

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

AND

**IN THE MATTER of
Transpower's Notices of
Requirement for the North
Island Grid Upgrade**

**SUBMISSION ON TRANSPOWER'S NOTICES OF REQUIREMENT
(Sections 144 and 145 of the Resource Management Act 1991)**

**To: Minister for the Environment
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This is a submission in respect of Transpower's Notices of Requirement for the proposed North Island Grid Upgrade Project (GUP).

This submission is in opposition to the following notices of requirement (NOR):

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|-----|--|--------------------------|
| 1. | Pakuranga Substation | NOR reference 27619 |
| 2. | Otahuhu Substation | NOR reference 27619 |
| 3. | Brownhill Substation | NOR reference 27619 |
| 4. | Underground Cable (Pakuranga to Brownhill) | NOR reference 27619 |
| 5. | Underground Cable (Otahuhu to Brownhill) | NOR reference 27619 |
| 6. | Overhead line (Manukau) | NOR reference 27619 |
| 7. | Overhead line (Franklin) | NOR reference LO7089 |
| 8. | Overhead line (Waikato) | NOR reference DESOO11/07 |
| 9. | Overhead line (Matamata Piako) | NOR reference RMR200621 |
| 10. | Overhead line (Waipa) | NOR reference DN/0006/07 |
| 11. | Overhead line (South Waikato) | NOR reference 240/021 |
| 12. | Overhead line (Taupo) | NOR reference RM070209 |
| 13. | Whakamaru / Whakamaru North Substation | NOR reference RM070209 |

This submission by Waipa District Council does not relate to the applications for resource consent.

The reasons for Waipa District Council's submission in **opposition** to the Notices of Requirement are detailed as follows. Unless otherwise stated, the reasons for opposition are applicable to all notices of requirement.

1. The Notice of Requirement is inconsistent with Part 2 (Purpose and Principles) of the Resource Management Act 1991.
 - 1.1 The purpose of the Resource Management Act 1991 (RMA) is to promote the sustainable management of natural and physical resources. The RMA recognises 'sustainable management' as meaning:

"...the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while-

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *Avoiding remedying, or mitigating any adverse effects of activities on the environment”*

1.2 The Waipa District Plan seeks to manage the use and development of resources in order to avoid or mitigate adverse effects on amenity values and to maintain and enhance the environment. The District Plan recognises ‘sustainable management’ as being important to Waipa District for the following reasons:

- preserving the natural character of rivers, streams, lakes and wetlands and their margins;
- protecting outstanding natural features and landscapes;
- maintaining and enhancing the high quality character of the landscape;
- protecting significant indigenous wildlife and plant habitats;
- ensuring that land management practices in farming, forestry and other development have regard to the efficient use and development of natural resources without adversely affecting those resources and by enhancing the environment wherever possible.
- avoiding unnecessary damage to natural resources which may be needed in the future.

1.3 The Notice of Requirement (NOR) is required to be consistent with Part 2 of the RMA, to which the considerations in Section 171 are subject. The NOR is inconsistent with the purpose and principles of the RMA because it fails to promote the sustainable management of natural and physical resources.

1.4 In March 2007, Waipa District Council commissioned a report to evaluate whether non-market and social costs have been properly addressed in the context of the Grid Upgrade Proposal (GUP). The report also addressed whether electricity produced as a result of the GUP was produced in an environmentally sustainable manner, and thus sufficiently aligned to the principles of the RMA.

1.5 The Report states, inter alia:

“An essential first step in achieving (environmental sustainability) is to include environmental costs in the evaluation of alternatives. The (Electricity) Commission has instead chosen to omit significant

environmental costs and so appears to have failed to evaluate transmission alternatives with a view to environmental sustainability”.

- 1.6 Transpower has failed to fully evaluate environmental costs, and thus is unable to determine with certainty the sustainable nature of the NOR. What is known, however, is that whilst the NOR might enable end-user communities to provide for their social, economic and cultural wellbeing, it is at the cost of Waipa’s resources and those of the other affected ‘supply Districts’. The NOR does not represent sustainable management because:
- (a) It fails to protect natural and physical resources needed to meet the reasonably foreseeable needs of people and communities, including Waipa residents;
 - (b) It fails to avoid, remedy or mitigate the adverse effects of that activity on the environment; and
 - (c) In the absence of knowing all environmental costs, the requiring authority is unable to demonstrate the sustainable nature of the NOR.
- 1.7 In light of the above the NOR is fundamentally flawed and unable to satisfy the purpose and principles of the RMA.
- 1.8 The following sections address the extent to which the NOR fails to recognise and provide for matters of national importance whilst managing the use, development and protection of resources.
2. Notwithstanding the NOR’s ‘Landscape and Visual Effects Assessment’, inadequate consideration has been given to the preservation of the natural character of lakes and rivers and their margins (Section 6(a) of the RMA).
- 2.1 Superficially, the NOR acknowledges the importance of consistency with Part 2 of the RMA. In reference to Section 6(a) of the RMA, the NOR states:
- “Section 6 of the RMA identifies matters of national importance which must be recognized and provided for in achieving the purpose of the RMA. Section 6(a) – the preservation of the natural character of the coastal environment, wetlands, lakes and rivers is not considered relevant to this notice of requirement”.* – Part VIII Page 201
- 2.2 It is entirely inconsistent with an assessment process taking into account the structure and purpose of the RMA for an NOR to say that Section 6(a) “is not considered relevant to this notice of requirement”. The RMA

identifies this as a matter of national importance. It is not an optional consideration: it is a matter of primacy under Part 2 of the RMA.

