

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

Under	the Resource Management Act 1991 (RMA)
In the matter of	an appeal under clause 14(1) of the First Schedule of the RMA in relation to the proposed Second Generation Dunedin City District Plan (2GP)
Between	Transpower New Zealand Limited ENV- 2018-CHC-249 Aurora Energy Limited ENV- 2018-CHC-277 Appellants
And	Dunedin City Council Respondent

Consent memorandum – Objective 2.3.1

24 November 2020

Respondent's solicitors:

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**anderson
lloyd.**

May it please the Court

- 1 This consent memorandum relates to the appeals from Transpower New Zealand Limited (**Transpower**) and Aurora Energy Limited (**Aurora**) on the strategic objectives relating to network utilities in the proposed Dunedin City Second Generation District Plan (**2GP** or **Plan**).

- 2 The appeal by Transpower sought the following change to Objective 2.3.1 (DCC reference number 107):

Objective 2.3.1

Land and facilities that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities; and productive rural land are:

- a. protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and*
- b. in the case of facilities, able to operate, upgrade, maintain and develop efficiently and effectively.*

- 3 Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou, Te Rūnanga o Ngāi Tahu, Aurora Energy Limited, University of Otago, Federated Farmers of New Zealand and Horticulture New Zealand are section 274 parties to this appeal point.

- 4 The appeal by Aurora sought the addition of a new strategic objective to the Plan as follows (DCC Reference number 219):

The social, economic, environmental and cultural benefits of infrastructure, including Regionally Significant Infrastructure and Significant Electricity Distribution Infrastructure, are recognised and provided for.

- 5 Horticulture New Zealand, Spark New Zealand Trading Limited, Chorus New Zealand Limited and Vodafone New Zealand Limited, Federated Farmers of New Zealand, Radio New Zealand, Transpower New Zealand, Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou and Te Rūnanga o Ngāi Tahu are section 274 parties to this appeal point.

- 6 The parties have agreed the following changes to the Plan that are shown in **Appendix A**. These changes are as follows:

- (a) An amendment to the wording of Objective 2.3.1 as it applies to infrastructure.

- (b) Consequential amendments to three other provisions in the Plan that paraphrase this objective: Policy 2.6.1.5; Policy 2.6.2.1; and Rule 19.12.2.1.
- 7 The rationale for the changes, and the assessment of the changes in terms of section 32 of the RMA, is explained in an affidavit of Elizabeth Lightbourne, a policy planner at Dunedin City Council.
- 8 There is also a supporting affidavit of Dr Anna Louise Johnson, the City Development Manager at Dunedin City Council, that considers alignment with, and impact of, any changes on the objectives and policies and the drafting of the proposed amendments to ensure alignment with the 2GP Style Guide. Dr Johnson considers that the amendments have been drafted to be in keeping with the 2GP Style Guide.
- 9 This is a partial settlement of the appeals (DCC Reference numbers 107 and 219). The appeal reference points, topics and status of proceedings for the appellants' unresolved appeal points are as follows:

Transpower

- (a) Group 2a – Management of reverse sensitivity (broad) (97) – Mediation undertaken 31 July 2020, consent memorandum signed by all parties but not yet filed with the Court.
- (b) Group 2a – Network utilities strategic (135, 103, 114, 118, 391, 392, 393) – Mediation scheduled for 23-26 November 2020.
- (c) Group 2a – Management of effects on landscape values (122) – Mediation scheduled for 23-26 November 2020.
- (d) Group 2b – Broad points relating to assessment guidance (145) – Mediation scheduled for 23-26 November 2020.
- (e) Group 2c – Management of effects on coastal character values (394) – Mediation scheduled for 23-26 November 2020.
- (f) Group 3a – Activities near National Grid (390, 152, 146) – Mediation scheduled for 23-26 November 2020.
- (g) Group 3a – Deletion of electrical interference provisions (141) – Mediation scheduled for 23-26 November 2020.
- (h) Group 3b – Hazardous substance provisions (144) – Mediation not yet scheduled.

Aurora

- (a) Group 2a – Network Utilities strategic (220, 402, 218, 222, 225, 223, 226, 227) – Mediation scheduled for 23-26 November
- (b) Group 2a – Management of effects on landscape values (372, 231, 247, 248) – Mediation scheduled for 23-26 November 2020.
- (c) Group 2b – Broad points relating to assessment guidance (240) – Mediation scheduled for 23-26 November 2020.
- (d) Group 2c – Management of effects on coastal character values (398, 396, 397) – Mediation scheduled for 23-26 November 2020.
- (e) Group 3a – Activities near National Grid (239) – Mediation scheduled for 23-26 November 2020.
- (f) Group 3a – Activities near Aurora's significant infrastructure (214, 217, 221, 395, 399) – Mediation scheduled for 23-26 November 2020.
- (g) Group 3a – Management of large network utilities outside overlays (228, 234) – Mediation scheduled for 23-26 November 2020.
- (h) Group 3b – Noise from temporary generators (244) – Mediation scheduled for 23-26 November 2020.
- (i) Group 3b – Relationship between city-wide activities and other activities (249) – Mediation scheduled for 23-26 November 2020.
- (j) Group 4a – Tree rules (243) – Mediation scheduled for 23-26 November 2020.

