

**In the Environment Court of New Zealand
Wellington Registry**

**I Te Kooti Taiao O Aotearoa
Te Whanganui-a-Tara Rohe**

ENV-2024-WLG-

Under the Resource Management Act 1991 (the Act)

In the matter of an appeal under Clause 14(1) of the First Schedule of the Act

And in the matter of the decisions by Wellington Regional Council in respect of Change 1 to the Wellington Regional Policy Statement.

Between **Transpower New Zealand Limited**
Appellant

And **Wellington Regional Council**
Respondent

**Notice of Appeal by Transpower New Zealand Limited against
decisions on Proposed Change 1 to the Regional Policy Statement
for the Wellington Region**

Dated 18 November 2024

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To: The Registrar
Environment Court
Wellington

- 1 Transpower New Zealand Limited (**'Transpower'**) appeals against the decisions of the Wellington Regional Council (the **'Respondent'**) on Change 1 to the Wellington Regional Policy Statement (**'RPS'**).
- 2 Transpower made a submission (number S10) and further submission (number FS23) on Change 1 to the RPS.
- 3 Transpower is not a trade competitor for the purpose of section 308D of the Act.
- 4 Transpower received notice of the decision on 4 October 2024.
- 5 The decision was made by the Respondent.

Provisions being appealed

- 6 The decisions that Transpower are appealing are the Respondent's decisions on the RPS that relate to:
 - a Implementation of the National Policy Statement on Electricity Transmission (**'NPS-ET'**);
 - b The application of the National Policy Statement on Urban Development (**'NPS-UD'**) to electricity transmission; and
 - c Indigenous biodiversity and the application of the National Policy Statement for Indigenous Biodiversity (**'NPS-IB'**) and New Zealand Coastal Policy Statement (**'NZCPS'**) to electricity transmission.
- 7 In particular, Transpower appeals the Respondent's decisions on the following provisions:
 - a Policies 7 and 39;
 - b Indigenous biodiversity policies 24, 24B, 24C, 24CC, 24D, 47 and IE.2A;
 - c Definition of 'Effects management hierarchy';
 - d Policy UD.5; and
 - e Objective 22.

General reasons for the appeal

- 8 The general reasons for this appeal are that, in the absence of the relief sought, the Respondent's decisions:
- a Are confusing, inconsistent and regulate the same activities using multiple provisions;
 - b Will not promote the sustainable management of resources, and will therefore not achieve the purpose of the Act, including by not meeting the reasonably foreseeable needs of future generations;
 - c Are contrary to Part 2 and other provisions of the Act;
 - d Will not promote the efficient use and development of natural and physical resources;
 - e Will not achieve integrated management of the natural and physical resources of the whole region; and
 - f Will not give effect to the NPS-ET; and
 - g Do not represent the most appropriate way of exercising the Respondent's functions, having regard to the efficiency and effectiveness of other reasonably practicable options, and are therefore not appropriate in terms of section 32 and other provisions of the Act.

Reasons for appeal of particular provisions

- 9 Without limiting the generality of paragraph 8, Transpower's reasons for appealing the provisions listed above are:
- a Policies 7 and 39 should recognise the benefits of all electricity transmission, not just electricity transmission associated with renewable energy generation (**REG**). The NPS-ET does not prioritise transmission of renewable energy over other kinds of energy.
 - b The decision version of policies 24, 24B, 24C, 24CC, 24D, 47 and IE.2A do not give effect to the NPS-ET, NZCPS, and NPS-IB. Nothing in the NPS-IB *'applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities'*. In addition, the policies do not acknowledge the particular constraints on existing electricity transmission

network assets and activities, in comparison to policy 24B(3) which acknowledges those constraints for other existing infrastructure.

- c The decision version definition of 'effects management hierarchy' is unclear as to how it applies to electricity transmission and does not give effect to the NPS-ET and NZCPS.
- d Objective 22 and Policy UD.5 both fail to give effect to the NPS-ET and NPS-UD because they only seek to protect regionally significant infrastructure (including electricity transmission infrastructure) from reverse sensitivity effects. They do not protect against direct effects. No other RPS provisions provide sufficient protection against direct effects.

Relief sought

10 Transpower seeks the following relief:

- a Amendments to the specified and any related provisions in order to address the general reasons for the appeal and the reasons for appeal of particular provisions set out above;
- b The amendments set out in **Appendix A** to this appeal. Where the Appendix sets out alternative relief in relation to indigenous biodiversity, Transpower's preferred alternative is for a standalone policy (Policy 24D) which provides for the management of the effects of all electricity transmission activities in all environments (coastal and terrestrial); and/or
- c Such further, consequential or alternative relief, or ancillary changes, that give effect to the NPS-ET (or, if applicable, any revised NPS-ET as may be issued before this appeal is resolved) and resolve the concerns set out in this appeal.

11 Transpower attaches the following documents to this notice of appeal:

- a **Appendix A:** The amendments proposed to address Transpower's concerns.
- b **Appendix B:** A copy of Transpower's submission and further submission on the RPS; and
- c **Appendix C:** A list of names and addresses of persons to be served with this notice of appeal; and

- d **Appendix D:** A copy of the relevant parts of the decision.
- 12 Transpower agrees to participate in mediation or other alternative dispute resolution mechanism.

