



RESOURCE CONSENTS HEARINGS PANEL

MINUTES: of a meeting of the Resource Consents Hearings Panel which commenced at 9.00 a.m. in the Council Chamber, Centreway Road, Orewa on Monday, 27 July 2009.

PRESENT:

Chair	John Childs
Crs	Ross Craig
	Wayne Walker

IN ATTENDANCE:

Reporting Planner	Laura Christian
Development Engineer	Ross Green
Senior Stormwater Planning Engineer	Peter Kovacevich
Team Leader	Carl Jenkins
Manager: Urban Design	Andrew Trevelyan (10.00 -10.20 a.m.)
Democracy Services Officer	Raewyn Morrison

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511/07/09 APOLOGIES**AGENDA ITEM NO.** 1

There were no apologies.

512/07/09 NOTICE OF REQUIREMENT BY VECTOR LIMITED TO DESIGNATE THE PROPERTY LOCATED AT 11 WYN CLOSE, KAUKAPAKAPA FOR AN ELECTRICITY SUBSTATION

Address: 11 Wyn Close, Kaukapakapa

APPLICANT: VECTOR LIMITED**FILE REF** L55133**WARD** Western**AGENDA ITEM NO.** 2

9.00 a.m. Vector Ltd have given Notice of Requirement for designation for an electricity substation on the parcel of land legally described as Lot 1 DP 159252 which is located at 11 Wyn Close, Kaukapakapa. The land is zoned Residential Medium Intensity. The establishment of a designation in the District Plan would enable the construction, operation and maintenance of the electricity zone substation. The applicant advised that it was likely that the substation would be constructed and commissioned within the next ten years.

The applicant's representatives, Bal Matheson (Counsel from Russell McVeagh), Robert Burley (Solutions Manager) and Louise Delamere (both of Vector Ltd), David Hay (Planner, Osborne Hay) and Brigid Kelly (Mr Matheson's assistant), present. Present from 10.58 a.m. Tanya Wylie (Engineer, Thorburn Consultants).

Submitters: Hugh MacLennan and Pat McMahon (Note: Mr McMahon appeared on behalf of him and his wife and the Kaukapakapa Area Residents and Ratepayers Association (KARRA)).

9.02 a.m. The Chairperson opened the hearing and outlined the meeting procedure.

Ms Christian, the Reporting Planner, advised the Panel of the status of the Kaukapakapa Structure Plan and the Regional Policy Statement (RPS). She highlighted 5a of the RPS in relation to regionally significant infrastructure (tabled).

Mr Matheson distributed and read the opening legal submission.

Mr Matheson noted that Mr Hay's draft proposed conditions offered additional mitigation measures which went further than those in the planner's report. He said that Vector was seeking a 10 year lapse period. Mr Matheson noted that the site was located on an area of just over 1000m² which formed part of the 0.6ha lot at present. Vector had an agreement to buy the land; subdivision consent had been lodged so that the proposal would be on a separate title.

Mr Matheson described the proposed works, the statutory framework, and the assessment of effects. He addressed matters raised by submitters, the relevance of the site's underlying zoning and valuation effects. He also addressed the proposed conditions and highlighted the changes Vector now proposed in regard to exterior colour of the substation, an amended landscaping plan, management of stormwater, providing a covenant in favour of the Council to ensure compliance with the stormwater and landscape conditions, providing for an acoustic consultant to carry out measurements to ensure that the substation complied with the specified noise limits, and providing for a qualified person to carry out measurements of Electro-Magnetic Fields (EMF) being emitted from the substation to confirm compliance with the relevant standards.

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In conclusion, Mr Matheson said that Vector submitted that all relevant matters had been addressed as part of its Notice of Requirement and accompanying AEE, and Vector respectfully requested that the Hearings Panel recommend that the Notice of Requirement be confirmed.

In response to questions from the Panel, Mr Matheson said that the subdivision consent was sitting in limbo until the Notice of Requirement had been resolved.

Mr Burley distributed and read written evidence.

Mr Burley provided an overview of Vector's network in the Rodney District. He outlined the site selection process and provided an overview of the proposed substation. He addressed issues arising from submissions and he also addressed the planner's report.

In conclusion, Mr Burley said that Vector understood that some people might prefer the substation to be located elsewhere, however wherever it was proposed to be located they expected that someone might like it put elsewhere. The proposed location was reached after considerable work by Vector and after taking into account a large number of criteria, including technical matters, site suitability, and site availability. Vector required the substation designation so as to be able to provide for the future safe and secure supply of electricity to the Rodney District. While the substation would have some effects, Vector considered that these effects would be appropriately addressed by the proposed conditions to be imposed on the designation. Accordingly, Vector asked that the Hearing Committee confirm Vector's NOR for a substation at the Wyn Close site.

In response to questions from the Panel, Mr Burley said that Tonkin and Taylor had been engaged by Vector to do a flooding assessment. Vector didn't believe the pipe suggested was a constraint on the flooding.

