

under: the Resource Management Act 1991

in the matter of: the Proposed Horowhenua District Plan – **Utilities & Energy**

between: **Horowhenua District Council**
Local Authority

and: **Transpower New Zealand Limited**
Submitter

**Statement of Evidence of Graham Douglas Spargo for
Transpower New Zealand Limited**

Dated: 26 April 2013

QUALIFICATIONS AND EXPERIENCE

1. My full name is **Graham Douglas Spargo**.
2. I am a Technical Director – Planning for Beca Ltd (*Beca*), an international multi-disciplinary company of planners, environmental experts, engineers and related technical specialists.
3. I hold the qualifications of Bachelor of Town Planning and Bachelor of Arts (Political Studies) from Auckland University. I am a member of the New Zealand Planning Institute and a past national executive member (2001 – 2003). I am also a member of the Institute of Directors of New Zealand.
4. I have 25 years of Resource Management experience, including roles in local government, advice roles to central government, and consultancy services for a wide range of public and private clients around New Zealand. This has included:
 - 4.1. Providing planning advice, on various regional and district planning documents for a wide range of clients around New Zealand.
 - 4.2. Local Government Planning Manager and Director roles overseeing District Plan development and implementation for North Shore City Council and Dunedin City Council. This included work associated with the provision of electricity transmission lines;
 - 4.3. Project Director responsibility for the Wellington Regional Strategy, an integrated economic, land use and infrastructure development strategy involving government, iwi, business and community stakeholders;
 - 4.4. Project management and technical advice responsibilities for a Department of Prime Minister and Cabinet led project addressing infrastructure and development issues in New Zealand;
 - 4.5. Specialist planning input into major infrastructure projects, with my most recent role overseeing the resource management statutory approvals and environmental assessment of the NZ Transport Agency's MacKays to Peka Peka Expressway project; and,
 - 4.6. RMA advisory roles in relation to Resource Management Act 1991 (*RMA*) reform processes.
5. While this matter is not before the Environment Court, I have read the Code of Conduct for Expert Witnesses issued as part of the Environment Court's Practice Note and I agree to comply with it. My qualifications as an expert are set out above. I confirm that I have complied with the Code in the preparation of this statement of evidence. I am satisfied the matters addressed in my evidence are within my area of expertise and I am not aware of any material facts that I have omitted that might alter or detract from the opinions I express in my evidence.
6. I have been engaged by Transpower New Zealand Limited (*Transpower*) to provide planning evidence in relation to the Utilities and Energy provisions of the Proposed Horowhenua District Plan (*Proposed Plan*). I will also be giving a second brief of evidence (and appearing for Transpower), in relation to the Rural provisions of the Proposed Plan.

SCOPE OF MY EVIDENCE

7. In my evidence I will address the following:
 - 7.1. A general overview of Transpower's submission in relation to the Utilities and Energy provisions and wider Proposed Plan;
 - 7.2. An overview of the statutory context in relation to giving effect to the National Policy Statement on Electricity Transmission
 - 7.3. Identification and discussion of those Proposed Plan provisions, where I support or support in part the Reporting Officer's recommendations;
 - 7.4. Identification and discussion of the provisions where I support the intent of the Reporting Officer's recommendations, subject to amendments (or where I deem further explanation is warranted); and,
 - 7.5. Matters raised by other submitters.
8. I am also presenting on Transpower's behalf for the Rural Environment Chapter. I note that matters traversed for the current hearing have a direct bearing on the functioning and interpretation of the Rural Environment Chapter. That is, objectives and policies of the Utilities and Energy Chapter are implemented in the context of the rules in the Rural Environment Chapter.
9. This means that key principles relevant to the Utilities and Energy Chapter on giving effect to the National Policy Statement on Electricity Transmission (*NPSET*) are also applicable to the Rural Environment (as well as other District Plan chapters). Key concepts addressed today therefore will remain relevant for the Rural Environment evidence, albeit focused specifically on the provisions of that specific chapter.
10. I have structured my evidence to align with the submission points addressed in the Officer's report. Throughout my evidence additions are shown underlined and deletions ~~struck-out~~.

SUMMARY OF MY EVIDENCE

11. Transpower is a State Owned Enterprise that owns and operates New Zealand's electricity transmission network. Transpower has a number of 220 kV and 110 kV transmission lines, and a substation and switchyard located within the District. In my view, those assets make an important contribution to the social and economic wellbeing of the District (and at a broader level, regionally and nationally).
12. Transpower made submissions and further submissions on the Utilities and Energy provisions of the Proposed Plan, which largely supported the Plan as notified. I have considered those submissions and the Officer's Report. I note that there is a large degree of synergy between the Officer's recommendations and Transpower's submissions.
13. In my view, key to the consideration of the Utilities and Energy provisions is the NPSET. Under section 75(3) of the RMA, the Council is obliged to "give effect" to the NPSET in its Proposed Plan. As my evidence explains, there are clear requirements in the NPSET for a proactive and facilitative approach to inclusion of District Plan provisions for electricity transmission. I note that the NPSET is supported by the NESETA, which is, in my view,

also an important document for the Panel, as it sets a national framework for the operation, maintenance and upgrading of existing transmission lines.

14. I consider that the Proposed Plan goes some way to giving effect to the NPSET, and recognising the NESETA, and I acknowledge the Council's efforts in that regard. However, as my evidence explains, I am of the view that further amendments (beyond that recommended by the Officer) are still required.
15. In Appendix B to my evidence I have identified those Proposed Plan provisions (as amended by the Officer), which I support. I endorse those provisions as I consider they give effect to the NPSET and adequately provide for NESETA. They are consistent with section 32 of the RMA. They will, in my view, further the sustainable management purpose of the RMA. I respectfully encourage the Panel to adopt those Proposed Plan provisions.
16. The majority of my evidence is focussed on those aspects of the Proposed Plan where, in my view, further amendment (beyond that recommended by the Officer) is required. In relation to the NPS Policies 1-8, I consider these are given effect through:
 - 16.1. Utilities – Introductory Section;
 - 16.2. Issue Discussion;
 - 16.3. Objective 12.1.1. and Explanation and Principal Reasons,
 - 16.4. Policy 12.1.3 and Explanation;
 - 16.5. Policy 12.2.11;
 - 16.6. Utilities permitted activity rule – Rule 19(k)(i);
 - 16.7. Rule 22.1.2; and
 - 16.8. Rule 22.1.10.
17. I consider it appropriate, and necessary (in terms of NPSET) that the Proposed Plan seeks to manage activities within the transmission corridor to protect the integrity of the transmission network. The provisions of the Utilities and Energy Chapter, which are the subject of this hearing, are an important component of that (and will influence the interpretation of the Rural Environment Chapter and Rules). Overall, I consider my recommended amendments to the Proposed Plan provisions will assist the Council to give effect to NPSET, are consistent with section 32 and will further the RMA's sustainable management purpose.

