

**ENVIRONMENT COURT OF NEW ZEALAND
AUCKLAND REGISTRY
I MUA I TE KOOTI TAIAO O AOTEAROA
TĀMAKI MAKĀURAU**

**ENV-2021-AKL-000104
ENV-2021-AKL-000105**

In the matter of the Resource Management Act 1991 (the **Act**)

And

In the matter of an appeal under clause 14 of the first schedule of the Act
against Hawke's Bay Regional Council's decision on Plan
Change 7 to the Hawke's Bay Regional Resource
Management Plan

Between **TE TAIWHENUA O HERETAUNGA, TE RUNANGANUI O
HERETAUNGA, TE MANAAKI TAIAO O HERETAUNGA
AND NGĀTI KAHUNGUNU IWI INCORPORATED**

And **ROYAL FOREST AND BIRD PROTECTION SOCIETY OF
NEW ZEALAND INCORPORATED**

Appellants

And **HAWKE'S BAY REGIONAL COUNCIL**

Respondent

**STATEMENT OF EVIDENCE OF RICHARD JOHN MATTHEWS ON BEHALF OF
GENESIS ENERGY LIMITED
(PLANNING)**

Dated 22 September 2023

1. EXECUTIVE SUMMARY

- 1.1 I support the wording proposed for Policy LW3B in the Hawke's Bay Regional Council's (**Council**) preferred version of PC7 circulated on 13 July 2023.
- 1.2 I support the retention of the screening criteria set out in Part 1 – Outstanding Water Body Identification Screening Criteria in Schedule 25: Outstanding Water Bodies of the Council's preferred version of PC7 to assist with identification of water bodies in Hawke's Bay, that have one or more outstanding cultural and spiritual, recreation, landscape, geology, natural character, or ecology value(s) that are "*conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region*".
- 1.3 I consider that further water bodies should not be added to Schedule 25 in PC7 until such time as they have been considered against the criteria listed in Schedule 25, Part 1 – Outstanding Water Body Identification Screening Criteria as part of a future plan change process.
- 1.4 Overall, I support I support the wording proposed in the Council's preferred version of PC7 circulated on 13 July 2023, with amendments as recommended in the evidence presented for the Council.

2. INTRODUCTION

- 2.1 My name is **Richard John Matthews**.
- 2.2 My evidence is given on behalf of Genesis Energy Limited (**Genesis**) in relation to the appeals against Council's decision on Plan Change 7 (**PC7**) to the Hawke's Bay Regional Resource Management Plan (**HBRRMP**).

3. QUALIFICATIONS AND EXPERIENCE

- 3.1 I am a Planner and Partner at Mitchell Daysh Limited, a specialist environmental consulting practice with offices in Auckland, Hamilton, Tauranga, Taupō, Napier, Wellington and Dunedin. Mitchell Daysh Limited was formed on 1 October 2016, as a result of merger between Mitchell Partnerships Limited and Environmental Management Services Limited.
- 3.2 I hold a 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.

- 3.3 I have more than forty years' experience as a resource management adviser, initially in the local government sector. My first role in the local government sector was as a water quality scientist assessing water quality in the Waikato River and its catchment, subsequently becoming Resource Consents Manager for the Waikato Regional Council.
- 3.4 Since 1999 I have been in private practice with the environmental consulting practice, Mitchell Daysh Limited (formerly Mitchell Partnerships Limited). I have been involved in many resource management projects within New Zealand, including several resource consent application processes and Regional and District Plan reviews. In particular, I have the following experience:
- (a) Assisting with preparing submissions and evidence for Council hearings relating to PC7;
 - (b) Assisting with the preparation of evidence for a Special Tribunal hearing to consider the application for a Water Conservation Order for the Ngaruroro River and the Clive River;
 - (c) Preparing assessments of environmental effects and resource consent applications for several electricity generation projects, including for (amongst other projects) the Tongariro Power Scheme, the Tekapo Power Scheme, Ngāwhā Generation (solar and geothermal), Huntly Power Station, Ōtorohanga Power Station and the Hau Nui Wind Farm;
 - (d) Participating in due diligence assessments for several electricity generation projects in Waikato, Hawke's Bay, Manawatu, Taranaki, Otago and other locations;
 - (e) Preparing assessments of environmental effects and resource consent applications for municipal infrastructure projects, including water supply, stormwater and wastewater discharge projects for a range of greenfield and existing site projects;
 - (f) Preparing evidence in respect of how the planning instruments relevant to the taking of water from the Rangitata River respond to and have taken into account the management of freshwater through the National

