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Keeping the energy flowing

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For the Attention of the Hearing Panel on the Proposed City of Lower Hutt District Plan Change 56

Transpower New Zealand Limited (“Transpower”) writes in relation to the hearing, commencing on 12 April 2023, on Plan Change 56: Enabling Intensification in Residential and Commercial Areas to the City of Lower Hutt District Plan (“PC56”).

Transpower’s main interest in PC56 is ensuring that the planning framework recognises and provides for the National Grid, including that it gives effect to the National Policy Statement on Electricity Transmission 2008 (“NPSET”) through identification of the National Grid as a qualifying matter.

Transpower’s submission on PC56 was largely in support. In particular Transpower supports:

- The identification of the National Grid within the IPI as a qualifying matter, and
- Inclusion of the National Grid Corridor provisions within the IPI and ISPP process.

The amendments sought through the submission are confined in nature and include:

- Inclusion of a definition of ‘qualifying matter area’, and minor changes to the policies and explanations within the IPI to refer to this, to assist in the effective implementation of the District Plan.
- Amendments to the ‘Explanation and Reasons’ in 1.10.1A Urban Environment to more accurately explain the application of qualifying matters.
- Amendments to the ‘Explanation and Reasons’ in 1.10.3 Residential Activity to explain the reason for the proposed new policy.
- Amendments to 4F 1 Introduction / Zone Statement and Policy 4F 3.2 to ensure the provisions in Chapter 4 link back to the relevant direction in Chapter 1 of the DP in relation to qualifying matters.

Transpower has considered the Section 42A Report on its submission points and largely agrees or supports the officer recommendations. However, Transpower continues to have concerns that it may not be clear to Plan users that there are qualifying matters, such as the National Grid provisions, which sit outside Chapter 14 or the activity area chapters. Transpower’s preference remains for this to be addressed through the provision of a specific definition of ‘Qualifying Matter area’ (submission point reference 153.008) which identifies all qualifying matters applying within the District Plan, and use of this term within relevant policies. Notwithstanding this, Transpower considers that its concerns can be addressed in the alternate through changes to the ‘Explanation and Reasons’ in 1.10.1A Urban Environment and 1.10.3 Residential Activity.

These are set out in the attached table, which for completeness outlines all individual submission points and Transpower's response to the recommendations.

Transpower respectfully requests that this letter be tabled for the Panel's consideration, to confirm its position in relation to its submission points and the Section 42A Report recommendations. Should the Panel require clarification on any matter, please contact Daniel Hamilton at Transpower (03 590 6926), or on the following email: environment.policy@transpower.co.nz.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Daniel Hamilton', written in a cursive style.

Daniel Hamilton

Environmental Regulatory Team Leader, Transpower New Zealand Limited

Sub Ref	Amendment # (and Provision)	Position	Decision Requested	Reasons	S42A Response	Transpower Response to S42A Recommendation
150.0 01	#3 (1.10.1A Urban Environment Objective 1)	Support	Retain	Transpower supports the objective, and in particular the recognition of wellbeing and health and safety. The objective reflects Schedule 3A, Part 1, clause (6)(2)(a) of the RMA.	Accept	Accept recommendation.
153.0 02	#4 (1.10.1A Urban Environment Policy 1)	Support	Retain	Transpower supports the policy, on the basis that Policy 2 sets out how qualifying matters modify the direction in Policy 1.	Accept in part	Accept recommendation. While there are changes recommended to the policy, these do not alter aspects of the policy supported by Transpower.
153.0 03	#5 (1.10.1A Urban Environment Policy 2)	Support	Retain	Transpower supports the clear reference to qualifying matters within the Policy, as it assists in plan interpretation and gives effect to the RMA. Transpower specifically supports clause d, noting the NPS-UD 2020 defines <i>nationally significant infrastructure</i> as including <i>the national grid electricity transmission network</i> .	Accept	Accept recommendation.
153.0 04	#8 (1.10.1A Urban Environment Explanation and Reasons)	Amend	Amend paragraph 3 under the 'Explanation and Reasons' in Chapter 1 (1.10.1A Urban Environment) as follows: <u>... Where the building heights and densities in Policy 1 are modified in response to qualifying matters, this will be through overlays, precincts and corresponding provisions</u>	Transpower supports the clear reference to qualifying matters within the explanation and reasons, as well as the explanation that it is through provisions that are specific to each qualifying matter that the height limits and density controls are modified. This assists in plan interpretation and gives effect to the RMA. However, Transpower is concerned that the wording of the third	Reject S42A: Paras 277-278 <i>"Transpower (153.4) requests an expansion and rewording of the explanation, however, I do not think this would make a material difference to the plan and its implementation. As with issue statements, it is my view that there is limited value in explanation and reasons sections in a</i>	The rejection of the submission point appears to relate to the author's views that explanations have limited value. However, if explanations are to be included in the PC56 provisions, which the author recommends is continued for consistency's sake, then it is important that the explanations are accurate. In this regard, Transpower considers that the statement which is sought to be deleted is inaccurate because it purports to relate to all qualifying matters, but is incorrect with respect to the National Grid qualifying matter.