- 2.3 The NOR impacts directly on the natural character of Waipa's lakes and rivers and their margins as it crosses the Waikato River at Arapuni and Lake Karapiro, and for that reason it is clearly a pivotal consideration.
 - 2.4 In the absence of a detailed explanation, Waipa District Council can only surmise that Transpower's dismissal of Section 6(a) is on the premise that, in their view, the affected lakes and rivers lack sufficient "natural character", possibly due to their "modified" status.
 - 2.5 If this is the case, Waipa District Council questions the rationale of this approach. RMA precedent has already established that "natural" and "natural character" do not necessarily equate with "pristine". Similarly, even where human habitation has modified a landscape, its natural character is not necessarily destroyed, as is implied from the NOR's repeated reference to the effects of the ARI-PAK line.
 - 2.6 If the requiring authority has discounted Section 6(a), as appears to be the case, then the assessment of environmental effects contained within the NOR is incomplete and fatally flawed. The impacts of this failure potentially affect all notices of requirement (1-13) and not just those relating to Waipa District (10).
3. Notwithstanding the NOR's 'Landscape and Visual Effects Assessment', inadequate consideration has been given to the protection of outstanding natural features and landscapes from inappropriate use and development (Section 6(b) of the RMA).
 - 3.1 The NOR cites consistency with section 6(b) of the RMA by stating that the "alignment avoids traversing outstanding natural features and landscapes in the central part of the North Island and South Auckland" (Page 201, Part VIII of the NOR). This statement is incorrect.
 - 3.2 Whilst on the one hand, the NOR states that alignment "avoids traversing outstanding natural features and landscapes", on the other it acknowledges crossing "three areas within Waipa District with landscape character recognition" (Page 201 Part VIII of the NOR). The NOR does not disclose the reasons for the "landscape character recognition" as being because they have been assessed and categorized through a public District Plan process as outstanding in terms of section 6(b). The NOR fails to sufficiently address how the impact of 400kv infrastructure on these outstanding natural features and landscapes might be avoided or mitigated.

- 3.3 The NOR considers the alignment to be appropriate "given the character of the area and the ability of the landscape to absorb the alignment in those places." Implicit from this statement is that the character of the area has already been modified, not least by the presence of the existing ARI-PAK transmission line.
- 3.4 Council opposes this position (a) because the landscape character of the area retains the value to merit Special Landscape Character Area ("SLCA") status and section 6(b) status regardless of the existence of the ARI-PAK line which was already in place when the SLCA status was confirmed, and (b) because the effects associated with the existing ARI-PAK line are not comparable with those of the proposed 400kv line. In places, pylons associated with the latter are more than twice the height of the existing ARI-PAK infrastructure: this cannot be considered simply an 'incremental effect'.
- 3.5 Justification of the NOR's alignment is partially on the basis that it (generally) mirrors the alignment of the ARI-PAK line. At the time the existing District Plan was developed, Transpower could have sought a designation for the ARI-PAK infrastructure but chose not to do so. In foregoing that option, it questions the strategic significance of that infrastructure, which Transpower now suggests is one of the principal reasons for incorporating 400kv infrastructure along the same route. Council therefore disputes the significance of the ARI-PAK line in dictating the proposed NOR alignment.
- 3.6 Insufficient consideration has been given to section 6(b) of the RMA because the NOR statements with respect to the Waipa's SLCAs are considered arbitrary and unjustified. The requiring authority has provided inconclusive evidence to demonstrate the "ability of the landscape to absorb the (GUP) alignment".
- 3.7 As the proposed 400kv infrastructure will be more obtrusive than the existing ARI-PAK line then it is unclear how the adverse effects of this development can be "absorbed" by the landscape. The NOR provides insufficient evidence to demonstrate that this is the case.
- 3.8 In reference to the effect of the NOR on Lake Karapiro, the 'Landscape and Visual Effects Assessment' states in part:

"Lake Karapiro has many of the attributes that warrant it being considered as an outstanding natural landscape, but it is also a modified landscape with existing infrastructure and buildings. The line will have mainly visual or aesthetic effects on its landscape values. The effects will be mitigated by the fact that the line will replace an existing line across the lake, and through changes to the existing alignment to move the

northern tower to the inland side of SH1, and to locate the towers on the south bank on lower ground further from the river bank.”
(P 67 Landscape and Visual Effects Assessment).

