

BEFORE THE ENVIRONMENT COURT In the matter of appeals under clause 14 of the First Schedule to the Resource Management Act 1991 concerning Proposed One Plan for the Manawatu-Wanganui Region.

FEDERATED FARMERS OF NEW ZEALAND
ENV-2010-WLG-000148
and **MERIDIAN ENERGY LTD**
ENV-2010-WLG-000149
and **MINISTER OF CONSERVATION**
ENV-2010-WLG-000150
and **PROPERTY RIGHTS IN NEW ZEALAND**
ENV-2010-WLG-000152
and **HORTICULTURE NEW ZEALAND**
ENV 2010-WLG-000155
and **WELLINGTON FISH & GAME COUNCIL**
ENV-2010-WLG-000157

Appellants

MANAWATU-WANGANUI REGIONAL COUNCIL

Respondent

STATEMENT OF PLANNING EVIDENCE BY DAVID LE MARQUAND ON THE TOPIC OF BIOLOGICAL DIVERSITY ON BEHALF OF TRANSPower NEW ZEALAND LIMITED AND POWERCO LIMITED

Dated 17th February 2012

INTRODUCTION

Qualifications and Experience

1. My name is David William le Marquand and I have practised resource management for over 30 years. I hold a Bachelor of Arts and a Master of Arts (Geog) from the University of Auckland. My thesis was in coastal dynamics. I am a member of the Resource Management Law Association.
2. I am currently a Director of Burton Planning Consultants Limited, based in Auckland. I have been with Burton Consultants for the last 17 years, the last nine years as a Director. Prior to that, I worked for 15 years in Central Government, consisting of:
 - (a) 18 months as an advisory officer in the Harbours and Foreshores Section of the Ministry of Transport in Auckland;
 - (b) 18 months as Section Officer in charge of the Central Region Harbours and Foreshores, based in Wellington;
 - (c) 6 years as a Scientist in the Planning Section of the Water and Soil Directorate (MWD) Wellington, including the provision of advice to the National Water and Soil Conservation Authority; and
 - (d) 2 years as a Policy Analyst and 5 years as a Senior Policy Analyst with the Ministry for the Environment (MfE) in Auckland, before moving to Burton Consultants.
3. Burton Consultants provides resource management, planning and resource consent services to a range of public and private sector clients.
4. I have been the Burton's Account Manager for Transpower New Zealand for more than fifteen years. In that role I have been responsible for providing and coordinating advice to Transpower, on a national basis, on relevant district and regional plan provisions and various resource management issues affecting Transpower operations. I have also been involved in a range of transmission projects relating to new and existing infrastructure, and requiring various regional and district council consents, designations and/or outline plans. I have been the

Burton's Account Manager for Powerco since it became a client in 2008. In that role I have been responsible for providing and coordinating advice to Powerco on relevant district and regional planning provisions within its area of operation and on other resource management issues affecting Powerco operations. I have also provided peer review advice on a Powerco line development project (Papamoa East).

5. In relation to the Proposed One Plan (POP) I have, on behalf of Transpower, been involved in the process from the discussion stage. I prepared comments, submissions and evidence on its behalf (and some other clients) and attended all relevant hearings. I did not prepare any submissions or present evidence on behalf of Powerco: that work was undertaken by another Company. However for both Companies I reviewed the decisions of the Council and the appeals that were lodged. I prepared and lodged the s274 notices in relation to the Department of Conservation and Wellington Fish and Game appeals that are the subject of this hearing. I also participated in the relevant mediations related to the subject appeals.
6. I am therefore familiar with the resource management issues facing Transpower and Powerco and how they are relevant and relate to the provisions of the Proposed One Plan and the way that these have been addressed through the various processes and matters raised in relation to this hearing.
7. I have read the Code of Conduct for Expert Witnesses issued as part of the Environment Court Practice Notes. I agree to comply with the code and am satisfied the matters I address in my evidence are within my expertise. 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.

Terms and Reference Material

8. In my evidence I will use the following abbreviations:

NPSET	=	National Policy Statement on Electricity Transmission 2008
NPSREG	=	National Policy Statement on Renewable Energy Generation 2011
POP	=	Proposed One Plan

MWRC = Manawatu-Wanganui Regional Council

9. I will also refer to the evidence of Clare Barton for the MWRC and where necessary the various reference materials she has referred to and which are already before the Court. I also refer to the following:
- a) The National Policy Statement on Electricity Transmission (NPSET) and the National Policy Statement for Renewable Electricity Generation 2011. Attached as **Appendix 1**.
 - b) Schematic view of the power supply system and maps of Powerco and Transpower assets in the MWRC region. Attached as **Appendix 2**.
 - c) Transpower's Summary Guide to the ACRE Model: A Site and Route Selection Tool. Dated 17th November 2011. Attached as **Appendix 3**.
 - d) Joint Memorandum of Counsel for the Minister of Conservation and Wellington Fish and Game dated 9th December 2011. Attached as **Appendix 4**.
 - e) My alternate version of Rule 12-6/7. Attached as **Appendix 5**.

Issues

10. My evidence adopts the evidence in chief of Clare Barton. In her evidence Ms Barton identifies four key issues for these proceedings. I do not address Key Issue 1. My evidence focuses on Ms Barton's Key Issue 2 (appropriate classification of rules relating to rare, threatened and at-risk habitats). In addressing that issue I also touch on her Key Issues 3 and 4 in terms of contextualising the discussion around the activity status. I also draw on and expand her discussion in relation to the relevance and application of the NPSET and the NPSREG. I support her proposed changes in relation to the other unresolved appeals points in so far as they are not inconsistent with this evidence.
11. A matter not addressed in detail by Ms Barton is the Appellants' redrafted policy option. My evidence comments on the drafting and application of that policy option as provided to Court via the Joint Memorandum of Counsel for the Minister of Conservation and Wellington Fish and Game dated 9th December 2011.

12. This evidence covers:

- (a) Transpower and Powerco Operations
- (b) Route Selection Processes
- (c) Basis of Transpower and Powerco Interests in Biodiversity Provisions
- (d) Key Issue 2 – activity status
- (e) Statutory Test and Relevant Planning Instruments
- (f) Giving Effect to the NPSET and NPSREG
- (g) Policies to Implement Objectives
- (h) Rules to Implement Policies
- (i) Costs and Benefits
- (j) Risk of Acting or Not Acting
- (k) Efficient and Effective
- (l) Alternative Rule
- (m) Conclusion

Summary

13. I support the conclusion of Ms Barton that the status of activities covered by Rule 12-6 of the POP should remain discretionary, and that the rule will achieve the RMA's purpose with the support of policies. I also accept her opinion that the rule and associated policy provisions are "working". My opinion is based upon:

- further consideration in terms of section 32 that the discretionary activity category is effective in meeting the objective and is the most efficient means of achieving that outcome;
- recognition of the clear and strong policy direction, and that it is sufficient to ensure that significant indigenous vegetation and habitats will be protected;
- acknowledgement of the uncertainty as to where such habitats are;
- consideration of the implications for regionally and nationally significant infrastructure that cannot avoid rare, threatened or at-risk habitats even after appropriate and rigorous route or site selection procedures and having regard to transmission or locational constraints;

- consideration of the requirement to give effect to the NPSET and NPSREG; and
- consideration of the issues around the bundling principle.

TRANSPOWER AND POWERCO OPERATIONS

14. To understand the issues that Transpower and Powerco face in managing their networks under the POP it is important to understand how they operate. **Appendix 2** sets out a schematic view of the power supply system.
15. Transpower is the State Owned Enterprise that owns, maintains, operates and develops New Zealand's high voltage transmission network, the National Grid. The National Grid comprises of a network of steel towers, poles, lines and substations that transports the electricity generated by power generation stations to the distribution networks of each region, which in turn conveys electricity energy to domestic, commercial and industrial users in the region.
16. The National Grid comprises some 13,000 km of transmission lines and some 186 substations, including outdoor switch-yards (substations attached to power generation plants which feed into the Grid). The control centre (located in Wellington) operates a network of some 300 telecommunication sites, most of which operate on a line of sight basis and link together the components that make up the National Grid.
17. In the Manuwatu-Wanganui region the National Grid is currently made up of 110kV and 220kV lines and a number of substations. These lines are generally on pylons that can be 30 to 60m in height and typically will be 300-500m in span. These assets are identified in **Appendix 2**.
18. A number of projects are forecast to be required by Transpower in the region over the next decade. In relation to the National Grid Transpower's 2011 Annual Planning Report identifies constraint issues with the Central North Island transmission capacity, especially to the south. There are essentially two options, the first being a series of upgrades on the existing 220kV network, or alternatively a new

transmission line between the lower North Island and Whakamaru. These projects are currently being evaluated.

19. In addition, any sizable new generation project within the region (e.g. renewable energy) will require connection to the National Grid. The location of such a connection project will depend on the location of the energy source and a suitable connection point and will be reliant on the outcome of a robust and appropriate route selection process.

20. Powerco is New Zealand's second largest gas and electricity distribution company. The Powerco network spreads across the upper and lower central North Island servicing over 400,000 consumers, which represents forty six percent of the gas connections and sixteen per cent of the electricity connections in New Zealand. Over 116,000 of these consumers reside within the boundaries of the Manawatu-Wanganui Regional Council. These consumers are served through Powerco assets including nearly 8,500 kilometres of electricity lines (including overhead lines and cables) and 850 kilometres of gas pipelines. Powerco's electrical distribution network largely consists of 33kV sub transmission and 11kV distribution lines. These lines are generally of smaller scale and are on poles 12m to 20m in height and with span distance usually 150-300m. The assets in the Region are identified in **Appendix 2**.

21. Powerco also has a subsidiary company called Power Transmission Services (PTS), which was established in August 2007. PTS specialises in the delivery of comprehensive transmission project solutions, including the development, construction, ownership and operation of a transmission infrastructure to connect energy generation sites to the National Grid.

22. Powerco has a number of development and upgrading projects forecast over the next 15 years. There is a number of substation and line projects, while these are largely urban focused, there is a need for a number of new sections of line of between 5-10km. Furthermore, any connection to the National Grid or direct link to the distribution network from an energy generation site will require a new line route to be determined. PTS or Transpower may be involved in that process in any connection to the Grid. Smaller and/or micro generation projects may require linkage directly to the distribution network.

Route Selection Processes

23. Transpower has developed a route selection methodology called ACRE. The acronym is based on a process of working through and identifying the most appropriate Area, then Corridor, Route and Easement (ACRE) for a new line. By undertaking a series of constraint analyses that progressively become more fine grained, Transpower have the ability to define possible route options and then ultimately the best overall new route. The Summary Guide for this process is attached as **Appendix 3**.
24. Powerco uses a very similar process for its route selection process, referred to as ACCORD. The acronym relates to Area, Corridor, Consultation, Option agreements, Route, Designation. The essential difference between the two processes is how, and at what stage, there is interaction with the landowners. Powerco seeks to engage with landowners at an earlier stage in the process, prior to route selection. To some extent this reflects the difference in scale between the Grid and distribution network.
25. It is worth expanding on the issue of technical constraints faced by transmission lines. A line will need to connect two fixed points such as the generation source to the Grid and/or between substations, or in the case of a realignment between support structures of an existing line. Those connection points set constraints in the area within which route options can be considered. Any decision as to the best route needs to take into account the effects of the whole route. For the National Grid this could be for a project that traverses the whole region. Shorter distances may be involved in order to connect new generation to the Grid or for a realignment.
26. Other constraints include the form and function and, for economic, electrical and engineering reasons, the need to construct transmission lines as straight as possible. Lines need to meet minimum clearance distances (e.g. from the ground, buildings and structures and vegetation) and the form and nature of the land will in part determine the location and height of support structure and span distances. The conductors sag and swing in relation to load and environmental conditions and the

longer the span the greater those effects, which influences the separation between support structures.