TRANSPOWER'S GENERAL APPROACH TO IT'S SUBMISSION

18. As I explain later in my evidence, I support Transpower's general approach to ensuring local authorities give effect to the NPSET which is to ensure that new lines are provided for within a district plan policy framework, and that the lines (existing and new) are protected from inappropriate activities adjacent to the transmission lines. It is my experience that protection from inappropriate activities is required from both a public safety and asset integrity perspective.

19. I consider it appropriate to seek inclusion of transmission infrastructure provisions in a district plan to give effect to the NPSET and NESETA. I hold the view that inclusion of District Plan provisions is an efficient and effective administrative means of ensuring:
- 19.1. Property owners can get clarity as to how transmission lines may affect use and development of their land,
 - 19.2. Established processes are used which promote integrated decision-making and enable Transpower to participate early enough to ensure good information is available to decision-makers; and,
 - 19.3. Decision-makers are assisted through providing a clear RMA framework to help inform their assessment of applications.

STATUTORY FRAMEWORK

20. I am familiar with the NPSET which Horowhenua District Council (*the Council*) must “give effect to” in its Proposed Plan (under section 75 of the RMA). The NPSET sets out the objective and policies for managing the electricity transmission network under the RMA (a copy of the NPSET is appended as **Attachment A** to this submission).
21. I am also familiar with the NESETA which sets a national framework for permissions and consent requirements for the operation, maintenance and upgrading of existing electricity transmission lines.
22. I generally endorse the description and approach to application of statutory requirements as set out in Section 3 of the Officer Report for the Utilities and Energy.

Giving effect to the NPSET

23. The Officer Report and Section 32 Reports (General, Utilities and Energy, and Rural) correctly identify that National Policy Statements (*NPS*) have the purpose of stating objectives and policies for matters of national significance. The NPSET is the focus for the purposes of this evidence.
24. As set out under RMA section 55(2) a council must amend its plan or policy statement to include specific objectives and policies or to give effect to specific objectives and policies if a NPS so directs.
25. The NPSET has specific directions in this regard which derive from its Objective which is to:

*To recognise the national significance of the electricity transmission network by **facilitating** the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:*

- *managing the adverse environmental effects of the network; and*
- *managing the adverse effects of other activities on the network.*

[Emphasis added]

26. Guidance to local government on the Ministry for the Environment website reinforces this emphasis on actively 'facilitating' via District Plans through identifying a key messages to be: "The NPSET requires a proactive response to give effect to its objective and policies". [Emphasis added]

(<http://www.mfe.govt.nz/publications/rma/nps-electricity-transmission-implementation-guidance-jan2010/>)

27. The Policies in the NPSET continue this focus on active measures being needed in District Plans to achieve the NPSET Objective. An example from the Ministry for Environment guidance on good practice examples for implementing the NPSET is: *Method D3.3 – Rules shall be developed to provide for the operation, maintenance and upgrading and development of the transmission network outside the requirements of the National Environmental Standards on Transmission Activities.*

<http://www.mfe.govt.nz/publications/rma/nps-electricity-transmission-implementation-guidance-jan2010/page3.html>

28. It is my view that there are clear requirements for a proactive and facilitative approach to inclusion of District Plan provisions for electricity transmission.
29. This is reinforced under the provisions of the Operative Regional Policy Statement and Proposed One Plan. The One Plan's Objective 3-1 and Policy 3-1 and Policy 3-2 (as set out in the Officer Report at pages 13 through 16) are unequivocal as to the need to proactively address electricity transmission matters.
30. For example, One Plan Policy 3-2 specifies that "...Territorial Authorities must ensure that adverse effects on infrastructure..of regional or national importance from other activities are avoided as far as reasonably practicable...". Specific mechanisms for achieving this are then set out which are consistent with those proposed in Transpower's submission.
31. Given this context I endorse the approach to giving effect to the NPSET as set out in Transpower's submission. In the remainder of my evidence I expand on the manner of giving effect to the Objective and Policies 1-8 of the NPSET. In addition Transpower's submission seeks to provide buffer corridors within which rules prevent or manage certain activities. Transpower considers that rules are necessary to give effect to Policies 10 and 11 of the NPSET. I agree with this rule based approach to give effect to the NPSET. This also aligns with the conclusions of the Council's section 32 Report (September 2012) analysis such as that at page 17 section 2.1.5. My evidence on the appropriate rules in the buffer corridor to prevent or manage activities will be presented in the hearing on the Rural Environment Chapter.
32. I am aware that over the last year Transpower has been reviewing the approach it seeks to buffer corridor management within District Plans. Transpower has been in discussions with key stakeholders (including Federated Farmers and Horticulture NZ) to seek to recognise the differences between sensitive and non-sensitive activities and the way those

different activities potentially impact on public safety and the integrity of the transmission network.

33. Addressing sensitive and non-sensitive activities will be covered in the course of the hearing on the Rural Environment Chapter.
34. In coming to my position of support for inclusion of specific District Plan provisions I note in particular the need for councils to examine both the probability of an effect and its consequences or costs, as a separate and necessary step under a section 32 assessment. Additionally there is the need to consider the risks of acting or not acting.
35. The Environment Court has previously held that risk analysis under section 32 refers back to the definition of "effect" in section 3 of the RMA. Section 3 includes "any potential effect of low probability which has a high potential impact". In my opinion this is of particular relevance when considering the role that having District Plan provisions plays in helping safeguard the district, regional and national benefits provided by Transpower's electricity transmission network.

