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14 November 2019

Proposed Waikato District Plan Hearing
 Waikato District Council
 Private Bag 544
 Ngaruawahia 3742
 Via email: districtplan@waidc.govt.nz

Dear Sir/Madam

HEARINGS ON THE PROPOSED WAIKATO DISTRICT PLAN

Hearing 5 – Chapter 13 Definitions

Submitter Reference: Transpower NZ Ltd S576 and FS1350

Transpower New Zealand Ltd (“**Transpower**”) writes in relation to Hearing 5 – Chapter 13 Definitions, commencing on Tuesday 10 December 2019.

Given the limited number of submission points of relevance to Transpower within the Hearing 5 s42A report (many key defined terms of significance to Transpower are allocated to subsequent hearings, primarily Hearings 23A and 23B Infrastructure), Transpower is not proposing to adduce evidence to Hearing 5 on the points outlined below. 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 below, it would be more than happy to do so.

Transpower will be appearing at subsequent hearings where there are multiple Transpower submission points of specific and particular relevance to Transpower.

Hearing 5 – Chapter 13 Definitions

In addition to wider plan wide provisions relating to the ongoing operation, maintenance, development and upgrading of the National Grid, Transpower submitted on 10 points (5 original points and 5 further submission points) to be heard at Hearing 5.

It is noted that the Hearing 5 s42A report does not make reference to Transpower’s submission point 576.41 which relates to the definition of “Operational need”. This submission point is not specifically referenced in the report considerations or recommendations (including the table of

recommendations in Appendix 1) but the term 'operational need' does form part of the officer's considerations and recommendations under section 3.74 of the s42A headed 'Functional need' and 'Operational need'. Given Appendix 3 of the Hearing 5 s42A report identifies the definition of 'Operational need' as not requiring any further consideration, Transpower considers it appropriate to recognise this submission point as part of Hearing 5.

It is noted that there are multiple definitions in Chapter 13 that are of key interest to Transpower which are not addressed as part of the Hearing 5 s42A but which have been allocated to subsequent hearings, primarily Hearings 23A and 23B Infrastructure.

Summary of Transpower's response to s42A Recommendations

By way of summary, Transpower:

- Supports the officer recommendation on **FS1350.52** to adopt definitions from the National Planning Standards (where these terms/definitions have been submitted on) subject to subsequent hearings where definitions of key interest to Transpower will be addressed, including Hearings 23A and 23B relating to infrastructure
- Supports the officer recommendation on submission point **576.32** in relation to the definition of 'building' subject to any further consideration of the definition of 'building' in subsequent hearings
- Supports the officer recommendation on submission **576.34** in relation to the definitions of 'Functional need' and 'Operational need' (but seeks recognition of submission **576.41**)
- Supports the officer recommendation on submission **576.45** and further submission **FS1350.50** in relation to the definitions of 'Sensitive land use' subject to any further consideration of these definitions in subsequent hearings
- Supports the officer recommendation on submission **576.80** in relation to the requested definition of 'Identified area'
- Supports the officer recommendation on further submission **FS1350.51** subject to the outcomes of subsequent hearings where the definition of 'earthworks' will be addressed
- Does not support the officer recommendation on further submissions **FS1350.46** and **FS1350.47** regarding a definition of 'Reverse sensitivity'.

Section 42A Officers Report Recommendations and Transpower's Response

The following comments are specific to the recommendations on submission points sought by Transpower.

Recommendations supported or conditionally supported

Chapter 13 – Definitions

Consistency with National Planning Standards definitions

s42A Report reference: Sections 2.5 and 3.111 (FS1350.52)

In its further submission (FS1350.52) Transpower supported submission 749.26 (Housing NZ Corporation) and the relief sought by the submission to align the Proposed Plan definitions with the National Planning Standards. However, FS1350.52 also flagged the need for careful consideration of the introduction of Planning Standards definitions

because of the potential implications of, for example, any consequential changes required to other plan provisions and the potential for any such changes to extend beyond the scope of the Planning Standards therefore requiring a Schedule 1 process.

Therefore, whilst Transpower supports the officer recommendation that the definitions in Chapter 13 subject to submissions be amended/replaced to align with the definitions in the Planning Standards as part of the Plan review process, this support is contingent on this being done in an integrated and carefully coordinated manner across the Plan provisions to ensure there are no unintended consequences. Transpower's support is also subject to subsequent hearings where several definitions of key interest to Transpower and the National Grid infrastructure will be addressed.

The officer recommendation is therefore to accept submission 749.26 (and FS1350.52). Transpower is supportive of this recommendation, subject to the recommendations/outcomes of subsequent hearings where other definitions not addressed by the Hearing 5 s42A report will be addressed.

Definition of 'Building'

s42A Report reference: Section 3.17 (submission 576.32)

In its submission (576.32) Transpower supported the retention of the proposed definition of 'building' insofar as the definition has the same meaning as that in the Building Act which excludes a Network Utility Operator pylon from the definition of a building.

