27 June 2016

Proposed Kapiti Coast District Plan Hearings Panel  
Kapiti Coast District Council  
Private Bag 60601  
Paraparaumu 5254  
Via email: districtplanreview@kapiticoast.govt.nz

Dear Sir/Madam

**HEARING REPORT: PROPOSED KAPITI COAST DISTRICT PLAN –**

<table>
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<tr>
<th>Urban Tree Variation</th>
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<td>Chapter 3 – Natural Environment</td>
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<td>Transpower Submission Points 208.4, 208.8, 208.17 to 208.36 (Chapter 3) and Points 34.1 to 34.13 (Urban Tree Variation)</td>
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</table>

Transpower New Zealand Ltd ("Transpower") writes in relation to the hearing commencing on 11 July 2016 on Urban Trees Variation ("UTV") and the hearing commencing on 25 July on Chapter 3 Natural Environment ("Chapter 3") of the Proposed Kapiti Coast District Plan (PDP).

The two topics are addressed in the one hearing statement given the inter-related nature of the rules relating to Indigenous Vegetation.

In addition to wider plan wide provisions relating to the ongoing operation and maintenance of the National Grid, Transpower submitted 22 points on Chapter 3 and 13 points on the UTV. Submissions made by Transpower to the UTV are numbered 34, and those to Chapter 3 are numbered 208.

**Summary response to s42A Recommendations**

Attached to this hearing statement (as Appendix A) is a summary table outlining Transpower’s response to officer recommendations on particular submission points. Transpower is largely supportive of the recommendations but seeks amendment to clarify the application of some of the rules and standards.

**Section 42A Officers Report Recommendations and Transpower’s Response**

The following comments are specific to recommendations on submission points sought by Transpower with a very brief summary provided as to the relief sought by Transpower, followed by comments specific to the Section 42A recommendations.
**Recommendation supported**

**Definition - Modification (submission points 208.8 and 34.5)**
The amended definition clarifies what constitutes modification and distinguishes between that and ‘trimming’.

**Definition - Trimming (submission points 208.4, 34.6 and Transpower FS on UTV points 22.4 and 29.4)**
While Transpower sought amendment to the definition (in its submission on Chapter 3) to provide for the removal of branches to maintain safe distances from electricity lines, the recommendation on this point is accepted as Transpower agrees it is not appropriate the definition contain a standard type provision and references to network utilities are best addressed under the rules and standards as opposed to the definition.

**Definition - Key indigenous tree (submission point 34.4)**
The retention of the definition as notified is accepted and reflects the submission point.

**Definition - Tree (submission point 34.3)**
The amendments are accepted as they provided clarity and reflect the schedules.

**Definition - Indigenous Vegetation (submission point 34.2)**
The retention of the definition as notified is accepted and reflects the submission point.

**Policy 3.1 - Ecosystem Protection (submission point 208.17)**
The relief sought by Transpower is given effect to in that the policy is amended as sought.

**Policy 3.3 - Protection (submission point 208.18)**
Transpower supports the change in emphasis in the policy to ‘managing’ and accepts the recommendation on this point on the basis of the amended policy and that the National Grid will be appropriately recognised in Chapter 11.

**Policy 3.12 - Management approach to biodiversity protection (submission points 208.19 & 20, 34.7 and Transpower FS on UTV point 24.14)**
Transpower supports the recommendation for the amended policy as it largely gives effect to the relief sought by Transpower. In particular Transpower supports the retention of ‘where practicable’ as the term recognises removal or significant modification is not always possible. Transpower accepts the recommendation to not include “inappropriate” as this term is not used in section 6(c) of the RMA. The third component of the relief sought by Transpower related to amendment to clause c). The recommendation for the retention of the clause as notified (in the UTV) is also supported but Transpower notes the recommendation version needs to show some text as strikethrough (thereby reflecting the provision as notified and which are not recommended to change by the reporting officer.

**Policy 3.13 – Enhancement Explanation (submission point 208.21)**
The deletion of the explanation accompanying policy 3.13 is supported. While Transpower did not submit on Policy 3.13, it is supportive of the amended wording, specifically the replacement of “will” with “shall”.

Transpower New Zealand Ltd The National Grid
Policy 3.14 – Restoration (submission point 208.22)
The deletion of policy 3.14 is supported.

