

**BEFORE THE BOARD OF INQUIRY**

**IN THE MATTER** of the Resource Management Act 1991

**A N D**

**IN THE MATTER** of Applications for Resource Consent and Notices of Requirement by Transpower New Zealand Limited for the North Island Grid Upgrade Project

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**STATEMENT OF EVIDENCE OF DYNES WILLIAM FULTON ON  
BEHALF OF WAIKATO DISTRICT COUNCIL**

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## **Introduction**

1. My name is Dynes William Fulton. I am a Waikato District Councillor (Hapuakohe ward) and I am also a farmer. I have been closely involved with matters concerning communication and relationships between Transpower New Zealand Limited ('Transpower'), Waikato District Council ('WDC') and the land owners in the Waikato District in relation to the Otahuhu - Whakamaru A, B, C lines which include upgrading and maintenance works ('OTA-WKM A, B and C works'). In addition, I have personal experience in these matters as my property has 9 pylons across it and is subject to the OTA-WKM A, B and C works. Furthermore, my position as ward Councillor for Hapuakohe is significant in the context of my evidence as approximately 108 of the 426 towers proposed in the Grid Upgrade Project will cross land in the District (over a direct line route of approximately 45km), of which approximately 80% will cross land in Hapuakohe ward.
  
2. My evidence relates to Part 3 of WDC's submissions regarding Transpower New Zealand Limited's ('*Transpower*') North Island Grid Upgrade Project ('*Grid Upgrade Project*'). It is my contention that the evidence presented by Transpower could go further to address the issues and concerns of WDC and the District's land owners. My statement of evidence sets out these concerns and what measures should be required to be undertaken by Transpower in the context of its proposed Grid Upgrade Project.

## **Background**

3. Over the past 3 to 4 years, WDC has identified a significant issue regarding the manner in which works are currently undertaken by Transpower on land in the District. It has been the experience (and is the perception) of many landowners, particularly farmers, that Transpower does not liaise effectively with them and generally lacks professionalism in the way that it treats them. To date, this has related

to maintenance and repair works for existing utilities, particularly the OTA-WKM A, B and C works. It is therefore important that the problem is addressed through the Resource Management Act 1991 process for the proposed new Grid Upgrade Project. **Attached and marked 'A'** is a copy of a letter dated 31 August 2006 addressed to David Laurie which sets out a list of examples of the experiences of Waikato District land owners.

4. I have personally experienced such types of ineffective communication between Transpower and land owners. I too have been in the position where we were notified of helicopter activity over my land after the work had already been carried out. I have also experienced the following scenario.
5. Arrangements had been made with Electrix Limited (contractor to Transpower) to service the base of three pylons on my property. We agreed on a suitable day for the work to be carried out and had also agreed on the entry gateways to be used for access off the relevant Council road. Farm management was re-arranged to allow for the grazing of pasture that was part of the affected area prior to the work being carried out.
6. Despite these arrangements being made, the contractors arrived a day earlier than scheduled. They entered my property through farm tanker access and drove their vehicles through a herd of dairy cows that were in a holding yard. Staff were alerted to this during the morning milking and had to urgently arrange for stock to be shifted to alternative grazing paddocks. The situation created a great deal of disruption for both the farm staff and the stock. **Attached and marked 'B'** is a copy of the Access Management Agreement between Electrix and myself.
7. Although a number of the points in the letter of 31 August 2006 have been addressed by Transpower in the recent past (for example, a much

better data base of the relevant land owners), the types of concerns I have highlighted above remain relevant as they illustrate a pattern of behaviour that continues to frustrate land owners. Farming is a business and those who are responsible for running a farm (whether it be the landowner, farm manager and/or farm staff) should be entitled to the same respect that any other business or industry expects.

### **Issues**

8. The overall concern is that Transpower does not provide land owners with comprehensive disclosure of what its intentions are for carrying out works. Rather than providing information in a piece meal way, Transpower should provide information regarding its overall programme of works. This would be beneficial for land owners as they would be far better informed of what works will, or are likely to happen on their land at a certain time.
9. It has been my experience that where the chain of communication is not established and maintained there will be problems. For example, where Transpower engages consultants to do certain works, those consultants then engage contractors, and those contractors then enter land and have the direct contact with land owners. Unless all links in this chain are fully informed of who is doing what, land owners will be negatively affected.
10. I note also that landowners have a perception that the level of maintenance activity carried out by Transpower has increased in recent years. The Grid Upgrade Project will increase this activity further. This adds weight to the need for the Grid Upgrade Project to address and mitigate these types of effects.

### **Land Access Agreement**

11. The concerns of the Waikato District's land owners have been discussed in various forums over the past two to three years. Waikato District Council held a workshop on 27 September 2006 ('workshop') regarding the OTA-WKM A, B and C works which included representatives from Transpower, WDC staff and Councillors and Landowners. I was actively involved in that workshop and the ongoing discussions with Transpower.
12. At the workshop, Transpower produced a draft *Agreement relating to transmission lines on land* ('Agreement'). This has since developed into the *Land Access Protocol Agreement – Existing Transmission Lines* ('Land Access Protocol').
13. WDC's submission states:

*[that WDC] would support it being used as a model for such matters as they relate to the operation of the proposed new transmission line.*

I agree with this position. This type of Land Access Protocol should form part of any conditions attaching to a Designation and/or Resource Consent for the works proposed by Transpower in its Grid Upgrade Project. It is my contention that Transpower must at the very least establish a comprehensive and workable methodology as to how they will liaise with land owners. That methodology would include the Land Access Protocol or a similar document.

14. I also consider it necessary that where land owners have existing lines/pylons on their property (I refer in particular to OTA-WKM A, B and C works) there should be one agreement that would apply to both 'projects'. It would be impractical to have more than one such agreement with each landowner.

**Transpower's Evidence – Statement of Evidence of John Craig Miles –  
Property Acquisition and Landowner Liaison**

15. Transpower's evidence regarding property acquisition and landowner liaison ('Miles evidence') makes reference to some of the issues I have discussed. As alluded to above, the reassurances contained in that evidence should receive a more formal acknowledgment *vis-à-vis* the Notice of Requirement/Designation and Resource Consent process. Indeed, while the Miles evidence gives a perception that Transpower has an effective system for land owner liaison, this is not necessarily the case.
16. In particular, the Miles evidence refers to case managers who consulted/will consult with landowners affected by the physical works of the Grid Upgrade Project. It states that retaining the case managers throughout the Grid Upgrade Project

*"[...] will ensure that landowners have one point of contact with Transpower who they can contact to resolve any issues that may affect them and/or their property. Case managers will be a contact interface between Transpower, the construction contractor/Alliance partners and the landowner."*

17. This approach is encouraging and I support Transpowers' initiatives in this regard. This type of initiative could usefully form part of a methodology which would in turn be included in conditions attaching to the Notice of Requirement/Designation and/or resource consents for the Grid Upgrade Project.
18. Paragraph 25(e) of Transpower's evidence regarding property acquisition and landowner liaison makes reference to a template "*Land Access Protocol Agreement*" which has been established with South Canterbury Federated Farmers which "*will be offered to various landowners affected by existing lines throughout the country, and which will include commitments by Transpower relating primarily to entry onto land for inspection, repairs and maintenance, and requiring*

*Transpower to comply with site-specific entry requirements requested by landowners...".*

19. I understand that this Protocol Agreement is the same as the *Land Access Protocol* that Transpower has been working on with WDC. A copy of the latest version of the *Land Access Protocol Agreement Existing Transmission Lines* is **attached and marked 'B'**. I understand from Mr Alan Bradshaw (Transpower) that this *Land Access Protocol* is now being introduced nationwide.
20. As such, I strongly support the use of this *Land Access Protocol* as a model for the way in which Transpower deals with land owners during the Grid Upgrade Project. Although the Grid Upgrade Project will have easements attaching to it, this does not detract from the need for such a *Land Access Protocol* to be in place for access to land even where no formal easements have been granted across land.
21. I also note that the Miles evidence does not address the WDC submission. I am not aware of the reasons for this omission.