Policy Statement for Freshwater Management (**NPSFM**), and participating in mediation with respect to appeals regarding decisions on the proposed take;

- (g) Preparing submissions on Plan Change 1 to the Waikato Regional Plan (management of diffuse and point source discharges in the Waikato and Waipā Catchments) and subsequently preparing and presenting evidence for Council hearings and for upcoming appeal hearings;
- (h) Preparing submissions on the Proposed Waikato District Plan, preparing and presenting evidence for Council hearings and participating in appeal mediation; and
- (i) Preparing submissions on various Canterbury Regional Plans and the Proposed Auckland Unitary Plan, and subsequently preparing and presenting evidence for hearings.

4. CODE OF CONDUCT

- 4.1 I have read the Code of Conduct for Expert Witnesses (contained in the 2023 Practice Note) and agree to comply with it. Except where I state I rely on the evidence of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

5. SCOPE OF EVIDENCE

- 5.1 I have been asked to provide this evidence on behalf of Genesis.
- 5.2 In my evidence, I will:
 - (a) Provide an overview of the Waikaremoana Power Scheme (**WPS**);
 - (b) Discuss matters relating to the inclusion of water bodies in Schedule 25 of PC7; and
 - (c) Provide my analysis of the following matters in particular:
 - (i) Policy LW3B regarding existing activities (including renewable electricity generation) which will apply to the WPS; and
 - (ii) Schedule 25 criteria for assessing Outstanding Water Bodies.

5.3 In preparing this evidence, I have reviewed:

- (a) Genesis' Primary Submission on PC7, dated 28 February 2020;
- (b) Genesis' Further Submissions on PC7, dated 10 September 2020;
- (c) Section 32 Evaluation Report for Plan Change 7 (**section 32 report**);
- (d) Summary of recreation, landscape and ecology values associated with water bodies in Hawke's Bay report, dated 14 March 2018;
- (e) Outstanding Water Bodies in Hawke's Bay: Report of the Expert Panel, dated April 2019;
- (f) Lake Waikaremoana Summary of Values report, dated August 2020;
- (g) Waikaretāheke River Summary of Values report, dated August 2020;
- (h) Water Conservation Order Review: Outstanding Values: Key Features report, dated September 2020.
- (i) Section 42A report on PC7, dated October 2020 (**section 42A report**) and all appendices prepared by Ms Belinda Harper and Ms Nichola Nicholson.]
- (j) Planning evidence filed on behalf of the Council by Ms Belinda Harper;
- (k) Evidence filed on behalf of the appellants including:
 - (i) Mr Maurice Black, for Te Taiwhenua o Heretaunga;
 - (ii) Mr M Apatu, for Te Taiwhenua o Heretaunga;
 - (iii) Mr N Tomoana, for Ngāti Kahungunu Iwi Incorporated;
 - (iv) Mr John Cheyne, for Royal Forest and Bird Protection Society of New Zealand Inc; and
 - (v) Mr T Kay for Royal Forest and Bird Protection Society of New Zealand Inc.
- (l) The "Joint Memorandum of Parties in Support of Draft Consent Order: Proposed Plan Change 7: Policy Matters", dated 1 November 2022; and

(m) The Council's preferred version of PC7 filed with the Court on 13 July 2023.