Policy 3.17 - Protecting outstanding natural features and landscapes (submission point 208.34)
The retention of policy 3.17 is supported and is consistent with the relief sought in submission point 208.34.

Policy 3.18 – Development in outstanding natural landscapes (submission point 208.23)
In its submission Transpower sought reference to the locational constraints imposed on regionally significant infrastructure. The policy has been amended and Transpower is supportive of the amendments on the basis the sought outcome of the policy is now clear and reflects the RMA.

Policy 3.21 – Dominant ridgelines and lookout points (submission points 208.24 & 26)
On the basis the amended policy only applies to buildings (which is understood to not capture the National Grid), the amended policy is accepted.

Policy 3.26 – Views of Kapiti Island (submission point 208.25)
The deletion of the policy is supported given the concerns raised in submissions.

Rule 3A.1.6 Permitted Activity and Rule 3A.2.2 Controlled Activity (submission point 208.30)
In its submission Transpower opposed the rules on the basis the National Grid would be captured by the rules. Transpower’s concerns are addressed through the deletion of the rules, amendment to the term “building” to not include network utilities, and the provision of a new rule (3A.1.8) which does not apply to buildings ancillary to network utilities. The inclusion of rules specific to network utilities is supported in Chapter 11 Infrastructure. On this basis, the deletion of the rules are supported.

Rule 3A.3.2 Restricted Discretionary Activities (submission point 208.36)
While the rule is supported, it is no longer relevant or applicable to Transpower as the only notable trees identified in the proposed District Plan in the immediate vicinity of the National Grid are the trees within T123, and this group of notable trees are under the Mangahao – Paekākāriki B 110 kV transmission line which is scheduled to be removed/dismantled in late 2016.

Rule 3A.5.1 (3A.5.4) Non Complying Activities (submission points 208.32 & 33)
Note: The wording was correct in the Transpower submission but the numbering incorrect. As such the submission point relates to Rule 3A.5.4. The deletion of rule 3A.5.4 is supported. The provision of a discretionary rule is supported and reflects the relief sought by Transpower.

Historic Heritage Rule 10A.1.4 and 10A.2 (submission points 34.12 and 34.13)
The rules are no longer relevant or applicable to Transpower as the only notable trees identified in the proposed District Plan in the immediate vicinity of the National Grid are the trees within T123, and this group of notable trees are under the Mangahao – Paekākāriki B 110 kV transmission line which is scheduled to be removed/dismantled in late
2016. As such the relief sought in submission points 34.12 and 34.13 are not pursued by Transpower.

The recommendation for the insertion of an advice note at the front of the rule is supported as it highlights the need to consult with the Network Utility Operator for any works in proximity of any electricity line for workspace and public safety reasons.

**Rule 3A.1.3 Trimming not within the Urban Environment and not within the Rural Hills, Rural Plains and Rural Dunes zones (submission point 208.27)**

Rule 3A.1.3 is amended under the Chapter 3 Ecological site/Indigenous biodiversity S42A Report. As the areas subject to the rule are not within the vicinity of the National Grid, Transpower is neutral on the rule.

**Recommendations on the following further submission points (relating to the UTV) are also accepted on the basis the matters are addressed through the above comments:**

FS on 24.2 (Section 1.2.3) and FS on 24.7 (on definition disturbance).

**General submission point - (submission point 34.1)**

The amended definition clarifies what constitutes modification and distinguishes between that and ‘trimming’.

**Recommendations not supported (in part)**

The following are those recommendations not accepted in part. There are elements of the particular rules supported, but also elements that are not supported. This relates to Transpower’s general submission point 34.1 on the UTV. The main elements not supported primarily relate to:

I. Recognition within the rules of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (“NESETA”) for network utilities (“NESETA”); and

II. The relationship between the particular rules and resulting lack of clarity in terms of activity status between the rules as recommended in the Section 42A Report on Chapter 3 and the Section 42A Report on the Urban Tree Variation as they relate to the Rural environment (being the Rural Hills, Rural Plains and Rural Dunes zones).

The specific application issues with the rules are highlighted below, with amendments suggested.

**Rule 3A.1.2 Trimming in the Urban Environment (submission points 208.35 and 34.8)**

Permitted Activity Rule 3A.1.2 is amended under the UTV S42A Report. The rule has two components: the first relating to trimming outside scheduled sites and second relating to trimming in scheduled areas.