### **Conclusion**

22. My role as a District Councillor and farmer in the Waikato District has meant that I am very much aware of the issues concerning land owners in relation to Transpower's activities on existing transmission lines having experienced first hand the works that Transpower undertakes and due to having played an active role in discussions with Transpower in that regard.
23. As a consequence I strongly consider it necessary for the conditions attaching to any Notice of Requirement/Designation and/or resource consent to address the need for a robust methodology for Transpower's interactions with land owners.

24. The Land Access Protocol discussed above is a good example of what could form part of that methodology. Further, the Miles evidence makes a number of encouraging statements about how Transpower intends to liaise with land owners and this could also form part of the overall methodology.
25. Whatever method is used by Transpower I reiterate WDC's submission that condition(s) must be imposed that require(s) Transpower to prepare a Land Access Protocol Agreement, or similar, to ensure that there is a clear methodology for all parties relating to access to land during construction and over long-term operation, inside and outside the designated corridor. For those land owners who are affected by the existing OTA-WKM A, B and C lines, there should be one comprehensive Land Access Protocol that deals with both sets of works.

**SIGNED** by

 25/2/08.  
**Dynes William Fulton**

'A'

31 August 2006

Mr David Laurie  
GM – Transmission  
Transpower  
PO Box 1021  
Wellington

Dear David

### LOCAL LANDOWNERS

I have attended two meetings recently with local landowners who have wanted to discuss Transpower activities in relation to the Resource Management Act (RMA) and the Proposed Waikato District Plan (PDP). The most recent was yesterday with a group of ten people from the Puketaha area of our district. They all enjoy the presence of the 'three lines'. They were advocating an absolute minimum within our PDP in relation to permitted activities for Transpower. They were advocating raising the status of resource consents.

After some considerable discussion I would propose that the landowners are not primarily concerned about the "activities" *per se*; upgrading, tree lopping, etc., etc., rather the manner in which they are undertaken. Upon further analysis that distils down to what the landowners see as a lack of a professional relationship with Transpower. At yesterday's meeting I noted the following comments made by the attendees. I hope you find them informative and useful.

- Landowners being notified of helicopter activity 'tomorrow' when it actually happened 'yesterday'.
- Letters sent to landowners' accountants.
- Letters sent to landowners' trustees.
- The correspondence for a landowner in Puketaha being sent to a landowner with the same name in Waiuku [Franklin District]
- A 'South African' on a farm bike going round with a 'hand-held' checking addresses more than once.
- Three trucks stuck in a wet paddock.
- A 4-wheel farm bike entering onto a property when told it was too wet, sliding into a gully and having to be pulled out.
- Contractors coming onto properties in wet conditions and cutting up the ground.
- Helicopters and other activities during calving time, landowners ring the call centre and get no further.
- Helicopters scaring stock.
- The 'man' on the end of the rope scaring stock even more.
- A landowner being informed on a Friday that there would be activity on his property the following Monday at 8am.. The activity did not start until 10am and consisted of; two helicopters, 14 men, five vehicles and a fuel tanker.

- A landowner rings the call centre offers his 'client number; to be told that the number was someone else's. That explained why he had not received any correspondence about helicopter activity superjacent to his farm prior to it happening.
- When people receive letters they consider the information therein the bare minimum with very little explanation.
- There is a perception that the level of maintenance has increased in the last few years.
- There is a real concern that if the lines are upgraded the level of maintenance will increase even further
- There was obvious talk of recompense, there was talk of rent-a-pylon.
- You never see the same person twice. It's always a consultant.
- There was a frustration of not being able to talk to 'someone'. They would get a person at a call centre.

I am sure that you have heard all this before. It is however frustrating for Council staff to attend meetings that are ostensibly centred around the RMA when to my mind they aren't. The thrust of the discussions centres around the way Transpower do things. The way Transpower has no professional relationship. The matters discussed yesterday should not be in a District plan. They might better be placed in an industry 'code of practice' if there was to be one.

I hope that I do not appear negative in what I have relayed to you. You are one of my major customers. If you would like to discuss any aspect of this letter I would be very pleased to talk to you. I would be even happier to take you to those good people I sat with yesterday from you to meet them.

Yours

'B'

Landowner/Occupier Copy

ACCESS MANAGEMENT AGREEMENT

YA 1364053



Electrix Limited
Tasman Road, Te Rapa
Hamilton
New Zealand
Ph: 07 - 849 8200
Fax: 07 - 8498201
E-mail: Andrew\_Landy@electrix.co.nz

Date: Reference

PURPOSE This document is to record the Access Management details as agreed by the Access/landowner and Transpower New Zealand Limited.

ACCESS/LANDOWNER(S)

Surname: Fulton First Name: D
Postal Address: 12 Sanctuary Lane R.D. 3 Hamilton
Telephone Number: 078244855 Fax Number:

LAND LEGAL DESIGNATION

Parcel ID: 1787 Orini Road

ACCESS The Landowner has granted access to the above property to carryout works as described in the letter sent by Transpower advising of the OTA -WKM A & B Line TTU Upgrade Project.

Note: (Landowners are required to grant access under provisions of Section 23 of the Electricity Act 1992. Landowners will have control of entry protocol ie time of year, use of specified roads, prior notification, and any encumbrance).

LEGAL STATUS This agreement is not binding on subsequent owners and is void on sale of property.

DETAILS OF ACCESS

Upgraded/Installed: N.T. Structure: OTA-WKM-B Tower Nos: 276-278 Span:

DETAILED DESCRIPTION OF REMEDIAL WORKS (If Required)

Please list all remedial works required to be address on completion of the above listed works:

- 1. No remedial work Required
2.
3.
4.
5.

COMMENTS

1. Crew didnt adhere to access instructions
2. NO forewarning of arrival

AGREEMENT

Both parties agree:

- 1. The above is a full list of remedial works required to be address.
2. Transpower and/or its Contractor will carry out the works at no cost to the landowner.
3. It is agreed that once the above remedial works have been rectified, this will be full and final settlement with regards works carried and access granted out on the above dates.

SIGNATURES

Landowner/Occupier: D.W. Fulton Date: 4/12/2006
Print Name: Dynes Fulton
Contractor (On Behalf of Transpower): K. R. Formo Date: 4/12/2006

11:28 AM

ADDITIONAL REQUIREMENTS OF THE AGREEMENT:

'C'



**T R A N S P O W E R**

# Land Access Protocol Agreement Existing Transmission Lines:

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[Name of Landowner]

Transpower New Zealand Limited

Date:

## **PARTIES**

[Name of Landowner] (*Landowner*)

Transpower New Zealand Limited (*Transpower*)

### **1 BACKGROUND**

- 1.1 The Landowner owns the Land set out in Schedule 1.
- 1.2 Transpower owns the Transmission Line located on the Land as described in Schedule 6.
- 1.3 The Landowner and Transpower have reached certain agreements regarding the Land and the Transmission Line as set out below and have agreed to enter into this document to commit to those agreements.