Mr Kovacevich drew the Panel's attention to a recent report from DHI Water and Environment. This report reached different conclusions to the Tonkin and Taylor report and indications were that the floor level of the substation would probably need to be raised. Referring to the culvert, Mr Kovacevich said that there would be no great benefit in enlarging the culvert. With regard to the conditions, the minimum floor level should be RL6.5 now that there was better information on the hydrological flood level. The pipe was not undersize and a second pipe would not make any difference to the flooding in the area. The centre of the load was the two Kaukapakapa villages which were a distance apart, the load centred on the southern village. He noted that the substation didn't have to be on the route of the transmission line, but it would cost a lot more if not. The transmission line ran along Kahikatea Flat Road.

Mr Jenkins informed that the Kaukapakapa Structure Plan was still in draft form.

Mr Matheson said that Mr Hay and Mr Burley had initial consultation, then a separate meeting with Mr McMahon. Suffice to say all the proposed amendments in the officer's report had come about in an attempt to deal with issues raised by submitters. What was proposed was in order to provide certainty to both submitters and Vector and if there were any changes it might mean that there was a slightly different design and an outline plan would need to be submitted. He noted however that this did not include changes to the building.

Mr Burley said that fires could happen in a substation. It was very rare for there to be a fire, but in the event of a fire foam was used (not water) and there was protection on equipment such that it would disconnect straight away. The main source of potential for fire was the oil in the transformer. He didn't know whether the local fire brigade had foam but he did have discussions with the New Zealand Fire Service about the situation. Vector didn't have foam on the site.

The substation was quite a distance from the proposed Rodney Power Station. The oil in the transformer was in a closed system which was tested from time to time and didn't need topping up; there was no need for a dangerous goods licence. They were not anticipating problems with graffiti. In regard to traffic movement it would be approximately one movement per day, and maintenance people who visited monthly. Construction should be completed within 4-6 months.

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10.00 a.m. - 10.20 a.m. Andrew Trevelyan, Council's Manager of Urban Design and Development in attendance.

The Chairperson requested that Andrew Trevelyan be in attendance to inform the Panel of the situation with the Kaukapakapa Structure Plan. Mr Trevelyan said that the work produced was currently being reviewed. Whilst they had lost a bit of time, it was to the Council's benefit; the Council did not want to go out with a structure plan that they were not entirely comfortable with. The Council would shortly be sharing the work with KARRA and the community. Primarily the structure plan was looking at land use zonings and what zonings would be provided would be driven by the three waters. The structure plan was based on a predicted 4-6% growth rate per annum. Mr Trevelyan said that he thought it unlikely that there would be a zone change in this location, but that was only his opinion.

With the agreement of the applicant, Mr MacLennan (submitter) addressed the meeting. In reference to Mr Burley's evidence, Mr MacLennan said that he had no problem with a substation at Kaukapakapa as it was required. It was the siting of the substation that he was against as it was at the gateway to the village. He was also against the size and the proximity to the road. Mr MacLennan also had concerns with the flooding issue.

In response to questions, Mr MacLennan said that:

- The last major flood was in 1970 in which water had come across the top of the bridge.
- Flooding was subject to tidal movements.

Mr McMahan said that the structure would take up the whole width of the property on the street frontage. He considered it was highly unlikely that the owners of the property would allow a substation to go closer to their house.

Mr MacLennan said that he would prefer the structure to be lower in height. In his opinion it was the structure that was the problem, he would prefer something more residential in character; it was the height that would create a visual impression.

10.35 a.m. Mr MacLennan retired from the meeting.

10.35 a.m. - 10.58 a.m. Meeting adjournment.

During the meeting adjournment the relevant pages of the report by DHI Water and Environment were circulated. Map 102 of the Proposed District Plan was also tabled.

Mr Burley informed the Panel that the height of the transformer bay was determined by the height above which was necessary for ventilation etc.

Mr Hay distributed and read written evidence.

Mr Hay commented on the NOR. He said that from a planning perspective and in terms of the potential to avoid or mitigate effects, this site was the best new site he had been asked to assess. Under the heading 'Assessment of the Proposal Against the Statutory Tests of the RMA' Mr Hay addressed matters in relation to noise, lighting, landscape and visual effects, traffic, site access and parking. He commented on the consultation undertaken and submitter issues. He considered that in this case, and owing to the visual screening that would be achieved by the existing vegetation, any perceived visual impact on the substation may be less than if the substation was located on a rural zoned site close to Kahikatea Flat Road. Mr Hay said that he was in general agreement with the planning officer's report. He outlined the changes he recommended to the proposed conditions.

