



I hereby give notice that an ordinary meeting of the Regional Development and Operations Committee will be held on:

Date: Thursday 15 September 2011
Time: 10.00am
Meeting Room: Reception Lounge Level 2
Venue: Auckland Town Hall
301-305 Queen Street
Auckland

Regional Development and Operations Committee

OPEN AGENDA

MEMBERSHIP

Chairperson	Cr Ann Hartley, JP	
Deputy Chairperson	Cr Sandra Coney, QSO	
Members	Cr Anae Arthur Anae	Cr Richard Northey, ONZM
	Cr Cameron Brewer	Cr Calum Penrose
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	Cr Dr Cathy Casey	Cr Noelene Raffills, JP
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	Cr Hon Chris Fletcher, QSO	Patience Te Ao
	Cr Michael Goudie	Cr Sir John Walker, KNZM, CBE
	Deputy Mayor Penny Hulse	Cr Wayne Walker
	Mr Wayne Knox	Cr Penny Webster
	Cr Mike Lee	Cr George Wood, CNZM
	Cr Des Morrison	

(Quorum 12 members)

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8 September 2011

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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.

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Compliance with the National Policy Statement on Electricity Transmission 2008

File No.: CP2011/05860

Executive Summary

The purpose of this report is to advise the Committee of the National Policy Statement on Electricity Transmission 2008 (NPSET) and Council's obligations under that Statement. The decision making section of this report outlines two options for Council to consider as to when to give effect to the NPSET. Option 1 involves undertaking plan changes/reviews to the operative plans now and Option 2 involves waiting until the public notification of the Unitary Plan. The report recommends Option 2.

The NPSET came into force in April 2008, recognising the national significance of the electricity transmission network and setting out the objectives and policies for managing the effects on, and of, the network under the Resource Management Act 1991 (RMA). The NPSET specifies a statutory timeframe of 10 April 2012 for notifying a plan change/review to Council plans and policies to give effect to its provisions.

The Auckland Council is in a special circumstance whereby having come into existence in November 2010, a Unitary Plan is currently being drafted to amalgamate the existing operative plans (legacy plans) across the Council area. The Unitary Plan is due to be notified in early 2013, approximately 12 months after the timeframe required for a plan change to be notified within the NPSET.

This report seeks endorsement of an approach whereby Council would extend the NPSET compliance timeframe under Section 37 of the Resource Management Act 1991 (RMA), thereby not giving effect to the NPSET until the Unitary Plan is notified. It is recommended that this approach be adopted, because incorporation within the Unitary Plan would be a more efficient and effective process for Council, rather than the alternative of undertaking 11 separate reviews and plan change processes for all of the operative plans 12 months earlier. This approach would enable a comprehensive review of network utility provisions across the region in a consistent manner, to fit the new format of the Unitary Plan. It is considered that this would be sensible to avoid the confusion of overlaps of current provisions in operative plans, plan changes to operative plans and provisions in the new unitary plan all applying to varying degrees at once.

Recommendation/s

- a) That the report be received.
- b) That the Council approach to compliance with the National Policy Statement on Electricity Transmission 2008 (NPSET) be by way of incorporation of the NPSET provisions into the Unitary Plan.
- c) That the approach in (b) above be achieved by the Council extending the timeframe for compliance, using its powers under the RMA.
- d) That prior to formally extending the timeframes for compliance, the Council writes to the Minister for the Environment and Transpower seeking their views on the proposed course of action.
- e) That the views of Transpower and the Minister be reported at the same time as formal consideration under Sections 37 and 37A of the RMA to extend the timeframes for compliance occurs.
- f) That any proposed plan change currently in progress be altered, where relevant, to ensure that the NPSET provisions are incorporated into the operative plan.

Background

The National Policy Statement on Electricity Transmission

The NPSET came into force in April 2008, recognising the national significance of the electricity transmission network and setting out the objectives and policies for managing the effects on, and of, the network under the RMA.

The NPSET sets out a statutory timeframe '*within four years of approval of the National Policy Statement*' for notifying a plan change or review to give effect to the provisions. The Ministry for the Environment (MfE) has advised Council that this timeframe closes on 10 April 2012. It is understood that the four year NPSET timeframe was applied, as it was expected that many first generation regional policy statements, regional plans and district plans prepared under the RMA will be reviewed over this period.

