

**In the Environment Court
Christchurch Registry**

ENV-2016-CHC

Under the Resource Management Act 1991
And in the matter of an appeal pursuant to Schedule 1, clause 14(1) of the Act

Between

Transpower New Zealand Limited

Appellant

and

Invercargill City Council

Respondent

**Notice of Appeal on behalf of Transpower New Zealand
Limited against decision on the Proposed Invercargill City
District Plan**

9 December 2016

BELL GULLY

BARRISTERS AND SOLICITORS
A J L BEATSON / N J GARVAN
AUCKLAND LEVEL 22, VERO CENTRE, 48 SHORTLAND STREET
PO BOX 4199, AUCKLAND 1140, DX CP20509, NEW ZEALAND
TEL 64 9 916 8800 FAX 64 9 916 8801

To: The Registrar
Environment Court
Christchurch

1. Transpower New Zealand Limited (**Transpower**) appeals against part of a decision of the Invercargill City Council (the **Council**) on the Proposed Invercargill City District Plan (the **Proposed Plan**).
2. Transpower made a submission and further submission on the Proposed Plan.
3. Transpower is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).
4. Transpower received notice of the decision on 29 October 2016.
5. The decision was made by the Council.
6. The parts of the decision that this appeal relates to are:
 - (a) Section 2.4, Policy 6;
 - (b) Section 2.6.2, Objective 2;
 - (c) Section 2.9, Introduction;
 - (d) Section 2.9.2, Objective 4;
 - (e) Section 2.9.2, Objective 6;
 - (f) Section 2.9.3, Policy 2;
 - (g) Section 2.9.3, Policy 3;
 - (h) Section 2.9.3, Policy 5;
 - (i) Section 2.14.3, Policy 9;
 - (j) Rule 3.1.1;

- (k) Rules 3.9.4, 3.9.5 and 3.9.6;
 - (l) Rule 3.18.5;
 - (m) Definition of “National Grid Corridor”; and
 - (n) Definition of “National Grid Sensitive Activity”.
7. The reasons for the appeal and the relief sought from the Court are set out in detail below. Amendments sought by Transpower are underlined or ~~struck through~~.

Section 2.4, Policy 6

Reasons for appeal

8. In its decision, the Hearing Panel notes that the term “technical and/or operational requirement” has the same meaning as “functional need”. Transpower disagrees with this statement. While “functional need” is not defined in the Proposed Plan, Transpower considers that, in this context, it means an activity that is dependent on having its location in the coastal marine area to operate. This is not the same as a technical or operational need. A number of structures (such as power lines and telecommunication cables) may need to be located in the coastal marine area for operational reasons. While there may not be a functional need for these structures to be located in the coastal marine area, placing them in this location may be the best practicable option.
9. The addition of “technical and/or operational requirements” to this policy reflects the wording used in Policy 3 of the National Policy Statement on Electricity Transmission 2008 (**NPSET**) which decision-makers must give effect to. Further, it is consistent with Policy Coast 4 of the Southland Regional Policy Statement which refers to recognising and making provision for national significant infrastructure that has a functional, operational, or technical need to be located within the coastal environment.
10. The explanation to the policy describes ‘other activities’ in the coastal environment such as the ‘aluminium smelter at Tiwai Point’ but does not

include mention of the transmission lines that provide power to the smelter.

Relief sought

11. Amend Section 2.4, Policy 6 as follows:

Policy 6 Functional need, Technical and Operational Requirements: To give priority to infrastructure, port and renewable energy projects that have a functional need or a technical and/or operational requirement of a to be located in the coastal environment ~~location~~, and make provision for other facilities and activities that have located in the coastal environment for historical reasons.

Explanation: The Port of Bluff and wharf facilities at Tiwai Point straddle the coastal marine area and the landward edges of the coastal environment and they have a functional need for such a location, as do mineral extraction activities. Infrastructure including roads, railways, and communication and power lines can also have a need to be located within the coastal environment in order to provide essential services.

