

**In the Environment Court
I Mua I Te Kōti Taiao O Aotearoa
Christchurch Registry
Ōtautahi Rohe**

ENV-2020-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

Marlborough District Council

Respondent

**Notice of Appeal on behalf of Transpower New Zealand
Limited against decision on the Proposed Marlborough
Environment Plan**

8 May 2020

BELL GULLY

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To: The Registrar
Environment Court
Christchurch

1. Transpower New Zealand Limited (**Transpower**) appeals against a decision of the Marlborough District Council (the **Council**) on the Proposed Marlborough Environment Plan (the **PMEP**).
2. Transpower made a submission and further submission on the PMEPE.
3. Transpower is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (the **RMA**).
4. Transpower received notice of the decision on 21 February 2020. Transpower received notice of the tracked-changes version of the PMEPE on 3 March 2020, which was to be read together with the decision.
5. The decision was made by the Independent Hearing Panel (the **Panel**) appointed by the Council with delegated authority to make decisions on the PMEPE.
6. The parts of the decision that this appeal relates to are:
 - (a) Volume 1 – Policy:
 - (i) Chapter 4 – Sustainable Management of Natural and Physical Resources:
 - (A) Objective 4.2;
 - (B) Policy 4.2.2;
 - (C) Policy 4.2.3;
 - (D) Method 4.M.9;
 - (E) Method 4.M.11;

- (ii) Chapter 6 – Natural Character:
 - (A) Policy 6.2.1, Policy 6.2.2 and Policy 6.2.3;
 - (iii) Chapter 7 – Landscape:
 - (A) Policy 7.2.5 and Policy 7.2.6;
 - (iv) Chapter 8 – Indigenous Biodiversity:
 - (A) Policy 8.3.3;
 - (v) Chapter 10 – Heritage Resources and Notable Trees:
 - (A) Policy 10.1.5;
 - (vi) Chapter 13 – Use of the Coastal Environment and the Allocation of Coastal Space:
 - (A) Policy 13.1.1;
- (b) Volume 2 – Rules:
- (i) Chapter 2 – General Rules:
 - (A) New standard under Standard 2.13.1 and new non-complying activity rule under Chapter 2 – Drainage Channel Network Activity;
 - (B) New standard under Standard 2.40 and new non-complying activity rule under Chapter 2 – Network Utilities;
 - (ii) Chapter 3 – Rural Environment Zone:
 - (A) Standard 3.3.52, Standard 3.3.16 and new non-complying activity rule under Chapter 3;

- (iii) Chapter 4 – Coastal Environment Zone:
 - (A) Standard 4.3.49, Standard 4.3.14 and new non-complying activity rule under Chapter 4;
- (iv) Chapter 7 – Coastal Living Zone:
 - (A) Standard 7.3.20, Standard 7.3.10 and new non-complying activity rule under Chapter 7;
- (v) Chapter 12 – Industrial 1 and 2 Zones:
 - (A) Standard 12.3.25, Standard 12.3.20 and new non-complying activity rule under Chapter 12;
- (vi) Chapter 16 – Coastal Marine Zone:
 - (A) Standard 16.2.9;
- (vii) Chapter 18 – Open Space 2 Zone:
 - (A) Standard 18.3.14, Standard 18.3.4 and new non-complying activity rule under Chapter 18;
- (viii) Chapter 19 – Open Space 3 Zone:
 - (A) Standard 19.3.27, Standard 19.3.28 and new non-complying activity rule in Chapter 19;
- (ix) Chapter 21 – Floodway Zone:
 - (A) New standard under Standard 21.2.1 and new non-complying activity rule under Chapter 21;
- (x) Chapter 24 – Subdivision:
 - (A) New non-complying activity rule under Chapter 24;

(c) Volume 4:

(i) Planning Maps – National Grid Transmission Lines on the Overlay Maps.

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~~.

Overview of Transpower's concerns

8. Transpower is the state-owned enterprise that plans, builds, maintains and operates New Zealand's high voltage transmission network (the **National Grid**) that carries electricity across New Zealand. The National Grid is critically important, and nationally significant, infrastructure that is necessary for a reliable and secure supply of electricity throughout the country. Transpower's principal role is to ensure that electricity continues to be supplied reliably, safely and securely through the National Grid throughout New Zealand.

9. Transpower owns and operates a number of assets within, and traversing Marlborough. These assets include transmission lines, substations, communications cables, submarine cables and associated infrastructure. These assets supply electricity to the Nelson, Tasman and Marlborough districts as well as transmit electricity to the rest of New Zealand, including to the North Island via the HVDC Cook Strait submarine cables.

10. The National Policy Statement on Electricity Transmission 2008 (**NPSET**) was gazetted on 13 March 2008 and confirms the national significance of the National Grid. It establishes national policy direction to recognise the benefits of transmission, to manage the effects of the National Grid, and the need to appropriately manage activities and development close to it.

11. The continued provision of secure, safe and reliable National Grid infrastructure, is essential for keeping the lights on for homes, businesses, industries, schools, hospitals, and communities. The PMEP therefore needs to adequately recognise the national

significance of the National Grid, give effect to the NPSET and protect the National Grid from the establishment of incompatible activities.

Objective 4.2

12. *Reason for appeal:* Transpower generally supports Objective 4.2 to the extent that it provides for the operation, upgrade, and development of regionally significant infrastructure (that includes the National Grid). Transpower considers Objective 4.2 should be a regional policy statement, regional plan, regional coastal plan, and district plan provision. This appears to be the case from the decision text, but not necessarily from the reasoning in the decision.
13. Policy 4.2.1 and Policy 4.2.2 are regional plan and district plan policies so they must be respectively implementing a regional plan and district plan objective. There is no other objective in the PMEP that Policy 4.2.1 and Policy 4.2.2 could be implementing and therefore Objective 4.2 must also be a regional coastal plan, regional plan and district plan objective. Such an approach is consistent with the approach taken in Volume 1 Chapter 18 of the PMEP and is necessary to meet the statutory obligations of section 67(1) and section 75(1) of the RMA that respectively set out what a regional plan and district plan must contain.
14. The NPSET's Objective requires the operation, development and upgrade of the National Grid to be facilitated while managing the effects of, and on, the network. The Objective applies equally in a coastal context, particularly in Marlborough where transmission lines (including the Cook Strait submarine cables) are located in the coastal marine area. Chapter 13 (Volume 1 of the PMEP) does not include provisions that 'facilitate' the operation, development and upgrading of the National Grid and therefore, unless the provisions that provide for the National Grid are applied as regional coastal provisions, a 'policy gap' remains. Addressing this 'gap' is critical to giving effect to the NPSET in a manner that reconciles provisions of the NPSET with those of the New Zealand Coastal Policy Statement 2010 (**NZCPS**).

15. *Relief sought:* Amend / retain Objective 4.2 as follows:

[RPS, R, C, D]

Objective 4.2 – Efficient, effective and safe operation, upgrade and development of regionally significant infrastructure, network utilities and emergency services.

The community relies on the infrastructure, network facilities and emergency services that have been developed to protect and support the population. It is essential for the social and economic wellbeing, health and safety of the Marlborough community that infrastructure, network utilities and emergency services continue to operate efficiently, effectively and safely on an ongoing basis. This includes the ability to maintain, upgrade and replace existing infrastructure and network utilities and may include the development of new infrastructure and network utilities.

Policy 4.2.2

16. *Reason for appeal:* Transpower considers that the policy and explanatory text to Policy 4.2.2 needs to be amended to reflect Policy 10 of the NPSET, and refer to not compromising the National Grid in a broader sense (not just in the context of protection from adverse effects, or avoiding reverse sensitivity effects).

