

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the submissions and
further submissions by
**Genesis Energy
Limited** on Proposed
Plan Change 4 to the
Canterbury Land and
Water Regional Plan

STATEMENT OF REBUTTAL EVIDENCE OF RICHARD JOHN MATTHEWS

19 FEBRUARY 2016

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1. INTRODUCTION

Qualifications and Experience

- 1.1 My name is Richard John Matthews and I am a director of Mitchell Partnerships Limited, a specialist environmental consulting practice with offices in Auckland, Tauranga and Dunedin.
- 1.2 I have been engaged by Genesis Energy Limited (“**Genesis Energy**”) to provide advice in respect of the Proposed Plan Change 4 to the Canterbury Land and Water Regional Plan (“**LWRP**”). On 29 January 2016 I provided a primary evidence statement on behalf of Genesis Energy, on matters related to Plan Change 4.¹ My qualifications and experience are set out in my primary statement.

Expert Witness Code of Conduct

- 1.3 I have been provided with a copy of the Code of Conduct for Expert Witnesses contained in the Environment Court’s Practice Note 2014. I have read and agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Rebuttal Evidence

- 1.4 In this evidence I discuss matters addressed in the primary evidence statement by Kathryn Jane McArthur presented on behalf of the Royal Forest and Bird Protection Society of New Zealand in so far as it relates to the submissions lodged by Genesis Energy.
- 1.5 In summary, I consider that Clause (b) of the definition of Vegetation Clearance should remain as per the Operative version of the LWRP definition, and that changes recommended in the Section 42A report on Plan Change 4 submissions and supported in my primary evidence statement be adopted, subject to wording adjustments referred to in paragraph 4.4 of my primary

¹ R J Matthews (29 January 2016) Primary evidence – in the matter of submissions and further submissions by Genesis Energy Limited on Proposed Plan Change 4 to the Land and Water Regional Plan.

evidence statement² or to adjustments to Policy 4.85A discussed by Ms J Whyte for Meridian Energy.³ In particular, I oppose the changes to the Vegetation Clearance definition and to proposed Policy 4.85A with respect to infrastructure that are proposed by Ms McArthur.

2. PROVISIONS RELATING TO MAINTENANCE AND OPERATION OF INFRASTRUCTURE

Vegetation Clearance Definition

2.1 In her primary evidence statement, Ms McArthur comments that “*In relation to potential effects on water quality and aquatic biodiversity, clause (b) of the definition of vegetation clearance is too broad and should be deleted*”.⁴

2.2 The vegetation clearance definition⁵ is as follows (my emphasis added to clause b):

Vegetation clearance means removal of vegetation by physical, mechanical, chemical or other means but excludes:

- a. cultivation for the establishment of crops or pasture;
- b. clearance for the establishment or maintenance of utilities or structures;**

...

2.3 I note that Plan Change 4 to the LWRP does not propose any change to the Operative LWRP with respect to clause (b) of the definition of Vegetation Clearance. The implications of deleting this wording have not been fully considered, and in my opinion go beyond the scope of what is intended by Plan Change 4. The present wording in the Operative LWRP has been considered and adopted previously and it would be inappropriate to make the change sought by Ms McArthur as part of Plan Change 4.

2.4 I note that vegetation clearance is an essential component of the maintenance and operation of infrastructure, including for example, the removal of vegetation that may interfere with transmission lines, tree roots that disrupt sewers or maintenance of flow channels required for the efficient operation of renewable electricity generation infrastructure.

² These relate to changes to the opening paragraph of proposed Policy 4.85A.

³ Ms Whyte proposes alternative wording for proposed Policy 4.85A in paragraph 49 that I support.

⁴ Paragraph 85, KJ. McArthur (29 January 2016) Primary evidence on behalf of the Royal Forest and Bird Protection Society of New Zealand (Submission C16C/11483).

⁵ Operative Canterbury Land and Water Regional Plan.

- 2.5 As I discuss later in my evidence, I consider that the exemption provided for utilities and structures in the Vegetation Clearance definition is consistent with, and gives effect to, the National Policy Statement on Renewable Electricity Generation (“NPSREG”) and the Canterbury Regional Policy Statement (“RPS”).

Policy 4.85A

- 2.6 Ms McArthur also observes that she supports “*new Policy 4.85A with the exception of the exemption for the operation, maintenance or repair of structures or network utilities*”⁶ and that the policy could be improved by changing the word “limiting” at the beginning of clause (b) to “preventing”.