27. Effects on biodiversity are likely to be greatest in and around the support structure location where ground disturbance is required. For example, a line could traverse a wetland without any adverse effects on the biodiversity of that wetland. Locating a tower in a wetland would likely generate adverse effects that are more than minor. Most towers will usually be served by some form of 4wd track, which in turn will have its own effects including, potentially, on biodiversity.¹ While there will be some flexibility in tower location within any line route, any sharp angles or deviations will require stronger types of support structure and tend to be minimised where possible.
28. I anticipate that for any substantial length of new line or any necessary realignment avoidance of all rare, threatened or at-risk habitats will not be possible. While the effects on such areas can be minimised by appropriate route selection and even tower site selection and various mitigation measures put in place (including offsets resulting in net biodiversity gain), there will be a very strong likelihood that such habitats cannot be avoided in every circumstance.

Basis of Transpower and Powerco Interests in Biodiversity Provisions

29. Transpower and Powerco both lodged submissions on the POP generally seeking (inter alia) that an appropriate balance be struck between recognising and providing for regionally and nationally important infrastructure and protection and management of natural resources in the Plan.
30. Ms Barton's overview statement outlines the hearing process. I note that the NPSET was released during the course of the hearing process and the Committee recognised the importance of that and responded to that in its decision making. Since then the NPSREG has also been released. The Regional Policy Statement and Plan must give effect to both these national policy statements.
31. It was my overall assessment that the decisions version of the Plan did strike an appropriate balance in managing natural and physical resources and providing for

¹ However there are some towers on some lines where the only access is by helicopter.

regionally and nationally important transmission infrastructure. Under the biodiversity provisions the operation, maintenance and upgrading of existing infrastructure was generally permitted, and new lines were likely to need various discretionary consents. Transpower and Powerco had route selection and assessment processes in place that would enable the relevant habitats to be identified once a proposal was developed.

32. While there was no specific identification of the areas of biodiversity on maps, the criteria had been improved and I accepted the rationale for moving away from mapping (lack of information and potential inaccuracies) and relying on those new criteria and identification by predictive methods. My acceptance of this was significantly influenced by the fact that the rules in the biodiversity chapter triggered discretionary activity consent, rather than non-complying. In other words, even when these areas were identified, an application would be assessed on its merits and would not be required to pass through the section 104D threshold for non-complying activities.

KEY ISSUE 2 –STATUS OF ACTIVITIES WITHIN RARE HABITATS, THREATENED HABITATS AND AT-RISK HABITATS

33. The decisions version of the POP provides for activities within rare habitats, threatened habitats and at-risk habitats to be a discretionary activity. It is supported by policies 12-5 and 12-6. The Council's position in these proceedings is described in the evidence of Ms Barton. There are further minor amendments to the provisions however the activity status has remained discretionary.
34. The Wellington Fish and Game and Department of Conservations appeals seek to amend the activity status from discretionary to non-complying and to amend the policy framework. The amendments to the policies were set out in their memorandum dated 9 December 2011 (attached as **Appendix 4**). Transpower and Powerco joined those appeals as a s274 party. Transpower and Powerco support the Council's position.

Statutory Test and Relevant Planning Instruments

35. The evidence of Ms Barton identifies the relevant planning instruments and statutory tests and I generally accept her analysis in that regard. There are a few matters I wish to expand upon, in particular on giving effect to the NPSET and NPSREG and to consideration of section 32 and I will outline these below.
36. The statutory tests provide a cascade of assessment. A regional plan must assist the Council to achieve the purpose of the Act. A plan must give effect to any national policy statement. Objectives must be the most appropriate way to achieve the purpose of the Act. Policies are to implement objectives and rules are to implement policies.
37. I note that there is no challenge to Objective 12-2. There is an acceptance that a level of regulation is necessary to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna. In my opinion, this objective gives effect to the purpose of the Act, especially when read in the context of Chapter 3 and 7 of the POP. These chapters provide a balance by recognising both regionally or nationally important infrastructure, and significant indigenous vegetation and habitats.

Giving Effect to the NPSET and NPSREG

38. First I would like to point out a matter of clarification in relation to paragraph 31 (d) of Ms Barton's evidence. Ms Barton states that the relevance of the NPSET and NPSREG is "confined to instances where the indigenous biodiversity policies in POP come into play where there is the potential for or there is existing renewable electricity generation". In my opinion the NPSET is also relevant to any National Grid transmission project and not just that which is related to a renewable energy project.
39. A regional plan must give effect to the NPSET AND NPSREG under section 67(3)(a). The objective and policies are intended to guide decision makers in drafting plan rules. The 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:

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

40. Policies 2 , 3, and 4 are also, in my opinion, relevant:

Policy 2

In achieving the purpose of the Act, decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.

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.

41. The NPSET achieves the purpose of the RMA by recognising both the importance of the electricity transmission network, and measures to avoid, remedy or mitigate adverse effects on the environment.

42. In Attachment 4 of Ms Barton's evidence she identifies the extent to which the regional plan has given effect to the NPSET. She states that:

"... I consider the DV POP gives effect to it in Chapter 3 which forms part of the planning framework on the RPS. It is a matter in the Regional Plan that decision-makers must have regard to when making consent decisions for activities in rare, threatened or at-risk habitats".

43. In my opinion the Council's version of the POP does give effect to the NPSET by:

- including in policy 12-5 (as amended in Ms Barton's evidence), a link back to the RPS. Notwithstanding that that link particularly gives reference to Objective 7-1 and Policy 7-2A, it will still require a consideration of Chapter 3. Chapter 3 relates to regionally and nationally significant infrastructure;
- specific regard is also given, in policy 12-5 (d)(iii), to the appropriateness of infrastructure of regional or national importance when assessing offsetting;

- permitting the maintenance and upgrading of existing regionally significant and nationally important infrastructure (by exclusion from the definitions of land disturbance and vegetation clearance);
 - the structure of the policy framework which, while providing a strong direction to avoid more than minor adverse effects on habitats, enables consideration of effects in terms of sustainable management on a case by case basis; and
 - the use of a discretionary activity status in Rule 12-6 which provides for those activities that cannot avoid such a location.
44. In my opinion the Appellants policy and non-complying activity status will not give effect to the NPSET for a number of reasons:
- The policy requires avoidance of any more than minor adverse effects in rare and threatened habitats as an absolute. This would potentially undermine the gateway test in s104D because activities with more than minor affects would automatically be contrary to the policy. This in turn won't facilitate transmission networks in circumstances where they cannot avoid such habitat areas;
 - Non-complying activity status does not recognise or provide for the effective development of the network if there is a risk of as yet undefined areas being inviolable after appropriate route selection process, particularly where there is a high likelihood that any new proposal may need to traverse such areas;
 - They do not recognise the nature or constraints that apply to transmission development (especially the lineal characteristics), notwithstanding explicit reference to matters of national importance in the proposed policy;
 - They do not recognise that the route or site selection process is the best means by which adverse effects on such areas can be avoided, but that the constraints that apply to such nationally significant developments may mean that some areas cannot be avoided and remediation or mitigation may be appropriate.
45. In summary, the decisions version of the POP is the most appropriate way to give effect to the NPSET.
46. The NPSREG, in Policy C1, requires decision makers to acknowledge the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities in relation to resource location, logistical and technical practicalities and location of existing infrastructure and the need for connections. The NPSREG also requires decision makers to

incorporate objectives, policies and methods into regional policy statements and regional and district plans for a range of renewable energy resources (Policies in Section E) to the extent applicable.

47. Policy C2 is particularly relevant to the POP. It directs decision makers to have regard to offsetting measures where effects cannot be avoided, remedied or mitigated.
48. In my opinion, the Council's version of the POP better gives effect to the NPSREG by providing a clearer pathway for assessing the effects of and providing for infrastructure associated with renewable energy generation.

Policies implement objectives

49. There are two policy options before the Court, the Council's option is in the evidence of Ms Barton for MWRC, and the Appellants option as set out in the Joint Memorandum of Counsel for the Minister of Conservation and Wellington Fish and Game dated 9th December 2011.
50. In terms of the Council's policy approach, which I support, I am satisfied that it sends a clear and concise signal that these areas are important and should be avoided. It also properly, in my opinion, recognises that this may not be possible in every case, and that in those circumstances effects that are more than minor can be remedied or mitigated. Mitigation may include consideration of offsets where there is a net biodiversity gain which may occur outside the affected area where there is a better biodiversity outcome to addressing those effects at source. If effects could not be remedied or mitigated and a net biodiversity gain cannot be achieved, I would expect that the activity would be considered "inappropriate" under section 6(c) and consent may not be granted.
51. I consider that the policies in Chapter 12 of the Council's version are sufficiently clear and appropriately recognise the significance of the biodiversity resource and that certain areas should only be affected in exceptional circumstances. Strong guidance is provided for decision making in respect of those habitats assessed to be significant indigenous vegetation or habitat. Clearly such areas would need to be avoided to the extent practicable within the confines of any particular project.

52. In terms of the Appellants policies, my main concern relates to Policy 12-5.
53. In 12-5 (a) (v) the Appellants have suggested the inclusion of a specific reference to having regard to the benefits and costs of renewable energy generation at local, regional and national levels. They have included a statement that implies regionally or significant infrastructure can be considered to fall within the scope of their “appropriate circumstances” addressed in the proposed 12-5(b)(iii) and 12-5(c)(ii). Also included is a statement that indicates the functional, operational or technical constraints of an activity will be taken into account. I am not opposed to the inclusion of those statements. However, I think it would also be appropriate to explicitly include reference to transmission infrastructure and not just renewable energy. While connections from new renewable energy sources will be covered by the provision (i.e. as part of a renewable energy project) there may well be transmission projects that are not directly related to renewable energy (e.g. realignment of an existing line or a new intra-regional transmission line) but that will nonetheless be regionally or nationally significant.
54. Notwithstanding the above, I remain concerned with the Appellants policy and its cascade in 12-5(b). Policy 12-5(b)(i) as worded requires any effects that are more than minor to be avoided. With the deletion of the “or” there is no clear cascade in the event that such effects are unavoidable. As a consequence the provision is an absolute and runs the risk of such areas being deemed to be inviolable.
55. While ‘more than minor adverse effects’ will need to be determined in the particular circumstances of a proposal, if the provision is retained as an absolute, in my opinion, it will likely prove to be a severe impediment for (at least) nationally or regionally significant infrastructure projects. Furthermore it also has the potential to undermine the two-limbed gateway test of section 104D of the RMA, in that the policy contains a constraint to no more than minor effects. While I accept that s104D requires analysis of the suite of policy provisions, I consider it to be more efficient and effective to adopt a policy approach that genuinely recognises that the gateway test in Section 104D has two distinct limbs that should be capable of being independently satisfied.