OVERVIEW OF RELIEF SOUGHT IN TRANSPOWER'S SUBMISSION

36. Transpower's submission and further submission largely supports the Proposed Plan provisions, as notified. The submission acknowledges that the Proposed Plan recognises the NPSET and NESETA, and seeks to manage activities within the transmission corridor to protect the integrity of the transmission network.
37. In general terms, Transpower's submission and further submission seeks additions, deletions and amendments to the Proposed Plan provisions to ensure the following general outcomes are achieved:
 - 31.1 The benefits of electricity transmission are recognised;
 - 31.2 The NPSET is fully given effect to in the context of both protecting existing and enabling new high voltage electricity transmission lines;
 - 31.3 The NESETA is appropriately recognised and provided for to ensure the effective operation, maintenance and upgrade of the high voltage electricity transmission lines;
 - 31.4 Transpower's approach to corridor management is recognised and provided for;
 - 31.5 The need for long term planning of the network is acknowledged and provided for through an appropriate District Plan policy framework; and,
 - 31.6 Transpower seeks a means to participate in informing application decision-making on consent applications, where its assets will potentially be affected.
38. I broadly support the Plan Change and the Officer's recommendations as these

- 38.1. recognise the NPSET and NESETA and the requirement to recognise and give effect to national instruments, and
- 38.2. satisfy RMA assessment and tests in my opinion, particularly for section 32 in that the proposed approach:
 - 32.2.1 is the most appropriate to achieve the purpose of the Act,
 - 32.2.2 recognises benefits and costs and risks of acting or not acting; and
 - 32.2.3 assists the Council in achieving the purpose of the RMA in accordance with provisions of Part 2.

39. The full provisions that Transpower supports are outlined in Attachment B.

PLAN PROVISIONS WHERE I SUPPORT THE REPORTING OFFICER'S RECOMMENDATIONS

- 40. My review of the Reporting Officer's report indicates to me a good degree of alignment between Transpower's overall position and that of the reporting Officer.
- 41. The Officer's report recommendations which are outlined in **Attachment B** to my evidence are those provisions which are consistent with the relief sought in Transpower's submission.
- 42. In my opinion, the recommendations outlined in **Attachment B** are appropriate to give effect to the NPSET and provide for the NESETA. I recommend the Hearings Panel supports those recommendations and amends the Proposed Plan, as required.
- 43. My reasons for supporting this position can be summarised as:
 - 43.1. Addressing RMA section 55(2) obligations on councils to facilitate and proactively achieve the Objectives and Policies of National Policy Statements.
 - 43.2. Achieving RMA Part 2 responsibilities for sustainable management of resources

WHERE THE OFFICER RECOMMENDATIONS ARE SUPPORTED, SUBJECT TO AMENDMENTS

Utilities – Introductory Section: Further Submission 516.06 – Federated Farmers

- 44. Federated Farmers' further submission 516.06 opposed Transpower's submission 99.07 which sought to add explanatory text to the introductory section of the Utilities (Chapter 12). I understand that the intent of Federated Farmers' further submission is to require a balancing statement that network utilities and the national grid can have adverse impacts on surrounding land uses, some of which were established before the national grid.
- 45. The Reporting Officer recommends an additional paragraph be added as follows:

"It is recognised while network utilities can have national, regional and local benefits, they can also have adverse effects on surrounding land uses, many of which have been established long before the network utility. The sustainable management of natural and physical resources requires Council to achieve a balance between competing land uses".

46. In resource management terms I do not agree that the 'balancing' in section 5 of the RMA relates specifically to balancing 'competing' land uses. Rather, it is the effects of those land uses which need to be assessed in terms of section 5.
47. I agree that while there is a need to recognise the national significance of the electricity transmission network by facilitating its operation, maintenance and upgrading, there is also a need to manage adverse effects of the network. I note Policies 3 – 8 of the NPSET provide this direction for decision-makers.

My Recommendation: that the Hearings Panel accept the Officer's Report (page 21) subject to the following amendments:

"It is recognised while network utilities can have national, regional and local benefits, they can also have adverse effects on surrounding land uses, many of which have been established long before the network utility. The sustainable management of natural and physical resources requires Council to achieve a balance between the effects of different competing land uses"

Chapter 12.1 Issue Discussion: Transpower Submission - 99.09

48. Transpower submission 99.09 seeks the removal of reference to areas containing outstanding natural features and landscapes being vulnerable to the intrusion of large pylons. Transpower considers the inference of the sentence was to preclude tower development whereas the consideration of this issue would need to be assessed under the policy framework of the District Plan.
49. While accepting Transpower's submission point, the Reporting Officer notes (page 24) the following sentence of the Proposed Plan retains the intent of the sentence recommended for deletion, being:

"Areas with outstanding natural features and landscapes and areas of significant indigenous vegetation or habitats also need to be protected from inappropriate use and development of utilities"

50. I understand that the intent of Transpower's submission was to not preclude high voltage transmission line development in rural areas where there would be adverse effects on outstanding natural landscapes and areas of high natural character. Policy 7 of the NPSET specifically states:

"In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character. . . ."

51. There is therefore an onus on Transpower to 'seek to' avoid such effects however this is not the same as having District Plan provisions worded in a way that can be interpreted as precluding such effects entirely. The ability to practically avoid such effects entirely is not always feasible. The presence of such sensitive areas would be considered in the route selection method (Policy 4 of the NPSET) for any new development through which avoidance of such areas would be a key consideration.

My Recommendation: that the Hearings Committee amend the 3rd paragraph of the Chapter 12.1 Issue Discussion in order to better align with and give effect to Policy 7 of the NPSET:

"Areas with outstanding natural features and landscapes and areas of significant indigenous vegetation or habitats also need to be protected from inappropriate use and should seek to be protected from development of utilities should seek to avoid these."

