

**TABLE 1: GENESIS ENERGY SUBMISSIONS – TE AO MAORI CHAPTER**

Note: The Genesis Energy primary submission numbers are identified by the number 268-#, while Genesis Energy further submissions are denoted by the number X525-#

Officer's Report recommendations are in **red text**, the original Genesis Energy submission is in **green text**, the proposed text is in **blue text**.

Regional Council Officer's Report Recommendation	Genesis Energy Submission (268-10 and 268-9)
<p><b>Policy 4-1:</b>  <b>Policy 4-1: Hapū and iwi involvement in resource management</b>                      Kaitiakitanga and the relationship between hapū, iwi and ancestral taonga will be enabled and fostered <b><u>by Horizons Regional Council</u></b> through increased involvement <b><u>of hapū and iwi</u></b> in resource management including:</p> <ul style="list-style-type: none"> <li>(a) memoranda of partnerships to set clear relationship and communication parameters to address resource management objectives</li> <li>(b) development of catchment-based forums for information sharing, planning and research</li> <li>(c) development of hapū and iwi monitoring programmes</li> <li>(d) assistance to facilitate iwi-based research, projects, seminars and training</li> <li>(e) development of joint management agreements where appropriate</li> <li>(f) recognising and taking into account iwi management plans lodged with council</li> <li>(g) involvement in consent decision-making processes <b><u>including in the ways agreed in the memoranda of partnership and joint management agreements developed under (a) and (e) above.</u></b></li> <li><b><u>(h) Advising and encouraging resource consent applicants to consult directly with hapu and iwi where it is necessary to identify the relationships of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu and other taonga, and the effects of the actual and potential adverse effects of proposed activities on that relationship.</u></b></li> </ul>	<p><b>Policy 4-1:</b>  <b>Policy 4-1: Hapū and iwi involvement in resource management</b>                      Kaitiakitanga and the relationship between hapu, iwi and ancestral taonga will be enabled and fostered through <b><u>encouraging</u></b> increased involvement in resource management including:</p> <ul style="list-style-type: none"> <li>(a) <b><u>protocols or other types of arrangements</u></b> <del>memoranda of partnerships</del> to set clear relationship and communication parameters to address resource management objectives</li> <li>(b) development of catchment-based forums for information sharing, planning and research</li> <li>(c) development of hapu and iwi monitoring programmes</li> <li>(d) assistance to facilitate iwi-based research, projects, seminars and training</li> <li>(e) development of joint management agreements <b><u>with local authorities</u></b> where appropriate</li> <li>(f) recognising and taking into account iwi management plans lodged with Council</li> <li>(g) involvement in consent decision-making processes.</li> </ul>

### **Genesis Energy Comment**

The Officer's Report states that Policy 4-1 "identifies the ways in which HRC will foster the kaitiaki role of tangata whenua in this region" and observes that it "sets out a number of methods that HRC, in partnership with hapu and iwi can use to develop this relationship". It is intended that the policy should guide the relationship between HRC and hapu and iwi, but not to "direct or restrict relationships that district councils, or other resource users (consent applicants for example) may have, or wish to have with iwi or hapu". The officer agrees in principle with the Genesis Energy submission that the policy should not limit the options available to a resource user, but concludes that this may best be achieved by clarifying the intention that the policy is about the relationship between HRC and iwi and hapu in the first part of the policy, rather than by making the policy less specific.

The changes proposed by Horizons staff go part way to addressing the issues identified in the Genesis Energy submission, although it considers that the wording of the opening paragraph could be adjusted to make it clearer and that (e) should be clarified such that it relates to local authorities (or Horizons) alone.

### **Genesis Energy Relief Sought**

Amend Policy 4-1 as follows (Genesis Energy proposed text in blue, Horizons text in red):

### **Policy 4-1: Hapū and iwi involvement in resource management**

Horizons Regional Council will enable and foster Kaitiakitanga and the relationship between hapū, iwi and ancestral taonga will be enabled and fostered by Horizons Regional Council through encouraging increased involvement of hapū and iwi in resource management including:

- (a) [unchanged]
- (b) [unchanged]
- (c) [unchanged]
- (d) [unchanged]
- (e) development of joint management agreements with local authorities where appropriate
- (f) [unchanged]
- (g) [as recommended in Officer's Report]
- (h) [as recommended in Officer's Report].