- 3.9 Notwithstanding changes to the existing alignment and the repositioning of towers, Waipa District Council is at a loss to understand how “the effects will be mitigated by the fact that the line will replace an existing line across the lake”. If the replacement line were of a lesser character, scale and intensity than the existing line, this might be the case. In the circumstances, however, the replacement line is significantly more obtrusive than the ARI-PAK line and will exacerbate existing effects rather than mitigate them.
- 3.10 In reference to the NOR’s position on ‘modified landscapes’ reference is again drawn to RMA’s position on the effects of human habitation. As stated in Section 2.5 of this submission, RMA precedent has already established that “natural” and “natural character” do not necessarily equate with “pristine”. Nor does modification of a landscape by human habitation necessarily destroy natural character. Waipa District Council contends that SLCAs retain outstanding natural character, despite the effects of the ARI-PAK line.
- 3.11 The NOR questions the extent to which Lake Arapuni (at the point of crossing) can be considered sufficiently ‘outstanding’ to merit consideration pursuant to Section 6(b). In reference to the Arapuni crossing, the Landscape and Visual Effects Assessment states as follows:
- “The question arises as to whether the river at this point is an outstanding natural landscape. The northern bank is classified as a ‘Special Landscape Character Area’ in the Waipa District Plan. It is considered that this section of the river has high landscape values, but does not satisfy the test for being ‘outstanding’ in the sense of being “conspicuous, eminent, especially because of excellence”. – P 74 Landscape and Visual Effects Assessment.*
- 3.12 Waipa District Council contends that both lakes Arapuni and Karapiro attract attention by virtue of their high landscape value, and for that reason are indeed ‘conspicuous’. Whilst Council accepts that the extent to which a landscape is ‘outstanding’ is generally a subjective judgement, the fact remains that the environs of Lakes Arapuni and Karapiro were clearly deemed ‘outstanding’ when they were conferred SLCA status within the District Plan, and they have not been devalued since.
- 3.13 It is inappropriate for Transpower to retrospectively challenge the degree to which SLCAs are ‘outstanding’, when that evaluation was already

completed by both Council and the Waipa community before the District Plan became operative. As a requiring authority, Transpower were party to that process and did not challenge SLCA provisions, including their categorisations as outstanding, in any way through the submission and appeal process.

- 3.14 The NOR will exacerbate the adverse effects of existing transmissions lines (ARI-PAK, ARI-HAM A and ARI-HAM B) in the foothills of Maungatautari Mountain. The NOR acknowledges Maungatautari Mountain as an outstanding natural landscape or feature, but asserts that the land affected by the alignment is distinct from the outer slopes of the mountain and does not share the same landscape qualities.
- 3.15 Waipa District Council contends that Maungatautari Mountain is an outstanding natural feature within an outstanding natural landscape. It is an iconic feature visible beyond the boundaries of Waipa District. The fact that land affected by the alignment is geographically distinct from the outer slopes of the mountain is of no moment: it still fulfills an important function in providing 'setting' for the iconic backdrop. Council recognised the importance of this 'setting' by extending SLCA status beyond the immediate foothills of Maungatautari. That status will be compromised by the NOR.
- 3.16 Maungatautari Mountain has been developed into the largest inland ecological island in Australasia and includes a 47 km pest proof fence around its perimeter. Central Government contributed \$5.5 million towards this \$16 million project, which is intended to become a visitor attraction of international importance.
- 3.17 The NOR has the potential to adversely affect the integrity of Maungatautari's immediate environment, and therefore the commercial viability of this important visitor attraction. Whilst acknowledging that a main access and visitor's centre is to be located on the south side of the mountain at Pukeatua, the NOR fails to acknowledge the significance of similar facilities that are proposed on the northern side (Tari Road) where the other principal access already exists. As the northern enclosure is considerably closer to the proposed NOR than the southern enclosure, further consideration needs to be given to Section 6(b) of the RMA.
4. With respect to the Waipa District notice of requirement, inadequate consideration has been given to the relationship of Maori and their culture and traditions with their ancestral lands, water and other taonga (Section 6(e) of the RMA).
- 4.1 Maori have strong affiliations with the areas of the District through which the proposed 400kv line will pass. In the Maungatautari area alone, it is estimated that up to 5000 Maori lived on and around the mountain in pre-

European times, and that they relied upon the mountain and its forest for spiritual and physical well being.