		<p><u>that are specific to the qualifying matter areas in question rather than changes to the general height limits or density controls that apply in the Activity Area chapter. This means that resource consent applications for proposals that would otherwise be provided for by Policy 1 only consider the relevant qualifying matters when the building height and density controls are exceeded. Within Chapter 14, these provisions are generally located in Chapter 14 – General Rules, including:</u></p> <ul style="list-style-type: none"> • <u>14E Significant Natural, Cultural, and Archaeological Resources</u> • <u>14F Heritage Buildings and Structures</u> • <u>14H Natural Hazards</u> <p><u>Other limits on building height and density to protect qualifying matters that apply in more limited situations are found within other general rules chapters and the activity area chapters, and typically provide for assessment criteria and matters of discretion directing assessment to cover the</u></p>	<p>paragraph is confusing, and could be read as meaning that a qualifying matter only applies when a height or density standard is exceeded. As this is incorrect, Transpower seeks deletion of this sentence.</p> <p>Transpower also notes that in terms of identifying specific qualifying matters, only those in Sections 14E, 14F and 14H are noted. To avoid doubt, Transpower considers that it would be clearer to list all qualifying matters.</p> <p>A minor change is also sought to refer to qualifying matter areas, with a corresponding new definition (see further below) which lists all relevant areas, as this will provide greater clarity.</p>	<p><i>district plan. However, there is value in consistency with existing strategic direction and so I recommend retaining it as notified.”</i></p>	<p>Transpower’s assumption is that the paragraph in question is intended to only relate to those qualifying matters which are contained in Chapter 14. As an alternate to the original change sought, Transpower suggests moving the sentence (shown in green below) so that the paragraph reads:</p> <p><i>Where the building heights and densities in Policy 1 are modified in response to qualifying matters, this will be through overlays, precincts and corresponding provisions that are specific to the qualifying matter in question rather than changes to the general height limits or density controls that apply in the Activity Area chapter. This means that resource consent applications for proposals that would otherwise be provided for by Policy 1 only consider the relevant qualifying matters when the building height and density controls are exceeded. These provisions are generally located in Chapter 14 – General Rules, including: • 14E Significant Natural, Cultural, and Archaeological Resources • 14F Heritage Buildings and Structures • 14H Natural Hazards</i></p> <p><i>This means that resource consent applications for proposals in the areas to which the above provisions apply that would otherwise be provided for by Policy 1 only consider the relevant qualifying matters when the building height and density controls are exceeded.</i></p> <p>Transpower also notes that in absence of the inclusion of a definition of ‘qualifying area matters’ which lists all qualifying matters which are relevant to, and applied in the City of Lower Hutt District Plan, there is nowhere in the Plan that makes it explicitly clear what qualifying matters apply. The addition sought by Transpower to the final paragraph in the explanation would therefore make</p>
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			<p><u>qualifying matter. These include:</u></p> <ul style="list-style-type: none"> - <u>Chapter 11 Subdivision in relation to the National Grid Corridor</u> - <u>Chapter 13 Network Utilities, including the National Grid, in relation to the National Grid Yard</u> - <u>..... (other qualifying matters to be listed)</u> 			<p>it clear what rules in other general rules chapters and the activity area chapters apply. Transpower therefore continues to seek the following addition:</p> <p><u>Other limits on building height and density to protect qualifying matters that apply in more limited situations are found within other general rules chapters and the activity area chapters, and typically provide for assessment criteria and matters of discretion directing assessment to cover the qualifying matter. These include:</u></p> <ul style="list-style-type: none"> - <u>Chapter 11 Subdivision in relation to the National Grid Corridor</u> - <u>Chapter 13 Network Utilities, including the National Grid, in relation to the National Grid Yard</u> - <u>..... (other qualifying matters to be listed)</u>
153.0 05	#21 (1.10.3 Residential Activity Policy 1)	Amend	<p>Amend as follows:</p> <p><u>Policy 1</u> <u>Except within circumstances where a qualifying matter area is relevant:</u> <u>(a) Apply the...</u></p>	<p>Transpower supports the clear reference to qualifying matters, and how they override the height and density standards that would otherwise apply within the relevant residential zones. The policy assists in plan interpretation and gives effect to the RMA.</p> <p>However, as this is the key policy direction which explicitly identifies how qualifying matters relate to the provisions otherwise applying in the Medium Density Residential and High Density Residential Activity Areas, Transpower considers it necessary to be explicit about what are the qualifying matters applied in the District Plan. This can be achieved by referring to 'Qualifying Matter Areas' with a</p>	<p>Reject</p> <p>Para 302: <i>"Policy 4 of the NPS-UD requires that the plan limit building height and density "only to the extent necessary" to accommodate a qualifying matter. I believe the plan as notified more clearly expresses this than referring to a "qualifying matter area". Simply being in an area where a qualifying matter is identified does not mean that it is automatically relevant for every development in that area, or that building height or density must be limited, or that building height or density can be limited to a</i></p>	<p>While Transpower's preference remains for a specific definition of 'Qualifying Matter area' and related reference to this in the policies, Transpower is comfortable with it not being included, if the explanations are amended as set out above, to be clearer that some qualifying matters are applied in other chapters.</p>