17. *Relief sought:* Amend Policy 4.2.2 as follows:

[RPS, R, C, D]

Policy 4.2.2 – Protect regionally significant infrastructure from ~~the adverse effects of~~ subdivision, use and development activities that may compromise its operation, including the maintenance, upgrade and development of the National Grid.

The effective and efficient operation of regionally significant infrastructure can be ensured by avoiding the establishment of incompatible activities in locations (for example those in close proximity to the infrastructure), and including where reverse sensitivity effects may arise. This policy recognises that there has already been significant investment in the infrastructure and that there are usually considerable difficulties relocating the infrastructure in

the event of conflict with other land uses. In respect of the electricity transmission network, it is a requirement of the National Policy Statement on Electricity Transmission (NPSET) for decision makers, to the extent reasonably possible, to manage activities to avoid reverse sensitivity effects on the network and to ensure that the National Grid is not compromised.

Policy 4.2.3

18. *Reason for appeal:* Transpower considers that Policy 4.2.3 needs to reflect the different direction to decision makers in the NPSET, rather than apply the direction “have regard to” to all matters. In particular, clause (f) of Policy 4.2.3 should be amended to enable and provide for the National Grid in a manner that is consistent with Policy 8 of the NPSET by clearly referring to the “seek to avoid” requirement.
19. Policy 4.2.3 should also be amended to make it explicitly clear that it takes precedence over other more general but nevertheless directive provisions in the event of a conflict. This will ensure the national significance of the National Grid is adequately recognised and provided for in the PMEP, and that it gives effect to the NPSET and other relevant national policy statements such as the NZCPS.
20. *Relief sought:* Amend Policy 4.2.3 as follows:

[RPS, R, C, D]

Policy 4.2.3 – In the event of any conflict between Policy 4.2.3 and other provisions of the Plan, Policy 4.2.3 takes precedence. When considering the environmental effects of National Grid activities, ~~to~~ have regard to:

- (a) recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission;
- (b) consider the technical and operational requirements that constrain measures to avoid, remedy or mitigate adverse effects;

- (c) have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by route, site and method selection for new infrastructure or major upgrades;
- (d) have regard to the extent to which existing adverse effects have been reduced as part of any substantial upgrade;
- (e) have regard to the extent to which adverse effects on urban amenity have been minimised;
- (f) ~~whether~~ seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character, town centres, areas of high recreation value and existing sensitive activities, ~~have been avoided.~~

Central government has recognised the importance of electricity transmission through the National Policy Statement on Electricity Transmission (NPSET) which came into effect in 2008. The NPSET establishes that the need to operate, maintain, develop and upgrade the National Grid is a matter of national significance. The objective of the NPSET is to recognise the national significance of the National Grid by facilitating its operation, maintenance, upgrade and development while managing adverse effects of, and on, it. When considering an application for resource consent(s) or notice of requirement for National Grid activities the Council will have regard to the positive and adverse effects on the environment associated with the activity. This policy provides guidance on the matters that are relevant to this consideration, which reflects the particular direction in the NPSET.

Method 4.M.9

21. *Reason for appeal:* Transpower generally supports Method 4.M.9 to the extent that the Method indicates how the rules in the PMEP are intended to give effect to the NPSET, and the Method establishes the role of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 as it relates to existing transmission lines. However, Transpower considers Method 4.M.9 needs to be amended to refer to adverse effects on the National Grid more broadly to give effect to Policies 10 and 11 of the NPSET.

These policies are broader than avoiding reverse sensitivity effects and also require that the National Grid is not compromised, and sensitive activities are generally not provided for.

22. *Relief sought:* Amend Method 4.M.9 as follows:

[R, C, D]

4.M.9 District and regional rules

Rules will be used to enable activities associated with the maintenance, alteration, upgrading, development and replacement of regionally significant infrastructure and network utilities. Rules will also be used to enable emergency services, activities and facilities. Standards will specify the extent of works involved with any of these activities.

Rules will be used to control the proximity of activities that could have adverse effects on regionally significant infrastructure. This includes development in the vicinity of the National Grid.

A buffer corridor for the National Grid transmission lines will be established through rules within which sensitive activities will be avoided, and activities will be managed to reduce the risk of electrical hazard, avoid adverse effects including reverse sensitivity effects on the National Grid, and to ensure that the National Grid is not compromised. The width of the corridor will vary depending on the activity, and type of National Grid asset ~~and the sensitivity of the network to the activity~~. This method gives effect to Policy 10 and 11 of the NPSET.

The Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 contain separate rules for the operation, maintenance, upgrading, relocation and removal of existing National Grid transmission lines. The Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016 contain separate rules for telecommunication facilities and activities associated with the establishment of such facilities. Where activities are managed by these Regulations, no rules in the MEP apply to such activities.

Method 4.M.11

23. *Reason for appeal:* Method 4.M.11 is a district method only. This means that it would not apply to the beds of lakes and rivers within the coastal environment (including in respect of the Floodway Zone). Transpower considers Method 4.M.11 should be amended to be a district plan, regional plan and regional coastal plan method so that it does apply in the coastal environment.
24. *Relief sought:* Amend Method 4.M.11 as follows:

[R, C, D]

4.M.11 Information

The Electricity (Hazards from Trees) Regulations 2003 were introduced in recognition that trees need to be kept at a safe distance from electricity lines for public safety and to protect electricity supply. The Regulations define safe separation distances between trees and powerlines, specify who is responsible for ensuring clearances are maintained and place potential liability on the tree owner in some circumstances if any damage or accident occurs when trees touch powerlines. Further information on Electricity (Hazards from Trees) Regulations 2003 is provided via the Transpower New Zealand Ltd and Marlborough Lines websites.

The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34) sets minimum safe electrical distance requirements for overhead electric line installations and other works associated with the supply of electricity to consumers. This includes requirements for excavation and construction of buildings and similar structures near electric line structures. The minimum safe distances have been set primarily to protect persons, property, vehicles and mobile plant from harm or damage from electrical hazards. Further information on NZECP 34 is provided via the Transpower New Zealand Ltd and Marlborough Lines websites.

Policy 6.2.1, Policy 6.2.2 and Policy 6.2.3

25. *Reason for appeal:* Adverse effects cannot always be avoided on the characteristics that contribute to outstanding natural character areas of the coastal environment, other areas of natural character, and lakes and rivers and their margins of high and very high natural character. Some activities, such as a new National Grid substation or transmission line or routine maintenance activities, often have a functional, operational and/or locational need to be located in particular areas where adverse effects are unavoidable. This need is recognised by policies 3 and 8 of the NPSET.
26. Transpower considers that the unqualified use of the word “avoid” should occur sparingly in policy and plan documents due to the *King Salmon* decision and related line of case law. 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) had a functional, operational and/or locational need to be located within an area identified as having outstanding natural character, 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.
27. Instead Transpower considers the policy framework should provide that adverse effects of the upgrade and development of the National Grid on high value areas are sought to be avoided. Policy 4.2.3 (or a new National Grid policy) provides direction as to how Transpower will seek to avoid such effects. For example, through route selection.
28. Transpower also considers there should be a cross-reference in Policy 6.2.3 so it is clear this sets out how policies 6.2.1 and 6.2.2 are to be achieved/given effect to.
29. Transpower recognises that some stakeholders are likely to prefer that the National Grid is subject to a bespoke comprehensive policy rather than amending a number of general directive policies such as policies 6.2.1 and 6.2.2. Therefore as an alternative Transpower seeks a new

comprehensive policy which applies to the National Grid. This policy would take precedence over all other policies as it relates to the National Grid (and it is likely it would replace Policy 4.2.3).