- 4.2 Consultation with Nga Iwi Toopu O Waipa has confirmed concern over the scale and alignment of the Grid Upgrade Proposal, and over its impact on the spiritual integrity of Maungatautari.
 - 4.3 Retaining the shape and profile of Maungatautari is of paramount importance to Iwi, and the proximity of the 400kv line to the lower slopes of the Maunga is understood to be culturally offensive. The 400kv line has the potential to "desecrate the shape of the Maunga" and to impact on unidentified waahi tapu sites.
 - 4.4 The NOR has given insufficient consideration to the relationship of Maori with their ancestral land, and as such, has not satisfied Sections 6(e), 7(a) and 7(aa) of the RMA and is contrary to those provisions.
5. With respect to the Waipa District notice of requirement, inadequate consideration has been given to the protection of historic heritage from inappropriate use and development (Section 6(f) of the RMA)
- 5.1 Amendments to the RMA in 2002 raised the status of 'heritage' from a 'matter to be considered', to a 'matter of national importance'. Prior to this, Waipa District Council already gave weighting to the protection of its natural heritage by identifying parts of the District as 'Special Landscape Character Areas'.
 - 5.2 The NOR arbitrarily dismisses the impact on natural heritage by contending that the environment is 'modified', and that relative to the effects of the ARI-PAK line, the proposed 400kv line will have only an incremental effect.
 - 5.3 The RMA defines 'historic heritage' as meaning "natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures". That understanding can derive from historic qualities including "surroundings associated with natural and physical resources" (Part 12(1)).
 - 5.4 In Waipa District the SLCA's are natural heritage areas. The volcanic peaks of Maungatautari, Pirongia and Kakepuku, for example, are iconic reminders of the Waikato's turbulent geological past. Ironically, Lakes Arapuni and Karapiro are also potent symbols of New Zealand's hydro-electric industry between the late 1920's and the early 1970s.
 - 5.5 Collectively, these natural and physical resources contribute towards an understanding and appreciation of New Zealand's heritage. Waipa has

sought to protect these iconic "surroundings" in the form of SLCAs. The NOR has failed to recognize SLCAs for their heritage protection value, and has failed to provide for the protection of Waipa's natural heritage from inappropriate use and development. The NOR is therefore contrary to Section 6(f) of the RMA.

6. Inadequate consideration has been given to the efficient use and development of natural and physical resources (Section 7(b) of the RMA).
 - 6.1 The NOR gives consideration to the efficiency of natural and physical resources, but only to the extent that electricity itself and its supporting infrastructure are deemed a natural or physical resource.
 - 6.2 Insufficient consideration has been given to the efficiency and use of other resources necessary to conduct electricity from source to end-user. The land necessary to support infrastructure is a finite resource whose future use and capabilities will be limited as a result of the NOR.
 - 6.3 Scenic landscapes are an even more finite resource, whose intrinsic and sensitive qualities would be compromised by the NOR. Once compromised, that damage is long-term and irreversible. Removal of the ARI-PAK line will not result in the restoration of landscape qualities. Rather, its replacement by the 400kv line will exacerbate those impacts, further eroding a natural and physical resource.
 - 6.4 Waipa District Council opposes the NOR because recognition has not been given to efficient development in terms of loss of landscape or heritage values. Without that recognition, it is not possible to objectively weigh the efficiency merits of one form of resource use against another. The NOR is contrary to section 7(b) of the RMA.
7. Inadequate consideration has been given to the maintenance and enhancement of amenity values (Section 7(c) of the RMA).
 - 7.1 The Electricity Commission's 'Final Decision on Transpower's North Island Grid Upgrade Proposal' (dated 5th July 2007) states as follows:

"Loss of amenity value is a relevant consideration for the consent authority (or the Environment Court or Board of Inquiry established pursuant to a call-in) when it considers a notice of requirement and applications for resource consent"
 - 7.2 Whilst on the one hand, the Electricity Commission acknowledged amenity value as a relevant consideration, on the other it deferred the consideration of community and individual costs (such as loss of amenity

value) because these issues were considered more appropriately addressed through RMA procedures.

- 7.3 Similarly, the Commission considered it inappropriate to evaluate personal costs such as the adverse effects on property value, because this too was beyond the remit of the Commission.
 - 7.4 Waipa District Council considers that the decision of the Electricity Commission to approve the GUP was based upon an incomplete evaluation of amenity values, and as such is fatally flawed. Beyond citing the obvious advantages of an efficient and effective electricity supply network, the NOR has failed to address wider cost and amenity issues.
 - 7.5 The replacement of the ARI-PAK line with significantly more obtrusive infrastructure neither maintains nor enhances the amenity value of the affected landscape. Therefore the NOR is contrary to section 7 (c).
8. Inadequate consideration has been given to the maintenance and enhancement of the quality of the environment (Section 7(f) of the RMA)
- 8.1 Evaluation of environmental quality is dependent upon the completeness and accuracy of an environmental impact assessment (EIA). In consideration of the GUP, the Electricity Commission acknowledged that the environmental impact was "a concern".
 - 8.2 However, the environmental impact of the GUP was only considered relevant to the Commission "to the extent that the costs associated with meeting the requirements of the RMA must be fully reflected in the costs of the Proposal". The Commission concluded that the environmental impact analysis should be "left for the appropriate body under the RMA".
 - 8.3 Waipa District Council contends that this interpretation by the Electricity Commission is incorrect, and that as a result the NOR is deficient in terms of its environmental assessment.
 - 8.4 It is considered that the environmental impacts of the GUP (including the effects on SLCAs) have not been fully addressed by the NOR.
 - 8.5 The NOR lacks analysis of environmental sustainability, as distinct from matters of economic efficiency and infrastructural reliability. Without that analysis, the NOR is unable to demonstrate how the GUP will maintain or enhance the quality of the environment. This is in contrast to Waipa District Council, who can demonstrate that the SLCA provisions of its District Plan are specifically for the purpose of maintaining and enhancing the quality of that environment.