In relation to trimming outside scheduled sites, the rule and permitted activity status is supported as it adopts a pragmatic approach.

In relation to trimming inside scheduled sites, whilst the rule is of little relevance to Transpower as there are only two properties with trees that are in the vicinity of the National Grid which are specifically identified in Schedule 3.1, 3.2A and 3.3, the rule framework for trimming in scheduled sites is generally supported.

Notwithstanding the above, greater clarity could be provided to Rule 3A.1.2 as the rule is open to interpretation as to whether it applies to all indigenous trees in the referenced schedules regardless of zoning, or just that vegetation in the schedules that is within the urban environment. Clarification is recommended as underline text below:
3A.1.2 Trimming of any indigenous vegetation within the urban environment. Where the indigenous vegetation is:

(d) located within the urban environment of an ecological site listed in Schedule 3.1; or
(e) a key indigenous tree listed in Schedule 3.2A; or
(f) a rare and threatened vegetation species listed in Schedule 3.3 and located within the urban environment.

Rule 3A.1.4 Modification in the Urban Environment (submission points 208.28 and 34.9)

Permitted Activity Rule 3A.1.4 is amended under the UTV S42A Report. The rule and activity status is supported as it provides for modification of indigenous vegetation outside of the identified scheduled areas as a permitted activity with no applicable standards. The activity status is appropriate as it allows for the modification of indigenous vegetation that has not been specifically identified for protection. Removal of reference to Schedule 3.2 is also supported.

However, two amendments are recommended to the rule to provide clarity:

I. Delete reference to ‘locally’ with Clause a) as word is no longer recommended in the UTV S42A report\(^1\) (refer strikethrough text below).

II. Amend the schedules (as outlined for Rule 3A.1.2 above) to clarify rule 3A.1.4 only applies to those trees within the schedules that are within the Urban Environment; as follows (refer underline/strikethrough text):

Modification of locally indigenous vegetation, provided the indigenous vegetation is not:

i. located within the urban environment of an ecological site listed in Schedule 3.1; or

ii. a key indigenous tree listed in Schedule 3.2A; or

iii. a rare and threatened vegetation species listed in Schedule 3.3 and located within the urban environment.

Rule 3A.1.5 Modification of indigenous vegetation that is within the Rural Hills, Rural Plains, and Rural Dunes zones (submission point 208.29)

Permitted Activity Rule 3A.1.5 is amended under the Chapter 3 Natural Environment (Ecological Site /Indigenous Vegetation Component) S42A Report. The rule and activity status is supported as it clearly provides for modification outside scheduled sites as a permitted activity with no applicable standards and this is supported. Removal of reference to Schedule 3.2 is supported.

For those trees within the identified scheduled sites, modification is permitted provided it is for one of the purposes listed. This approach is supported in that Transpower’s activities would be provided for.

However, Transpower is concerned the standards refer to ‘Trimming or Modification’ but the rule itself only refers to ‘Modification’. From reading the Section 42A Report\(^2\), it is understand the intent is to avoid “a double up of regulation”. However, the lack of specific reference to Trimming for the rural zones is confusing on the basis the two terms (Trimming and Modification) are used very separately in the rules and the definition of

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\(^1\) ‘Locally’ is recommended to be deleted from Rule 3A.1.2 (refer paragraph 510) and the definition is recommended to be deleted (refer paragraph 321).

Modification specifically excludes “trimming authorised as a permitted activity under the plan”. It is noted there is a specific permitted trimming rule for the urban environment (Rule 3A.1.2) and for those areas not within the urban environment and not with the rural zones (Rule 3A.1.3), there is no permitted trimming rule for the rural zones. While the intent of Rule 3A.1.5 may be to allow for trimming in the rural zones outside scheduled site and inside scheduled site (where it is exempted under the standards) as a permitted activity, the activity status is not clear given the prescriptive nature of the rural framework and that trimming is referenced in the standards. On this basis Transpower seeks clarity to the rule by amending Rule 3A.1.5 as follows:

Trimming and Modification of indigenous vegetation that is within the Rural Hills, Rural Plains, and Rural Dunes zones

An amendment is also suggested to exemption d) which refers to the Electricity (Hazards from Trees) Regulations 2003 (“the Tree Regulations”) to provide consistency with UTV recommended Rule 3A.1.2. The term “achieves compliance with” is preferred over “in accordance with” as the term is slightly broader and allows Transpower to undertake tree trimming before the vegetation enters the growth limit zone (at which point the vegetation has become more hazardous). Given the Tree Regulations 2003 are specific to network utilities, there is no other specific exemption under Rule 3A.1.5 which provide for trimming or modification specific to the National Grid, and any trimming or modification would still comply with the Tree Regulations, the amended wording is considered minor in its consequence but appropriate for Transpower to be able to operate, maintain the National Grid network in accordance with the National Policy Statement on Electricity Transmission 2008.

