

**In the Environment Court  
Auckland Registry**

**ENV-2016-AKL**

In the matter of 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

**Thames Coromandel District Council**

Respondent

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

**13 June 2016**

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**BELL GULLY**

BARRISTERS AND SOLICITORS  
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**To** The Registrar  
Environment Court  
Auckland

1. Transpower New Zealand Limited (**Transpower**) appeals against parts of the decision of the Thames Coromandel District Council (the **Council**) on the Proposed Thames Coromandel District Plan (the **Proposed Plan**).
2. Transpower made a submission and a further submission on the Proposed Plan.
3. Transpower is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (the **RMA**).
4. Transpower received notice of the decision on 29 April 2016.
5. The decision was made by the Council.
6. The parts of the decision that this appeal relates to are:
  - (a) Section 3 – Definitions: specifically the definition for “Minor Upgrading of an Electricity or Telecommunication Line” and new definitions for the ‘National Grid Yard’, the ‘National Grid Subdivision Corridor’, and the ‘National Grid Corridor’;
  - (b) Rule 10 of Section 32 – Outstanding Natural Features and Landscapes (Landscape and Natural Character);
  - (c) Part 7 – District Wide Rules; and
  - (d) Section 30 – National Grid Buffer (Electricity Transmission Line Buffer Overlay).
7. The reasons for the appeal and the relief sought from the Court are set out in detail below. Amendments sought by Transpower are underlined or ~~struck through~~.

### Section 3 – New Definitions relating to the National Grid

#### *Reason for appeal*

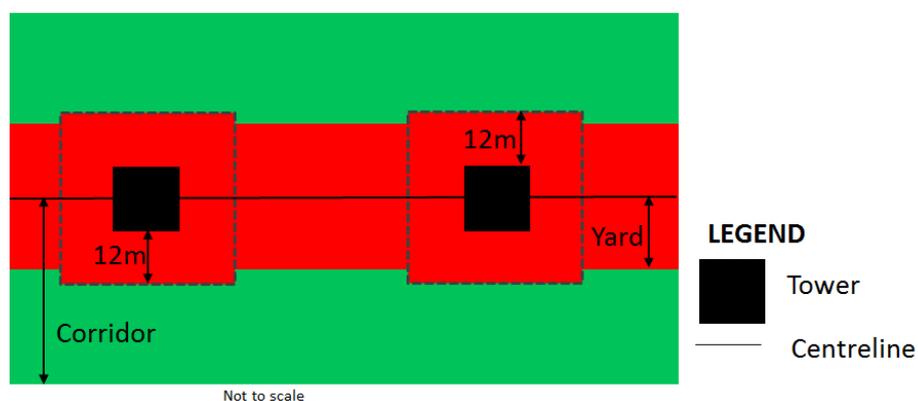
8. In its original submission, Transpower sought the inclusion of rules relating to activities within the vicinity of the National Grid. In doing so, Transpower sought definitions of “National Grid Yard”, “National Grid Corridor” and “National Grid Subdivision Corridor” to clarify the intent and application of those proposed rules.

#### *Relief sought*

9. Include the following definitions in Section 3:

**National Grid Yard** (shown in red in the diagram below) means:

- the area located 12 metres in any direction from the outer visible edge of a National Grid support structure foundation; or
- the area located 12 metres either side of the centreline of an overhead National Grid line on towers;



**National Grid Corridor** means all of the area in the National Grid Yard, National Grid Subdivision Corridor and within 150m of the secured yard of a National Grid designated substation.

**National Grid Subdivision Corridor** (shown in green in the diagram above) means the area within 32m measured either side of the centreline of an above ground National Grid line.

Note: The National Grid Corridor and National Grid Yard do not apply to underground cables or any transmission lines (or sections of line) that are designated. The measurement of setback distances from National Grid electricity lines shall be taken from the centre line of the National Grid line and the outer visible edge of any support structure foundation. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span.

### **Section 3 – Definition of “Minor Upgrading of an Electricity or Telecommunication Line”**

#### *Reason for appeal*

10. The definition of “Minor Upgrading of an Electricity or Telecommunication Line” in the Decisions Version of the Proposed Plan is drafted so that it does not apply to National Grid transmission infrastructure. Therefore there is no provision in the Proposed Plan for the minor upgrading of new National Grid assets. This fails to give effect to the National Policy Statement on Electricity Transmission 2008 (**NPSET**), particularly the objective.

#### *Relief sought*

11. Amend the definition of “Minor Upgrading of an Electricity or Telecommunication Line” as follows:

Minor Upgrading of an Electricity or Telecommunication Line means an increase in the carrying capacity, efficiency or security of an electrical or telecommunication operation that uses the existing support structures, or structures with a similar scale, character, bulk and form. It includes maintenance, limited upgrading and replacement.

Examples of minor upgrading include:

- The addition of circuits, wires, lines or conductors;
- The reconducting of the line with higher capacity wires, lines or conductors;

- The resagging of wires, lines or conductors;
- The bonding of conductors;
- The addition of longer or more efficient insulators;
- The addition of earth wires which may contain telecommunication lines, earthpeaks and lightning rods;
- The addition of electrical fittings;
- The replacement of support structures using the same dimensions, or dimensions that are no more than 50% wider and 1 m higher, and are located within 2 m of the existing support structures being replaced;
- The replacement of existing cross arms with cross arms of an alternative design;
- An increase in support structure height required to comply with the New Zealand Electrical Code of Practice 34:2001 (NZECP 34:2001).

