

BEFORE THE HEARING COMMITTEE

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Network Utilities Chapter of the
Proposed Kapiti Coast District Plan.

Statement of Evidence of

Rhea Jane Dasent

On behalf of Federated Farmers of New Zealand

RHEA DASENT

Federated Farmers of New Zealand

PO Box 715

Wellington 6140

Phone 021 501 817

Email rdasent@fedfarm.org.nz

1

INTRODUCTION

- 1.1 My name is Rhea Jane Dasent and I am a senior regional policy advisor for Federated Farmers of New Zealand. I work from our Wellington office. I am authorised to give evidence on behalf of Federated Farmers, and this statement represents the views of our membership.
- 1.2 I have worked for Federated Farmers as a regional policy advisor since 2009. My role is to provide advocacy on behalf of members in local government consultative processes arising from the Resource Management Act, Local Government Act and Local Government (Rating) Act. I analyse, submit, present at hearings and conduct Environment Court appeals on behalf of members. I have been involved in many district plan reviews and plan changes, in almost every district in the North Island. My advocacy work is informed and mandated by our elected representatives and local members.
- 1.3 I hold a Bachelor of Science majoring in Physical Geography and a Bachelor of Arts majoring in Art History from Victoria University of Wellington. I have previous experience in resource consents working for Napier City Council and then Northland Regional Council.
- 1.4 I have practical experience farming, albeit in Hawkes Bay. My family have farmed the same property in the Hastings District since 1907, running sheep and converting to beef bulls in the 1990s. I have practical experience mustering, rotating stock for grazing, calf rearing, fencing, stockyard work, and general maintenance work. I am fully cognizant of the challenges that farmers face applying regulation from district plans with confidence during their daily work in the field. My family often relies on me to ensure their activities are RMA compliant. I have an intimate knowledge of farming and how regulation affects this.
- 1.5 As a result of my role, qualifications and previous experience I have considerable knowledge and expertise in the area of resource management, and particularly district plans. I acknowledge my advocacy role for Federated Farmers. However, I have given some limited opinions in this evidence and in doing so I have done my utmost to put that consideration to one side and to give my honest expert opinion in an attempt to assist the Panel in understanding the complex and specialised issues regarding district plans and farming.

2

Scope of Evidence

- 2.1 This evidence will represent our members concerns regarding the Network Utilities Chapter of the Proposed Kapiti Coast District Plan. This statement also provides our views and responses to the Section 42a Report.

2.2 Federated Farmers position regarding National Grid Yard and Corridor provisions has been refined considerably since we wrote our original submission on the proposed Kapiti Coast District Plan in 2013. We now have considerable experience with the issue of National Grid Yard and Corridor rules, which was an emerging issue at the time. Our submission initially sought deletion of these provisions, however in this statement of evidence, as with our feedback during the submitter engagement process, we are in support of most of the provisions and now we seek consistency with NZECP34.

2.3 Network utilities provisions have a big impact on farmers and rural landowners, as some utilities such as electricity transmission lines, telephone lines and cell phone towers are located on their private land. Federated Farmers considers that adverse effects of network utilities on farming need to be managed, and that landowners need to be acknowledged as enablers of public utilities by providing land as the platform for public infrastructure.

3 Policy 11.2 Reverse Sensitivity

3.1 Federated Farmers submitted that this policy will accidentally apply to rural subdivision, buildings and structures that do not create reverse sensitivity issues for transmission lines. We recognise that urban development can cause reverse sensitivity issues for network utilities, but not necessarily rural land uses.

3.2 The Section 42a Report in paragraph 152 disagrees with us, but appears to have only considered the impact on the National Grid and consistency with the National Policy Statement for Electricity Transmission, and not any other utilities.

3.3 Many utilities are located on private land and farms. Not only National Grid lines, but also local distribution electricity lines and telecommunications lines cross over private property. Any policies which seek to manage landowners' activities around utilities and the potential for reverse sensitivity need to differentiate between rural and urban land uses. Rural and farming land uses will not have the same reverse sensitivity effects on any network utility due to the low density of buildings, larger property sizes and less people on the property.