9. Inadequate consideration has been given to the finite characteristics of natural and physical resources (Section 7(g) of the RMA).
 - 9.1 The NOR states that "the alignment avoids or mitigates effects on areas with special finite characteristics." It cites as an example, a coal resource which lies beneath part of the route.
 - 9.2 The NOR has failed to recognize SLCAs as a finite natural landscape resource. The finite nature of this resource is demonstrated by the fact that Waipa District is the only territorial authority affected by the NOR to give protection to its natural heritage landscapes through the provisions of its District Plan.
 - 9.3 Far from avoiding or mitigating effects on this finite resource, the NOR exacerbates the adverse effects of the ARI-PAK line by replacing it with more obtrusive infrastructure. In doing so the NOR is contrary to Section 7(g) of the RMA.
10. With respect to notices of requirement within the Waikato Region (N^{os} 8-13), the NOR must consider the Regional Policy Statement, as required by Section 171(1)(a)(iii) of the RMA.
 - 10.1 The Waikato Regional Policy Statement (WRPS) became operative in October 2000. The WRPS identifies significant resource management issues for the Waikato Region and the methods that will be used to manage regional resources.
 - 10.2 The WRPS acknowledges natural and cultural heritage resources as integral parts of the region's heritage. It acknowledges also that land use and development has the potential to degrade and destroy those heritage values.
 - 10.3 In relation to Section 3.15.2 (The Region's Heritage), the objective is as follows:

"The protection of regionally significant heritage resources, and allowing subdivision, use and development of other heritage resources, while ensuring there is no net loss to the region".
 - 10.4 The notices of requirement within the Waikato region are contrary to the WRPS (heritage provisions) insofar as consequential development would result in a net loss of regionally significant heritage values. This includes, amongst others, the Special Landscape Character Areas (SLCAs) of Waipa District.
 - 10.5 Policy One – Protection of Heritage Resources states as follows:

"Ensure the protection of significant natural and cultural heritage resources."

- 10.6 Through the provisions of District Plans, the WRPS advocates the protection of significant natural and cultural heritage resources, including the protection of views and sightlines of outstanding natural features and landscapes.
- 10.7 The iconic landscapes of Waipa District are recognized as a natural heritage resource in their own right. This includes the profile of Mount Maungatautari and the surrounds of Lakes Arapuni and Karapiro. Consistent with the intent of the WRPS, the Waipa District Plan seeks to protect these views and sightlines through the introduction of SLCAs, which in effect, function as natural heritage protection corridors.
- 10.8 Implementation of the NOR will be inconsistent with the heritage provisions of the WRPS (a) because it fails to recognise SLCAs as a natural heritage resource in its own right, and (b) because it would undermine the integrity of this regionally significant heritage resource.
- 10.9 The regional significance of this resource is demonstrated by the fact that, of all the territorial authorities affected by the NOR, Waipa District is the only one to afford RMA protection to its unique landscapes. By eroding the integrity of this significant resource, there would be a net loss to the region. Consequently, the NOR is inconsistent with Section 171(1)(a)(iii) of the RMA.
- 11. The NOR does not adequately address the provisions of the operative Waipa District Plan and is contrary to it. (Section 171(1)(a)(iv) of the RMA)
 - 11.1 The Waipa District Plan became operative in December 1997. It has evolved over a 20-year period through a combination of research and investigation, consultation and legal testing. From its earliest iteration as the Waipa County Scheme under the Town and Country Planning legislation, the Plan has recognised the uniqueness of the Waipa landscape and has incorporated robust policies and rules for the protection of that environment.
 - 11.2 The identification of SLCAs was carried out by LA4 Landscape Architects during a staged process which began in 1991 as part of the then, District Plan review. In March of that year, Council published a report entitled "Preliminary Landscape Assessment for Waipa District" which identified outstanding landscapes of Waipa District. Landscapes in the environs of Mount Maungatautari, Lake Karapiro and Lake Arapuni were identified as of regional or national importance in terms of 6(a) of the RMA.

- 11.3 In September 1992 LA4 prepared a report entitled "Landscape Objectives, Policies and Design Guidelines – Waipa District"; this report was based upon the findings of the 1991 report, also by LA4 Landscape Architects. The 1992 report formed the basis of many of the policies in the District Plan and of the "Guidelines for Activities in the Special Landscape Character Areas" as set out in Part 5 Section 1 of the operative District Plan.
- 11.4 The alignment of the North Island Grid Upgrade (GUP) through Waipa District's SLCAs will be in direct conflict with the rules and objectives of its District Plan.
- 11.5 Furthermore, if approved, the NOR would compromise Council's ability to uphold policies in relation to SLCAs, rivers, lakes and their margins and would undermine its ability to consistently administer the District Plan. The policies specifically compromised by the NOR are listed as follows:

Policy RU2

To protect the existing landscape character of Mount Kakepuku, Mount Pirongia and Mount Maungatautari and the steep hill country around them.

