

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under cl 14 of the First
Schedule to the Act
BETWEEN FEDERATED FARMERS OF NEW
ZEALAND
(ENV-2018-WLG-000012)
Appellant
AND KAPITI COAST DISTRICT COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

CONSENT ORDER

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

(1) The Kapiti Coast District Council's Proposed District Plan be amended as follows:

(a) Amendment to the definition of National Grid Corridor in section 1.4 as follows:

National Grid Subdivision Corridor (shown in green in Diagram 1 below) means the area measured either side of the centreline of above ground

National Grid transmission lines as follows:

- 14m for a 110kV *transmission line* on single poles;
- 16m for 110kV *transmission line* on bi poles;
- 37m for a 220kV *transmission line*.



(b) Consequential amendments to reflect this change in definition from National Grid Corridor to National Grid Subdivision Corridor in the following provisions:

(i) Chapter 3A – Introduction: Applicability of Rules in Tables 3A.1 – 3A.5

Notes

...

Notes: Works in close proximity to any electricity *line* can be dangerous and should be undertaken in accordance with appropriate guidelines. To discuss any tree trimming works near any electricity *line*, especially works within the *National Grid Subdivision Corridor*, contact the relevant *network utility operator*.

(ii) Chapter 10 – Introduction: Applicability of Rules in Tables 10A.1 – 10A.5

Notes

...

Notes: Works in close proximity to any electricity *line* can be dangerous and should be undertaken in accordance with appropriate guidelines. To discuss any tree trimming works near any electricity *line*, especially works within the *National Grid Subdivision Corridor*, contact the relevant *network utility operator*.

(iii) Rule 11A.5:

Notes:

...

Vegetation to be planted within the *National Grid Subdivision Corridor* (as shown on the District Plan Maps) should be selected and managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003. To discuss works, including tree planting, near any electrical line (especially works within 20 metres of those lines), contact the line operator

(iv) Rule 11C.3.2

Subdivision of land in any zone where all of, or part of the site is within the *National Grid Subdivision Corridor*

Criteria for Notification: Where an activity requires resource consent solely because it is within the *National Grid Subdivision Corridor* public notification of the application is precluded. However, any



application under this rule will be served on Transpower, unless the written approval from Transpower is provided at the time the application is lodged.

(v) Rule 11C.5.2

Any subdivision of land in any zone where all of or part of the site is within the *National Grid Subdivision Corridor*, which does not comply with the restricted discretionary activity standard under Rule 11C.3.2.

Notes:

...

2. Where an activity requires resource consent solely because it is within the *National Grid Subdivision Corridor* or *National Grid Yard* then the application need not be publicly notified. However, limited notification will be given to Transpower, unless the written approval from Transpower is provided at the time the application is lodged.

(c) Amendment to the definition of National Grid Yard in section 1.4 as follows:

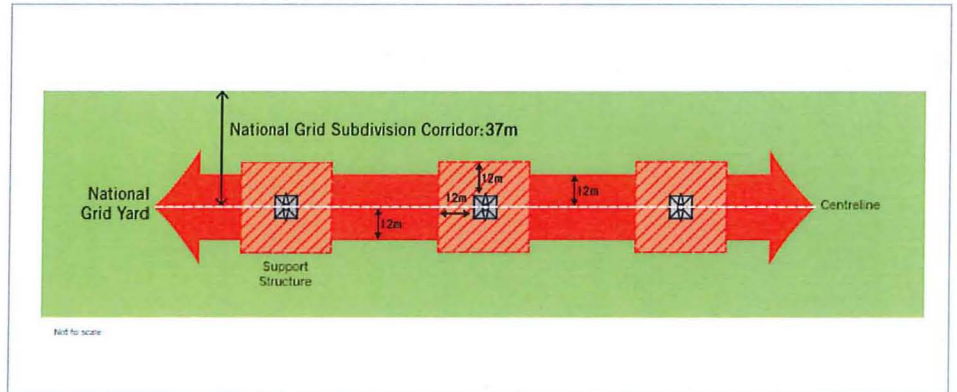
National Grid Yard (as shown in red Diagram 1 below) means:

- the area located 12 metres in any direction from the outer edge of a electricity transmission *National Grid* support *structure* foundation and;
- ~~— the area located 10 metres either side of the centreline of an overhead 110kV *National Grid* line on single poles; or~~
- the area located 12 metres either side of the centreline of an overhead *National Grid* line on towers.