3.4 It is a burden for landowners to host public infrastructure on their property, which have mostly been installed in the past without compensation. Landowners must be prepared to operate their farming activities around public infrastructure, and to have work crews on their property doing operation or maintenance activities. In today's health and safety climate, this is not something that farmers take lightly.

4 Operation and Maintenance

- 4.1 Federated Farmers submitted that Rule 11A.1.3 (was 11A.1.4) providing for operation, maintenance, repair, replacement and removal of existing network utilities as permitted will have the potential to adversely affect landowners.
- 4.2 The Section 42a Report in paragraph 404 recommends to reject our submission for the reason that not allowing for replacement would not meet requirements of the NES for Electricity Transmission.
- 4.3 It is important to note that the District Plan rule is not limited to Electricity Transmission alone, but applies to all network utilities, so NESESTA provisions will not apply to every network utility undergoing replacement. [NESESTA Section 14](#) does provide a permitted status for replacement of transmission line support structures, but this is within conditions that aim to keep replacement structures similar in scale, character and intensity to the existing one. There are limits on height and width increases, and a pole must not be replaced with a tower.
- 4.4 Federated Farmers agrees that operation, maintenance and repair activities are necessary and appropriate as permitted. However replacement can be of a different scale and can create some significant adverse effects on land owners and surrounding land uses resulting in injurious affection, and so permitted status is inappropriate.
- 4.5 Replacement of an underground pipe, wires and replacement of an electricity tower can be seriously big jobs. Whole paddocks or areas of the farm may be taken over by the network utility operator and unable to be used by the farmer, as well as experiencing significant traffic over their farm by work crews arriving and leaving for work every day and vehicles carrying gear and equipment. Disturbance and impacts of construction include damage to pasture and soil compaction; damage to property, gates and fence lines; livestock disturbance; having to change farming practice like not being able to graze particular paddocks or continue with irrigation; damage and destruction of crops; and storage of materials and machinery on the property. Even worker facilities like smoko rooms and portaloos will be located on the land. Landowners are also concerned about liability if there is an accident while workers are on their land.
- 4.6 The ability to participate in a resource consent process for an activity that will occur on their land will be vital for landowners and will ensure that there will be consideration of to the extent that adverse effects are to be avoided, remedied or mitigated. We are concerned that permitted status will not consider the adverse effects on landowners and is not reliant on any standards of consultation.
- 4.7 Activities such as maintenance, repair and operation as permitted are more reasonable. Using electricity transmission as an example, activities such as

washing or repainting pylons, repair of conductors, trimming trees, re-tensioning and re-sagging of conductors are activities that Federated Farmers considers as maintenance, repair and operation, and that we accept are needed to ensure that transmission continues.

4.8 There may be a perception that the adverse effects of construction and upgrading are managed by other legislation, but the permitted activity status in the District Plan enables these activities to occur without consideration of the needs of and affects on landowners.

4.9 Removal of utilities as permitted is supported. The main impacts are around access over property, but this is not something that would benefit from a resource consent. Network utility operators still have an obligation to give notice to the landowner prior to entering the property and the landowner may set conditions of entry. Landowners will view the removal of a utility from their property as a relief so we will not impede this.

5 **Minor Upgrading and Upgrading**

5.1 Federated Farmers opposes the upgrade of a network utility as a permitted activity in Rule 11A.1.4. (was 11A.1.5). The definition of *Minor Upgrading* will allow for activities with a significant scale of adverse effects to inappropriately occur as permitted.

5.2 The Section 42a Report in paragraph 428 recommends to reject our submission for the reason that rules in plans cannot override NESETA regulations.

5.3 Federated Farmers notes that the District Plan rule is not limited to the National Grid only but also applies to other network utilities, so NESETA will not be applicable to these other network utilities.

5.4 Federated Farmers looks to Electricity Act 1992 section 23(3)(b) when considering what minor upgrading to electricity transmission lines (both National Grid and local distribution lines) may be. This Section of the Act discusses replacement or upgrade of existing works as long as the land will not be injuriously affected as a result.