30. *Relief sought:* Amend Policies 6.2.1, 6.2.2, and 6.2.3 as follows:

[RPS, R, C, D]

Policy 6.2.1 – Avoid the adverse effects of subdivision, use or development, and seek to avoid the adverse effects of the development, maintenance and upgrade of the National Grid, on the characteristics that contribute to areas of the coastal environment with outstanding natural character.

...

[RPS, R, C, D]

Policy 6.2.2 – Avoid the significant adverse effects of subdivision, use or development, seek to avoid the significant adverse effects of the development, maintenance and upgrade of the National Grid, and otherwise avoid, remedy or mitigate adverse effects on the characteristics that contribute to natural character, having regard to the significance criteria in Appendix 4, within:

- (a) all areas of the coastal environment outside of areas of outstanding natural character; and
- (b) lakes and rivers, and their margins of high and very high natural character.

...

[RPS, R, C, D]

Policy 6.2.3 – Where resource consent is required to undertake an activity within coastal or freshwater environments with high, very high or outstanding natural character and to achieve Policies 6.2.1 and 6.2.2:

- (a) have regard to the potential adverse effects of the proposal on the elements, patterns, processes and experiential attributes that contribute to natural character;
- (b) in the case of the development, maintenance and upgrade of the National Grid, seek to avoid adverse effects on the characteristics that contribute to natural character;
- (c) recognise that minor or transitory adverse effects may not need to be avoided;
- (d) recognise the functional and operational requirements of regionally significant infrastructure.

...

Include a new policy as follows:

Provide for the National Grid by:

- (a) Recognising the national, regional and local benefits of sustainable, secure and efficient electricity transmission
- (b) Manage the adverse effects of new National Grid infrastructure by all of the following:
 - (i) Recognising there may be some areas in the coastal environment where avoidance of adverse effects is required to protect the identified special values of those areas.
 - (ii) When undertaking a route, site and method selection process, seeking to avoid adverse effects on the values of the following:
 - (a) Areas with indigenous biodiversity value identified in Policies 8.3.1 and 8.3.2;
 - (b) Outstanding natural features and Outstanding natural landscapes;

(c) Areas of Outstanding natural character;

(d) Places or areas of historic heritage values of Category A heritage resources identified in Schedule 1 of Appendix 13 and sites and places of significance to Marlborough's tangata whenua iwi identified in Schedule 3 of Appendix 13

(iii) Where it is not practicable to avoid adverse effects on the values of the areas listed in ii above because of the operational or technical requirements of the National Grid, consider utilising the more modified parts of these areas;

(iv) Any remaining adverse effects which cannot be avoided, are remedied or mitigated, having regard to the activity's technical and operational requirements;

(v) Avoiding, remedying or mitigating other adverse effects.

Policy 7.2.5 and Policy 7.2.6

31. *Reason for appeal:* Transpower has proposed that Policy 4.2.3 as sought to be amended (or the new National Grid policy above) provides specific policy direction in relation to the National Grid and takes precedence over all other provisions. If this is not accepted, and Policy 7.2.6 still references the National Grid, then Transpower considers that amendments are required to Policies 7.2.5 and 7.2.6.
32. Transpower seeks further amendments to Policies 7.2.5 and 7.2.6 to ensure that there is only one policy applying to the development and upgrade of the National Grid within outstanding natural landscapes, that it is clear the reference to "small scale" does not apply to the development and upgrade of the National Grid, and that the policy direction also applies to the upgrade and development of the National Grid outside of the coastal environment.
33. These amendments better give effect to Policy 5 of the NPSET by also enabling the operation and maintenance of the National Grid, and

reflects that Policy 8 of the NPSET is not limited to the coastal environment. The amendments sought also ensure that the relationship between Policies 7.2.5 and 7.2.6 is clarified so that any ambiguity or possible conflict between the policies is removed.

34. *Relief sought:* Amend Policy 7.2.5 and Policy 7.2.6 as follows:

[R, C, D]

Policy 7.2.5 – Except as provided for by Policy 7.2.6, Avoid adverse effects on the values that contribute to outstanding natural features and outstanding natural landscapes in the first instance. Where adverse effects cannot be avoided and the activity is not proposed to take place in the coastal environment, ensure that the adverse effects are remedied.

Where resource consent is required to undertake a particular activity in an outstanding natural feature or outstanding natural landscape, this policy provides a clear preference for avoiding adverse effects on the biophysical, perceptual or associative values within the landscape. This does not mean that there can be no new resource use within outstanding natural features or outstanding natural landscapes; rather, the use or development of natural and physical resources may be able to be undertaken in a way that the quality and significance of the values is not diminished. Alternatively, adverse effects may be able to be remedied through careful planning or remedial works. Policy 7.2.7 provides further guidance in this regard. The option of remedying adverse effects on landscape values does not apply to activities occurring within the coastal environment, as Policy 15 of the NZCPS requires that such adverse effects are avoided.

[R, C, D]

Policy 7.2.6 – Where the development and upgrade of regionally significant infrastructure, or activities that enhance passive recreational opportunities for the public which are of a small scale, are proposed to take place in an area with outstanding natural features and outstanding natural landscapes:

- (a) in the case of development, maintenance and upgrade of the National Grid ~~in the coastal environment~~, seek to avoid

adverse effects on the values that contribute to the landscape;
~~or~~ and

- (b) in all other cases avoid where practicable, and otherwise remedy and mitigate adverse effects on the values that contribute to the landscape.

Provided the overall qualities and integrity of the wider outstanding natural feature and landscape are retained.

...

Policy 8.3.3

35. *Reason for appeal:* Transpower has proposed that Policy 4.2.3 as sought to be amended (or the new National Grid policy above) provides specific policy direction in relation to the National Grid and takes precedence over other provisions in the event of a conflict. If this is not accepted then Transpower considers that amendments are required to Policy 8.3.3.
36. Transpower considers Policy 8.3.3 fails to appropriately provide for the operation, maintenance, development and upgrade of the National Grid, in a manner that is consistent with the NPSET.
37. As a consequence of its linear nature, Transpower has a large number of assets in or near areas of indigenous vegetation or areas of exotic vegetation that provide habitat for at-risk species. Works undertaken within or adjacent to these areas of vegetation includes maintenance of access tracks, and trimming and removal of vegetation underneath electricity transmission lines. These works are required to enable the ongoing operation, maintenance, and upgrade of the National Grid. Maintenance works need to be enabled under the RMA so the National Grid can effectively function. Similarly, new National Grid development may need to locate in, or adjacent to, areas of vegetation due to operational or locational constraints.
38. It is always possible to avoid adverse effects by not undertaking the activity. Instead Transpower considers a more reasonable test is

whether it is “practicable” to avoid adverse effects as this involves economic considerations and factoring in the practicalities involved in avoiding certain areas.

