

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of the Queenstown Lakes Proposed
District Plan

BY **AURORA ENERGY LIMITED**

Submitter No. OS 635

HEARING STREAM 4 - SUBDIVISION

**SUBMISSIONS OF COUNSEL ON BEHALF OF
AURORA ENERGY LIMITED**

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Introduction

1. Aurora Energy Limited (“Aurora”) owns and operates an electricity distribution network within Dunedin, Central Otago and Queenstown Lakes Districts. The maintenance of the network is carried out by Aurora’s sister company Delta Utility Services Limited.
2. Aurora’s network distributes electricity from the National Grid and supplies over 85,000 customers including a number of facilities considered to be lifeline utilities¹ under the Civil Defence Emergency Act. Further to that, Aurora’s own network is considered to be lifeline utility² in its own right. As a Lifeline Utility Aurora must ensure that it is able to function to the fullest possible extent during and after an emergency. To achieve this it must plan how it will manage its network during an emergency and participate in emergency management planning.
3. The evidence of Joanne Dowd sets out how the network operates and the issues that are of concern to Aurora and that they seek to manage through this process.
4. Through submissions Aurora sought a number of changes to the Proposed Plan to address some key issues. Those being:
 - (a) To seek greater recognition within the objective and policy framework of the critical importance of Aurora’s infrastructure.
 - (b) To ensure that technical and operational constraints would be considered in decision making;
 - (c) Enabling efficient operation of the network by providing for the maintenance and upgrading required to support the resilience and reliability of the network and supply of electricity where there is increasing demand.
 - (d) Protect existing infrastructure from reverse sensitivity.
5. The relief sought by Aurora falls into two categories.

¹ Includes the airport and port etc

² Includes electricity distribution, waterwater and sewage, telecommunications, gas supply, rail and petroleum distribution.

- (a) Relief to enable efficient and effective management of its whole network;
 - (b) Relief to protect its critical electricity lines.
6. Of particular importance for the subdivision section is the need to protect existing infrastructure from reverse sensitivity and most notably Aurora's Critical Electricity Lines ("CEL").
 7. As set out in the original submission and evidence from Ms Dowd, Aurora has a number of 66kV, 33kV sub-transmission and distribution lines and 11kV lines of strategic importance because they supply critical services or a particularly large or isolated group of customers.

Proposed Objectives and Policies

8. It is submitted that the notified objectives and policies within Chapter 27 provide inadequate recognition and support to protect Aurora's infrastructure. This applies to the entire network, but is particularly so with respect to Aurora's critical electricity lines.
9. The notified provisions provided no recognition or protection for existing network utility infrastructure. The section 42A report appears to accept the need to recognise and protect Aurora's CELs. This has not translated into the proposed amendments recommended in the section 42A report.
10. Whilst the policies specifically recognise the need to manage subdivision within or near transmission corridors (ie. the national grid) consistent with the NPSET, there must also be recognition of the distribution network in order to implement the Regional Policy Statement³, the Proposed Regional Policy Statement and in my submission to achieve the purpose of the Act.
11. Of particular interest are the objectives and policies within the proposed regional policy statement. Whilst the ORC are yet to make decisions on

³ See policy 9.5.2 which seeks to promote and encourage efficiency in the development and use of Otago's infrastructure by avoiding or mitigating the adverse effects of subdivision use and development of land on the safety and efficiency of regional infrastructure.

See Objective 3.4 – Good quality infrastructure, Objective 3.5 Infrastructure of regional significance is managed in a sustainable way, Policy

submissions for the PRPS it is a matter which regard must be had under section 74(2)(a)(i) of the Act. The relevant objectives and policies are as follows:

“Objective 3.4 - Good quality infrastructure and services meet community needs.

Policy 3.4.2 - Manage infrastructure activities, to:

...

c) Support economic, social and community activities; and

...

e) Protect infrastructure corridors for infrastructure needs, now and for the future; and

f) Increase the ability of communities to respond and adapt to emergencies, and disruptive or natural hazard events; and

g) Protect the functioning of lifeline utilities and essential or emergency services.”

“Policy 3.4.3 - Designing lifeline utilities and facilities for essential or emergency services to:

a) Maintain their ability to function to the fullest extent possible, during and after natural hazard events; and

b) Take into account their operational co-dependence with other lifeline utilities and essential services to ensure their effective operation.”