Regional Council Officer's Report Recommendation	Genesis Energy Submission (268-11)
<p><b>Policy 4-2: Waahi tapu, waahi tupuna and other sites of significance</b></p> <p>(a) Waahi tapu, waahi tupuna and other sites of significance to Māori identified</p> <ul style="list-style-type: none"> <li>(i) in district plans</li> <li>(ii) as historic reserves under the Reserves Act 1977</li> <li>(iii) as Māori reserves under the Te Ture Whenua Māori Act 1993</li> <li>(iv) as sites recorded in the New Zealand Archaeological Association's Site Recording Scheme</li> <li>(v) as registered sites under the Historic Places Act 1993</li> </ul> <p>shall be protected from <b><i>inappropriate</i></b> subdivision, use and development that would cause adverse effects on the qualities and features which contribute to the values of these sites.</p> <p>(b) Sites not identified (for confidentiality and sensitivity reasons) by hapū and iwi under (a), above, shall be protected from potential damage or disturbance by:</p> <ul style="list-style-type: none"> <li>(i) encouraging resource consent applicants, resource users or contractors to undertake early and meaningful consultation with hapū and iwi to <b><i>co-operatively</i></b> develop damage minimisation protocols where it is likely that such sites might exist</li> <li>(ii) Regional Council facilitating the compilation of a database with hapū and iwi to map the locations of waahi tapu and other historic sites of special significance</li> <li>(iii) developing a code of practice whereby resource users and contractors have clear guidelines in the event rua koiwi or waahi tapu are discovered.</li> </ul>	<p><b>Policy 4-2: Waahi tapu, waahi tupuna and other sites of significance</b></p> <p>(a) Waahi tapu, waahi tupuna and other sites of significance to Maori identified:</p> <ul style="list-style-type: none"> <li>(i) in district plans.</li> <li>(ii) as historic reserves under the Reserves Act 1977.</li> <li>(iii) as Maori reserves under the Te Ture Whenua Maori Act 1993.</li> <li>(iv) as sites recorded in the New Zealand Archaeological Associations Site Recording Scheme.</li> <li>(v) as registered sites under the Historic Places Act 1993.</li> </ul> <p>shall be <del>protected from subdivision, use and development that would cause adverse effects on</del> <b><i>appropriately managed to recognise</i></b> the qualities and features which contribute to the values of these sites.</p> <p>(b) Sites not identified (for confidentiality and sensitivity reasons) by hapū and iwi under (a), above, shall be protected from potential damage or disturbance by:</p> <ul style="list-style-type: none"> <li>(i) Encouraging resource consent applicants, resource users or contractors to undertake early and meaningful consultation with hapu and iwi, <del>to develop</del> <b><i>such that cooperatively,</i></b> damage minimisation protocols are developed where it is likely that such sites might exist.</li> <li>(ii) Regional Council facilitating the compilation of a database with hapu and iwi to map the locations of waahi tapu and other historic sites of special significance.</li> <li>(iii) developing a code of practice whereby resource users and contractors have clear guidelines in the event rua koiwi or waahi tapu are discovered.</li> </ul>

### **Genesis Energy Comments**

In the evaluation of submissions to Objective 4-1(a) and to Policy 4-2, the Officer's Report observes that "protection" is a very "high threshold for adverse effects" which may not always be appropriate, particularly as the RMA only requires protection from "inappropriate subdivision" etc, and that there are a range of possibilities available for managing effects and avoidance is not necessarily the most appropriate. While the proposed addition of "inappropriate" as in the officer's recommendation arguably addresses the issue and is arguably consistent with the s6 RMA requirement to "protect" various attributes (but not necessarily waahi tapu etc) from inappropriate subdivision, use and development. It is noted that the Officer's Report discusses the use of the term "protect" in Objective 4-1 where the original proposed wording was for the mauri of natural and physical resources to be "protected". The discussion notes that the use of "protect" is a "very high level threshold", and may not allow even minor effects on mauri. The remainder of Objective 4-1 talks of recognising kaitiakitanga and the relationship of iwi with ancestral taonga, rather than protection. The recommended change to Objective 4-1 is to remove "protected" and replace it with "recognise and provide for", as used in s6 of the RMA. The wording of policy 4-2(a) should be similar (proposed new text in blue): "~~shall be protected from subdivision, use and development that would cause adverse effects on~~ appropriately managed to recognise and provide for the qualities and features which contribute to the values of these sites".