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In response to questions from the Panel, Mr Hay said that:

- Vector no longer used artificial residential windows, they used wooden or aluminium louvres instead. He said that some people had found the artificial windows 'spooky' and that there was the potential problem of people breaking the windows. Timber panels would be used to break up the façade.
- Planting would begin in the first season once the designation had been confirmed so it would be well established by the time the building was constructed. It was proposed to covenant the vegetation and that this would be carried over into the subdivision consent. The mitigation offered was the high degree of planting which would be protected and would screen the building.
- There would be no toilet in the building.

Mr Hay informed that he was aware of the Kaukapakapa Structure Plan at the beginning of the assessment. He outlined the revised set of conditions he had tabled and confirmed that there would be a qualified arborist on site during the earthworks associated with any work which might affect driplines and root systems of any boundary trees. Referring to the issue of stormwater, Mr Hay said that the stormwater management regime in the area might change. He believed a lot of the flooding problems were caused by a lack of downstream management of clearance. To address concerns in that regard, an alternative could be to add a condition requiring that Vector design a substation so it was operational in a 1 in 100 year storm event. He said that there was no obvious reason why a bigger security fence would be required.

With regard to a question about the flexibility of the planting Mr Matheson said that in this case it was in favour of the Council and the existing neighbouring landowner. From a legal point of view he didn't see that any more flexibility was required.

With regard to a question about the EMF, Mr Burley said that readings would be well within the limits; you could only plan for what was in the guidelines at the moment.

Mr Hay said that from planning perspective it would be completely inappropriate to engage with community groups in regard to urban design.

Mr Matheson said that if the building was significantly different to what was proposed the applicant would have to submit an outline plan of works. Mr Matheson said that Vector would be happy to accept a condition in regard to colouring the concrete.

With regard to the size of the transformer, Mr Burley said that while there might be some movement in transformer sizes, generally speaking, transformers were still transformers and there was a limit to how much the building could be 'squeezed down'.

Council Officers:

Mr Kovacevich addressed the Panel.

Mr Kovacevich said that he thought the building should be RL6.3 taking in to account the flooding issue. It would be possible for the floor level to be lower but the access would have to be higher. He confirmed that the rainfall data in the area had been taken into account. He said that RL6.5 would be a normal habitable floor level, but as the building was not habitable RL6.3 would be acceptable. He noted that it might be necessary to sort out the plinth level which appeared to be below the storeroom level. Mr Kovacevich said that he didn't think enlarging the culvert would achieve much at all. Regarding the covenants in respect of the floor level he believed they should be related back to the July 2009 DHI Report; it could be another 5 years before more modelling was done which might result in a change. He preferred to refer to the DHI Report and any subsequent amendment to it. He wondered if it might be possible to design a building so that the flood level was in some degree irrelevant, i.e. 'proof the building off'.

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Ms Wylie responded to Mr Kovacevich's comments. She said that the detention for the site had been designed for the 1 in 2 year storm events and 1 in 10 year storm events. She said that the discharge would not exceed that of the existing greenfield site. The detention tank would be like a corrugated pipe; the discharge would take place through an orifice. The orifice controlled the rate of discharge and it was designed to reduce the peak flow from the developed site. The critical piece of equipment would be set above the flood level with a 800mm clearance for the critical part of the transformer. Stormwater discharged to the existing drain on the site and would be controlled; it would not exceed the current discharge. Vector would not be contributing to the flooding issue that was already there. Ms Wylie said that she understand vegetation blocking the stream was a major problem.

Submitter: Mr Pat McMahon distributed and read written evidence. The following was noted:

Mr McMahon noted that there was no commercial or industrial zoning at the moment in Kaukapakapa. Businesses in the area relied on existing use rights. The Kaukapakapa Structure Plan would define zones. Most of the commercial activity was in the northern node of Kaukapakapa. Mr McMahon described in depth the community's involvement with the structure plan process. Mr McMahon's primary concern was the locality. He said that he considered that a suitable alternative site for the substation would be on Council land next to Telecom's exchange and adjacent to the railway line in Kaukapakapa.

In summary, he submitted that there would be adverse environmental effects arising from the designation and construction and operation of an electricity substation on the subject site, and that if such an industrial activity was permitted within the residential environment, it would adversely affect the aesthetic coherence of the area and people's appreciation of the area's existing pleasantness.

Because neither the modification of the Notice of Requirement nor the recommendation of conditions would overcome the locality issues, he sought that the decision of the Panel be that the Council recommends to the Applicant that the Notice of Requirement be withdrawn.

In response to questions from the Panel, Mr McMahon said that:

With regard to alternative sites, he did have a meeting with Mr Burley and another gentleman from Vector at which he had expressed his concern. He said that back in 2005 there was a community meeting with Vector to discuss problems with supply because Kaukapakapa experienced regular outages and he thought that as far as any boosting of the infrastructure went that the community would be consulted. KARRA at that stage would have been more than happy to help.