Giving Effect to the NPSET

The NPSET is provided in full (including its objectives and policies) as Attachment A. There is a suite of objectives and policies to which the Council must give effect within the NPSET. Of particular interest are Policies 10 and 11 which will require significant changes to Council Plan documents. These are listed below:

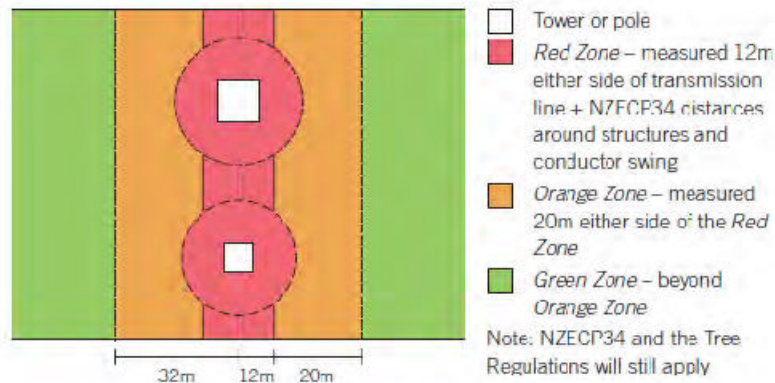
- “10. *In achieving the purpose of the Act, decision-makers must to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.*
11. *Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its medium to long-term plans for the alteration or upgrading of each affected section of the national grid (so as to facilitate the long-term strategic planning of the grid)”.*

Policies 10 and 11 of the NPSET require that the Council initiate a consultation process with Transpower to identify an *appropriate* buffer corridor to avoid reverse sensitivity effects. This buffer corridor must be provided for within Council planning documents.

Based on other Council plan reviews across the country and existing Council plan changes, it has been observed that Transpower generally advocates that a 32m buffer corridor be applied on either side of existing transmission lines¹. This is in line with Transpower's internal non-statutory Corridor Management Policy (CMP). The objective of the CMP buffer corridor is to limit land use immediately under existing lines, by seeking very limited or no development within a distance of 12m either side of the centre line (red zone), and to manage development within a distance of 20m either side of the red zone (orange zone). The whole area within the red corridor will be required to be protected from any future development and new activities within the orange corridor will require resource consent to undertake development. Only those activities compatible with high voltage transmission lines will be able to occur within the corridor. The CMP document is nationally consistent and does not recognise the existing environment in which the line is placed.

¹ Tauranga City District Plan review, Plan Change 23 to the Manukau District Plan, Plan Changes 12 and 13 to the Papakura District Plan and Plan Change 24 to the Franklin District Plan.

Transmission Corridor Activity Management



How has Council implemented the NPSET to date?

Other than the draft review of the Auckland Regional Policy statement (ARPS) prior to the amalgamation of Auckland Councils on November 2010, there has been no specific review or plan change to implement the objectives and policies of the NPSET in any of the Operative Plans or Policies.

Since the NPSET came into force, Transpower has submitted on a number of separate notified plan changes, requesting changes that give effect to the intent of policies 10 and 11 (effects of third parties) of the NPSET. Specific plan changes include:

- Plan Change 23 (Waterside Business Park) operative within the Manukau District Plan;
- Plan Changes 12 (Takanini Structure Plan) and 13 (Rural Zone) under appeal – Papakura District Plan; and
- Plan Change 24 (Pokeno) under appeal - Franklin District Plan

All of the plan changes above implement a 32m buffer corridor consistent with Transpower's CMP, limiting under-build under the high voltage transmission lines. Within these plan changes, High Voltage Lines are identified on the Planning Maps; and 12m 'no-build zones' and 20m 'additional management buffer areas' are established to protect the national grid.

Challenges for Auckland Council in giving effect to the NPSET

Auckland is a highly urbanised environment with existing residential/business land uses immediately adjoining existing high voltage transmission lines. Auckland will face a particular challenge when giving effect to Policies 10 and 11 of the NPSET. The existing high voltage transmission lines in Auckland span across the city's various environments including both rural and urban areas (see Attachment B for the location of the High Voltage Transmission Network across Auckland). Attachment C illustrates an example of the large impact that a 32m buffer corridor would have on existing residential environments in Auckland. It is likely that it will not be appropriate to apply a 32m buffer corridor to Auckland on a consistent basis.