Objective 12.1.1 and Explanation and Principal Reasons: Transpower Submission - 99.11

52. Transpower submission 99.11 sought to amend Objective 12.1.1 to add a protective element to the objective which as originally proposed, provided for the establishment, operation, maintenance and upgrading of network utilities, while avoiding remedying or mitigating adverse effects on the environment.
53. The reporting officer agrees with the appropriateness of adding a protective component to the objective to provide for achieving sustainable management and responding to Issue 12.1 (page 26).
54. In my opinion, the relief sought by Transpower is appropriate in the context of Issue 12.1. Further, I believe the relief sought by Transpower and the reporting officer's recommendation will give effect to Policy 9 of the NPSET which states:

"decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading and development of the electricity network is not compromised."

55. In respect of Transpower's submission point which seeks to add the qualifier statement 'to the extent practicable', I agree with the reporting officer's comment (page 26) that the term is not used within the RMA. Neither is it used in the NPSET. However, there are 'qualifier statements' in the NPSET policy framework which decision-makers must give effect to:

Policy 3 When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision makers must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network

Policy 4 When considering the environmental effects of new transmission infrastructure or major upgrades of existing transmission infrastructure, decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection.

56. I therefore believe it is appropriate to include a 'qualifier statement' in relation to Transpower's activity to give effect to Policies 3 and 4 of the NPSET. However, I am conscious this only applies to Transpower and it would not be appropriate to include such a specific reference in the overall utilities objective itself.

My Recommendation: that the Hearings Committee add a protective component to Objective 12.1.1 as recommended by the reporting officer (page 27) and furthermore, add additional text to the 3rd paragraph of the 'Explanation and Principal Reasons' section to explain the Objective in the context of Transpower to give effect to Policies 3 and 4 of the NPSET.

"In establishing the standards and in assessing resource consent applications, it is important to recognise the location of utilities is often dictated by operational and technical requirements. For example, constraints imposed on avoiding, remedying and mitigating adverse environmental effects of transmission activities are recognised under the NPSET (Policy 3). In addition, given the function and

role of network utilities, some must be distributed throughout the District and in particular the settlements”.

Policy 12.1.3 and Explanation and Principal Reasons: Transpower Submission - 99.12

57. Transpower submission 99.12 seeks to amend Policy 12.1.3 to add the qualifier statement ‘to the extent practicable’ as well as refer to the route, site and method selection process. The reporting officer does not support the addition of this qualifier statement (page 30). To the contrary, I believe that there is a need to add a qualifier statement of sorts specific to Transpower for the reasons identified earlier in my evidence.
58. Notwithstanding the rejection of Transpower’s qualifier submission point under Policy 12.1.3, I consider the paragraph recommended for inclusion by the reporting officer does provide a qualifier of sorts and I agree with its inclusion. The additional text to the 2nd paragraph gives effect to Policy 4 of the NPSET.
59. On the basis the policy relates to utility providers in general (and not specifically to Transpower), I agree with the justification provided by the reporting officer for not including this qualifier in the wording of Policy 12.1.3.
60. **My Recommendation:** that the Hearings Committee accept the reporting officer’s recommendation (page 31) to add text to the 2nd paragraph of the Explanation and Principal Reasons to read:

“In considering the environmental effects of new transmission infrastructure or major upgrades of existing transmission infrastructure, the NPS on Electricity Transmission (2008) requires that Council must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection”.

12.1.1 Explanation and Reasons: Transpower Submission 99.16

61. Transpower submission 99.16 seeks to amend the 2nd sentence of the final paragraph of the 12.1.1 Explanation and Principal Reasons as follows:

“In particular, it is important to protect the operation of network utilities from incompatible activities ~~on adjacent sites.~~”

62. The reporting officer (page 44) rejects Transpower’s submission on the basis that the term ‘adjacent’ means in the vicinity of, or as defined in the Collins Dictionary it can mean near or close to and does not necessarily have to be adjoining or next to (although this could be the case).
63. In my opinion, there is little benefit of including the term ‘on adjacent sites’ as it introduces potential for debate over its interpretation. I suggest that it is the effects of the incompatible activities which are of relevance in the context of the explanation and principal reasons, irrespective of how the site location is defined.

My Recommendation: that the Hearings Committee delete the words ‘on adjacent sites’ from the 2nd sentence of the final paragraph of the 12.1.1 Explanation and Reasons.

Policy 12.2.11: Transpower Submission - 99.21

64. Transpower submission 99.21 seeks to amend Policy 12.2.11 to better give effect to Policies 1-4 of the NPSET. The submission seeks to ensure that new land use, development and subdivision are managed so as not to adversely affect the efficient operation, maintenance and upgrading of distribution facilities. Federated Farmers (516.13) opposes the submission on the basis upgrading is an activity that may or may not occur in the future and to restrict existing land uses for a conjectural activity is inequitable and will not lead to sustainable management.
65. The reporting officer recommendation (page 74) is to accept Transpower's relief and include the specific wording sought by Transpower. I agree with this recommendation as it gives effect to Policies 1 – 4 of the NPS and furthermore, would not permit upgrading, but rather provides an enabling framework for the upgrading of infrastructure which recognises its significance nationally, regionally and locally.
66. Specifically in the context of upgrading, it should also be acknowledged the NESETA, which applies to existing high voltage electricity transmission lines provides a rule framework for the upgrading of existing lines. To preclude this in the District Plan policy framework would be inconsistent with the NESETA.

My Recommendation: that the Hearings Committee accept the reporting officer's recommendation (page 74) and amend Policy 12.2.11 to read:

"Ensure that new land use, development and / or subdivision ~~subdivisions and land use activities~~ do not adversely affect the efficient operation, ~~and~~ maintenance and upgrading of existing renewable electricity generation or distribution facilities".

