

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

Between **Porirua City Council**
Local authority

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

Memorandum of counsel for Transpower NZ Limited

Dated 7 December 2021

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MAY IT PLEASE THE HEARINGS PANEL

- 1 Transpower New Zealand Limited (**'Transpower'**) is a submitter and further submitter on the Proposed Porirua District Plan (**'PDP'**).
- 2 This memorandum of counsel addresses two matters:
 - a Rebuttal evidence for Hearing Stream 4; and
 - b Allocation of relief sought by DOC to future Hearing Streams.

Rebuttal evidence for Hearing Stream 4

- 3 As directed by the Hearing Panel in Minute 7, rebuttal evidence for Hearing Stream 4 is due on 28 January 2022. Transpower's planning witness, **Ms Pauline Whitney**, is on leave until 31 January 2022.
- 4 Transpower seeks an extension for **Ms Whitney** to file rebuttal evidence (if deemed necessary to respond to other submitters' evidence) by 1pm on 2 February 2022.
- 5 Transpower notes that submitter statements and legal submissions are due by 1pm on 4 February 2022 and would be comfortable with any other submitter seeking an extension to this date in order to respond to **Ms Whitney's** rebuttal evidence. Alternatively, other submitters may wish to respond to **Ms Whitney's** rebuttal evidence during Hearing Stream 4.
- 6 Accordingly, Transpower submits that there would be no prejudice to any other submitter if the Hearings Panel grants the extension sought.

Allocation of relief sought by DOC to future Hearing Streams

- 7 Counsel for the Director-General of Conservation (**'DOC'**) filed a memorandum on 22 November 2021 which advised that DOC did not wish to be heard and would probably not exercise its right to be heard in subsequent hearing streams. Two tabled witness statements were also filed by Mr La Cock and Mr Silver on behalf of DOC.
- 8 Mr Silver's witness statement sought to identify rules in the PDP where he considers it would be appropriate to consider the "effects on indigenous biodiversity" as a matter for control in relation to controlled activity rules or as a matter of discretion in restricted discretionary activity rules. Mr Silver's evidence related to DOC's further submission point which supported a Royal Forest and Bird Protection Society (**'Forest and Bird'**) submission to "include 'effects on

indigenous biodiversity' as a standard matter of discretion in all restricted discretionary activities and as a matter for control in all controlled activity rules".¹

- 9 Upon receiving Mr Silver's tabled statement, the Hearings Panel issued Minute 13 which recorded that "Mr Silver's evidence therefore needs to be read as part of DoC's Stream 2 case".²
- 10 Transpower is a submitter on several of the rules in respect of which DOC has sought that "effects on indigenous biodiversity" be added as a matter for control/ of discretion. These rules are scheduled to be heard in the course of Hearing Streams 4 and 5.
- 11 Transpower seeks confirmation from the Hearings Panel that this relief sought by DOC will be able to be addressed as each relevant rule comes up in its respective Hearing Stream, i.e. the relief sought to add "effects on indigenous biodiversity" as a matter of discretion for INF-R34 would be addressed as part of Hearing Stream 4.
- 12 On balance, Transpower prefers this approach for the following reasons:
- a Transpower wishes to reserve the ability to comment on each rule in turn as they come up in future Hearing Streams, insofar as Transpower has scope on each rule; and
 - b A consolidated approach to hearing the Infrastructure provisions (which Counsel understand is the current intention) will allow the Hearings Panel to consider the complete technical evidence in a comprehensive and inter-related way, rather than just seeing individual technical aspects presented outside of their broader context.
- 13 Transpower would be willing to participate in a procedural conference with the Hearings Panel on these issues.

Dated 7 December 2021



Ezekiel Hudspith/ Liam Bullen

Counsel for Transpower New Zealand Limited

¹ Forest and Bird submission point 225.42, DOC further submission point FS39.1.

² Minute 13, dated 26 November 2021, para [4].