39. Transpower considers Policy 8.3.3 should reflect the requirement in Policy 4 of the NPSET. This policy provides that decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection. Recognition of this process would be instead of having to show “there are no practical alternative locations or routes”. There may be practicable alternatives to avoid areas identified in Policies 8.3.1 and 8.3.2, but overall that route may have worse adverse effects on the environment. Direction to consider the route, site and method selection process enables this broader consideration to be undertaken.
40. Transpower also considers Policy 8.3.3 needs to give effect to the requirement in Policy 5 of the NPSET which requires decision makers to enable the reasonable, operational, maintenance and minor upgrade of existing assets. It is important there is a workable consenting pathway for the National Grid within the areas identified in Policies 8.3.1 and 8.3.2 to ensure Transpower can operate, maintain, upgrade, and develop the National Grid. New National Grid infrastructure is likely to be required to support new renewable energy projects, and assist New Zealand to meet its climate change commitments.
41. *Relief sought:* Amend Policy 8.3.3 as follows:

[R, C, D]

Policy 8.3.3 - Provide for the development ~~construction~~, maintenance, or upgrade of National Grid infrastructure, that adversely affects the values and attributes associated with the areas identified in Policies 8.3.1 and 8.3.2, provided that:

- (a) Adverse effects have been avoided, remedied or mitigated by the route, site and method selection ~~There are no practical alternative locations or routes:~~ and

- (b) The avoidance of effects required within Policies 8.3.1 and 8.3.2 is not practicable possible: and
- (c) The adverse effects that cannot be avoided are remedied or mitigated having regard to the National Grid's technical, locational and operational constraints.

Operating, maintaining, upgrading and/or developing the National Grid have the potential to result in unavoidable adverse effects on indigenous biodiversity values. Reflecting the national significance of the National Grid for electricity transmission, this policy directs that, despite of Policies 8.3.1 and 8.3.2, it is important to provide for these critical activities to occur. However, the policy also places limits on the ability to adversely affect indigenous biodiversity values. The National Grid operator will have to demonstrate that the circumstances in both (a) and (b) apply. Where they can do so, the national Grid operator will be required to remedy or mitigate any adverse effects to the greatest extent practicable.

The policy assists to give effect to Policies 2, 3, 4 and 5 ~~and 8~~ of the NPSET.

Policy 10.1.5

42. *Reason for appeal:* Transpower considers Policy 10.1.5 has the potential to compromise Transpower's ability to maintain and upgrade its assets in a manner that is consistent with Policies of the NPSET. Transpower seeks limited amendments to recognise that there may be existing situations where adverse effects on Category A heritage resources cannot, and should not be required to, be avoided. The decision reasoning refers to Policy 10.1.5 being restricted to demolition and partial demolition, but this is not provided in the policy itself.

43. *Relief sought:* Amend Policy 10.1.5 as follows:

[RPS]

Policy 10.1.5 – Avoid adverse effects on the historic heritage values of Category A heritage resources identified in Schedule 1 of Appendix 13 and sites and places of significance to Marlborough's tangata whenua iwi identified in Schedule 3 of Appendix 13 while recognising that

minimal effects, including those associated with maintenance and upgrading, may be acceptable where existing infrastructure is attached to a Category A heritage resource.

...

Policy 13.1.1

44. *Reason for appeal:* Transpower considers an explicit cross reference to Volume 1, Chapter 4, Policy 4.2.3 as sought to be amended (or the new National Grid policy above) should be included in Policy 13.1.1 to give direction to decision makers in terms of the appropriateness, and necessary location of, the National Grid in the coastal environment. This will assist in clarifying the relationship between Policy 4.2.3 and Policy 13.1.1, and the relationship between the NPSET, the NZCPS and s 6 matters under the RMA.
45. Transpower also seeks amendment to Policy 13.1.1 to include wording consistent with the wording already accepted by Council in Policy 6.2.3 of the PMEP in relation to outstanding natural character, including in the coastal environment. This would ensure that the PMEP applies a consistent policy position across its chapters.
46. The approach to be taken in respect of the National Grid is different to that of other infrastructure providers because the NPSET applies to the National Grid. The amendments sought appropriately reconcile the 'enabling' provisions of the NPSET with Policies 6, 13, 15 and 17 of the NZCPS in a manner that is consistent with this National Grid specific approach to such matters. Such an approach recognises the presence of the National Grid in an area that has been identified by statute as appropriate to accommodate submarine cables.
47. *Relief sought:* Amend Policy 13.1.1 as follows:

[RPS]

Policy 13.1.1 – Protect against inappropriate subdivision, use and development by avoiding adverse effects, and in the case of the development, maintenance and upgrade of the National Grid, seeking

to avoid adverse effects, on the characteristics and values identified as having:

- (a) Outstanding natural character;
- (b) Outstanding natural features and/or outstanding natural landscapes;

and avoiding significant adverse effects, and in the case of the development, maintenance and upgrade of the National Grid, avoiding, remedying, or mitigating significant adverse effects, on:

- (c) marine biodiversity or cultural values and/or a significant wetland; or
- (d) sites and places of significance to Marlborough's Tangata Whenua iwi.

...

For clarity, Policy 4.2.3 relating to the National Grid takes precedence over this Policy.

New standard under Standard 2.13.1 and new non-complying activity rule under Chapter 2 – Drainage Channel Network Activity

- 48. *Reason for appeal:* Transpower considers an additional standard is required under 2.13.1 in order to give effect to Policy 10 of the NPSET. The current standards in 2.13.1 do not contemplate the potential adverse effects of drainage channel network activities on the National Grid and therefore without this additional standard, there are no regional rules in the PMEP that manage river control and drainage works in the National Grid Yard.
- 49. The New Zealand Electrical Code of Practice (**NZEC34:2001**) is a code of practice issued under the Electricity (Safety) Regulations 2010. It establishes clear expectations about appropriate setbacks from the National Grid for those carrying out permitted development and earthworks activities near high voltage transmission lines.

50. Transpower also considers any activities that do not comply with this new standard should be a non-complying activity. The NPSET provides clear direction that decision makers must, to the extent reasonably possible, manage activities to ensure the operation, maintenance, upgrading, and development of the National Grid is not compromised. Non-complying activity status is the most appropriate activity status for activities that are likely to have adverse effects on the National Grid, in order to give effect to the NPSET. Non-complying activity status gives a very strong policy signal that where standards are not complied with, the activity proposed could potentially compromise security of supply, safety, and severely restrict Transpower's ability to operate, maintain, upgrade and develop its assets. It also more effectively manages landowner expectations about what activities are appropriate or otherwise in the National Grid Yard.
51. The management of activities that cannot comply with National Grid specific standards requires the higher threshold mandated for non-complying activities in s 104D of the RMA. This approach is standard across the country, and consistency between jurisdictions is important when giving effect to higher order planning documents.
52. *Relief sought:* Include new standard under 2.13.1 as follows:
- 2.13.1. General.
- 2.13.1.1. No refuelling or fuel storage or the storage or placement of any hazardous substance including but not limited to oil, hydraulic fluid or other fluid lubricants must take place within 20m of surface water.
- 2.13.1.2. The activity must not cause flooding or erosion of private land.
- 2.13.1.3. The activity must not be in, or within 8m of, a Significant Wetland.

2.13.1.x The activity and associated works must maintain compliance with the New Zealand Electrical Code of Practice (NZECP34:2001) at all times.

Include new non-complying activity rule under Chapter 2 - Drainage Channel Network Activity as follows:

2.x Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[R, D]

2.x.1 Any activity that does not meet Standard 2.13.1.x.