Mr McMahon said that there was no flooding issue at the Council site and the land was a logical place for development in Kaukapakapa. Mr McMahon said that there hadn't been time for a public meeting to specifically discuss the designation. He had been in discussion on a 'without prejudice' basis with the applicant's lawyer and some of his concerns had been addressed in regard to colour etc. He was concerned about the location, which was at the very gateway to the community and close to the entrance of one of the better residential developments in the area. Mr McMahon said that the community generally relied on KARRA to voice concerns as KARRA had done in regard to the Genesis power station. People understood they only had limited powers with a designation i.e. it could be withdrawn, modified or approved. Mr McMahon said that he was opposed to the locality but if the proposal went ahead he would want a building that was appropriately coloured.

Ross Green addressed the Panel.

Mr Green said that Mr Kovacevich suggested that the reference to the latest DHI Report be included in the conditions. With regard to on site manoeuvring and the comments which had come from the reviewing traffic engineer, the crossing was within the defined road boundary of Kahikatea Flat Road and Wyn Close intersection; he thought it would be possible to provide a bay for on site manoeuvring with a pervious surface.

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Ms Christian addressed the Panel.

Mr Christian confirmed that she was still comfortable with her recommendation. Referring to the amended conditions, she said she was generally happy; however, she would like to see a few changes mainly in relation to the proposed covenant condition. She thought this would be best dealt with at subdivision stage and that it should be an advice note. She also had concerns regarding the building's height and thought the building height should be amended to take into account the 9m height limit. She noted that the proposal was a permitted activity which met the yard requirement, and requirement in regard to height and bulk etc and that technically the site owner could build a large shed in that location.

In response to questions, Ms Christian said that with regard to alternative sites, the applicant didn't have to find a better site; they had investigated other sites and demonstrated that they had looked at other sites. In this regard alternative sites had been given more analysis than just a cursory look.

1.27 p.m. - 2.00 p.m. Meeting adjournment.

Mr Matheson tabled further amended recommended conditions and presented the right of reply. He took the Panel through his suggested amendments to conditions which related to stormwater, building height and access.

With regard to urban design, Mr Matheson said that Mr Hay had confirmed that a requirement to engage with a community liaison group was inappropriate from a planning perspective. Legally he thought such a condition would be contrary to the certainty given to submitters and the Council; there had been quite detailed plans upfront and the application had been presented in such a way that it was akin to a resource consent process. The applicant had taken this approach because they thought it was a better way for submitters to understand what was proposed. Mr McMahon had highlighted how he didn't like the proposal so consultation would be a 'futile future'. Referring to the permitted baseline assessment, Mr Matheson said that a 9m high shed could be constructed with no design controls. He did not think further discussion would be of any benefit.

With regard to an alternative site, Mr Matheson there was no obligation for Vector to assess every site. It was an incorrect legal test to ask if another site was better; there had been adequate consideration given to other sites. Vector had made an operational decision that the substation was the best place for it to be located. Under the Act, Vector was not required to look exhaustively at other sites. The site visit would show how fully screened the site was from public places. Even if the Council site mentioned by Mr McMahon was seriously considered, it was zoned residential. There was uncertainty in regard to what the Kaukapakapa Structure Plan was proposing. It could be that the Council site formed the heart of a new village and some people would not want a substation without available options for screening; there were no guarantees over what the reactions might be. He knew from experience that Vector had to be careful locating electrical equipment next to Telecom sites. Vector thought this site met the purpose of the Act. Vector had adequately looked at alternative sites and requested that the Notice of Requirement be confirmed.

Mr McMahon said that the rationale behind having a covenant was that if it was ever necessary for the then current landowner of Lot 9 to do any work on the boundary planting they needed to be able to do so; it would not be necessary to rely on the Council to get an order.

Mr Matheson said that Vector did agree with KARRA in that regard and Vector would be happy for the covenant to stay; he would leave this to the discretion of the Hearings Committee.

The Chairperson observed that the covenant could be dealt with in the subdivision consent.

2.20 p.m. The Chairperson adjourned the hearing.

The Chairperson closed the hearing at 3.05 p.m. at the conclusion of the site visit.

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The Panel resolved:

Ross/Childs

**NOTICE OF REQUIREMENT BY A REQUIRING AUTHORITY FOR A DESIGNATION UNDER
SECTION 168 OF THE RESOURCE MANAGEMENT ACT 1991**

**BY VECTOR LIMITED
IN RESPECT OF**

**THE RODNEY OPERATIVE DISTRICT PLAN AND
PROPOSED DISTRICT PLAN 2000**

File Reference: L55133

The notice relates to:

- A. A request to designate a site for a substation at 11 Wyn Close, Kaukapakapa.
- B. A series of restrictions that would apply to works on the site.

HEARINGS PANEL

Chairman - **John Childs**
Commissioners - **Ross Craig**
- **Wayne Walker**

The Panel were appointed by the Council and given the responsibility to make the recommendation to Vector on its behalf.

