

Appendix I – Sections 13-15 of Resource Management Act 1991

Section 13 of the Resource Management Act 1991 states the **restrictions on certain uses of beds of lakes and rivers:**

- (1) No person may, in relation to the bed of any lake or river,—
- (a) Use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or
 - (b) Excavate, drill, tunnel, or otherwise disturb the bed; or
 - (c) Introduce or plant any plant or any part of any plant (whether exotic or indigenous) in, on, or under the bed; or
 - (d) Deposit any substance in, on, or under the bed; or
 - (e) Reclaim or drain the bed—
- unless expressly allowed by a rule in a regional plan and in any relevant proposed regional plan or a resource consent.]
- (2) No person may—
- (a) Enter or pass across the bed of any river or lake; or
 - (b) Disturb, remove, damage, or destroy any plant or part of any plant (whether exotic or indigenous) or the habitats of any such plants or of animals in, on, or under the bed of any lake or river—
- in a manner that contravenes a rule in a regional plan or proposed regional plan unless that activity is—
- (c) Expressly allowed by a resource consent granted by the regional council responsible for the plan; or
 - (d) Allowed by section 20 (certain existing lawful uses allowed).
- (3) This section does not apply to any use of land in the coastal marine area.
- (4) Nothing in this section limits section 9.

Section 14 of the Resource Management Act 1991 states **the restrictions relating to water:**

- (1) *No person may take, use, dam, or divert any—*
- (a) Water (other than open coastal water); or*
 - (b) Heat or energy from water (other than open coastal water); or*
 - (c) Heat or energy from the material surrounding any geothermal water—*
- unless the taking, use, damming, or diversion is allowed by subsection (3).*
- (2) *No person may-*
- (a) Take, use, dam, or divert any open coastal water; or*
 - (b) Take or use any heat or energy from any open coastal water,-*
- in a manner that contravenes a rule in a regional plan or a proposed regional plan unless expressly allowed by a resource consent or allowed by section 20 (certain existing lawful activities allowed).*
- (3) *A person is not prohibited by subsection (1) from taking, using, damming, or diverting any water, heat, or energy if--*
- (a) The taking, use, damming, or diversion is expressly allowed by a rule in a regional plan [and in any relevant proposed regional plan] or a resource consent; or*
 - (b) In the case of fresh water, the water, heat, or energy is required to be taken or used for—*
- (i) An individual's reasonable domestic needs; or*
 - (ii) The reasonable needs of an individual's animals for drinking water,—*

and the taking or use does not, or is not likely to, have an adverse effect on the environment;
or

(c) In the case of geothermal water, the water, heat, or energy is taken or used in accordance with tikanga Maori for the communal benefit of the tangata whenua of the area and does not have an adverse effect on the environment; or

(d) In the case of coastal water (other than open coastal water), the water, heat, or energy is required for an individual's reasonable domestic or recreational needs and the taking, use, or diversion does not, or is not likely to, have an adverse effect on the environment; or

⊘ The water is required to be taken or used for fire-fighting purposes.

Section 15 of the Resource Management Act 1991 refers to **discharges of contaminants into environment**:

(1) No person may discharge any—

⊘ Contaminant or water into water; or

(b) Contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or

⊘ Contaminant from any industrial or trade premises into air; or

(d) Contaminant from any industrial or trade premises onto or into land—

unless the discharge is expressly allowed by a rule [in a regional plan and in any relevant proposed regional plan], a resource consent, or regulations.

(2) No person may discharge any contaminant into the air, or into or onto land, from—

⊘ Any place; or

(b) Any other source, whether moveable or not,—

in a manner that contravenes a rule in a regional plan or proposed regional plan unless the discharge is expressly allowed by a resource consent[, or regulations,] or allowed by section 20 (certain existing lawful activities allowed).

[(3) This section shall not apply to anything to which section 15A or section 15B applies.]

RESOURCE MANAGEMENT ACT 1991

SUBMISSION UNDER SECTION 96 OF THE RESOURCE MANAGEMENT ACT

TO: General Manager, Wellington Regional Council

SUBMISSION: An application by Genesis Power for a land use consent, a water take from Kouarau Stream and a discharge permit to the Kouarau Stream for the Kouarau Power Scheme.

