

**Before the Wellington City Council Proposed District Plan Hearings
Panel**

Under the Resource Management Act 1991 (the Act)

In the matter of the Wellington City Council Proposed District Plan–
Hearing Stream 9

Infrastructure and Risks

Infrastructure - all chapters (INF)

Transport (TR)

Renewable Energy (REG)

Contaminated Land (CL)

Hazardous Substances (HS)

Between **Wellington City Council**
Local authority

And **Transpower New Zealand Limited**
Submitter 315 and Further Submitter FS29

**Rebuttal Statement of evidence of Pauline Mary Whitney for
Transpower New Zealand Limited**

Dated 4 June 2024

Introduction

- 1.1. My primary Statement of Evidence sets out my qualifications, experience and I confirm I agree to abide by the Code of Conduct for Expert Witnesses (2023). Included are specific responses to the S42A Report recommendation and a series of further amendments I would support. I confirm my primary Statement of Evidence stands.
- 1.2. This rebuttal statement addresses two specific points within the evidence of Mr Matthew Lindenberg, the planning expert for Kāinga Ora - Homes and Communities.

Policy INF-NG-P61

- 1.3. Mr Lindenberg's evidence (at page 50) seeks amendment to INF-NG clause 2 of policy INF-NG-P6 as follows (shown as green text):

INF-NG-P61	Adverse effects on the National Grid Protect the safe and efficient operation, maintenance and repair, upgrading, removal and development of National Grid from adverse effects by: <ol style="list-style-type: none">1. Avoiding land uses (including sensitive activities) and buildings and structures within the National Grid Yard that may directly affect or otherwise compromise the National Grid2. Avoiding reverse sensitivity <u>adverse</u> effects <u>from incompatible subdivision, use and development</u> on the National Grid.3. Only allowing subdivision within the National Grid Subdivision Corridor where it can be demonstrated that the National Grid will not be compromised taking into account:
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- 1.4. No specific reasoning is provided in the evidence of Mr Lindenberg on the sought amendment to INF-NG-P61. Rather the commentary and reasoning provided in the evidence relating to the replacement of 'reverse sensitivity' with 'incompatible subdivision, use and development' relates to the policy heading/title of INF-P7 (which is a policy specific to sensitive activities and applies to all infrastructure).
- 1.5. Specific to the National Grid and policy INF-NG-P61, I do not support the sought rewording as:
 - a. Policy 10 of the NPSET specifically refers to 'avoid reverse sensitivity effects'. The NPSET does not use the terminology 'incompatible subdivision, use and development' in context of effects on the National Grid. The deletion of reference to 'reverse sensitivity' within INF-NG-P61 would result in a clear policy gap.
 - b. In my opinion the sought wording 'incompatible subdivision, use and development' within the context of effects on the National Grid is insufficiently clear

and open to interpretation as to what is incompatible. Some potential guidance is provided in the explanation to Policy 8¹ of the Operative Regional Policy Statement for the Wellington Region. Within the context of the National Grid, incompatible activities are arguably those activities that compromise the National Grid, and this effect is addressed under clause 1 of the policy. On that basis I do not see any benefit or purpose in the sought replacement wording that outweighs deletion of reference to reverse sensitivity.

- c. While I acknowledge Policy 8 of the Operative Regional Policy Statement for the Wellington Region refers to 'incompatible subdivision, use and development', the policy is not National Grid specific, instead it is applied to all regionally significant infrastructure and therefore has wide application.
- d. For context at a regional plan level I note Policy 15 of the Natural Resources Plan for the Wellington Region refers to both incompatible use and development and reverse sensitivity effects, as follows:

Policy P15: Incompatible activities adjacent to Regionally Significant Infrastructure, renewable electricity generation activities and significant mineral resources

Regionally Significant Infrastructure, renewable energy generation activities and significant mineral resources shall be protected from incompatible use and development occurring under, over or adjacent to it, by locating and designing any use and development to avoid, remedy or mitigate any reverse sensitivity effects.

- 1.6. For the reasons outlined above, I support the wording within INF-NG-P61 as recommended by the reporting officer.

¹ Policy 8: Protecting regionally significant infrastructure – regional and district plans

District and regional plans shall include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure.

Explanation

Regionally significant infrastructure is an important physical resource that enables people and communities to provide for their social, economic and cultural wellbeing, and their health and safety.

Regionally significant infrastructure is defined in Appendix 3

Incompatible subdivisions, land uses or activities are those which adversely affect the efficient operation of infrastructure, its ability to give full effect to any consent or other authorisation, restrict its ability to be maintained, or restrict the ability to upgrade where the effects of the upgrade are the same or similar in character, intensity, and scale. It may also include new land uses that are sensitive to activities associated with infrastructure.