Policy RU3

To identify the different landscape areas of the mountains and provide management guidelines which will recognise and enhance the landscape character of the area.

- 11.6 The alignment of the NOR through Waipa District traverses the lower eastern slopes of Maungatautari Mountain. Notwithstanding the presence of existing ARI-PAK infrastructure, the NOR will significantly affect views to and from the mountain and will have a significant landscape impact and therefore is contrary to 'protecting the existing landscape character' and is thereby in conflict with Policy RU2 above.

Policy RU8

To protect the landscape character of the Waikato River Valley and lakes and control development so as to avoid or mitigate any adverse effects on the environment.

Policy RU9

To protect the landscape quality of the State Highway 1 corridor along Lake Karapiro

Policy RU10

To discourage further development which could have an adverse effect on the landscape qualities of the scenic landscape protection corridor along State Highway 1 including restrictions on the erection of further buildings, structures, powerlines, drives and accessways.

Policy RU11

To protect the landscape character of the edge of Lake Karapiro.

Policy RU14

To protect the landscape character of the river valley whilst allowing activities, including rural residential development, in areas where they will have minimal adverse effects on the landscape.

Policy RU15

To ensure that uses which are likely to have an adverse visual effects on the landscape are sited, designed and screened so that the adverse effects are avoided or sufficiently integrated so that the effect is minimal.

Policy RU18

To preserve the natural character of wetlands, lakes, rivers and their margins and to protect them from inappropriate subdivision, use and development.

Policy RU32

To ensure that recreational use of rivers and lakes does not adversely affect, and is not affected by, land use activities in river or lake margins or structures in water areas or reclamations.

- 11.7 The Notice of Requirement with respect to Waipa District is in direct conflict with these objectives and policies of the Operative District Plan.
- 11.8 Policy RU10 could not be more explicit in its direction to discourage further development that could have an adverse effect on the qualities of the scenic landscape protection corridor along State Highway 1. Recognizing their damaging effect on landscape quality, the policy specifically seeks to discourage "further powerlines".
- 11.9 Policy RU10 would have been known to Transpower when the Waipa District Plan was notified for public submission in 1994. By that stage, Transpower had already been consulted as a potentially affected stakeholder. Transpower was a submitter in respect of various parts of the proposed Plan, but not in respect of the provisions relating to SLCAs which were adopted and made operative without any submission or appeal by Transpower.

- 11.10 Given their involvement in helping shape the operative District Plan, Waipa District Council is disappointed that Transpower has not recognised and respected the importance of these provisions.
- 11.11 The new crossing of the Waikato River north of Arapuni will detract from the natural character of the river and its margins in that locality. This, in combination with easement vegetation clearance is contrary to Policy RU18.
- 11.12 The requiring authority acknowledges the significant visual impacts caused by the 400kv infrastructure, particularly in the environs of Lake Karapiro. However, the adverse effects are justified on the basis that the environment is already a 'modified' one, due to the existing ARI-PAK line. In essence, the requiring authority is justifying the adverse effects of the NOR on the basis that it creates an 'incremental effect' rather than a 'greenfield effect'.
- 11.13 This is insufficient justification for further devaluing the integrity of SLCAs. The approach taken by the NOR represents a cumulative effect. The environment was already 'modified' when it was evaluated and conferred Special Landscape Character Area status in December 1997, and those unique and nationally important characteristics still hold true today.
- 11.14 Waipa District Council places a high priority on the protection of surviving indigenous vegetation. This is evidenced by the protection incentives promoted through the District Plan, and from non-statutory mechanisms promoted elsewhere by Council. The showcase for protection of indigenous vegetation is Maungatautari Scenic Reserve, now the largest in-land ecological island in Australasia.
- 11.15 The NOR aligns infrastructure through areas of protected and unprotected indigenous vegetation. The alignment is also in close proximity to the nationally significant bush of Maungatautari and the Te Miro Scenic Reserve, both of which are significant habitats for indigenous fauna. In terms of Maungatautari its proximity and visual intrusiveness will undermine the value of that area as a nationally important ecological and eco-tourism resource.
- 11.16 The NOR also has the potential to adversely affect indigenous vegetation, either through pylon placement, or vegetation removal for conductor clearance purposes. As such, the proposal is contrary to Policy RU37 below.

Policy RU37

To protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.