- 2.7 Proposed Policy 4.85A is as follows:⁷

Indigenous biodiversity, habitats of indigenous fauna and flora, and the natural character of Canterbury's braided river systems is preserved through:

(a) preventing further encroachment of activities into the beds and margins of lakes and rivers; and

(b) limiting vegetation clearance within the bed, banks and margins of lakes, rivers, wetlands or coastal lagoons

unless the vegetation clearance is for the purpose of pest management, habitat restoration, flood control purposes, the operation, maintenance or repair of structures or infrastructure, or maintenance of public access.

- 2.8 As noted above, vegetation clearance is an essential component of the maintenance and operation of important infrastructure. The need to take account of maintenance requirements is highlighted in the NPSREG and the RPS, and is a matter of national significance in terms of the NPSREG.

- 2.9 In particular, the NPSREG states (my emphasis added):⁸

The matters of national significance to which this national policy statement applies are:

*a) **the need to develop, operate, maintain and upgrade renewable electricity generation activities** throughout New Zealand; and*

b) the benefits of renewable electricity generation.

⁶ Paragraph 87, KJ. McArthur (29 January 2016) Primary evidence on behalf of the Royal Forest and Bird Protection Society of New Zealand (Submission C16C/11483).

⁷ Wording for Policy 4.85A as proposed in the Section 42A report on Plan Change 4 submissions and supported in my primary evidence statement with respect to inclusion of “infrastructure”.

⁸ Page 4, NPSREG, Matters of National Significance.

- 2.10 The exemption provided for the operation, maintenance or repair of structures or infrastructure⁹ is an appropriate way in which this aspect of the matters of national significance identified in the NPSREG can be recognised in the LWRP and Plan Change 4.
- 2.11 Similarly, Policy A of the NPSREG requires decision makers to recognise and provide for the benefits relevant to renewable electricity generation activities including maintaining electricity generation capacity, while Policy B requires decision makers to have particular regard to the maintenance of the generation output of existing renewable electricity generation activities and that even minor reductions in the generation output of existing renewable electricity generation activities can cumulatively have significant adverse effects on renewable electricity generation output. Maintenance activities which may involve vegetation clearance in or adjacent to the beds of rivers, lakes or streams are essential to maintaining generation output from renewable generation infrastructure.
- 2.12 Policy E2 of the NPSREG requires regional policy statements and regional and district plans to include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities to the extent applicable to the region or district.
- 2.13 I consider that proposed Policy 4.85A (as worded in the Section 42A report) is one way in which Plan Change 4 can give effect to the NPSREG by recognising and appropriately providing for maintenance activities, recognising the requirements of Policy A, Policy B and Policy E2 of the NPSREG.
- 2.14 Policy 5.3.9 [Regionally significant infrastructure (Wider Region)] in the RPS requires that “*the continuation of existing infrastructure, including its maintenance and operation*” be provided for. Proposed Policy 4.85A (as worded in the Section 42A report) is one way in which Plan Change 4 can give effect to the RPS in providing for the maintenance and operation of infrastructure. As noted above, maintenance activities, which may involve vegetation clearance in or adjacent to the beds of rivers, lakes or streams, are

⁹ Wording for Policy 4.85A as proposed in the Section 42A report on Plan Change 4 submissions and supported in my primary evidence statement with respect to inclusion of “infrastructure”.

essential to maintaining generation output from renewable generation infrastructure.

- 2.15 Policy 10.3.1 (Activities in river and lake beds and their riparian zones) in the RPS specifically recognises activities “*necessary for the maintenance, operation, upgrade, and repair of essential structures*” as being a matter that must be provided for with respect to activities in river and lake beds and their riparian zones. Again, I consider that proposed Policy 4.85A (as worded in the Section 42A report) is one way in which Plan Change 4 can give effect to the RPS in providing for the maintenance and operation of infrastructure.
- 2.16 I also consider that changing the word “limiting” to “preventing” in clause (b) of proposed Policy 4.85A is unnecessarily restrictive and fails to recognise that some vegetation clearance is inevitable for a variety of purposes (including, for example, removal of pest species). I consider that the wording of proposed Policy 4.85A should be retained as recommended in the Section 42A report.

Summary

- 2.17 The amendments to the Vegetation Clearance definition and to proposed Policy 4.85A that are proposed by Ms McArthur for the Royal Forest and Bird Protection Society of New Zealand are not appropriate and do not give effect to relevant statutory documents. In my opinion, clause (b) of the Vegetation clearance definition as written, and adjusted wording for proposed Policy 4.85A proposed in the Section 42A report, subject to wording adjustments referred to in paragraph 4.4 of my primary evidence statement¹⁰ or to adjustments to Policy 4.85A discussed by Ms J Whyte for Meridian Energy would give effect to the NPSREG and to the RPS.

Richard Matthews

19 February 2016

¹⁰ These relate to changes to the opening paragraph of proposed Policy 4.85A.