There is a consequential amendment to the preamble in 4-2(b).

Genesis Energy supports the officer's suggested change to b(i) as this addresses the Genesis Energy submission point.

### **Genesis Energy Relief Sought**

Amend Policy 4-2 as follows (Genesis Energy proposed text in blue, Horizons text in red)::

#### **Policy 4-2: Waahi tapu, waahi tupuna and other sites of significance**

(a) Waahi tapu, waahi tupuna and other sites of significance to Māori identified

- (i) [unchanged]
- (ii) [unchanged]
- (iii) [unchanged]
- (iv) [unchanged]
- (v) [unchanged]

~~shall be protected from subdivision, use and development that would cause adverse effects on~~ appropriately managed to recognise and provide for the qualities and features which contribute to the values of these sites.

(b) Sites not identified (for confidentiality and sensitivity reasons) by hapū and iwi under (a), above, shall be appropriately managed

protected from potential damage or disturbance by:

- (i) encouraging resource consent applicants, resource users or contractors to undertake early and meaningful consultation with hapū and iwi to ***co-operatively*** develop damage minimisation protocols where it is likely that such sites might exist
- (ii) [unchanged]
- (iii) [unchanged]

Regional Council Officer's Report Recommendation	Genesis Energy Submission (268-12 and 268-13)
<p><b>Policy 4-3: Protection of <u>Recognising and providing for the mauri of waterbodies</u></b></p> <p>(a) The Regional Council will protect <u>recognise and provide for</u> the mauri of waterbodies by implementing Policy 4-1 a-g above and by restricting and suspending water takes in times of low flow consistent with Policy <del>6-24</del><b>6-19</b> in Chapter 6.</p> <p>(b) In exceptional circumstances the Regional Council <u>following consultation with potentially affected resource users</u>, will initiate a rahui – temporary cessation of resource activities (with the exception of public water supply) – on advice and guidance of hapū and iwi, to allow the necessary protocols to be carried out.</p>	<p><b>Policy 4-3: Protection of mauri of waterbodies</b></p> <p>(a) The Regional Council will protect the mauri of waterbodies by implementing <u>encouraging the implementation of</u> Policy 4-1 a-g above and by restricting and suspending water takes in times of low flow consistent with Policy <del>6-24</del><b>6-19</b> in Chapter 6.</p> <p>(b) <del>In exceptional circumstances the Regional Council will initiate a rahui – temporary cessation of resource activities (with the exception of public water supply) – on advice and guidance of hapū and iwi, to allow the necessary protocols to be carried out.</del></p>
<p><b>Genesis Energy Comment</b></p> <p>The suggested changes to the “title” of the rule and to (a) is consistent with, and consequential upon, the proposed decision in relation to Objective 4-1. Genesis Energy supports this approach (which also applies with Policy 4-2 as noted above).</p> <p>Also, the clarification to Policy 4-1 to make it clearer that it is the Horizons Regional Council that will enter into the agreements etc identified in Policy 4-1 lessens the need for Policy 4-3 to “encourage” the implementation of Policy 4-1 – it is now acknowledged that these are matters Horizons Regional Council will undertake.</p> <p>Genesis Energy does not consider that it is Council’s role to implement rahui, and this part of Policy 4-3 should be deleted. The officer’s suggested change to (b) does not provide any guidance as to what the “exceptional circumstances” might be. Moreover, Genesis Energy understands there is no basis in the RMA for a council to require a mandatory cessation of a permitted activity or activity authorised by a resource consent on the basis stated in the policy.</p> <p><b>Relief sought by Genesis Energy</b></p> <p><b>Policy 4-3: Protection of <u>Recognising and providing for the mauri of waterbodies</u></b></p> <p>(a) The Regional Council will protect <u>recognise and provide for</u> the mauri of waterbodies by implementing Policy 4-1 a-g above and by restricting and suspending water takes in times of low flow consistent with Policy <del>6-24</del><b>6-19</b> in Chapter 6.</p> <p><del>(b) In exceptional circumstances the Regional Council <u>following consultation with potentially affected resource users</u>, will initiate a rahui – temporary cessation of resource activities (with the exception of public water supply) – on advice and guidance of hapū and iwi, to allow the necessary protocols to be carried out.</del></p>	

