

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

ENV-2020-AKL-000101

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

Between

Auckland/Waikato and Eastern Fish and Game Councils

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

N J GARVAN / H G WATSON

AUCKLAND LEVEL 22, VERO CENTRE, 48 SHORTLAND STREET

PO BOX 1149, AUCKLAND 1140, DX CP20509, NEW ZEALAND

TEL 64 9 916 8800 FAX 64 9 916 8801

EMAIL NATASHA.GARVAN@BELLGULLY.COM / HANNAH.WATSON@BELLGULLY.COM

To: The Registrar
Environment Court
Auckland

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

(a) ENV-2020-AKL-000101 *Auckland/Waikato and Eastern Fish and Game Councils 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:

Objectives/ Ngā Whāinga

(a) Objective 1/ Te Whāinga 1;

(b) Objective 2 (Freshwater Objective)/ Te Whāinga 2 (Te Whāinga Wai Māori);

(c) Objective 3/ Te Whāinga 3;

Diffuse discharges/ Ngā rukenga roha

(d) Policy 1/ Te Kaupapa Here 1;

(e) Policy 3/ Te Kaupapa Here 3;

(f) Policy 4 / Te Kaupapa Here 4;

Point source discharges/ ngā rukenga i ngā pū tuwha

- (g) Policy 11/ Te Kaupapa Here 11;
- (h) Policy 12/ Te Kaupapa Here 12;

Diffuse and point source discharges/ Ngā rukenga roha me ngā rukenga i ngā pū tuwha

- (i) Policy 16 / Te Kaupapa Here 16; and
- (j) Policy 19 / Te Kaupapa Here 19.

6. Genesis is interested in the following particular issues:

- (a) The inclusion of other contaminants.

7. Genesis opposes the relief sought because –

- (a) The provisions should expressly state what “other contaminants” are relevant. While the Independent Hearings Panel (**IHP**) noted that additional attributes that are sufficiently closely connected with the content of PC1 as notified could be within scope, this does not extend to any and all “other contaminants”. For example, the IHP found that “temperature, heavy metals and hydrological attributes were out of scope- not being ‘on’ the Plan Change.”¹
- (b) PC1 should be limited to the four key 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. The amendment to include “and other contaminants” is outside the scope of PC1.
- (c) There is a real risk that persons directly or potentially directly affected by the inclusion of “and other contaminants” proposed by

¹ Proposed Waikato Regional Plan Change 1: Waikato and Waipā River Catchments: The Hearing Panel’s Recommendation Report dated 17 January 2020 at [41] (**IHP’s Recommendation Report**).

Auckland/Waikato and Eastern Fish and Game Councils have been denied the opportunity to respond and participate in the PC1 process.

- (d) 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.²
- (e) The inclusion of the term “and other contaminants” in the objectives and policies listed above creates uncertainty as to what other contaminants may be included within PC1 and should not be included.

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



N J Garvan / H G Watson
Counsel for Genesis Energy Limited

Dated 21 September 2020

² Scope, goals and drivers of the Healthy Rivers: Plan for Change/Wai Ora: He Rautaki Whakapaipai Project, Prepared for the Collaborative Stakeholder Group Workshop 2 (6-7 May 2014) at 4.

Address for service:

Genesis Energy Limited
C/- Bell Gully
Level 22, Vero Centre, 48 Shortland Street
PO Box 1149
Auckland 1140
Attention: Natasha Garvan / Hannah Watson

Telephone: (09) 916 8800
Facsimile: (09) 916 8801
Email: natasha.garvan@bellgully.com / hannah.watson@bellgully.com

Advice

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