

BEFORE THE ENVIRONMENT COURT

ENV-2011-AKL-

IN THE MATTER of the Resource Management Act  
1991

AND

IN THE MATTER of an appeal under clause 14(1) of  
Schedule 1 of the Act

BETWEEN Northpower Limited  
**Appellant**

AND Kaipara District Council  
**Respondent**

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NOTICE OF APPEAL AGAINST DECISIONS ON THE PROPOSED  
KAIPARA DISTRICT PLAN

Dated this 15<sup>th</sup> day of November 2011

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(S M HENDERSON)  
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**To: The Registrar  
Environment Court  
DX CX10086  
AUCKLAND**

**Northpower Limited** ("Northpower"), appeals against parts of a decision of **Kaipara District Council** ("KDC") on the proposed district plan

Northpower made a submission and further submissions on the proposed plan.

Northpower is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.

Northpower received notice of the decision on 3 October 2011.

The decision was made by a panel of commissioners and adopted by KDC.

**The part of the decision that Northpower is appealing is:**

1. The decision to reject submissions or further submissions seeking:
  - that the effects and benefits of electricity transmission and distribution are similar and consideration should not be segregated;
  - the inclusion of provisions relating to renewable energy generation within the chapter dealing with network utilities (Chapter 10);
  - that objectives, policies, rules and methods recognising the need to protect the transmission lines of the national grid be extended to all existing and proposed critical electricity lines regardless of scale or ownership;
  - that regardless of ownership, the location of critical electricity transmission and distribution lines and cables be delineated on the planning maps;
  - that reverse sensitivity effects on existing network utilities be acknowledged and reflected in rules throughout the district plan;

- that the rule (now 10.11.7) defining separation distance between poles or masts associated with a network utility be deleted

**The reasons for the appeal are as follows:**

***General***

- A. The decision does not achieve the purpose of the RMA in that it will not effectively manage the use, development and protection of the physical resource (being the critical electricity transmission and distribution network) in a way which will enable people and communities to provide for their social, and economic wellbeing and their health and safety;
- B. Northpower's submissions raised issues common to other submitters but with differing requests for relief. Pre-hearing workshops, which were suggested as a means of comprehensively addressing and where possible reconciling the issues in a cost efficient manner, did not occur;
- C. The decision acknowledges the importance of electricity and the National Grid to the growth and economy of the nation and the district, but does not properly take account of the need to also protect other critical transmission and distribution networks to guarantee security of supply to those who depend on electricity for business, industry or lifestyle. Nor does the plan properly take account of technical and operational requirements.

***Specific reasons for appeal***

*Content of Chapter 10*

- D. Northpower made a number of further submissions supporting the inclusion of references to energy generation, and particularly renewable energy generation within Chapter 10. Electricity generation is inextricably intertwined with electricity transmission and distribution; energy conveyance is not possible without energy generation.

- E. The separation of an infrastructure system into its various components within the district plan does not recognise the reality of the links between the two and may hinder the efficient delivery of full services to consumers.

*Protection corridor for electricity lines other than the National Grid*

- F. Decisions on the district plan seek to give effect to NPSET and provide protection to the National Grid. The district plan recognises the national significance of the electricity transmission network by inserting a definition of electricity transmission (which limits the term to the National Grid), and provides for protection of the National Grid from third party (reverse sensitivity) effects by way of "No Build" corridors.
- G. Northpower's submission and further submissions, which sought recognition in a similar manner for critical transmission and distribution lines, were rejected on the basis that NPSET distinguishes between national and local electricity transmission networks in recognition of the national significance of the network owned and operated by Transpower New Zealand Ltd and that it is appropriate for the district plan to maintain that distinction. The decision considers such protection for the local network would most appropriately be addressed through a private plan change.
- H. The decision fails to recognise the local network distributes the transmitted electricity from the National Grid to the consumer, including critical emergency services and industries of national and/or district significance. It also fails to recognise that Transpower does not have a monopoly on transmission, and that transmission or sub-transmission lines owned by other companies but essential for technical and operational reasons also supply the distribution network or the National Grid and serve critical industries.
- I. Protection of the local transmission and distribution network to ensure security of supply to those consumers is therefore just as much in the public interest as protection of the national transmission network. The decision to distinguish between national transmission and local networks and provide for protection only to

the National Grid conflicts with Issue Statement 10.5.1 which acknowledges network utility services (local and national) as an essential part of the physical resources of the district providing for the community's social and economic wellbeing and is contrary to the purpose of the Act.

- J. A private plan change is not considered to be either necessary or appropriate. Extension of the protection given to the National Grid for other transmission and critical distribution lines can be readily accommodated within the provisions of the district plan as amended by decision.

