

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2025] NZEnvC 031

IN THE MATTER

of appeals under clause 14 of Schedule
One to the Resource Management Act
1991

BETWEEN

CONTACT ENERGY LIMITED

(ENV-2024-AKL-000165)

Appellant

AND

TAUPŌ DISTRICT COUNCIL

Respondent

Court: Chief Environment Court Judge D A Kirkpatrick sitting alone
under s 279 of the Act

Last case event: 31 October 2024

Date of Order: 30 January 2025

Date of Issue: 30 January 2025

CONSENT ORDER

A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that those parts of the appeals relating to rezoning of land on Oruanui Road and Tukairangi Road, Taupō from General Rural Environment zone to Rural Lifestyle Environment zone and as more particularly set out below, are allowed, and Taupō District Council is directed to:



Appeals against Plan Change 42 to the Taupō District Council

- (1) In relation to the relief sought in paragraph 32(b) and (c) of Contact Energy Limited's notice of appeal, amend the Taupō District Plan maps to rezone 437 Poihipi Road, 21 Tukairangi Road, 41 Tukairangi Road, 61 Tukairangi Road, 104 Oruanui Road, 122 Oruanui Road, and 146 Oruanui Road, Taupō from Rural Lifestyle Environment zone to General Rural Environment zone in accordance with Appendix 1 to this order.
- (2) In relation to the relief sought in paragraph 32(d) of Contact Energy Limited's notice of appeal, amend Policy 3b.2.11 (GRE) as follows (additions underlined):

Policy 3b.2.11 Rural Lifestyle Subdivision and Residential units

Avoid the cumulative effects of rural lifestyle development on the General Rural Environment by providing for these activities within the Rural Lifestyle Environment and otherwise limiting residential units and rural lifestyle subdivision that:

- a) Increases the demand for community infrastructure and services
 - b) Results in the inefficient use of land or loss of future flexibility for productive uses
 - c) Erodes the general rural character through its density, scale and location
 - d) Results in reverse sensitivity effects on permitted, lawfully established and/or consented neighbouring activities.
- (3) In relation to the relief sought in paragraph (k) of Contact Energy Limited's notice of appeal, amend Standard 4b.2.13 as follows:

4b.2.13 Maximum Noise – Other

- I. ...
 - II. Noting in the foregoing Performance Standards shall apply to sirens, circuit breakers, bursting discs, emergency or upset operating conditions and hydro spills associated with the operation of renewable electricity generation activities ~~within Electricity Generation Core sites~~. Provided that the activity shall comply with the requirements of S16 of the Resource Management Act 1991.
- (4) Make any consequential changes to the numbering of plan provisions or to the relevant planning maps resulting from the above amendments.

B: The appeal is otherwise dismissed.

C: Under s 285 of the Act, there is no order as to costs.

REASONS

Background

[1] This matter concerns an appeal by Contact Energy Limited against part of the Taupō District Council's decisions to approve Plan Change 42 to the Taupō District Plan (**PC42**) relating generally to zoning of land to Rural Lifestyle Environment zone.

[2] PC42 has been proposed by the Council to review the Rural Chapter of the Taupō District Plan. One aspect of PC42 involves dividing the Rural Environment zone into a General Rural Environment zone (**GRE**) and a Rural Lifestyle Environment zone (**RLE**) to recognise and maintain the distinct established characters of open space for primary production and rural lifestyle living in specific locations.

The appeal

[3] Contact Energy Limited (**Contact Energy**) made a submission seeking that RLE zones were only created in appropriate locations which were not within or in close proximity to permitted, lawfully existing and/or consented renewable electricity generation activities in order to avoid reverse sensitivity effects on those activities.

[4] As a result of the Council's decisions on the PC42, Contact Energy appealed those parts of the Council's decision relating to zoning of parts of the RLE, including parts of the planning maps, definitions, objectives and policies, rules and standards applying to activities within the RLE and GRE.

[5] Transpower New Zealand Limited and EF Deadman Limited have given notice under s 274 of the Act to become parties to the appeal.

Agreement reached

[6] The parties have reached an agreement that resolves the appeal in part. The part of Contact Energy’s appeal as it relates to the rezoning of Centennial Drive has been resolved in another order.