				<p>new definition (see further below) which lists all relevant areas.</p> <p>As currently drafted, the reference to ‘where relevant’ infers the application of a qualifying matter is a matter of discretion. This is not the case as qualifying matters have been determined through the IPI.</p>	<p><i>greater degree than necessary. It is only in some circumstances, as the notified wording says.”</i></p>	
153.0 06	#23 (1.10.3 Residential Activity Explanation and Reasons)	Amend	<p><i>... Addressing the issues of housing supply and choice can support the provision of more affordable housing in Lower Hutt. In some areas however, intensification may be modified and/or limited by qualifying matters and this is reflected in provisions applying within qualifying matter areas.</i></p>	<p>Transpower agrees with amending the explanation and reasons to reflect the revised policy direction. However, there is currently no reference in the explanation to the new proposed Policy 1 (which is specific to qualifying matters). Transpower considers that it is necessary to include some explanation in relation to qualifying matters so it is clear to plan users reading the policy why the exception in Policy 1 has been applied.</p>	<p>Accept in part Para 304: <i>“I think this additional explanation is warranted and have provided suggested wording similar to that requested (but as discussed above, not using the term “qualifying matter area”).</i></p>	<p>Transpower support the addition recommended, insofar as it alerts plan users to the relevance of qualifying matters. However the specific drafting of the addition which is recommended only refers to provisions in Chapter 14 – General Rules and to activity area provisions. Thus it does not alert plans users to modifications/limits that accommodate qualifying matters which sit in other chapters. Transpower therefore seeks that the second additional sentence be amended as follows (additions shown in green):</p> <p><i>In some areas, intensification may be modified or limited by the need to accommodate qualifying matters. This is generally applied through provisions in Chapter 14 – General Rules, but sometimes through activity area provisions or other chapters (including Chapter 13) as well or instead.</i></p>
153.0 007	#39 (Qualifying matter definition)	Amend	<p>Amend the definition of qualifying matter as follows:</p> <p><i>Qualifying matter Has the same meaning in the National Policy Statement on Urban Development. Means a matter referred to in section 771 or 770 of the RMA.</i></p>	<p>Transpower supports the definition of ‘qualifying matter’ as it highlights to plan users the existence of the matters. However, it is considered more appropriate to include the definition provided within the RMA. This is consistent with the approach for other RMA definitions within the DP.</p>	<p>Accept Para 210: <i>“The definition of ‘qualifying matter’ in the Act is a more recent version than that used in the NPS-UD. Therefore, it is recommended the most up-to-date version of this definition is used. It is recommended this submission is accepted.”</i></p>	<p>Accept recommendation.</p>