5.5 I recently had a similar discussion about what constitutes minor upgrading in the Hastings District Plan. Their definition incorporates the useful idea that the *effects of that utility remain the same or similar in character, scale, and intensity as those that existing prior to the commencement of upgrading*. I consider it would be useful to also include wording that injurious affection to the land is not a consequence of the minor upgrading. This wording can apply to any network utility, not just to the National Grid.

- 5.6 Federated Farmers considers that the definition of minor upgrading should be amended to include the wording above in paragraph 5.5, and then the permitted status of this activity will be acceptable to us. We do not support permitted status for upgrading as that has the potential to cause more than minor adverse effects on landowners and surrounding land uses, and cause injurious affection.

6 National Grid Transmission Lines

- 6.1 Policy 11.13 (now renumbered to Policy 11.22) is for managing third party effects on National Grid and high pressure gas transmission lines.
- 6.2 National Grid Yard and Corridor rules are important to Federated Farmers as they restrict landowners' activities on their own properties for the purpose of protecting the National Grid that they host on their land. We recognise the importance of electricity transmission and the importance of enabling Transpower's ability to operate and maintain their assets. Federated Farmers considers that the National Grid and farming can co-exist, so long as each others land use and operational requirements are being met. Buildings and subdivision can impact on access to National Grid assets, however this is not really a rural issue but more of an urban issue arising from denser development and small lot sizes. Federated Farmers and Transpower have worked together around the country and we have come to an agreed approach towards district plan provisions protecting the National Grid.
- 6.3 Federated Farmers submitted that the two types of infrastructure: the National Grid; and high pressure gas lines; need to be kept entirely separate in provisions. This is because the National Grid part of the policy is intended to address the National Policy Statement for Electricity Transmission (NPSET) which is clearly limited to the National Grid owned and operated by Transpower. High pressure gas lines are not included in the NPSET, so should also not be included in this policy. We maintain this position today.
- 6.4 The Section 42a Report in paragraph 808 that they concur with Transpower that the Council has an obligation to give effect to the NPSET. Federated Farmers does not dispute this. However in paragraph 809 the Section 42a Report considers that gas lines should also be included as the issue is the same. I disagree with this as gas lines do not come under the NPSET. I will discuss this further in section 12 of this statement.
- 6.5 Federated Farmers submits that the policy needs to be more consistent with NPSET, specifically NPSET policies 10 and 11. These are the two policies that require local authorities to manage adverse effects of third parties (ie landowners) on the National Grid. Policy 10 discusses the need to ensure that operation, maintenance, upgrading, and development of the

electricity transmission network is not compromised by reverse sensitivity. Policy 11.22(a) seems to be giving effect to this NPSET direction, but in doing so needs to use consistent terminology by identifying *reverse sensitivity* as the issue, and that the National Grid shall not be *compromised*.

6.6 I have personally worked on the issue of National Grid Yard provisions in district plans which intend to give effect to NPSET since 2011 when it first appeared in the Western Bay of Plenty District Plan. I have personally worked with Transpower in many districts to ensure that provisions are consistent with NPSET and NZECP34:2001 and that farming is recognised as an activity that can co-exist with electricity transmission, and will not compromise the integrity of the National Grid.

6.7 I have most recently dealt with this topic in the Hastings District Plan. Policy NUP6 in the Hastings District Plan is the equivalent to Kapiti Coast Policy 11.13 for managing reverse sensitivity on the National Grid to give effect to the NPSET. The Hastings policy has captured the idea that yards and corridors will be formed in accordance with Policy 11 of NPSET, that sensitive activities need to be managed to avoid reverse sensitivity effects in accordance with Policy 10 NPSET, and that rural activities that don't create these effects can occur so long as safety distances are complied with.