[7] The rationale for the partial resolution of the appeal is summarised in the following table:

Relief point	Amendment	Rationale
b.	Rezone 104, 122 and 146 Oruanui Road from RLE to GRE.	These are discreet parcels either separated from or on the edge of a more comprehensive RLE cluster. Contact Energy Ltd is the owner of 122 Oruanui Road and does not seek RLE.
c.	Rezone 437 Poihipi Road and 21, 41 and 61 Tukairangi Road	These are discreet parcels separated from other comprehensive RLE clusters.
d.	Reject the proposed deletion and new objective proposed by Contact Energy Limited, however suggest a more appropriate policy to address the desired relief.	Taupo District Council supports the intent of the relief that new areas of RLE should not be established where they are going to impact on the GRE, and have expanded a more appropriate policy to reflect this intent.
k.	Amend Standard 4b.2.13 Maximum Noise - Other to ensure that noise limits do not apply to emergency/upset operating conditions associated with energy generation activities	The Council agrees that in times of emergency or upset operating conditions energy generation activities may breach noise limits.

Consideration

[8] The Court has read and considered Contact Energy’s notice of appeal dated 25 July 2024 and the joint memorandum of the parties dated 31 October 2024

[9] The Court is making this Order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

- a) no parties have indicated any opposition to the proposed consent order;
- b) all parties are satisfied 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.

[10] I am satisfied that the agreement reached is one that represents the various interests of the parties. It is clear the parties have considered other reasonably practicable options and assessed costs and benefits. I conclude the parties have taken a nuanced and balanced approach, and the agreed amendments are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan. Overall, I consider the sustainable management purpose and the other relevant requirements of the Act are broadly met.

Order

[11] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that those parts of the appeal relating to rezoning of land on Oruanui Road and Tukairangi Road, Taupō from General Rural Environment zone to Rural Lifestyle Environment zone, and as more particularly set out below are allowed, and Taupō District Council is directed to:

- (a) In relation to the relief sought in paragraph (b) and (c) of Contact Energy Limited's notice of appeal, amend the Taupō District Plan maps to rezone 437 Poihipi Road, 21 Tukairangi Road, 41 Tukairangi Road, 61 Tukairangi Road, 104 Oruanui Road, 122 Oruanui Road, and 146 Oruanui Road, Taupō from Rural Lifestyle Environment zone to General Rural Environment zone in accordance with Appendix 1 to this order.

- (b) In relation to the relief sought in paragraph (d) of Contact Energy Limited's notice of appeal, amend Policy 3b.2.11 (GRE) as follows (additions underlined):

Policy 3b.2.11 Rural Lifestyle Subdivision and Residential units

Avoid the cumulative effects of rural lifestyle development on the General Rural Environment by providing for these activities within the Rural Lifestyle Environment and otherwise limiting residential units and rural lifestyle subdivision that:

- a) Increases the demand for community infrastructure and services
 - b) Results in the inefficient use of land or loss of future flexibility for productive uses
 - c) Erodes the general rural character through its density, scale and location
 - d) Results in reverse sensitivity effects on permitted, lawfully established and/or consented neighbouring activities.
- (c) In relation to the relief sought in paragraph (k) of Contact Energy Limited's notice of appeal, amend Standard 4b.2.13 as follows:

4b.2.13 Maximum Noise – Other


I. ...

II. Noting in the foregoing Performance Standards shall apply to sirens, circuit breakers, bursting discs, emergency or upset operating conditions and hydro spills associated with the operation of renewable electricity generation activities ~~within Electricity Generation Core sites~~. Provided that the activity shall comply with the requirements of S16 of the Resource Management Act 1991.

- (d) Make any consequential changes to the numbering of plan provisions or to the relevant planning maps resulting from the above amendments.

[12] The appeal is otherwise dismissed.

[13] Under s 285 of the Act, there is no order as to costs.



D A Kirkpatrick
Chief Environment Court Judge



Appendix 1 – Agreed map changes to Plan Change 42

Sites outlined in red revert to General Rural Environment zoning, from Rural Lifestyle Environment zoning.