DATE OF HEARING

- **Monday, 27 July 2009**

SITE INSPECTION

- **Monday, 27 July 2009**

REPORT AND RECOMMENDATION OF THE HEARINGS PANEL

PREAMBLE

This notice of requirement seeks to:

1. Designate a vacant site in Kaukapakapa for a substation.
2. Include six restrictions / conditions relating to the development of a substation on the land.
3. A ten year lapsing period.

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SUMMARY OF EVIDENCE HEARD

Evidence on behalf of Vector Limited was given by

Mr Bal Matheson	-	Counsel for Vector Ltd
Mr Robert Burley	-	Solutions Manager Vector Ltd
Mr David Hay	-	Planning Consultant
Ms Tanya Wylie	-	Engineer with Thorburn Consultants, answered questions raised by the Panel
Mrs Louise Delamere	-	In attendance.

Mr Matheson

Mr Matheson outlined the notice of requirement, the background of Vector, a description of the works, the statutory framework, the effects of the notice, matters raised by submitters, and the conditions.

He advised that

The proposal was to

"Develop, operate and carry out the ongoing maintenance of an efficient and safe 33/11/KV electrical substation"

enclosed in one building with the design reflecting

"many elements of a farm building". P2

Mr Burley

He discussed Vector's role in Rodney, the site selection process and provided an overview of the proposed substation. He addressed the submissions and the planner's report. He indicated that a substation was required in this locality

"To reinforce electricity supply to the Helensville Area" P4

Site selection factors included a location in the local centre, site size, site suitability, access, security of tenure, and availability. The Wyn Close site meets these criteria.

He considered that the environmental effects of the substation could be addressed by conditions.

The substation would in his opinion

"provide for the safe and secure supply of electricity to the Rodney District". P9

Mr Hay

Described what was envisaged by the notice of requirement and assessed the notice against the statutory tests of the Resource Management Act and the suggested conditions. He requested changes to the recommended conditions. He also addressed the consultation undertaken and the matters raised by submitters.

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EVIDENCE ON BEHALF OF THE SUBMITTERS WAS GIVEN BY**Mr Hugh MacLennan**
Mr Pat McMahon**Mr MacLennan**

He supported a substation in the Kaukapakapa area.

He opposed the location of the substation because

1. The site was inappropriate being at the gateway to the village.
2. Of the building height and its non residential appearance.
3. The area was prone to flooding.

Mr Pat McMahon

He spoke on behalf of himself and his wife and the Kaukapakapa Area Residents and Ratepayers Association (KARRA). His evidence

1. Outlined the constitution and background of the association.
2. He discussed the Kaukapakapa Structure Plan and advised that the present District Plan zoning provisions provide for very little future development in Kaukapakapa and not in a structured way. The Structure Plan for the area was being drafted and this was irrelevant to the applicant's proposal in that one of the key objectives of the Structure Plan was to ensure land use in Kaukapakapa complied with the underlying zoning. It was one of the relevant matters the Panel should take into account in considering the merits of requirement.
3. The proposal would not avoid adverse effects on amenity values currently enjoyed by the community.
4. The proposal was not consistent with the relevant District Plan objectives and policies. Also, the proposal would adversely impact on the residents' perception of cohesion within the residential neighbourhood and these impacts cannot be avoided, remedied or mitigated. It should not be located in this neighbourhood.
5. The proposal did not comply with the provisions of Chapter 19 Utilities.
6. He then discussed alternative sites and routes and was of the view that efforts should be made to either
 - a) Locate the substation in the centre of Kaukapakapa Village or
 - b) If it was not possible to locate the substation in the centre of Kaukapakapa, locate it in rural site away from any urban environment.

He also indicated that there was no certainty as to when the substation would be required.

In summary he considered that there would be adverse environmental effects arising from the designation and the construction of the substation. It was an industrial activity which would adversely affect the aesthetic coherence of the area and people's appreciation of the area's existing pleasantness. He requested that the notice of requirement should be withdrawn.

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EVIDENCE ON BEHALF OF THE COUNCIL

This was given a report by Ms Laura Christian assisted by various expert reports from Council staff.

Ms Christian's report described the proposal and the site. The main environmental effects were identified as

1. Visual character and amenity.
2. Transportation and access.

She then analysed the issues raised by the submitters and the relevant Regional Policy and District Plan provisions. In her opinion the adverse environmental effects resulting from the proposed designation would be no more than minor. It was consistent with the objectives and policies of the relevant zone and those of the Utilities Chapter of the Rodney District Plan and the objectives and policies of the Regional Policy Statement. She considered that the proposal should proceed subject to ten conditions. These covered such matters as a landscape plan, trees, fencing, traffic management, access, construction noise, operational noise and archaeological issues. She recommended a designation period of ten years once it has been confirmed.

Detailed information was also received from Mr Kovacevich, Senior Stormwater Planning Engineer, on flooding in the area and the desirable minimum floor level for the building to deal with flooding issues.

