

Before the Auckland Unitary Plan  
Independent Hearings Panel

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*under:* the Resource Management Act 1991, as amended by  
the Local Government (Auckland Transitional  
Provisions) Act 2010

*in the matter of:* submissions lodged on the Proposed Auckland Unitary  
Plan

Memorandum on behalf of Transpower New Zealand Limited in  
relation to the Regional Policy Statement

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Dated: 23 January 2015

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**MEMORANDUM ON BEHALF OF TRANSPOWER NEW ZEALAND  
LIMITED IN RELATION TO THE REGIONAL POLICY STATEMENT**

May it please the Hearings Panel:

- 1 This memorandum sets out Transpower New Zealand Limited's (*Transpower's*) position as to the preferred procedural approach to the Panel's recommendations on the regional policy statement (*RPS*) section of the Proposed Auckland Unitary Plan (*PAUP*).
- 2 We have reviewed the various memoranda/correspondence setting out the preferred approaches of some parties, particularly the following options (using Auckland Council's definitions at paragraph 4.1 of its memorandum dated 22 January 2015):
  - 2.1 Russell McVeagh Interim Recommendation;
  - 2.2 RPS Final Recommendations Early 2015;
  - 2.3 RPS Final Recommendations Late 2015/2016.
- 3 The various options all contain respective merits and risks, and legal complexities. Some brief comments on the various options are noted below (noting that counsel have not exhaustively examined the legality of the various options or the various parties' positions in the time available).

**Preferred approach - Russell McVeagh Interim Recommendation**

- 4 Transpower generally supports the Russell McVeagh Interim Recommendation approach, subject to the refinements outlined below. Transpower considers that this approach will substantially assist all parties and the Panel by providing some clarity and certainty on the RPS before the next round of mediations and hearings on the regional and district plan provisions. Clarity and certainty appear to be universally accepted as being desirable from the various positions lodged with the Panel to date.
- 5 Transpower has an on-going interest in the RPS, particularly the outstanding issue of how to resolve the potential conflict between the National Policy Statement on Electricity Transmission (*NPSET*) and the New Zealand Coastal Policy Statement through the RPS provisions. As previously advised,<sup>1</sup> the Council and Transpower are continuing their discussions on the matter in an effort to reach an agreed position if possible.
- 6 In the event that agreement cannot be reached, as previously indicated to the Panel, Transpower would seek the opportunity to

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<sup>1</sup> See Transpower's legal submissions on Topics 008, 012 and 010.

make further legal submissions to the Panel and potentially lodge further evidence and be heard on the matter prior to the RPS being completed.

- 7 In Transpower's submission, this step is necessary to ensure that the Panel's recommendation (interim or otherwise) on the RPS is sufficiently informed. It will also reduce the likelihood of and need for appeals at the end of the PAUP process.
- 8 Such a process could also be used to:
  - 8.1 Allow confined cases to be presented by parties (subject to the Panel agreeing) who consider that their RPS cases are not complete (for instance, Council could present the evidence on economics outlined in its memorandum).
  - 8.2 Allow the Panel to seek further evidence and legal submissions on any key issues they have identified in deliberating on RPS matters.
- 9 It is acknowledged that this additional process may increase the time needed to finalise the PAUP, potentially by around two months. However Transpower submits that the time will be well spent. It will ensure a far more efficient and focussed examination in later parts of the PAUP process. Two months is submitted to be a very short delay for such an important resource management process for the Auckland Region. Because of the streamlining of the process brought about by the Interim Recommendation, time could be caught up in later stages.

#### **RPS Final Recommendations Early 2015**

- 10 Although this option would appear to be the most straightforward and certain legal process, Transpower considers that the time needed for legislative change and the material delay that may occur due to appeals is undesirable.
- 11 For its part, Transpower wishes to have its PAUP submissions decided on and the relevant provisions made operative as soon as possible. Until that happens, there is on-going uncertainty for Transpower and landowners, and added risks to the National Grid. These matters are submitted to be of high importance given the national significance of the National Grid and the substantial delay in the Auckland Region in giving effect to the NPSET. The plan change or review to give effect to the NPSET was required to be commenced by 10 April 2012.

#### **RPS Final Recommendations Late 2015/2016**

- 12 A key flaw in this option is the procedural issue of no party having been given an opportunity to present their case based on how the regional and district plan provisions "give effect to" the RPS. There

is, at the current time, several permutations of what the RPS could ultimately look like. In some cases, the parties have submitted agreed modifications of the notified RPS to the Panel, which will provide a level of certainty in those cases.<sup>2</sup> However, the RPS seems highly likely to be modified further based on the many submissions and evidence presented to the Panel to date. If parties are not given an opportunity to present their cases on how a set of RPS provisions is to be given effect to, judicial review and appeal risks will arise. The Council's suggested "high level indications" approach would not appear to be a sufficient remedy to this issue, as ultimately giving effect to the RPS will require a close examination of its text.

- 13 Counsel will be attending the conference on 27 January 2015 and will be available for questions.

Dated: 23 January 2015



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<sup>2</sup> As the Panel and Council do not have to accept these agreed provisions, some uncertainty remains.