NAME: Director General of Conservation

ADDRESS: Department of Conservation
Head Office
PO Box 10-420
WELLINGTON

STATEMENT OF SUBMISSION BY THE DIRECTOR GENERAL OF CONSERVATION

Pursuant to section 96 of the Resource Management Act, I, Jeff Flavell, Community Relations Manager, Wellington Conservancy submit the following on behalf of the Director General of Conservation:

1. The application for a discharge permit to discharge sediment to the Kouarau Stream from the Lower Kouarau Power Scheme reservoir by sluicing will have adverse effects on down stream values in the Kouarau Stream.

2. Relief sought:

That if the permit is granted conditions are put in place that ensure the sediment is removed from the lower reservoir by digging it out and removing it by truck rather than by sluicing it downstream.

3. I wish to be heard in support of my submission.

A copy of the Instrument of Delegation may be inspected at the Office of the Director-General of Conservation.

DATED AT WELLINGTON THIS 26th DAY OF JUNE 2001.



Jeff Flavell
Community Relations Manager
Wellington Conservancy

Acting pursuant to delegated authority
on behalf of the Director-General
of Conservation

Address for Service
Conservator
Department of Conservation
PO Box 5086
WELLINGTON

Ph. (04) 472-5821
Fax (04) 499-0077



Department of Conservation
Te Papa Atawhai

Our Ref: WELLINGTON REGIONAL
COUNCIL

Your Ref: 26 JUL 2001

23 July 2001 RECEIVED

Stephen Thawley
Wellington Regional Council
PO Box 41
MASTERTON

	INF	ACT	REP	INT.
DIV MGR				
OPS MGR				
P/RES MGR	✓			
S/SERV MGR				
BIO MGR				
ENCL				
FILE: Y/12/2/5				
				6619

COPY

Dear Stephen

Genesis Power: Kourarau Power Scheme

The Department has had constructive discussions with Jarrod Bowler from Genesis Power regarding its submission on the Kourarau Power Scheme. We have agreed on the inclusion of a condition that satisfies the Department's concerns about the downstream effects of the desedimentation of the lower reservoir. The condition will ensure the sluicing takes place at a time of year when water levels are generally higher and silt is less likely to settle for long in the streambed. This approach is consistent with the advice from NIWA in its assessment of effects.

If the following condition is imposed on the resource consent, then the Department's submission is satisfied and I withdraw my request to be heard on the matter:

Desedimentation of the lower Kourarau Reservoir shall only occur during the months from April to June, inclusive.

Please contact Sarah Bagnall at the address below if you have any queries.

Yours sincerely

Jeff Flavell
Community Relations Manager
for Conservator

cc: Jarrod Bowler
Genesis Power
Private Bag 36
Turangi

Document: Document.1

Wellington Conservancy

P.O. Box 5086, 2nd Floor, Bowen State Building, Bowen Street, Wellington, New Zealand
Telephone 04-472 5821, Fax 04-499 0077



Carterton District Council

WAIRARAPA

WELLINGTON REGIONAL
COUNCIL

4th June 2001.

06 JUN 2001

RECEIVED

S Thawley,
Wellington Regional Council,
P.O. Box 41
MASTERTON.

COPY

	INF	ACT	REP	INIT.
DIR MGR				
OPS MGR				
P/RES MGR	✓			
S/SERV MGR				
BIO MGR				
ENCL				
FILE: 112/2/5				
16314				

Dear Sir,

Re: Application for Resource Consent – Genesis Power Ltd., Kourarau Power Scheme.

This is to advise that this Council has no concerns in regard to the above application.

Yours faithfully

M. F. Hautler
Manager Planning & Regulatory

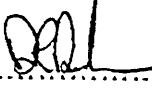




caring about you & your environment

**Applications by Genesis Power Ltd for
resource consents associated with the
operation of the Kourarau Power Scheme**

I/we the undersigned have read the consent conditions proposed by the Wellington Regional Council and are satisfied that a formal hearing is not required to be held.

Name(s): D. Drinkrow  Date: 21/11/2001

For: Genesis Power Ltd
Private Bag 36
Turangi

Please return this completed form as soon as possible.

If you do not wish to sign the form, please advise Stephen Thawley at the Wellington Regional Council as soon as possible on telephone (06) 3782484.

Appendix III – Relevant Policies in Regional Policy Statement

Policy To manage the quantity of fresh water so that it is available for a range of uses and values, and:

- (1) Its life supporting capacity is safeguarded; and
- (2) Its potential to meet the reasonably foreseeable needs of future generations is sustained; and,
- (3) For surface water, any adverse effects on aquatic ecosystems are avoided, remedied, or mitigated.