New standard under Standard 2.40 and new non-complying activity rule under Chapter 2 – Network Utilities

53. *Reason for appeal:* Transpower seeks the inclusion of standards that are required to be met for a network utility in the National Grid Yard to be a permitted activity.
54. Irrigation water storage and above-ground conveyance in canals, dams or reservoirs have the ability to prevent physical access to the National Grid thereby compromising the ability for Transpower to be able to maintain, develop and upgrade the National Grid to keep it in good working order and to ensure the reliable, secure and safe supply of electricity in New Zealand. Where access is permanently physically obstructed, it is important that a strong signal is sent that the activity is not appropriate in the National Grid Yard.
55. Transpower considers that the characteristics of irrigation water storage and above-irrigation water conveyance are sufficiently different to those of many other network utilities to warrant distinction in the proposed standards. The inclusion of a specific standard to manage irrigation water storage and conveyance is required in order to fully give effect to Policy 10 of the NPSET by ensuring that the National Grid is not compromised.

56. Transpower also considers that it is appropriate to require compliance with NZECP34:2001. NZECP34:2001 is a code of practice issued under the Electricity (Safety) Regulations 2010. It establishes clear expectations about appropriate setbacks from the National Grid for those carrying out permitted development and earthworks activities near high voltage transmission lines.
57. Transpower considers that those network utilities within the National Grid Yard that do not comply with the new standards should be a non-complying activity.
58. Transpower considers that non-complying activity status is the most appropriate activity status for activities that are likely to have adverse effects on the National Grid, in order to give effect to the NPSET. Non-complying activity status gives a very strong policy signal that where standards are not complied with, the activity proposed could severely restrict Transpower's ability to operate, maintain, upgrade and develop its assets. It also more effectively manages landowner expectations about what activities are appropriate or otherwise in the National Grid Yard.
59. The management of activities that cannot comply with National Grid specific standards requires the higher threshold mandated for non-complying activities in s 104D of the RMA. This approach is standard across the country, and consistency between jurisdictions is important when giving effect to higher order planning documents.
60. *Relief sought:* Include new standard under Standard 2.40 as follows:

2.40.x Network utilities within the National Grid Yard

2.40.x.1 The reticulation and storage of water in canals, dams or reservoirs including for irrigation purposes shall not be located within the National Grid Yard.

2.40.x.2 Utility buildings and structures shall comply with NZECP34:2001.

Include new non-complying activity rule under Chapter 2 – Network Utilities as follows:

2.x Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[D]

2.x.1 Any activity that does not meet Standard 2.40.x.1 or 2.40.x.2.

Standard 3.3.52, Standard 3.3.16 and new non-complying activity rule under Chapter 3

61. *Reason for appeal:* Transpower seeks amendments to Standard 3.2.52 to correct an inadvertent error by the Hearing Panel. It is the building or structure that must meet the requirements of clause 2.4.1 of NZECP34:2001 rather than the National Grid transmission line support structure.
62. Further, permitted buildings and structures that exceed a vertical clearance of 10m below the lowest point of a conductor (transmission line) should be enabled if they are appropriately setback from the Grid, in a manner consistent with NZECP34:2001.
63. NZECP34:2001 is a code of practice issued under the Electricity (Safety) Regulations 2010. It establishes clear expectations about appropriate setbacks from the National Grid for those carrying out permitted development and earthworks activities near high voltage transmission lines.
64. Transpower also seeks a new non-complying activity status rule. This would apply to any activities that do not comply with Standard 3.2.52 or Standard 3.3.16. Buildings and structures pose a risk to the operation of the National Grid, compromise Transpower's ability to maintain the line, and can place any residents or workers at those facilities at risk from electrical hazards. Similarly, uncontrolled earthworks can undermine support structures, generate dust, result in the build-up of

material on the National Grid lines, increase the wear on the equipment reducing its useable lifespan, restrict Transpower's ability to access and locate the heavy machinery required to maintain support structures around the lines, and may lead to potential tower failure and significant constraints on the operation of the lines, such as power outages.

65. For these reasons, non-complying activity status is the most appropriate activity status for activities that do not meet the relevant standards and are therefore likely to have adverse effects on the National Grid, in order to give effect to the NPSET. In such circumstances, a clear message needs to be given that what is proposed is not acceptable in the National Grid Yard and this message is not communicated by any lesser activity status.

66. *Relief sought:* Amend Standard 3.3.52 as follows:

3.3.52. Buildings, structures and activities in the National Grid Yard

3.3.52.1. Sensitive activities and buildings for the handling or storage of hazardous substances with explosive or flammable intrinsic properties must not be located within the National Grid Yard.

3.3.52.2. Buildings and structures must not be located within the National Grid Yard unless they are:

- (a) a fence not exceeding 2.5m in height; or
- (b) an uninhabited farm or horticultural structure or building (except where they are commercial greenhouses, wintering barns, produce packing facilities, or milking/dairy sheds (excluding ancillary stockyards and platforms)).
- (c) irrigation equipment used for agricultural or horticultural purposes including the reticulation and storage of water where it does not permanently physically obstruct

vehicular access to a National Grid support structure;

3.3.52.3. Buildings and structures must not be within 12m of a foundation of a National Grid transmission line support structure unless they are:

- (a) a fence not exceeding 2.5m in height that is located at least 6m from the foundation of a National Grid transmission line support structure; or at least 5m from a National Grid pi-pole structure (but not a tower); or
- (b) artificial crop protection structures or crop support structures not more than 2.5m in height and located at least 8m from a National Grid pi-pole structure (but not a tower) and are:
 - (i) removable or temporary to allow a clear working space of 12m from the pole for maintenance and repair purposes; and
 - (ii) all weather access to the pole and a sufficient area for maintenance equipment, including a crane; or
- (c) located within 12 metres of a National Grid transmission line support structure ~~that~~ and meets the requirements of clause 2.4.1 of the New Zealand Electrical Code of Practice (NZECP34:2001).

3.3.52.4. All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor under all transmission line and building operating conditions or otherwise meet the

safe electrical clearance distances required by NZECP34:2001.

Include new non-complying activity rule under Chapter 3 as follows:

3.x Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[D]

3.x.1 Any activity that does not meet the Standard in 3.3.52 or Standard 3.3.16.

Standard 4.3.49, Standard 4.3.14 and new non-complying activity rule under Chapter 4

67. *Reason for appeal:* Transpower seeks amendments to Standard 4.3.49 to correct an inadvertent error by the Hearing Panel. It is the building or structure that must meet the requirements of clause 2.4.1 of NZECP34:2001 rather than the National Grid transmission line support structure.
68. Further, permitted buildings and structures that exceed a vertical clearance of 10m below the lowest point of a conductor (transmission line) should be enabled if they are appropriately setback from the Grid, in a manner consistent with NZECP34:2001.
69. NZECP34:2001 is a code of practice issued under the Electricity (Safety) Regulations 2010. It establishes clear expectations about appropriate setbacks from the National Grid for those carrying out permitted development and earthworks activities near high voltage transmission lines.
70. Transpower also seeks a new non-complying activity status rule. This would apply to any activities that do not comply with Standard 4.3.49 or Standard 4.3.14. Buildings and structures pose a risk to the operation of the National Grid, compromise Transpower's ability to maintain the

line, and can place any residents or workers at those facilities at risk from electrical hazards. Similarly, uncontrolled earthworks can undermine support structures, generate dust, result in the build-up of material on the National Grid lines, increase the wear on the equipment reducing its useable lifespan, restrict Transpower's ability to access and locate the heavy machinery required to maintain support structures around the lines, and may lead to potential tower failure and significant constraints on the operation of the lines, such as power outages.

71. For these reasons, non-complying activity status is the most appropriate activity status for activities that do not meet the relevant standards and are therefore likely to have adverse effects on the National Grid, in order to give effect to the NPSET. In such circumstances, a clear message needs to be given that what is proposed is not acceptable in the National Grid Yard and this message is not communicated by any lesser activity status.

