

**COMMENTS ON TASMAN DISTRICT COUNCIL  
ELECTRICITY TRANSMISSION DISCUSSION PAPER**

**TO:** Tasman District Council

**SUBMISSION ON:** Electricity Transmission Discussion Paper

**NAME:** Horticulture New Zealand (**HortNZ**)

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**1. HortNZ's submission, and the decisions sought, are detailed in the attached schedules:**

Schedule 1 Overall approach to Electricity transmission  
Schedule 2: Response to questions  
Appendix 1: HortNZ position on NPSET

**2. HortNZ wishes to be heard in support of this submission and meet with Council to discuss these comments.**

**In addition HortNZ would like to be involved at an early stage in the drafting of any provisions to be proposed to be included in the District Plan.**

**3. Background to HortNZ and its RMA involvement:**

3.1 HortNZ was established on 1 December 2005, combining the New Zealand Vegetable and Potato Growers' and New Zealand Fruitgrowers' and New Zealand Berryfruit Growers Federations.

3.2 On behalf of its 5,500 active grower members HortNZ takes a detailed involvement in resource management planning processes as part of its National Environmental Policies. HortNZ works to raise growers' awareness of the RMA to ensure effective grower involvement under the Act, whether in the planning process or through resource consent applications. The principles that HortNZ considers in assessing the implementation of the Resource Management Act 1991 (RMA) include:

- The effects based purpose of the RMA,
- Non-regulatory methods should be employed by councils;
- Regulation should impact fairly on the whole community, make sense in practice, and be developed in full consultation with those affected by it;
- Early consultation of land users in plan preparation;
- Ensuring that RMA plans work in the growers interests both in an environmental and "right to farm" sense;

Thank you for the opportunity to comment on the Electricity Transmission Discussion Paper



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## **SCHEDULE ONE: Overall approach to electricity transmission**

### 1.1 Horticultural growers and transmission lines

Horticultural growers may have transmission lines through their properties due to historical location of such lines. There are generally no easement agreements for the older lines and the lines with effects of activities on the lines, with the effects of the lines on the property have previously been managed through relationships between the landowner and the line owner or operator. Issues regarding access for maintenance are generally agreed without the involvement of a third party.

Growers have to currently meet the requirements of NZECP34:2001 NZ Electrical Code of Practice for Electrical Safe Distances and the Electricity (Hazard from Trees) Regulations 2003, which are administered by MBIE. These documents form the basis for the relationship between the line owner and the land owner.

### 1.2 HortNZ's role

HortNZ is the grower organisation that undertakes advocacy on behalf of growers on resource management issues.

HortNZ has been very involved in discussions on electricity transmission lines in a range of areas in NZ including:

- Far North
- Whangarei
- Kaipara
- Auckland
- Matamata-Piako
- Western Bay of Plenty
- Whakatane
- Opotiki
- Manawatu
- Hastings
- Otago
- Central Otago
- Marlborough
- Christchurch
- Dunedin

Most of the discussions have been in respect of the district plans but there have also been some Regional Policy Statements that have sought to give recognition to electricity infrastructure and direct the district councils to implement such provisions.

Most of the discussions have been precipitated by district councils seeking to implement the National Policy Statement for Electricity Transmission (NPSET). However there is a push by some electricity distribution companies to also seek provisions in district plans for distribution lines. HortNZ has opposed the inclusion of such provisions in district plans.

Through that involvement a policy position has been reached to ensure consistency in how such electricity transmission lines are managed through district plans.

### 1.3 Electricity transmission

Electricity transmission applies to both the National Grid and local electricity distribution lines however in terms of the NPSET the terms is defined as specific to the National Grid. HortNZ considers that it is preferable to refer to either the National Grid or local electricity distribution lines so that it is clear which infrastructure is being referred to.

#### 1.4 National Policy Statement for Electricity Transmission (NPSET)

The NPSET seeks to ensure that the national significance of the National Grid is recognised and ensure that its ability to operate is not compromised.

