

under: the Resource Management Act 1991

in the matter of: an appeal under clause 14(1) of the First Schedule to
that Act

between: **Transpower New Zealand Limited**
Appellant

and: **Western Bay of Plenty District Council**
Respondent

Notice of appeal by **Transpower New Zealand Limited** against decisions
on Proposed Plan Change 5, Proposed Plan Change 23 and Proposed Plan
Change 25 to the Western Bay of Plenty District Plan

Dated: 20 September 2012

REFERENCE: John Hassan (john.hassan@chapmantripp.com)
Nicky McIndoe (nicky.mcindoe@chapmantripp.com)

Form 7**Notice of appeal to Environment Court against decisions on
Proposed Plan Changes***Clause 14(1) of Schedule 1, Resource Management Act 1991*

To The Registrar
Environment Court
Auckland

1 Transpower New Zealand Limited (*Transpower*) appeals against decisions of the Western Bay of Plenty District Council (*the Council*) on the following changes:

1.1 Proposed Plan Change 5 to the Western Bay of Plenty District Plan (*District Plan*) – Electricity Transmission Buffer Zones (*Plan Change 5*);

1.2 Proposed Plan Change 23 to the District Plan – Earthworks (*Plan Change 23*); and

1.3 Proposed Plan Change 25 to the District Plan – Definition of a Building (*Plan Change 25*).

2 Transpower made submissions on:

2.1 Plan Change 5 (received by the Council on 15 December 2011), and a further submission (dated 14 February 2012); and

2.2 Plan Change 23 (received by the Council on 15 December 2011), and a further submission (dated 22 February 2012).

3 Transpower is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (*RMA*).

4 Transpower received notice of the decision on Plan Change 5 on 10 August 2012. Transpower received notice of the decision on Plan Change 23 on 18 September 2012 but was aware of it earlier.

5 The decision on:

5.1 Plan Change 5 was made by an independent hearing commissioner on behalf of the Council; and

5.2 Plan Changes 23 and 25 were made by the Council.

Provisions being appealed

6 The parts of the decisions which Transpower appeals are:

- 6.1 The decision to amend the planning maps to show transmission corridor buffers at 32m and 16m from the centrelines of the 220kV and 110kV lines respectively (Plan Change 5);
 - 6.2 The decision for the amended maps to be annotated to advise that compliance with NZECP34:2001 is required in the corridor area before any structure (including buildings), subdivision or earthworks is commenced (Plan Change 5);
 - 6.3 The deletion of rules applying to activities within the Transmission Buffer Corridors. These rules were to be added to sections 10.3, 10.4, 10.5, 16.4.1, 16.4.2, 16.7.1, 16.8.2, and proposed Appendix 9 to the District Plan (Plan Change 5);
 - 6.4 The deletion of consequential amendments to Rules 16.4.1, 16.7.1 and 16.8.2 (Plan Change 5);
 - 6.5 The decision to amend the definition of "earthworks", so as to exclude a number of activities (including quarrying) and the decision to not require those excluded activities to comply with the rules for activities within the Transmission Buffer Corridors (Plan Change 23); and
 - 6.6 The decision to amend the definition of "Building/Structure" so as to exclude crop support structures and artificial crop protection structures (Plan Change 25).
- 7 Accordingly, Transpower appeals the entire decision on Plan Change 5, except for:
- 7.1 The addition of an advice note cross-referencing NZECP34:2001 in subsection 10.6.4 of the District Plan; and
 - 7.2 The decision to specifically reference NZECP34:2001 on relevant Land and Property Information Memoranda.

Reasons for appeal

- 8 The reasons for the appeal are that the decisions do not accord with the relevant requirements of the RMA. In particular, the decisions:
- 8.1 Do not give effect to the National Policy Statement on Electricity Transmission (*NPSET*), particularly:
 - (a) Policy 10 with regard to reverse sensitivity effects;
 - (b) Policy 10 with regard to ensuring "*operation, maintenance, upgrading, and development of the*

electricity transmission network is not compromised";
and

- (c) Policy 11 with regard to buffer corridors within which it can be expected that sensitive activities will generally not be provided for or given resource consent;
- 8.2 Do not give effect to the Bay of Plenty Regional Policy Statement or the proposed Bay of Plenty Regional Policy Statement;
 - 8.3 Having regard to section 32, the provisions are not the most appropriate means of achieving the relevant plan objectives, having regard to their efficiency and effectiveness and taking into account benefits, costs and the risks;
 - 8.4 Will not achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources;
 - 8.5 Do not promote the sustainable management of natural and physical resources;
 - 8.6 Are not consistent with the purpose and principles of the RMA, as they:
 - (a) Do not manage the use of resources in a way that enables communities to provide for social, economic and cultural wellbeing;
 - (b) Do not enable people and communities to provide for their health and safety;
 - (c) Do not sustain the potential of natural and physical resources to meet the reasonably foreseeable needs to future generations;
 - (d) Do not enable the effects of third party activities on the lines and structures to be appropriately managed;
 - (e) Do not facilitate the efficient use and development of natural and physical resources, being both the lines and the land beneath them;
 - (f) Do not address reverse sensitivity effects and facilitate the maintenance and enhancement of amenity values and the quality of the environment.

Relief sought

- 9 Transpower seeks the following relief, or relief to like effect:

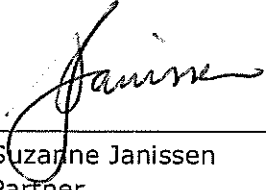
- 9.1 That Plan Change 5 be amended to include rules to ensure sensitive activities (including all buildings/structures, earthworks (including quarrying) and subdivision) will generally not be provided for or receive resource consent within the Transmission Buffer Corridors;
- 9.1 That Plan Change 5 be amended to give effect to the NPSET, particularly:
- (a) Policy 10 with regard to reverse sensitivity effects;
 - (b) Policy 10 with regard to ensuring "*operation, maintenance, upgrading, and development of the electricity transmission network is not compromised*"; and
 - (c) Policy 11 with regard to buffer corridors within which it can be expected that sensitive activities will generally not be provided for or given resource consent;
- 9.2 That Plan Change 5 be amended to include an appendix indicating the size of the Transmission Buffer Corridors as:
- (a) Transmission Buffer A for both lines in the district as 12m either side of the centreline of the transmission line and 12m either side of the outer visible edge of the transmission line support structure;
 - (b) Transmission Buffer B for the Te Matai Line as being that area of land which extends from the edge of Transmission Buffer A to a line 16m either side of the centreline of the transmission line; and
 - (c) Transmission Buffer B for the Kaitemako Line as being that area of land which extends from the edge of Transmission Buffer A to a line 32m either side of the centreline of the transmission line;
- 9.3 That Plan Change 5 be amended to require limited notification to Transpower where resource consent is required for activities within the Transmission Buffer Corridors; and
- 9.4 That Plan Changes 23 and Plan Change 25 (including the definitions of "building/structure" and "earthworks") be amended, so as to give effect to Transpower's primary relief on PC5.

Attached documents

- 10 The following documents are attached* to this notice:

- 10.1 A copy of Transpower's submissions and further submissions (with copies of the submissions opposed and supported by its further submissions);
- 10.2 A copy of the relevant decisions;
- 10.3 A copy of the National Policy Statement on Electricity Transmission; and
- 10.4 A list of names and addresses of persons to be served with a copy of this notice.

Signed for and on behalf of Transpower New Zealand Limited by its solicitors and authorised agents Chapman Tripp:



Suzanne Janissen
Partner
20 September 2012

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 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 appellant's submissions or the decisions 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.