Decision Making

The decision as to how the NPSET is implemented within council documents falls within the Committee's delegated authority. The decision (as recommended) provides an approach for Council to efficiently and effectively give effect to the NPSET through the Unitary Plan. The Council's consideration of issues in implementing the NPSET provisions will be required throughout this process.

In terms of addressing the decision making requirements of Section 77 of the Local Government Act 2002 (LGA) it is noted that the options evaluation below, addresses very similar cost and benefit questions to those of the LGA.

Process and Timeframe Options to give effect to the NPSET

Auckland Council is required by the NPSET to notify a plan change or review to give effect to the policy direction by April 2012. This is a mandatory requirement specified in the document. It is anticipated that a range of changes will be required to the existing Council Plan documents, including amendments to objectives, policies and methods (including rules).

There are two options available to the Council to give effect to the NPSET:

1. Undertake a review and plan change process to 11 separate operative plans; or
2. Review through the notification of the Unitary Plan.

An evaluation of costs, benefits and risks of these options is summarised below:

Options to Implement NPSET	Benefits	Costs
1. Undertake plan changes to all existing operative plans now	<ul style="list-style-type: none"> • Provides recognition of the transmission network and the management of effects within Council plan and policy documents in line with the timeframe specified by the NPSET. 	<ul style="list-style-type: none"> • Increased cost for both Council and Transpower in undertaking the review and being involved throughout each of the Plan Change processes. Cost seems unnecessary when the Unitary Plan timeframe is only 12 months later. • Creates a very complex District Plan. Potential confusion of overlaps of provisions in operative plans, plan changes to operative plans and provisions in the new unitary plan all applying to varying degrees at once.
2. Wait and review with notification of the Unitary Plan	<ul style="list-style-type: none"> • Simplest approach requiring one comprehensive review of Network Utility rules and buffer corridors. Reduces confusion. • More efficient use of both Council and Transpower resources. • The Policy approach will be consistent across the District Plan. 	<ul style="list-style-type: none"> • Does not meet the timeframe specified in the NPSET.

Potential risks of not undertaking Option 1 include risk of legal challenge from a third party i.e. Transpower, or the Minister directing a plan change under Section 25A of the RMA. Further consultation will be required with these parties on the approach the Council wishes to adopt.

It is recommended that Option 2 should be Council's approach to compliance with the NPSET. Auckland Council is in a special circumstance whereby having been created in November 2010, a Unitary Plan is currently being drafted to supersede the existing operative plans (legacy plans) across the Region. The amalgamation of Auckland councils was not anticipated when the NPSET was drafted in 2008 requiring plan changes/reviews to be notified in four years time. The Unitary Plan is due to be publicly notified in early 2013, approximately 12 months after the timeframe required for a plan change to be notified within the NPSET. Given the circumstances, this is considered to be an adequate timeframe to give effect to the NPSET.

It is considered that the 'four year from approval timeframe' specified in the NPSET, is by virtue of section 55(2D)(b) of the RMA, a timeframe specified in the RMA and, therefore, may be extended under sections 37 and 37A. We have received legal advice that supports this interpretation (which assumes that Council will take into account relevant considerations, such as the interests of those affected by the extension). Section 37A(4) states that a consent authority may extend a time period if the time period does not exceed twice the maximum time period specified in this Act, and special circumstances apply.

A person affected by such an extension could argue that the section 37 discretion does not apply as the timeframe is specified in the NPS itself, not in the RMA. However, this is a technical argument, with a low-medium probability of success when contrasted the wide discretion provided in section 37; the fact that the RMA is clear about timeframes that cannot be extended under section 37 (such as a the timeframe for decision by a board of inquiry, which can only be extended at the Minister's discretion); and the benefits of giving effect to the NPS through the unitary plan – a more efficient and comprehensive approach. The Council should take a fair, liberal and workable interpretation of these RMA provisions.

It is considered that giving effect to the NPSET through the Unitary Plan would be a more efficient and effective process for both Council and Transpower rather than duplication of undertaking separate reviews and plan change processes for all of the operative plans 12 months earlier. This would enable a comprehensive review of network utility provisions across the region in a consistent manner, to fit the new format of the Unitary Plan. It would also be sensible to avoid the confusion of overlaps of provisions in operative plans, plan changes to operative plans and provisions in the new unitary plan all applying to varying degrees at once.