The NPSET requires district councils to include specific provisions to provide for the National Grid, particularly to avoid reverse sensitivity and identify buffer corridors where sensitive activities will generally be avoided.

Transpower has progressively been seeking a set of provisions in district plans to give effect to the NPSET.

The provisions include permitted activities and non-complying activities for sensitive activities within the identified National Grid Yard.

These provisions can affect horticultural structures such as artificial crop protection structures, crop support structures and greenhouses.

Because of the economic impact on growers, HortNZ seeks that these structures are able to be built with limitations only where absolutely necessary to provide for the National Grid. HortNZ seeks provisions that are consistent with NZECP as the distances in the Code seek to ensure safe distances.

Transpower have sought provisions which are greater than NZECP, mainly to provide for access to the lines for maintenance. HortNZ considers that the Electricity Act enable access and that it is not necessary to duplicate regulation in district plans. The cost of having the clear access sought by Transpower is considerable and will affect the social, economic and cultural wellbeing of the district. The effect of the Transpower approach is to effectively sterilise land for high value horticultural production.

It is noted that the word 'protection' is used in the Discussion Paper in a number of places. The NPSET does not use the word 'protection'. Rather the focus is on 'recognising and managing'. It is important that the term 'protection' is not used in the context of electricity transmission.

Attached as Appendix 1 is an extract from evidence presented at a Council hearing regarding provisions for the National Grid which sets out the framework that HortNZ's considers is important for implementing the NPSET in district plans.

#### 1.5 NZECP34:2001 (Referred to as 'the Code' in the Discussion Paper)

NZECP sets out the range of provisions that are needed to ensure safety around electricity infrastructure.

The distances in the code vary according to voltage and size and type of structure. Regulations cover excavations, buildings and structures and mobile plant.

It should also be noted that the provisions also state that the minimum safe distances also ensure that support structures can be accessed for inspection and maintenance.

The Discussion Paper identifies that there have been questions raised as to how NZECP is administered and enforced and that regulations are sought in district plans to better enforce the Code.

HortNZ considers that the onus for managing and enforcing NZECP should be with the network distribution companies and MBIE rather than requiring Councils to effectively monitor and enforce regulation which has been established by another party.

HortNZ considers that the issues with enforcement can be better managed through effective relationships between operators and landowners and non-regulatory provisions in plans. Our experience is that little is done to facilitate such relationships. If effort was put into better managing stakeholder relationships and increasing awareness of NZECP and the tree regulations many of the issues could be appropriately addressed.

## 1.6 Regional Policy Statements

A number of regional councils are including provisions in Regional Policy Statements setting out how the NPSET will be given effect to through the region, including in district plans. The level of direction varies considerably. HortNZ considers that the direction in the RPS should not preclude a robust assessment process to be undertaken as part of the district plan process and development of provisions that are appropriate for the district. The directions in the RPS should provide for such a process to be undertaken.

## 1.7 Regionally significant transmission lines

Electricity distribution lines that are not part of the National Grid are not covered by the NPSET. In Tasman they are operated by Network Tasman.

Some parts of the electricity distribution network may be considered more important than other parts of the network. Sometimes such lines are called regionally significant transmission lines because they are considered to be particularly important to the community.

While no definition is included in the Discussion Paper for regionally significant transmission lines the text indicates that the Council considers the 66kV line from Stoke to Golden Bay and the line to and from the Cobb Dam to be regionally significant. (pg2). It is not clear what community input has been received in considering these lines 'regionally significant'.

The lines are considered to be regionally significant because they provide electricity to many communities and businesses in Tasman.

HortNZ is very concerned that there has been an increasing push by network distribution companies to seek recognition of such lines in the district plan with provisions akin to the National Grid.

The Board of Inquiry when developing the NPSET considered whether the NPS should also apply to distribution lines. The decision clearly stated that they did not consider that local distribution lines meet the criteria of national significance and therefore should not have the same level of recognition.

## 1.8 Current provisions in Tasman Resource Management Plan (TRMP)

The Discussion Paper identifies that there are currently provisions in the TRMP in respect of the Richmond West Development Area and the Richmond East Development Area, which were included by way of Plan Changes in 2007 and 2010.