Policy 4 To maintain and protect the quality of fresh water so that it is available for a range of uses and values, and:

- (1) Its life supporting capacity is safeguarded; and
- (2) Its potential to meet the reasonably foreseeable needs of future generations is sustained; and
- (3) For surface water, any adverse effects on aquatic and riparian ecosystems are avoided, remedied, or mitigated.

Policy 6 To ensure that the effects of contaminants contained in point source discharges on the quality of fresh water and aquatic ecosystems are avoided, remedied, or mitigated and allowing for reasonable mixing:

- (1) Do not render any fresh water unsuitable for any purpose specified in any regional plan for that water;
- (2) Do not prevent the receiving fresh water from meeting any standards established in any regional plan for that water;
- (3) Do not render any water in the coastal marine area unsuitable for any purpose specified in a regional coastal plan for the Wellington Region.

Policy 9 To avoid, remedy, or mitigate the adverse effects of modifications to the beds of water bodies on water quality, groundwater, aquatic ecosystems, and the amenity and cultural values of water.

Policy 11 To ensure that, in respect of all water bodies not covered by Fresh Water Policy 10, any adverse effects on amenity values or the intrinsic values of ecosystems which may result from any use and development, and on any natural or near natural areas, are avoided, remedied, or mitigated.

Policy 12 To avoid, remedy, or mitigate any adverse effects of any new or existing use and development where these effects impact on the natural character of wetlands, lakes, rivers, and other water bodies, and their margins.

Policy 13 To recognise the cultural relationship of the tangata whenua with rivers, lakes, wetlands, and other water bodies, and to promote the management of fresh water in ways that take into account iwi values and beliefs. In addition, to promote the protection and management of sites of significance to iwi within the beds of water bodies.

Appendix IV – Relevant Policies in Regional Freshwater Plan

4.2.1 To manage sites of special value to the tangata whenua in water bodies and river and lake beds so that the cultural values of those sites are not adversely affected.

4.2.4 To avoid, remedy, or mitigate the adverse effects of the use and development of water bodies and river and lake beds on the habitats of species traditionally harvested by the tangata whenua.

4.2.9 To have regard to the following characteristics of wetlands, and lakes and rivers and their margins, when considering the protection of their natural character from the adverse effects of subdivision, use, and development:

- ecosystems, habitats and species; and
- water quality; and
- the natural flow characteristics and hydraulic processes (such as sediment transport) of rivers or the pattern and range of water level fluctuations that occur naturally in wetlands or lakes; and
- the topography and physical composition of river or lake beds and the course of the river.

~~4.2.10~~ To avoid adverse effects on wetlands, and lakes and rivers and their margins, identified in Appendix 2 (Parts A and B), when considering the protection of their natural character from the adverse effects of subdivision, use, and development.

~~4.2.11~~ To avoid, remedy or mitigate the adverse effects of the use and development of water bodies and river and lake beds on aquatic habitats and freshwater ecosystems by having regard to:

- the maintenance of biological and physical processes; and
- the maintenance of habitat for feeding, breeding and sheltering aquatic life; and
- the maintenance of the diversity of aquatic life; and
- the maintenance of the ability of fish to disperse and migrate; and
- the times which will least affect feeding, spawning, dispersal or migratory patterns of fish and other aquatic species; and
- the prevention of irreversible adverse effects.

~~4.2.14~~ To avoid, remedy or mitigate any adverse effects on important trout habitat in the Region, identified in Appendix 4, by:

- managing water quality so that Policy 5.2.3 is satisfied; and
- managing the flows and levels of water bodies so that Policies 6.2.1, 6.2.2, 6.2.12, and 6.2.13, whichever is (are) relevant, is (are) satisfied; and
- having particular regard to offsetting adverse effects on trout habitat; and
- having particular regard to maintaining the same, or similar, river bed configuration in the rivers identified.

4.2.23 To have regard to the benefits arising from any proposal for the use and development of a water body when assessing the proposal.

4.2.24 To have regard to the effects on other established activities when considering any proposal for the use and development of water bodies.

4.2.31 To ensure that the process for making decisions relating to the management of fresh water is fair and transparent. In particular, to ensure that as far as practicable, all interested people and communities have the opportunity to be involved in freshwater resource management processes, including significant resource consents.