### **2 OBJECTIVES**

- 2.1 Each party recognises the potential conflict that may arise between their respective uses of the Land and to this end they commit to:
  - (a) respect each others' use;
  - (b) recognise the need not to unreasonably obstruct or interfere with each others' lawful use;
  - (c) have regard to the Landowner's rights to manage the Land without unreasonable interference or disruption;
  - (d) have regard to Transpower's statutory existing works rights and ongoing responsibility to operate and maintain the National Grid; and
  - (e) adopt appropriate health and safety measures to avoid or minimise harm consistent with lawful requirements and industry codes of practice.
- 2.2 Each party wishes to further develop their working relationship regarding each others interests concerning the following key issues:
  - (a) their respective rights and obligations in relation to the Land and the Transmission Line;
  - (b) Transpower's entry protocols;
  - (c) access arrangements;
  - (d) vegetation management.

2.3 The parties wish to record the terms of their understandings and agreements as set out in this Agreement.

### **3 PURPOSE**

3.1 This Agreement is to clearly document and acknowledge the parties' respective rights regarding the operation, access and entry requirements associated with the Operation, Maintenance and Inspection of the Transmission Line, which has the statutory protection of the Electricity Act 1992 and is operated having regards to the Electricity (Hazards from Trees) Regulations 2003 and New Zealand Electrical Code of Practice for Electrical Safe Distances NZECP34:2001.

3.2 For the avoidance of doubt, this Agreement:

- (a) is not an easement or an agreement to grant an easement; and
- (b) does not require Transpower to pay any compensation to the Landowner in relation to the Transmission Line except where expressly set out in this Agreement.

### **4 ACKNOWLEDGEMENT OF STATUTORY RIGHTS AND OBLIGATIONS**

4.1 The Landowner acknowledges that Transpower has certain rights and obligations at law including rights and obligations set out in the Electricity Act 1992 and further acknowledges that nothing in this Agreement may limit those statutory rights and obligations.

4.2 The Landowner acknowledges that in accordance with section 23 of the Electricity Act 1992, Transpower has the legal right to enter onto the Land and perform any act or operation necessary to Operate, Maintain and Inspect the Transmission Line.

4.3 This Agreement does not limit in any way either party's rights to relief or damages at law, including (without limitation):

- (a) any right to obtain injunctive relief; or
- (b) any right to bring a claim for damages for any breach of any law.

### **5 LAND ENTRY PROTOCOLS FOR ACCESS TO EXISTING TRANSMISSION LINES**

5.1 Under the provisions of section 23 to section 23D of the Electricity Act 1992 Transpower has the following rights and obligations of entry.

### **Entry for Inspection or Operation – Section 23B of the Electricity Act 1992**

- 5.2 Before entering onto the Land to inspect the Transmission Line, Transpower will give reasonable notice of its intention to enter the Land to the Landowner. In most circumstances, Transpower will give 10 Working Days' written notice with a follow up telephone call where possible.

### **Entry for Maintenance – Section 23A of the Electricity Act 1992**

- 5.3 Where possible, Transpower will give notice in writing to the Landowner:
- (a) of its intention to undertake routine scheduled maintenance works (e.g. tower painting, vegetation management, changing insulators) on the Transmission Line approximately 3 to 6 months prior to undertaking the works; or
  - (b) of its intention to undertake upgrade works on the Transmission Line approximately 6 to 12 months prior to undertaking the works (provided that Transpower may only undertake upgrade works which are included within the legal definition of Maintenance and are permitted by section 23 of the Electricity Act 1992).
- 5.4 The notice will set out:
- (a) a general description of the scheduled works to be undertaken on the Land including a broad description of the project (if applicable); and
  - (b) in the case of an upgrade or replacement under Section 23(3)(b), describe the increased specification above the specification stated in *Schedule 6 - Transmission Line* of this Agreement; and
  - (c) contact details for Transpower.
- 5.5 Before entering onto the Land to maintain and/or upgrade the Transmission Line, Transpower will give at least 10 Working Days' notice in writing to the Landowner of its intention to enter the Land. The notice will set out:
- (a) the locations of the proposed entry and work;
  - (b) the reasons for the entry and work and the nature of the work to be undertaken;
  - (c) the date and time of entry; and
  - (d) the length of time that Transpower expects to be on the Land including whether Transpower will enter the Land on numerous occasions.

### **Entry for Emergency Works – Section 23C of the Electricity Act 1992**

- 5.6 The Landowner acknowledges that Transpower is not obliged to give any prior notice (including the notices to be given under clauses 5.2, 5.3, 5.4 and 5.5) where Transpower's entry onto the Land:
- (a) is necessary in circumstances of probable danger to life or property; or
  - (b) is immediately necessary to maintain the continuity or safety of the supply and distribution of electricity.
- 5.7 Transpower will give notice by telephone to the Landowner prior to entering the Land for emergency purposes where it is reasonably practicable to do so. Where it is not reasonably practicable to give immediate notice, Transpower will give notice to the Landowner as soon as possible after entry onto the Land and no later than 5 Working Days after entry.

### **Landowner's Conditions of Entry – Section 23D of the Electricity Act 1992**

- 5.8 Transpower acknowledges that under section 23D of the Electricity Act 1992, the Landowner may set reasonable conditions relating to the timing of Transpower's entry onto the Land and the route of access but those conditions must not:
- (a) delay Transpower's entry by more than 15 Working Days;
  - (b) require monetary or other consideration; or
  - (c) otherwise defeat Transpower's ability to effectively exercise its rights of entry onto the Land.
- 5.9 Transpower and the Landowner agree that subject to section 23D of the Electricity Act 1992 the terms set out in this Agreement will govern Transpower's access onto the Land.

## **6 HEALTH AND SAFETY REQUIREMENTS FOR ENTRY**

- 6.1 Transpower will while working on the Land comply with all obligations imposed on Transpower at law as the person who controls a place of work and will be responsible for the health and safety of any person who enters the Land at the request of Transpower.
- 6.2 The Landowner will advise Transpower of any significant hazard of which the Landowner is aware that:
- (a) is located on or in the Land;
  - (b) arises from work that is or has been carried on the Land for gain or reward; and

- (c) would not, in the ordinary course of events, be reasonably expected to be in or likely to arise in a place of work of the same type as that undertaken on the Land.

- 6.3 Notice given under clause 6.2 may, at the Landowner's option, be given in writing.
- 6.4 The Landowner may, at the Landowner's discretion, provide to Transpower the Landowner's rules and/or procedures regarding the health and safety of persons on the Land. If rules and/or procedures are provided by the Landowner, Transpower will comply with the Landowner's reasonable obligations regarding health and safety.
- 6.5 If after Transpower has commenced works on the Land and the site conditions have changed causing the work site to become unsafe, Transpower will immediately do all things necessary to make the work site safe to the requirements of the Department of Labour.