Transpower Further Submission – 518.05; Horticulture NZ Submission – 98.36 & Transpower Further Submission 518.06 & 06; and Transpower Submission – 99.23

67. I deal with the above submissions and further submissions collectively as they relate to the same general provisions.
68. Transpower lodged a further submission (518.05) that it is appropriate to provide for certain transmission activities as a permitted activity (subject to conditions) to give effect to Policies 2 and 5 of the NPSET.
69. The reporting officer confirms the council has a duty to provide for utilities as these are vital to the well-being of the district, including the farming community. Further, the reporting officer notes the rules do not provide for any utility operator to construct a pole or generating facility on private land and that this, and the issue of access, is subject to legislation other than the RMA. The reporting officer recommends the submission be rejected on these grounds.
70. I agree with the reporting officer's recommendation in that there is a need to provide for utilities as this infrastructure is vital to the well-being of the not only the district, but wider New Zealand communities. While the NESETA provides for the upgrading of existing high voltage transmission lines, there is a need to provide an enabling framework for the effective development of the electricity transmission network to give effect to Policies 2 and 5 of the NPSET. In particular, I note Policy 5 confirms decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity assets.

71. I agree with the reporting officer that private land and access issues are matters for other legislation.
72. In relation to the minor upgrading provision, the reporting officer recommendations (page 93) accepted a submission by another submitter to clarify the provisions on minor upgrading. The basis for this recommendation is that Rule 19.1(k) should refer to 'minor' upgrading to ensure it is consistent with Rule 22.1.10 which provides stand-alone permitted activity thresholds for network utility activities, over which consent would be required under the Zone based rules.
73. This explanation has provided clarity and therefore I agree with the reporting officer that the inclusion of the term 'minor upgrading' is appropriate in the context of Rule 22.1.10. Further, the inclusion of this term is appropriate in giving effect to Policy 5 of the NPSET which states:

Policy 5 When considering the environmental effects of transmission activities associated with transmission assets, decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets.

74. The Proposed Plan provides confirmation of what 'minor upgrading' relates to in Chapter 22 and certainty is provided in this respect.
75. Transpower's submission point 99.23 supports Rule 19.1(k) and seeks it be retained. I note the reporting officer accepts the relief to retain the rule (page 93), subject to an amendment to include the term minor upgrading.

My Recommendation: that the Hearings Committee accept the reporting officer's recommendation (page 94) and amend Rule 19(k)(i) Permitted Activity Rule – Rural Zone:

"The construction, operation, maintenance and minor upgrading of network utilities"

Rule 19.6.24(b): Transpower Submission – 99.28

76. Transpower lodged a submission to the effect that new network utilities should not be required to comply with the Rural Zone provisions and that permitted activities should be recognised for their existence and performing function.
77. The reporting officer confirms the notes section of Chapter 22 provides for minor upgrading that does not need to comply with any conditions other than 22.1.10 and as a result, Rule 19.6.24(b) only relates to network utilities and major upgrades. The officer therefore recommends (page 97) the rule be amended to reflect this as follows:

"(b) All other relevant conditions in this part of the District Plan shall also apply to any new or major upgrade of any network utility or associated structure".

78. While agreeing with the intent of the recommendation, I disagree with the terminology recommended by the reporting officer. I believe the intent of Rule 19.6.24(b) is to capture those activities not able to achieve compliance with the permitted activity conditions for 'minor upgrades'. Non-compliance with those standards does not mean the upgrade is a 'major upgrade', but rather, the upgrade is not a minor one. I recommend what I believe appropriate wording below.

My Recommendation: that the Hearings Committee accept the intent of the reporting officer's recommendation (page 97) in relation to Rule 19.6.24(b), subject to the amendment below:

"All other relevant conditions in this part of the District Plan shall also apply to any new utilities or ~~major~~ upgrade of any network utility or associated structure which are not able to meet the permitted activity conditions under Rule 22.1.10".

Transpower Further Submission - 518.12; Transpower Submission – 99.35 / Horticulture NZ Further Submission - 517.36

79. Rule 22.1.2 provides for new electricity lines up to 100kV as a permitted activity. Transpower's submissions support the retention of the rule and the basis for this is the need to give effect to Policies 2 and 5 of the NPSET.
80. Horticulture NZ's submissions refer to the enabling of new lines up to 110kV as a permitted activity means that landowners affected by the new line would have no ability to comment or submit on the proposed new lines. I note Horticulture NZ's submissions refer to NZECP34:2001 and the impacts on landowners. I comment on NZECP34:2001 later on in my evidence.
81. The reporting officer confirms the District Plan is about managing environmental effects and that there is other legislation dealing with landownership matters which utility companies must comply with. I agree with the reporting officer's conclusion on this matter. I also agree that retaining permitted activity rule 22.1.2 will give effect to Policies 2 and 5 of the NPSET.

My Recommendation: that the Hearings Committee accept the reporting officer's recommendation (page 102) and retain Rule 22.1.2:

"(a) Any new electricity lines and associated transformers shall be limited to a voltage up to and including 110kV.

Rule 22.1.10 a) and b): Transpower Submission – 99.37

82. To give effect to Policies 2, 3 and 5 of the NPSET, Transpower sought that Rule 22.1.10a) and b) be retained and the inclusion of a new permitted activity sub-clause relating to the trimming, felling and removal of vegetation and trees:

(c) The trimming, felling and removal of vegetation and trees

i) The trimming, felling and removal of vegetation and non-notable trees to retain the operational efficiency of existing network utilities.

ii) The trimming and removal of branches likely to compromise the operational efficiency of overhead wires or utility networks

83. The reporting officer agrees with the intent of the submission (page 120) and that it is appropriate to provide rules for the trimming, felling and removal of non-notable trees and vegetation. The fact that trimming, felling and removal of vegetation and non-notable trees is vital to the operation of the lines and network facilities is recognised. The reporting officer recommends the wording sought by Transpower be added as a permitted activity condition.