Protecting regionally significant infrastructure does not mean that all land uses or activities under, over, or adjacent are prevented. The Wellington Regional Council and city and district councils will need to ensure that activities provided for in a district or regional plan are compatible with the efficient operation, maintenance, and upgrading (where effects are the same or similar in character, intensity, and scale) of the infrastructure and any effects that may be associated with that infrastructure. Competing considerations need to be weighed on a case by case basis to determine what is appropriate in the circumstances.

Policy 11 of the National Policy Statement on Electricity Transmission requires that, in achieving protection for the transmission network, consultation occurs with the operator of the national grid to identify appropriate buffer corridors.

Rule INF-NG-R58

- 1.7. The second change sought by Mr Lindenberg relates to the notification clause within rule INF-NG-R58. Mr Lindenberg seeks amendments as follows (refer [green text](#)):

Rules for Infrastructure — National Grid	
INF-NG-R58	Buildings, structures and activities in the National Grid Yard

All Zones	<p>2. Activity status: Non-complying</p> <p>Where:</p> <p style="padding-left: 40px;">a. Compliance with INF-NG-R67.1 cannot be achieved.</p> <p>Notification status:</p> <p>An application for resource consent made in respect of rule INF-NG-R67.2 is precluded from being publicly notified.</p> <p>Notice of any application for resource consent under this rule must be served on Transpower New Zealand Limited in accordance with Clause 10(2)(i) of the Resource Management (Forms, Fees, and Procedures) Regulations 2003. When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, the Council will give consideration to any adverse effects on Transpower.</p>

- 1.8. I agree the clause could benefit from rewording as I do have concerns with the contradictory nature of the two clauses in that the first clause states the application cannot be notified and the second clause then requires notice be served on Transpower under Clause 10 which I understand relates to public notification.
- 1.9. Notwithstanding the above concern, I am mindful the approach as notified is consistent with other rules throughout the PDP (in relation to rules that relate to the National Grid and the Gas Transmission pipeline) that are now beyond challenge.
- 1.10. Setting aside the consistency issue, I consider there is merit in providing clarity on the provisions. I understand there have been instances in the past where Transpower has not been notified as an affected party. An advice note would provide clarity that Transpower is an affected party.
- 1.11. In considering options, I have reviewed the approach in other recent proposed district plans (where decisions have recently been released) as well as Auckland.
- 1.12. The Auckland Unitary Plan provides the following: *When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).* I note the Auckland Unitary Plan uses the word ‘specific’.

- 1.13. The wording within the Proposed Porirua District Plan matches that proposed by Mr Lindenberg.
- 1.14. The approach in the proposed New Plymouth District Plan (Rule NU-R32) is more directive, being: *If a resource consent application is made under this rule, Transpower will be considered an affected person in accordance with Section 95E of the Act and notified of the application, where written approval is not provided.*
- 1.15. The Proposed Selwyn District Plan (Rule EI-R2.4) is also more directive: *Any application arising from EI-R2.2 shall not be subject to public notification and shall be limited notified to the following parties: Transpower unless their written approval is provided.*
- 1.16. Given the non-complying activity status of rule INF-NG-R58, the technical elements associated with the effects, the potential for intensification within the Wellington city context, the extent of urban areas traversed by existing grid assets and the strong national direction, I prefer the wording used within New Plymouth that Transpower **will** be considered an affected party.
- 1.17. I therefore support in part the relief sought by Mr Lindenberg in terms of deletion of the text as shown in green but subject to further amendment as follows, with the text I support shown as blue text:

Rules for Infrastructure — National Grid	
INF-NG-R58	Buildings, structures and activities in the National Grid Yard
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All Zones	<p>2. Activity status: Non-complying Where:</p> <p style="padding-left: 40px;">b. Compliance with INF-NG-R67.1 cannot be achieved.</p> <p>Notification status: An application for resource consent made in respect of rule INF-NG-R67.2 is precluded from being publicly notified.</p> <p>Notice of any application for resource consent under this rule must be served on Transpower New Zealand Limited in accordance with Clause 10(2)(i) of the Resource Management (Forms, Fees, and Procedures) Regulations 2003. If a resource consent application is made under this rule, Transpower will be considered an affected person in accordance with Section 95E of the Act and notified of the application, where written approval is not provided.</p> <p><u>If a resource consent application is made under this rule, Transpower will be considered an affected person in accordance with Section 95E of the Act and notified of the application, where written approval is not provided.</u></p>

Pauline Whitney