

HEARING

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To: Central Hawke's Bay District Council
Hearing Panel

Regarding: **Proposed District Plan**
Hearing Stream 3

Date: 15 June 2022

Statement by: **RHEA DASENT**
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1. Federated Farmers welcomes this chance to present to the Hearing Panel during Hearing Stream 3 for: *Rural Land Resource / General Rural Zone / Rural Production Zone / Rural Lifestyle Zone / and Subdivision - Rural.*
2. My name is Rhea Dasent, I am a senior regional policy advisor for Federated Farmers. I was the author of the Federated Farmers' submission and further submissions on the proposed District Plan, and the evidence lodged for Hearing Stream 3. This work has been done in consultation with local Central Hawke's Bay members, and with my own knowledge about how district plans impact farmers. My own views are closely aligned with those of Federated Farmers, due to my own farming background.
3. Given that Federated Farmers was largely satisfied with most of the objectives and policies that enable farming, I wish to focus today on two outstanding matters relating to network utility companies operating on private land – the National Grid Yard and the Gas Transmission Network. For other matters in the rural zones, I rely on my Statement of Evidence and support Horticulture New Zealand on rural industry and rural aviation.
4. Provisions that protect network utilities companies can have negative impacts on the landowners who generously host public infrastructure. District Plan provisions can be unnecessary duplication of already existing rules at best, and at worst be conflicting.

National Grid Yard

5. Federated Farmers recognises the importance of electricity transmission and the importance of enabling Transpower's ability to operate and maintain their assets. We recognise the National Policy Statement for Electricity Transmission and the obligation to comply with it. We agree that health and safety is important, and also do not want farmers and landowners to be unsafe or electrocuted.
6. However, it is equally important that landowners and farmers can continue to use their own property with confidence, and that their farming activities are not unjustly limited by a guest on their land. Farmers live every day with the National Grid on their property. It would inefficient and unproductive to limit daily and ubiquitous farming activities like fences and sheds, for the benefit of a Transpower activity that only occurs every 10 years.
7. Farming pre-dates the National Grid, and it was a grievous oversight that legal easement agreements were not always negotiated at the time of National Grid development. Transpower are now making up for this problem by imposing extra restrictions through district plans, which outsources monitoring and enforcement onto councils. Transpower is not an easy tenant, and for some landowners their use and enjoyment of their own property has been impacted without compensation. It is our fear that retrospective compensation is further away than ever, given that District Plans and other regulations give Transpower what it desires without the need to pay compensation for hindering the use of land.
8. Federated Farmers considers that the National Grid and farming are land uses that can co-exist, so long as each others' operational requirements are being met. The Resource Management Act 1991 does not prioritise one land use over another, but requires balance and consideration of the well-being of all parties. Farming and landowner rights must not be trampled while seeking to protect electricity transmission.
9. There are already a number of regulations that place an onus on landowners for the benefit of electricity transmission. Farmers already have to comply with New Zealand Electrical Code of Practice for Electrical Safe Distances NZECP34:2001 for safe buildings, fences and earthworks, the Electricity (Hazards from Trees) Regulations 2003, and the Electricity Act 1992 for providing access.
10. Federated Farmers seeks that District Plan provisions are consistent with existing instruments and are not more onerous. These existing regulations already achieve the resource management issues that the District Plan is trying to address, so there is no need for the District Plan to be stricter.
11. Federated Farmers largely accepts the National Grid Yard rules in the Section 42a Report, with the exception of the missing 8m setback from poles and the requirement for vehicular access.

Setbacks from the National Grid Yard

12. We are concerned that provisions intended to manage the effects of urban development on the National Grid will end up unnecessarily restricting farming. Farming should not be considered a risk to transmission, it doesn't compromise Transpower's ability to operate and maintain their assets, nor does it cause reverse sensitivity.
13. In her evidence, Ms Pauline Whitney for Transpower says *Certain structures (such as rural hay barns, pump sheds and implement sheds) are less problematicon the basis they are unlikely to "build out" a transmission line*¹. I agree with her, the occasional farm shed will not hinder Transpower maintenance and operation activities, nor cause reverse sensitivity.
14. There are all sorts of activities that occur under and near lines today, such as roads and highways, railways, local electricity distribution lines, and urban land uses, so farming is an activity that has only minor risk comparatively. Allowing a farm shed to be built up to 8m from a pole, as consistent with NZECP34 requirements, will not disrupt National Grid operation, maintenance or emergency needs. It is the urban zones where being "built out" is a genuine issue, not in the rural zones.
15. An 8m setback from a pole is both consistent with NZECP34, and with Policy 11 of the NPS-ET, which directs an *appropriate* buffer zone be provided. If Transpower considers 8m to be inadequate, they need to change NZECP34. The District Plan must not set up a situation where a structure that is between 8m and 12m from a pole is simultaneously permitted (under NZECP34) and yet not (under Rules GRUZ-S13 and RPROZ-S15.)

¹ Para 8.18, Statement of evidence of Pauline Mary Whitney for Transpower New Zealand Ltd, 31 May 2022.