Other activities, such as the aluminium smelter at Tiwai and the associated National Grid transmission lines, are located in the coastal environment for historic reasons and have invested heavily in their buildings, plant and equipment. Much of the district's sport and recreation activities require large areas of land located within the coastal environment. All these activities are important in enabling development and diversification to occur to meet the changing needs of the Invercargill City District and the Southland region. Many have a technical and/or operational requirement to be located within of coastal space. For others, it is not practicable to consider relocation.

...

Section 2.6.2, Objective 2

Reasons for appeal

12. Transpower opposed in part the submission of the New Zealand Transport Agency as Transpower does not support a combined approach to the consideration of electricity generation and the transmission of electricity to where it is demanded, given the separation of these roles in the electricity industry and the constraints on where electricity can be generated.

Relief sought

13. Amend Section 2.6.2, Objective 2 as follows:

Objective 2: An integrated planning approach is taken wherever practicable to the management of adverse effects resulting from the use and development of local and regional energy resources, recognising and balancing the significance of those effects with the benefits that arise at a local, regional and national level.

Section 2.9, Introduction

Reasons for appeal

14. Transpower considers that the development of infrastructure should be included in paragraph 2. This would better reflect Policy 2 of the NPSET, which requires decision-makers to recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network. The development of infrastructure has a significant benefit to the community, which should be reflected in the wording of this paragraph.
15. Furthermore, Transpower considers that the last sentence of paragraph 3 has potential to cause confusion. By listing the benefits of the development of infrastructure in the same sentence, it reads as if the 'benefits' are also a potential adverse effect.
16. In relation to the final paragraph, Transpower considers that specific reference to route, site, method selection and locational and operational

requirements is more appropriate. This wording would better reflect the direction under Policy 3 of the NPSET to consider the constraints imposed on achieving those measures by the technical and operational requirements of the network, and Policy 4 of the NPSET to have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection.

Relief sought

17. Amend Section 2.9, Introduction as follows:

...

The provision of infrastructure is essential for meeting the economic, social and health and safety needs of individuals and the community locally, regionally and nationally and it is appropriate for the District Plan to recognise these benefits. It is also appropriate for the District Plan to provide for these activities and their development, operation, upgrading, maintenance and replacement.

Where infrastructure is already in existence and has capacity, using existing infrastructure is preferable to building anew. Invercargill has substantial excess capacity in many areas already reticulated. Restricting extensions of infrastructure keeps the City compact and promotes efficient use of existing infrastructure. The potential adverse effects, including as well as the benefits of the development of infrastructure, need to be carefully considered.

Under the Resource Management Act 1991 the providers of infrastructure for public works and network utilities are able to use procedures to designate land for such activities. Any request for such a designation will be assessed having regard to the provisions of the Resource Management Act 1991 applicable to the designation process, including having regard to route, site and method selection, the environmental effects of the proposal, the benefits to local, regional and national communities and any locational, technical and operation requirements of the activity and associated works.

...

Section 2.9.2, Objective 4

Reasons for appeal

18. Some activities, such as a new electricity substation or line, often have a functional, operational and/or locational need to be located in particular areas which mean adverse effects are unavoidable although they may be able to be remedied or mitigated.
19. Transpower considers that the unqualified use of the word “avoid” should be carefully used by councils in policy and plan documents due to the recent *King Salmon* decision. In that case, the Court stated that the word “avoid” means “not allowing” or “preventing the occurrence of”. Therefore, if a proposed activity (such as a new electricity substation or line) has a functional, operational and/or locational need to be located within a particular area, it would likely have unavoidable adverse effects and therefore could potentially be declined statutory approval under the current policy framework. Such a prohibitive approach would not give effect to the NPSET.

Relief sought

20. Amend Section 2.9.2, Objective 4 as follows:

Objective 4: To ensure that the location and design of infrastructure avoids, remedies or mitigates significant adverse effects on...

Section 2.9.2, Objective 6

Reasons for appeal

21. In deleting Objective 2(C), the Hearing Panel has removed reference to the local, sub-regional and national benefits provided by infrastructure. Transpower considers that these benefits should be recognised.

Relief sought

22. Amend Section 2.9.2, Objective 6 as follows:

Objective 6: To recognise the importance and benefits of infrastructure to the social and economic well-being of the City, the Southland region and the nation.