Orders sought

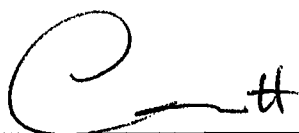
- 10 The parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the RMA, including Part 2 and request:
 - (a) That the amendments shown in strikethrough and underline in **Appendix A** are made; and
 - (b) That the remaining parts of these appeals remain to be dealt with at a later date.

11 The parties agree that costs should lie where they fall and accordingly no order of costs is sought.

Dated this 24th day of November 2020



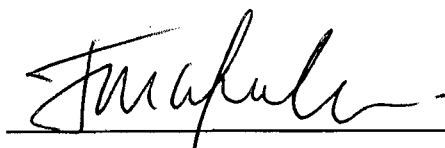
Michael Garbett/Georgia Cassidy/Pip Walker
Dunedin City Council



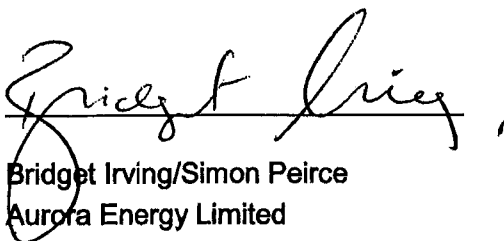
Sarah Scott
Transpower New Zealand Limited



Michael Bathgate
Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou



Joshua Leckie
Te Rūnanga o Ngāi Tahu



Bridget Irving/Simon Peirce
Aurora Energy Limited



Kevin Wood
University of Otago



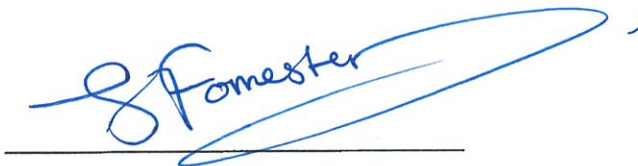
Kim Reilly
Federated Farmers of New Zealand



Rachel McClung
Horticulture New Zealand



Graeme McCarrison
Chorus New Zealand Limited & others



Ben Williams/Lucy Forrester
Radio New Zealand Limited

Appendix 1

Objective 2.3.1

Land, and facilities and infrastructure **{Transpower 107, Aurora 219}** that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities; and productive rural land are:

- a. are protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and
- b. in the case of facilities and infrastructure, are able to be operated, maintained, upgraded and, where appropriate, developed efficiently and effectively. **{Transpower 107, Aurora 219}**

Policy 2.6.1.5¹

Identify areas for new rural residential zoning in accordance with Policy 2.6.1.4 based on the following criteria:

a-b...

- c. considering the zoning, rules, and potential level of development provided for, the zoning is the most appropriate in terms of the objectives of the Plan, in particular:
 - i. the character and visual amenity of....
 - ii. land, and facilities and infrastructure that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities and productive rural land are:
 - 1. are protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and
 - 2. in the case of facilities and infrastructure, are able to be operated, maintained, upgraded and, where appropriate, developed efficiently and effectively (Objective 2.3.1).
{Transpower 107, Aurora 219}

¹ Note that Policy 2.6.1.5 is subject to amendment in response to appeals in Group 1 Rural Residential Strategic. A consent memorandum containing changes to the policy was filed with the Court in March 2020. The changes in the Rural Residential Strategic consent memorandum do not affect the paraphrasing of Objective 2.3.1; therefore the two sets of changes do not overlap.

Policy 2.6.2.1²

Identify areas for new residential zoning based on the following criteria:

a-c...

- d. considering the zoning, rules, and potential level of development provided for, the zoning is the most appropriate in terms of the objectives of the Plan, in particular:
- i. the character and visual amenity of....
 - ii. land, and facilities and infrastructure that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities and productive rural land are:
 1. are protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and
 2. in the case of facilities and infrastructure, are able to be operated, maintained, upgraded and, where appropriate, developed efficiently and effectively (Objective 2.3.1).
{Transpower 107, Aurora 219}

19.12.2 Assessment of non-complying land use activities

Activity		Assessment Matters
1.	All non-complying land use activities, including but not limited to the activities listed below	<i>Relevant objectives and policies (priority considerations):</i> a. The activity does not detract from, or preferably contributes to, the strategic directions objectives, including, but not limited to, those related to: i. land and facilities....and in the case of facilities <u>and infrastructure</u>, able to <u>be operated and, where appropriate, developed</u> efficiently and effectively (Objective 2.3.1) {Transpower 107, Aurora 219}.

² Note that Policy 2.6.2.1 is subject to amendment in response to appeals in Group 1 Residential Strategic. A consent memorandum containing changes to the policy has been signed at mediation. The changes in the Residential Strategic consent memorandum do not affect the paraphrasing of Objective 2.3.1; therefore the two sets of changes do not overlap.