72. *Relief sought:* Amend Standard 4.3.49 as follows:

4.3.49. Buildings, structures and activities in the National Grid Yard

4.3.49.1. Sensitive activities and buildings for the handling or storage of hazardous substances with explosive or flammable intrinsic properties must not be located within the National Grid Yard.

4.3.49.2. Buildings and structures must not be located within the National Grid Yard unless they are:

- (a) a fence not exceeding 2.5m in height; or
- (b) an uninhabited farm or horticultural structure or building (except where they are commercial greenhouses, wintering barns, produce packing facilities, or milking/dairy sheds (excluding ancillary stockyards and platforms)).

- (c) irrigation equipment used for agricultural or horticultural purposes including the reticulation and storage of water where it does not permanently physically obstruct vehicular access to a National Grid support structure;

4.3.49.3. Buildings and structures must not be within 12m of a foundation of a National Grid transmission line support structure unless they are:

- (a) a fence not exceeding 2.5m in height that is located at least 6m from the foundation of a National Grid transmission line support structure; or at least 5m from a National Grid pi-pole structure (but not a tower); or
- (b) artificial crop protection structures or crop support structures not more than 2.5m in height and located at least 8m from a National Grid pi-pole structure (but not a tower) and are:
 - (i) removable or temporary to allow a clear working space of 12m from the pole for maintenance and repair purposes; and
 - (ii) all weather access to the pole and a sufficient area for maintenance equipment, including a crane; or
- (c) located within 12 metres of a National Grid transmission line support structure ~~that~~ and meets the requirements of clause 2.4.1 of the New Zealand Electrical Code of Practice (NZECP34:2001).

- 4.3.49.4. All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor under all transmission lines and building operating conditions or otherwise meet the safe electrical clearance distances required by NZECP34:2001.

Include new non-complying activity rule under Chapter 4 as follows:

4.x Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[D]

- 4.x.1 Any activity that does not meet the Standard in 4.3.49 or Standard 4.3.14.

Standard 7.3.20, Standard 7.3.10 and new non-complying activity rule under Chapter 7

73. *Reason for appeal:* Transpower seeks amendments to Standard 7.3.20 to correct an inadvertent error by the Hearing Panel. It is the building or structure that must meet the requirements of clause 2.4.1 of NZECP34:2001 rather than the National Grid transmission line support structure.
74. Further, permitted buildings and structures that exceed a vertical clearance of 10m below the lowest point of a conductor (transmission line) should be enabled if they are appropriately setback from the Grid, in a manner consistent with NZECP34:2001.
75. NZECP34:2001 is a code of practice issued under the Electricity (Safety) Regulations 2010. It establishes clear expectations about appropriate setbacks from the National Grid for those carrying out permitted development and earthworks activities near high voltage transmission lines.

76. Transpower also seeks a new non-complying activity status rule. This would apply to any activities that do not comply with Standard 7.3.20 or Standard 7.3.10. Buildings and structures pose a risk to the operation of the National Grid, compromise Transpower's ability to maintain the line, and can place any residents or workers at those facilities at risk from electrical hazards. Similarly, uncontrolled earthworks can undermine support structures, generate dust, result in the build-up of material on the National Grid lines, increase the wear on the equipment reducing its useable lifespan, restrict Transpower's ability to access and locate the heavy machinery required to maintain support structures around the lines, and may lead to potential tower failure and significant constraints on the operation of the lines, such as power outages.
77. For these reasons, non-complying activity status is the most appropriate activity status for activities that do not meet the relevant standards and are therefore likely to have adverse effects on the National Grid, in order to give effect to the NPSET. In such circumstances, a clear message needs to be given that what is proposed is not acceptable in the National Grid Yard and this message is not communicated by any lesser activity status.
78. *Relief sought:* Amend Standard 7.3.20 as follows:

7.3.20. Buildings, structures and activities in the National Grid Yard

- 7.3.20.1. Sensitive activities and buildings for the handling or storage of hazardous substances with explosive or flammable intrinsic properties must not be located within the National Grid Yard.
- 7.3.20.2. Buildings and structures must not be located within the National Grid Yard unless they are:
- (a) a fence not exceeding 2.5m in height; or
 - (b) an uninhabited farm or horticultural structure or building (except where they are commercial greenhouses, wintering barns, produce packing facilities, or milking/dairv

sheds (excluding ancillary stockyards and platforms)).

- (c) irrigation equipment used for agricultural or horticultural purposes including the reticulation and storage of water where it does not permanently physically obstruct vehicular access to a National Grid support structure;

7.3.20.3. Buildings and structures must not be within 12m of a foundation of a National Grid transmission line support structure unless they are:

- (a) a fence not exceeding 2.5m in height that is located at least 6m from the foundation of a National Grid transmission line support structure; or at least 5m from a National Grid pi-pole structure (but not a tower); or
- (b) artificial crop protection structures or crop support structures not more than 2.5m in height and located at least 8m from a National Grid pi-pole structure (but not a tower) and are:
 - (i) removable or temporary to allow a clear working space of 12m from the pole for maintenance and repair purposes; and
 - (ii) all weather access to the pole and a sufficient area for maintenance equipment, including a crane; or
- (c) located within 12 metres of a National Grid transmission line support structure ~~that~~ and meets the requirements of clause 2.4.1 of the

New Zealand Electrical Code of Practice
(NZECP34:2001).

- 7.3.20.4. All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor under all transmission line and building operating conditions or otherwise meet the safe electrical clearance distances required by NZECP34:2001.

Include new non-complying activity rule under Chapter 7 as follows:

7.x Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[D]

- 7.x.1 Any activity that does not meet the Standard in 7.3.20 or Standard 7.3.10.

Standard 12.3.25, Standard 12.3.20 and new non-complying activity rule under Chapter 12

79. *Reason for appeal:* Transpower seeks amendments to Standard 12.3.25 to correct an inadvertent error by the Hearing Panel. It is the building or structure that must meet the requirements of clause 2.4.1 of NZECP34:2001 rather than the National Grid transmission line support structure.
80. Further, permitted buildings and structures that exceed a vertical clearance of 10m below the lowest point of a conductor (transmission line) should be enabled if they are appropriately setback from the Grid, in a manner consistent with NZECP34:2001.
81. NZECP34:2001 is a code of practice issued under the Electricity (Safety) Regulations 2010. It establishes clear expectations about appropriate setbacks from the National Grid for those carrying out

permitted development and earthworks activities near high voltage transmission lines.

82. Transpower also seeks a new non-complying activity status rule. This would apply to any activities that do not comply with Standard 12.3.25 or Standard 12.3.20. Buildings and structures pose a risk to the operation of the National Grid, compromise Transpower's ability to maintain the line, and can place any residents or workers at those facilities at risk from electrical hazards. Similarly, uncontrolled earthworks can undermine support structures, generate dust, result in the build-up of material on the National Grid lines, increase the wear on the equipment reducing its useable lifespan, restrict Transpower's ability to access and locate the heavy machinery required to maintain support structures around the lines, and may lead to potential tower failure and significant constraints on the operation of the lines, such as power outages.

83. For these reasons, non-complying activity status is the most appropriate activity status for activities that do not meet the relevant standards and are therefore likely to have adverse effects on the National Grid, in order to give effect to the NPSET. In such circumstances, a clear message needs to be given that what is proposed is not acceptable in the National Grid Yard and this message is not communicated by any lesser activity status.

