

Before the Proposed Porirua District Plan Hearings Panel In Porirua

Under the Resource Management Act 1991 (the Act)

In the matter of the Proposed Porirua District Plan - Hearing Stream 4: Energy, Infrastructure and Transport, General District-Wide Matters

Between **Porirua City Council**
Local authority

And **Transpower New Zealand Limited**
Submitter 60 and Further Submitter FS04

And **Director-General of Conservation**
Submitter 126 and Further Submitter FS39

Joint memorandum of counsel regarding Hearing Stream 4

Dated 11 February 2022

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MAY IT PLEASE THE HEARINGS PANEL

- 1 Transpower New Zealand Limited (**'Transpower'**) and the Director-General of Conservation (**'DOC'**) are both submitters and further submitters on the Proposed Porirua District Plan (**'PDP'**).
- 2 In its legal submissions for Hearing Stream 4, DOC raised concerns with amendments that were recommended by Transpower's planning witness, Ms Whitney, with respect to policies INF-P7, INF-P8 and INF-P9 (as re-numbered in the Officer's Report). Both Transpower and DOC's legal submissions indicated that the parties would work together to attempt to reconcile these differences before Transpower appears before the Hearings Panel on 14 February 2022.
- 3 Transpower and DOC have engaged in discussions and wish to inform the Hearings Panel that agreement has been reached as to the wording of **INF-P7, INF-P8 and INF-P9** with one exception. The policies that have been agreed are set out in **Appendix A** to this memorandum of counsel, and also in Appendix A to Ms Whitney's supplementary statement of evidence which will be lodged at the same time as this memorandum.
- 4 The area of disagreement is that DOC would prefer policy INF-P9 include an additional clause to the effect that significant adverse effects may also need to be avoided in respect of the matters in clause 3.c.
- 5 While Counsel appreciate this revised wording is being provided relatively late in the process, they considered it would assist the Panel to have this wording (and confirmation of Transpower and DOC's support for it) in advance of Transpower appearing on Monday 14 February. They also do not consider this prejudices the interests of any other party, as no other submitter has addressed policies INF-P7, INF-P8 or INF-P9 in their evidence or legal submissions.
- 6 Transpower (and Ms Whitney) will be able to answer any questions that the Hearings Panel have on 14 February 2022 when it appears.

- 7 Counsel and an RMA planner (Mr Graeme Silver) for DOC can also make themselves available to address any questions the panel may have in a way that suits the panel.



Ezekiel Hudspith/ Liam Bullen
Counsel for Transpower NZ Limited



Katherine Anton/ Rosemary Broad
Counsel for Director-General of Conservation

Appendix A Agreed provisions

The following shows changes to INF-P7, P8 and P9

Changes recommended in the evidence of Ms Whitney are identified in **red**, and changes discussed arising from the concerns raised by DoC are identified as **blue** text.

INF-P7 Operation, ~~and maintenance and minor upgrade repair~~ of the National Grid

Provide for the operation, ~~and the~~ maintenance and minor upgrade ~~repair~~ of the National Grid while managing the adverse effects of these activities, ~~that is not permitted by the National Environmental Standards for Electricity Transmission Activities, that:~~

- ~~1. Minimises adverse effects on the environment; and~~
- ~~2. Where located within a specified Overlay, is of a nature and scale that does not adversely impact on the values and characteristics of the areas identified by the specified overlays that it is located within.~~

INF-P68 Upgrading of the National Grid

In pProvideing for the upgrading of the National Grid ~~that is not permitted by the National Environmental Standards for Electricity Transmission Activities, while:~~

