

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 responding to Kāinga Ora's request to defer provisions

Dated 21 October 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 Kāinga Ora – Homes and Communities (**'Kāinga Ora'**) lodged a memorandum seeking a deferral of certain submissions and further submissions from Hearing Stream 4 to a later Hearing Stream. Transpower understands the points seeking to be deferred (**'Provisions'**) relate to:¹

All submissions and further submissions on the PDP provisions addressing the effects of noise and vibration from the State Highway and rail corridors, and, in particular, whether and to what extent land uses adjacent to such transport corridors should be subject to constraints and/or be required to obtain resource consents.

- 3 The Hearing Panel asked for any comments on Kāinga Ora's request by 1pm Thursday 21 October 2021.²
- 4 Transpower does not have sufficient clarity as to which specific submission and further submission points Kāinga Ora is seeking to defer (noting that the Hearings Panel has requested clarification of that, but it was not yet available at the time of preparing this memorandum).
- 5 However, it is anticipated that INF-P5 will be one of the Provisions sought to be deferred as it provides at clause 4 for "sensitive activities to be located and designed so that potential adverse effects of and on the Rail Corridor and State Highways are avoided, remedied or mitigated".
- 6 Transpower and Kāinga Ora both submitted on INF-P5³ and opposed the other's relief in further submissions. INF-P5 in essence provides for the protection of Regionally Significant Infrastructure (**'RSI'**) from the effects of third party activities. Transpower opposed⁴ Kāinga Ora's submission to delete INF-P5, while in turn Kāinga Ora opposed⁵ Transpower's submission to split INF-P5 with the "National Grid to be addressed in a specific policy as opposed to be grouped with other Regionally Significant Infrastructure".⁶

¹ Memorandum on behalf of Kāinga Ora – Homes and Communities – Hearing Stream 4, dated 15 October 2021, paras 3-4.

² Minute 6 – Further Hearing Procedure Issues, dated 18 October 2021, para 7.

³ Submission points 60.134 (Transpower) and 81.251 (Kāinga Ora).

⁴ Transpower further submission, page 17.

⁵ Kāinga Ora further submission, page 18.

⁶ Submission point 60.134.

- 7 Transpower also anticipates INF-O2 may also be one of the provisions Kāinga Ora seeks to defer. INF-O2 provides for the protection of RSI from other subdivision, use, and development. Transpower sought to retain INF-O2 as notified⁷ which was opposed by Kāinga Ora.⁸ Kāinga Ora sought to amend INF-O2 to the effect that RSI will “not [be] compromised” rather than “protected”.⁹
- 8 It is difficult for Transpower to formulate a position on Kāinga Ora’s request in the absence of more detail as to which provisions and submission points would potentially be deferred, and to what future hearing(s).
- 9 On balance Transpower’s preference therefore would be to retain the current scope of Hearing Stream 4, given that:
- a Kāinga Ora has not specified a Hearing Stream that the Provisions would fit into. If Kāinga Ora cannot reach agreement with Waka Kotahi, KiwiRail and other interested parties then it is likely there will be an additional stand-alone hearing to address the deferred Provisions. Transpower considers this could increase costs for submitters and Porirua City Council;
 - b Transpower will likely prepare technical evidence for Hearing Stream 4 and it would be most efficient to cover all the Infrastructure chapter points at the same time rather than having to prepare separate technical evidence for another Hearing Stream;
 - c A consolidated approach to the Infrastructure provisions (which is the current plan) 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;
 - d The deferral may not promote an efficient hearing process, as there is a risk that technical material will be repeated unnecessarily in a number of other hearing streams; and
 - e Given Kāinga Ora sought the entire deletion of INF-P5, it is not clear how the clauses specific to the State Highway and rail corridors (clause 4) can be addressed at a later hearing in the absence of a broader discussion as to the merits of INF-P5 (including the introductory or overarching wording, which applies to all RSI).

⁷ Submission point 60.30.

⁸ Kāinga Ora further submission, page 16.

⁹ Kāinga Ora submission, page 43.

- 10 Further, if the Hearings Panel were minded to hear some (as yet unspecified) submission points that relate to Kāinga Ora's 'Provisions' in a later hearing stream, Transpower considers this approach should not apply to those provisions relating to the National Grid (such as, for example INF-P5 clauses 1, 2, and 5) and that the 'National Grid' provisions and submission points should remain within Hearing Stream 4. Hearing Stream 4 relates to Infrastructure and other General District-Wide Matters, and it is consistent with the scheme of the PDP (Infrastructure generally being a 'standalone chapter'¹⁰) for infrastructure matters to be considered in an integrated way in a standalone hearing (rather than potentially across other zone chapter hearing streams, for example).
- 11 In this regard it is noted that Transpower had in fact sought in its submission¹¹ that INF-P5 be split into provisions that relate to the National Grid and provisions that relate to other RSI¹² (given that the individual clauses are distinct in their application to one or the other category already). If that approach were taken it could largely resolve Transpower's concerns above.
- 12 Transpower would be willing to participate in any procedural conference with the Hearings Panel on these issues.

Dated 21 October 2021



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Counsel for Transpower New Zealand Limited

¹⁰ As expressed in notes to the INF-Infrastructure chapter, and Part 1 of the PDP.

¹¹ Submission point 60.134.

¹² INF-P5 refers to "Regionally Significant Infrastructure other than the National Grid" in a number of other clauses.