## **7 PREFERRED ACCESS ROUTE TO TRANSMISSION LINE**

- 7.1 Transpower and the Landowner agree that the preferred access route for Transpower's access to the Transmission Line is the Preferred Access Route as set out on the plans attached as Schedule 5 to this Agreement. Should the Preferred Access Route be, in Transpower's reasonable opinion, unavailable for use, Transpower may use any reasonable alternative route for accessing the Transmission Line but only after consultation with the Landowner regarding the alternative route. Transpower will keep plans showing the Preferred Access Route and where practical any alternative routes available.
- 7.2 Where there is no agreed formed access track and no agreed access route has been agreed in Schedule 5, Transpower will consult with the landowner prior to accessing the Land to confirm the location of the agreed access (except in an emergency situation).
- 7.3 The Landowner acknowledges the importance to Transpower of access to the Transmission Line and agrees not to restrict Transpower's access.
- 7.4 Where the Preferred Access Route is a formed access track and Transpower requires to upgrade the access track to its standard, Transpower may, at its own cost, and in consultation with the Landowner, construct or maintain an access track to the standard reasonably required by Transpower. This will normally be to a condition which allows use by four-wheel drive utility-type vehicles in most weather.
- 7.5 Where any alternative access route is not constructed or maintained to the standard required by Transpower, Transpower may, at its own cost, and only after obtaining the agreement of the Landowner, construct or maintain an access track to the standard reasonably required by Transpower, which will normally be to a condition which allows use by four-wheel drive utility-type vehicles in most weather conditions.

- 7.6 Transpower will give notice to the Landowner prior to entering onto the Land to construct, repair or maintain any access track in accordance with the entry protocols for maintenance set out in clause 5.5 of this Agreement.
- 7.7 Transpower acknowledges that the Landowner is not required to contribute to the cost of maintaining any access track unless the access track is to be maintained at the Landowner's request to a standard higher than that required by Transpower.
- 7.8 The Landowner agrees that, at Transpower's cost, Transpower may alter gates and fences located on the Land and install gates within existing fences (including boundary fences) in order to assist with access to the Transmission Line. Transpower must consult with the Landowner before altering any gates and fences or installing new gates. The installation and maintenance of any gate or fence installed by Transpower must be to usual industry practice. The provisions of clauses 9.4 to 9.6 will apply to any work done by Transpower under this clause 7.8.
- 7.9 Transpower must obtain the agreement of the Landowner before changing any boundary fence including installing any gate in a boundary fence. Any such changes made by Transpower, or any boundary gate already installed to facilitate Transpower's entry, will be maintained in stock proof condition by Transpower.

## **8 TRANSPOWER'S CODE OF CONDUCT ON THE LAND**

- 8.1 The "Code of Conduct" set out in this clause 8 will be imposed on Transpower's employees, contractors and agents. It will be included in any service contracts requiring access to the Land.
- 8.2 If the Landowner is not present at the time of entry onto the Land, Transpower's employees or contractors will leave a card at the nominated residence on the Land to advise of the date and time of the visit providing clause 5.2 has been complied with.
- 8.3 All persons entering the Land at Transpower's direction to carry out inspection or maintenance works on behalf of Transpower must either hold or be under the control of a contractor holding a warrant of authority or authorisation from Transpower to exercise its rights on Transpower's behalf as required under section 159 of the Electricity Act 1992. A copy of Transpower's standard warrant of authority is set out in Schedule 2.
- 8.4 All employees and contractors of Transpower will carry evidence of their identity.
- 8.5 Any contractor appointed by Transpower will appoint a suitably qualified employee to supervise the works on the Land.
- 8.6 Transpower will manage the work site and all works undertaken on the Land in a safe manner. Any machinery, plant, materials and excavations on the Land will be left in a condition which is as safe and secure as reasonably practicable.

8.7 Transpower will:

- (a) remove all surplus equipment, material and debris from the Land at the conclusion of works unless the Landowner consents to any equipment, material and debris remaining on the Land;
- (b) avoid or mitigate localised contamination, such as debris from secondary preparation activities, as far as reasonably practicable;
- (c) not leave litter or rubbish or light any fires on the Land without the consent of the Landowner;
- (d) ensure that all potential contaminants, such as oils, solvents and paints, are contained and any spillage is removed from the Land;
- (e) take all reasonable precautions to prevent the straying of livestock and will comply with the Landowner's reasonable requirements in this regard;
- (f) adopt reasonable and practical preventative measures to avoid disturbing stock or harvest vehicles during the lambing, calving and harvest seasons;
- (g) not bring any dogs or firearms onto the Land; and
- (h) leave all gates as found, unless otherwise requested by the Landowner.

8.8 Transpower will comply with any relevant consent conditions or requirements of district plans and regional plans (if applicable).

8.9 Utilities and other services:

- (a) The landowner will to the best of their knowledge notify Transpower of the position, type and size of all services in the area of any works to be undertaken by Transpower or along any access route where those services could be affected by Transpower's works.
- (b) Transpower will take all practicable precautions to ensure the security of all utility services.
- (c) Transpower will restore the utility or other service disturbed by the works as soon as practicable.
- (d) Transpower will ensure that temporary restoration of those utility services is undertaken.

8.10 Transpower may erect temporary fencing and gates during construction or maintenance of the Transmission Line where necessary for the protection of persons, animals or crops.

The type of fence and or gate will depend upon its location, purpose and the period for which it is required. Transpower will consult with the Landowner prior to erecting fencing regarding the location of the fence. On completion of works, Transpower will remove all temporary gates and fencing.

## **9 PROPERTY REINSTATEMENT BY TRANSPOWER**

- 9.1 Before Transpower undertakes any substantial work on the Transmission Line, Transpower will in appropriate cases document the "before" condition of the affected part of the Land by way of written agreement with the Landowner and supported by photographs.
- 9.2 When undertaking works, Transpower will ensure all reasonable steps are taken to avoid and otherwise minimise damage to stock, crops, pasture, vegetation, fencing, buildings, water courses and other structures and the Land.
- 9.3 Transpower and the Landowner acknowledge that Transpower's works may require crops to be taken out of production. Transpower will compensate the Landowner for damage done to crops or for the loss of production under clause 9.5.
- 9.4 At the completion of Transpower's works and in the event that damage has been done, Transpower and the Landowner will agree the work required to reinstate as far as reasonably practicable any damage or disturbance to the Land to the condition that existed prior to undertaking the works.
- 9.5 Transpower will compensate the Landowner for any damage caused by Transpower entering the Land or undertaking works on the Land to the extent that the damage has not or cannot be reinstated.
- 9.6 If Transpower and the Landowner are unable within a reasonable period to agree the work required to reinstate damage or disturbance to the Land under clause 9.4 or if Transpower and the Landowner are unable to agree the compensation payable under clause 9.5 (if any), then:
  - (a) Transpower and the Landowner will jointly appoint an independent person (who will act as an expert and not an arbitrator) with suitable skills and experience to determine the work required or compensation payable;
  - (b) Transpower and the Landowner commit to acting reasonably when jointly appointing the independent person;
  - (c) Transpower and the Landowner commit to abide by the decisions of the independent person;

- (d) If Transpower and the Landowner are unable to jointly appoint the independent person within 5 Working Days of deciding to appoint the independent person, then either party may request the President for the time being (or his/her nominee) of the New Zealand Law Society (or any successor organisation) to appoint the independent person; and
- (e) The independent person's costs will be met as directed by the independent person (unless otherwise agreed).