- 11.17 The District Plan includes Permitted Activity thresholds for the development of utility infrastructure without the necessity for resource consent. Rule 12.3.1(4) allows for the construction, maintenance, upgrading, replacement or alteration of a utility service in all zones, with SLCAs being specifically excluded.
- 11.18 Utility infrastructure within the SLCA is subject to more stringent controls than elsewhere in the District: so too is SLCA development in general. By way of example, and for the purpose of protecting landscape, visual amenity and natural character values within SLCAs, Rule 2.6.1 of the District Plan exercises control over the following:
- Location of structures relative to the skyline, headlands or other promontories and exposed hillsides or existing vegetation;
 - The locations of structures, artificial screening, and shelter belts with respect to obstructing views from SH3;
 - The external design construction and finish of structures including reflectivity of the finish, and how closely the finish blends with the background colours and nearby buildings;
 - The extent, scale and location of roads and other vehicular tracks;
 - The extent and location of exotic forest relative to established native trees and natural landscape features;
 - The extent to which such activities will be obtrusively visible including consideration of distance.
 - The extent to which measures are taken to avoid, mitigate or remedy effects such as considering alternative options, and locations having regard to the costs and benefits involved.
- 11.19 Waipa District Council places the landscape and amenity values of SLCAs at a premium, and has judiciously done so since SLCAs were identified in 1992. The effectiveness of these controls is evidenced by the low-density nature of development in SLCAs which is in contrast to the development pressures experienced elsewhere within Waipa District. Development of the much greater scale proposed by the NOR would undermine Council's ability to discourage such development and thereby maintain those amenity values.
- 11.20 The Permitted Activity provisions for utility development restrict pylons to a maximum height of 25 metres and a maximum capacity of 110kv. The

Notice of Requirement is opposed because the 400kv line is unable to meet either of these standards.

11.21 Rule 12.3.3 of the District Plan provides assessment criteria for the consideration of utility services. Transpower was closely involved in the process of submission and variation which resulted in the Utilities section of the District Plan as now operative, including this Rule. The Rule considers, inter alia:

- “(a) Whether utility services will be obtrusively visible or will detract from the amenities of the area in which it is located or any nearby area, and the extent of any measures taken to avoid, remedy or mitigate those effects.*
- (b) Whether the size or location of the structure will affect significant views of the urban or rural landscape particularly from State Highways 1 and 3, together with the extent of any measures taken to avoid, remedy or mitigate such effects.*
- ... *(d) Whether alternative locations or other options are physically, technically or operationally possible in order to protect the environment, having regard to the costs and benefits involved.*
- (e) Whether the utility structure damages habitats or ecosystems or causes loss of significant vegetation.*
- ... *(g) Whether the heritage significance of the area or site is affected by the construction of the structure”.*

11.22 Assessed against the above criteria, the NOR would result in infrastructure which:

- Is obtrusively visible and would detract from the amenity of the area;
- Would affect significant views from State Highway 1;
- Disregards alternative locations which are physically, technically and operationally possible;
- Has caused the loss of significant vegetation;
- Adversely impacts on natural heritage.

11.23 The NOR directly contradicts these policies and rules of the District Plan, and if approved, would necessitate a review of the Plan's SLCA provisions. The existing provisions have successfully established density and land use patterns within the SLCA's and have defined development thresholds.

- 11.24 In the event that these thresholds are breached, Council will experience significant pressure to enable landowners the same development flexibility as that currently sought by Transpower.
- 11.25 Inevitably, developers that have been constrained thus far by the provisions will look to a freeing up of development opportunities. In effect, Council will have little choice but to re-evaluate the integrity of SLCA's and amend the District Plan accordingly. This would be contrary to the long process which the Council and the community of Waipa have followed in adopting these provisions, and which until now has been without challenge by Transpower.
- 11.26 Overall, the NOR has the potential to undermine the integrity of the District Plan and affect public confidence in the consistent administration of the Plan. With the precedent set by the NOR, and without a review of the SLCA provisions, Council would be less able to control other developments in these or equally sensitive areas as developers could point to Transpower's works and assert that the effects of such development provided a new "baseline" in these or similar existing environments.
12. Inadequate consideration has been given to alternative routes and / or methods of undertaking the work (Section 171(1)(b) of the RMA)
- 12.1 Waipa District Council commissioned a report in March 2007 from Dr Dan Marsh of the University of Waikato to evaluate whether non-market and social costs had been properly addressed in the context of the GUP and its alternatives. The requiring authority claims to have carried out such an evaluation in opting for the NOR thus notified.
- 12.2 The Report confirmed that the requiring authority has taken a narrow and partial approach to the analysis of GUP costs and benefits.
- 12.3 The analysis has focused on a narrow group of costs to be faced by Transpower, whilst ignoring the significant costs that will be imposed on other groups. The analysis also ignored the indirect costs of large scale utility infrastructure compromising New Zealand's 'clean and green' image.
- 12.4 In the consideration of alternative routes or methods, the requiring authority has also failed to take into account the negative effects of the transmission network on future generations.
- 12.5 Matters of environmental sustainability and the assessment of the full costs of a proposal are obligatory considerations for the Electricity Commission under its principal objectives and the specific outcomes it must seek to achieve as set out in Section 172N of the Electricity Act