THE MAIN FINDINGS OF FACT:

Section 171(1) (a)

- A)** Any relevant provision of the Regional Policy Statement or District Plan.

The main findings of fact determined by the Hearings Panel that have led to the decision and the reasons for that decision are as follows. They have been reached after considering the notice of requirement, visiting the site, the evidence and submissions heard at the hearing, the report prepared by the reporting planner, all the relevant statutory and planning provisions, as well as the principal issues that were in contention.

STATUTORY ASSESSMENT

Section 171(1).

Relevant are

1. The Regional Policy Statement. (RPS) including changes to it.
2. The Rodney District Plan. (RDP) being the Operative and Proposed Plan.

Regional Policy Statement

This document identifies energy generation and transmission networks as regionally significant infrastructure. Plan Change Policy 2.6.14.5(a) is concerned with

In the operation of existing regional infrastructure and the provision of new infrastructure consideration and appropriate provision is to be made for the following matters:

- a) *The avoidance of significant adverse effects (including cumulative adverse effects) on:*
- *The environmental values protected by defined limits to Metropolitan Auckland and defined limits of rural or coastal settlements:*

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- *Amenity values throughout the whole of the region and the rural character of rural areas in the Region:*
- *Human health:*

Where significant adverse effects cannot be avoided they shall be remedied or mitigated.

Rodney District Plan

Chapters 15 (Designations) and 19 (Utilities) are relevant.

Chapter 15.1 indicates that

“the effect of designating land is to authorise the use of that land for a particular work. Once a designation is in place it takes precedent over the zoning of the land”. Chapter 15/1.

Chapter 15 lists designated Vector sites in the District.

SUMMARY

The Regional Policy Statement recognises the importance of infrastructure to the region. The District Plan schedules Vector sites in Appendix 15A of the Plan.

The Panel agrees with Vector that the site is appropriate for the proposal as it will meet the growing demand for power consumption in the area and take the load off other substations.

Section 171(1) (b) – Routes or methods

Whether adequate consideration has been given to alternative sites.

In this case Vector has a conditional agreement to buy the site so their interest in the land is established.

Various sites in the area were looked at by Vector Limited. This site was chosen because it meets its requirements as to location, site size, site suitability, access and security of tenure.

Submitters discussed a site owned by the Council near the centre of the northern village. The Panel cannot require Vector to look at another site particularly where they have an interest in the land subject to the notice, or where what is proposed will not have significant adverse effects on the environment.

The Panel having inspected the site consider the site is appropriate given it is a generally flat corner site at the edge of the Kaukapakapa Village. It is of a size that can accommodate the building as well as providing open space around it appropriate to a residential area.

In this case Vector has an interest in the land and subject to restrictions the Panel considers the proposed substation is suitable for the proposal and will avoid adverse effects.

Restrictions are recommended to cover amongst other things design, landscaping and floor level issues to avoid adverse effects on the environment.

The Panel are satisfied that this criterion has been satisfied.

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(B)**Section 171(3) (c). Whether the designation is reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.**

The Panel recognises that Vector has responsibly for the development, design and maintenance of the line and cables that distribute electricity to ensure the needs of residential and commercial customers are met. They accept that the designation is reasonably necessary to achieve Vector's objectives of providing long term security of power to this area. A substation on this site will achieve this objective.

Section 171(1) (d) any other matter the territorial authority considers reasonably necessary.

In this case they include

1. **The Zone Provisions.** The site is zoned Residential Medium Intensity. The Panel were advised that the substation would, apart from the subdivision site size rule, comply with all the relevant development rules including maximum height and building coverage.
2. **The Proposed Structure Plan.** The submitters raised the proposed Structure Plan as a relevant matter, however given that the plan has not been promulgated it has no relevance to this proposal.
3. **Negotiations with Mr and Mrs McMahon.** Mr McMahon advised that if the notice is confirmed specific conditions relating to their property should be imposed. This included a covenant. It is unusual to include covenants in designation conditions. There are also problems of enforcement of a covenant. As a consequence such an approach is not recommended. Other issues of concern to the McMahon's are however covered by other conditions.
4. **Noise.** The Panel notes that the applicant has offered a condition that will comply with the relevant noise rule in the District Plan.
5. **Electric Magnetic Fields.** A report was provided by the applicant that confirms that the magnetic field strengths expected at the site are significantly lower than the recommended safe exposure limits.
6. **Flooding.** The area is prone to flooding and restrictions need to reflect this.

OUTLINE PLANS

Section 176A of the Resource Management Act 1991 requires an Outline Plan to be submitted where in this case Vector Ltd wishes to undertake works on its sites.

The plan is required to show

- a) *The height, shape, and bulk of the public work, project, or work; and*
- b) *The location on the site of the public work, project, or work; and*
- c) *The likely finished contour of the site; and*
- d) *The vehicular access, circulation, and the provision for parking; and*
- e) *The landscaping proposed; and*
- f) *Any other matters to avoid, remedy, or mitigate any adverse effects on the environment.*

The Panel accept the staff recommendations that such a plan will not be required if the relevant design and layout and other conditions are satisfied.