## **10 VEGETATION MANAGEMENT**

- 10.1 The parties agree that this Agreement is a "Specified Agreement" for the purposes of the Electricity (Hazards from Trees) Regulations 2003. This Agreement will define the responsibilities of the respective parties in respect of vegetation on the Land within close proximity to the Transmission Line.
- 10.2 The parties acknowledge and agree that the Electricity (Hazards from Trees) Regulations 2003 apply to trees located within the Growth Limit Zone as shown in Schedule 3. Except where obligations have been amended by this Agreement, both parties will comply with their respective obligations under the Electricity (Hazards from Trees) Regulations 2003.
- 10.3 Transpower will meet the costs of managing vegetation within the relevant Growth Limit Zone as shown in Schedule 3 unless the vegetation has been planted by the Landowner after the Line was commissioned and does or is likely to extend into the Growth Limit Zone when fully grown, in which case the Landowner will bear the cost of cutting or trimming the vegetation. Subject to any entitlement to compensation otherwise payable at law, Transpower will not pay compensation for any vegetation removed from within the Growth Limit Zone.
- 10.4 Where Transpower wishes to cut or trim vegetation which is not within the relevant Growth Limit Zone but is within the Fall Distance Zone, Transpower will seek the Landowner's prior consent to the vegetation being cut or trimmed. The whole cost of cutting or trimming that vegetation will be met by Transpower. Subject to any entitlement to compensation otherwise payable at law, Transpower will not pay compensation for any vegetation removed within the Fall Distance Zone.
- 10.5 The Landowner agrees that Transpower may enter onto the Land to cut or trim any vegetation located within the Growth Limit Zone or the Fall Distance Zone where Transpower is entitled to cut or trim that vegetation under this Agreement or otherwise at law. Transpower will give notice to the Landowner prior to entering onto the Land to cut or trim the vegetation in accordance with the notice period set out in clause 5.5. The Landowner may set reasonable conditions on the timing and route of Transpower's entry onto the Land to cut or trim the vegetation.

- 10.6 When Transpower cuts or trims vegetation it will consult with the Landowner with a view to agreeing whether the debris are removed from the Land or disposed of on the Land.

## **11 SAFE PRACTICE FOR LANDOWNERS USE OF THEIR LAND**

- 11.1 The following safety requirements are prescribed by the New Zealand Electrical Code of Practice for Electrical Safe Distances NZECP34:2001 and industry safe practice. The separation distances aim to avoid electrical hazards from occurring and maintain the structural integrity of support structures (towers or poles). Compliance with these separation distances is a mandatory requirement under the Electricity Regulations 1997.

- 11.2 The Landowner agrees with Transpower not to do or allow anything to be done which could unreasonably interfere with the Transmission Line without obtaining the prior written consent of Transpower, including:

- (a) alter or disturb the grades and contours of the surface of the Land under or within close proximity to the Transmission Line except in the course of normal farming and grazing activities provided the structural integrity and support of the Transmission Line is not put at any risk whatsoever as noted in NZECP34:2001;
- (b) erect any building or other similar structure under or in the vicinity of a Transmission Line or within the distances set out in NZECP34:2001 to either side of the Transmission Line as shown in Schedule 4 to this Agreement;
- (c) operate any equipment or vehicles within a minimum clearance distance of 4 metres from any electricity conductor forming part of the Transmission Line, as noted in NZECP34:2001;
- (d) excavate or deposit material under or near the Transmission Line;
- (e) knowingly flood the Land under or in close proximity to the Transmission Line; and
- (f) light any fires or burn off vegetation under the Transmission Line.

- 11.3 The Landowner will inform Transpower (by telephone) 2 hours prior to lighting any fires or to burn off crop residues within close proximity to the Transmission Line.

- 11.4 None of the above safety requirements detract from the Landowner's responsibilities to obtain any necessary resource consent or building consent for any proposed works.

## **12 COMPLAINTS PROCESS**

- 12.1 The Landowner will in the first instance address any complaints regarding day-to-day matters related to the Transmission Line or any activities on the Land to Transpower's

nominated line maintenance contractor (see Schedule 1 for the contractor's contact details).

- 12.2 If Transpower's line maintenance contractor cannot adequately address a complaint, the line maintenance contractor will refer the complaint to Transpower
- 12.3 Transpower will respond to any complaints made to it by the Landowner in a timely manner using Transpower's internal complaints process.
- 12.4 Transpower is a member of the Electricity and Gas Complaints Commissioner Scheme. If the complaint is not resolved through Transpower's internal complaints scheme process, the Landowner is entitled to refer the complaint to the Electricity and Gas Complaints Commissioner at no cost to the Landowner, provided that the complaint falls within the jurisdiction of the Electricity and Gas Complaints Commissioner Scheme.

### **13 DISPUTE RESOLUTION**

- 13.1 If any dispute arises between the parties concerning this Agreement, the parties will enter into discussions in good faith to attempt to resolve the dispute themselves.
- 13.2 Transpower and the Landowner acknowledge that disputes regarding land access can be referred to the Environment Court pursuant to section 23F of the Electricity Act 1992 as well as to other dispute resolution forums.

### **14 GENERAL**

#### **Specific property details**

- 14.1 The parties will comply with any specific agreements reached relating to the Land as set out in Schedule 7.

#### **Compliance with laws**

- 14.2 The parties will at all times comply with all relevant statutes, bylaws, regulations and other lawful requirements relating to this Agreement, the Land and the Transmission Line which place an obligation on the relevant party including NZECP34:2001.
- 14.3 Transpower will obtain all necessary environmental authorisations under the Resource Management Act 1991 and on the Landowner's request will demonstrate to the Landowner that these authorisations have been granted.
- 14.4 Transpower will keep the Transmission Line in good operational order and repair at its sole cost and will operate and maintain the Transmission Line in accordance with best industry practice and all applicable statutory requirements.

### **Notices**

- 14.5 The contact details for Transpower and the Landowner at the date of this Agreement are set out in Schedule 1.
- 14.6 The Landowner may nominate a person in occupation of the Land to accept notices from Transpower (either in addition to or in substitution for the Landowner) by giving written notice of that person's contact details to Transpower. The contact details for the occupier as at the date of this Agreement are set out in Schedule 1.
- 14.7 All notices must be in writing (unless expressly stated in this Agreement) and may be given if personally delivered or sent by an accepted means of electronic transmission (including fax or email). Any notices personally delivered are deemed given when personally delivered. Any notices sent by electronic transmission are deemed given on confirmation of return electronic receipt by the property owner/occupier on the first working day after sending of the electronic transmission.

### **No Assignment**

- 14.8 The parties acknowledge and agree that the rights and obligations set out in this Agreement are personal and not assignable.
- 14.9 The Landowner will use its best endeavours to advise Transpower of any sale or transfer of the Land and give contact details for the purchaser or transferee to Transpower.

### **Review of Agreement**

- 14.10 Either party may by written notice to the other party initiate a review of this agreement. The parties agree that any such review may occur at not less than 3 years and not more than 5 years from the commencement date of this Agreement, but in any event not less than three years from the date of the last review.

If this condition conflicts with the specific property details set out in Schedule 7 herein then the provisions of Schedule 7 will prevail.

### **Governing law**

- 14.11 This Agreement must be construed in accordance with New Zealand law.
- 14.12 Nothing in this Agreement is intended to be a submission to arbitration.

### **No waiver**

- 14.13 A waiver by the Landowner or Transpower of any right or obligation under this Agreement will only be effective if it is given in writing and agreed by both parties.