Transpower would also support insertion of reference “or its successor” within Rule 3A.1.5 to provide consistency between the standards. The suggested wording is as follows (refer strikethrough and underlined text):

Except that Standard 1 of this rule must not apply where the trimming or modification is:

\[d)\] in accordance achieves compliance with the requirements of the Electricity (Hazards from Trees) Regulations 2003 or its successor;

Rule 3A2.5 Modification of any indigenous vegetation that is within a scheduled site (submission points 34.10 and Transpower FS on UTV point FS on 10.2)

Controlled Activity Rule 3A.2.5 is amended under the Urban Trees Variation S42A Report but applies to all environments (urban and rural). As mentioned earlier, within the urban environment the rule is of little relevance to Transpower as there are only two properties with trees that are in the vicinity of the National Grid which are specifically identified in Schedule 3.1, 3.2A and 3.3. However, this does raise concerns in terms of how Schedule 3.2 is applied in that as recommended, schedule 3.2 applies to all environments whereas Transpower understands the intent is that it is only applied in relation to those sites “not within the urban environment and not within the Rural Hills, Rural Plains and Rural Dunes Zones”. On this basis Transpower seeks clarity by amending Rule 3A.2.5 as follows (refer underlined text):

The modification of any indigenous vegetation, excluding modification permitted under Rules 3A.1.4 and 3A.1.5, that is:

\[i.\] within an ecological site listed in Schedule 3.1; or

\[ii.\] a key indigenous tree species listed in Schedule 3.2 on those sites not within the urban environment and not within the Rural Hills, Rural Plains and Rural Dunes Zones; or

\[iii.\] a key indigenous tree listed in Schedule 3.2A or
iv. a rare and threatened vegetation species listed in Schedule 3.3

In terms of modification within scheduled sites in the rural environment (Rural Hills, Rural Plains and Rural Dunes zones) that is not permitted under Rule 3A.1.5, controlled rule 3A.2.5 would apply. While this may not be the intent (in that paragraphs 251 and 391 of the Chapter 3 Section 42A Report on Ecological sites/Indigenous Vegetation states that for the rural zone discretionary activity status is required if the permitted activity standards (including exemptions) are not met), as presently drafted Rule 3A2.5 would apply.

Transpower is supportive of the controlled activity status as it reflect the activity status provided in Regulation 31 of the NESETA.

**Rule 3A.3.1 Trimming or Modification in a Scheduled Site (submission points 208.31 and 34.11 and Transpower FS on UTV point 24.20)**

Restricted Discretionary Activity Rule 3A.3.1 is amended under the UTV S42A Report and applies to trimming or modification of any indigenous vegetation that is within a scheduled site and not meeting the permitted standards or a controlled activity under Rule 3A.2.5. As with Rule 3A.2.5, a concern with Rule 3A.3.1 is that, as above, it refers to Schedule 3.2. As outlined above, Transpower understands the intent is that Schedule 3.2 only applies in relation to those sites “not within the urban environment and not within the Rural Hills, Rural Plains and Rural Dunes Zones”. On this basis Transpower seeks similar relief as sought for Rule 3A.2.5, as shown as underlined text below.

b) a key indigenous tree species (Schedule 3.2) on those sites not within the urban environment and not within the Rural Hills, Rural Plains and Rural Dunes Zones; or

The second area of concern in relation to UTV Rule 3A.3.1 is the relationship between this rule, Chapter 3 Rule 3A.4.2 and UTV Rule 3A.2.5. Technically, all three rules apply to modification of indigenous vegetation within a scheduled site in the rural zones.

As outlined above, Transpower seeks that modification within a scheduled site (3.1 and 3.3) in the Rural zone be a controlled activity, in line with Clause 31 of the NESETA. As a suggested solution Transpower would support the addition of a note below Rule 3A.3.1 and 3A.4.2 to the effect that “these rules do not apply to activities controlled under Regulation 31 of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.”