The National Grid in neighbouring rural Hastings District has local distribution lines crossing underneath a road. Compare this farm image with the urban scenes in Figures 11, 15 and 4 (on page 49) of Mr Cartright's Statement of Evidence. Farm fencing is a minor inconvenience in comparison.

Vehicular Access to the National Grid

16. The evidence of Mr Benjamin Cartright for Transpower discusses topics like mobile machinery around wires², the risk of electrocution³, and vegetation⁴. However a district plan cannot regulate vehicles and people and their whereabouts (this is a Health and Safety Act responsibility) and vegetation is already managed through the Hazards from Trees Regulations.
17. Mr Cartright's discussion in paragraph 6.56 saying that a planning regime should prevent the construction of fences near the National Grid concerns me. I agree that fences have a voltage hazard, which is why Federated Farmers agrees with the fence setbacks in Section 2.3 of NZEC34. But Mr Cartright's purpose for preventing fences is because of access to the National Grid, saying it would create unnecessary costs and delays.
18. Is there an unrealistic expectation that Transpower can drive across a farm as the crow flies to the National Grid? It is not viable to have such a level of District Plan control that a farmer cannot fence their paddocks to suit their daily farming business, in order to provide a clear route to the National Grid which is only used occasionally. Transpower can drive around fences to gates, and

² Para 8.18, Statement of evidence of Benjamin Roy Cartwright for Transpower New Zealand Ltd, 31 May 2022

³ Para 8.9, Statement of evidence of Benjamin Roy Cartwright for Transpower New Zealand Ltd, 31 May 2022

⁴ Para 9.10, Statement of evidence of Benjamin Roy Cartwright for Transpower New Zealand Ltd, 31 May 2022.

negotiate with farmers as to when and where fences need to be lowered (and reinstalled by Transpower) when needed. The District Plan shouldn't create a major permanent imposition on farming, while seeking to avoid minor inconvenience for Transpower.

19. The risk of access to National Grid structures being built-out is an urban issue, not a rural one. Ms. Pauline Whitney's evidence says *Restoring supply becomes challenging if transmission lines are difficult to access due to intensive developments that may be constructed under and around them*⁵. Rural zones and farms are unlikely to have the intensive development that Transpower fears will prevent their access.
20. Planned maintenance will be scheduled in advance with plenty of time to negotiate access with the farmer. Remember that the farmer can't refuse access under Section 23 of the Electricity Act, but Section 23D enables them to set reasonable conditions on access, like the route taken. In an emergency, Transpower is excused from giving prior notice by Section 23D. Neither planned nor emergency access justifies District Plan rules that undermines a landowner's legislative right to negotiate routes while providing access.

Gas Transmission Network

21. Federated Farmers seeks that all provisions for the gas transmission network are deleted. This is not to say that we don't think gas transmission is important, but rather because legal easement agreements already protect this infrastructure by requiring a no-build, no-dig zone. These easements are [at least 12m](#) (I assume this is 12m in total, so 6m either side of the gas pipeline) and registered on the Certificate of Title, which is of more immediate importance to a landowner than scrutinizing a district plan.
22. By requiring a setback of 20m from a gas pipeline, which is an enormous 14m wider than the easement, the District Plan will be restricting the use of this land without compensation, undermining existing legal easement agreements, and undermining the concept of injurious affection in the Public Works Act 1981.
23. There is no National Policy Statement that gives national significance status to gas transmission like there is for the National Grid. There are no easement gaps for gas transmission like there are for the National Grid. Health and Safety are not matters for the District Plan. There is no obligation to regulate landowners in the District Plan like there is for the National Grid.
24. District Plan rules are not needed as there is a raft of other legislation and regulation to manage safety and network utility operator access to gas transmission pipelines:
 - The Gas Act 1992; specifically Section 23 *Protection of Existing Fittings* and Section 24 *Rights of Entry in Respect to Existing Fittings*;
 - Health and Safety at Work Act 2015;

⁵ Para 8.23.3, Statement of evidence of Pauline Mary Whitney for Transpower New Zealand Ltd, Dated 31 May 2022

- Health and Safety in Employment (Pipeline) Regulations 1999;
- NZS/AS 2885 Pipelines – Gas and Liquid Petroleum,
- NZS 5258:2993 Gas Distribution Network

25.

As for reverse sensitivity, it is a stretch to say an uninhabited farm shed will have a reverse sensitivity effect on gas transmission, especially if it is outside the 12m legal easement area. In his evidence, Mr Graeme Roberts for First Gas discusses the Regional Policy Statement objectives (Objective 1, Objective UD1 and Objective UD5) related to infrastructure and says the RPS *imparts a clear protective focus in relation to the gas network across the region*⁶. But Objective 1 does not use the phrase *protection*, but instead uses *recognising*. Objective UD1 seeks to avoid, remedy or mitigate reverse sensitivity effects on strategic infrastructure, but this is already achieved through legal easements and I find it unlikely that complaints have been made about an underground pipeline.

This concludes my spoken presentation.

I am available for any questions you may have.



⁶ Para 12, Written Statement of Evidence of Graeme John Roberts, 31 May 2022.