6.8 Hastings Policy NUP6 reads:

The reverse sensitivity effects generated by subdivision and land development on the safe, effective, secure and efficient operation, maintenance, upgrading and development of the Network and the safety and amenity values of the community are managed by ensuring that:

- a) *National Grid Yards and Corridors are identified in the Plan to establish buffer distances for managing subdivision and land-use development near National Grid infrastructure.*
- b) *Sensitive activities and inappropriate building and structures are excluded from establishing within National Grid Yards;*
- c) *Subdivision is managed within National Grid Corridor to avoid subsequent sensitive land use from compromising the operation, maintenance, upgrading and development of the National Grid;*
- d) *Changes to existing activities within a National Grid Corridor or Yard do not further restrict the operation, maintenance, upgrading and development of the National Grid;*
- e) *Some rural buildings and structures can occur near National Grid Lines when they comply with NZECP34:2001*

- 6.9 Policy 11.2 *Reverse Sensitivity* and Policy 11.22 *National Grid and High Pressure Gas Transmission Lines* seem to be addressing the same issue: that of meeting NPSET obligations and managing reverse sensitivity.
- 6.10 Policy 11.22 does not encapsulate the NPSET requirements by focussing on gas transmission as well, and does not acknowledge that it is *sensitive* activities that most need to be managed. Policy 11.22(b) is very similar to the preceding clause (a) but is about potential cumulative effects. I do not consider it necessary, as cumulative effects will be part of *extent* in (a) and addressed already. Clause (c) discusses the presence of people and the potential for emergency situations. I do not think this is something that a council can manage effectively. People are not an RMA resource, but rather a Health and Safety issue, and Health and Safety issues have no place in a District Plan. The Council will not be able to monitor and enforce the presence of people near the National Grid. This will be managed by proxy when managing land uses and buildings in Clause (a), but people themselves should not be managed.
- 6.11 The first point should be to establish a National Grid Yard, which should be consistent with NZECP34:2001 safety distances of 8m for poles and 12m for towers (see pages 6 and 7 of NZECP34.) This will meet Policy 11 of NPSET direction.
- 6.12 The Section 42a Report recommends some minor changes to the policy in paragraph 826. I recommend that Policy 11.22 is deleted as Policy 11.2 already meets NPSET requirements.

7 National Grid Yard

- 7.1 Federated Farmers recognises that Policy 11 of NPSET requires local authorities to identify a buffer corridor within which sensitive activities will generally not be provided for.
- 7.2 The National Grid Yard appears to be fulfilling this requirement. I see that there are several existing National Grid lines running through Kapiti, the 220kV Bunnythorpe-Haywards A and B lines (BPE-HAY) and the soon-to-be-removed 100kV Mangahao-Paekakariki (MHO-PKK) line. The National Grid Yard is used for rules regarding buildings, structures and earthworks.
- 7.3 Seeing as the 110kv MHO-PKK lines will be removed in a few months there is no need for them to be identified as a National Grid Corridor in the planning maps. This was the only National Grid line on poles, the others are on towers. I see that Pauline Whitney of Transpower also seeks deletion of references to the MHO-PKK lines and the Yard distances from poles.

- 7.4 NZECP34 has different safety distances from poles and towers, with the setback for buildings from poles being 8 metres and from towers being 12 metres. I note that the National Grid Yard definition discusses a 12 metre radius around a support structure, but to be consistent with NZECP34 the yard radius should differ between poles and towers. However in a practical sense because the 110kV line on poles will soon be removed there is only a need to identify a Yard around the 220kV lines on towers.