84. I agree with the inclusion of the relief sought by Transpower to the extent that relief gives effect to Policy 5 of the NPSET in particular. However, I do not believe the reporting officer's assessment of the relief sought addresses the full suite of issues raised in Transpower's submission.
85. Firstly, Transpower's submission seeks to enable the trimming, felling and removal of vegetation and non-notable trees to retain the operational efficiency of existing network utilities. While rules do not generally restrict such activities specifically on general vegetation or non-notable trees, the inclusion of the relief provides certainty for Transpower and is appropriate in this regard.
86. Secondly, Transpower seeks the enablement of trimming and removal of specific branches likely to compromise the operational efficiency of the overhead wires or utility networks. Sub-clause (c) (ii) does not specifically relate to non-notable trees, therefore the intent of the submission was to provide for trimming and removal of specific branches of notable trees.
87. While noting I am not an expert on such matters, I question whether the removal of specific branches would compromise the overall integrity or health of a notable tree. To provide reassurance on these matters, further permitted activity clauses could be included to the effect that the council needs to be notified of any notable tree branch removal in advance of the removal and furthermore the work be undertaken by a qualified arborist who has confirmed that the overall integrity or health of the notable tree will not be compromised.
88. I am not specifically aware of any Notable Trees which would potentially compromise the operational efficiency of Transpower's overhead wires or utility networks (or other utility providers). However, in the context of Transpower, there is a need provide for the reasonable operational requirements of the electricity transmission network (Policy 5 of the NPSET).
89. I note the Natural Features and Values reporting officer assesses this matter specific to Notable Trees (page 70 – 71). I agree with the reporting officer's assessment of this issue to the extent that the removal of branches of Notable Trees are enabled as a permitted activity (Rule 19.6.27) where the branches are likely to compromise the effective operation of overhead wires or utility providers. There is a need to include a similar clause in Chapter 22 which provides standalone utility provisions.

My Recommendation: that the Hearings Committee accept the reporting officer's recommendation (page 123) and add a new sub-clause to Rule 22.1.10, subject to an amendment to confirm 22.1.10(c)(ii) relates to notable trees:

(c) The trimming, felling and removal of vegetation and trees

i) The trimming, felling and removal of vegetation and non-notable trees to retain the operational efficiency of existing network utilities

ii) The trimming and removal of branches of notable trees likely to compromise the operational efficiency of overhead wires or utility networks

Rule 22.1.10 b): Horticulture NZ Submission - 98.47 / Transpower Submission - 99.37

90. Horticulture NZ supported the description of 'minor upgrading' in Rule 22.1.10 b). However, Horticulture NZ sought a linkage between permitted reconductoring of lines with high capacity conductors ((b) ii)) with increase in voltage. The submitter sought relief to the

effect minor upgrading should not increase the separation distances required under NZECP34:2001 so as not to impact on adjacent landowners.

91. Transpower sought that Rule 22.1.10 (b) be retained. I note that NZECP34:2001 applies to Transpower as discussed by **Mr Hurley**.
92. The reporting officer recommendation (page 123) is to retain 22.1.10(b). In determining this, the officer notes the concerns of the submitter are understood as an increase from 66kV line to 110kV would increase setback distances required under NZECP34:2001. However, as 100kV lines are enabled as a permitted activity elsewhere in the plan, it is appropriate to provide for upgrading.
93. I agree with the logic of the reporting officer and believe the retention of Rule 22.1.10(b) is appropriate. The retention of the rule gives effect to Policy 5 of the NPSET. Further, I comment on NZECP34:2001 in my evidence below at paragraph 86.

My Recommendation: that the Hearings Committee accept the reporting officer's recommendation (page 123) and retain Rule 22.1.10 b).

94. Federated Farmers Submission 96.38 also opposed Rule 22.1.10 (b) on the basis the term 'minor upgrading' means large scale activities could be undertaken on private land which impact upon the land owner. The reporting officer notes the issue of private landownership impacts is not a matter for consideration under the RMA.
95. Transpower lodged a further submission¹ on 96.38. The officer's report considers it appropriate that Rule 22.1.10(b) be retained. In my opinion, the retention of Rule 22.1.10 b) gives effect to Policies 2, 3 and 5 of the NPSET.

My Recommendation: that the Hearings Committee accept the reporting officer's recommendation (page 123) and retain Rule 22.1.10 b).

Rule 25.7.12 a): Transpower Submission – 99.43

96. Transpower sought to amend assessment criteria 25.7.12 a) to include an assessment as to whether the size and scale of proposed structures are appropriate and necessary for their function, rather than whether they are in keeping with the size and scale of any existing development.
97. The reporting officer recommends that Transpower's submission be rejected on the basis that the function consideration forms part of 25.7.12(b). The reporting officer also considers that an amendment as sought would lose focus of the criteria which is on how the structures relate to the surrounding environment.
98. I agree with the reporting officer and am satisfied that functional constraints will be assessed under 25.7.12(b) while scale and size related matters will be assessed under 25.7.12 (a). The assessment criteria provides an appropriate assessment framework which would both be considered in the assessment of a resource consent application.

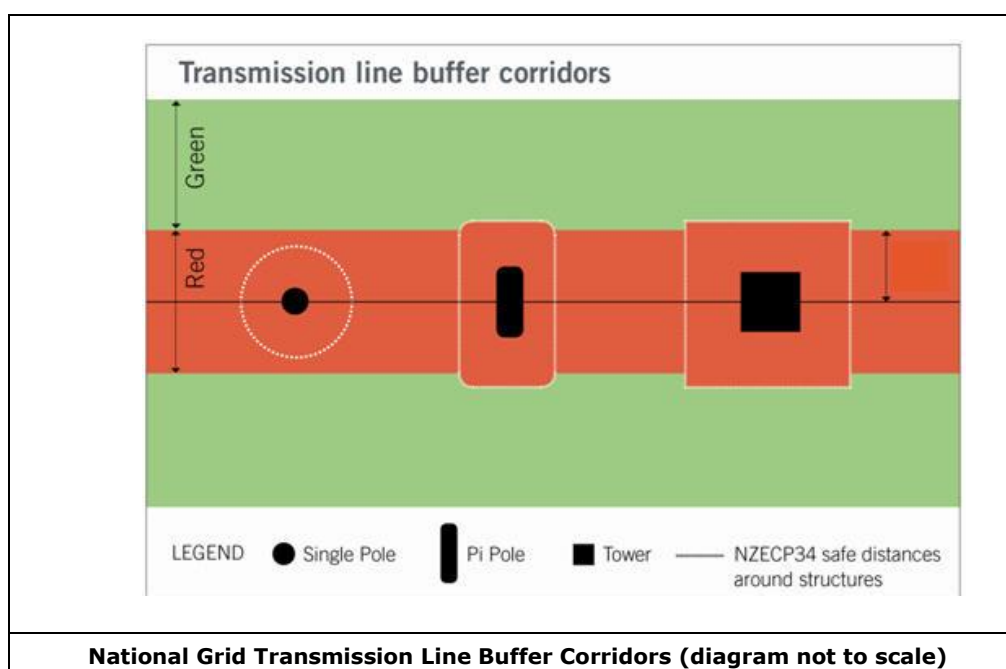
My Recommendation: that the Hearings Committee accept the reporting officer's recommendation and retain Rule 25.7.12 a).