Section 2.9.3, Explanation to Policy 2

Reasons for appeal

23. Section 55(2)(b) of the RMA requires local authorities to “give effect to” National Policy Statements, not just consider them. Transpower considers that the wording of the explanation should reflect the statutory position.

Relief sought

24. Amend Section 2.9.3, explanation to Policy 2 as follows:

...

Explanation: ... ~~Consideration shall also be had to~~ The Council is required to give effect to the relevant national Policy Statements and National Environmental Standards. Infrastructural providers should be encouraged to consider all options to address adverse environmental effects. These options may include consideration of alternatives and/or opportunities to co-locate or share facilities where this is feasible and practicable to minimise the cumulative effects of infrastructure on the environment.

Section 2.9.3, Policy 3 and new Policy 3A

Reasons for appeal

25. In its decision, the Hearing Panel consider that instead of creating an additional policy, it is more appropriate to amend Policy 3 to make it clearer that it seeks to protect all infrastructure from incompatible subdivision, use and development. Transpower considers that an additional policy is warranted, given that Policy 3 is limited to protecting infrastructure from reverse sensitivity issues. Policy 10 of the NPSET also

requires decision-makers to ensure that operation, maintenance, upgrading and development of the network is not compromised, and Policy 11 of the NPSET requires the identification of an appropriate buffer corridor. These policies should be reflected in this section of the Proposed Plan.

Relief sought

26. Insert a new Policy 3A as follows:

Policy 3A Management of Activities around the National Grid

To manage the effects of subdivision, development and land use on the safe, effective and efficient operation, maintenance, upgrading and development of the National Grid by ensuring that:

- (a) National Grid Yards and National Grid Corridors are identified in the Plan to establish safe buffer distances for managing subdivision and land use development near National Grid lines including support structures;
- (b) Sensitive activities and large-scale structures are excluded from establishing within National Grid Yards;
- (c) Subdivision is managed within National Grid Corridors to avoid subsequent land use from restricting the operation, maintenance, upgrading and development of the National Grid; and
- (d) Changes to existing activities within a National Grid Corridor or National Grid Yard do not further restrict the operation, maintenance, upgrading and development of the National Grid.

Section 2.9.3, Policy 5

Reason for appeal

27. As above, while “functional need” is not defined in the Proposed Plan, Transpower considers that, in this context, it means an activity that is dependent on locating in a particular area in order to operate. This is not the same as a technical or operational need. A number of structures may

need to be located in a particular area for operational reasons. While there may not be a functional need for these structures to be located that area, their location may be the best practicable option. As such, Transpower considers that “technical and/or operational requirements” should be added to this policy to reflect the wording of Policy 3 of the NPSET.

28. Furthermore, Transpower considers that there needs to be a balance within the policy to reflect the contribution that infrastructure makes to community wellbeing.

Relief sought

29. Amend Section 2.9.3, Policy 5 as follows:

Functional need, Technical and Operational Requirements: To recognise that infrastructure can have a functional, technical or operational need for a particular location and to consider the contribution infrastructure makes to the functioning and wellbeing of communities, when assessing its location, design and appearance.

Section 2.14.3, Policy 9

Reasons for appeal

30. Transpower considers that the word “recognise” is more appropriate in this context. This would be more consistent with terminology used in the objective and various policies of the NPSET.

Relief sought

31. Amend Section 2.14.3, Policy 9 as follows:

Policy 9 Infrastructure: To ~~respect~~ recognise the operational, maintenance, upgrading and development requirements and reverse sensitivity issues associated with infrastructure including the National Grid, electricity lines, State Highways, railways and the airport.

Rule 3.1.1

Reasons for appeal

32. Transpower considers that the removal and trimming of indigenous vegetation should be permitted where this is required for the safe operation and maintenance of the National Grid. Removal and trimming of indigenous vegetation should also be permitted to remove any potential fire hazards in situations where vegetation is in close proximity to the National Grid line conductors.

Relief sought

33. Amend Rules 3.1.1 as follows:

3.1.1 It is a permitted activity to:

...

(F) Trim or remove vegetation where required for the safe operation or maintenance of the National Grid or to remove a potential fire risk.