8 National Grid Corridor

- 8.1 The National Grid Corridor runs parallel to the lines. The Section 42a Report definition has a 14 metre wide corridor for a 110kV line on single poles, a 16m corridor for a 100kV line on pi poles (double poles) and a 37m corridor for a 220kV line. The diagram seems to only show the Yards and not the described corridors. The purpose of this corridor is for managing subdivision.
- 8.2 I recommend that the name of the corridor is amended to *National Grid Subdivision Corridor*, since its purpose is to manage subdivision. I also recommend deletion of references to the 100kV lines seeing as this will soon be removed, in agreement with Pauline Whitney's evidence for Transpower.
- 8.3 Federated Farmers considers that large scale rural and farm subdivision doesn't pose the same level of risk towards the National Grid compared to urban subdivision, and so the rule needs to weed out rural subdivision. A large farm being subdivided into large rural lots, or going through a boundary adjustment, will likely have a boundary running through the National Grid Corridor, but will not result in dense development near the lines. There will be ample space for a rural subdivision to build a house away from the National Grid line, and the small number of rural lots will not compromise Transpower's ability to access their structures compared to a 100 lot urban development for example. A rural subdivision that can meet the standard of a building site away from the National Grid Yard should have the same activity status as a normal rural subdivision.
- 8.4 Federated Farmers supports Rule 11C.3.2 for subdivision, provided that the activity status is not more onerous than any other rural subdivision. We support the standard which requires a building platform outside the National Grid Yard, but this can be done in a general way that does not limit the next owner's options to a very specific house site. Rural subdivisions and boundary adjustments will have no problem meeting this standard, as they will likely have tens of hectares of space outside of the Yard available for building.

9 Fences

- 9.1 Fences are a vital component of farming, and fences will already be running under lines and near National Grid towers and poles. Some fencelines will pre-date the National Grid. District Plan provisions must be consistent with the existing NZECP34 requirements, and allow for fences to be permitted where they meet these safety distances.
- 9.2 Fences are currently allowed to be within 5m of a tower or pole for a 110kV or 220kV line according to Section 2.3.3 of NZECP34. If the farmer needs the fence to be closer then written consent is required from Transpower. The purpose of this particular fence rule in NZECP34 is to manage conductivity risk. Post and wire fences will be the type of fence most likely to be governed by this rule.
- 9.3 Fences do not pose an impediment to Transpower's maintenance or operation activities. If Transpower needs to do work on a tower or pole, they can simply drop the fence down and replace it after work has finished. Most of the time there will be ample space around the tower to do work anyway, as the fence will only be running past one side. Farmers don't usually surround a tower or pole with a fence, unless there is a particular reason that they want to keep stock away from the tower footing. It is highly likely a fence will run under the electrical wires without being near a tower at some point, because the line will cross over the farm. In the case of Transpower needing to lower their lines for works then the fence will be dropped and replaced afterwards.
- 9.4 Federated Farmers supports Rule 11C.1.4 which permits fences to be within 5m of a support structure, as this is consistent with NZECP safety distances. Support is also given for Rule 11C.1.2 which permits fences to run under the lines through the National Grid Yard.
- 9.5 Earthworks rules will also affect fences, as post holes need to be dug. A typical post hole for a fence is dug by hand, loosening soil with a bar or hand borer, and digging it out with a long handled narrow spade. Only strainers and posts need to be dug in, batons are simply nailed to the wires. The primary concern for excavation around towers/poles is the risk of undermining and destabilising the structure. This is unlikely to result from a fence post hole, which is why NZECP34 provides an exemption from the excavation rules for vertical holes that are less than 500mm in diameter. It is important that the setback for fence post holes matches the setback for fences themselves, as they are one and the same activity. Support is given to Rule 11C.1.5 Standard 1 which exempts 500mm diameter holes from the 12m setback.

10 Farm Buildings

- 10.1 Farm buildings do not create reverse sensitivity effects that could compromise the National Grid. Farm buildings are not inhabited by people, and mostly used on an intermittent basis, compared to a house or a school building. Therefore rules for buildings near the National Grid must differentiate between sensitive activities¹ such as schools, houses and hospitals which need to be managed to avoid reverse sensitivity problems, and other buildings which need management only to meet electrical safety distances.
- 10.2 Farm buildings are frequently located under National Grid wires and cause no problems. Their low density means that they do not impede Transpower access to their lines for maintenance and operation. The occupants of farm sheds do not cause reverse sensitivity problems for Transpower nor affect their confidence to operate. Farm sheds do not pose an undue safety risk either, sometimes towers can be located on higher ground and farm sheds in a valley can be many vertical metres away from the overhanging wires.
- 10.3 Support is given to Rules 11C.1.1 which permits buildings and structures within the National Grid Yard, with the conditions that they meet the vertical clearance distance of 10m. I do recommend that Standard 2 is amended to require compliance with NZECP34, rather than the landowner having to actively *demonstrate* compliance. I'm unclear if this means that the landowner has to submit something to the district council to demonstrate that they comply with a permitted activity, which I would not agree with.