6. WAIKAREMOANA POWER SCHEME

- 6.1 The WPS is operated by Genesis and is located in between Te Urewera and Wairoa, along the upper seven kilometres of the Waikaretāheke River and consists of three power stations: Kaitawa (36 MW), Tuai (60MW) and Piripaua (42MW), together with associated infrastructure.
- 6.2 The Kaitawa Power Station was commissioned in 1949, Tuai Power Station was commissioned in 1929 and Piripaua Power Station was commissioned in 1943. As such, the WPS has been part of the existing environment for many decades.
- 6.3 The WPS generates approximately 450,000 Megawatt hours (**MWh**) of electricity annually, which is equivalent to the annual electricity usage by approximately 56,250 households. As a significant renewable electricity generation site on the East Coast, the WPS is strategically important at both the regional and national levels. WPS relies on being able to store water in, and manage water levels of, Lake Waikaremoana. Electricity from the power stations is transmitted directly into the National Grid.
- 6.4 Genesis' current operation of the WPS is authorised via a suite of resource consents granted by the Council for activities associated with the damming of the relevant waterbodies; taking of water for hydro-electricity generation and its associated discharge; and other ancillary and maintenance activities. The resource consents were granted in 1998 for a duration of 35 years, expiring in 2032.

6.5 The National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**), and Policies A, B and C1 in particular,¹ acknowledges the major energy challenges facing New Zealand seeks to meet its growing energy demand, including:

- (a) Responding to the risks of climate change by reducing greenhouse gas emissions caused by the production and use of energy; and
- (b) The delivery of a clean, secure and affordable energy while treating the environment responsibly; and
- (c) Ensuring that the generation output of existing renewable electricity generation activities such as the WPS is maintained to enable national targets for the generation of electricity from renewable resources to be met; and
- (d) Existing renewable electricity generation activities such as the WPS need to be located where the renewable energy resource is available.

¹¹

POLICY A

Decision-makers shall recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities. These benefits include, but are not limited to:

- a) maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;
- b) maintaining or increasing security of electricity supply at local, regional and national levels by diversifying the type and/or location of electricity generation;
- c) using renewable natural resources rather than finite resources;
- d) the reversibility of the adverse effects on the environment of some renewable electricity generation technologies;
- e) avoiding reliance on imported fuels for the purposes of generating electricity.

POLICY B

Decision-makers shall have particular regard to the following matters:

- a) maintenance of the generation output of existing renewable electricity generation activities can require protection of the assets, operational capacity and continued availability of the renewable energy resource; and
- b) even minor reductions in the generation output of existing renewable electricity generation activities can cumulatively have significant adverse effects on national, regional and local renewable electricity generation output; and
- c) meeting or exceeding the New Zealand Government's national target for the generation of electricity from renewable resources will require the significant development of renewable electricity generation activities.

POLICY C1

Decision-makers shall have particular to the following matters:

- a) the need to locate the renewable electricity generation activity where the renewable energy resource is available;
- b) logistical or technical practicalities associated with developing, upgrading, operating or maintaining the renewable electricity generation activity;
- c) the location of existing structures and infrastructure including, but not limited to, roads, navigation and telecommunication structures and facilities, the distribution network and the national grid in relation to the renewable electricity generation activity, and the need to connect renewable electricity generation activity to the national grid;
- d) designing measures which allow operational requirements to complement and provide for mitigation opportunities; and
- e) adaptive management measures.

7. SCHEDULE 25 WATER BODIES

- 7.1 Having read the proposed consent order relating to the PC7 appeals and the evidence for the Council (and that of Ms B Harper in particular), Te Taiwhenua o Heretaunga, Ngāti Kahungunu Iwi Incorporated and Royal Forest and Bird Protection Society of New Zealand Inc., I conclude that the main outstanding matters with respect to the PC7 appeals are whether:
- (a) Screening criteria should be included in the HBRRMP for assessing which water bodies in Hawke's Bay are genuinely outstanding and should be retained or included in Schedule 25; and
 - (b) Rivers listed in Schedule 25 of the notified version of PC7 should have been deleted by the Independent Hearing Panel.
- 7.2 I understand from Ms Harper's evidence that there are several water bodies subject to remaining points of appeal.²
- 7.3 These water bodies were not the subject of the Genesis submissions or section 274 notices and I make no further comment on these specific water bodies.
- 7.4 I consider that the provisions within the Council's 13 July 2023 preferred version of PC7 would be an appropriate inclusion in the HBRRMP. This version of PC7 would not only recognise and provide protection for the significant values of the specified water bodies identified in Schedule 25 but would also provide a framework which would enable the identification and protection of the significant values of other outstanding water bodies in future decision-making on regional plans and relevant resource consent applications.