HortNZ was not involved in these plan changes as the focus was on urban development. The issues in the rural area are distinctly different to areas where it is anticipated that large scale urban development will occur. Therefore HortNZ seeks that there be caution in applying the provisions as a precedent for the district as effects on the rural area were not considered in the context of those plan changes.

While it is recognised that the Council needs to give effect the NPSET the extent to which similar provisions should be included for lines other than the National Grid is not supported by HortNZ.

## **SCHEDULE TWO: Response to questions**

### **Q.1 What do you think are the biggest risks to the regionally significant transmission lines from land development and use?**

Urban development

### **Q.2 Do you think regionally significant transmission lines need protection from those effects in the District Plan?**

HortNZ does not consider that regionally significant transmission lines and rural activities should be included in the District Plan.

HortNZ does not consider that 'protection' is an appropriate word to use. The focus should be on recognising and managing – not protecting.

If rural activities are to be included in any district plan provisions there needs to be a thorough and robust s32 cost benefit analysis that looks at the effect of including regulations in the district plan rather than relying on existing regulations and enhancing stakeholder relationships.

### **Q.3 Should development within the Code's setbacks be controlled in the District Plan? Should different types of development be controlled in different areas e.g. rural or urban or in different ways? How would you be affected?**

The NZECP setbacks apply regardless and do not need to be included in the District Plan, particularly for non-National Grid lines.

Horticultural growers could be affected by greater limitations placed on their land and the regulatory cost of requiring resource consents because of district plan provisions.

### **Q.4 Should the Code continue to be considered during the processing of subdivision resource consents?**

It would be useful that compliance with NZECP be considered as an assessment matter for subdivision to ensure that an appropriate building platform can be established that meets the NZECP setbacks.

### **Q.5 What sensitive activities do you think should be located away from the National Grid and regionally significant transmission lines?**

Sensitive activities should be as defined in the NPSET – Includes schools, residential buildings and hospitals.

Closely linked to sensitive activities is reverse sensitivity and how it is assessed and what activities may cause reverse sensitivity as anticipated in Policy 10 of the NPSET. The current TRMP defines reverse sensitivity as:

**Reverse sensitivity** – means the risk to an existing activity that may generate adverse effects, of receiving complaints or other expressions of sensitivity from any new activity locating nearby.

HortNZ considers that reverse sensitivity should be linked to sensitive activities as it is people complaining because of their sensitivity.

**Q.6 Should the planting of vegetation (e.g. trees and forestry) be controlled adjoining the National Grid and regionally significant transmission lines?**

No. The Electricity (Hazard from Trees) Regulations are sufficient to manage vegetation and planting of trees. The NPSET does not specifically mention controls on vegetation and planting of trees.

**Q.7 Should there be controls on vegetation in different areas? E.g. amenity planting (urban) commercial forestry (rural) etc**

No – refer to Q6.

**Q.8 How would you be affected by such controls on vegetation?**

Growers are already affected by controls on vegetation through the Electricity Act regulations. This can limit planting of orchards and shelterbelts when transmission lines traverse their properties. Additional controls in the district plan would duplicate the regulations and lead to additional compliance costs as resource consent could be required for planting of such trees. This is considered unnecessary. There would need to be robust evidence that the current regulations are not proving sufficient to manage the effects of vegetation on transmission lines.

**Q. 9. Should earthworks of a certain size, type or distance from transmission lines be controlled?**

It is reasonable that earthworks do not undermine the integrity of the transmission line structure such as a pole or tower. Therefore the focus should be on mass earthworks that have the potential to undermine that integrity. The distances should be based on NZECP 2.2.

**Q.10 What earthworks should not be controlled?**

The TRMP defines earthworks as:

**Earthworks** – means any modification to the shape of the ground surface by movement or removal of soil and includes excavation, infilling, recontouring, and construction of any road, track, embankment, or drainage channel.

The definition includes a number of rural practices such as cultivation that should be excluded from controls relating to transmission lines.

