

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Local Government (Auckland Transitional Provisions) Act 2010 and the Resource Management Act 1991

AND of an appeal under s 156(1) of the LGATPA

BETWEEN TRANSPOWER NEW ZEALAND LIMITED

(ENV-2016-AKL-000218)

Appellant

AND AUCKLAND COUNCIL

Respondent

Principal Environment Judge L J Newhook sitting alone under s 279 of the Resource Management Act 1991

In Chambers at Auckland

CONSENT ORDER

[A] Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed subject to the amendments set out in **Annexure A** to this order;
- (2) the appeal is otherwise dismissed.

[B] Under s 285 of the Resource Management Act 1991, there is no order as to costs.



REASONS

Introduction

- [1] This appeal relates to a decision of the Auckland Council on a recommendation of the Auckland Unitary Plan Independent Hearings Panel on the proposed Auckland Unitary Plan.
- [2] In its appeal Transpower sought the adoption of a “wider” National Grid Corridor Overlay extending beyond the National Grid Yard which has a width of only 12 metres either side of the centreline of National Grid lines (and also includes the road carriageway (excluding footpath, berms, kerbs and the road verge) on roads identified on the planning maps).
- [3] Transpower sought that the National Grid Corridor extend beyond the National Grid Yard to a width of:
- (a) 32 metres either side of the centreline of 110kV National Grid lines; and
 - (b) 37 metres either side of the centreline of 220kV National Grid lines.
- [4] Transpower also sought, within the extended National Grid Corridor, that subdivisions require a restricted discretionary consent, with the same matters reserved for discretion and assessment criteria to apply as those applying to subdivision within the narrower National Grid Yard.
- [5] The parties have reached agreement to a more refined package of controls, as contained in the Schedule to this order that will resolve this appeal in its entirety. In broad terms, the package provides for:
- (a) a “variable width” National Grid Corridor extending beyond the National Grid Yard, but no more than the maximum widths sought in the notice of appeal; and
 - (b) a more focused set of matters reserved for discretion and assessment criteria than apply to subdivision within the National Grid Yard.
- [6] In making this order the Court has read and considered the appeal, and the memorandum of the parties dated 10 November 2017.



[7] The following parties gave notice of an intention to become parties to the appeal under s 274 of the Resource Management Act 1991 and each agrees with the order sought:

- (a) CDL Land NZ Limited;
- (b) Federated Farmers of New Zealand;
- (c) Flat Bush Consultant Limited;
- (d) Greater East Tamaki Business Association Incorporated;
- (e) Housing New Zealand Corporation;
- (f) Hugh Green Limited;
- (g) Karaka and Drury Consultant Limited;
- (h) Mahunga Drive Business Association Incorporated;
- (i) Murphys Development Limited;
- (j) Murphys Park Development LP;
- (k) Onehunga Business Association Incorporated;
- (l) Rosebank Business Association Incorporated;
- (m) The Manukau Harbour Restoration Society Incorporated;
- (n) The Onehunga Enhancement Society Incorporated;
- (o) Vector Limited; and
- (p) Vernon, Keith.

[8] The Court is making this order under s 279(1)(b) of the Resource Management Act 1991, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the Memorandum requesting this order; and



(b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act 1991, and in particular Part 2.

Order

[9] Therefore, the Court orders, by consent, that the Auckland Unitary Plan be amended in accordance with **Annexure A** to this order.

[10] There is no order as to costs.

DATED at Auckland this 20th day of November 2017.





L J Newhook
Principal Environment Judge

Annexure A

Schedule of amendments to resolve the Environment Court Appeal

Additions underlined, deletions struck-through, or changes as otherwise stated (eg directions for mapping).

1. Planning maps

Amend the planning maps to map the extent of the National Grid Subdivision Corridor.

Amend the legend to the planning maps to include the National Grid Subdivision Corridor in the National Grid Corridor Overlay.

Amend the legend to the planning maps by replacing all references to the 'National Grid Corridor' with 'National Grid Substation Corridor'

2. Chapter J – Definitions

Amend as follows:

National Grid Substation Corridor

The area identified on the planning maps which is within:

- 12m of the site boundary of a National Grid substation;
- the road carriageway (excluding footpath, berms, kerbs and the road verge) on roads identified on the planning maps.

National Grid Corridor Overlay

The area identified on the planning maps which is within:

- the National Grid Yard
- the National Grid Substation Corridor
- the National Grid Subdivision Corridor

National Grid Subdivision Corridor

The area which is within a variable width area extending each side of the centre line of a National Grid overhead line as identified on the planning maps.

3. D26. National Grid Corridor Overlay

Amend clause D26.4 Activity table as follows:

Table D26.4.1 Activity table – within the National Grid Yard specifies the activity status for use, development and subdivision activities within the National Grid Yard pursuant to sections 9(3) and 11 of the Resource Management Act 1991.

