
IN THE MATTER OF
AND
IN THE MATTER OF

the Resource Management Act 1991
The Proposed Horowhenua District Plan

STATEMENT BY LORELLE BARRY IN RELATION TO SUBMISSIONS BY
TODD ENERGY LTD (SUBMITTER NO. 80.00 & 514.00) AND
KCE MANGAHAO LTD (SUBMITTER NO. 92.00 & 515.00)

HOROWHENUA DISTRICT COUNCIL
PROPOSED DISTRICT PLAN – RURAL ENVIRONMENT

TO: HEARINGS PANEL

1. My name is Lorelle Jane Barry. I have a Master of Arts, a Bachelor of Arts with Honours and a Bachelor of Law. I have been an associate member of the New Zealand Planning Institute since 2007. I am a planner employed by Sigma Consultants Ltd, a company based in Rotorua which provides planning, engineering and architectural services.
2. I have 7 years planning experience, much of which has related to preparing applications for resource consent under district and regional plans and reporting to district councils. Most of my work has been based in the Central North Island / Bay of Plenty but I have worked throughout the country including in the South Waikato and Manawatu Districts.
3. I have been engaged by Todd Energy Ltd and KCE Mangahao Ltd to prepare evidence and table this evidence on their behalf.
4. I have read the section 42A staff report received prior to this hearing.

BACKGROUND

5. Todd Energy Ltd owns land in the Tararua Foothills and provides management support for the Mangahao Power Station. This submission relates to provisions

in the Proposed Horowhenua District Plan (“PDP”) relating to the establishment and operation of electricity generation projects based on renewable resources.

6. KCE Mangahao Ltd owns the Mangahao Power Station in the Tararua Foothills and the associated reservoirs, dams and infrastructure supporting the power station. This submission relates to provisions in the Proposed Horowhenua District Plan (“PDP”) relating to the ongoing operation of the Power Station and associated infrastructure and the establishment of additional components to support its ongoing operation which is based on a renewable resource.
7. Todd Energy and KCE Mangahao have made submissions and further submissions on the Proposed Horowhenua District Plan. Both Todd Energy and KCE Mangahao (as Mangahao Joint Venture) were submitters on PC22, but not in relation to PC20.

INTRODUCTION

8. The submissions by Todd Energy and KCE Mangahao relate to the Rural Environment (Chapter 2 and Chapter 19) within the Proposed Horowhenua District Plan.
9. In Chapter 2, the submitters opposed in-part the objectives and policies in relation to landscape as they are set out in Chapter 2 as they do not provide clarity and certainty. Specifically:
 - The submitters own land that is located in the Rural Zone and in the Hill Country Landscape Domain with an overlay of High Amenity Landscape (“HAL”) and ONFL. The landscape domains have been identified through PC20 and the ONFL/ HAL overlays have been confirmed through PC22.
 - The reason for “grey-out” of text is accepted as being subject to separate processes. However, at the time of making this submission on the PDP, the outcome to the plan changes can only be assumed as the scope of appeals and their outcomes are yet to be determined. The relationship with the rest of the PDP remains uncertain and subject to potential change.
 - All chapters and provisions are inter-related and there are constraints on viewing the chapters in isolation from the “grey-out” areas subject to PC 20-22. Therefore, consideration of the objectives, policies and rules cannot be approached in an integrated manner.
 - For KCE Mangahao’s purposes, all of its land is in the Rural Zone, but any activity undertaken on its land would require an assessment in terms of the land’s rural zoning and the Tararua Terrace / Hill Country landscape domains including part as a HAL and ONFL. An assessment of one is difficult without due consideration of the other. Chapter 2

contains no reference to Outstanding Natural Features and Landscapes (“ONFL”) or HALs.

- The policies on the landscape domains have been copied in a block following Policies 2.1.20 and 2.1.21 which are not “grey-out”, but their relationship to the foregoing policies is not clear and the numbering does not relate to the PDP numbering.
- It is not clear whether the landscape domain policies relate solely to the Issue heading and hence relate just to subdivision and subsequent development following subdivision or to all development subject to land use consents, including, potentially, electricity generation projects.
- In addition, it is not clear that the wording in the “grey-out” text follows exactly the wording of PC20 and PC22 as the wording of policy HC.1 states the need to “protect” and this does not reflect the differentiation between policy intent for the Outstanding Natural Features and Landscapes (“ONFL”) and the HAL.
- It may also be noted that the decision of the commissioners on Plan Change 22 refers to several matters that are to be considered in the plan review, including the area in the HAL above the 100m contour boundary and the fit between the network utilities and chapters 19/22, as well as renewable energy and streams and rivers. Not all of these appear to have been addressed as part of the wider district plan review.

10. The submitters sought the following decision from the Council in relation to Chapter 2:

- To take into account that full consideration of the implications of the proposed district plan is difficult when having to view it in isolation from the outcome of PC 20 - 22 and that the relationship between the rural environment, utilities and landscape policy framework needs to be integrated and clear.
- Review of the 100m contour boundary in line with the Commissioners’ comments in the decision on Plan Change 22.

11. Further, in relation to Chapter 19, the submitters opposed the lack of certainty provided in Rule 19.1(k)(iv), providing that:

- This rule provides for “the operation, maintenance, refurbishment, enhancement and upgrading of an existing energy generation facility except where significant external modification is involved” (emphasis added). While the intent of the rule is supported (although it is covered by existing use rights), the use of the word “significant” is inappropriate for a permitted activity as it requires a judgement to be made in its interpretation.
- There will be occasions when a power station or associated facilities are upgraded and the footprint, height or scale may change or increase: it is not clear whether “external modifications” refer to cosmetic changes or would encompass and enable more substantial changes not altering the general scale of effects. A clear unambiguous wording is required.