84. *Relief sought:* Amend Standard 12.3.25 as follows:

12.3.25. Buildings, structures and activities in the National Grid Yard

12.3.25.1. Sensitive activities and buildings for the handling or storage of hazardous substances with explosive or flammable intrinsic properties must not be located within the National Grid Yard.

12.3.25.2. Buildings and structures must not be located within the National Grid Yard unless they are:

(a) a fence not exceeding 2.5m in height; or

- (b) an uninhabited farm or horticultural structure or building (except where they are commercial greenhouses, wintering barns, produce packing facilities, or milking/dairy sheds (excluding ancillary stockyards and platforms)).
- (c) irrigation equipment used for agricultural or horticultural purposes including the reticulation and storage of water where it does not permanently physically obstruct vehicular access to a National Grid support structure;

12.3.25.3. Buildings and structures must not be within 12m of a foundation of a National Grid transmission line support structure unless they are:

- (a) a fence not exceeding 2.5m in height that is located at least 6m from the foundation of a National Grid transmission line support structure; or at least 5m from a National Grid pi-pole structure (but not a tower); or
- (b) artificial crop protection structures or crop support structures not more than 2.5m in height and located at least 8m from a National Grid pi-pole structure (but not a tower) and are:
 - (i) removable or temporary to allow a clear working space of 12m from the pole for maintenance and repair purposes; and
 - (ii) all weather access to the pole and a sufficient area for maintenance equipment, including a crane; or

- (c) located within 12 metres of a National Grid transmission line support structure ~~that~~ and meets the requirements of clause 2.4.1 of the New Zealand Electrical Code of Practice (NZECP34:2001).

12.3.25.4. All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor under all transmission line and building operating conditions or otherwise meet the safe electrical clearance distances required by NZECP34:2001.

Include new non-complying activity rule under Chapter 12 as follows:

12.x Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[D]

12.x.1 Any activity that does not meet the Standard in 12.3.25 or Standard 12.3.20.

Standard 16.2.9

85. *Reason for appeal:* Transpower generally supports the Standards in 16.2 but seeks an amendment to Standard 16.2.9 to protect the Cook Strait cables at Fighting Bay, as required by Policy 10 of the NPSET. The wording in the decision text fails to recognise that there is a gap between the Cook Strait Cable Protection Zone and the Fighting Bay Terminal Station.
86. *Relief sought:* Amend Standard 16.2.9 as follows:
- 16.2.9 Activities in the vicinity of the National Grid Cook Strait submarine cables.

- 16.2.9.1 Except for works associated with the National Grid Cook Strait submarine cables there shall be no disturbance, anchoring, mooring or occupation of the foreshore ~~within the Cook Strait Cable Protection Zone~~ immediately adjacent to Transpower New Zealand Limited's Fighting Bay Terminal Station.

Advice Note: The Submarine Cables and Pipelines Protection Act 1996, the associated Submarine Cables and Pipeline Protection Order 1992, and Submarine Cables and Pipelines Protection Amendment Order 1999 contain further restrictions on fishing and anchoring within the Cook Strait Cable Protection Zone.

Standard 18.3.14, Standard 18.3.4 and new non-complying activity rule under Chapter 18

87. *Reason for appeal:* Transpower seeks amendments to Standard 18.3.14 to correct an inadvertent error by the Hearing Panel. It is the building or structure that must meet the requirements of clause 2.4.1 of NZECP34:2001 rather than the National Grid transmission line support structure.
88. Further, permitted buildings and structures that exceed a vertical clearance of 10m below the lowest point of a conductor (transmission line) should be enabled if they are appropriately setback from the Grid, in a manner consistent with NZECP34:2001.
89. NZECP34:2001 is a code of practice issued under the Electricity (Safety) Regulations 2010. It establishes clear expectations about appropriate setbacks from the National Grid for those carrying out permitted development and earthworks activities near high voltage transmission lines.
90. Transpower also seeks a new non-complying activity status rule. This would apply to any activities that do not comply with Standard 18.3.14 or Standard 18.3.4. Buildings and structures pose a risk to the

operation of the National Grid, compromise Transpower's ability to maintain the line, and can place any residents or workers at those facilities at risk from electrical hazards. Similarly, uncontrolled earthworks can undermine support structures, generate dust, result in the build-up of material on the National Grid lines, increase the wear on the equipment reducing its useable lifespan, restrict Transpower's ability to access and locate the heavy machinery required to maintain support structures around the lines, and may lead to potential tower failure and significant constraints on the operation of the lines, such as power outages.

91. For these reasons, non-complying activity status is the most appropriate activity status for activities that do not meet the relevant standards and are therefore likely to have adverse effects on the National Grid, in order to give effect to the NPSET. In such circumstances, a clear message needs to be given that what is proposed is not acceptable in the National Grid Yard and this message is not communicated by any lesser activity status.

92. *Relief sought:* Amend Standard 18.3.14 as follows:

18.3.14. Buildings, structures and activities in the National Grid Yard

18.3.14.1. Sensitive activities and buildings for the handling or storage of hazardous substances with explosive or flammable intrinsic properties must not be located within the National Grid Yard.

18.3.14.2. Buildings and structures must not be located within the National Grid Yard unless they are:

- (a) a fence not exceeding 2.5m in height; or
- (b) an uninhabited farm or horticultural structure or building (except where they are commercial greenhouses, wintering barns, produce packing facilities, or milking/dairy sheds (excluding ancillary stockyards and platforms)).

- (c) irrigation equipment used for agricultural or horticultural purposes including the reticulation and storage of water where it does not permanently physically obstruct vehicular access to a National Grid support structure;

18.3.14.3. Buildings and structures must not be within 12m of a foundation of a National Grid transmission line support structure unless they are:

- (a) a fence not exceeding 2.5m in height that is located at least 6m from the foundation of a National Grid transmission line support structure; or at least 5m from a National Grid pi-pole structure (but not a tower); or
- (b) artificial crop protection structures or crop support structures not more than 2.5m in height and located at least 8m from a National Grid pi-pole structure (but not a tower) and are:
 - (i) removable or temporary to allow a clear working space of 12m from the pole for maintenance and repair purposes; and
 - (ii) all weather access to the pole and a sufficient area for maintenance equipment, including a crane; or
- (c) located within 12 metres of a National Grid transmission line support structure ~~that~~ and meets the requirements of clause 2.4.1 of the New Zealand Electrical Code of Practice (NZECP34:2001).

18.3.14.4. All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor under all transmission line and building operating conditions or otherwise meet the safe electrical clearance distances required by NZECP34:2001.

Include new non-complying activity rule under Chapter 18 as follows:

18.x Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[D]

18.x.1 Any activity that does not meet the Standard in 18.3.14 or Standard 18.3.4.

Standard 19.3.27, Standard 19.3.28 and new non-complying activity rule in Chapter 19

93. *Reason for appeal:* Transpower seeks amendments to Standard 19.3.27 to correct an inadvertent error by the Hearing Panel. It is the building or structure that must meet the requirements of clause 2.4.1 of NZECP34:2001 rather than the National Grid transmission line support structure.
94. Further, permitted buildings and structures that exceed a vertical clearance of 10m below the lowest point of a conductor (transmission line) should be enabled if they are appropriately setback from the Grid, in a manner consistent with NZECP34:2001.
95. NZECP34:2001 is a code of practice issued under the Electricity (Safety) Regulations 2010. It establishes clear expectations about appropriate setbacks from the National Grid for those carrying out permitted development and earthworks activities near high voltage transmission lines.