14.14 A failure or delay by any party in exercising any power or right will not operate as a waiver of that power or right.

**EXECUTION**

**Signed by the Landowner:**

.....  
Signature of Landowner

.....  
Signature of Landowner

.....  
Full name of Landowner

.....  
Full name of Landowner

.....  
Date

.....  
Date

**Signed for and on behalf of Transpower New Zealand Limited by**

.....  
Signature

.....  
Full name

.....  
Date

## GLOSSARY

In this Agreement:

- (a) *Fall Distance Zone* means the relevant fall distance zone set out in Schedule 3;
- (b) *Growth Limit Zone* means the relevant growth limit zone set out in the Schedule to the Electricity (Hazards from Trees) Regulations 2003, the relevant parts of which are set out in Schedule 3;
- (c) *Land* means the land described in Schedule 1;
- (d) *Landowner* includes, where the context permits, a person in lawful occupation of the Land;
- (e) *Maintenance* means:
- any repairs and other activities for the purpose of maintaining or that have the effect of maintaining the Transmission Line; and
  - the carrying out of any replacement or upgrade of existing works as long as the Land will not be injuriously affected as a result of the replacement or upgrade; (*s23(3)(b) Electricity Act 1992*)
- and *Maintain* has a corresponding meaning;
- (f) *NZEC34:2001* means New Zealand Electrical Code of Practice for Electrical Safe Distances (NZEC34:2001);
- (g) *Preferred Access Route* means the access route across the Land as shown on the plan attached as Schedule 5;
- (h) *Transmission Line* means the transmission line described in Schedule 6;
- (i) *Transpower* includes Transpower's subsidiary or related companies and includes, where the context permits, their employees, contractors and agents; and
- (j) *Working Day* means any day of the week other than:
- Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday and Waitangi Day; and
  - A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

**SCHEDULE 1 – DETAILS**

**Land:** [Insert address and legal description]

**Landowner's contact details:** [Street address]

[Postal address]

Telephone:

Mobile number

Fax:

Email:

Landowner's preferred means of contact (how written notices should be sent to the Landowner):

Fax       Email       Post

**Landowner's agent's contact details:** [Street address]

[Postal address]

Telephone:

Fax:

Email:

Landowner's agent's preferred means of contact (how written notices should be sent to the Landowner's agent):

Fax       Email       Post

**Notification to Landowner and/or Landowner's agent:**  Written notice to the Landowner AND the agent

Written notice to the agent only

Written notice to the Landowner only

**Occupier's contact details (if any):** [Street address]

[Postal address]

Telephone:

Fax:

Email:

Occupier's preferred means of contact (how written notices should be sent to the Occupier):

Fax       Email       Post

**Notification to Landowner and/or Occupier:**  Written notice to the Landowner AND the Occupier

Written notice to the Occupier only

Written notice to the Landowner only

**Transpower's contact details:** [Street address]

[Postal address]

Telephone:

Fax:

Email:

**Landowner contact:** 0508 LANDOWNER (0508 526 3696)

**For grid emergencies:** 0800 THE GRID (0800 843 4743)

**Line maintenance  
contractor's contact  
details:**

[Street address]

[Postal address]

Telephone:

Fax:

Email:

**SCHEDULE 2 – STANDARD WARRANT OF AUTHORITY**

[Example form only and may change from time to time]

**Contractor Company Name and Logo**                      **Authorisation Number [                      ]**

**Warrant Of Authority**

**PURSUANT to section 159 (1) (a) of the Electricity Act 1992**, Transpower New Zealand Limited (Transpower) has authorised [                      ] Limited, and its employees and subcontractors under Authorisation to Enter land no. (xxxx), to exercise on Transpower's behalf the rights of access vested in Transpower under **section 23 of the Electricity Act 1992**.

**Section 23(1):**

*Any person that owns any existing works may enter upon land for the purpose of gaining access to those works and may perform any act or operation necessary for the purpose of— (a) Inspecting, maintaining, or operating the works:*

The person whose photograph and signature appear below is an employee/subcontractor of [                      ] Limited and IS AUTHORISED to enter on to land where Transpower's works are located subject to the provisions of the **Electricity Act 1992**:

**WARRANT HOLDER:**

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature: \_\_\_\_\_

**AUTHORISED BY:**

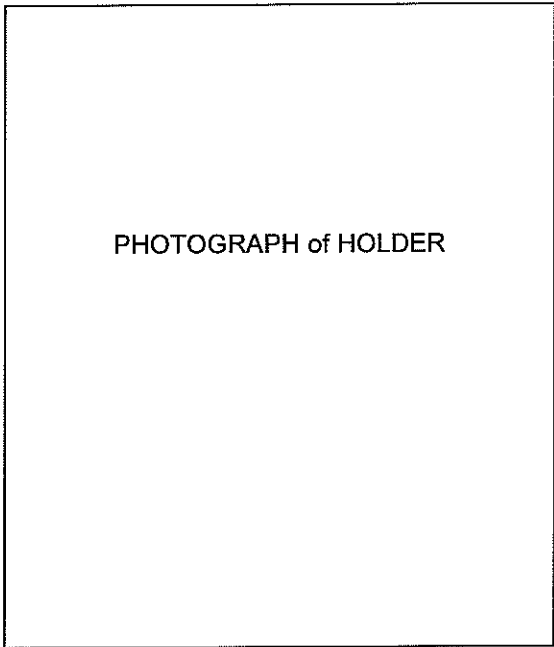
Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature: \_\_\_\_\_

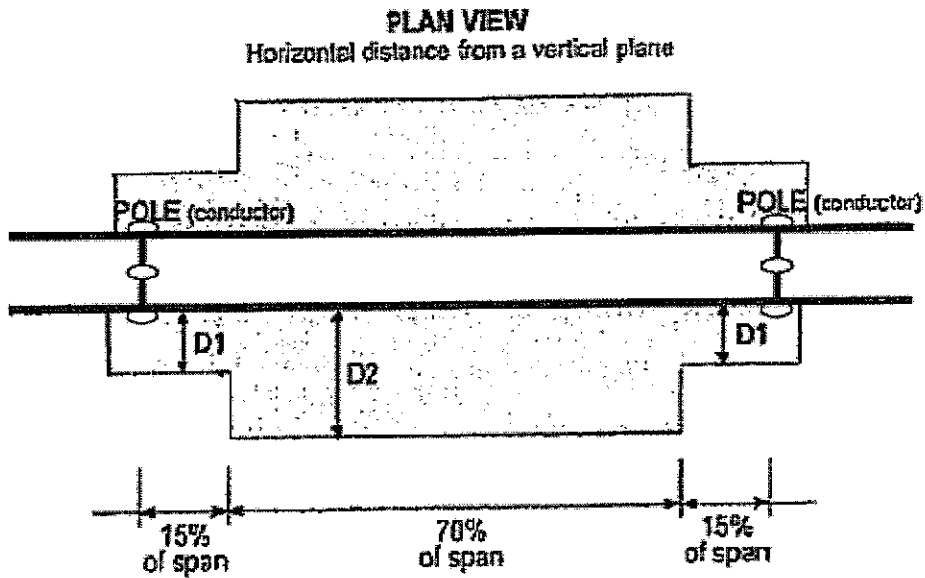
Issue Date: \_\_\_\_\_

Expiry Date: \_\_\_\_\_



*[The expiry date should be no later than the expiry date or the Authorisation to enter land]*