56. As indicated, I do not believe such an absolute constraint 'gives effect to' the NPSET or the NPSREG. In my opinion, especially in the context of uncertainty as to the location and extent of such habitats, there needs to be a pathway to provide for the consideration of an application in circumstances where such habitats can't be avoided and the effects are considered to be more than minor.
57. Furthermore, in the Appellants Policy 12-5(b)(ii) it is my view that there is a need to clearly link the matter of residual effects back to the habitat's representativeness, rarity and distinctiveness, or ecological context. Otherwise there is a risk that, as a non-complying activity, all and any effect (e.g. amenity or landscape) could also become an issue over which the 'no more than minor effect' is argued.
58. The Appellants Policy 12-5(b)(ii) and (iii) sets a hierarchy of mitigation, first to the area affected, then to outside the area affected where there would be a net biodiversity outcome, and in that latter circumstance the policy indicates offsets may be applied. This contrasts with the MWRC policy which more simply requires any more than minor effects to be remedied or mitigated and indicates that offsetting may be part of the mitigation where there is a net biodiversity gain and that this may be particularly relevant where mitigation outside the affected area would result in a better biodiversity outcome.
59. Both MWRC and the Appellants policy refer in 12-5(d) to the importance of ensuring offsets have a significant likelihood of being achieved and maintained in the long term and "in perpetuity". While I support the need to consider that any such mitigation will achieve long term benefits in my opinion "in perpetuity" should be deleted. "Perpetuity" is, in my view, an unrealistic timeframe to adopt notwithstanding that it is qualified as a preference. There will always be circumstances beyond one's control, and I do not believe it feasible to be future proofing areas from the likes of climate change, volcanic eruptions or other unavoidable natural hazards or from human error.

Rules to implement policies - Activity Status

60. The evidence of Ms Barton refers, in Attachment 4, to the Hearings Panel's conclusion in relation to section 32. The Panel was clearly satisfied that the

proposed decisions version of the POP satisfied those tests. Furthermore the provisions are in my view consistent with the RPS policy including the recognition of regionally and nationally significant infrastructure in Chapter 3. Given that the Appellants are proposing to introduce a variation to that regime, it is appropriate, in my view, to further consider those section 32 tests.

61. In my opinion, the question that needs to be asked is not 'which policy and/or activity status will provide the greatest possible level of protection' but rather 'what is the most appropriate means of achieving the objective and implementing policy, having regard to their effectiveness and efficiency, taking into account the benefits, costs and risks of acting or not acting, including if there is uncertain or insufficient information'.

Cost and Benefits

62. In my view both the MWRC and the Appellants approaches have the potential to achieve the desired outcome of protecting rare, threatened and at-risk habitats. Both require expertise and significant assessment to apply the relevant criteria for identifying these habitats. Both approaches therefore have a high degree of uncertainty and will involve costs. However greater costs are likely to be imposed on regionally and national significant infrastructure where they can't avoid such areas.
63. It is worth considering how the POP has otherwise used non-complying activity status. In my opinion the POP has used the non-complying activity status sparingly:
- In rule 13-22 (Discharges to land) where it applies to a short and discrete list of pollutants.
 - In rule 15-6 where a take exceeds the Scheduled cumulative core allocation limit or below the specified minimum flow.
 - In rules 17-5, 17-18, 17-19, 17-25 and 17-26 for occupation of coastal space, reclamation or disturbance in any Protection Activity Management Area as shown in Schedule H.
64. Those activities are discrete, specific, tightly defined and the Protect Activity Management Areas are clearly delineated on maps. There is, in my view, a high degree of certainty that can be applied to whether one is or will be affected by those

rules. This is not the case in relation to the biodiversity rules. At this time, in the absence of mapping, the extent of those habitat areas meeting the criteria remains unknown. Even if they were mapped, given that the current policy framework carefully and specifically sets out how they should be identified and then requires avoidance in the first instance before any more than minor effects are remedied or mitigated such that there is a net biodiversity gain, and the fact that the provisions are working, in my opinion there is no reason for there to be a change to the activity status.

65. The MWRC approach provides a pathway for those activities that cannot avoid such habitats, i.e that may have more than minor adverse effects but meet the tests of sustainable management. The Appellants approach does not, in my view, provide for that. It undermines the s104D gateway test by introducing the absolute test of no more than minor effects into the assessment of the policies. It will likely impose very high costs on regionally and nationally significant infrastructure projects.

Risk of Acting or Not Acting

66. Clearly there is a significant risk to any project of regional or national importance given the uncertainty as to the location of rare, threatened and at-risk habitats in the first instance, and what would be a more than minor effect in any specific circumstance or location. Transpower and Powerco have assets that are currently located in areas where there is indigenous vegetation and habitats. These areas are reasonably extensive. It is not known whether the current areas meet the criteria in the Plan, as that work has not been undertaken (either by the Regional Council or, in the absence of a need for consent, by the Companies themselves). Accordingly, for any new project these areas will need to be identified: they cannot be ascertained without substantial work, and they could be reasonably extensive in some locations. Traversing or locating within such areas could be unavoidable, notwithstanding any rigorous route and site selection process which would seek to avoid such areas as far as practicable.
67. For a transmission line project that cannot avoid such a habitat even after a robust route and/or site selection process, a non-complying activity category will, under the bundling principle, result in the whole line being considered as non-complying. This in turn means that it will have to pass the gateway tests in s104D and either have

effects no more than minor or not be contrary to the whole suite of POP objectives and policies. I have not assessed the complete suite of POP objectives and policies to ascertain whether that would pose any critical impediment, and it is very difficult to do so in the absence of a specific project. However the nature and scale of such lines means that some effects (e.g. amenity, landscape or the need to disturb land for tower foundations) are very difficult to avoid.

Efficient and Effective

68. Introducing non-complying activity status for such habitats, even if it is restricted to rare and threatened habitats, will likely impose a significant and potentially insurmountable set of constraints on any nationally or regionally significant transmission line project, which I consider to be less efficient and effective than the discretionary activity status proposed by the MWRC. My conclusion is that, while both policy/rule options are effective in terms of meeting the objective for biodiversity, the MWRC approach is more efficient when taking into account the wider benefits, costs and risks. For the reasons outlined above it is my view that the activity status should remain discretionary.

ALTERNATIVE RULE

69. In my opinion, there is merit in separating out transmission and renewable energy generation activities and retaining discretionary activity status for these. The policy framework proposed by the Appellants clearly reinforces that and, in part, is attempting to recognise the constraints and national importance issues that apply to such infrastructure. While in principle I support that recognition, I also consider that it is more efficient and effective to retain the certainty of the policy intent while requiring discretionary activity consent in recognition of the uncertainty as to the spatial application of the policy. I do not consider that the approach I advocate would result in any less scrutiny of a proposal, however activities could be properly considered against the range of relevant factors in Section 104, rather than to (in the first instance) the threshold tests in Section 104D. This would be a means of clearly giving effect to the NPSET and NPSREG. The draft rule is attached as **Appendix 5**.

CONCLUSION

70. I support the conclusion of Ms Barton that the status of activities covered by Rule 12-6 of the POP should remain discretionary, and that the rule will achieve the RMA's purpose with the support of policies. I also accept her opinion that the rule and associated policy provisions are "working". My opinion is based upon:

- further consideration in terms of s32 that the discretionary activity category is the most efficient means of achieving the outcome sought by the objective;
- recognition of the clear and strong policy direction, and that it is sufficient to ensure that significant indigenous vegetation and habitats will be protected;
- acknowledgement of the uncertainty as to where such habitats are located;
- consideration of the implications for regionally and nationally significant infrastructure that cannot avoid rare, threatened or at-risk habitats even after appropriate and rigorous route or site (e.g. substations, etc) selection procedures and having regard to transmission or locational constraints;
- consideration of the requirement to give effect to the NPSET and NPSREG; and
- consideration of the issues around the bundling principle and potential impacts on regionally and significant infrastructure.

David le Marquand

Director: Burton Consultants

Appendix 1 - The National Policy Statement on Electricity Transmission (NPSET)
and the National Policy Statement for Renewable Electricity Generation 2011
(NPSREG)

NATIONAL POLICY STATEMENT

on Electricity Transmission

Issued by notice in the Gazette on 13 March 2008

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Preamble

This national policy statement sets out the objective and policies to enable the management of the effects of the electricity transmission network under the Resource Management Act 1991.

In accordance with section 55(2A)(a) of the Act, and within four years of approval of this national policy statement, local authorities are to notify and process under the First Schedule to the Act a plan change or review to give effect as appropriate to the provisions of this national policy statement.

The efficient transmission of electricity on the national grid plays a vital role in the well-being of New Zealand, its people and the environment. Electricity transmission has special characteristics that create challenges for its management under the Act. These include:

- Transporting electricity efficiently over long distances requires support structures (towers or poles), conductors, wires and cables, and sub-stations and switching stations.
- These facilities can create environmental effects of a local, regional and national scale. Some of these effects can be significant.
- The transmission network is an extensive and linear system which makes it important that there are consistent policy and regulatory approaches by local authorities.
- Technical, operational and security requirements associated with the transmission network can limit the extent to which it is feasible to avoid or mitigate all adverse environmental effects.
- The operation, maintenance and future development of the transmission network can be significantly constrained by the adverse environmental impact of third party activities and development.
- The adverse environmental effects of the transmission network are often local – while the benefits may be in a different locality and/or extend beyond the local to the regional and national – making it important that those exercising powers and functions under the Act balance local, regional and national environmental effects (positive and negative).
- Ongoing investment in the transmission network and significant upgrades are expected to be required to meet the demand for electricity and to meet the Government's objective for a renewable energy future, therefore strategic planning to provide for transmission infrastructure is required.

The national policy statement is to be applied by decision-makers under the Act. The objective and policies are intended to guide decision-makers in drafting plan rules, in making decisions on the notification of the resource consents and in the determination of resource consent applications, and in considering notices of requirement for designations for transmission activities.

However, the national policy statement is not meant to be a substitute for, or prevail over, the Act's statutory purpose or the statutory tests already in existence. Further, the national policy statement is subject to Part 2 of the Act.

For decision-makers under the Act, the national policy statement is intended to be a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act.

This preamble may assist the interpretation of the national policy statement, where this is needed to resolve uncertainty.

1. Title

This national policy statement is the National Policy Statement on Electricity Transmission 2008.

2. Commencement

This national policy statement comes into force on the 28th day after the date on which it is notified in the *Gazette*.

3. Interpretation

In this national policy statement, unless the context otherwise requires:
Act means the Resource Management Act 1991.

Decision-makers means all persons exercising functions and powers under the Act.

Electricity transmission network, electricity transmission and transmission activities/assets/infrastructure/resources/system all mean part of the national grid of transmission lines and cables (aerial, underground and undersea, including the high-voltage direct current link), stations and sub-stations and other works used to connect grid injection points and grid exit points to convey electricity throughout the North and South Islands of New Zealand.

National environmental standard means a standard prescribed by regulations made under the Act.

National grid means the assets used or owned by Transpower NZ Limited.

Sensitive activities includes schools, residential buildings and hospitals.

4. Matter of national significance

The matter of national significance to which this national policy statement applies is the need to operate, maintain, develop and upgrade the electricity transmission network.

5. Objective

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.

6. Recognition of the national benefits of transmission

POLICY 1

In achieving the purpose of the Act, decision-makers must recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission. The benefits relevant to any particular project or development of the electricity transmission network may include:

- i) maintained or improved security of supply of electricity; or
- ii) efficient transfer of energy through a reduction of transmission losses; or
- iii) the facilitation of the use and development of new electricity generation, including renewable generation which assists in the management of the effects of climate change; or
- iv) enhanced supply of electricity through the removal of points of congestion.

The above list of benefits is not intended to be exhaustive and a particular policy, plan, project or development may have or recognise other benefits.

7. Managing the environmental effects of transmission

POLICY 2

In achieving the purpose of the Act, decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.

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.

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.

POLICY 6

Substantial upgrades of transmission infrastructure should be used as an opportunity to reduce existing adverse effects of transmission including such effects on sensitive activities where appropriate.