Regional Council Officer's Report Recommendation	Genesis Energy Submission (268-14 and X525-14)
<p><b>Table 4.1 Environmental issues raised by hapū and iwi and how these will be addressed in the One Plan</b></p> <p>(f) Water diversion from one catchment to another is <b><u>considered</u></b> culturally abhorrent.</p> <p><b>Mauri (essential element)</b></p> <p>On the topic of mixing waters hapū and iwi contention can be vastly complex.</p> <p>To gain deeper appreciation of this issue, refer to evidence presented during the Environment Court hearings on the Tongariro Power Development Scheme presented by Ngati Rangi (paragraph 130).</p> <p>Water diversions Refer to rules regarding water diversion in Chapter 15 – Takes, Uses and Diversions of Water and Bores.</p>	<p><b>Table 4.1 Environmental issues raised by hapū and iwi and how these will be addressed in the One Plan</b></p> <p>(f) Water diversion from one catchment to another is culturally abhorrent.</p> <p><b>Mauri (essential element)</b></p> <p>On the topic of mixing waters hapū and iwi contention can be vastly complex.</p> <p><del>To gain deeper appreciation of this issue, refer to evidence presented during the Environment Court hearings on the Tongariro Power Development Scheme presented by Ngati Rangi (paragraph 130).</del></p> <p>Water diversions Refer to rules regarding water diversion in Chapter 15 – Takes, Uses and Diversions of Water and Bores.</p>
<p><b>Genesis Energy Comment</b></p> <p>The addition of “considered” is helpful, but does not remove the “focus” on the Tongariro Power Scheme from the provision, nor does it necessarily refer to the context given in the Court decision around the particular part of the Ngati Rangi evidence. It is noted that the Officer's Report states:</p> <p><i>The Tongariro Power Development (TPD) is mentioned in relation to issue (f) which is the transfer of water from one catchment to another. The mention is one of reference, “if you would like more information on the issue of transfer of water between catchments, then refer to evidence that was presented at the hearings relating to the TPD”. The intention of this reference is to avoid repeating a lengthy explanation in the plan. I do not think the reference in the plan comments in any way of the TPD itself. If there is a way of explaining the effects of water transfer simply without making reference to the other information then that would be helpful, but at this stage I recommend the reference remains.</i></p> <p>Genesis Energy considers that reference to the Tongariro Power Scheme should be deleted and notes that each iwi / hapu is likely to have its own context / reason / viewpoint on the significance and / or importance of water diversion. The Ngati Rangi position is one of those, but drawing specific attention to it would be unhelpful in that it may imply that this is the only viewpoint, and would ascribe a particular weight to it that may not be warranted in other situations. Genesis Energy believes that this is a matter that should be the subject of consultation with the relevant iwi or hapu.</p>	

### **Genesis Energy Relief Sought**

Amend Table 4.1 (f) by

- i) Addition of the word “considered” as recommended in the Officer’s Report; and
- ii) Deletion of the reference to the Tongariro Power Development. If additional text is considered necessary, Genesis Energy would accept replacing the paragraph in Table 4.1 (f) commencing “*To gain deeper appreciation of this issue...*” with text as follows:

*“If more information is required on the issue of transfer of water between catchments, then consultation with the relevant hapu or iwi will clarify their position on water diversions.”*