Table D26.4.2 Activity table – within the National Grid Substation Corridor around National Grid substations specifies the activity status for land use,



development and subdivision activities pursuant to sections 9(3) and 11 of the Resource Management Act 1991.

Table D26.4.3 Activity table – within the National Grid Subdivision Corridor specifies the activity status for subdivision activities pursuant to section 11 of the Resource Management Act 1991.

Tables D26.4.1, and D26.4.2 and D26.4.3 do not apply to Transpower's activities.

Where activities are shown in the Activity tables below as permitted, the applicable zone, precinct and Auckland- wide rules also apply.

For subdivision within the National Grid Corridor Overlay, refer to the relevant zone rules in E38 Subdivision – Urban or E39 Subdivision – Rural, D26.6.2 (controlled activity development standards) and D26.8 (Assessment - restricted discretionary activities) apply. A blank in Table D26.4.1 below means that the Auckland-wide subdivision provisions apply.

Amend activity table D26.4.1 as follows:

Subdivision		
(A22)	Creation of lots involving a new building platform in <u>the National Grid Yard</u> for activities sensitive to the National Grid	NC
(A23)	Creation of lots involving a new building platform in the National Grid Yard (Uncompromised)	NC
(A24)	For all other subdivision on land within an urban zone the activity status listed in E38 Subdivision – Urban under Tables E38.4.1 to E38.4.5 will apply	
(A25)	For all other subdivision on land within a rural zone the activity status listed in E39 Subdivision – Rural under Tables E39.4.1 to E39.4.5 will apply	
(A26)	Subdivision for controlled activities in E38 Subdivision – Urban and E39 Subdivision – Rural that do not comply with Standards D26.6.2.1(1) and D26.6.2.1(2)	NC

Amend the heading to activity table D26.4.2 as follows:

Table D26.4.2 Activity table – within the National Grid Substation Corridor around National Grid substations

Amend D26.6.1.2(2)(a) as follows:

- (a) underground telecommunications fibre cables need not comply with Standard D26.6.1.2.1(a) and (b) if they are located in an area no deeper than 1.5m below the surface and no wider than 500mm inside the underground National Grid Substation Corridor; and



Insert a new activity table after D26.4.2, as follows:

Table D26.4.3 Activity table - within the National Grid Subdivision Corridor

<u>Activity</u>		<u>Activity status</u>
<u>Subdivision</u>		
(A34)	<u>Subdivision within the National Grid Subdivision Corridor</u>	RD

Correct the reference to controlled activities in D26.7, as follows:

D26.7. Assessment – controlled activities

There are no controlled activities in this overlay. The council will consider the relevant assessment criteria for controlled activities contained in E38.11 and E39.7.

Amend the matters of discretion in D26.8.1 by inserting the following:

D26.8. Assessment – restricted discretionary activities D26.8.1. Matters of discretion

The Council will restrict its discretion to all the following matters when assessing a restricted discretionary resource consent application:

(1) Subdivision within the National Grid Yard and the National Grid Substation Corridor:

...

(1A) subdivision within the National Grid Subdivision Corridor:

- (a) vehicular access to a National Grid support structure;
- (b) risk of electrical hazards affecting public or individual safety, and the risk of property damage;
- (c) potential impacts on the operation of the National Grid from reverse sensitivity relating to visual amenity; and
- (d) The nature and location of any proposed vegetation.

Amend the clause D26.8.1(3) matters of discretion as follows:

- (3) new buildings for activities sensitive to the National Grid in the National Grid Substation Corridor around substations:

....



Amend the assessment criteria in D26.8.2 as follows:

D26.8.2. Assessment criteria

The Council will consider the relevant assessment criteria for restricted discretionary activities from the list below:

- (1) subdivision within the National Grid Yard and the National Grid Substation Corridor:

...

- (b) whether a building platform complies with national grid corridor overlay rules, including those relating to sensitive activities;

...

- (1A) subdivision within the National Grid Subdivision Corridor:

- (a) the extent to which the location of any proposed building platform, structure or planting will create a permanent physical impediment to vehicular access to any National Grid support structure;
- (b) the extent to which the requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) are able to be met, including whether a building platform can comply;
- (c) the extent to which the use of conductive materials in infrastructure or structures (including fences) in a subdivision will increase the risk associated with earth potential rise;
- (d) the extent to which the subdivision design and layout manages visual amenity of future residents in order to address, as far as practicable, the potential for reverse sensitivity effects on the operation of the National Grid;
- (e) the extent to which the mature size of any proposed planting will compromise the efficient operation, maintenance, upgrade and development of the National Grid; and
- (f) any implications arising from technical advice from an Electrical Engineer specialising in transmission or the National Grid operator in relation to clauses (b) and (c) above.

...

- (3) new buildings for activities sensitive to the National Grid in the National Grid Substation Corridor around substations:

...