As a further point of clarification, in response to various comments made in the Section 42A Report, Transpower did not comment on Amendment 3 as is referenced in the Section 42A Report. Rather through submission point 1 Transpower sought clarification as to the relationship of Schedule 3.1 and the new list of specifically identified trees given the interchanging terminology used in the variation as notified. It is not clear how this relates to Amendment 3 “definition for new indigenous vegetation”.

**Hearing Appearance**

Transpower is not proposing to adduce evidence to the hearing on Chapter 3 or the UTV on the above points, given:

- Other than the sought points of amendment to clarify the application of the rules, Transpower is largely satisfied with the officer’s recommendations.

- Given the permitted activity status for trimming and modification of indigenous vegetation that are not included in the scheduled sites, and the limited application of

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3 S42A Report: Part B – Chapter 3: Natural Environment (Ecological Site /Indigenous Vegetation Component) Paragraphs 526, and 532
the scheduled sites in relation to Transpower’s assets, the indigenous vegetation clearance rules are no longer as relevant to Transpower.

- The bulk of provisions of particular relevance to Transpower will be addressed at the Chapter 11 Infrastructure hearing at which Transpower will be appearing.

Transpower requests this letter be tabled at the hearing in support of Transpower’s submission points and the Section 42A Report recommendations as outlined above.

If prior to the hearing the Hearings Panel consider it useful for Transpower to appear before the panel to explain and answer any questions on the above, Transpower is more than happy to appear.

Should you require clarification of any matter, please contact Sarah Shand at Transpower (04 590 7434), or on the following email: Sarah.Shand@transpower.co.nz

Yours faithfully

Sarah Shand
Environmental Planner
# Appendix A
## Summary Response to Officer Recommendations

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<thead>
<tr>
<th>Sub Ref</th>
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<th>S42A Recommendation</th>
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<td><strong>Chapter 1 – Introduction and Interpretation</strong></td>
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<tr>
<td>208.8 and 34.5</td>
<td>Definition: Modification</td>
<td>Accept in Part</td>
<td>Accept recommendation</td>
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<tr>
<td>208.4, 34.6, FS on 22.4 and FS on 29.4</td>
<td>Definition: Trimming</td>
<td>Reject</td>
<td>Accept recommendation</td>
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<tr>
<td>34.2</td>
<td>Definition – Indigenous Vegetation</td>
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<td>Accept recommendation</td>
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<td>34.4</td>
<td>Definition – Key indigenous tree</td>
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<td>Accept recommendation</td>
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<tr>
<td>FS on 24.7</td>
<td>Definition of Disturbance</td>
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<td>Accept recommendation</td>
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<td>FS on 24.2</td>
<td>Section 1.3.2</td>
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<td>General – Clarification</td>
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<td>Policy 3.1 – Ecosystem services</td>
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<td>208.18</td>
<td>Policy 3.3 – Protection</td>
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<td>Accept recommendation</td>
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<td>208.21</td>
<td>Policy 3.13 – Enhancement: Explanation</td>
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<td>208.22</td>
<td>Policy 3.14 – Restoration</td>
<td>Accept in Part</td>
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<td>208.34</td>
<td>Policy 3.17 – Protecting outstanding natural features and landscapes</td>
<td>Accept</td>
<td>Accept recommendation</td>
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<td>208.23</td>
<td>Policy 3.18 – Development in outstanding natural landscapes</td>
<td>Accept in part</td>
<td>Accept recommendation</td>
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<td>208.24 and 26</td>
<td>Policy 3.21 – Dominant ridgelines and lookout points</td>
<td>Accept in Part</td>
<td>Accept recommendation</td>
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<td>208.25</td>
<td>Policy 3.26 – Views of Kapiti Island</td>
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<td>Accept recommendation</td>
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<td>208.35 and 34.8</td>
<td>3A.1.2 Permitted Activity</td>
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<td>Accept in part but seek amendment to clarify application of the rule.</td>
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<td>208.27</td>
<td>3A.1.3 Permitted Activity</td>
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<td>208.28 and 34.9</td>
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<td>3A.1.6 Permitted Activity 3A.2.2 Controlled Activity</td>
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<td>208.32 and 33</td>
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<td>10 Historic Heritage Controlled Activity 10A.2</td>
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<td>Accept recommendation</td>
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