Minor upgrading does not include:

- ~~Additional support structures that meet the definition of a 'Building' in this Plan;~~
- An increase in the voltage of the line over 33 kV unless the line has been constructed to operate at the higher voltage but has been operating at a reduced voltage;
- ~~National grid transmission infrastructure.~~

## **Rule 10 of Section 32 – Outstanding Natural Features and Landscapes (Landscape and Natural Character)**

### *Reason for appeal*

12. In its further submission on the Proposed Plan, Transpower supported submissions seeking to change the activity status of above ground electricity or telecommunication lines or facilities in areas subject to the Outstanding Natural Features and Landscapes Overlay from non-complying to discretionary. A discretionary activity status recognises that the National Grid is of national significance and is subject to technical, operational and locational constraints. Discretionary activity status would also enable a full assessment of effects, including appropriate avoidance, remediation or mitigation measures.
13. While no new lines or facilities are currently planned in the district, Transpower may require a new National Grid transmission line or facility in the future, particularly to connect to a new source of electricity generation. Transpower seeks that this should be provided for as required by the NPSET and the National Policy Statement on Renewable Electricity Generation 2011 (**NPSREG**).

### *Relief sought*

14. Amend Section 32, Rule 10 so that any new above ground National Grid line or support structure in an area subject to the Outstanding Natural Features and Landscapes Overlay is a discretionary activity.

## **Part 7 – District Wide Rules**

### *Reason for appeal*

15. The NESETA takes precedence over relevant rules in the Proposed Plan. This is because section 43B of the Resource Management Act 1991 states:
  - (a) a rule may not be more lenient than a national environmental standard; and

(b) a rule may only be more stringent than a national environmental standard if the standard expressly states that a rule may be more stringent than it.

16. The NESETA does not specifically allow rules to be more stringent than it. As such, Transpower seeks the insertion of a statement or rule that clarifies this relationship between the rules in the Proposed Plan and the NESETA.

*Relief sought*

17. Insert a statement or rule into an appropriate section(s) of the Proposed Plan as follows:

All electricity transmission activities affecting National Grid assets existing as at 14 January 2010 must comply with the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA), and no rule in the Plan shall apply unless required to by virtue of a specific regulation in the NESETA.

**Section 30 – National Grid Buffer (Electricity Transmission Line Buffer Overlay)**

*Reason for appeal*

18. In its submissions on the Proposed Plan, and at the hearing, Transpower supported the provision of a corridor management approach in Section 30 but sought specific changes to the rules and activity statuses to reflect Transpower's current corridor management approach as applied in other districts throughout New Zealand, and to give effect to the NPSET.

19. The three central deficiencies with the framework relating to the National Grid in the Decisions Version of the Proposed Plan are:

(a) the absence of any rules relating to subdivision in the National Grid Subdivision Corridor;

- (b) the default restricted discretionary activity status where permitted standards are not met, which fails to send a strong policy signal in relation to development in close proximity to the National Grid; and
- (c) lack of differentiation between the various types of activities and instead the adoption of a blanket rule framework which does not recognise the nature and effects of a particular activity or structure.

20. As notified, there are no rules relating to subdivision in the National Grid Subdivision Corridor in section 30 of the Proposed Plan. Transpower considers that subdivision is the most effective point at which to ensure future reverse sensitivity effects, maintenance access issues, and adverse effects of transmission lines are managed. Provisions relating to subdivision are vital to the on-going operation and development of the National Grid, as any development or subdivision within the National Grid Yard/Corridor can have serious consequences for the National Grid and those working and/or living in close proximity to the lines and towers. Further, the assessment matters relating to subdivision in section 38 of the Decisions Version of the Proposed Plan makes no reference to the National Grid and Transpower is not identified as an affected party. This is inconsistent with the NPSET, which the Proposed Plan must give effect to.
21. Transpower seeks a default non-complying activity status, rather than a restricted discretionary activity status where permitted activity standards are not met. A non-complying activity status gives a very strong policy signal that under-build and earthworks that increase the ground level within the National Grid Yard are not appropriate as they can potentially compromise the security of supply, safety, and impinge on the ability of Transpower to maintain its assets. It also more effectively manages landowner expectations about what activities are appropriate or otherwise in the National Grid Yard. In addition, a non-complying activity status gives effect to the strong direction in Policies 10 and 11 of the NPSET. Transpower considers that giving effect to these policies cannot be achieved by use of a restricted discretionary status.

22. Although the Hearings Panel accepted that the provisions sought by Transpower align the Council with the approach taken by other district councils, the Panel formed the view that Transpower should require a designation, rather than seek rules in the District Plan.
23. Transpower considers that the approach suggested by the Panel is simply unnecessary and would result in an inefficient use of public resources. The expense associated with requiring a designation could be easily avoided by use of the District Plan review process, which is more than adequate to achieve the corridor management approach sought by Transpower.

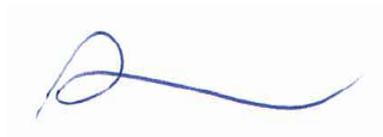
*Relief sought*

24. Replace Section 30 of the Decisions Version of the Proposed Plan with the provisions sought by Transpower in its submission on the Proposed Plan as amended during the hearing. A copy of the replacement provisions sought is attached to the Notice of Appeal as **Appendix A**.

**Relief Sought**

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

- (c) A list of names and addresses of persons to be served with a copy of this notice.



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AJL Beatson / NJ Garvan  
Counsel for Transpower New Zealand Limited

Dated: 13 June 2016

**Address for service of appellant:**

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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.

## **Appendix A**

### **Replacement Section 30 provisions sought by Transpower**

## **Appendix B**

**A copy of Transpower's submissions on the Proposed Plan**

## **Appendix C**

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

## **Appendix D**

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