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Jill White  
Chair Person – One Plan General Hearing Panel  
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**PALMERSTON NORTH 4442**

Dear Jill

### **Further information for One Plan Hearings Panel for General Hearing on Chapter 3**

Powerco asks that this letter and attachment is tabled at the One Plan General Hearing regarding Chapter 3 as it will not be otherwise represented at that hearing.

Powerco has previously appeared before the Hearing Panel and has made a range of written submissions on the Proposed One Plan. This letter contains further submissions which Powerco asks the Hearing Panel to consider in its deliberations on Chapter 3 – Infrastructure.

These further submissions respond to issues raised in the document entitled “Hearing Panel’s Preliminary Questions and Responses for General Hearing Chapter 3 – 22 June 2009” and subsequent discussions with Council Officer, Barry Gilliland’s. In particular questions 5 and 6 are of interest to Powerco. A short comment is also made on proposed revisions to Policy 3-3 outlined in the Track Changes – Green Version of Chapter 3 dated 20 May 2009.

If there are further questions before the hearing please contact us.

Yours faithfully  
**Minter Ellison Rudd Watts**

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## **Hearing Panel's preliminary questions and responses for General Hearing on Chapter 3, 22 June 2009**

Powerco refers the Panel to its original and further submissions.

### **Q5 Page 113. Where did 6.6kV come from in recommended change to Policy 3-1(a)(iii)? (I note 272/2 regarding 11/33kV distribution feeders.)**

Policy 3-1(a)(iii) is a combined definition of electricity distribution and transmission. The definition refers to the lowest level of voltage (6.6kV) associated with distribution feeders (lines) and does not contain an upper voltage limit. The definition has been drafted by Powerco in consultation with Transpower and electricity generators. Reference to 11/33kV distribution feeders is no longer required.

Powerco supports the revised wording of Policy 3-1(a)(iii) as suggested in the Track Changes – Green Version of Chapter 3 dated 20 May 2009 [the officer's report].

### **Q6. Pages 122 and 123: Could you please comment further on the issue of introducing material by reference into the RPS in the context of this chapter?**

#### **Background**

Powerco notes that the Hearing Panel has received legal advice (Supplementary Section 42A Report by John Massen for Hearing on Aspects of the Overall Plan, July 2008) that:

*“there is no authority in the RMA to incorporate documents by reference in an RPS. This contrasts with the specific provisions in the RMA to incorporate documents by reference in a national policy statement, coastal policy statement or regional and district plan.”*

Mr Massen's section 42A report notes that oral submissions were received to the effect that:

*“the absence of provision in Schedule 1 to incorporate material by reference demonstrates that there is no restriction in respect of an RPS and this is because an RPS does not contain rules”.*

This point was refuted by Mr Massen on the basis that express provision for material to be incorporated by reference in national policy statements is made in Schedule 1AA. National policy statements do not contain rules either.

This point could be debated further but for the purposes of Chapter 3 Powerco submits that further discussion is not required in order to address the practical concerns of Powerco and others.

Policy 3-2 is the policy containing references and it is Powerco's submission that it can be reworded such that the documents that are referenced are not in fact incorporated by reference.

Policy 3-2 provides that:

*“The Regional Council and territorial authorities shall ensure that adverse effects on infrastructure from other activities are avoided, including by using the following mechanisms: ...”*

The mechanisms are in essence policies directing resource management decision makers to consider and manage adverse effects of other activities on infrastructure. Policies 3-2: (a), (b), (ba) and (c) are relatively general whereas Policies 3-2(d), (e) and (f) make specific reference to:

- the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001), prepared under the Electricity Act 1992;
- the Operating Code Standard for Pipelines – Gas and Liquid Petroleum (NZS/AS2885); and
- the Electricity (Hazards from Trees) Regulations 2003 prepared under the Electricity Act 1992.

Powerco notes that one New Zealand standard has been omitted from this list. It is Gas Distribution Networks NZS 5258:2003. Inclusion of this New Zealand standard at this point is consistent with submissions from Powerco seeking to ensure positive recognition from the Council of the potential adverse effects of third party activities on infrastructure. Mitigation of adverse effects caused by third parties can in part be achieved by raising awareness of statutory requirements.

### **Powerco's comment on Q6**

It is Powerco's submission that the purpose of the references in Policies 3-2(d), (e) and (f) is to ensure Regional Council and territorial authority decision makers are aware of the existence of these documents when making decisions. When territorial authorities make rules in their district plans they must then ensure that they are compatible with these regulated codes and regulations.