The provisions in NZECP 2.2.4 relating to excavation do not include normal agricultural cultivation or repair, sealing or resealing of the existing surface of any road, footpath or driveway.

Therefore normal farm activities such as cultivation and tracking should not be controlled.

**Q.11 Should setbacks be required for structures to enable access to the transmission lines? How would they affect your use of your land?**

Setbacks for structures should only apply to the National Grid in rural areas. The setbacks should be consistent with NZECP.

Growers could be affected if greater setbacks were applied for regionally significant transmission lines. They will also be affected by potentially requiring resource consents

for structures within the National Grid Yard. Such structures may include artificial crop protection structures and crop support structures. These structures can be designed with flexibility to enable removal for line maintenance therefore should not be limited through the Plan.

**Q.12 What types of structures (if any) should be setback to enable access to transmission lines?**

NZECP is designed to also enable access. Sec 2.1.1 states: “The minimum distances also ensure that the support structures can be accessed for inspection and maintenance”.

Transpower has been seeking distances greater than NZECP to enable access. HortNZ does not support that position as such an approach requires a greater area to be foreclosed from production.

The Electricity Act (Sec 24) provides for access to transmission lines and HortNZ considers that this is the appropriate mechanism to be used for enabling access. It should not involve limitations in the District Plan. In addition easements could be used to formally establish the relationship with the landowner and include provisions for access.

The Electricity (Hazard from Trees) Regulations also allow rights of access to allow for trimming of vegetation near lines.

**Q.13 Any other comments?**

Attached in Appendix 1 is a summary of the HortNZ position in relation to the NPSET.

These comments have not included specific provisions that HortNZ would be seeking in the district plan to give effect to the NPSET. HortNZ would like to be involved in discussions with Council at an early stage in the development of provisions for the District Plan.

## Appendix 1: HortNZ policy framework for providing for the National Grid in district plans

- 1.1 The National Policy Statement for Electricity Transmission (NPSET) came into effect on 13 March 2008. District Councils are required to give effect to the NPSET in district plans.
- 1.2 The NPSET was developed through a Board of Inquiry, with the government promulgating the regulations.
- 1.3 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.*
- 1.4 The objective explicitly recognises that the National Grid is a matter of national significance, as opposed to a matter of national importance as provided for in s6 of the RMA. The matter of national significance is the need to operate, maintain, develop and upgrade the electricity transmission network.
- 1.5 The reasons for national significance are outlined in the Preamble to the NPSET including:
  - The National Grid plays a vital role in the wellbeing of NZ, its people and environment;
  - Electricity transmission has special characteristics that create challenges for its management under the RMA;
  - The grid affects more than one region and that while there may be local adverse environmental effects, the benefits may be spread throughout the country and distant from the areas where the lines run.
- 1.6 The objective also recognises that the adverse effects of the network go two ways:
  - The network on other activities; and
  - Other activities on the network.
- 1.7 Therefore the issue of reverse sensitivity is not the typical situation of a new activity being sensitive to an existing lawfully established activity.
- 1.8 The NPSET Preamble states that the NPS is not meant to be a substitute for, or prevail over the Act's statutory purpose and that the NPS is subject to Part 2 of the Act. Therefore, while the NPSET is important, it does not override s5 considerations, such as social, economic and cultural wellbeing.
- 1.9 In promulgating the District Plan Council needs to be mindful of balancing the matter of national significance against the local and regional wellbeing and environmental effects.

- 1.10 There are fourteen policies in the NPSET, with Policies 10 and 11 'Managing the adverse effects of third parties on the transmission network' being the most relevant to the district plan:

*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 require 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.)*

- 4.12 The policies have a number of components (emphasis added):

In achieving the purpose of the Act:

- decision makers must **manage** activities - to the extent reasonably possible
- 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**.
- Identify an **appropriate** buffer corridor within which it can be expected that sensitive activities will generally not be provided for

- 1.11 The focus of the policies is essentially twofold:

- To avoid reverse sensitivity effects
- To not compromise the operation, maintenance, upgrading and development of the electricity transmission network;

- 1.12 This is to be achieved by:

- Managing activities to the extent reasonably possible
- Identifying an appropriate buffer corridor for sensitive activities

- 1.13 While the policy is directive it also has limitations as to the extent of the management of activities.