The NPSET directs Council to consult with Transpower during the review process to identify the electricity network on planning maps and to identify appropriate buffer corridors in which rules will manage sensitive activities. It is recommended that, a comprehensive review of all of the legacy documents will be effective and enable consistent standards to be applied across different environments within Auckland. It will also enable a more efficient use of both Council and Transpower resources during this process.

A decision is still being made as to whether the Hauraki Gulf Islands Plan is to be included within the Unitary Plan. If it is not included, the Hauraki Gulf Islands Plan may require a separate plan change before April 2012 – however consultation with Transpower will confirm whether there are any high voltage lines which need to be protected within this plan area.

Significance of Decision

The decisions arising from this report are not significant in terms of the Council's significance policy.

Consultation

MfE have been notified of Auckland's particularly special circumstance and that the Council is currently considering options for implementing and giving effect to the NPSET. MfE have advised Council that there is no mechanism for the Minister to grant a waiver to not comply with the timeframe specified in the NPSET.

Further discussions with MfE and an initial discussion with Transpower will be required on Council's agreed approach to giving effect to the NPSET. If the recommended approach is endorsed, Transpower will need to be consulted as an affected person by the delay, along with MfE, before any formal decision is made to extend timeframes under the RMA.

Maori Impact Statement

The objective of the NPSET is to recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- managing the adverse environmental effects of the network; and
- managing the adverse effects of other activities on the network.

The implementation of the NPSET has the potential for a range of national, regional and local benefits to all people, including Maori by providing sustainable, secure and efficient electricity transmission. Maori will have the opportunity to be involved with the plan change/review process in respect to these matters.

Local Board Views

This decision involves the Council Committee agreeing an approach for implementing the NPSET across all of the Council regional/district plans and policies. At this stage this decision does not have a significant impact on local matters. It will however be important to consult with the Local Boards on this issue throughout the plan change/Unitary Plan process.

Financial and Resourcing Implications

There are no significant financial or resourcing implications associated with this decision.

Legal and Legislative Implications

An initial legal opinion has been sought relating to the timeframes and compliance with the NPSET.

Implementation Issues

There is a need to consult and inform MfE and Transpower on the recommended approach to highlight any issues with the implementation of the NPSET at the outset.

Attachments

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A	National policy Statement on Electricity Transmission 2008	49
B	Location of Auckland's High Voltage Transmission Network	53
C	32m Buffer Corridor applied to Auckland Transmission Line - Part 1	55
D	32m Buffer Corridor applies to Auckland Transmission Line - Part 2	57

Signatories

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Reviewers	Peter Vari - Team Leader Area Planning and Policy North Warren Maclennan - Manager Operative Plans
Authoriser	Penny Pirrit - Manager Regional and Local Planning
Authoriser	Dr Roger Blakeley - Chief Planning Officer

Preamble

This national policy statement sets out the objective and policies to enable the management of the effects of the electricity transmission network under the Resource Management Act 1991.

In accordance with section 55(2A)(a) of the Act, and within four years of approval of this national policy statement, local authorities are to notify and process under the First Schedule to the Act a plan change or review to give effect as appropriate to the provisions of this national policy statement.

The efficient transmission of electricity on the national grid plays a vital role in the well-being of New Zealand, its people and the environment. Electricity transmission has special characteristics that create challenges for its management under the Act. These include:

- Transporting electricity efficiently over long distances requires support structures (towers or poles), conductors, wires and cables, and sub-stations and switching stations.
- These facilities can create environmental effects of a local, regional and national scale. Some of these effects can be significant.
- The transmission network is an extensive and linear system which makes it important that there are consistent policy and regulatory approaches by local authorities.
- Technical, operational and security requirements associated with the transmission network can limit the extent to which it is feasible to avoid or mitigate all adverse environmental effects.
- The operation, maintenance and future development of the transmission network can be significantly constrained by the adverse environmental impact of third party activities and development.
- The adverse environmental effects of the transmission network are often local – while the benefits may be in a different locality and/or extend beyond the local to the regional and national – making it important that those exercising powers and functions under the Act balance local, regional and national environmental effects (positive and negative).
- Ongoing investment in the transmission network and significant upgrades are essential to be required to meet the demand for electricity and to meet the Government's objective for a renewable energy future, therefore strategic planning to provide for transmission infrastructure is required.

The national policy statement is to be applied by decision-makers under the Act. The objective and policies are intended to guide decision-makers in drafting plan rules, in making decisions on the notification of the resource consents and in the determination of resource consent applications, and in considering notices of requirement for designations for transmission activities.

