

**IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-2018-CHC-000277

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of appeals under Clause 14(1) of the First
Schedule of the Act in relation to the
Proposed Second-Generation Dunedin City
Plan

BETWEEN **AURORA ENERGY LIMITED**

Appellant

AND **DUNEDIN CITY COUNCIL**

Respondent

**NOTICE OF WISH TO BE
PARTY TO PROCEEDINGS PURSUANT TO
SECTION 274 RESOURCE MANAGEMENT ACT 1991**

To: The Registrar

Environment Court

Christchurch

1. Horticulture New Zealand ("**HortNZ**") wishes to be a party pursuant to section 274 of the Resource Management Act 1991 ("**RMA**") to the following proceedings:
 - (a) *Aurora Energy Limited v Dunedin City Council* (**ENV-2018-CHC-000277**) being an appeal against decisions of the Dunedin City Council on the Proposed Second-Generation Dunedin City Plan.
2. HortNZ made submissions and further submissions on the Proposed Second-Generation Dunedin City Plan (submission number 1090 and further submission number 2452).
3. HortNZ also has an interest in these proceedings that is greater than the general public as it represents interest groups in the community that are likely to be adversely affected by the proposed relief sought by the Respondent.
4. HortNZ is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
5. The parts of the proceedings HortNZ is interested in are:
 - (a) Definition of regionally significant infrastructure
 - (b) Definition functional need
 - (c) Strategic Directions 2.3 – New objective
 - (d) Strategic Directions 2.3 – New policy
 - (e) Strategic Directions 2.3.1.7
 - (f) Ch 5 – 5.1 Introduction
 - (g) Policy 5.2.2.2-4
 - (h) Policy 5.2.1.2

- (i) New rule 5.6.3
- (j) Rule 5.7

6. The particular issues and whether HortNZ supports, opposes or conditionally opposes the relief sought are set out in the attached table.

7. HortNZ agrees to participate in mediation or other alternative dispute resolution of the proceedings.



Rachel McClung

Environmental Policy Advisor – South Island
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23 January 2018

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Advice

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

Provision Appealed by Aurora	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Definition of regionally significant infrastructure	FS2452.3 onOS457.75 (Aurora)	Oppose in part	The Appellant seeks to include definitions for regionally significant infrastructure, electricity sub-transmission infrastructure, and significant electricity distribution infrastructure to ensure consistency with the pRPS. The addition of definitions for electricity sub-transmission infrastructure, and significant electricity distribution infrastructure are consequential to the addition of the definition for regionally significant infrastructure. However, significant electricity distribution infrastructure is not included in the definition of regionally significant infrastructure so it is not necessary to include as a consequence. The Council decision supported the HortNZ position that the definition is not necessary. The Appellant seeks a range of changes and the extent to which definitions may be required will be dependent on the outcome of other appeal points. The Appellant lists a number of facilities that it considers meets the requirements of significant electricity distribution infrastructure but HortNZ considers that inclusion of specified lines needs to be supported by analysis to determine appropriateness and relevance.

Provision Appealed by Aurora	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Definition functional need	FS2452.12 on OS457.166 Aurora	Oppose	The Appellant seeks the addition of a definition for functional need based on the pRPS definition. While the Appellant sought recognition of locational and functional requirements, it is unclear if a definition for functional need was specifically sought to be included in the Plan. It is noted that the Proposed National Planning Standard has a definition for functional need as: means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment. If a definition is to be added for functional need, it should be consistent with the National Planning Standard.
Strategic Directions 2.3 – New objective	FS2452.13 on OS457.42 Aurora	Oppose	The Appellant seeks a new objective specifically for regionally significant infrastructure, electricity sub-transmission infrastructure, and significant electricity distribution infrastructure. The plan includes Objective 2.3.1 Land and facilities important for economic productivity and social wellbeing, which provides a policy framework for a range of activities, including network utilities, which contribute to the wellbeing of the district. Therefore, it is not necessary to have a specific objective as sought. If that approach was taken there would need to be objectives for all the activities that sit under Objective 2.3.1.

Provision Appealed by Aurora	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Strategic Directions 2.3 – New policy	FS2452.12 on OS457.166 Aurora	Oppose	The Appellant seeks a new policy to provide for network utilities in order to give effect to the pRPS and provide protection to network utilities from sensitive or incompatible activities. The pRPS does recognise and provide for electricity distribution in Policy 4.4.5 but also recognises the need to minimise effects on existing land uses. Method 4.1.19 has a direction for district plans to provide controls on activities, where necessary. Therefore, any policy framework seeking to place controls on activities needs to be based on an assessment as to whether they are necessary or the most appropriate. In addition, the decision adds Policy 2.3.1.7 to the Plan to provide for network utilities, so the additional policy sought is not necessary.
Strategic Directions 2.3.1.7	FS2452.12 on OS457.166 Aurora	Oppose	The Appellant seeks to add to Policy 2.3.1.7 and apply the same level of status for electricity sub-transmission infrastructure, and significant electricity distribution infrastructure as the National Grid. Given that the National Grid has an NPSET to support its recognition, there should be differentiation between the different types of facilities. HortNZ supports an appeal by Federated Farmers seeking changes to Policy 2.3.1.7.

Provision Appealed by Aurora	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Ch 5 – 5.1 Introduction	FS2452.18 on OS457.219	Oppose in part	The Appellant seeks significant changes to the Introduction to Chapter 5 as a basis for the recognition and controls on activities for electricity sub-transmission infrastructure, and significant electricity distribution infrastructure. The wording sought does not reflect Method 4.1.19 of the pRPS which has a direction for district plans to provide controls on activities, where necessary. Therefore, any policy framework seeking to place controls on activities needs to be based on an assessment as to whether they are necessary or the most appropriate.
Policy 5.2.2.2-4	FS2452.18 on OS457.219	Oppose in part	The Appellant seeks specific reference to electricity sub-transmission infrastructure, and significant electricity distribution infrastructure in Policies 5.2.2.2, 5.2.2.3 and 5.2.2.4. These policies are specific to the National Grid and it is not appropriate that distribution infrastructure is given the same recognition as the National Grid, which is required by the NPSET. The Appellant has not provided specific wording it seeks to be included in Policies 5.2.2.2, 5.2.2.3 and 5.2.2.4.
Policy 5.2.1.2	FS2452.18 on OS457.219	Oppose	The Appellant seeks reinstatement of a policy that places constraints on development near the National Grid and extend the policy to include electricity sub-transmission infrastructure, and significant electricity distribution infrastructure. Policy 5.2.1.2 was moved under 5.2.2 as a more appropriate

Provision Appealed by Aurora	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
			objective but was deleted with the addition of other policies under Objective 5.2.2. Given the changes made to the policy suite, it is not necessary to reinstate Policy 5.2.1.2.
New rule 5.6.3	FS2452.18 on OS457.219	Oppose	The Appellant seeks the addition of rule provisions for electricity sub-transmission infrastructure, and significant electricity distribution infrastructure to give effect to the pRPS. Policy 4.4.5 provides a framework for electricity distribution infrastructure and Method 4.1.19 of the pRPS has a direction for district plans to provide controls on activities, where necessary. Therefore, any rules seeking to place controls on activities need to be based on an assessment as to whether they are necessary or the most appropriate. The changes sought by the Appellant are not consistent with the direction in the pRPS.
Rule 5.7 Assessment of Restricted Discretionary Activities	FS2452.18 on OS457.219	Oppose	Changes are sought to the assessment criteria related to the suite of rules sought in 5.6.3. Such changes would be consequential to the outcome of the appeal to add new Rule 5.6.3.