Regional Council Officer's Report Recommendation	Genesis Energy Submission (268-15 and X525-104)
<p><b>4.5 Methods of Implementation</b></p> <p><b>Project Description:</b> The primary focus of this project is to improve working relationships with hapū and iwi of the Region to ensure hapū and iwi relationships with ancestral lands and taonga are protected. This would also allow direct hapū and iwi input to develop protocols with Regional Council directly to protect waahi tapu and other sites of significance without the need to disclose the location to the general public.</p> <p><b>Who:</b> Regional Council and the Region's hapū and iwi.</p> <p><b>Links to Policy:</b> This project links to Policies 4-1(a), 4-1(b), 4-1(c) and 4-1(d).</p> <p><b>Target:</b> To develop and implement three to four MoPs by 2010.</p>	<p>Enable more transparency in the identification of sites of significance to hapu and iwi by making this information available in accordance with Policy 4-2 (a).</p>
<p><b>Genesis Energy Comment</b></p> <p>The issue of “transparency” is important to resource consent holders and applicants. The Officer's Report comments that one of the benefits of closer working relationships is that hapu and iwi may choose to disclose otherwise confidential information to HRC about the location of sites of significance, and that Policy 4-2 identifies how HRC will encourage the protection of sites which are not publicly identified. Notwithstanding this, as a matter of principle, Genesis Energy considers that the location of such sites should be disclosed unless there are compelling reasons not to. This could be addressed in a way that preserves the intent of the wording and the relationship, but also makes it clear that disclosure could be an outcome of the process, as indicated below. In addition, in accordance with the comments made in the Officer's Report in relation to Objective 4-1 and Policy 4-2 the term “protected” should be replaced with “recognised and provided for”.</p> <p>Information about sites of significance to Maori is essential to enable resource users to adequately address any concerns regarding potential effects of their activities and that disclosure of such information should be preferred where possible.</p> <p><b>Genesis Energy Relief Sought</b></p> <p>Amend the first project under 4.5 Methods of Implementation as follows:</p> <p><b>Project Description:</b> <i>The primary focus of this project is to improve working relationships with hapū and iwi of the Region to ensure hapū and iwi relationships with ancestral lands and taonga are <del>protected</del> <b>recognised and provided for</b>. This would also allow direct hapū and iwi input to develop protocols with Regional Council directly to <b>identify and</b> protect waahi tapu and other sites of significance without the need to <b>directly</b> disclose the location to the general public. <b>Where possible, and in</b></i></p>	

agreement with hapū and iwi, information about such sites may be shared in accordance with Policy 4-2(a).

<b>Regional Council Officer's Report Recommendation</b>	<b>Genesis Energy Submission (X525-14)</b>
<p><b>Table 4.1 Environmental issues raised by hapū and iwi and how these will be addressed in the One Plan</b></p> <p>Decision sought (by the Environmental Working Party):</p> <ul style="list-style-type: none"> <li>(a) That historic arrangements for Maori access to taonga are acknowledged and facilitated for</li> <li>(b) That marae access to natural resources are acknowledged and facilitated, especially where this access enables the efficient and effective functioning of marae and cultural activities</li> <li>(c) Resource consent applicants are required to undertake remedial action to rectify adverse effects to environs.</li> <li>(d) The Regional Council will monitor environmental development to ensure compliance to the application and to ensure the integrity of the environment</li> <li>(e) The Regional Council will lobby the relevant legislative bodies to impose penalties for non compliance that: <ul style="list-style-type: none"> <li>i) are appropriate to the adverse environmental effects</li> <li>ii) account for the remedial process, and</li> <li>iii) will act as a deterrent for those intending not to comply.</li> </ul> </li> </ul>	<p><b>Table 4.1 Environmental issues raised by hapū and iwi and how these will be addressed in the One Plan</b></p> <p>Oppose the decision sought (further submission) on the grounds that the matters requested are already provided for.</p>
<p><b>Genesis Energy Comments</b></p> <p>The Officer's Report recommends accepting the EWP submission "in part" and rejecting the Genesis Energy further submission. The Officer's Report recommends a range of changes to Table 4.1 as set out in the report. Genesis Energy agrees that the changes recommended in the Officer's Report serve to clarify the Table and accepts the changes.</p> <p><b>Genesis Energy Relief Sought</b></p> <p>Amend Table 4.1 as recommended in the Officer's Report.</p>	

Genesis Energy also supports the Officer's Report recommendations to accept further submission X525-34, in response to submissions seeking to amend Section 4.1.3 and further submission X525-35 (seeking further amendments to Table 4-1), and the Officer's Report recommendations In both cases to reject the initial submissions.