12. The relief sought by the submitters was an amendment to Rule 19.1(k)(iv) to provide certainty about the scope of upgrading by reference to increased footprint, height or other specific parameters.
13. Further submissions were also lodged both in support and opposition of the submissions lodged by Federated Farmers of NZ, Horticulture NZ, and Transpower NZ Ltd. These will be discussed as and where appropriate in the course of this evidence.
14. The work undertaken since submissions closed and as explained in the section 42A staff report both accepts and refuses the changes sought. The following considers the staff report in relation to the Rural Environment and is set out in the same order as the headings in the staff report.

4.12 OBJECTIVE 2.5.1

15. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to their further submission in support of Transpower, be accepted in-part. The staff report states that the amendment requested to Objective 2.5.1 is accepted in-part as it recognises that not all activities located in rural areas are associated with primary production activities. The staff report recommends that the word “associated” be deleted from the Objective to address this matter. It is considered that the recommendation generally reflects the intent of Todd and KCE Mangahao’s further submission. The minor changes to the wording of the Objective, and the explanation provided in the staff report, more clearly identifies that not all rural activities are primary production activities. Therefore the recommendation in the staff report is supported and the Commissioners are asked to accept this recommendation.

4.27 EXPLANATION & PRINCIPAL REASONS (OBJECTIVE 2.5.1)

16. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to their further submission in support of Transpower, be accepted. As the staff report has recommended support, the Commissioners are asked to accept this recommendation.

4.29 NEW POLICIES – CHAPTER 2

17. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to a new policy being included in Chapter 2, be rejected. Todd Energy and KCE Mangahao have requested that a new policy is included which makes it clear that infrastructure is a legitimate rural land use activity and is subject to constraints on location in relation to physical resources. The staff report provides that upon review of the Operative Plan provisions in relation to the existing rural environment, it was determined that there is limited recognition for the presence and role of other, non-primary production activities in the rural environment. As such, the Proposed Plan has included provisions (including Policies 2.5.3 and 2.5.4) to recognise these other activities. The staff report further provides that these policies are considered to adequately recognise the relief sought by the submitters, and that it is not considered appropriate to include a policy which makes specific reference to infrastructure in the rural environment. The submitters consider that infrastructure has become a key component, if you like, of the rural environment and as such provision for it needs to be clear and specific. While Policy 2.5.3 could cover “infrastructure” in the manner proposed, Policy 2.5.4 has a different focus on “sensitive activities”. It is still considered that Chapter 2 would benefit from the addition of either a new policy, or the phrase “such as infrastructure and/or other legitimate non-primary production activities” to be included within the text or at the end of Policy 2.5.3. It is for these reasons that the Commissioners are asked to reject this recommendation.
18. The staff report also recommends that the particular relief sought by KCE Mangahao in relation to the inclusion of a “reverse sensitivity” policy in Chapter 2, be rejected. KCE Mangahao has requested that a policy is required in Chapter 2 to recognise the potential reverse sensitivity issues, such as in Policy 2.5.11 in the Rural Environment. The staff report states that this matter is specifically addressed in Policy 2.3.6 of the Proposed Plan and that by adding a new policy, duplication would result. In order to avoid the potential for any duplication to arise, the submitter agrees that Policy 2.3.6 reflects the relief sought and therefore supports the staff report’s recommendation. Therefore, the Commissioners are asked to accept this recommendation.

4.31 CHAPTER 2 – GENERAL MATTERS

19. The staff report recommends that the relief sought by Todd Energy and KCE Mangahao in relation to Chapter 2 – General Matters, be rejected. The submitters seek the general consideration of the fact that the implications of the Proposed Plan are difficult to take into account when having to view the Plan in isolation from the outcome of Plan Change 20–22. Also, the relationship between the rural environment, utilities and landscape policy framework needs to be integrated and clear. Additionally, a review of the 100m contour boundary in line with the Commissioners comments in the decision on Plan Change 22 is sought. The staff report acknowledges that an overview of the Proposed Plan is difficult given that the provisions of Plan Change 20-22 are not part of the submission process. The staff report also makes comment that it is unclear from the submission what type of provisions are sought to be included. The provisions referred to are the “greyed out” provisions which are included in Chapters 2 and 19, from Plan Change 20-22, but are unavailable for submission as they are part of a separate process. Consideration of Plan Change 20-22 in isolation from the entire Rural Environment is somewhat problematic. The submitters would like to emphasise that when the Proposed Plan becomes operative both the Plan Changes 20-22 and the Rural Environment sections now notified, will be required to be considered as a whole and not in isolation to each other. As such the relationship between the two is not available for submission and the implications of the two combined are unable to be assessed. While the staff reports recommendation is understood, the Commissioners are asked to consider the above comments and decide accordingly.

CONCLUSIONS

20. The recommendations provided in the section 42A staff report in relation to the Rural Environment sections of the Proposed Horowhenua District Plan have been discussed by way of reference to the submissions and further submissions lodged by Todd Energy Ltd and KCE Mangahao Ltd. Where necessary, it has been indicated where these recommendations are supported or rejected by the submitters.
21. It is for the above reasons that the Commissioners are asked to consider and accept this evidence, and where relevant the support and/or rejection of the recommendations proposed.



Lorelle Barry

Planner

Sigma Consultants Ltd

On behalf of

TODD ENERGY LTD

And

KCE MANGAHAO LTD

02 May 2013