Rules 3.9.4, 3.9.5 and 3.9.6 and 3.17.10 and new Rule 3.17.11

Reasons for appeal

34. The Hearing Panel was of the opinion that it is unnecessary and inefficient to include rules in the District Plan that duplicate the controls of the New Zealand Electrical Code of Practice for Electrical Safe Distances (**NZCEP 34: 2001**), and amended the rules to reduce this duplication. The Hearing Panel considers that the inclusion of appropriate notes, policies and methods will work alongside the rules and achieve the outcome desired by Transpower.
35. In reaching this conclusion, the Hearing Panel agreed with Federated Farmers that in general there was no value in including rules in the Proposed Plan incorporating the provisions of the NZECP, and that if the NZECP was deficient in any way, the solution was to amend it rather than seek the inclusion of rules in a District Plan. The Hearing Panel noted that it was concerned that the provisions that Transpower sought to include in different District Plans was a moving feast, without consistency, and that

other techniques were available to Transpower to manage activities and their effects in proximity to electricity transmission lines, including National Environmental Standards and designation. Having regard to section 32 matters, the Hearing Panel considered these to be more appropriate methods to adopt.

36. Transpower strongly disagrees with the Hearing Panel's decision. In Transpower's experience, compliance with the NZECP 34:2001 is better achieved, and the controls are better enforced, where the requirements of the Code of Practice are also provided for in the relevant District Plan. In addition, NZECP 34:2001 deals only with safe clearance distances. It does not restrict underbuild which can constrain or block access to National Grid assets, nor does it address reverse sensitivity or other planning matters.
37. Policy 10 of the NPSET requires decision-makers to, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised. The relief sought by Transpower identifies buildings, structures and earthworks in close proximity to National Grid support structures as having the greatest potential for adverse effects on Transpower's nationally significant assets. In order to give effect to Policy 10 of the NPSET, these activities should be specifically managed by rules in the District Plan.
38. Transpower also seeks the addition of a new Rule 13.17.11 to provide for earthworks that do not meet the requirements of 3.17.10 (A) or (C) (i.e. are not permitted or restricted discretionary activities) as non-complying activities. A non-complying activity status gives a very strong policy signal that earthworks not otherwise regulated within the National Grid Yard are not appropriate as they can potentially compromise the security of supply, safety, and impinge on the ability of Transpower to maintain its assets. It also more effectively manages landowner expectations about what activities are appropriate or otherwise in the National Grid Yard. In addition, a non-complying activity status gives effect to the strong direction in Policy 10 of the NPSET. Transpower considers that giving effect to this policy cannot be achieved without the addition of this rule.

39. Transpower considers that the other methods suggested by the Hearing Panel are simply unnecessary and would result in an inefficient use of public resources. The expense associated with requiring a designation, acquiring property rights or seeking a change to National Environmental Standards, could be easily avoided by use of the District Plan review process, which is adequate to achieve the corridor management approach sought by Transpower and fully contemplated by the higher order policy framework in both the NPSET and the Southland Regional Policy Statement.
40. Transpower also notes that Rule 3.17.10, as decided by the Hearing Panel in the Decisions Report, has been omitted from the decisions version of the Proposed Plan. Transpower seeks that this error is rectified, and amendments made to address effects of earthworks on the National Grid.

Relief sought

41. Amend Rules 3.9.4, 3.9.5 and 3.9.6 and 3.17.10 and add Rule 3.17.11 as follows:

3.9.4 The following buildings and structures are permitted within the National Grid ~~Yard Corridor~~ provided they comply with the standards in 3.9.4A and 3.9.4B:

- (a) ~~Any utility within a transport corridor~~ Network utilities (other than for the reticulation and storage of water for irrigation purposes) undertaken by network utility operators as defined in the RMA or any part of electricity infrastructure that connects to the National Grid;
- (b) Any new non-habitable building less than 2.5 metres high and 10 square metres in floor area;
- (c) Any non-habitable building or structure used for agricultural activities provided it is:
 - (i) Located at least 12 metres from a National Grid Support Structure; and

- (ii) Not a milking shed/dairy shed (excluding the stockyards and ancillary platforms), or wintering barn, or building for intensive farming activities (excluding animal feed lots), or a commercial greenhouse, or immoveable protective canopies;
- (d) Alterations and extensions to existing buildings, provided that any extension ~~does not occur closer to:~~
 - (i) does not occur within the centreline of the National Grid YardCorridor; or
 - (ii) does not occur within 12 metres of a any structure part of the National Grid support structure;
- (e) A fence no more than 2.5m in height;
- (f) Any uninhabited horticultural building or structure and alterations to these buildings and structures;
- (g) Any public sign required by law or provided by any statutory body in accordance with its powers under any law.