			<p><u>The matters referred to in section 771 and 770 are listed below:</u></p> <p>...</p>			
153.0 08	N/A	Amend	<p>Insert a definition for 'Qualifying matter area' as follows:</p> <p><u>Qualifying matter area Means a qualifying matter listed below:</u></p> <p>(a) <u>The National Grid Yard</u></p> <p>(b) <u>The National Grid Corridor</u></p> <p>(c) <u>..... (other qualifying matters to be listed)</u></p>	<p>The concept of Qualifying matters was introduced within the RMA.</p> <p>As outlined in Appendix C to this submission, as defined by section 771 and 770 of the RMA, the National Grid Corridor framework is considered a qualifying matter as:</p> <ul style="list-style-type: none"> • it is a matter required to give effect to the NPSET being a national policy statement (other than the NPS-UD); and • it is a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure. <p>Given the role and importance of qualifying matter areas to the implementation of the RMA, while Transpower supports the definition of 'qualifying matter' within PC56, Transpower submits it would be of further benefit to plan users to provide a clear list as to what are qualifying matter areas in the DP, and specifically, provide explicit reference to the National Grid Yard and National Grid Subdivision Corridor as a qualifying matter area. This will make application of policies which refer to qualifying matters much clearer. This is particularly important where the</p>	<p>Reject</p> <p>Para 203: <i>"While a definition of this nature would provide certainty, this relief is achieved by Policy 2 in Chapter 1.10.1A (Amendment 5) which identifies the qualifying matters. Therefore, it is recommended that this submission is rejected."</i></p>	<p>Transpower does not agree that the definition is not required on the basis that this is addressed by Policy 2. Policy 2 only reflects those matters that can be qualifying matters, but does not explicitly list or identify the <i>specific</i> qualifying matters applicable in this district plan. That point of the additional definition was to provide clarity to plan users about what qualifying matters apply in this particular plan. While Transpower's preference remains for a specific definition of 'Qualifying Matter area' and related reference to this in the policies, Transpower is comfortable with it not being included, if the explanations are amended as set out above, to be clearer that some qualifying matters are applied in other chapters.</p>

				<p>provisions which implement the qualifying matters sit outside Chapter 4.</p> <p>To differentiate between the RMA provided definition of 'qualifying matter', a definition of 'qualifying matter area' is proposed.</p>		
153.0 09	#53 (4F 1 Introduction / Zone Statement)	Amend	<p>Amend 4F 1 Introduction / Zone Statement as follows:</p> <p><i><u>Within qualifying matter areas, built development may be modified and/or limited by qualifying matters. This includes within pPrecincts and scheduled sites which are listed under 4F 5 at the end of the chapter.</u></i></p>	<p>Transpower generally supports the Zone Statement but considers that it would be useful for it to note that the application of qualifying matters will impact the built development in some areas. This will also help tie in the reference to precincts and scheduled sites at the end of this section.</p>	<p>Unclear (Appendix 2 records "reject" but para 404 indicates acceptance)</p> <p>Paras 404-405: <i>"Transpower NZ (153) seeks that the 4F Introduction/Zone Statement be amended to state that built development may be modified and/or limited by qualifying matters. ... Similarly, regarding the suggestion that this section be amended to state that developments may be modified or limited by qualifying matters, this wording is also considered a useful addition for Plan users who may be less familiar with qualifying matters work. These two submission points are accepted and recommended for inclusion."</i></p>	<p>Accept recommendation. Although different to the specific wording sought in the submission, Transpower considers that the recommended addition to paragraph 4 of this section achieves the same outcome as was sought in the submission. The amendments recommended are therefore supported.</p>
153.0 10	#54 (Objective 4F 2.1AA)	Support	Retain	<p>Transpower supports the objective, noting it incorporates Objective 1 of the MDRS.</p>	Accept	Accept recommendation.
153.0 11	#56 (Objective 4F 2.3)	Support	Retain	<p>Transpower supports the objective, noting it incorporates Objective 2 of the MDRS.</p>	Accept	Accept recommendation.