² Makaroro River; Heretaunga Aquifer; Karamū River; Lake Poukawa and Pekapeka Swamp; Lower Ngaruroro River; Ruataniwha Aquifer; Tukituki Estuary; Tukituki River; and Waitangi Estuary.

- 7.5 In that regard, I support the conclusions set out in paragraph 4.1 of Ms Harper's evidence.³
- 7.6 I also consider that while the WPS and Waikaretāheke River have significant renewable electricity generation values that are unique in Hawke's Bay and has recreational values associated with flow releases provided for by the WPS consent conditions, I agree with the Independent Hearing Panel's conclusion that the Waikaretāheke River should not be included in Schedule 25⁴ because it does not have "*outstanding cultural and spiritual, recreation, landscape, geology, natural character or ecology value(s) that are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region*" using the criteria identified in Part 1 of Schedule 25 of the Council's preferred version of PC7. On that basis, I consider that the Waikaretāheke River should not be specifically listed in Part 2 of Schedule 25.
- 7.7 In his evidence at paragraph 8.1(c) with respect to the PC7 policy framework and the proposed assessment criteria, Mr Black expresses concern that Ms Harper conflates water quantity with requirements for fish passage in concluding that no further reference is required with respect to water quantity in the objectives, policies or assessment criteria. I do not take that inference from Ms Harper's evidence. In her paragraph 4.1(c), Ms Harper states that the "*PC7 policy framework requires the protection of the outstanding and significant values of OWB, which will ensure sufficient water quantity is retained in OWBs to maintain and uphold their significant values*", which I agree with and interpret to mean all of the significant values relevant to what is being considered. My assessment of the proposed criteria in the Council's preferred PC7 version is that where water quantity is directly relevant to the value being assessed (such as natural character), reference is made to flows in the criteria. Where water quantity contributes to a value being significant

³ Evidence In Chief of Belinda Harper on Behalf of Hawke's Bay Regional Council, Planning, dated 11 August 2023:

4.1 *The key conclusions reached in my evidence are:*

- (a) *The provisions within the Council's preferred version of PC7 filed with the Court on 13 July 2023 are generally appropriate for the purposes intended by the HBRC, which is to identify a list of the region's outstanding water bodies, together with a framework which protects the outstanding and significant values of these water bodies in future decision-making on regional plans and relevant resource consent applications.*
- (b) *In my opinion it is clearer to define the term OWB in a way that includes freshwater bodies and estuaries in recognition that outstanding values regularly extend between the freshwater and coastal environments. This approach assists with plan clarity and ensures a consistent management regime can be established that effectively protects these values. Notwithstanding, should the Court instead prefer the reference to estuaries be deleted from the OWB definition and separate references be made in PC7 to 'outstanding estuaries', then I have provided some alternative provisions within PC7 (see Appendix A) that remain within the scope of PC7 and achieve this outcome.*

⁴ Proposed Plan Change 7: Regional Resource Management Plan – Outstanding Water Bodies, Decision Report of the Independent Hearing Panel appointed by the Hawke's Bay Regional Council pursuant to section 34A of the Resource Management Act 1991, June 2021, section 7.

(such as for an aquatic bird habitat) then it would be considered as part of what makes that value significant at that location.