96. Transpower also seeks a new non-complying activity status rule. This would apply to any activities that do not comply with Standard 19.3.27 or Standard 19.2.28. Buildings and structures pose a risk to the operation of the National Grid, compromise Transpower's ability to maintain the line, and can place any residents or workers at those facilities at risk from electrical hazards. Similarly, uncontrolled earthworks can undermine support structures, generate dust, result in the build-up of material on the National Grid lines, increase the wear on the equipment reducing its useable lifespan, restrict Transpower's ability to access and locate the heavy machinery required to maintain support structures around the lines, and may lead to potential tower failure and significant constraints on the operation of the lines, such as power outages.
97. For these reasons, non-complying activity status is the most appropriate activity status for activities that do not meet the relevant standards and are therefore likely to have adverse effects on the National Grid, in order to give effect to the NPSET. In such circumstances, a clear message needs to be given that what is proposed is not acceptable in the National Grid Yard and this message is not communicated by any lesser activity status.
98. *Relief sought:* Amend Standard 19.3.27 as follows:
- 19.3.27. Buildings, structures and activities in the National Grid Yard.
- 19.3.27.1. Sensitive activities and buildings for the handling or storage of hazardous substances with explosive or flammable intrinsic properties must not be located within the National Grid Yard.
- 19.3.27.2. Buildings and structures must not be located within the National Grid Yard unless they are:
- (a) a fence not exceeding 2.5m in height; or
 - (b) an uninhabited farm or horticultural structure or building (except where they are commercial greenhouses, wintering barns,

produce packing facilities, or milking/dairv sheds (excluding ancillary stockyards and platforms)).

- (c) irrigation equipment used for agricultural or horticultural purposes including the reticulation and storage of water where it does not permanently physically obstruct vehicular access to a National Grid support structure;

19.3.27.3. Buildings and structures must not be within 12m of a foundation of a National Grid transmission line support structure unless they are:

- (a) a fence not exceeding 2.5m in height that is located at least 6m from the foundation of a National Grid transmission line support structure; or at least 5m from a National Grid pi-pole structure (but not a tower); or
- (b) artificial crop protection structures or crop support structures not more than 2.5m in height and located at least 8m from a National Grid pi-pole structure (but not a tower) and are:
 - (i) removable or temporary to allow a clear working space of 12m from the pole for maintenance and repair purposes; and
 - (ii) all weather access to the pole and a sufficient area for maintenance equipment, including a crane; or
- (c) located within 12 metres of a National Grid transmission line support structure ~~that~~ and meets the requirements of clause 2.4.1 of the

New Zealand Electrical Code of Practice
(NZECP34:2001).

19.3.27.4. All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor under all transmission line and building operating conditions or otherwise meet the safe electrical clearance distances required by NZECP34:2001.

Include new non-complying activity rule under Chapter 19 as follows:

19.x Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[D]

19.x.1 Any activity that does not meet the Standard in 19.3.27 or Standard 19.3.28.

New standard under Standard 21.2.1 and new non-complying activity rule under Chapter 21

99. *Reason for appeal:* Transpower seeks to include an additional standard in the Floodway Zone provisions to manage adverse effects of activities in this Zone on the National Grid. This new standard requires permitted activities (and associated works) to have an appropriate setback from the Grid (through compliance with NZECP34:2001), and through compliance with the New Zealand Electricity (Hazards from Trees) Regulations 2003. The current standards in 21.2.1 do not contemplate the potential adverse effects of activities in the Floodway Zone on the National Grid and therefore without this additional standard, there are no regional and district plan rules managing such effects of activities in the Floodway Zone.
100. NZECP34:2001 is a code of practice issued under the Electricity (Safety) Regulations 2010. It establishes clear expectations about

appropriate setbacks from the National Grid for those carrying out permitted development and earthworks activities near high voltage transmission lines.

101. Transpower also considers any activities that do not comply with this new standard should be a non-complying activity. The NPSET provides clear direction that decision makers must, to the extent reasonably possible, manage activities to ensure the operation, maintenance, upgrading, and development of the National Grid is not compromised. Non-complying activity status is the most appropriate activity status for activities that are likely to have adverse effects on the National Grid, in order to give effect to the NPSET. Non-complying activity status gives a very strong policy signal that where standards are not complied with, the activity proposed could potentially compromise security of supply, safety, and severely restrict Transpower's ability to operate, maintain, upgrade and develop its assets. It also more effectively manages landowner expectations about what activities are appropriate or otherwise in the National Grid Yard.
102. The management of activities that cannot comply with National Grid specific standards requires the higher threshold mandated for non-complying activities in s 104D of the RMA. This approach is standard across the country, and consistency between jurisdictions is important when giving effect to higher order planning documents.
103. *Relief sought:* Include new standard under Standard 21.2.1 as follows:

21.2.1 General.

21.2.1.x Activities within the National Grid Yard:

21.2.1.x.1 the activity and associated works must maintain compliance with the New Zealand Electrical Code of Practice (NZECP34:2001) at all times.

Include new non-complying activity rule under Chapter 21 as follows:

21.x Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[R, D]

21.x.1 Any activity that does not meet Standard 21.2.1.x.

New non-complying activity rule under Chapter 24

104. *Reason for appeal:* Transpower generally supports Rule 24.4.4 that addresses subdivision within the 'National Grid Corridor', but seeks amendments to the rules in Chapter 24 so that a subdivision where a building platform for a principal building or sensitive activity is within the 'National Grid Yard', and therefore does not comply with the relevant standards, is a non-complying activity.
105. Subdivision can disrupt or block access to lines and support structures, as it often precedes changes to land use, including lot layout, fences and driveways (which can prevent access to land). Rule 24.4.4 serves as an early signal that subdivision should be designed with cognisance of the location of transmission lines that in turn protects Transpower's on-going access to the lines and reduces the potential for adverse effects. Non-complying activity status gives a clear signal that subdivision, as a precursor to land use change in the vicinity of the National Grid, should be avoided in situations where principal buildings could not be constructed without compromising the National Grid.
106. Non-complying activity status is considered by Transpower to be the most appropriate way to implement Policy 4.2.2 of the PMEP, give effect to the "manage activities to avoid" and the "ensure" the National Grid "is not compromised" direction given in Policy 10 of the NPSET, and give a similarly strong signal as that given by the "sensitive activities will generally not be provided for" clause in Policy 11 of the NPSET.

107. *Relief sought:* Include new non-complying activity rule under Chapter 24 as follows:

24.x. Non-Complying Activities

Application must be made for a Non-Complying Activity for the following:

[D]

24.x.1 Any activity that does not meet Standards and Terms in 24.4.4.

Planning Maps – National Grid Transmission Lines on the Overlay Maps

108. *Reason for appeal:* The decision version of the Overlay Maps for the PMEP do not appear to show the National Grid transmission lines. In order to better give effect to the NPSET, it is suggested that the Overlay Maps include the National Grid Transmission Lines.
109. Territorial authorities are required by Policy 12 of the NPSET to identify the National Grid on planning maps. Further, such mapping is necessary given that provisions that apply to the National Grid apply in areas identified on the Overlay Maps.
110. *Relief sought:* Amend the Overlay Maps to show the National Grid transmission lines.

Relief Sought

111. Transpower seeks the following relief from the Court:
- (a) The relief specified in this notice of appeal under each heading '*relief sought*'; and/or
 - (b) Such further, consequential or alternative relief as may be necessary or appropriate to address the reasons for appeal or give effect to the relief sought.

112. The following documents are attached to this notice of appeal:

- (a) a copy of Transpower's submission and further submission; and
- (b) a copy of the relevant decision (or part of the decision).



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Dated 8 May 2020

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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.