3.9.4A All buildings or structures permitted by 3.9.4 must comply with at least one of the following conditions:

- (a) A minimum vertical clearance of 10m below the lowest point of the conductor associated with National Grid lines; or
- (b) Demonstrate that safe electrical clearance distances are maintained under all National Grid line operating conditions.

3.9.4B All buildings or structures permitted by 3.9.4 above shall be located at least 12m from a National Grid support structure unless it is a:

- (a) Network utilities (other than for the reticulation and storage of water for irrigation purposes) undertaken by network utility operators as defined in the RMA or any part of electricity infrastructure that connects to the National Grid.

- (b) Fence less than 2.5m in height and more than 6m from the nearest support structure.
- (c) Horticultural structure between 8m and 12m from a pole support structure that:
 - (i) Meets the requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances for separation distances from the conductor (NZECP34:2001);
 - (ii) Is no more than 2.5m high;
 - (iii) Is removable or temporary, to allow a clear working space 12 metres from the pole when necessary for maintenance and emergency repair purposes; and
 - (iv) Allows all weather access to the pole and a sufficient area for maintenance equipment, including a crane.

3.9.5 The following activities are non-complying within the National Grid Yard:

- (a) Any new building or structure, or addition to any building or structure, not ~~provided for above~~ permitted by Rule 3.9.4;
- (b) Any change of use to a National Grid Sensitive activity, or the establishment of a new National Grid Sensitive activity;
- (c) Any building or addition to a building for a National Grid Sensitive Activity;
- (d) Milking shed/dairy shed (excluding the stockyards and ancillary platforms), wintering barn, building for intensive farming activities (excluding animal feed lots), a commercial greenhouse, and immoveable protective canopies.

3.17.10 National Grid Yard

- (A) Earthworks within the National Grid Yard are a permitted activity provided that:

- (a) No earthworks shall be undertaken that result in a reduction in the ground to conductor clearance distance of:
 - (i) 6.5 metres where the conductor voltage does not exceed 110 kV; and
 - (ii) 7.5 metres where the conductor voltage exceeds 110 kV.
- (b) Any earthworks shall not exceed a depth (measured vertically) of 300mm within a distance measured 12 metres from the outer visible edge of any National Grid support structure.
- (c) Any earthworks shall not create an unstable batter that will affect a National Grid support structure.

(B) The following activities are exempt from Rule 3.17.10 (A) above:

- (a) Earthworks undertaken in the course of constructing or maintaining utilities that complies with Rule 3.17.10A(a) and (c).
- (b) Normal agricultural activities or domestic gardening.
- (c) Repair, sealing/resealing of an existing road, footpath, farm track or driveway.

(C) Any earthworks that do not comply with Rule 3.17.10 (A)(b) above shall be a restricted discretionary activity.

The matters over which the Council will exercise its discretion are:

- (a) Any effects on the integrity of the transmission line;
- (b) Volume, area and location of the works, including temporary activities such as stockpiles;
- (c) Time of the works;
- (d) Site remediation;

- (e) The use of mobile machinery near transmission line which may put the line at risk;
- (f) Compliance with NZECP 34: 2001; and
- (g) The outcome of any consultation with Transpower New Zealand Limited.

3.17.11

(A) Any earthworks that are not a permitted or restricted discretionary activity under Rules 3.17.10(A)(B) or (C) shall be a non-complying activity.

Note: Vegetation to be planted within the transmission corridor should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.

Note: The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) contains restrictions on the location of structures and activities in relation to the lines and needs to be met. Compliance with the permitted activity standards of the Plan does not ensure compliance with NZECP 34: 2001.