- 7.8 Similarly, at paragraph 8.1(d), Mr Black outlines his concern at the removal of the word 'quality' or 'water quality' from Objective LW1.1, in part because Ms Harper suggests that it may be included "as a potential value at a later date" and because it may lead to a lower level of protection if not identified as one of the values in future regional plan changes. Again, I do not take that inference from Ms Harper's evidence. In her paragraph 8.4, Ms Harper states that "*if 'water quality' was to be identified as an outstanding (or even significant) value/feature of a particular OWB, then it would follow that the OWB's outstanding water quality value would need protecting,*" which I agree with. I consider it unlikely that a water body would have water quality that is "*conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region*" without also having other significant values as well (such as fish habitat or cultural values). For that water body, protecting water quality would be a specific matter to address.
- 7.9 I also disagree with Mr Black that removal of the word 'quality' or 'water quality' from Objective LW1.1 "*may lead to a lower level of protection if not identified as one of the values in future regional plan changes*". Although not stated explicitly, protecting water quality is fundamental to the NPSFM 2020 (**NPSFM 2020**)⁵ as Te Mana o te Wai could not be upheld if water quality is allowed to decline. Existing sections 5.4 and 5.6 in the HBRRMP also address the management of water quality in the region, and in my opinion provide significant safeguards to ensure that water quality would not be adversely affected if the words are removed from Objective LW1.1. Lastly, the development of the "Kotahi Plan" for Hawke's Bay will also ensure that water quality is protected.
- 7.10 In paragraphs 8.1(p) and (q) and 16.17 – 16.19, Mr Black identifies some water bodies that he considers should be included in PC7 Schedule 25 and expresses concern that delaying the inclusion of water bodies in Schedule 25 will lead to a "*to a gradual lowering of the bar over time*" and that this would mean that the significant values of outstanding water bodies would not be protected in the interim. As I have stated above, there are already significant

⁵ As amended in 2023. When introduced, fact sheets (such as "Essential Freshwater: Te Mana o te Wai factsheet" and "Essential Freshwater: Overview factsheet") referred to the need to "start making immediate improvements so water quality improves within five years" and that new National Environmental Standards for Freshwater "include measures to stop the decline in freshwater quality."

requirements in the HBRRMP and the NPSFM 2020 now that will ensure that there is not a gradual lowering of “the bar.” The implementation requirements in Part 3 of the NPSFM 2020 (which specifically state that they do not limit the general obligation to give effect to the objective and policies in Part 2 of the NPSFM immediately) mean that significant water body values will be protected. I consider that it is appropriate that there is a future process (assisted by the framework in the Council’s preferred PC7 version) for considering whether particular values need to be protected by way of a water body being included in Schedule 25 or whether those values can be appropriately protected by way of applicable plan provisions,

7.11 Overall, I support the wording proposed in the Council’s preferred version of PC7 circulated on 13 July 2023, with amendments as recommended in the evidence presented for the Council. In particular, I do not consider it would be efficient or effective to try to “retrofit” NPSFM 2020 requirements into PC7 where they are not already provided for, given the limited scope of appeals to PC7 and the Kotahi Plan process currently being undertaken by the Council.

7.12 In my evidence below, I provide my analysis of the outstanding matters that were the subject of Genesis’ submission, in particular:

(a) Policy LW3B; and

(b) The Schedule 25 criteria for assessing ‘outstanding water bodies’.

8. POLICY LW3B FRAMEWORK FOR EXISTING RENEWABLE ELECTRICITY GENERATION

8.1 The proposed policy framework in PC7 recognises that existing activities such as the WPS may have an effect on the values of a water body, and in some cases such as for the WPS, may contribute to the significant values that a water body may have. For example, as I stated earlier, the WPS results in significant renewable electricity generation values associated with the Waikaretāheke River as well as recreational values associated with flow releases provided for by the WPS consent conditions.

8.2 The preferred PC7 version proposed by the Council⁶ includes Policy LW3B, which provides for existing activities as follows:

⁶ The Council’s preferred version of Policy LW3B reflects the provisions agreed between the parties during mediation that are subject to a consent order currently before the Court. It is only the sub-clauses shown in red that are yet to be agreed.