11 Earthworks

- 11.1 Federated Farmers seeks rules for earthworks within the National Grid Yard that are consistent with NZECP34.
- 11.2 We support the exemptions for cultivation, driveways and farm tracks. These are all very shallow excavation activities that will not undermine or destabilise the National Grid.
- 11.3 Support is also given for the exemption for vertical holes, which I addressed in Section 8 of this statement.

¹ Please see Section 3 *Interpretation* of the National Policy Statement for Electricity Transmission for definition of *sensitive activities*.

12 High Pressure Gas Transmission Lines

- 12.1 Federated Farmers submitted that high pressure gas lines are separated from the National Grid. They are lumped together in Policy 11.22 *National Grid and High Pressure Gas Transmission lines* and Policy 11.15 *Assessment Criteria*. Gas is also included in Policy 11.2 Reverse Sensitivity clause (e); and Rules 11A.1.4; 11A.1.5; and 11A.4.4 regulating the gas transmission activities themselves, which Federated Farmers has no opposition to. Rule 11C.3.1 RDA for subdivision 10m either side of a high pressure gas transmission line, regulates third party effects on gas transmission lines. There do not appear to be any submissions from the gas transmission industry.
- 12.2 I do not have much personal knowledge on high pressure gas transmission, as it is not something I usually encounter in district plans. Gas transmission looks to be regulated by the Commerce Commission under provisions of the [Commerce Act 1986](#). Gas transmission is operated by companies like [Vector](#) or [First Gas](#). Vector has over 6,300km of gas transmission, but mostly supplies Auckland. First Gas has transmission infrastructure running through Kapiti District, with more than 2,500 kms of high pressure gas transmission pipelines and stations that supply natural gas from Taranaki to industrial consumers throughout the North Island. This gas network extends all up the west coast of the North Island, including Kapiti Coast, quite a grid of lines through Waikato and Bay of Plenty, and branches out to Gisborne, Napier and up to Northland. I have worked on district plans all around these areas (save for Gisborne) and never encountered provisions seeking to protect high pressure gas pipelines, which leads me to the conclusion that district plan regulation is not something that is deemed necessary by either the councils or industry bodies.
- 12.3 I would expect that potential landowner effects on high pressure gas pipelines are already being managed by the industry itself. The Council should consult with the industry to find out. The Vector pamphlet *Gas Pipeline Safety Guide* tells me that there are a number of regulatory documents that manage safety around gas transmission: The Ministry of Business, Innovation & Employment *Guide for Safety with Underground Services*; the Gas Act 1992; Health and Safety at Work Act 2015; and Health and Safety in Employment (Pipeline) Regulations 1999. Any company that has gas transmission assets located on private land would likely have an existing relationship with the landowners, as they would need access for maintenance and operation activities. Gas lines would also likely be on Certificates of Title and landowners are probably well aware of their presence on their property. Section 23 *Protection of Existing Fittings* and Section 24 *Rights of Entry in Respect to Existing Fittings* of the Gas Act leads me to deduce that any gas lines installed across private land post 1 January 1993 would be subject to easements similar to telco and electricity utilities.

- 12.4 The Section 42a Report in paragraphs 796 and 809 addresses our submission point about gas pipelines being grouped with National Grid provisions, with the opinion that the issues are the same and so grouping together is appropriate. I do not agree with this for the reasons above.
- 12.5 Therefore I recommend that Policies 11.15 and 11.22 are amended to delete references to high pressure gas transmission lines as they are unnecessary. I recommend that Rule 11C.3.1 is also deleted.

I thank the Hearing Panel for considering my evidence to the Network Utilities Chapter of the proposed Kapiti Coast District Plan.

Rhea Dasent

Rhea Jane Dasent
For Federated Farmers

4 August 2016.