Rule 3.18.5

Reasons for appeal

- 42. Transpower seeks to introduce additional wording into Rule 3.18.5 to ensure that applications for subdivision identify building platforms outside of the National Grid Yard. Buildings within the National Grid Yard can have significant consequences for the National Grid and those working and/or living in close proximity to the lines and towers.
- 43. Transpower also seeks the addition of a new Rule 3.18.5A to provide for subdivision in the National Grid Corridor that does not meet the requirements of 3.18.5 as a non-complying activity. Where a building platform is not able to be identified outside of the National Grid Yard, Transpower considers a clear message needs to be given that this is not

an acceptable form of development. A non-complying activity status would be the most effective activity status given the potential for significant adverse effects of under-build within the National Grid Yard on the operation and safety of the National Grid, and to avoid reverse sensitivity effects. A non-complying activity status also gives effect to the strong direction in Policies 10 and 11 of the NPSET.

44. Transpower considers that reference to a 25 metre corridor is insufficient to manage potential adverse effects arising from subdivision. Instead it seeks an amendment to the definition of National Grid Corridor as discussed below. Subdivision can disrupt access to lines and support structures as it often precedes changes to land use, including lot layout, fences and driveways (which can prevent or facilitate access to land). This is the case even where buildings are more than 12m from a structure and/or from the centreline of lines. By becoming involved in subdivision design, Transpower can ensure that its rights of access (secured under the Electricity Act) are protected.
45. Transpower considers that subdivision is the most effective point at which to ensure future reverse sensitivity effects, maintenance access issues, and adverse effects of transmission lines are managed. Effective plan provisions relating to subdivision are vital to the on-going operation and development of the National Grid.
46. Transpower considers that additional assessment matters for restricted discretionary activities should be included to ensure robust assessment of applications to recognise and provide for the National Grid, as is required by the NPSET.

Relief sought

47. Amend Rule 3.18.5 and add in Rule 3.18.5A as follows:

Electricity Transmission Lines - National Grid Corridor

The following subdivision activities are restricted discretionary:

3.18.5 Where subdivision ~~of~~ includes land (in any zone) within the National Grid Corridor all allotments shall identify a building platform for the

~~principal dwelling or building to be located outside the National Grid Yard. creates new boundaries within an area measured 25 metres from either side of the centre line of an electrical transmission line designed to operate at or above 110kV,~~

~~¶~~The following matters will be taken into account by the Council in exercising its discretion:

- ~~(a) The extent to which the subdivision design avoids, remedies or mitigates conflicts with existing lines, for example through the location and design of roads, reserves, landscaping, earthworks and building platforms.~~
- ~~(b) The ability for maintenance and inspection of transmission lines including ensuring access.~~
- (c) The extent to which the design and construction of any subdivision allows for earthworks, buildings and structures to comply with the safe separation distance requirements in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP: 34 2001);
- (d) The extent to which the subdivision design and consequential development will minimise the potential reverse sensitivity on and amenity and nuisance effects of the National Grid;
- (e) The results of consultation undertaken, including any written advice obtained, from the owner of the electricity transmission line;
- (f) The extent to which the subdivision or subsequent building design mitigates the effects of the lines and the risk of potential injury and/or damage to property e.g. through the location of roads and reserves under the route of the line;
- (g) The ability for continued access to existing National Grid lines for maintenance, inspections and upgrading;
- (h) The extent to which potential adverse effects (including visual) are mitigated through the location of building platforms;
- (i) The extent to which the design and construction of the subdivision allows for activities to be set back from National Gridlines to ensure adverse effects on and from the National Grid and on public safety are appropriately avoided, remedied, or mitigated;

- (j) The nature and location of any proposed vegetation to be planted in the vicinity of National Grid lines;
- (k) The provision for the on-going operation, maintenance and planned upgrade of National Grid lines; and
- (l) The risk to the structural integrity of the National Grid transmission network.

3.18.5A Any subdivision of land in any zone within the National Grid Corridor which does not comply with the restricted discretionary activity Rule 3.18.5 is a Non-Complying Activity.