- 1.14 Therefore the district council needs to consider what is required in the district plan to achieve the outcome anticipated in the NPSET.

- 1.15 The NPSET effectively makes a distinction between sensitive activities and non-sensitive activities. Sensitive activities are defined in the NPSET as including schools, residential buildings and hospitals.

- 1.16 The concern is that the reverse sensitivity effects that can be generated from such activities are avoided through limiting those activities within the appropriate buffer corridor.
- 1.17 Transpower seeks a National Grid Yard in which such sensitive activities are a non-complying activity.
- 1.18 HortNZ agrees that a non-complying activity is appropriate for such sensitive activities.
- 1.19 Non-sensitive activities are those which do not have such potential to create reverse sensitivity effects as they are generally not activities in which people are located or residing. Non-sensitive activities could include industrial and rural locations. HortNZ regards horticultural activities as non-sensitive.
- 1.20 The question becomes to what extent should such activities be managed to ensure that the National Grid is not compromised. There is no specific requirement that they are managed through a corridor.
- 1.21 While the NPSET establishes a directive for Councils to recognise and provide for the National Grid, the NPSET does not provide an unfettered right. Rather the obligation needs to be balanced against a range of matters to determine the appropriate approach.
- 1.22 The provisions need to reflect the balance set out in:
- (a) Part 2 of the RMA, including the social, economic and cultural wellbeing of peoples and communities (Refer Preamble to NPSET)
  - (b) NPSET Objective – which has a balancing ‘while’
  - (c) NPSET Policy 5 – consider ‘reasonable’ operational, maintenance and minor upgrade requirements
  - (d) NPSET Policy 10 – manage ‘to the extent reasonably possible’
  - (e) NPSET Policy 11 – identify an ‘appropriate buffer corridor’
  - (f) RPS policies – for example infrastructure, iwi and rural production
  - (g) District Plan Objectives
- 1.23 In particular, HortNZ considers it important that the social and economic context of the district needs to be taken into account to ensure that, while the National Grid is important, it should not ‘trump’ or unfairly fetter other activities which are important to the social, economic and cultural wellbeing. There is a need to ensure that activities can co-exist without undue limitations placed on landowners.
- 1.24 This is particularly important in relation to the lines which traverse significant areas of horticulture and potential development.
- 1.25 The NPSET Policy 10 seeks that decisions makers must ‘to the extent reasonably possible’ manage activities. This requires a decision maker to balance out the range of issues and determine an outcome that both provides for the National Grid and other activities that are affected by the location of the National Grid.

- 1.26 Policy 5 of the NPS also seeks 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 the established electricity transmission assets.
- 1.27 So in establishing the National Grid Yard in the plan decision makers need to consider the 'reasonableness' of the distance sought and balance it out against the environmental effects, which include effects on land owners and the social and economic wellbeing of the district.
- 1.28 The NPSET seeks that the National Grid is not compromised but there is no measure as to what constitutes 'not compromised'. It would appear that an asset would be compromised if it was unable to function, but that there is a continuum along which there may be degrees of compromise. It would appear that Transpower seeks the optimum of the operation not being affected by having large areas of clear access to the poles. However not providing for the optimum does not mean that the line is compromised to the extent that it is unable to function.
- 1.29 It is important that there is a clear distinction between sensitive and non-sensitive activities as the policy directive in the NPSET is different for these activities. Making such a distinction ensures that non-sensitive activities are not treated as though they are sensitive and will cause reverse sensitivity effects.
- 1.30 Horticultural production is an essential component of the district and provides substantial employment and uses high quality land to maximise production and provide economic growth for the district and region.
- 1.31 Changes sought by Transpower have the potential to limit or restrict that production and hence the social, economic and cultural wellbeing of the district.