POLICY 7

Planning and development of the transmission system should minimise adverse effects on urban amenity and avoid adverse effects on town centres and areas of high recreational value or amenity and existing sensitive activities.

POLICY 8

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 and areas of high recreation value and amenity and existing sensitive activities.

POLICY 9

Provisions dealing with electric and magnetic fields associated with the electricity transmission network must be based on the International Commission on Non-ionising Radiation Protection *Guidelines for limiting exposure to time varying electric magnetic fields (up to 300 GHz)* (Health Physics, 1998, 74(4): 494-522) and recommendations from the World Health Organisation monograph *Environment Health Criteria* (No 238, June 2007) or revisions thereof and any applicable New Zealand standards or national environmental standards.

8. Managing the adverse effects of third parties on the transmission network

POLICY 10

In achieving the purpose of the Act, 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 transmission network is not compromised.

POLICY 11

Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its medium to long-term plans for the alteration or upgrading of each affected section of the national grid (so as to facilitate the long-term strategic planning of the grid).

9. Maps

POLICY 12

Territorial authorities must identify the electricity transmission network on their relevant planning maps whether or not the network is designated.

10. Long-term strategic planning for transmission assets

POLICY 13

Decision-makers must recognise that the designation process can facilitate long-term planning for the development, operation and maintenance of electricity transmission infrastructure.

POLICY 14

Regional councils must include objectives, policies and methods to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses.

Explanatory note

This note is not part of the national policy statement but is intended to indicate its general effect

This national policy statement comes into force 28 days after the date of its notification in the *Gazette*. It provides that electricity transmission is a matter of national significance under the Resource Management Act 1991 and prescribes an objective and policies to guide the making of resource management decisions.

The national policy statement requires local authorities to give effect to its provisions in plans made under the Resource Management Act 1991 by initiating a plan change or review within four years of its approval.

NATIONAL POLICY STATEMENT

for Renewable
Electricity Generation 2011

Issued by notice in the Gazette on 14 April 2011

newzealand.govt.nz

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Preamble

This national policy statement sets out an objective and policies to enable the sustainable management of renewable electricity generation under the Resource Management Act 1991 ('the Act').

New Zealand's energy demand has been growing steadily and is forecast to continue to grow. New Zealand must confront two major energy challenges as it meets growing energy demand. The first is to respond to the risks of climate change by reducing greenhouse gas emissions caused by the production and use of energy. The second is to deliver clean, secure, affordable energy while treating the environment responsibly.

The contribution of renewable electricity generation, regardless of scale, towards addressing the effects of climate change plays a vital role in the wellbeing of New Zealand, its people and the environment. In considering the risks and opportunities associated with various electricity futures, central government has reaffirmed the strategic target that 90 per cent of electricity generated in New Zealand should be derived from renewable energy sources by 2025 (based on delivered electricity in an average hydrological year) providing this does not affect security of supply.

Development that increases renewable electricity generation capacity can have environmental effects that span local, regional and national scales, often with adverse effects manifesting locally and positive effects manifesting nationally.

This national policy statement does not apply to the allocation and prioritisation of freshwater as these are matters for regional councils to address in a catchment or regional context and may be subject to the development of national guidance in the future.

In some instances the benefits of renewable electricity generation can compete with matters of national importance as set out in section 6 of the Act, and with matters to which decision-makers are required to have particular regard under section 7 of the Act. In particular, the natural resources from which electricity is generated can coincide with areas of significant natural character, significant amenity values, historic heritage, outstanding natural features and landscapes, significant indigenous vegetation and significant habitats of indigenous fauna. There can also be potential conflicts with the relationship of Maori with their taonga and the role of kaitiaki. The New Zealand Coastal Policy Statement 2010 also addresses these issues in the coastal environment. Increased national consistency in addressing the competing values associated with the development of New Zealand's renewable energy resources will provide greater certainty to decision-makers, applicants, and the wider community.

Title

This national policy statement is the National Policy Statement for Renewable Electricity Generation 2011.

Commencement

This national policy statement will take effect 28 days after the date of its issue by notice in the New Zealand Gazette.

Interpretation

In this national policy statement, unless the context otherwise requires:

Act means the Resource Management Act 1991.

Decision-makers means all persons exercising functions and powers under the Act.

Distribution network means a distributor's lines and associated equipment used for the conveyance of electricity on lines other than lines that are part of the national grid.

Distributor means a business engaged in distribution of electricity.

National grid means the lines and associated equipment used or owned by Transpower to convey electricity.

Renewable electricity generation means generation of electricity from solar, wind, hydro-electricity, geothermal, biomass, tidal, wave, or ocean current energy sources.

Renewable electricity generation activities means the construction, operation and maintenance of structures associated with renewable electricity generation. This includes small and community-scale distributed renewable generation activities and the system of electricity conveyance required to convey electricity to the distribution network and/or the national grid and electricity storage technologies associated with renewable electricity.

Small and community-scale distributed electricity generation means renewable electricity generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network.

Terms given meaning in the Act have the meanings so given.

Matters of national significance

The matters of national significance to which this national policy statement applies are:

- a) the need to develop, operate, maintain and upgrade renewable electricity generation activities throughout New Zealand; and
- b) the benefits of renewable electricity generation.

Objective

To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation.

A. Recognising the benefits of renewable electricity generation activities

POLICY A

Decision-makers shall recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities. These benefits include, but are not limited to:

- a) maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;
- b) maintaining or increasing security of electricity supply at local, regional and national levels by diversifying the type and/or location of electricity generation;
- c) using renewable natural resources rather than finite resources;
- d) the reversibility of the adverse effects on the environment of some renewable electricity generation technologies;
- e) avoiding reliance on imported fuels for the purposes of generating electricity.

B. Acknowledging the practical implications of achieving New Zealand's target for electricity generation from renewable resources

POLICY B

Decision-makers shall have particular regard to the following matters:

- a) maintenance of the generation output of existing renewable electricity generation activities can require protection of the assets, operational capacity and continued availability of the renewable energy resource; and
- b) even minor reductions in the generation output of existing renewable electricity generation activities can cumulatively have significant adverse effects on national, regional and local renewable electricity generation output; and
- c) meeting or exceeding the New Zealand Government's national target for the generation of electricity from renewable resources will require the significant development of renewable electricity generation activities.

C. Acknowledging the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities

POLICY C1

Decision-makers shall have particular regard to the following matters:

- a) the need to locate the renewable electricity generation activity where the renewable energy resource is available;
- b) logistical or technical practicalities associated with developing, upgrading, operating or maintaining the renewable electricity generation activity;
- c) the location of existing structures and infrastructure including, but not limited to, roads, navigation and telecommunication structures and facilities, the distribution network and the national grid in relation to the renewable electricity generation activity, and the need to connect renewable electricity generation activity to the national grid;

- d) designing measures which allow operational requirements to complement and provide for mitigation opportunities; and
- e) adaptive management measures.

POLICY C2

When considering any residual environmental effects of renewable electricity generation activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation including measures or compensation which benefit the local environment and community affected.

D. Managing reverse sensitivity effects on renewable electricity generation activities

POLICY D

Decision-makers shall, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities.

E. Incorporating provisions for renewable electricity generation activities into regional policy statements and regional and district plans

E1 Solar, biomass, tidal, wave and ocean current resources

POLICY E1

Regional policy statements and regional and district plans shall include objectives, policies and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing renewable electricity generation activities using solar, biomass, tidal, wave and ocean current energy resources to the extent applicable to the region or district.

E2 Hydro-electricity resources

POLICY E2

Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities to the extent applicable to the region or district.

E3 Wind resources

POLICY E3

Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance and upgrading of new and existing wind energy generation activities to the extent applicable to the region or district.

E4 Geothermal resources

POLICY E4

Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing electricity generation activities using geothermal resources to the extent applicable to the region or district.

F. Incorporating provisions for small and community-scale renewable electricity generation activities into regional policy statements and regional and district plans

POLICY F

As part of giving effect to Policies E1 to E4, regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance and upgrading of small and community-scale distributed renewable electricity generation from any renewable energy source to the extent applicable to the region or district.

G. Enabling identification of renewable electricity generation possibilities

POLICY G

Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation by existing and prospective generators.

H. Time within which implementation is required

POLICY H1

Unless already provided for within the relevant regional policy statement or proposed regional policy statement, regional councils shall give effect to Policies A, B, C, D, E, F and G by notifying using Schedule 1 of the Act, a change or variation (whichever applies) within 24 months of the date on which this national policy statement takes effect.

POLICY H2

Unless already provided for within the relevant regional or district plans or proposed plans, plan changes or variations, local authorities shall give effect to Policies A, B, C, D, E, F and G by notifying using Schedule 1 of the Act, a change or variation (whichever applies) within the following timeframes:

- a) where the relevant regional policy statement or proposed regional policy statement already provides for the Policies, 24 months of the date on which this national policy statement takes effect; or
- b) where a change or variation to the regional policy statement or proposed regional policy statement is required by Policy H1, 12 months of the date on which the change or variation becomes operative.

Monitoring and reviewing the implementation and effectiveness of the national policy statement

To monitor and review the implementation and effectiveness of this national policy statement in achieving the purpose of the Act, the Minister for the Environment should:

- in collaboration with local authorities and relevant government agencies collect data for, and, as far as practicable, incorporate district and regional monitoring information into a nationally consistent monitoring and reporting programme, including monitoring the performance of local authorities against the timeframes for giving effect to this national policy statement;
- utilise other information gathered or monitored that assists in measuring progress towards the Government's national target for the generation of electricity from renewable sources;
- within five years of its taking effect, and thereafter as considered necessary, assess the effect of this national policy statement on relevant regional policy statements and regional or district plans, resource consents and other decision-making; and
- publish a report and conclusions on matters above.

Explanatory note

This note is not part of the national policy statement but is intended to indicate its general effect.

This national policy statement takes effect 28 days after the date of its issue by notice in the *New Zealand Gazette*. It recognises renewable electricity generation activities and the benefits of renewable electricity generation as matters of national significance under the Resource Management Act 1991.

This national policy statement is to be applied by all persons exercising powers and functions under the Act. The objective and policies are intended to guide applicants and decision-makers on applications for resource consent, in making decisions on the notification and determination of resource consent applications, in considering a requirement for a designation or a heritage order, in considering an application for a water conservation order and when exercising other powers as required by the Act. Regional policy statements, regional plans and district plans must give effect to this national policy statement.

This national policy statement requires regional councils, unless they have already provided for renewable electricity generation activities, to give effect to its provisions by notifying changes to existing or proposed regional policy statements within 24 months of the date on which it takes effect. In the case of district plans, proposed plans or variations, local authorities are required to give effect to its provisions by notifying changes within the following timeframes: 24 months of the date on which this national policy statement takes effect where the regional policy statement or proposed regional policy statement already provides for the policies; or, where a change or variation to the regional policy statement or proposed regional policy statement is required, within 12 months of the date on which the change or variation becomes operative.