The s42A report provides a detailed consideration of the submissions made on the term 'building' set within the context of the implications of adopting the National Planning Standards definition of 'building' compared with the definition of 'building' as in the notified Plan. Essentially, and although it is noted that 'building' appears on the list of definitions that require further consideration (Appendix 3 of the s42A report) including in relation to the definition's application to infrastructure, the officer recommends that the definition of 'building' as notified be replaced by the definition of 'building' from the Planning Standards. As a result, the officer recommendation is to accept in part the relief sought by Transpower's submission 576.32.

As outlined in Transpower's further submission (FS1350.52) on Housing NZ's submission 749.26 (refer above), Transpower is supportive of the adoption of defined terms from the Planning Standards into the Proposed Plan as long as careful consideration is given to their introduction. In terms of the Planning Standards definition of 'building', Transpower understands the definition excludes National Grid transmission lines and support structures because no part is partially or fully roofed. On this basis, it is not considered necessary (subject to any subsequent hearings on the matter) to include any specific exclusions for the National Grid into the rules for buildings or to create a sub-definition.

Transpower is therefore supportive of the officer recommendation to accept in part submission 576.32, but this support is subject to the outcome of any further consideration of the definition of 'building' during subsequent hearings, including Hearings 23A and 23B relating to infrastructure.

As a minor issue, it is noted that the s42A report recommended amendments to the definition of 'building' [see para 301] do not show the notified definition text as being struck out as is intended by the officer recommendation (although the amended definition text in Appendix 2 of the s42A does align with the recommended changes).

Definition of ‘Functional need’ and ‘Operational need’

s42A Report reference: Section 3.74 (submission 576.34 and 576.41)

In its submission (576.34) Transpower sought to retain the definition of ‘Functional need’ in the Chapter 13 definitions as notified as, alongside the related term ‘Operational need’, the definition supports the term’s usage in Policy 6.1.2(a)(i) and Policy 6.2.1.

Whilst not referenced in the s42A report or recommendations, Transpower made a separate submission on the related term ‘Operational need’ – refer submission point 576.41. This submission sought to also retain the definition of ‘Operational need’ as notified as, alongside ‘Functional need’, it supports the term’s usage in Policy 6.1.2(a)(i) and Policy 6.2.1.

Consistent with the approach taken to other Planning Standards definitions that were submitted on (see above) the officer recommendation is that the definitions for ‘Functional need’ and ‘Operational need’ in the Planning Standards are adopted and replace the definitions for these terms provided in Chapter 13 of the notified Plan. As a result, the officer recommendation is that Transpower’s submission [576.34] be accepted in part.

Transpower is supportive of the Planning Standards definitions of ‘Functional need’ and ‘Operational need’ and is therefore supportive of their adoption into the Proposed Plan. Transpower is therefore supportive of the officer recommendation to accept in part submission 576.34. Transpower also seeks that submission 576.41 (in relation to ‘Operational need’) be accepted in part for similar reasons.

Definition of ‘Sensitive land use’ and ‘Reverse sensitivity’

s42A Report reference: Section 3.36 (submission 576.45; FS1350.46, FS1350.47 and FS1350.50)

Section 3.36 of the s42A report addresses submissions made on the proposed definition for ‘Sensitive land use’ as well as submission requests for a new defined term of ‘Reverse sensitivity’ as the terms are considered to be closely related.

In its submission (576.45) Transpower sought to retain the definition of ‘Sensitive land use’ as notified in the Proposed Plan insofar as it is applied to the National Grid corridor management provisions within the Plan. The officer recommendation is to accept in part submission 576.45 on the basis that the definition of ‘Sensitive land use’ is recommended to be retained but amendments are recommended to the definition in response to other submissions. The recommended definition reads as follows:

Sensitive land use

Means:

- (a) an educational facility, including a childcare facility, waananga and koohanga reo;
- (b) a residential activity, including papakainga building, ~~rest home~~, retirement village, ~~visitor travellers~~ accommodation, student accommodation, home stay;
- (c) health facility or hospital;
- (d) place of assembly.

The amendments recommended to the definition in response to other submissions are not considered to impact on the relief sought by Transpower in its original submission and on this basis the officer recommendation to accept in part submission 576.45 is accepted. However, it is noted that ‘Sensitive land use’ (and ‘Reverse sensitivity’) appears on the list of definitions that require further consideration (Appendix 3 of the

s42A report) including in relation to the definition's application to infrastructure. Therefore, Transpower's support of the recommendation is subject to the outcome of any further consideration of the definition of 'Sensitive land use' during subsequent hearings, including Hearings 23A and 23B relating to infrastructure.