1992. However, the Commission deferred these considerations on the basis that they were more appropriately addressed through RMA procedures. Council considers this approach to be incorrect.
- 12.6 It has, in the Council's submission, resulted in a flawed and incorrectly limited assessment of the GUP under the Electricity Act. While matters of environmental sustainability and the assessment of full costs are also matters to be addressed under the RMA, that does not relieve Transpower or the Commission of their obligations under other legislation. As well, failing to consider environmental sustainability and the full costs of the proposal at the outset means that the NOR is itself flawed as it wrongly limits the subject of the inquiry to be undertaken under the RMA.
- 12.7 By overlooking environmental sustainability and full cost issues, it is not possible for the Commission (or the requiring authority) to have objectively considered all alternatives and methods, beyond those addressed thus far.
- 12.8 Those alternatives that have been identified are based upon an incomplete environmental assessment. In addition insufficient weight has been placed on the landscape impacts and the importance of the SLCA's. There is an alternative eastern route that was discarded using flawed methodology including erroneous landscape impact and District Plan weightings. The NORs are therefore contrary to Section 171(1)(b).
- 12.9 Of the territorial authorities affected by the NOR, Waipa is the only District with RMA provisions relating to the protection of its outstanding landscapes. The alternative eastern route which does not contain these constraints is clearly a preferred alternative. As it is, the route promoted by the NOR fails to protect natural features and landscapes and is thereby contrary to Section 6(b) of the RMA.
- 12.10 The process by which the preferred route was identified involved, amongst other things, consideration of landscape and visual issues. This included, for example, "favouring landscapes with fewer houses and roads" (Page 9, Landscape and Visual Effects Assessment).
- 12.11 It is considered ironic that one of the outcomes sought by the District Plan's SLCA provisions is to limit development within these sensitive landscape areas. The provisions have been successful in restricting the number of houses and associated infrastructure (such as roads) that would otherwise have been permissible elsewhere within the District. It is the relative lack of human intervention, in association with the surrounding natural environment, that sets SLCA's apart from the remainder of the District. And yet, the preferred route advocated by the NOR will undermine these qualities.

- 12.12 Other criteria used to determine route selection including “avoiding natural landscapes” and “avoiding landscapes with special aesthetic amenity” (Page 9, Landscape and Visual Effects Assessment). Council considers that, by promoting a route through the only natural landscapes afforded protection for their special aesthetic amenity (SLCAs), the requiring authority has given insufficient weight to this aspect of its own selection criteria.
13. The notices of requirement are not reasonably necessary for achieving the objectives of the requiring authority for which the designations are sought (Section 171(1)(c) of the RMA).
- 13.1 The NOR identifies the common objective of the Grid Upgrade Proposal (GUP) as follows:
- “To ensure the continued security and certainty of electricity supply to Auckland, Northland and parts of the Coromandel and Waikato, by constructing and operating a new transmission link (including substations and ancillary facilities) and to upgrade existing assets, in a manner that is safe, efficient and consistent with maintaining current grid reliability standards and which provides flexibility to address future changes in supply.”
- 13.2 In addition, the NOR identifies the following objective as specific to the overhead line section of the GUP:
- “To facilitate the construction, operation and maintenance of new electricity transmission infrastructure through predominantly rural areas between south Auckland and the central North Island, and to enable the removal and/or replacement of existing electricity transmission infrastructure.”
- 13.3 In essence, Transpower’s objective is to “ensure the continued security and certainty of electricity supply to Auckland, Northland and parts of the Coromandel and Waikato”. The requiring authority is able to achieve this by means other than the overhead line stipulated in the NOR. A partial underground transmission line, for example, would provide as much security and certainty of supply as would the current NOR proposal. Similarly selection of the eastern route would equally achieve the objectives.
- 13.4 Neither is the objective specific about the source of the electricity supply. It follows therefore, that whilst a transmission line between Whakamaru and Pakuranga may be the preferred option, alternative sources might be capable of achieving the same outcome. To that extent, the NOR is

considered 'convenient', but not reasonably necessary to meet the baseline objective.

13.5 Similarly, the objective outlined in 13.2 (above) merely seeks to utilise rural areas for the accommodation of transmission infrastructure. Whilst the route stipulated in the NOR is broadly consistent with this objective, the same outcomes could be achieved with underground cables in sensitive areas, or by using an alternative route. Again, the NOR is 'convenient' but not reasonably necessary to meet the specific objective for the overhead line sections of the project.

14. In summary, the NORs are inconsistent with the Purpose and Principles of the RMA and do not satisfy the criteria in Section 171 of the RMA.

We seek the following decision from the Board of Inquiry:

1. As its preferred relief, Waipa District Council seeks that the Board of Inquiry reject the Notices of Requirement for the North Island Grid Upgrade Proposal.
2. In the alternative, Waipa District Council seeks that the Notice of Requirement for those parts of the proposed works which pass through Waipa District be rejected and that any proposal for lines through Waipa District either be re-routed away from Waipa's Special Landscape Character Areas, or that underground transmission lines be utilised through Waipa's Special Landscape Character Areas.

Waipa District Council wishes to be heard in support of its submission.

Authorised Signature:  Date: 4/10/07