Refer to Diagram 1: *National Grid Subdivision Corridor* and *National Grid Yard*.

(d) Replacement of Diagram 1: *National Grid Subdivision Corridor* and *National Grid Yard* with the following diagram:





(e) Amendments to Policy 11.2 as follows:

Reverse sensitivity effects on infrastructure from subdivision, land use and development will be avoided, as far as reasonably practicable, by ensuring that:

- a) ~~current and future~~ *infrastructure* corridors are identified and effects upon those corridors from *subdivision, land use and development* are considered in all resource management decision-making;
- b) change to existing activities does not increase their incompatibility with existing *infrastructure*;
- c) the establishment of, or changes to, *sensitive activities* are avoided, and incompatible *buildings and structures* within the *National Grid Yard* is avoided and *subdivision* within the *National Grid Subdivision Corridor* is are appropriately restricted; managed, to ensure that the operation, maintenance, upgrading and development of the National Grid is not compromised;
- d) safe separation distances are maintained near gas transmission pipelines and telecommunications facilities;
- e) any new planting does not prevent the operation of existing infrastructure;
- f) all parties are aware of constraints under other regulations, including the Electricity (Hazards from Trees) Regulations 2003, NZS/AS 2885 Pipelines – Gas and Liquid Petroleum, NZS 5258:2993 Gas Distribution



Network, and the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001); and

g) suitable standards are in place adjacent to the transport network (including railways).

(f) Amendments to Policy 11.22 as follows:

When considering subdivision land use or development proposals and the construction of buildings or structures either under or adjacent to National Grid transmission lines or high pressure gas pipelines, the following will be taken into account:

a) the extent to which the proposal could compromise subdivision, earthworks, building or structure may restrict or inhibit the operation, access, maintenance, or upgrading and development of the National Grid or gas pipelines of the utility infrastructure or support structures;

b) the potential cumulative effects of the proposal on the National Grid or gas pipeline; subdivision, earthworks, buildings or structures which may restrict the operation, access, maintenance, or upgrading of the utility infrastructure or support structures and

c) the risk and extent of potential harm to people and property arising from the proposal's proximity to the National Grid or gas pipeline in the nature of the subdivision, earthworks, buildings or activities which may occur in proximity to the utility infrastructure and the number of persons likely to visit or work within the area and the extent to which they are potentially susceptible to harm from lines, pipes or support structures in the likely event of an infrastructure fault or emergency. or an infrastructure fault.

d) whether the proposal will permanently physically impede vehicular access to the utility.

(g) Amendment to permitted activity Rule 11C.1.1 as follows:

Activities, buildings and structures located within the National Grid Yard, identified as a permitted activity under the rules in Table 11C.1.



Standards

1. *Buildings and structures* within any *National Grid Yard* shall demonstrate compliance ~~comply~~ with the requirements of NZECP34:2001_ ~~confirmed in writing by Transpower that the clearance distances provided for the buildings and structures comply with this~~ Standard

- (h) Amendment to permitted activity Rule 11C.1.4 as follows:

Within the *National Grid Yard*

- a) *network Utilities*;
- b) fences; or
- c) agricultural or horticultural *structures*

within 12 metres of a *National Grid* support *structure* foundation or stay wire.

Standards

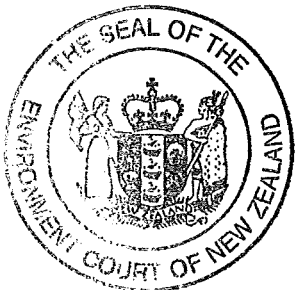
- ~~3. Agricultural or Horticultural Structures between 8 metres and 12 metres from a *National Grid pole* support structure (but not a *National Grid tower* support *structure*) shall:~~
 - ~~a) demonstrate compliance with NZECP 24:2001 by written confirmation from Transpower;~~
 - ~~b) be less than 2.5 metres in *height*;~~
 - ~~c) allow all weather access to the *pole* and a sufficient area for maintenance equipment including crane.~~
3. Agricultural or Horticultural *Structures* located within 12 metres of a *National Grid* tower support *structure* shall demonstrate compliance with Clause 2.4.1 of NZECP34:2001_ ~~through written confirmation from Transpower.~~

- (i) Insertion of new controlled activity Rule 11C.2.1 as follows:

The following activities are controlled activities, provided they comply with all corresponding controlled activity standards (unless otherwise specified).