Appendix 4 - Joint Memorandum of Counsel for the Minister of Conservation and
Wellington Fish and Game dated 9th December 2011

BEFORE THE ENVIRONMENT COURT

In the matter of appeals under clause 14 of the First Schedule to the Resource Management Act 1991 concerning proposed One Plan for the Manawatu-Wanganui region ("Proposed One Plan").

between **CHIEF OF THE NEW ZEALAND DEFENCE FORCE**
ENV-2010-WLG-000144

and **ERNSLAW ONE LTD**
ENV-2010-WLG-000146

and **NEW ZEALAND HISTORIC PLACES TRUST**
ENV-2010-WLG-000147

and **FEDERATED FARMERS OF NEW ZEALAND**
ENV-2010-WLG-000148

and **MERIDIAN ENERGY LTD**
ENV-2010-WLG-000149

and **MINISTER OF CONSERVATION**
ENV-2010-WLG-000151

and **PROPERTY RIGHTS IN NEW ZEALAND**
ENV-2010-WLG-000152

and **NEW ZEALAND TRANSPORT AGENCY**
ENV-2010-WLG-000153

and **WELLINGTON FISH & GAME COUNCIL**
ENV-2010-WLG-000157

and **GENESIS POWER LTD**
ENV-2010-WLG-000159

and **HANCOCK FOREST MANAGEMENT NZ LTD**
ENV-2010-WLG-000161

and **NEW ZEALAND FOREST MANAGERS LTD**
ENV-2010-WLG-000164
Appellants

and **MANAWATU-WANGANUI REGIONAL COUNCIL**
Respondent

MEMORANDUM RELATING TO APPEALS ON THE TOPIC OF BIODIVERSITY

Dated: 9 December 2011

MAY IT PLEASE THE COURT

1. This memorandum is filed by the Minister of Conservation (MOC) and Wellington Fish & Game Council (WFGC) in compliance with the Court's directions dated 25 November 2011. The Court's directions confirmed the timetable for substantive biodiversity matters as set out in paragraphs 8 and 9 of the respondent's memorandum dated 23 November.
2. Accordingly, this Memorandum attaches a Table identifying the provision(s) in the POP relating to biodiversity which the WFGC and MOC seek. WFGC and MOC have a common interest and therefore, following the Court's directions, they have co-operated with each other to produce a Table which reflects both their positions. The provisions sought within the Table are also within the scope of the combined appeals of WFGC and MOC.
3. The following provides a list of the technical and evaluative witnesses intended to be called on the substantive biodiversity topic, and a reasonable description of the nature of their evidence:

Ms Amy Hawcroft, Ecologist, Department of Conservation

- Review of Schedule E of the POP and the methodology for identifying "at risk", "rare" and "threatened" habitats in Schedule E.
- Importance of such habitats.
- "Rare" and "threatened" habitats: significance under section 6(c) of the RMA.
- Comment on the significance criteria contained in Policy 12.6 of the POP and the inclusion of "functioning ecosystem processes" in that Policy.
- The need to provide for a two-tiered approach to manage "rare" and "threatened" habitats as distinct from "at risk" habitats.

Dr Philippe Gerbeaux, Ecologist, Department of Conservation

- Functions and values of wetlands in New Zealand and in Horizons Region.
- International and national recognition of the importance of wetlands.

- Extent of loss of wetlands in NZ and in the Horizons Region.
- Continuing anthropogenic pressures on wetlands.
- Review of the wetland habitat descriptions in Schedule E of the One Plan – methodology for including those wetlands as “rare” or “threatened” habitats.
- Wetland habitats described in Schedule E: Significance under section 6(c) of the RMA.

Mr Bruce Hill, Planner, Department of Conservation

- Explanation of the principles for assessing ‘biodiversity offsets’, including circumstances where biodiversity offsets may be inappropriate.
- Comment on how biodiversity offsets principles should be reflected in Policies 7-2A and 12-5 of the POP.

Ms Helen Marr, Planner, Perception Planning

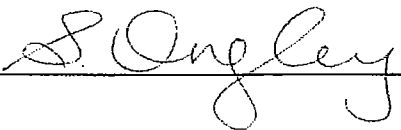
- Comment on the plan provisions suitable for Policies 7-2A , 12-5 and 12-6 of the POP on the basis of assessment of technical evidence.
- Comment on the two-tiered approach to manage “rare” and “threatened” habitats as distinct from “at risk” habitats, including differentiated activity status for rare & threatened habitats.

4. MOC and WFGC would wish to reserve their ability to call further witnesses depending on:
 - a) The advice from the other appellants and section 274 parties as to the biodiversity provisions in the POP which those parties now seek; and
 - b) The advice from other appellants and section 274 parties on the technical witnesses that they intend to call.
5. In relation to the timetable set out in the respondent Council’s memorandum and confirmed by the Court, it is noted that MOC and WFGC’s ecology witnesses may have difficulty *completing* expert caucusing by 31 January 2012. MOC was consulted on that timetable before it was filed, however did not at that time have the opportunity to consult with its witnesses. MOC’s main witness on the Biodiversity topic, Ms Amy Hawcroft, is involved in an extensive field-based monitoring programme December 2011 through January 2012. Ms

Hawcroft will be in the field the first three weeks of January. Although she can be involved in caucusing in the last week of January 2012 (and prior to 31 January) it is unknown whether other parties' ecologists are available during that time.

6. The potential difficulty with the ecological expert witness caucusing is raised now in order to provide early notification to the Court that, depending on availability of other parties' ecologists, it may be necessary for ecologists to continue caucusing beyond 31 January 2012. The requirement in the Court's 24 November minute stating that joint statements of experts must be lodged with the Court no less than 7 clear days before the scheduled hearing date will nevertheless be adhered to, and every attempt will be made to complete the caucusing before 31 January 2012.

DATED this 9th day of December 2011.



Counsel for Minister of Conservation

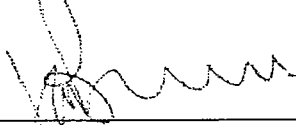
Counsel for Wellington Fish & Game Council

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6. The potential difficulty with the ecological expert witness caucusing is raised now in order to provide early notification to the Court that, depending on availability of other parties' ecologists, it may be necessary for ecologists to continue caucusing beyond 31 January 2012. The requirement in the Court's 24 November minute stating that joint statements of experts must be lodged with the Court no less than 7 clear days before the scheduled hearing date will nevertheless be adhered to, and every attempt will be made to complete the caucusing before 31 January 2012.

DATED this day of December 2011.

Counsel for Minister of Conservation



Counsel for Wellington Fish & Game Council

Table showing Biodiversity provisions sought by MOC and WFGC, 9 December 2011

Note: the cross-reference to other rules within proposed rules 12-6 and 12-7 will need to be checked following Council's release of a track-changed version of the POP based on consent orders.

Existing provision in POP	Appellants proposed version of provision (changes to POP decisions-version shown underlined and struck-through)	Horizons Appeal point number	274 parties
Policy 7-2A: Regulation of activities affecting indigenous biological diversity	<p>For the purposes of managing indigenous <i>biological diversity</i>[^] in the Region:</p> <p>(a) <i>Rare habitats*</i> and <i>threatened habitats*</i> must be recognised as areas of significant indigenous vegetation and significant habitats of indigenous fauna unless-site-specific-assessments-determine-otherwise.</p> <p>(b) <i>At-risk habitats*</i> must be <u>maintained or enhanced</u> and <u>require site*-specific assessments to determine their ecological significance.</u></p> <p>(c) <u>Vegetation clearance*</u>, <u>land disturbance*</u>, <u>cultivation*</u> and certain other resource use activities within <i>rare habitats*</i>, <i>threatened habitats*</i> and <i>at-risk habitats*</i> must obtain a resource consent[^].</p> <p>(d) <u>Rare habitats and threatened habitats must be protected by not allowing vegetation clearance, land disturbance, cultivation and certain other resource use activities except as provided for by (f).</u></p> <p>(ee) Potential adverse effects[^] on any <i>rare habitat*</i>, <i>threatened habitat*</i> or <i>at-risk habitat*</i> <u>located within or adjacent to an area of forestry*</u> must be minimised.</p>	Points 63 and 64	Mighty River Power. Genesis Power Limited. Meridian Energy Limited. TrustPower Limited. NZ Defence Force. NZ Historic Places Trust. Powerco Limited. Transpower Limited.

	<p>(ef) When regulating the activities described in (c), (d) and (e), the Regional Council must, and when exercising functions and powers described in Policy 7-1, Territorial Authorities[^] must:</p> <ul style="list-style-type: none"> i. allow activities undertaken for the purposes of pest plant and pest animal control or habitat maintenance or enhancement, ii allow indigenous biological diversity mitigation offsets in appropriate circumstances, which may include the establishment of infrastructure and other physical resources of regional or national importance as identified in Policy 3-1, iii allow the <i>maintenance</i>[*] and <i>upgrade</i>[*] of existing structures[^], including infrastructure[^] and other physical resources of regional or national importance as identified in Policy 3.1, and iii—not unreasonably restrict the existing use of production land[^] and <u>may:</u> <ul style="list-style-type: none"> iii. <u>allow indigenous biological diversity mitigation offsets in appropriate circumstances, and only after determining that:</u> <ul style="list-style-type: none"> (a) <u>any adverse effects[^] cannot be avoided, remedied or otherwise mitigated; and</u> (b) <u>that such offsets will result in a net indigenous biological diversity[^] gain.</u> <p><u>For the purposes of this policy, 'appropriate circumstances' may include the establishment of infrastructure and other physical resources of regional or national importance as identified in Policy 3-1 where the national or regional benefits of a proposal outweigh</u></p> 		<p>Horticulture New Zealand.</p> <p>Federated Farmers of New Zealand.</p> <p>Progress Castledcliff.</p> <p>Royal Forest and Bird Protection Society Inc.</p> <p>Sustainable Whanganui.</p>
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	<p><u>the national, regional and local costs (including adverse effects on the environment) of establishing or undertaking the activity.</u></p>		
<p>Policy 12-5: Consent decision-making for activities in rare habitats*, threatened habitats* and at-risk habitats*</p>	<p>For activities regulated under Rule 12-6 and Rule 12-7, the Regional Council must make decisions on consent applications and set consent conditions[^] on a case-by-case basis, having regard to:</p> <ul style="list-style-type: none"> (i) the Regional Policy Statement, particularly Objective 7-1 and Policy 7-2A, (ii) the significance of the area of habitat, in terms of its representativeness, rarity and distinctiveness, and ecological context, as assessed under Policy 12-6, (iii) the potential adverse effects[^] of the proposed activity on that significance, and (iv) for activities regulated under ss13, 14 and 15 RMA, the matters set out in Policy 12-1(h) and relevant objectives and policies in Chapters 6, 13, 15 and 16, <u>and</u> (v) <u>for renewable energy generation activities, any national, regional or local benefits arising from the proposed activity compared with any national, regional and local costs (including adverse environmental effects) of establishing or undertaking the activity.</u> <p>(b) Consent must generally not be granted for vegetation clearance*, land disturbance*, forestry* or cultivation* and certain other resource use activities in</p>	<p>Points 65 and 66</p>	<p>Mighty River Power. Federated Farmers. Meridian Energy Limited. TrustPower Limited. Transpower Limited. Progress Castlediff. Royal Forest and Bird Protection Society Inc. Sustainable Whanganui.</p>