- ~~1.6.~~ Seeking to avoid adverse effects on areas identified in SCHED9 – Outstanding Natural Features and Landscapes, SCHED11 - Coastal High Natural Character Areas, SCHED7 - Significant Natural Areas, and SCHED10 – Special Amenity Landscapes and Open Space and Recreation Zones; and
- ~~2. 4.~~ When considering major upgrades, Hhaveing regard to the extent to which adverse effects have been avoided, remedied or mitigated by the route, site and method selection;
- ~~3. 2.~~ Recogniseing the constraints arising from the operational needs and functional needs of the National Grid, when considering measures to avoid, remedy or mitigate any adverse effects;
- ~~3. Applying the mitigation hierarchy in ECO-P2 and assessing the matters in ECO-P4, ECO-P11 and ECO-P12 when considering any upgrade within an area identified in SCHED7 – Significant Natural Areas;~~
4. Recogniseing the potential benefits of upgrades to the National Grid existing transmission lines to people and communities;
- ~~5. In urban areas, minimising adverse effects on urban amenity and avoiding adverse effects on the City Centre Zone, Open Space and Recreation Zones and existing sensitive activities; and~~
- ~~6. (The clause is largely reinstated and no longer deleted as recommended in the primary planning evidence of Ms Whitney, but moved to the start of the policy INF-P8 as clause 1.)~~
- ~~5. 7.~~ Where appropriate, substantial upgrades should be used as an considering opportunityies to reduce existing adverse effects of the National Grid ~~as part of any substantial upgrade.~~

INF-P79 Development of the National Grid

In providing for the development of the National Grid, ~~while:~~

1. In urban zoned areas, development should minimise adverse effects on urban amenity and should avoid ing material adverse effects on the City Centre Zone, Open Space and Recreation Zones and areas of high recreational or amenity value and existing sensitive activities
2. Seeking to avoid the adverse effects of the National Grid within areas identified in SCHED7 - Significant Natural Areas, SCHED9 - Outstanding Natural Features and Landscapes outside of the Coastal Environment, SCHED11 - Coastal High Natural Character Areas, and SCHED10 - Special Amenity Landscapes and Open Space and Recreation Zones;
3. ~~Avoiding the adverse effects of the National Grid within areas identified in SCHED9 - Outstanding Natural Features and Landscapes in the Coastal Environment; Where the National Grid has a functional need or operational need to locate within the Coastal Environment, manage adverse effects by:~~
 - a. Seeking to avoid adverse effects on areas identified in SCHED7 – Significant Natural Areas, SCHED9 - Outstanding Natural Features and Landscapes in the Coastal Environment, SCHED10 - Special Amenity Landscapes, and SCHED11 - Coastal High Natural Character Areas;
 - b. Where it is not practicable to avoid adverse effects on the values of the areas in SCHED7 – Significant Natural Areas, SCHED9 - Outstanding Natural Features and Landscapes in the Coastal Environment, SCHED10 - Special Amenity Landscapes, and SCHED11 - Coastal High Natural Character Areas because of the functional needs or operational needs of the National Grid, remedy or mitigate adverse effects on those values;
 - c. Seeking to avoid significant adverse effects on:
 - i. other areas of natural character
 - ii. natural attributes and character of other natural features and natural landscapes
 - iii. indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010
 - d. ~~e.~~ Avoiding, remedying or mitigating other adverse effects to the extent practicable; and
 - e. ~~d.~~ Recognising there may be some areas within SCHED7 – Significant Natural Areas, SCHED9 - Outstanding Natural Features and Landscapes in the Coastal Environment, and SCHED11 - Coastal High Natural Character Areas, where avoidance of adverse effects is required to protect the identified values and characteristics.
4. ~~Applying the mitigation hierarchy in ECO-P2 and assessing the matters in ECO-P4, ECO-P11 and ECO-P12 when considering the effects of the National Grid in an area identified in SCHED7 – Significant Natural Areas; and~~
54. When considering the adverse effects in respect of 1-43 above;
 - a. Having regard to the extent to which adverse effects have been avoided, remedied or mitigated by the route, site and method selection and techniques and measures proposed; and

b. Consider~~ing~~ the constraints arising from the operational needs ~~and~~ or functional needs of the National Grid, when considering measures to avoid, remedy or mitigate any adverse effects.