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Summary

In terms of the matters the Panel must have regard to

a) Relevant Statutory Documents.

The evidence presented indicates that the Regional Policy Statement identifies networks such as those operated by Vector as regionally significant infrastructure.

In this District Plan, Vector Ltd are a requiring authority and sites it owns are currently designated in the Plan.

Subject to restrictions which are recommended, the notice is generally consistent with the relevant District and Regional Planning Documents.

b) Whether adequate consideration has been given to alternative sites, routes or methods.

1. Vector Ltd has an interest in the land.
2. Subject to restrictions which are recommended it is likely that the works will not have a significant adverse effect on the environment.

Given the above adequate consideration has been given to this matter.

c) Whether the work / designation are reasonably necessary for achieving the objectives of the requiring authority.

The proposal is reasonably necessary to achieve Vector's objective of providing electricity supply to the wider Kaukapakapa area and to ensure adequate security of supply.

d) Any other matters

Relevant are:

1. Residential / Medium Intensity provisions
2. Negotiations with the McMahon's
3. Noise levels
4. Electric Magnetic Fields
5. Flooding

The Panel consider that these matters need to be addressed in the restrictions that it recommends.

RECOMMENDATIONS

The Panel recommends to the requiring authority, Vector Limited (Cnr Wyn Close and Kahikatea Flat Road) that the notice of requirement to a designate 1020m² of land at 11 Wyn Close, Kaukapakapa, Lot 1 DP 159252) to the extent set out in the amended conditions is confirmed.

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RECOMMENDATION:

That pursuant to Section 171(2) of the Resource Management Act 1991, the Notice of Requirement to designate 1020m² of land located at 11 Wyn Close, Kaukapakapa, to enable the development and operation of a 33/11kV electricity substation (Corner Wyn Close / Kahikatea Flat Road / Lot 1 DP 159252), is confirmed subject to conditions outlined below:

REASONS FOR THE RECOMMENDATION:

1. The designation is necessary to allow the Requiring Authority to efficiently provide electricity to the wider Kaukapakapa area.
2. The Requiring Authority has adequately considered alternative sites before selecting the subject site for the proposed project.
3. Any environmental effects of the designation and the proposed electricity substation can be adequately mitigated by conditions.
4. The proposal is considered to be generally consistent with the objectives and policies for the Residential Medium Intensity zone of the Rodney District Plan 2000 Operative in Part.
5. The proposal is consistent with the objectives and policies of the Auckland Regional Policy Statement.
6. Confirming the notice will help to achieve the purpose and principles contained in Part II of the Resource Management Act 1991, in that the designation will result in an efficient use of the land resource to enable the supply of electricity which is critical for the social, cultural and economic well-being of the community.

CONDITIONS:

1. (general) the activity shall proceed in general accordance with the Notice of Requirement submitted to Council dated 2 March 2009 and plans drawn by Construct Architects Limited, numbered 202, 401 and 402 (all dated July 2009), provided that the colours shall be as set out below or their current equivalent if those colours are no longer manufactured:
 - a) Roof – Colorsteel “karaka”:
 - b) Base Panels, steel doors, and timber work – Resene “karaka”; and
 - c) Balance wall panels – Resene “double ash”.

Provided further that no element of the proposed substation building shall exceed the 9 metre height limit above existing ground levels and the height in relation to boundary control on the eastern boundary shall not be infringed.

2. (outline plan) if either the final design and layout of the substation does not reflect the design and layout submitted with the Notice of Requirement, or if there are any future additional works proposed that are not permitted by the District Plan, an outline plan shall be submitted in accordance with section 176A of the Resource Management Act 1991 to the Rodney District Council, before any construction is commenced. However, where the future additional work is in accordance with the Notice of Requirement or is permitted by the District Plan, then the requirement for an Outline Plan is waived under s176A(2).
3. (landscape plan) the landscaping plan (Isthmus Group Ltd, Job No. 2658, Figure 5, dated March 2009) shall be implemented during the first planting season after the construction of the

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substation. (Provided that the 15 phormium tenax (flax) along the eastern boundary shown on that landscape plan shall be replaced with griselina littoralis.) The landscaping shall be maintained thereafter for the term of the designation.