*Reverse sensitivity*

- K. Northpower's submissions and further submissions seeking protection of critical infrastructure from the adverse effects of other activities have for the most part been accepted. Issue statement 10.5.1, Objectives 10.6.1 and 10.6.2, and Methods 10.8.2.3 and 10.8.3 have been amended by decision to reflect concerns about reverse sensitivity effects on existing network utilities. However no consequential amendments to the district plan were considered necessary.
- L. Reference to Chapter 10 is not included in the matters to which readers should have regard when considering the zone chapters of the plan (Rural, Residential, and Business, Commercial and Industrial). Policy 2.5.12 in Chapter 2, District Wide Resource Management Issues, recognises the need to protect transmission corridors, but in all other respects focuses on the need for network utilities to avoid, remedy or mitigate adverse effects.
- M. Accordingly, in reality protection to network utilities from the adverse effects of other activities is limited to the transmission network of the National Grid.

*Definition of electricity transmission network and electricity transmission*

- N. The definition for electricity transmission inserted into the district plan does not reflect the provisions of the Electricity Act 1992. The

transmission lines of the National Grid are not the only transmission lines in Kaipara District. Northpower is involved in the generation and transmission of electricity as well as its distribution. The decision to restrict the definition in the district plan of electricity transmission and electricity transmission network to the National Grid is not in accordance with sustainable management of the resource and is contrary to the purpose of the Act.

*Rule 10.11.5 (now Rule 10.11.7) Separation Distance*

- O. As originally worded, the rule sought to limit the separation distance between individual poles and masts as a permitted activity. The Council acknowledged that the wording was incorrect and itself submitted to amend the rule to specify minimum distances between poles and masts. Northpower's submission and further submission sought the deletion of the original and amended rule because of its potential to interfere with engineering and operational requirements. The decision rejects Northpower's submissions for the reason that it is appropriate for the poles and masts to be located as far apart as technically feasible to minimise potential visual and amenity effects.
- P. Technical feasibility is a matter for consideration on a case by case basis. Engineering and operational requirements will determine the spacing and nature of the support structures required to accommodate site specific characteristics. It is not appropriate to specify a minimum distance to be achieved in all circumstances. The rule should be deleted.

**Northpower seeks the following relief:**

- (i) The inclusion of reference to generation, and particularly renewable energy generation, within the Issues, Objectives, Policies, Methods and Outcomes of Chapter 10; and clear cross referencing of Chapter 10 to other sections of the plan;
- (ii) Amendment of the definition of "electricity transmission network" to more closely align with the provisions of the Electricity Act 1992; viz

*The transmission lines and cables (aerial, underground and undersea), stations and substations and other works used to connect generation assets, injection points and exit points to directly convey electricity.*

- (iii) Amendment of the definition for Electricity Transmission No Build Corridor No Build Area and Electricity Transmission Corridor Assessment Area to include reference to critical electricity transmission and distribution lines, regardless of ownership; viz:

*The area of land and airspace within a distance of the centreline of an electricity transmission or critical distribution line in which certain activities are restricted because of the risk that they can potentially pose to the line, themselves and public safety. The critical electricity distribution lines and the 50kV, 110kV and 220kV electricity transmission lines are shown on the planning maps.*

- (iv) Amendment of the diagram in Appendix 12.1 showing the Electricity Transmission Corridor No Build Area and Electricity Transmission Corridor Assessment Area, to refer to critical distribution lines as follows:

*Electricity Transmission No-Build Area – measured 8m either side of a critical distribution line or 50 kV transmission line*

*Electricity Transmission Assessment Area – measured 12m either side of a critical distribution line or 50 kV transmission line*

- (v) Amendment of the Notes in Rules 12.10.1, 12.10.29 (formerly 12.10.5A), 12.10.30 (formerly 12.10.5B), 12.15.12 (formerly 12.15.12A), 12.15.13 (formerly 12.15.12B) to refer also to Northpower Ltd; viz

*Note (x): Transpower New Zealand Limited and Northpower Ltd will be considered an affected*

*party in relation to any resource consent applications.*

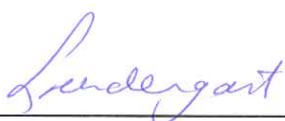
*Note (x): where an activity requires resource consent due to non-compliance with these performance standards, then the application need not be publicly notified and need not be served on any affected party other than Trans Power New Zealand Limited and Northpower Ltd.*

- (vi) Amendment of Rules 13.10.29 and 13.13.12 to refer also to those properties affected by critical distribution lines.
- (vii) The addition of rules referring to the Electricity Transmission Corridor No Build Area and Electricity Transmission Assessment Area in chapter 14, chapter 15A, chapter 15B, and chapter 16.
- (viii) Delineation on the planning maps of the location of the National Grid and other critical transmission and distribution electricity lines;
- (ix) Deletion of Rule 10.11.7 relating to separation distance; and
- (x) Consequential amendments and correction of administrative errors as required.

**The following documents are attached to this notice:**

- (a) a copy of the parts of the decision relevant to this appeal;
- (b) a copy of Northpower's submission and further submissions; and
- (c) a list of names and addresses of persons to be served with a copy of this notice.

**Dated this 15<sup>th</sup> day of November 2011**



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Colleen Prendergast  
On behalf of Northpower Ltd



Address for service on the appellant is at the office of Henderson Reeves  
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## **Advice to recipients of copy of notice of appeal**

### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

### *Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.