¹ Transpower Further Submission dated 20 December, Further Submission Point #10, Page 4 (although I note the 'reason' incorrectly cross references further submission point #8 as opposed to #9).

National Grid Corridor Definition: Transpower Submission – 99.48

99. Transpower sought to replace the term 'Transmission Line Corridor' with 'National Grid Corridor' and provide a definition for that term. The change in terminology was sought for consistency and the definition was sought for implementation purposes. Transpower sought the following definition:

"National Grid Corridor: means a corridor either side of the assets used or owned by Transpower NZ Limited as part of the National Grid. The measurement of setback distances from National Grid electricity lines shall be taken from the centre line of the electricity transmission line and the outer edge of any support structure. 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 as depicted on the diagram below:



The corridor widths of the National Grid corridor are:

- For a 220kV Electricity Transmission Line a 12m red zone corridor and green zone of an additional 25m for a total corridor width of 37m either side of the centreline
 - For a 110kV Electricity Transmission Line a 10m red zone corridor and green zone of an additional 6m for a total corridor width of 16m either side of the centreline
100. Transpower's submission was opposed by both Federated Farmers (516.28) and Horticulture NZ (517.48) on the basis that set back distances and a nominal corridor are already provided for by NZECP34:2001 and there is no need for a corridor any wider than 12m in the District Plan.
101. In respect of the terminology proposed, the reporting officer recommends replacing the term 'Transmission Line Corridor' with 'National Grid Corridor'. I am supportive of this from a practitioners point of view to the extent the relief sought will provide consistency throughout the District Plan.
102. In respect of the definition of the term 'National Grid Corridor', while the reporting officer considers there is merit in including a definition to assist with implementation, there has been a deliberate avoidance of standards / thresholds within the definitions. For this

reason, the reporting officer does not consider references to actual corridor widths are appropriate. The reporting officer notes corridor widths are appropriately located in the Zone Rule chapters of the Plan. An illustrative diagram based on the illustration provided by Transpower has been recommended for inclusion by the reporting officer.

103. From a practitioners point of view I believe there is merit in including specific distances applicable to the corridor buffer provisions for ease of reference. However, on the basis the Plan has sought to avoid the inclusion of specific standards/thresholds I do not oppose the omission of the actual distances sought by Transpower in the definition itself. It is appropriate however that the actual set back distances sought by Transpower are included in the relevant sections of the Plan to give effect to the NPSET and in particular Policies 10 and 11. I note the reporting officer recommends this to be the case (e.g. Rural Zone Rule 19.6.14).
104. The opposing further submissions received from Federated Farmers (516.28) and Horticulture NZ (517.48) refer to the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 (NZECP34) providing setback distances and that a nominal corridor is provided in that standard. Consequently, the submitters consider there to be no need for a corridor that is wider than 12m in the District Plan. I deal with this specific issue in the next section of my evidence.
105. Finally, I note that this definition is relevant to rules in the Rural Environment Chapter. The hearing on that Chapter has not been held, and the relevance of this definition has not been considered. Accordingly, I consider that this definition be revisited during that hearing.

My Recommendation:

That the Hearings Committee accept the reporting officer's recommendation and replace the term 'Transmission Line Corridor' with 'National Grid Corridor' and provide a definition for that term as outlined in the Officer's report but that this definition be revisited during the Rural Environment Chapter hearing.

OTHER MATTERS RAISED

106. After reviewing and commenting on the submissions, further submissions and officer report recommendations, I believe commenting on a number of general matters would assist the Hearings Committee.

NZECP34 and corridor management

107. Federated Farmers (516.28) and Horticulture NZ (517.48) raise the notion of NZECP34 being able to appropriately manage activities in relation to Transpower's electricity transmission network.
108. I do not agree that NZECP34 is sufficient. My understanding of NZECP34 is that it provides for the electrical safe distances, and electrical safe distances only. NZECP34 seeks to protect persons, property, vehicles and mobile plants from harm or damage from electrical safety hazards by setting out minimum safe electrical distances.
109. NZECP34 is not designed to provide an integrated, holistic assessment of overall environmental effects relating to how long term land use would co-exist in close proximity

to transmission lines. In particular it does not address other electrical safety hazards and the potential effects of the line on activities in close proximity to the line. Further, it does not:

- 103.1 protect the integrity of the electricity transmission network from the effects of other activities;
 - 103.2 inform decision-making on subdivisions;
 - 103.3 does not prevent sensitive activities from occurring directly under the lines (as required by Policy 11), and
 - 103.4 Does not prevent or manage underbuild that impacts on maintenance and development of the lines (as required by Policy 10).
110. In short NZECP34 does not consider the environmental effects of activities on the electricity transmission network, nor potential environmental effects of the network on activities. In my opinion, reliance on NZECP34 alone will not fulfil Horowhenua District Council's obligation to give effect to the NPSET, in particular Policies 10 and 11 of the NPSET.
111. Inclusion of provisions in District Plans provides an efficient and effective process mechanism for ensuring these matters are identified sufficiently early to inform decision-making. From a regulatory point of view, I understand NZECP34 does not provide an opportunity for the Ministry of Business, Innovation, and Employment (or Transpower) to be involved in consenting processes where unsafe or poorly designed developments can be screened and prevented. Transpower often only becomes aware of breaches of NZECP34 once developments are in place, and the cost of mitigating the associated risk is usually very high.
112. Development that complies with NZECP34 can still constrain maintenance activities on lines (which can have consequential effects on safety) and can result in increasing the number of people potentially at risk and exposed to adverse effects. It is these effects that the NPSET requires be addressed in order to achieve sustainable management.
113. As NZECP34 is unable to address these effects it is therefore not surprising that NZECP34 is not referenced in the objective or any of the policies of the NPSET. Additional controls are required in the form of District Plan rules.