“Policy 3.4.4 - Managing hazard mitigation measures, lifeline utilities, and essential and emergency services

Protect the functioning of hazard mitigation measures, lifeline utilities, and essential or emergency services, including by:

a) Restricting the establishment of those activities that may result in reverse sensitivity effects; and

b) Avoiding significant adverse effects on those measures, utilities or services; and

c) Avoiding, remedying or mitigating other adverse effects on those measures, utilities or services; and

d) Assessing the significance of adverse effects on those measures, utilities or services, as detailed in Schedule 3; and

e) Maintaining access to those measures, utilities or services for maintenance and operational purposes; and

f) *Managing other activities in a way that does not foreclose the ability of those mitigation measures, utilities or services to continue functioning.*

“Objective 3.5 - Infrastructure of national and regional significance is managed in a sustainable way

“Objective 3.6 - Energy supplies to Otago’s communities are secure and sustainable

Enable electricity transmission and distribution infrastructure activities that:

- a) Maintain or improve the security of supply of electricity; or*
- b) Enhance the efficiency of transporting electricity; and*
- c) Avoid, remedy or mitigate adverse effects from that activity.”*

“Policy 3.6.5 - Protecting electricity distribution infrastructure

Protect electricity distribution infrastructure, by:

- a) Recognising the functional needs of electricity distribution activities; and*
- b) Restricting the establishment of those activities that may result in reverse sensitivity effects; and*
- c) Avoiding, remedying or mitigating adverse effects from other activities on the functional needs of that infrastructure; and*
- d) Assessing the significance of adverse effects on those needs, as detailed in Schedule 3; and*
- e) Protecting existing distribution corridors for infrastructure needs, now and for the future.”*

12. There is a clear direction within the PRPS to:
- (a) Protect distribution (not just transmission) infrastructure; and
 - (b) Restrict the establishment of activities that may result in reverse sensitivity effects on distribution infrastructure.
13. It is submitted that the objectives and policies within Chapter 27 do not achieve those objectives or implement the policies. Whilst the section 42A report recognises the issue that Aurora seeks to address, the proposed amendments do not go far enough. Ms Dowd has provided evidence and suggested amendments to the provisions including identification of the CELs to ensure that the objectives and policies of the Regional documents are achieved and implemented.

14. Equally, the failure to recognise and adequately provide for Aurora's distribution network cuts across some of the strategic directions within the Proposed Plan itself. For example Goal 3.2.2 which seeks to achieve strategic and integrated management of Urban Growth. There is a telling lack of consideration given to the importance of network utilities within the notified Plan. This is perhaps best demonstrated by the absence of any specific objective or policy recognition for network utilities within the strategic directions. That shortcoming has, of course, been dealt with during the earlier hearings and will hopefully be rectified.

Critical Electricity Lines

15. As set out in the evidence of Ms Dowd, Aurora has a responsibility to manage risks to its infrastructure and avoid or minimise those risks to ensure that safe and secure electricity is supplied to the District. Aurora has heightened responsibilities where electricity is being supplied to important community services/infrastructure such as hospitals, the Airport and to isolated communities.
16. To help satisfy its obligations in this regard Aurora seeks protection of approximately 276km of its Queenstown Lakes network by identifying its Critical Electricity Lines on the District Plan Maps and including an accompanying suite of rules to control activities occurring within the corridor protection area. This equates to approximately 10% of the network within QLDC.
17. The evidence of Ms Dowd covers the proposed CEL protection and associated suite of rules. Based on that evidence it is submitted that the relief sought in Aurora's submission is the most appropriate way to achieve the purpose of the Act.
18. Without protection, development of the land surrounding the lines has the potential to negatively impact upon them, which may adversely affect the reliability of power supply to our regionally important infrastructure. It may also threaten the speed at which power can be restored during an emergency. This is of particular significance where electricity is being supplied to fairly isolated locations and alternative supply routes are not available.

19. The section 42A report accepts the relief sought by Aurora and recommends some amendments. Unfortunately the amendments do not provide protection for Aurora's distribution assets, because the amendments are focused on the transmission network (ie. the national grid). Ms Dowd discusses further changes needed for the relief sought by Aurora to actually be implemented.

Why is CEL identification important?

20. Aurora has sought the identification of the CELs to make landowners and Council more aware of its critical infrastructure. It is a parachute, rather than an ambulance. Most people are fairly familiar with the requirements of the Resource Management Act. Or at least know that development may require a resource consent. Equally if a person applies for a building consent nowadays, the building department must check if any necessary resource consents are held. If they are not, building consent cannot be granted.
21. Having the CELs identified and a set of rules applicable to them, Council and Aurora will be able to identify when/if a subdivision activity presents a risk to this critically important infrastructure and address any issues before it is too late. However, the restrictions are actually no more onerous than currently exists through the NZ Electrical Code of Practice 34.
22. The lack of awareness of the Code (from landowners and Council) has already given rise to issues. Aurora have already encountered examples of resource consents being granted without Council considering the proximity of the development to Aurora's infrastructure. It has only been when Aurora was asked for a new connection or similar that they become aware of the issue. In that instance, landowners do not take kindly to being told that their resource consent is useless because the building or structure does not comply with the Code. They are then required to obtain a variation to their existing consent which comes at further unnecessary cost.
23. In other instances Aurora has not become aware of development until it has already been undertaken by which time it is too late to do anything

about it. In these instances the security and resilience of the network is compromised.