Dated 18 November 2024



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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the part of the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Appendix A Relief sought

Provisions (Decisions version),	Relief sought (shown in red underline and strikethrough)
Policy 7	<p>Amend Policy 7 as follows:</p> <p>... (b) recognise and provide for the social, economic, cultural and environmental benefits of energy generated for renewable energy resources and its all electricity transmission through an efficient, effective and resilient electricity transmission network...</p>
Policy 39	<p>Amend Policy 39 as follows:</p> <p>... (a) recognise and provide for the social, economic, cultural and environmental benefits of energy generated for renewable energy resources and its all electricity transmission through an efficient, effective and resilient electricity transmission network...</p>
Policy 24	<p>Amend Policy 24 as follows:</p> <p>...(b)Policy 24C and Policy 24CC to manage adverse effects on indigenous biodiversity values in the coastal environment; and</p> <p>(c) Policy 24D to manage the adverse effects of REG activities and ET activities on significant indigenous biodiversity values <u>in the terrestrial and coastal environments</u> (these activities are not subject to Policy 24A, parts of Policy 24B, and 24C).</p> <p>Alternatively, amend Policy 24D as described below, and make consequential amendments to Policy 24 to clarify that Policies 24A, 24B, 24C and 24CC do not apply to electricity transmission activities.</p>
Policy 24B	<p>Amend Policy 24B (including the title and explanation) to clarify that clause 3(e) applies to existing electricity transmission activities outside the coastal environment.</p> <p>Alternatively, amend Policy 24D so that it provides the same support for existing electricity transmission activities as is provided for by Policy 24B(3)(e).</p>
Policy 24C	<p>Amend Policy 24C to clarify that it does not apply to electricity transmission activities.</p> <p>In addition, amend the explanation to Policy 24C as follows:</p> <p><i>Policy 24D which applies to REG activities <u>and ET activities</u> in terrestrial, freshwater and coastal environments.</i></p>
Policy 24CC	<p>Amend Policy 24CC as follows:</p> <p><i>As soon as reasonably practicable, and by no later than 4 August 2028, district and regional plans shall include policies, rules and methods to consider providing <u>provide</u> for the operation, maintenance ...</i></p> <p>...(3) <i>The activity provides for the maintenance and, where practicable, the enhancement or restoration of the affected significant indigenous biodiversity values and attributes at, and in proximity to, the affected area, taking to account any consultation with the Wellington Regional Council, the Department of Conservation and mana whenua.</i></p> <p><u><i>If the activity provides for the reasonable operational, maintenance or minor upgrade requirements of the electricity transmission network, (1) to (3) do not apply and the activity must be enabled.</i></u></p>

Provisions (Decisions version),	Relief sought (shown in red underline and strikethrough)
	Alternatively, amend Policy 24D as described below, and make consequential amendments to Policy 24CC so that it does not apply to electricity transmission activities.
Policy 24D	Amend Policy 24D to provide comprehensive direction on the management of effects of all electricity transmission activities (including existing activities, minor upgrades, major upgrades and new assets) and in all locations (including the coastal and terrestrial environments).
Policy 47	<p>Amend Policy 47 so that it:</p> <ul style="list-style-type: none"> • Only applies to indigenous ecosystems and habitats with significant biodiversity values; and • Includes consequential amendments resulting from the amendments to Policies 24, 24B, 24C, 24CC and 24D described above.
Policy IE.2A.	<p>Amend Policy IE.2A as follows:</p> <p><i>... (a) avoiding, remedying or mitigating the adverse effects of REG activities and ET activities to the extent where practicable...</i></p> <p><i>... (b) managing any significant adverse effects on indigenous biodiversity from any other proposed activity, <u>except for REG and ET activities</u>, by applying the effects management hierarchy; and</i></p> <p><i>... (c) managing all other adverse effects, <u>apart from adverse effects of REG activities and ET activities</u>, on indigenous biodiversity to achieve at least no overall loss in indigenous biodiversity within the Wellington Region or district as applicable...</i></p> <p>Alternatively, amend Policy IE.2A so there is no duplication with Policy 24D (as amended as a result of this appeal).</p>
Definition of 'Effects management hierarchy'	<p>Amend the definition of 'Effects management hierarchy' so that it:</p> <ul style="list-style-type: none"> • Does not require the effects of electricity transmission activities to be minimised; and • Does not require offsetting and compensation for electricity transmission activities, and does not require them to be avoided if there are residual adverse effects.
Policy UD.5	<p>Amend UD.5 as follows:</p> <p><i>... (g) protecting the operation and safety of regionally significant infrastructure from potential reverse sensitivity effects <u>and ensuring its operation, maintenance, upgrading and development is not compromised</u>.</i></p>
Objective 22	<p>Amend Objective 22 as follows:</p> <p><i>... (m) the safe and efficient operation <u>maintenance, upgrading and development</u> of regionally significant infrastructure is <u>not compromised and</u> protected from reverse sensitivity effects.</i></p>