Applications under Rule 3.18.5A above shall address the following matters, which will be among those taken into account by Council:

- (a) The extent to which the design and construction of any subdivision allows for earthworks, buildings and structures to comply with the safe separation distance requirements in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP: 34 2001);
- (b) The extent to which the subdivision or subsequent building design mitigates the effects of the lines and the risk of potential injury and/or damage to property e.g. through the location of roads and reserves under the route of the line;
- (c) The ability for continued access to existing National Grid lines for maintenance, inspections and upgrading;
- (d) The extent to which potential adverse effects (including visual) are mitigated through the location of building platforms;
- (e) The extent to which the design and construction of the subdivision allows for activities to be set back from the National Grid to ensure adverse effects on and from the National Grid and on public safety are appropriately avoided, remedied, or mitigated;
- (f) The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid;

- (g) The provision for the on-going operation, maintenance and planned upgrade of the National Grid;
- (h) The risk to the structural integrity of the National Grid; and
- (i) The extent to which the subdivision design and consequential development will minimise the potential reverse sensitivity on and amenity and nuisance effects of the National Grid.

Non-notification:

Where an activity requires resource consent because it is within the National Grid Corridor then the application need not be publicly notified and need not be served on any affected party apart from Transpower New Zealand Limited who will be considered an affected party.

Note: Vegetation to be planted around the National Grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.

Note: The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001) contains restrictions on the location of structures and activities in relation to the lines. Compliance with the permitted activity standards of the Plan does not ensure compliance with the Code of Practice.

Definition of “National Grid Corridor”

Reasons for appeal

- 48. Transpower considers that amendments to the “National Grid Corridor” definition are needed to clarify the intent and application of proposed rules relating to activities within the vicinity of the National Grid electricity transmission lines. The definition should recognise that different types of transmission infrastructure require different setbacks in order to accommodate variations such as conductor swings. Transpower’s experts have calculated appropriate corridor widths in light of the policy direction in the NPSET. These widths should be incorporated into the definition.

Relief sought

49. Amend definition of “National Grid Corridor” as follows:

National Grid Corridor: Means the area measured ~~25 metres~~ either side of the centreline of above ground National Grid line as follows:

- 16m for the 110kV lines on pi poles
- 32m for 110kV lines on towers
- 37m for the 220kV transmission lines

Note: The National Grid Corridor and National Grid Yard does not apply to underground cables or any transmission lines (or sections of line) that are designated.

Definition of National Grid Sensitive Activity

Reasons for appeal

50. The definition of sensitive activity in the Proposed Plan should be amended to be consistent with the definition in the NPSET, and not limited to buildings used for sensitive activities.

Relief sought

51. Amend the definition of “National Grid Sensitive Activity” as follows:

National Grid Sensitive Activities - Means ~~buildings or parts of buildings used for, or able to be used for~~ the following purposes:

- (A) Caretakers Accommodation;
- (B) Day Care activity;
- (C) Educational activity, except training related to the National Grid;
- (D) Home Stay;
- (E) Hospital activity;

- (F) Residential activity;
- (G) Residential Care Activity; or
- (H) Visitor accommodation.

Relief Sought

52. Transpower seeks the following relief from the Court:
- (a) The relief specified in this notice of appeal under each heading '*Relief sought*'; or
 - (b) Such further, consequential or alternative relief as may be necessary or appropriate to give effect to the relief sought.
53. The following documents are attached to this notice of appeal:
- (a) A copy of Transpower's submissions (with a copy of the submission opposed or supported by Transpower's further submission);
 - (b) A copy of the relevant parts of the decision of the Council; and
 - (c) A list of names and addresses of persons to be served with a copy of this notice.



AJL Beatson / NJ Garvan
Counsel for Transpower New Zealand Limited

Dated: 9 December 2016

Address for service of the appellant:

Natasha Garvan
C/- Bell Gully
48 Shortland Street
PO Box 4199
Auckland 1140]

Telephone: (09) 916 8956
Facsimile: (09) 916 8801
Email: natasha.garvan@bellgully.com

20381396_2
Form 7

Notice of Appeal against decision on proposed policy statement or plan

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.

Appendix A

**A copy of Transpower's submission and further submission on the
Proposed Regional Policy Statement (with a copy of NZTA's submission)**

Appendix B

A copy of the relevant extracts of parts of the decision of the Council

Appendix C

A list of names and addresses of persons to be served with a copy of this notice