24. The purpose of the CEL framework is to avoid these problems.

Other mechanisms for protecting infrastructure

25. It is true that in most cases of new infrastructure easements are obtained that protect Aurora's infrastructure. However, this does not apply to much of the infrastructure installed prior to the Electricity Act 1992 coming in to force. Prior to that Act, electricity infrastructure was installed pursuant to the Electricity Act 1968 and was given protection by way of that Act. Almost none of the infrastructure installed prior to 1992 was secured by registered easements. Therefore, Aurora's ability to protect its infrastructure is left up to the NZ Code.
26. The enforcement framework for the Code is limited at best. The responsibility for administering the code lies with WorkSafe. I have researched whether WorkSafe has enforced compliance with the code, by way of prosecution for example. There was not a single case that I could find where WorkSafe (or its predecessor) have initiated a prosecution for breaching the Code. It is technically feasible for Aurora to bring private prosecutions under the Criminal Procedure Act for breaches of the Code. For obvious reasons this is not a path Aurora wish to go down and in any event the only outcome would be to penalise the landowner as there is no power for the Court to order remediation. The only other option would be to initiate civil proceedings for nuisance or breach of statutory duty. So, in essence the Aurora's enforcement options are nothing more than a damp squib.
27. It would be possible for Aurora to work through its entire CEL network to seek easements over all existing infrastructure. However, this would be hugely time-consuming and costly. Aurora's experience is that when asked, landowners often expect some form of monetary compensation for granting an easement. Their expectation of what is reasonable compensation is often well out of step with the degree of 'injurious affection' that is objectively assessed under the Public Works Act. Particularly where the infrastructure is existing and protected by 'existing use rights' under the Electricity Act 1992. If compensation could not be

agreed it would be possible for Aurora to seek to have the area of land designated and, if necessary, compulsorily acquire the land or an easement via that mechanism. In most instances this would be taking a sledge hammer to a fly. It also demonstrates that Aurora actually have very few practical mechanisms available to them to protect their infrastructure from land development.

**National Policy Statement and National Environmental Standard:
Electricity Transmission**

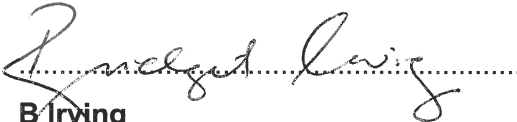
28. The NPSET and associated regulations are of limited relevance in assessing Aurora's submissions. The NPSET was developed because the national grid is of national significance and to assist local authorities in assessing developments by ensuring that there is balanced consideration of the national benefits and the local effects of electricity transmission. The National Environmental Standards for Electricity Transmission that followed set out the minimum distance requirements from national grid infrastructure. They were developed to help councils implement the NPSET policies relating to the existing transmission network. These regulations were implemented to protect the national grid and allow easy maintenance whilst also protecting the public from the dangers that transmission lines present.
29. The reason that sub-transmission and distribution assets were not protected by the NPSET is because they are not nationally significant. However, that does not mean that Aurora's assets, which are significant at a regional and local level are not deserving of protection in a similar way to the National Grid through the District Plan.
30. The District Plan must also give effect to any RPS and have regard to any PRPS. Both the RPS and PRPS recognise the importance of facilitating the operation of regional infrastructure. The CELs are regionally significant and as such the Proposed Plan should protect that infrastructure in order to give effect to the RPS and to demonstrate that adequate regard has been had to the PRPS.

Conclusion

31. Aurora seeks a number of changes to the provisions of the subdivision section to protect CELs. It is submitted that these changes are

necessary to appropriately provide for the efficient operation and development of the District's electricity distribution network.

32. It is submitted that this protection is necessary to achieve the strategic directions⁴, the RPS and PRPS. Ensuring that the CELs are protected will assist Queenstown Lakes' resilience during emergencies and enable adaptation to changing electricity supplies and demands.
33. The changes sought by Aurora would also improve public and landowner knowledge of relevant standards in close proximity to CELs and avoid inefficient regulatory processes or unintentional creation of risks to the electricity network. The changes sought by Aurora will reduce the risks to the public in and around distribution lines, enhance the reliability of the network and help Aurora ensure it can meet its obligations under CDEA.
34. Not making the changes sought by Aurora would represent a failure of the District Plan to recognise the importance of the distribution network to the District and risk a loss in the quality of electricity supply which enables the community to provide for its social and economic wellbeing.


B Irving
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⁴ Subject to Aurora's requested relief in relation to that section being accepted.