

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

Decision No. [2023] NZEnvC 115

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14(1) of the First
Schedule of the Act

BETWEEN AURORA ENERGY LIMITED

(ENV-2018-CHC-277)

BP OIL NEW ZEALAND
LIMITED & OTHERS

(ENV-2018-CHC-291)

Appellants

AND DUNEDIN CITY COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 6 June 2023

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991 ('RMA' or 'the Act'), the Environment Court, by consent, orders that:

(1) the appeals are allowed to the extent that Dunedin City Council is to



amend the provisions of the proposed Dunedin City Second Generation District Plan as set out in Appendix 1, attached to and forming part of this order; and

(2) the appeals otherwise remain extant.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns the appeals by Aurora Energy Limited ('Aurora') and BP Oil New Zealand Limited & others ('BP & others') on the proposed Second Generation Dunedin City District Plan ('2GP') regarding the provisions for network utility structures – large scale (DCC Reference numbers 228 for Aurora,¹ and 358 for BP & others).²

[2] The appeals sought to amend the activity status of 'network utility structures – large scale' outside overlays to be amended from discretionary to restricted discretionary via changes to Rule 5.3.2.16.a and Rule 5.3.2.16.b.

[3] I have read and considered the consent memorandum of the parties dated 1 May 2023 which proposes to resolve the entire appeal by Aurora and parts of the appeal by BP & others.

[4] I have also read and considered the affidavit by J Macleod dated 2 May 2023, who has satisfied me that the amendments proposed will achieve the objectives of the 2GP, and that granting the relief sought will not impact on the

¹ ENV-2018-CHC-277.

² ENV-2018-CHC-291.

resolution of any other proceeding.³

[5] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the RMA, including Part 2.

Other relevant matters

[6] BP & others, Federated Farmers of New Zealand Incorporated, Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou, Te Rūnanga o Ngāi Tahu and Transpower New Zealand Limited had given notice of an intention to become parties under s274 of the Act to the Aurora appeal. Aurora, Bindon Holdings Limited, Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou and Te Rūnanga o Ngāi Tahu had given notice of an intention to become s274 parties. All s274 parties have signed the memorandum setting out the relief sought.

[7] No other person has given notice of an intention to become a party under s274 of the Act.

[8] The parties agree that costs should lie where they fall and accordingly no order for costs is sought.

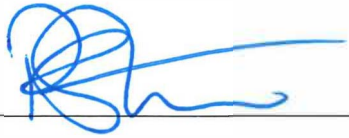
[9] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

Outcome

[10] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders

³ Affidavit of J Macleod affirmed 2 May 2023 at [40] and [41].

will promote the purpose of the Act so I will make the orders sought.



P A Steven
Environment Judge



Appendix 1

Section 5 Network Utilities

1. Amend Rule 5.3.2 Activity status table — Network utility activities (row 16), as follows:

1.	Performance standards that apply to all network utility activities	<ul style="list-style-type: none"> a. Noise b. Setback from coast and water bodies c. Setback from National Grid d. Setback from scheduled tree 				
	New, or additions and alterations to existing, network utility activities	Activity status				Performance standards
		a. Res and Rec	b. All other zones	c. ONF, HNCC, ONCC	d. SNL, NCC, ONL, ASBV, SHS, HP	
...						
	Network utility structures - large scale	a. Res and Rec	b. All other zones	c. ONF, HNCC, ONCC	d. SNL, NCC, ONL, ASBV, SHS, HP	Performance standards
...						
16.	All other network utility structures - large scale	D <u>RD</u>	D <u>RD</u>	NC	D+ <u>D</u>	



2. Amend Rule 5.8.2 Assessment of restricted discretionary network utility activities, as follows:

5.8.2 Assessment of restricted discretionary network utility activities			
Activity		Matters of discretion	Guidance on the assessment of resource consents
1.	All restricted discretionary network utility activities
<u>Y.</u>	<u>Network utility structures – large scale provided for in Rule 5.3.2.16.a and Rule 5.3.2.16.b (rural, rural residential and recreation zones only)</u>	a. <u>Effects on biodiversity values</u>	<u>See Rule 10.6</u>

Section 10 Natural Environment

3. Amend Rule 10.6.3 Assessment of restricted discretionary activities, as follows:

10.6.3 Assessment of restricted discretionary activities			
Activity		Matters of discretion	Guidance on the assessment of resource consents
X.	Any restricted discretionary network utility activity that forms part of the National Grid, and any ancillary activities including

	earthworks and vegetation clearance		
<u>Y.</u>	<u>Network utility structures – large scale provided for in Rule 5.3.2.16.a and Rule 5.3.2.16.b (rural, rural residential and recreation zones only)</u>	a. <u>Effects on biodiversity values</u>	<u>Relevant objectives and policies:</u> i. <u>Objective 10.2.1.</u> ii. <u>Biodiversity values are maintained or enhanced (Policy 10.2.1.1).</u> iii. <u>Only allow network utility structures – large scale and any activities ancillary to these, including earthworks and vegetation clearance, to locate in areas of indigenous vegetation and/or habitats of indigenous fauna that meet the significance criteria in Policy 2.2.3.2, including but not limited to scheduled Areas of Significant Biodiversity Value (ASBVs), where either Policy 10.2.1.X or Policy 10.2.1.Y is met (Policy 10.2.1.X, Policy 10.2.1.Y).</u>

4. Make any consequential changes to plan numbering as required as a result of the above amendments. Minor referencing and style changes may also be made for consistency with the 2GP formatting.