153.0 12	#61 (Policy 4F 3.2)	Amend	Amend Policy 4F 3.2 as follows: <i>Enable a variety of housing types with a mix of densities within the Medium Density Residential Activity Area, including three-storey attached and detached dwellings and low-rise apartments, while avoiding inappropriate locations, heights and densities of buildings and development within qualifying matter areas as directed by the relevant qualifying matter area provisions.</i>	Within the Medium Density Residential Activity Area, qualifying matter areas may limit the amount of permitted medium density development possible on an allotment. While the policy directive within Policy 4F 3.2 is supported (and reflects Schedule 3A, Part 1, clause (6)(2)(a) of the RMA), Transpower supports reference to qualifying matter areas as they directly influence the capacity for intensification and residential development. This also ensures that the policy links back to the relevant direction in Chapter 1 of the DP.	Unclear (Appendix 2 records “accept in part” but para 412 recommends Rejection) Para 412: “Policy 4F 3.2 is a mandatory policy from the RMA that supports the MDRS and must be inserted into the District Plan without change. The submission points seeking to change the objective are therefore rejected, and no changes are recommended.”	Accept recommendation. Transpower accepts the reason given by the reporting officer.
153.0 013	#77 (4F 4.2 Development Standards)	Support	Retain	Transpower supports the introduction of the development standards, as reflected in Schedule 3A Part 2 of the RMA, noting that where activities/development occurs within the National Grid Yard, Rules 13.4.1 and 13.4.2 will prevail.	Accept in part	Accept recommendation. None of the changes recommended to these standards are of concern to Transpower.
153.0 014	Chapter 4G High Density Residential Activity Area	Neutral	Should the HDRAA extent be amended such that existing National Grid assets traverse the zone, Transpower seeks that the relief sought in its submission points to the MDRAA also apply to the HDRAA.	On the basis the extent of the HDRAA is not amended, Transpower is neutral on the extent (as notified) and nature of provisions on the HDRAA. However, should the zone extent be amended such that existing National Grid assets traverse the zone, Transpower seeks that the relief sought in its submission points to the MDRAA also apply to the HDRAA.	Other Para 153: “Transpower NZ Ltd (153) seeks that should the high density area extent so existing National Grid assets traverse the zone, Transpower seeks that the relief sought in its submission points to the MDRAA also apply to the HDRAA. The extent of the high density area has not	The comments are noted.

					<i>been expanded to create this situation."</i>	
153.0 015	#355 ([Chapter 11 Subdivision (Rules)] 11.2.3 Restricted Discretionary Activities)	Support	Retain	While not amended though the IPI, Transpower agrees with the retention of this rule, which is necessary to give effect to the National Grid Corridor being applied as a qualifying matter. The Section 32 (at section 7.2.3.1) notes 'The proposed plan change would continue the approach of the operative District plan for these areas'.	Accept	Accept recommendation.
153.0 016	#362 [Chapter 11 Subdivision (Rules)] 11.2.5 Non- Complying Activities]	Support	Retain	As above	Accept	Accept recommendation.
153.0 017	Section 32 Report 2.2: Summary of Proposed District Plan Change 56	Support	Retain	Although not forming part of the IPI, Transpower supports reference to the National Grid as a qualifying matter within the Section 32, in proximity to which building heights and density are modified to accommodate the qualifying matter.	Accept	Accept recommendation.
153.0 018	Section 32 Report 7.2.3.1 Qualifying matters for the proposed plan change	Support	Retain	As above	Accept	Accept recommendation.