1. *Boundary adjustments* where no additional *lots* are created in any Rural Zone, on land containing a high-pressure gas pipeline designed to operate at or over 2000kPa.

Standards



1. No new lot boundary shall be situated closer than 10 metres to the centreline of a high-pressure gas pipeline.
2. Legal and existing physical vehicular access is maintained.
3. The subdivision must comply with all other relevant subdivision standards applicable to the Zone.

Matters over which Council reserves control

1. The matters listed in Rule 7A.2.2

(j) Amendment to restricted discretionary activity Rule 11C.3.1 as follows:

1. Subdivision of land in any zone within 10m either side of the centre-line of high pressure gas pipelines designed to operate at or over 2000kPa, unless the subdivision is for a boundary adjustment in the Rural Zone and complies with the standards under Rule 11C.2.1.

Criteria for Notification

The written approval of persons will not be required other than the pipeline owner and/or operator and applications under this rule will not be served on any persons other than the pipeline owner and/or operator or notified.

Standards

1. ~~The subdivision must comply with AS2885 Pipelines—Gas and Liquid Petroleum—Parts 1 to 3.~~
2. The subdivision must comply with all other relevant subdivision standards applicable to the Zone.

(k) Insertion of new restricted discretionary activity Rule 11C.3.1A as follows:

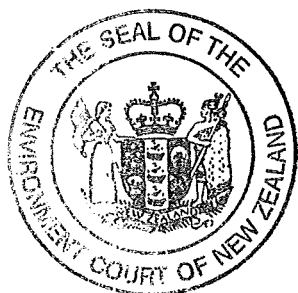
- 1A. Boundary adjustments that fail to comply with one or more of the standards under Rule 11C.2.1.

Criteria for Notification

The written approval of persons will not be required other than the pipeline owner and/or operator and applications under this rule will not be served on any persons other than the pipeline owner and/or operator or notified.

Matters

1. The extent to which the subdivision design avoids or mitigates conflict with existing pipelines.
2. The ability for maintenance and inspection of transmission pipelines including ensuring access to the pipelines.



3. Consent notices on titles to ensure on-going compliance with AS2885 Pipelines – Gas and Liquid Petroleum – Parts 1 to 3.
4. The outcome of any consultation with the affected network utility operator.

- (I) Consequential amendment to controlled activity Rule 7A.2.2 as follows:
2. Except as provided for under Rule 11C.2.1 *Bboundary adjustments* and *subdivisions* where no additional lots (other than reserves or *legal road* to be vested in *Council*) are created in all Rural Zones.

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

REASONS

Introduction

[1] The Court has read the notice of appeal and the memorandum of the parties dated 19 September 2018.

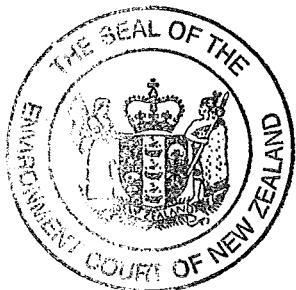
Other relevant matters

[2] First Gas Ltd, Horticulture New Zealand, Wellington Regional Council, Transpower New Zealand Ltd, C T Brown, M Niven, Lyndon Enterprises Ltd and U E Guttke gave notice of an intention to become parties under s 274 to the aspects of the appeal resolved by this consent order and have signed the memorandum setting out the relief sought.

Orders

[3] The Court is making this order under s 279(1) of the Act, 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;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the



relevant requirements and objectives of the Act including, in particular,
Part 2.

DATED at Wellington this 11th day of December 2018



B P Dwyer
Environment Judge