**SCHEDULE 3 – GROWTH LIMIT ZONE AND FALL DISTANCE ZONE**



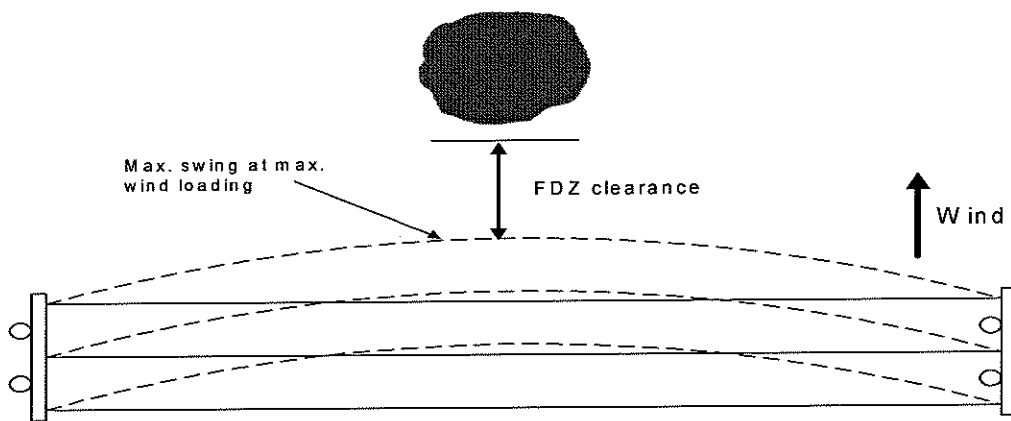
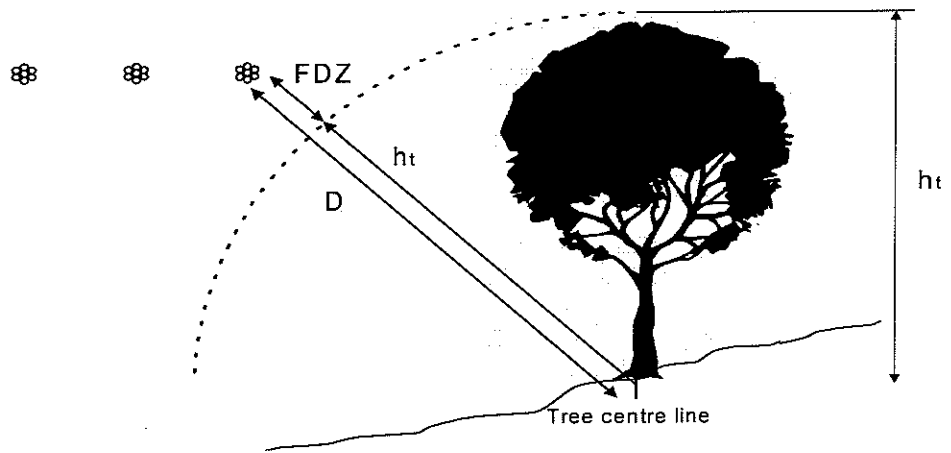
**Growth Limit Zone:**

Length of span	Vertical distance from a horizontal plane drawn from any point on conductor	Horizontal distance from a vertical plane drawn from any point on conductor
≤ 150 metres	4 metres	4 metres
150 to 300 metres	4 metres	D1 = 4 metres D2 = 8 metres
301 to 500 metres	4 metres	D1 = 7.5 metres D2 = 15 metres
501 to 700 metres	4 metres	D1 = 15 metres D2 = 30 metres
≥ 701 metres	4 metres	D1 = 25 metres D2 = 50 metres

**Key:**  
D1 = distance for the 15% of each span at either end of the span  
D2 = distance for the centre 70% of each span

Fall Distance Zone: See diagrams on next page

Fall Distance Zone (FDZ) diagrams (for Trees not subject to the Tree Regs)



**FDZ clearance = 4.0 metre**

*Note 1  $D = h_t + 4.0$  m where  $h$  is the maximum allowable tree height above ground level.*

**SCHEDULE 4 – MINIMUM APPROACH DISTANCES UNDER NZECP34**

### Minimum Approach Distances Near 110kV Transmission Lines on Poles

This diagram is for quick reference only, & does not contain all safety distance requirements for all activities near 110kV transmission lines. For further details of safe distance requirements please refer to the mandatory New Zealand Electrical Code of Practice 34:2001 (NZECP-34), available from the Energy Safety Service web site [http://www.esa.govt.nz/rules-and-regs/34\\_2001.pdf](http://www.esa.govt.nz/rules-and-regs/34_2001.pdf) or contact Transpower ph. 0800 643 474.