	<p>a rare habitat*, threatened habitat*, or at-risk habitat* assessed to be an area of significant indigenous vegetation or a significant habitat of indigenous fauna, unless:</p> <p>(i) any more than minor adverse effects[^] on that habitat's representativeness, rarity and distinctiveness, or ecological context assessed under Policy 12-6 are avoided, as far as reasonably practicable or otherwise remedied or mitigated, or</p> <p>(ii) any more than minor adverse effects[^] which cannot reasonably be avoided, remedied or mitigated are offset to result in a net indigenous biological diversity[^] gain.</p> <p>(ii) any residual adverse effects that cannot be avoided are remedied or mitigated within the area affected by the activity, or</p> <p>(iii) where mitigation outside the affected area would result in a better indigenous biological diversity* outcome than remedying or mitigating effects within the area affected, mitigation may, in appropriate circumstances, include the use of offsets that result in a net indigenous biological diversity[^] gain.</p> <p>For the purposes of this policy, 'appropriate circumstances' may include the establishment of infrastructure and other physical resources of regional or national importance as identified in Policy 3-1 where the national or regional benefits of a proposal outweigh the national, regional and local costs (including adverse effects on the environment) of establishing or undertaking the activity.</p> <p>(c) Consent must generally may be granted for vegetation clearance*, land</p>	
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	<p>disturbance*, forestry* or cultivation* and certain other resource use activities in an at-risk habitat* assessed not to be an area of significant indigenous vegetation or a significant habitat of indigenous fauna when:</p> <p>(i) there will be no significant adverse effects^ on that habitat's representativeness, rarity and distinctiveness, or ecological context as assessed in accordance with Policy 12-6, or</p> <p>(ii) any significant adverse effects^ are avoided, as far as reasonably practicable, and any residual adverse effects that cannot reasonably be avoided are remedied or mitigated. <u>(Mitigation may, in appropriate circumstances, include the use of offsets that result in a net indigenous biological diversity^ gain), or</u></p> <p>(iii) any significant adverse effects^ which cannot reasonably be avoided, remedied or mitigated are offset to result in a net indigenous biological diversity^ gain.</p> <p><u>In the application of this policy when deciding whether adverse effects on a habitat's representativeness, rarity and distinctiveness, or ecological context can be avoided, any functional, operational or technical constraints that require the activity to be located or designed in the manner proposed will be taken into account.</u></p> <p>(d) When assessing an offset in accordance with (b)(iii) or (c)(ii), decision-makers must have regard to:</p> <p>(i) the desirability of providing for a net indigenous <u>biological diversity^</u></p>		
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<p>gain within the same habitat type or, where not reasonably practicable,</p> <ul style="list-style-type: none"> (ii) the desirability of providing for a net gain in the same ecologically relevant locality as the affected habitat, and (iii) the appropriateness of establishing infrastructure⁴ and other physical resources of regional or national importance as identified in Policy 3-4; (ii) <u>whether offsets are inappropriate for the ecosystem (or habitat) type by reason of its vulnerability or irreplaceability, and</u> (ii) <u>the importance of ensuring offsets have a significant likelihood of being achieved and maintained in the long term and preferably in perpetuity.</u> 		
<p>Policy 12-6: Criteria for assessing the significance of, and effects⁴ of activities on, an area of habitat.</p>	<p>(a) An area of <i>rare habitat</i>⁵, <i>threatened habitat</i>⁶ or <i>at-risk habitat</i>⁷ may be recognised as being an area of significant indigenous vegetation or a significant habitat of indigenous fauna if:</p> <ul style="list-style-type: none"> (i) in terms of representativeness, that habitat: <ul style="list-style-type: none"> (A) comprises indigenous habitat type that is under-represented (20% or less of known or likely former cover), or (B) is an area of indigenous vegetation that is large relative to other areas of habitat in the Ecological District or Ecological Region, with indigenous species composition, structure and diversity typical of the habitat type,⁸ and 	<p>Points 67, 68 and 69</p> <p>Federated Farmers. Horticulture New Zealand. Meridian Energy Limited. Mighty River Power. TrustPower Limited. Progress Castelcliff. Royal Forest and Bird</p>

	<p>(C) has functioning ecosystem processes.</p> <p>(ii) In terms of rarity and distinctiveness, that habitat supports and indigenous species or community that:</p> <p>(A) is classified as threatened (as determined by the <i>New Zealand Threat Classification System and Lists*</i>), or</p> <p>(B) is distinctive to the Region, or</p> <p>(C) is at a natural distributional limited, or</p> <p>(D) has a naturally disjunct distribution that defines a floristic gap, or</p> <p>(E) was originally (i.e., prehuman) uncommon within New Zealand, and supports an indigenous species or community of indigenous species.</p> <p>Or</p> <p>(iii) in terms of ecological context, that habitat provides:</p> <p>(A) connectivity (physical or process connections) between two or more areas of indigenous habitat, or</p> <p>(B) an ecological buffer (provides protection) to an adjacent area of indigenous habitat (terrestrial or aquatic) that is ecologically significant, or</p> <p>(C) part of an indigenous ecological sequence or connectivity between different habitat types across a gradient (eg., altitudinal or hydrological), or</p> <p>(D) important breeding areas, seasonal food sources, or an important component of a migration path for indigenous species, or</p> <p>(E) habitat for indigenous species that are dependent on large and contiguous habitats.</p>		<p>Protection Society Inc. Sustainable Whanganui.</p>
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<p>Rule 12-6</p> <p>Some activities within rare habitats, threatened habitats and at-risk habitats</p>	<p>(b) The potential adverse effects[^] of vegetation clearance[^], land disturbance[^], forestry[^] or cultivation[^] on a rare habitat[^], threatened habitat[^], or at-risk habitat[^] must be determined by the degree to which the proposed activity will diminish any of the above characteristics of the habitat that make it significant, while also having regard to the ecological sustainability of that habitat.</p>		
<p>Rule 12-6</p> <p>Some activities within rare habitats, threatened habitats and at-risk habitats</p>	<p><u>Rule Column:</u> 12-6 Some activities within rare habitats, threatened habitats and at-risk habitats</p> <p><u>Activity Column:</u> Except as regulated by Rules 13-2, 13-10, 13-22, 15-5B, 15-9, 16-3, 16-5, 16-6, 16-8 in relation to any existing small dam structure[^], 16-13 and 16-14, any of the following activities within an rare habitat[^], threatened habitat[^] or at-risk habitat[^]:</p> <p>(a) vegetation clearance[^], land disturbance[^] or cultivation[^] pursuant to s9(2) RMA</p> <p>(b) forestry[^] pursuant to s9(2) RMA that does not meet condition[^], standard or term of Rule 12-2 (b)(iii) or (c)</p> <p>(c) the drilling, construction or alteration of any bore[^] pursuant to s9(2) RMA</p> <p>(d) Activities restricted by s13(1) or s13(2) RMA in the beds[^] of rivers[^] or lakes[^]</p> <p>(e) the taking, using, damming or diverting of water[^] pursuant to s14(2) RMA</p> <p>(f) discharge[^] of water[^] or contaminants[^] into water[^] or onto or into land[^] pursuant to s15(1) or s15(2A) RMA.</p> <p><u>Classification column:</u> Discretionary</p>	<p>Points 71, 72 73 and 74</p>	<p>Federated Farmers</p> <p>Horticulture New Zealand.</p> <p>Meridian Energy Limited.</p> <p>TrustPower Limited.</p> <p>NZ Defence Force.</p> <p>Mighty River Power.</p> <p>Progress Castelcliff.</p> <p>Royal Forest and Bird Protection Society Inc.</p> <p>Sustainable Whanganui.</p>

