and red strikethrough):

Policy 15.2.1.4 - New and upgrading of infrastructure and utilities in areas subject to significant risk from natural hazards.

- (a) Enable the construction of new infrastructure and utilities, and associated ancillary activities, and the upgrading of infrastructure and utilities, in areas at significant risk from natural hazards, including High Risk Flood, High Risk Coastal Hazard (Inundation) and High-Risk Coastal Hazard (Erosion) areas only where:
- (i) the infrastructure and utilities are technically, functionally or operationally required to locate in areas subject to natural hazards, or it is not reasonably practicable to be located elsewhere; and
 - (ii) any increased risks to people, property and the environment are mitigated to the extent practicable; and
 - (iii) the infrastructure and utilities are designed, maintained and managed, including provision of hazard mitigation works where appropriate, to function to the extent practicable during and after natural hazard events.

~~(b) Enable upgrading of infrastructure and utilities in the areas mentioned in (a), where (a)(i), (ii) and (iii) are complied with.~~

Hearing 27F Evidence Changes Recommended (Richard Matthews, 15 April 2021)

2. Rule 15.4.1 P5 and Rule 15.4.1 P6

Amend the rules as follows (changes from the s42A report recommendation in red strikethrough and red underline):

Rule 15.4.1 P5:

Construction, replacement, repair, maintenance, minor upgrading or upgrading of infrastructure and utilities.

Rule 15.4.1 P6:

Earthworks associated with construction, replacement, repair, maintenance, minor upgrading or upgrading of infrastructure and utilities, and the formation and maintenance of access tracks.

3. Rule 15.5.1 P1 and Rule 15.5.2 RD1

Amend the rules as follows (changes from the s42A report recommendation in red strikethrough and red underline):

Rule 15.5.1 P1

- (1) Repair, maintenance or minor upgrading of existing infrastructure and utilities, and any associated earthworks.
- (2) Construction, replacement or upgrading of telecommunication lines, poles, cabinets and masts/ poles supporting antennas.
- (3) Construction, replacement or upgrading of electricity lines, poles, cabinets, and supporting structures.

Rule 15.5.2 RD1

- (1) New infrastructure and utilities not provided for in Rule 15.5.1 P1(2) or P1(3), and any associated earthworks.
- (2) Upgrading of existing infrastructure and utilities not provided for in Rule 15.5.1 P1(1), and any associated earthworks.

Hearing 27F Evidence Changes Recommended (Richard Matthews, 15 April 2021)

4. Definition of Minor Upgrading

Amend the definition as follows (changes from the s42A report recommendation in red strikethrough and red underline):

For the purposes of Chapter 15 means an increase in the capacity, efficiency or security of existing infrastructure and utilities where this utilises existing structures and networks and/or structures and networks of a similar scale and character.