**Table 1 – 110kV lines**

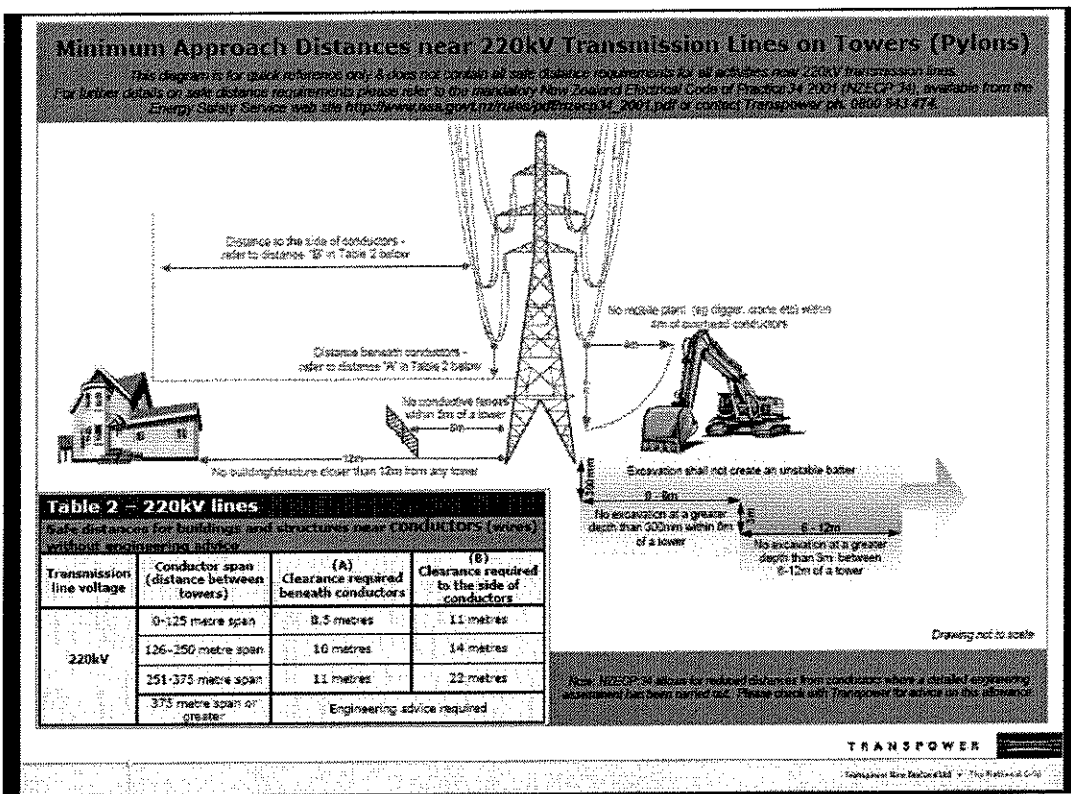
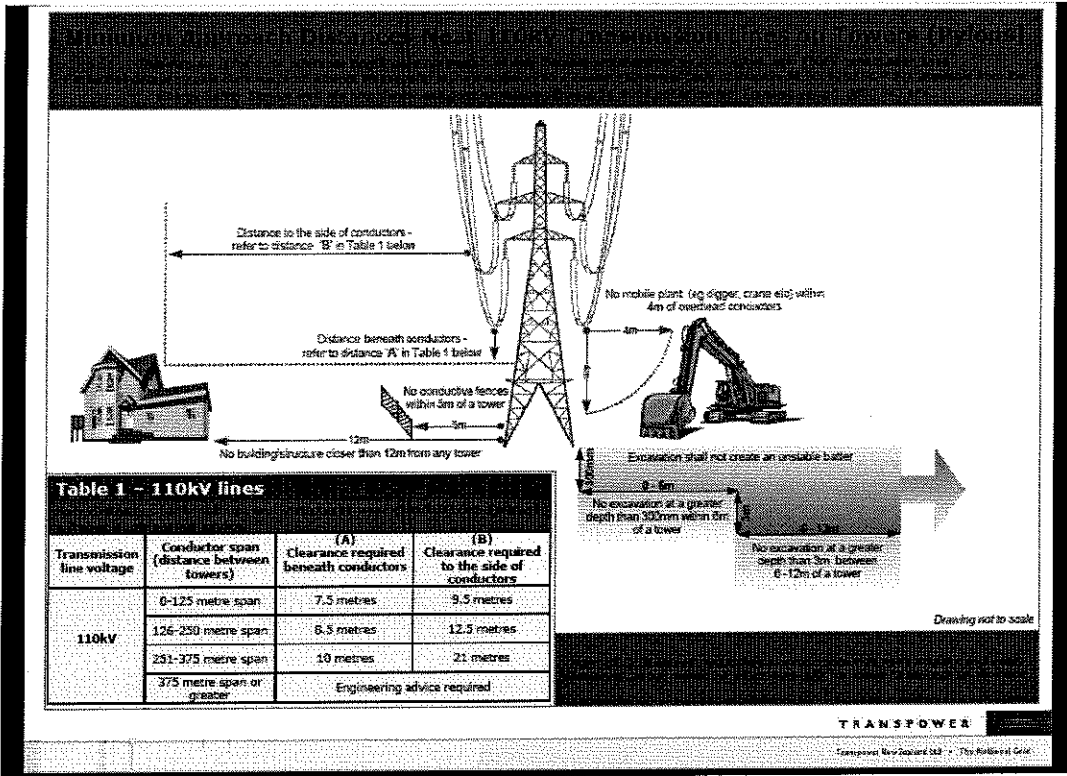
*Safe distances for buildings and structures near conductors (wires) without engineering advice*

Transmission line voltage	Conductor span (distance between poles)	(A) Clearance required beneath conductors	(B) Clearance required to the side of conductors
110kV	0-125 metre span	7.5 metres	9.5 metres
	125-250 metre span	8.5 metres	12.5 metres
	251-375 metre span	10 metres	21 metres
	375 metre span or greater	Engineering advice required	

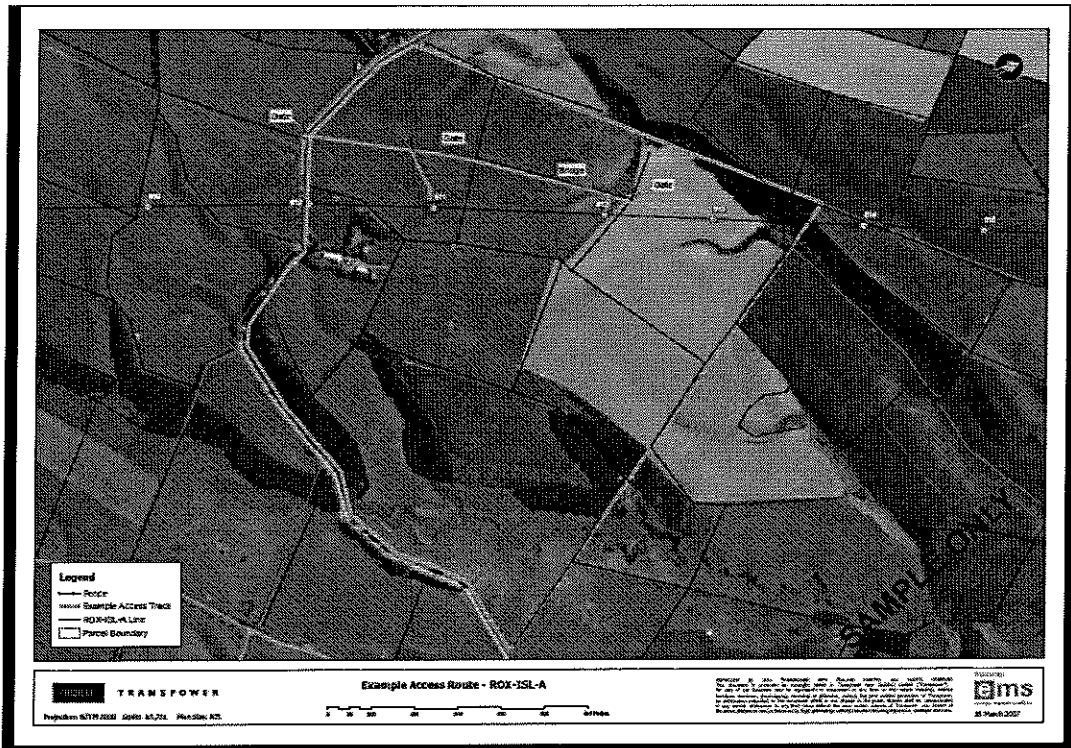
Drawing not to scale

Note: NZECP 34 allows for vertical distances from conductors when a qualified engineering professional has been consulted. Please check with Transpower for advice on this allowance.

**TRANSPOWER**  
Transpower New Zealand Ltd | The New Zealand



**Schedule 5 – ACCESS ROUTE**



**SCHEDULE 6 – TRANSMISSION LINE**

The existing transmission line(s) owned by Transpower located on the Land, which at the date of this Agreement includes the following towers and spans:

**Line name:**

**Nominal operating voltage:**

**Maximum operating temperature:**

Tower number(s)	Approximate tower height (metres above ground)

Span length (between tower numbers)	Minimum design clearance (metres above ground)  (Note only if this information is available)
Number of conductors or wires	Conductor or wire size



## **SCHEDULE 7A – SPECIFIC PROPERTY DETAILS - GUIDE**

### **Access**

Access tracks; Special considerations, e.g. boggy areas, drains, dams and reservoirs.

### **Vegetations**

Vegetation management, protected trees, conservation covenant areas, trees (including shelter belt trees and forestry) burning off, & weeds.

### **Farm Practices**

Specific land management information, e.g. organic farms requirements, dairy movements, lambing/calving, use of mechanical plant including harvesters, irrigation, including travelling irrigators, boom irrigators, long lateral systems, central pivot units, aerial and land based spraying., top dressing, fencing (including electric), ploughing, Hay making (including other feed), specialist cropping & Biosecurity.