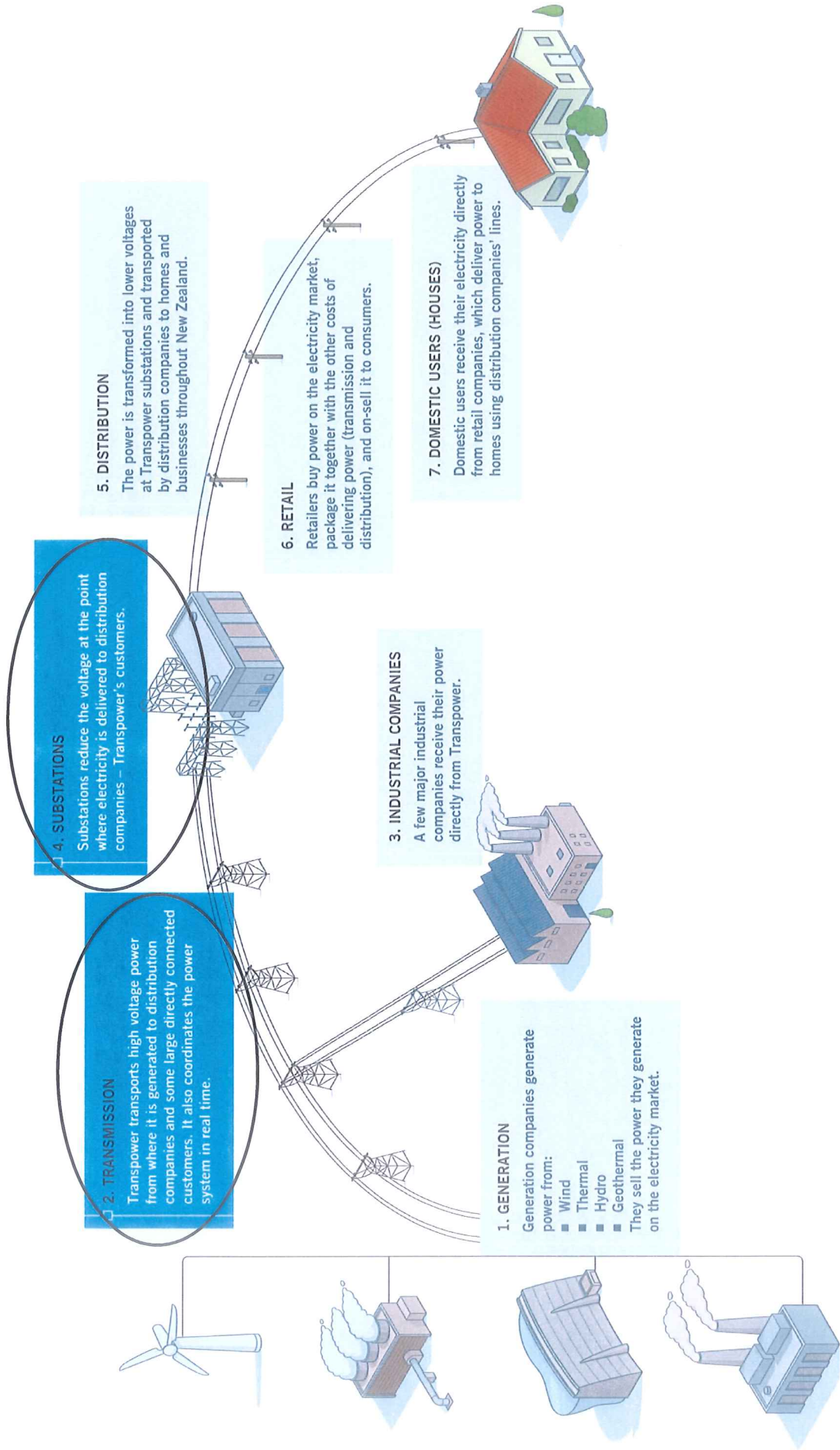
12-7 [New Rule]	<p><u>Rule Column: 12-7 Some activities within rare habitats* and threatened habitats*</u></p> <p><u>Activity Column: Except as regulated by Rules 13-2, 13-10, 13-22, 15-5B, 15-9, 16-3, 16-5, 16-6, 16-8 in relation to any existing small dam structure[^], 16-13 and 16-14, any of the following activities within a rare habitat* or threatened habitat:</u></p> <p><u>(a) vegetation clearance[*], land disturbance[*] or cultivation[*] pursuant to s9(2) RMA</u></p> <p><u>(b) forestry[*] pursuant to s9(2) RMA that does not meet condition[^], standard or term of Rule 12-2 (b)(iii) or (c)</u></p> <p><u>(c) the drilling, construction or alteration of any bore[*] pursuant to s9(2) RMA</u></p> <p><u>(d) Activities restricted by s 13(1) or s13(2) RMA in the beds[^] of rivers[^] or lakes[^]</u></p> <p><u>(e) the taking, using, damming or diverting of water[^] pursuant to s14(2) RMA</u></p> <p><u>(f) discharge[^] of water[^] or contaminants[^] into water[^] or onto or into land[^] pursuant to s15(1) or s15(2A) RMA.</u></p> <p><u>Classification column: Non-complying.</u></p> <p><u>Control/Discretion/Non-notification Column: Activities within a rare habitat* or a threatened habitat will be publicly notified</u></p>	Points 71, 72 73 and 74	<p>Federated Farmers.</p> <p>Horticulture New Zealand.</p> <p>Meridian Energy Limited.</p> <p>TrustPower Limited.</p> <p>NZ Defence Force.</p> <p>Mighty River Power.</p> <p>Progress Castelcliff.</p> <p>Royal Forest and Bird Protection Society Inc.</p> <p>Sustainable Whanganui.</p>
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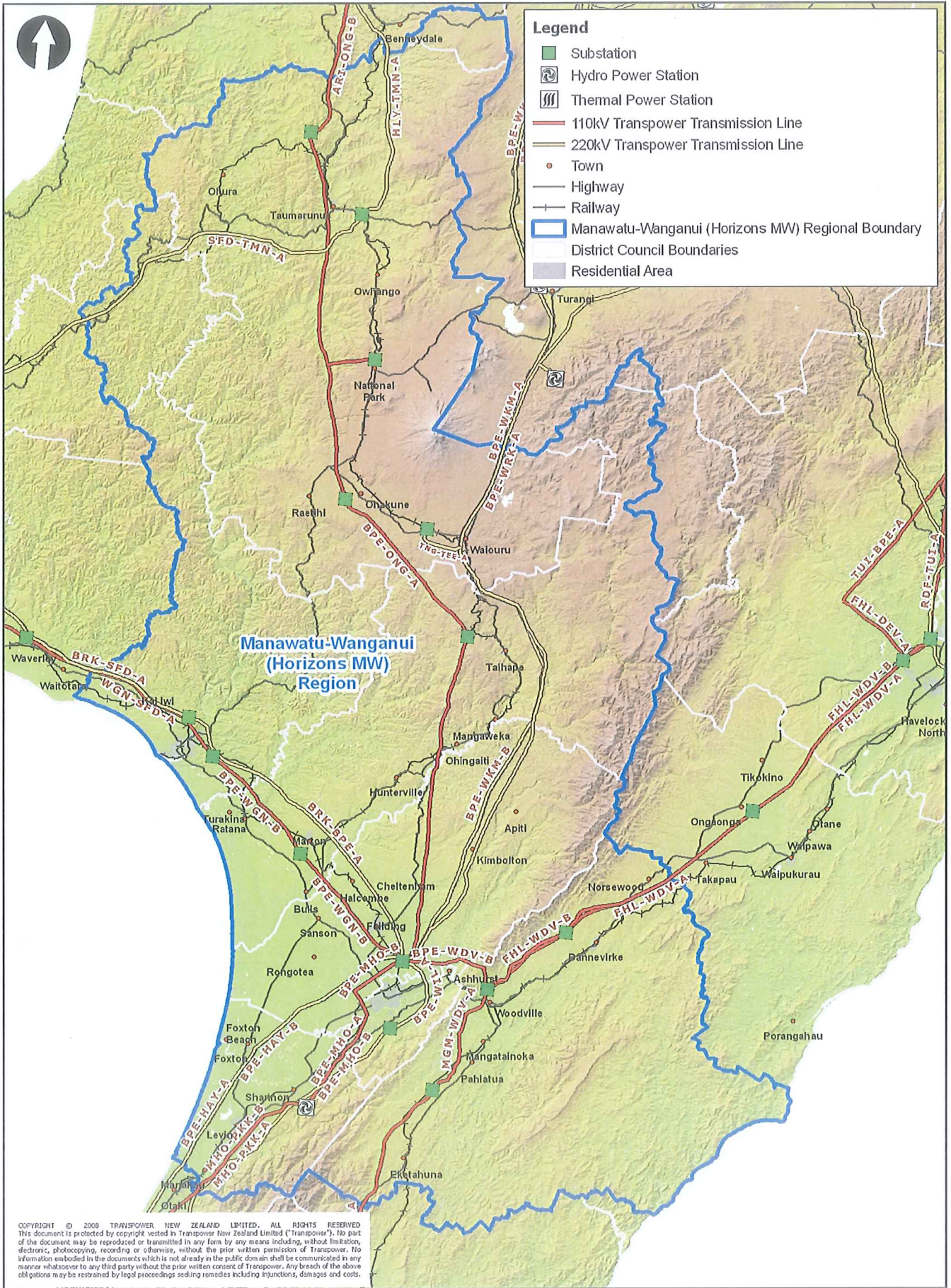
Appendix 5 - Alternate version of Rule 12-6/7

Rule	Activity	Classification	Conditions/ standards/ terms	Control/ discretion non- notification
12-6 A Some activities within <i>rare</i> <i>habitats</i>[*], <i>threatened</i> <i>habitats</i>[*] and <i>at-risk</i> <i>habitats</i>[*]	Except as regulated by Rules 13-2, 13-10, 13-22, 15-5B, 15-9, 16-3, 16-5, 16-6, 16-8 in relation to any existing small dam <i>structure</i> [^] , 16-13 and 16-14, any <u>transmission or renewable energy activities</u> within a <i>rare habitat</i> [*] , <i>threatened habitat</i> [*] or <i>at-risk habitat</i> [*] involving: (a) <i>vegetation clearance</i> [*] , <i>land disturbance</i> [*] or <i>cultivation</i> [*] pursuant to s9(2) RMA (b) <i>forestry</i> [*] pursuant to s9(2) RMA that does not meet <i>condition</i> [^] , standard or term of Rule 12-2 (b)(iii) or (c) (c) the drilling, construction or alteration of any <i>bore</i> [*] pursuant to s9(2) RMA (d) activities restricted by s13(1) or s13(2) RMA in the <i>beds</i> [^] of <i>rivers</i> [^] or <i>lakes</i> [^] (e) the taking, using, damming or diverting of <i>water</i> [^] or <i>contaminants</i> [^] into <i>water</i> [^] or onto <i>land</i> [^] pursuant to s15(1) or s15(2A) RMA.	Discretionary		

Appendix 2 - Schematic view of the power supply system and maps of Powerco and
Transpower assets in the MWRC region

Where Transpower fits in





TRANSPOWER

Transpower Assets in the Manawatu-Wanganui (Horizons MW) Region

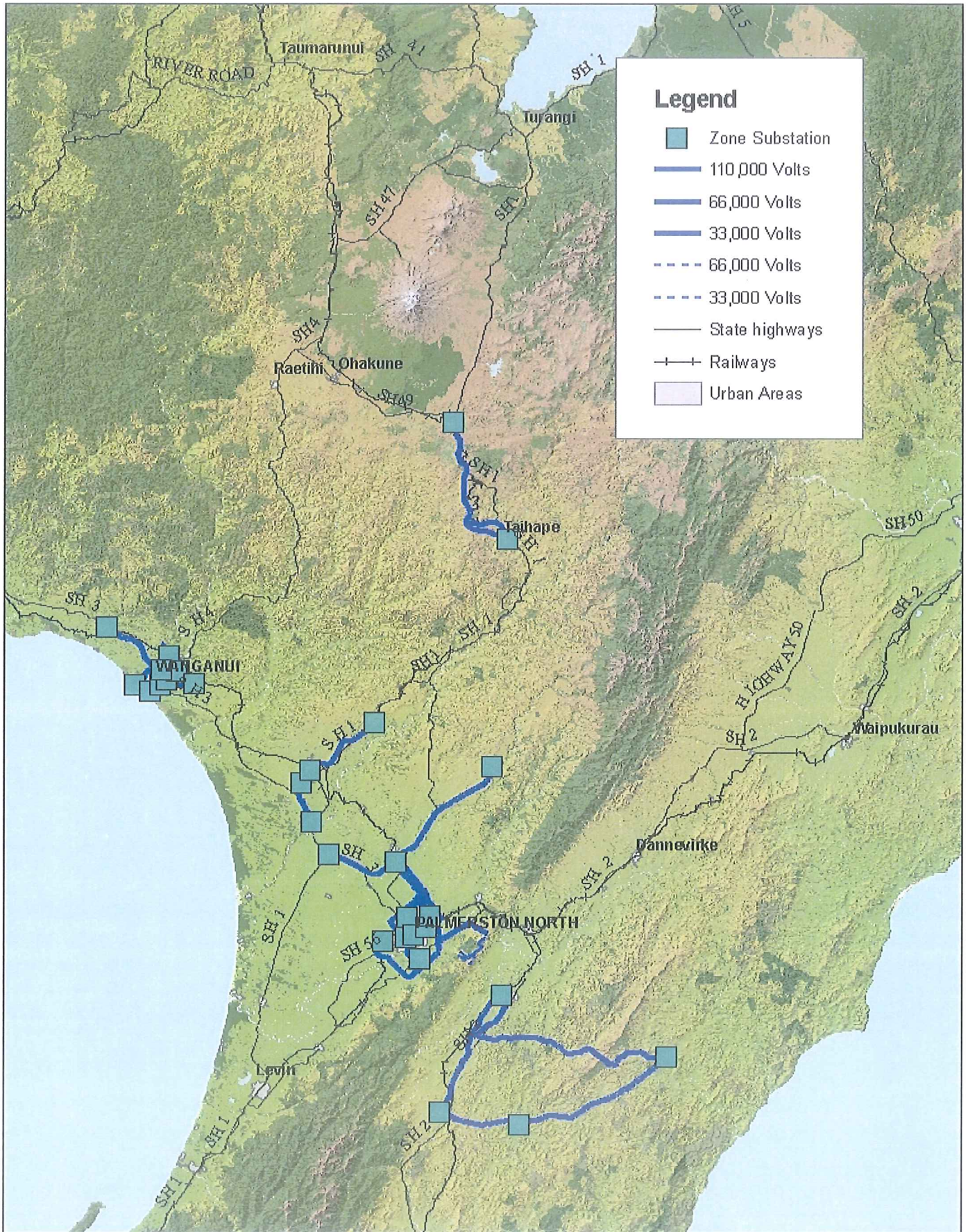
Prepared by:



22nd May 2009

Projection: NZTM 2000 Scale: 1:1,014,525 Plan Size: A4P





Legend

- Zone Substation
- 110,000 Volts
- 66,000 Volts
- 33,000 Volts
- State highways
- Railways
- Urban Areas

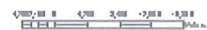


*This plan is a general guide only and does not constitute an offer of any financial product. It is subject to change without notice. For more information, please contact your local Powerco office.

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Powerco Assets in the Manawatu Wanganui (Horizons MW) Region



Print 18/02/22

Appendix 3 - Transpower's Summary Guide to the ACRE Model: A Site and Route
Selection Tool, dated 17th November 2011

THE ACRE MODEL: A Site and Route Selection Tool

Summary Guide

17th November 2011

Keeping the energy flowing



TRANSPOWER



Transpower New Zealand Limited The National Grid

THE ACRE MODEL

A Site and Route Selection Tool

Transpower has developed the ACRE model to identify and secure the most suitable location for new and replacement transmission infrastructure (such as lines, substations and switching stations).

The ACRE process encourages integration across disciplines (eg engineering, environment and property) and utilises principles designed to be adapted to suit individual projects, commensurate with scale and complexity.