There is no need to incorporate the text of the documents into the Regional Policy Statement (**RPS**). Policies 3-2 (d) and (e) anticipate that rules established by the Regional Council or territorial authorities would incorporate the documents by reference rather than the documents being incorporated in the RPS. As noted above by Mr Massen, the RMA specifically provides for such documents to be incorporated by reference in regional and district plans.

Policies 3-2: (a), (b), (ba) and (c) are relatively general policies setting out the Council's policy with regards to avoiding adverse of other activities on infrastructure. The later references to codes and regulations (Policies 3-2 (d), (e), (f)) are in effect examples of ways to avoid adverse effects.

### **Proposed changes to Policy 3-3: Adverse effects of other activities on infrastructure**

Powerco submits that the revisions to Policy 3-2 suggested below would achieve the desired outcome of alerting decision makers of relevant documents without incorporating the documents by reference in the RPS. The proposed changes are shown in **highlighting** and ~~strikeouts~~.

#### **Policy 3-2: Adverse effects of other activities on infrastructure**

The Regional Council and territorial authorities shall ensure that adverse effects on infrastructure from other activities are avoided including by using the following mechanisms:

- (a) Ensuring that current *infrastructure*<sup>\*</sup> corridors are identified and taken into account in all resource management decision-making, and any development (**including tree planting**) that would adversely affect the *operation*<sup>\*</sup>, *maintenance*<sup>\*</sup> and *upgrading*<sup>\*</sup> of *infrastructure*<sup>\*</sup> within these corridors is avoided
- (b) Ensuring that any new activities (**including tree planting**) that would adversely affect the *operation*<sup>\*</sup>, *maintenance*<sup>\*</sup> and *upgrading*<sup>\*</sup> of *infrastructure*<sup>\*</sup> are not located near existing *infrastructure*<sup>\*</sup> or *infrastructure*<sup>\*</sup> allowed by unimplemented *resource consents*<sup>^</sup> or other RMA authorisations
- (ba) Ensuring that there is no change to existing activities (**including tree management**) that increases their incompatibility with existing *infrastructure*<sup>\*</sup> or *infrastructure*<sup>\*</sup> allowed by unimplemented *resource consents*<sup>^</sup> or other RMA authorisations.
- (c) Notifying the *owners*<sup>^</sup> or managers of *infrastructure*<sup>^</sup> of consent applications that may adversely affect the *infrastructure*<sup>^</sup> that they own or manage

- (d) Giving effect to: the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001) prepared under the Electricity Act 1992; the Electricity (Hazards from Trees) Regulations 2003 prepared under the Electricity Act 1992; the Operating Code Standard for Pipelines – Gas and Liquid Petroleum (NZS/AS2885) promulgated under the Gas Act 1992; and the Gas Distribution Networks (NZS 5258:2003) promulgated under the Gas Act 1992 when establishing *rules*<sup>^</sup> and considering applications for buildings, structures<sup>^</sup>, and other activities near overhead electric lines and conductors
- (e) Examples of matters which are relevant to resource management decision making aimed at avoiding adverse effects on infrastructure include: the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001) prepared under the Electricity Act 1992; the Electricity (Hazards from Trees) Regulations 2003 prepared under the Electricity Act 1992; the Operating Code Standard for Pipelines – Gas and Liquid Petroleum (NZS/AS2885) promulgated under the Gas Act 1992; and the Gas Distribution Networks (NZS 5258:2003) promulgated under the Gas Act 1992.
- (f) ~~Giving effect to the operating code standard for Pipelines – Gas and Liquid Petroleum (NZS/AS2885), when establishing *rules*<sup>^</sup> and considering applications for buildings, structures<sup>^</sup> and other activities near transmission gas pipelines.~~
- (g) ~~Ensuring that any planting does not interfere with existing *infrastructure*<sup>^</sup>, including giving effect to the Electricity (Hazards from Trees) Regulations 2003 promulgated under the Electricity Act 1992 and Section 6.4.4 External Interference Prevention of the operating code standard for Pipelines – Gas and Liquid Petroleum (NZS/AS 2885)~~
- (h) Providing for the strategic integration of *infrastructure*<sup>^</sup> with *land*<sup>^</sup> use in growth areas of the Region, including effective integration of transport and *land*<sup>^</sup> use planning and protecting the function of the strategic *road*<sup>^</sup> and rail network as mapped in the Regional Land Transport Strategy.

### **Proposed Changes to Policy 3-3: Adverse effects of *infrastructure* on the environment**

Policy 3-3 has been substantially revised. Powerco has considered those amendments and is generally prepared to accept them. Powerco has consistently taken the view that infrastructure does have some adverse effects on the environment and submits that Policy 3-3 is reasonable.