Policy LW3B Resource Consent Decision Making Criteria – Outstanding Water Bodies identified in Schedule 25 (existing activities)

1. Policy LW3B applies in the following circumstances:
 - a) The activity was a permitted activity in the regional plan as at 31 August 2019, or
 - b) The activity was authorised by a resource consent prior to 31 August 2019 and the holder of the consent applies for a new consent for the same activity—or similar activity with effects that are the same or lesser in character, intensity, and scale to those arising from or associated with the existing activity.
2. In relation to those types of activities identified in Policy LW3B.3, ~~once the relevant catchment based regional plan change⁹ is operative or after 31 December 2025, whichever is sooner,~~ a consent authority must take into account:
 - a) The extent to which the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019.
 - b) If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019, the extent to which the activity, and any conditions imposed on it, results in effects that are the same or similar in character, intensity, and scale to those arising from or associated with the existing activity.
 - c) If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are in a worse state than as at 31 August 2019:
 - (i) the extent to which the activity is adversely affecting the outstanding value(s) either on its own or cumulatively; and
 - (ii) the extent to which conditions can be imposed to limit the adverse effects of the activity (if any) on the outstanding values of the relevant outstanding water body, identified in Schedule 25.
 - d) The extent to which the activity may, on its own or cumulatively:
 - (i) adversely affect the significant values identified in Schedule 25 (if any) of the relevant outstanding water body, while recognising that the significant values have been identified with the activity in operation; and/or
 - (ii) adversely affect any relevant values identified in Appendix 1A or 1B of the NPSFM 2020, where there is evidence that such values are present in the particular water body, prior to the operative date of the relevant catchment based plan change.
3. Prior to the operative date of the relevant catchment based plan change, Policy LW3B only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional plan (but not a regional coastal environment plan)^{9b}:
 - a) a take, use, damming, or diversion of water from an outstanding water body.
 - b) a discharge of a contaminant into an outstanding water body.
 - c) a discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding water body.
 - d) a land use consent for a structure in, on under or over the bed of an

⁹ ~~A catchment based plan change which provides for any identified outstanding water body.~~

^{9b} In relation to a rule in a regional coastal plan, then Policy C3 applies.

outstanding water body.

- 8.3 The WPS consents were granted prior to 31 August 2019 and expire in 2032. Water is taken from Lake Waikaremoana, which is identified as an Outstanding Water Body in Part 2 of Schedule 25, for the WPS. In addition, the Waikaretāheke River has significant value for hydro-electric power generation, which is identified as an “*other value that must be considered*” in Appendix 1B of the NPSFM 2020.
- 8.4 Policy LW3B would therefore apply to any replacement consents for the WPS, with respect to consideration of effects on the values of Lake Waikaremoana. Similarly, if any other water body potentially affected by the WPS is identified as being an Outstanding Water Body through any plan change process and application of the criteria in PC7, then Policy LW3B would apply to any replacement consent applications.
- 8.5 Policy LW3B acknowledges (LW3B.2(a) and (b)) that Lake Waikaremoana has been identified as an outstanding water body even though the WPS existed at the time the lake values were identified, and that any effect on those values must be taken into account when replacement consent applications are considered. In addition, Policy LW3B would require consideration of the contribution the WPS makes to any decline in values in Lake Waikaremoana and what conditions are required to address that effect (LW3B.2(c) and (d)).
- 8.6 In paragraph 8.1(l), Mr Black states that in his opinion, Policy LW3B results in “*conflict where PC7 gives more weight in preference to existing activities that (may) have adverse effects on outstanding water bodies*”. I disagree in that Policy LW3B acknowledges (LW3B.2(a) and (b)) that the values of an outstanding water body may have been identified even though the existing activity was occurring (in other words, the values existed despite any effect of the existing activity), or if the values have declined, the policy requires consideration of the contribution the existing activity is making to that decline and what conditions are required to address that effect (LW3B.2(c) and (d)). In my opinion, Policy LW3B is a practical way in which existing activities can be provided for while ensuring that effects on outstanding water bodies are appropriately considered and addressed.
- 8.7 I consider that Policy LW3B as worded in the Council’s preferred version of PC7 appropriately provides for consideration of the outstanding values of

water bodies either listed now in Schedule 25 or that may be identified in future, where those values may be affected by an existing activity for which consent is being sought.