1.1 Why use ACRE?

The ACRE model provides a robust and consistent method for locating transmission assets that ensures the selection of sites and routes for new or replacement transmission assets will:

1. Meet statutory requirements under the Resource Management Act 1991:

- **National Policy Statement on Electricity Transmission**– requiring Transpower to manage the adverse environmental effects of its network, including minimising adverse effects on various sensitive areas/activities and utilising route site and method selection to avoid, remedy or mitigated adverse effects;
- **Designations and Consents** - for designations, this principally centres around the section 171(1)(b) requirement to demonstrate adequate consideration of alternative sites, routes and methods. For the resource consent process this relates to matters included under Schedule 4;

2. Meet statutory tests under the Public Works Act 1981:

- The ability to demonstrate a robust assessment of alternative sites, routes, or other methods is important in the event that compulsory acquisition of land is required. Specifically, where a compulsory acquisition process has been initiated **and** an objection to the Notice of intention to take land has been lodged with the Environment Court, section 24(7)(b) of that Act requires the Court to enquire into the adequacy of the consideration given to alternative sites, routes, or other methods of achieving the objectives of the work.

3. Minimise difficulties gaining approvals - Reduce difficulties during the consenting and designation processes, the construction period and in the longer term due to the robust assessment of the advantages and disadvantages of alternatives and to identify the most suitable site for Transpower, the customer and the local community.

4. Deliver good environmental outcomes - Achieve good, publicly demonstrable environmental outcomes, leading to more positive relationships with local authorities and communities.

5. Facilitate integrated decision making - Allow the different disciplines – engineering, property and environment to work together in a clear series of steps that enables the team to come to an informed decision taking in account all the competing requirements and issues;

6. Ensure transparency – demonstrates how decisions were made and factors taken into account in choosing sites and routes – vital when preparing for Council and Environment Court proceedings.

ACRE was originally developed and adopted by Transpower to apply to the North Island Grid Upgrade Project. Thus the acronym:

Area, **C**orridor, **R**oute, **E**asement

refers specifically to the process to determine the location of the proposed 220kV/400kV transmission line. However the principles can be applied equally to the locating of non linear transmission assets.

1.2 What is ACRE?

The ACRE model is a decision-making tool that involves progressively detailed investigation and filtering of information to identify, select and confirm a final location for transmission assets. ACRE ensures that

information from the relevant disciplines (engineering, environmental planning and property) is integrated and coordinated in order to achieve the most appropriate outcome.

ACRE ensures that information from the relevant disciplines (engineering, environmental planning and property) is integrated and coordinated to achieve the most appropriate outcome.

The process starts with the broadest feasible area and systematically and progressively narrows the area of interest down to a single preferred site/route through increasingly detailed information collection and analysis of potential effects at each stage.

The ACRE process systematically documents key considerations in the selection of a site/route. It takes into account local constraints and conditions to identify issues that will affect the successful completion of a project.

The process requires high level risks to the project to be highlighted at the end of each section of work. These risks can then be further investigated, reported and fed into decision-making for the project as required.

1.3 When should the ACRE model be used?

<p>The ACRE model should be used for the following situations:</p> <ol style="list-style-type: none"> 1. Proposed new transmission lines and structures not located within an existing designation already secured for that purpose; 2. Relocation of existing transmission lines; 3. Proposed new substations and switching stations. 	<p>✓ ✓ ✓</p>
<p>Activities not addressed by the ACRE process are:</p> <ol style="list-style-type: none"> 1. Minor relocation of one or two transmission towers 2. Upgrading of existing assets not involving the relocation of lines or switchyard assets. 	<p>✗ ✗</p>

1.4 Pre ACRE Requirements

To enable the initiation of the ACRE process, the following steps need to be completed first:

1. The establishment of a project team and of a project plan. The project plan should identify relevant Transpower policies on matters such as consultation and communication, and specify clear accountabilities, outcomes and time frames.
2. A high level scoping of the scale and complexity of the project.

To provide a robust platform for the ACRE process and enable inadequacies to be addressed appropriately, before they adversely affect site/route selection and the environmental approvals process, the following critical engineering information is also required:

1. **Justification for works** - This is particularly important where a designation is to be sought, as the RMA requires Transpower, as the requiring authority, to establish that the work and designation is 'reasonably necessary';
2. **Confirmation of what consideration of engineering options/alternatives has occurred** - This is necessary to help fulfil Transpower's obligations under the Resource Management Act 1991(RMA) to consider alternative methods (applicable to both consent and designation processes);
3. **System/engineering constraints defining the area in which the new infrastructure could feasibly be located** - to define the study area within which to assess constraints and search for preferred sites/routes. While geographical and environmental issues influence study area boundaries, the area is primarily defined by system and engineering matters, thus ACRE cannot begin without this data.

1.5 Key process stages

While the ACRE model provides a set of generic principles and outcomes, the application of the process requires tailoring commensurate to the scale and complexity of the particular project. Aspects such as extent of consultation and the level of detail and scale of asset location options analysis will vary.

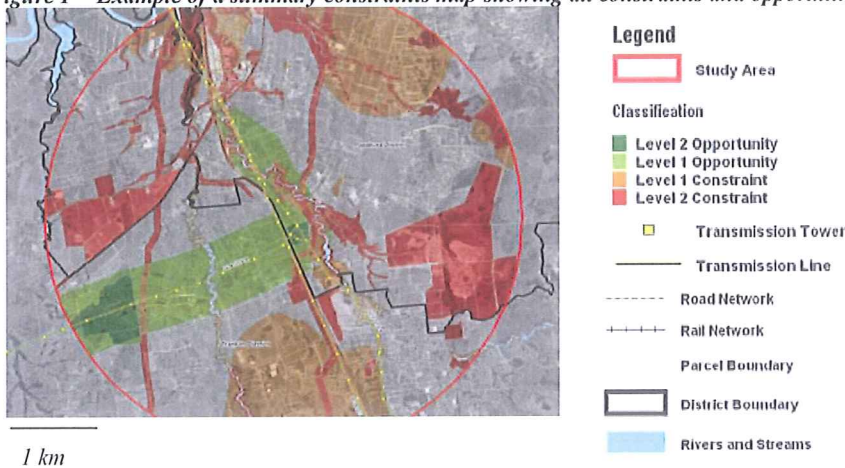
ACRE provides a set of generic principles and required outcomes that can be tailored in their application to suit individual projects, commensurate to their scale and complexity.

The generic project stages are briefly outlined below:

Stage 1 (A) - Constraints Analysis/ Area report

This stage is primarily a desk-top information gathering exercise. At a macro level, generally available information is gathered and mapped on a comparable basis. Within the study area, sub areas unsuitable for locating transmission assets are identified, along with 'areas of least constraint' and/or 'areas of opportunity' for potentially locating transmission infrastructure. These areas provide the focus for more detailed investigations. Stakeholder engagement will be minimal at this stage, and primarily focused on communication rather than consultation.

Figure 1 - Example of a summary constraints map showing all constraints and opportunities



Stage 2 (C/R/E) – Confirming the preferred location for the proposed transmission asset

This stage involves more detailed information gathering, filtering and analysis of the areas of least constraint (identified in Stage 1), and the identification and assessment of the available alternatives for locating an asset and confirmation of a preferred site/route for the asset.

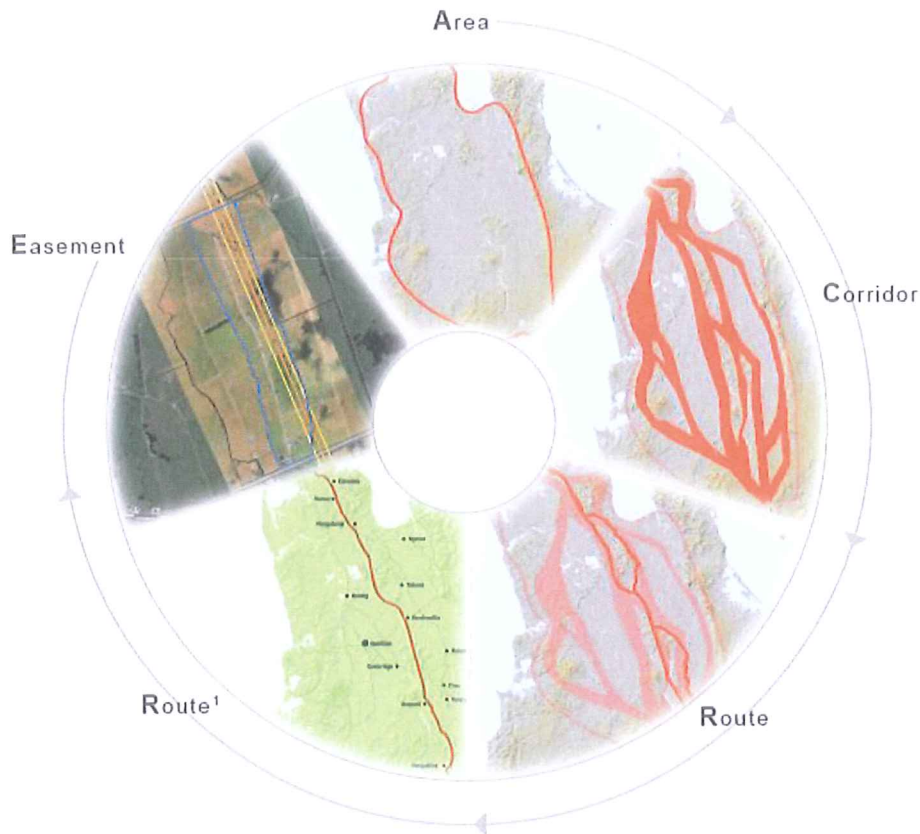
The level of analysis involved in this process could vary significantly from project to project depending on the size of the study area and the availability of areas of least constraint available within it. Subsequently, this stage may or may not require 'sub stages', entailing the evaluation and ranking of:

- alternative transmission corridors within the study area (for linear assets); and/or
- alternative route options within wider corridors; and/or
- alternative locations within the study area (for non linear assets); and/or
- alternative site options within locations.

This process will require significant coordinated input from the engineering, property and environmental workstreams to come up with a preferred site/route.

A carefully planned stakeholder engagement strategy will be required for these phase and the assessment of alternatives is likely to involve significant consultation with potentially affected parties.

ACRE site and route selection process – mapping example



Stage 3 - Statutory Processes

This stage involves:

1. Ongoing consultation and communication with stakeholders
2. Engineering detailed design to support consenting and property processes
3. The preparation of all documentation (Notices of Requirement, consenting applications and other supporting information) for lodgement with Councils based on the outputs of the preceding stages;
4. Statutory processing of Notice of Requirement and consent applications
5. Council Hearings
6. Environment Court appeal process and mediation (if necessary)
7. Confirmation of the designation and gaining of all consents (eg ancillary district, regional consents).
8. Property negotiations to secure appropriate property rights
9. Compulsory acquisition under the Public Works Act 1981 (if necessary)

Activity	Indicative Timeframe
▶ ACRE Stage 1 Constraints Analysis	▶ 2-4 months
▶ ACRE Stage 2 – Confirming the preferred location for the proposed transmission asset	▶ 5 – 10 months
▶ ACRE Stage 3 - Statutory Processes ▶ (processing of Notice of Requirement and consent applications by council)	▶ 7 months <i>minimum</i> (timeframes can be doubled by the territorial authority)
▶ Resolution of Appeals (either out of court or via court process)	▶ 5 – 18 months
▶ Compulsory Acquisition process	▶ 18 months plus

For more information contact Transpower’s Environment Group