However, the national policy statement is not meant to be a substitute for, or prevail over, the Act's statutory purpose or the statutory tests already in existence. Further, the national policy statement is subject to Part 2 of the Act.

For decision-makers under the Act, the national policy statement is intended to be a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act.

This preamble may assist the interpretation of the national policy statement, where this is needed to resolve uncertainty.

1. Title

This national policy statement is the National Policy Statement on Electricity Transmission 2008.

2. Commencement

This national policy statement comes into force on the 28th day after the date on which it is notified in the *Gazette*.

3. Interpretation

In this national policy statement, unless the context otherwise requires:

Act means the Resource Management Act 1991.

Decision-makers means all persons exercising functions and powers under the Act.

Electricity transmission network, electricity transmission and transmission activities/assets/infrastructure/resources/system all mean part of the national grid of transmission lines and cables (aerial, underground and undersea, including the high-voltage direct current link), stations and sub-stations and other works used to connect grid injection points and grid exit points to convey electricity throughout the North and South Islands of New Zealand.

National environmental standard means a standard prescribed by regulations made under the Act.

National grid means the assets used or owned by Transpower NZ Limited.

Sensitive activities includes schools, residential buildings and hospitals.

4. Matter of national significance

The matter of national significance to which this national policy statement applies is the need to operate, maintain, develop and upgrade the electricity transmission network.

5. Objective

To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- managing the adverse environmental effects of the network; and
- managing the adverse effects of other activities on the network.

6. Recognition of the national benefits of transmission

POLICY 1

In achieving the purpose of the Act, decision-makers must recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission. The benefits relevant to any particular project or development of the electricity transmission network may include:

- i) maintained or improved security of supply of electricity; or
- ii) efficient transfer of energy through a reduction of transmission losses; or
- iii) the facilitation of the use and development of new electricity generation, including renewable generation which assists in the management of the effects of climate change; or
- iv) enhanced supply of electricity through the removal of points of congestion.

The above list of benefits is not intended to be exhaustive and a particular policy, plan, project or development may have or recognise other benefits.

7. Managing the environmental effects of transmission

POLICY 2

In achieving the purpose of the Act, decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.

POLICY 3

When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision-makers must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network.

POLICY 4

When considering the environmental effects of new transmission infrastructure or major upgrades of existing transmission infrastructure, decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection.

POLICY 5

When considering the environmental effects of transmission activities associated with transmission assets, decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets.

POLICY 6

Substantial upgrades of transmission infrastructure should be used as an opportunity to reduce existing adverse effects of transmission including such effects on sensitive activities where appropriate.

POLICY 7

Planning and development of the transmission system should minimise adverse effects on urban amenity and avoid adverse effects on town centres and areas of high recreational value or amenity and existing sensitive activities.

POLICY 8

In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

POLICY 9

Provisions dealing with electric and magnetic fields associated with the electricity transmission network must be based on the International Commission on Non-ionising Radiation Protection *Guidelines for limiting exposure to time-varying electric magnetic fields (up to 300 GHz)* (Health Physics, 1998, 74(4): 494-522) and recommendations from the World Health Organisation monograph *Environment Health Criteria* (No 238, June 2007) or revisions thereof and any applicable New Zealand standards or national environmental standards.

8. Managing the adverse effects of third parties on the transmission network

POLICY 10

In achieving the purpose of the Act, decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.

POLICY 11

Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its intention to long-term plans for the alteration or upgrading of each affected section of the national grid (so as to facilitate the long-term strategic planning of the grid).

9. Maps

POLICY 12

Territorial authorities must identify the electricity transmission network on their relevant planning maps whether or not the network is designated.

10. Long-term strategic planning for transmission assets

POLICY 13

Decision-makers must recognise that the designation process can facilitate long-term planning for the development, operation and maintenance of electricity transmission infrastructure.

POLICY 14

Regional councils must include objectives, policies and methods to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses.

Explanatory note

This note is not part of the national policy statement but is intended to indicate its general effect.

This national policy statement comes into force 28 days after the date of its notification in the *Gazette*. It provides that electricity transmission is a matter of national significance under the Resource Management Act 1991 and prescribes an objective and policies to guide the making of resource management decisions.

The national policy statement requires local authorities to give effect to its provisions in plans made under the Resource Management Act 1991 by initiating a plan change or review within four years of its approval.