9. SCREENING CRITERIA

9.1 I support the Independent Hearing Panel decision set out at paragraph 6.1(a) and (b) of their decision that:⁷

- (a) To qualify as outstanding, a water body must clearly and unambiguously meet at least one of the screening criteria that the Panel adopted to determine what are truly Outstanding Water Bodies in the Hawke's Bay Region; and
- (b) Outstanding Water Bodies must be conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.

9.2 To be an outstanding water body, I consider that the values of that water body must be exceptional and stand out from other water bodies in a regional context.

9.3 In that regard, screening criteria, such as those proposed in the Council's preferred version of PC7 are necessary in my opinion in order to assist with identifying water bodies that are "*conspicuous eminent and/or remarkable in the context of the Hawke's Bay Region*". The proposed criteria provide a rational basis for assessing whether a particular water body stands out from other water bodies and can be identified as outstanding.

9.4 In my opinion, the screening criteria set out in Part 1 – Outstanding Water Body Identification Screening Criteria in Schedule 25: Outstanding Water Bodies of the Council's preferred version of PC7 will appropriately assist with identification of water bodies in Hawke's Bay, that have one or more outstanding cultural and spiritual, recreation, landscape, geology, natural character or ecology value(s) that are "*conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region*".

9.5 I agree with Ms Harper when she states in paragraph 4.1(g) that the identification screening criteria provide a robust basis for assessing which water bodies in Hawke's Bay are genuinely outstanding and should be

⁷ Proposed Plan Change 7: Regional Resource Management Plan – Outstanding Water Bodies, Decision Report of the Independent Hearing Panel appointed by the Hawke's Bay Regional Council pursuant to section 34A of the Resource Management Act 1991, June 2021, paragraph 6.1 page 55.

retained in Schedule 25. The screening framework reduces the potential for *ad-hoc* identification of outstanding water bodies in future.

- 9.6 I consider that further water bodies should not be added to Schedule 25 in PC7 until such time as they have been considered against the criteria listed in Schedule 25, Part 1 – Outstanding Water Body Identification Screening Criteria.
- 9.7 Further, I consider that the changes to the criteria addressed in the evidence from the parties to the PC7 proceedings do not change the substance of the criteria or how they should be applied and in that regard, I acknowledge the evidence of the other parties in terms of whether the criteria should be amended and do not express an opinion on the specific requirements for each value identified in Part 2 of Schedule 25.
- 9.8 In relation to the Schedule 25 criteria for recreation, I support the Council's drafting including reference to outstanding experiences that are "reliable and predictable for most of the year under normal flows." That drafting reflects the fact that the flow regime in the Waikaretāheke River is managed through the WPS and that Genesis' consent conditions provide for recreational releases on which the recreational activities in that river rely.

10. CONCLUSION

- 10.1 I support the wording proposed for Policy LW3B in the Council's preferred version of PC7 circulated on 13 July 2023.
- 10.2 I support the retention of the screening criteria set out in Part 1 – Outstanding Water Body Identification Screening Criteria in Schedule 25: Outstanding Water Bodies of the Council's preferred version of PC7 to assist with identification of water bodies in Hawke's Bay, that have one or more outstanding cultural and spiritual, recreation, landscape, geology, natural character or ecology value(s) that are "*conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region*".
- 10.3 I consider that further water bodies should not be added to Schedule 25 in PC7 until such time as they have been considered against the criteria listed in Schedule 25, Part 1 – Outstanding Water Body Identification Screening Criteria as part of a future plan change process.

10.4 Overall, I support I support the wording proposed in the Council's preferred version of PC7 circulated on 13 July 2023, with amendments as recommended in the evidence presented for the Council.

Richard Matthews

22 September 2023