In its further submission (FS1350.50) Transpower opposed submission 680.266 (Federated Farmers of NZ) on the basis that the submission sought to delete residential activities and home stays from the definition of 'Sensitive land use' whereas these activities are considered to be sensitive land uses within the context of the Proposed Plan. In addition, and specific to the National Grid, the NPSET explicitly includes residential buildings within the definition of a sensitive activity, making their inclusion within the definition completely appropriate. The officer recommendation is to accept FS1350.50 (and reject submission 680.266) as the officer agrees that residential activities and homestays are sensitive land uses that are appropriate to include in the definition of 'Sensitive land use'. The officer recommendation is consistent with the relief sought in FS1350.50 and is therefore accepted.

Definition of 'Identified area'

S42A Report reference: Section 3.95 (submission 576.80)

In its submission (576.80) Transpower sought a new definition for 'Identified area' be added to the Chapter 13 definitions (with consequential amendments as needed) as the term is not defined in the Proposed Plan but it is used widely throughout the policies and rules (including in Chapter 6 – Infrastructure and Energy). Further, lists of identified areas are included throughout the Plan (including in rules in Chapter 14 – Infrastructure and Energy), but these lists are not consistent and therefore could be confusing for plan users.

The s42A reporting officer agrees that defining the term 'Identified Area' would be beneficial in terms of reducing uncertainty and confusion. The officer recommendation is to therefore accept submission 576.80 and to add a definition of 'Identified area' as follows:

Identified area

Means the following areas and items identified within this plan:

- a. Urban Expansion Area**
- b. Significant Natural Area**
- c. Outstanding Natural Feature**
- d. Outstanding Natural Landscape**
- e. Significant Amenity Landscape**
- f. Outstanding Natural Character**
- g. High Natural Character**
- h. Heritage Precinct**
- i. Heritage Items**
- j. Maaori Sites of Significance**
- k. Maaori Areas of Significance**
- l. Notable Trees.**

The reporting officer also recommends consequential amendments to Chapter 6 to capitalise instances of the term 'identified area' in the objectives and policies, including Objective 6.1.8 and Policy 6.1.10, in order to avoid confusion.

Transpower supports the officer's recommendation as it is consistent with the relief sought in submission 576.80 and provides greater clarity for plan users.

Definition of 'Earthworks'

S42A Report reference: Section 3.43 (FS1350.51)

In its further submission (FS1350.51) Transpower supported submission 785.36 (The Oil Companies) requesting that the definition of 'earthworks' be retained in Chapter 13 Definitions as notified as the definition assists in plan interpretation and application and appropriately covers the range of activities covered by earthworks.

The officer recommendation is to replace the definition of 'earthworks' in the Proposed Plan with the definition of 'earthworks' provided by the Planning Standards. Submission 785.36 (and FS1350.51) is therefore recommended to be rejected.

As outlined above, Transpower is supportive of the adoption of Planning Standards into the Proposed Plan as long as careful consideration is given to their introduction. It is noted that 'earthworks' appears on the list of definitions that require further consideration (Appendix 3 of the s42A report). Therefore, Transpower's acceptance of the officer recommendation to adopt the Planning Standards definition is contingent on the outcomes of subsequent hearings where the definition of 'earthworks' will be addressed and its application able to be assessed as it relates to provisions specific to the National Grid.

Recommendations not supported

Definition of 'Reverse sensitivity'

S42A Report reference: Section 3.36 (further submissions FS1350.46, FS1350.47)

In its further submission Transpower supported submissions 742.77 (NZ Transport Agency) [FS1350.46] and 986.46 (KiwiRail Holdings) [FS1350.47] (which sought that a definition of 'reserve sensitivity' be added to the Plan) on the basis that a definition that reflected the Waikato RPS definition would assist in Plan interpretation and application.

The officer recommendation is to reject submissions 742.77 and 986.46 (and therefore reject further submissions 1350.46 and 1350.47) and not include a definition of 'reverse sensitivity' in the Plan on the basis of the Ministry for the Environment's conclusion in their Recommendations on Submissions Report for the Planning Standards. That report outlines the difficulties at the present time with providing a definition of 'reverse sensitivity' given that case law is still evolving and that the NPS for Renewable Electricity Generation is currently in conflict with case law on the 'existing environment'. On that basis, the report did not retain a definition for 'reverse sensitivity' in the final Planning Standards.

Whilst Transpower understands the challenges outlined by the s42A report, Transpower nevertheless still considers that a definition of the term 'reverse sensitivity' (reflecting that in the Waikato RPS) would be beneficial to Plan users and would support the Plan's interpretation and application.

Hearing Appearance

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

Should you require clarification of any matter, please contact Pauline Whitney at Transpower (04 590 7540), or on the following email: Pauline.Whitney@transpower.co.nz

Yours faithfully

A handwritten signature in dark ink, appearing to read 'P. Whitney', with a large, sweeping initial 'P'.

Pauline Whitney
Senior Environmental Planner