Electricity Act and Property rights

114. Federated Farmers and Horticulture NZ refer to private landownership issues in the context of managing and regulating Transpower's activities.
115. Transpower's existing lines and access to them are protected and regulated by the Electricity Act 1992. The Electricity Act also allows Transpower to operate, inspect, and as long as there is no injurious effect, upgrade the lines.
116. If Transpower goes beyond those rights then it needs to acquire a property right (easement) from the landowner for which compensation will be paid under the Public Works Act 1981.
117. The Proposed Plan being heard in part today is drafted under different legislation to the Electricity Act (the RMA) and will not in any way affect the provisions of the Electricity Act or landowners' opportunity to negotiate with Transpower.

CONCLUSION

118. I endorse Transpower's support for the majority of the reporting officer's recommendations and I commend these to you as set out in my evidence.
119. Where modifications, clarifications and refinements are suggested these are generally matters of detail. I consider this detail is however important to Transpower's ability to deliver its responsibilities for electricity transmission. It has measurable impacts on the processes needed, time taken and costs required to ensure a safe, reliable and resilient national electricity grid. I therefore would encourage close attention to these matters and Transpower have committed to providing any further clarification or detail needed at the hearing to assist in your decision-making.

Attachment A

Support Outright for Plan Provisions and Officer Recommendations: Utility & Energy Provisions

Reporting Officer Recommendations Supported		
Transpower Submission Ref	Officer Report Ref	Officer Report Recommended Amendments to Plan Provisions
Chapter 12 Introduction		
99.07	Section 4.1.4 Page 21	<p>Include a new 10th paragraph to the utilities section of the Introduction:</p> <p><i><u>"The Council is required to give effect to any National Policy Statement (NPS). The stated objective of the NPSET is to —Recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:</u></i></p> <ul style="list-style-type: none"> - <i><u>Managing the adverse environmental effects of the network; and</u></i> - <i><u>Managing the adverse effects of other activities on the network.</u></i> <p><i><u>The issues associated with electricity transmission are significant at a national, regional and local level and the benefits of the network must be recognised and provided for. Within the District, there is the potential for the development of new high voltage electricity transmission."</u></i></p>
Issue 12.1 Network Utilities		
99.08	Section 4.2.4 Page 23	Retain Issue 12.1 (the recommended amendment to the fourth paragraph of Issue 12.1 makes no material difference to Transpower's submission).
Issue Discussion for Issue 12.1		
99.09	Section 4.3.4 Page 25	Retain 5 th and 6 th paragraphs.
Policy 12.1.3		
518.04	Section 4.6.3 Page 32	Make no amendment to Policy 12.1.3 to specifically reference primary production activities.
Policy 12.1.6		
99.13	Section 4.9.4 Page 36	Retain Policy 12.1.6.
Policy 12.1.9		
99.14	Section 4.12.4 Page 40	<p>Amend the wording of Policy 12.1.9 to read:</p> <p><i><u>"Recognise the presence and function of existing network utilities, and their locational and operational requirements, by managing land use, development and / or subdivision in locations which could compromise their safe and efficient operation and maintenance subdivision and new land use activities adjacent to them, to ensure the long-term efficient and effective functioning of that utility."</u></i></p>
Objective 12.1.1 Explanation and Principal Reasons		
99.15	Section 4.14.2 Page 43	Retain the intent of the 4 th paragraph (subject to an amendment which does not materially affect Transpower's submission point).
Methods for Issue 12.1 and Objective 12.1.1		
99.17	Section 4.15.4 Page 47	Amend the methods to include industry guidelines and reference of the electricity transmission network on the Planning Maps.
Objective 12.2.1		
99.19	Section 4.18.2	That the objective refer to transmission and distribution as these are important aspects of

	Page 53	utilities and that the term 'infrastructure' be amended to include transmission and distribution.
Policy 12.2.5		
99.20	Section 4.22.4 Page 61	Split Policy 12.2.5 into two policies (but retain the intent of the original).
Policy 12.2.6		
99.22	Section 4.23.2 Page 62	Make no amendments to Policy 12.2.6 to refer to 'To the extent practicable'.
Policy 12.2.11		
99.21	Page 74	Amend Policy 12.2.11 to read: "Ensure that new <u>land use, development and / or subdivision</u> subdivisions and land use activities do not adversely affect the <u>efficient</u> operation and maintenance <u>and upgrading</u> of existing renewable electricity generation or distribution facilities
Chapter 12 – new objective		
99.21	Section 4.35.2 Page 82	Make no amendments as protection of network utilities from inappropriate land use, development and / or subdivision activities is provided for in Objective 12.1.1. as recommended for amendment. <i>Note: agreement subject to recommended amendment to Objective 12.1.1 to include protective component being accepted.</i>
Rule 19(k)(i) Permitted Activity Rule – Rural Zone		
99.23	Page 94	Amend Rule 19(k)(i) Permitted Activity Rule – Rural Zone: "The construction, operation, maintenance and <u>minor</u> upgrading of network utilities'.
Rule 19.4.6 Network Utilities and Electricity Generation		
99.26	Section 4.42.4 Page 95	Retain Rule 19.4.6
Chapter 22 - Introduction		
99.34	Section 4.45.2 Page 98	Retain the last paragraph without modification.
Rule 22.1.5(a)		
99.36	Section 4.50.2 Page 104	Retain the note under 22.1.5a) without modification.
Rule 25.7.12 – Assessment Criteria – Network Utilities and Wind Monitoring Masts		
99.44	Section 4.60.2 Page 136	Retain Assessment Criteria 25.7.12 (b) and (f) (subject to an amendment which does not materially affect Transpower's submission point)
Chapter 26 – Definitions		
99.48		Amend the definition of the term 'Transmission Line Corridor' to National Grid Corridor'