4. (boundary planting) The boundary planting comprising both the new planting and the existing planting and which occupies the area shown on the Covenant plan (dated July 2009), shall be retained on site for the period which the site is occupied by the substation provided that this condition shall not prevent cables or other services (including stormwater) that may need to be installed across the covenanted area. Notwithstanding condition 3, the new boundary planting identified in the landscaping plan shall be planted within the first planting season after the designation is incorporated into the District Plan and shall thereafter be maintained for the duration of the designation.
5. (Arborist supervision) An independent suitably qualified arborist is required to be onsite to supervise the earthworks associated with any works which may affect the driplines and root systems of the boundary trees. Any boundary trees that die as a result of the earthworks shall be immediately replaced, in accordance with condition 4 above.
6. (arborist work) Any alteration to vegetation on the site shall be undertaken in accordance with the report prepared by Nigel Clough of Tree Solutions dated 01 June 2009. This includes:
 - The proposed works hereby approved shall proceed in strict accordance with the details set out in the description of works attached to this consent along with any recommendations noted.
 - The removal of the subject vegetation shall be undertaken by a suitably qualified arborist, using currently accepted arboricultural dismantling methods and practices, in a manner so as to cause no damage to other vegetation on the site.
 - That the trimming of the boundary vegetation shall be undertaken by a suitably qualified arborist, using currently accepted arboricultural pruning methods and standards.
 - That the trimming of the boundary vegetation be undertaken prior to the commencement of development works on site.
 - That no more of the canopy of boundary vegetation be removed than is necessary to accommodate the proposed substation and allow an unimpeded work space.
 - That suitable fencing is erected around all vegetation prior to the commencement of works on the site.
 - The protective fencing is to remain in place until the completion of works on the site.
 - That Council is informed as to when the proposed planting works have been completed.
7. (stormwater) Provide onsite detention to limit post development flows to pre development flows in the 1 in 10 year storm events. Details of the design and management of any stormwater infrastructure required shall be prepared and submitted to the Council at least 3 months prior to commencement of construction of the substation.
8. (fencing) the applicant shall construct a post and batten fence matching the existing fence around the perimeter of the substation site (which will be gated) prior to the substation becoming operational.
9. (traffic management plan) prior to any construction being undertaken, a temporary Traffic Management Plan shall be submitted to the Council and be approved by the Team Leader Resource consents or similar position, should any on-street loading or reversing of trucks onto the road be required.
10. (access) The following measures shall be implemented prior to the operation of the substation:
 - Driveway, access and parking/loading area to be constructed to RDC Standards for Engineering Design and Construction
 - A turning area of a permeable surfacing to reduce stormwater runoff shall be provided to allow vehicles to perform a 180^o turn to avoid reversing onto the road.

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11. (operational Noise) – The noise level (L10) as measured within the boundary of any other site should not exceed the following limits.

Monday to Friday: 7.00 - 1800 hours	45DBA
At all other times including public holidays	40DBA

The noise level shall be measured in accordance with the requirements of NZS6801:2008 Measurement of Sound and assessed in accordance with the requirements of NAS6802:2008 Assessment of Environmental Sound.

12. (construction noise) construction activity on the site shall only occur between the following hours:

Monday to Friday	7:00 a.m. to 7:00 p.m.
Saturday	8:00 a.m. to 1:00 p.m.

All construction noise shall comply with and be measured and assessed in accordance with, NZS6803:1999, Acoustics – Construction Noise.

13. (archaeology) if any artefact, including human remains is exposed during any site works the following procedures shall apply:

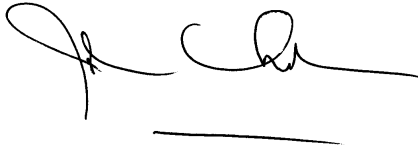
- a) Immediately when an artefact is unearthed, all site works shall cease; and
- b) The site supervisor shall immediately secure the area in a way that ensures any artefacts or remains are untouched; and
- c) The site supervisor shall notify the following groups that an archaeological site has been unearthed, so that appropriate action can be taken:
 - tangata whenua,
 - the New Zealand Historic Places Trust,
 - the Department of Conservation, and
 - the Council's RMA Compliance Administration Officer (telephone 0800 426 5169), and
 - In the case of human remains the police.

14. (electric magnetic field measurements) The installation shall at all times not exceed the reference levels for public exposure to 50Hz electric and magnetic fields set out in the International Commission on Non-Ionising Radiation Protection (ICNIRP): electric field strength: 5kV/m and magnetic flux density: 100 microtesla.

15. (electric magnetic field measurements) The Requiring Authority shall engage a suitably qualified person to carry out measurement of the electric and magnetic fields emitting from this substation to confirm the compliance with the ICNIRP guidelines in effect at the time the substation is constructed. A report with measurement results shall be provided to Council within two months of the substation commencing operation and again within two months of the commencement of operation of the second transformer. The measurement results will be made available for viewing by the public.

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16. (lapse of consent) This designation shall lapse 10 years from the date it has been confirmed.



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John Childs
Chairman of the Hearings Panel on behalf
of John Childs, Ross Craig and Wayne Walker

Carried

The meeting closed at 3.05 p.m.

CONFIRMED AS A TRUE AND CORRECT RECORD THIS 24TH DAY OF SEPTEMBER 2009

MAYOR

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