4.2.33 To provide for those activities which have no more than minor adverse effects on the environment. As a guide, the adverse effects of activities are likely to be no more than minor if the following criteria are met:

- (1) the activity does not require exclusive use of the river or lake bed, and does not preclude lawful public access to, and use of, the river or lake bed (subject to the circumstances listed in Policy 4.2.16 that make restrictions necessary); and
- (2) any adverse effects on plants, animals or their habitats are confined to a small area or are temporary, and the area will naturally re-establish habitat values comparable with those prevailing before commencement of the activity; and
- (3) there are no significant or prolonged decreases in water quality; and
- (4) there are no off-site adverse effects; and
- (5) river bank or lake shoreline stability is not adversely affected; and
- (6) there are no adverse effects on mahinga kai, waahi tapu, or any other sites of special value to tangata whenua; and
- (7) there are no adverse effects on the natural character of wetlands, and lakes and river and their margins.

~~4.2.34~~ Avoid, remedy, or mitigate adverse effects which are associated with, or are a consequence of, an activity by placing conditions on resource consents, particularly where adverse effects are likely to occur on the following:

- characteristics of spiritual, historical or cultural significance to tangata whenua; or
- natural values; or
- amenity and recreational values; or
- lawful public access.

~~4.2.36~~ Avoid, remedy or mitigate adverse effects, conditions on a resource consent may relate to all or any of the following:

- project design and implementation, choice of materials, site improvements; or
- habitat restoration, rehabilitation, creation and improvement; or

- restocking and replanting of fauna or flora (with respect to replanting, preference will be given to the use of indigenous species, with a further preference for the use of local genetic stock); or
- works and services relating to the improvement, provisions, reinstatement, protection, restoration or enhancement of the matters listed in Policy 4.2.35; or
- the relationship between flow in a river and water quality (e.g. conditions attached to discharge permits can be flow related in respect of compliance with water quality guidelines).

5.2.3 To manage water quality for trout fishery and fish spawning purposes in those rivers, or parts of rivers, identified in Appendix 4 (subject to Policy 5.2.10).

5.2.6 Except for rivers and streams identified in Appendix 7, to manage the water quality of all surface water bodies in the Region for aquatic ecosystem purposes (subject to Policy 5.2.10).

5.2.8 To have regard to the relevant guidelines in Appendix 8 when deciding whether a discharge is able to satisfy Policies 5.2.1 to 5.2.7 (above) when considering applications for resource consents (subject to Policy 5.2.10).

5.2.10 Allow the discharge of contaminants to fresh water which do not satisfy Policies 5.2.1 to 5.2. 9, whichever is (are) relevant, only where:

- (1) the discharge is of a temporary nature; or
- (2) the discharge is associated with necessary maintenance works; or
- (3) exceptional circumstances justifying the granting of a permit; or
- (4) the discharge:
 - was present at the time the Plan was notified; and
 - is not likely to cause a decrease in the existing quality of water at that site and the person responsible for the discharge has defined a programme of work for upgrading the discharge within a specified timeframe; or
- (5) that in any event, it is consistent with the purpose of the Act to allow the discharge.

5.2.11 Ensure that any zones allowed on a discharge permit for reasonable mixing of contaminants or water with the receiving water are determined by having regard to:

- the purpose for which the receiving water is being managed, and any effects of the discharge on that management purpose; and
- any tangata whenua values that may be affected; and
- the volume of water or concentration of contaminants being discharged, and the area of receiving water that could potentially be affected; and
- the physical, hydraulic and hydrological characteristics of the receiving water.

6.2.2 To manage the flows in rivers and streams not identified in Policy 6.2.1 by having regard to:

- the significance of natural, amenity, and tangata whenua values; and
- the scale/magnitude of any adverse effects on natural, amenity and tangata whenua values; and
- the reversibility of any adverse effects on natural, amenity and tangata whenua values.

6.2.7 To encourage users to take groundwater as an alternative to surface water resources where:

- the groundwater is of sufficient quality and quantity for the prospective use; and
- there are no significant environmental, technical, or financial constraints associated with abstracting groundwater.

6.2.13 Manage the water levels in lakes and wetlands, excluding Lake Wairarapa, by having regard to:

- the significance of natural, amenity, and tangata whenua values; and
- the scale/magnitude of any adverse effects on natural, amenity and tangata whenua values; and
- the reversibility of any adverse effects on natural, amenity and tangata whenua values.

6.2.18 Have regard to the following when considering an application for a resource consent to take water:

- (1) the amount of water required is reasonable, considering the intended use of the water; and
- (2) the need for accurate measurement of the take from any river listed in Table 6.1 or Method 8.5.5; and
- (3) for any applicant taking water for public supply, the extent of any:
 - demand management programmes; or
 - drought management plans.