

IN THE ENVIRONMENT COURT
AT WELLINGTON

I TE KŌTI TAIAO O AOTEAROA
KI TE WHANGANUI-A-TARA

Decision [2025] NZEnvC 123

IN THE MATTER	of an appeal under cl 14 of Schedule 1 of the Resource Management Act 1991
BETWEEN	TRANSPower NEW ZEALAND LIMITED
	(ENV-2024-WLG-000024)
	Appellant
AND	WELLINGTON CITY COUNCIL
	Respondent

Court:	Judge L J Semple sitting alone under s 279 of the Act
Hearing:	On the papers
Last case event:	21 March 2025
Date of Decision:	11 April 2025
Date of Issue:	11 April 2025

CONSENT ORDER

A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the provisions of Wellington City Council’s Proposed District Plan are amended in the manner set out in **Appendix 1**, which forms part of this order;
- (1) the appeal is otherwise dismissed;



- (2) under s 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] On 20 May 2024, Transpower New Zealand Ltd (Transpower) filed an appeal against a decision of the Wellington City Council (Council) in respect of the Proposed District Plan (PDP).

[2] On 14 November 2024, Transpower and the Council attended Court facilitated mediation in relation to Transpower's outstanding appeal points.

[3] A joint memorandum of parties was filed on 5 December 2024 setting out the basis on which the parties proposed to resolve the appeal.

[4] Having considered the joint memorandum, the Court issued a minute on 21 February 2025 directing the parties to confirm there was scope to include Rule EW-R18.1(b) in the PDP. The parties lodged a joint memorandum dated 21 March 2025. The Court has now considered that further memorandum and is satisfied there is scope to include Rule EW-18.1(b) in the PDP.

Other relevant matters

[5] No person gave notice of an intention to become a party under s 274 of the Act.

Orders

[6] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) representatives of all parties to the proceedings have executed the consent memorandum requesting this order;

- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.



L J Semple

Environment Judge



APPENDIX 1

The additional text is shown in **red underlined**.

Existing text that is to be deleted is shown in **red strikethrough**.

EW-R18	Earthworks and vertical holes in the national grid yard
All Zones	<p>1. Activity status: Permitted</p> <p>Where:</p> <p>a. Earthworks or vertical hole depth must be no greater (measured vertically) than:</p> <p style="padding-left: 40px;">i. 300 millimetres within 6 metres of the outer visible edge of a foundation of any National Grid support structure; or</p> <p style="padding-left: 40px;">ii. 3 metres within 6 metres and 12 metres from the outer visible edge of a foundation of any National Grid support structure.</p> <p>a. <u>Vertical holes are less than 500mm in diameter (measured horizontally) and greater than 1.5m from the outer edge of the visible foundation, or where there is no visible foundation, the outer visible edge of the National Grid pole or stay wire; or</u></p> <p>b. <u>Except as provided for in EW-R18.1.a. earthworks or vertical holes in proximity to National Grid poles are:</u></p> <p style="padding-left: 40px;">i. <u>no deeper (measured vertically) than 300mm depth within 2.2 metres of the outer edge of the visible foundation, or where there is no visible foundation, the outer visible edge of any National Grid pole; and</u></p> <p style="padding-left: 40px;">ii. <u>no deeper (measured vertically) than 750mm depth between 2.2 metres and 5 metres of the outer edge of the visible foundation, or where there is no visible foundation, the outer visible edge of any National Grid pole; or</u></p> <p>c. <u>Vertical holes are a post hole for a fence or horticulture structure more than 6 metres from the outer edge of the visible foundation of the National Grid tower; or</u></p> <p>d. <u>Except as provided for in EW-R18.1.c. earthworks or vertical holes in proximity to National Grid towers are:</u></p> <p style="padding-left: 40px;">i. <u>no deeper (measured vertically) than 300mm depth within 6m of the outer edge of the visible foundation of any National Grid tower; and</u></p> <p style="padding-left: 40px;">ii. <u>no deeper (measured vertically) than 3 metres depth between 6 metres and 12 metres from the outer edge of the visible foundation of any National Grid tower; and</u></p> <p>e. <u>In all cases c</u>Compliance is achieved with EW-S15.</p> <p>Note:</p> <p>The following earthworks activities or vertical holes are exempt from EW-R18.1:</p> <ol style="list-style-type: none"> 1. Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by the operator of the National Grid; <u>and</u> 2. Earthworks, excluding mining and quarrying, for the repair, sealing or resealing of a footpath, driveway or farm track.; 3. Vertical holes not exceeding 500 millimetres in diameter that: <ol style="list-style-type: none"> a. are more than 1.5 metres from the outer edge of the pole support

	<p>structure or stay wire; or</p> <p>b. are a post hole for a farm fence or horticulture structure more than 6 metres from the visible outer edge of a tower or support structure foundation; and</p> <p>4. Earthworks or vertical holes subject to a dispensation from Transpower under New Zealand Electrical Code of Practice for Safe Electrical Distances (NZECP 34:2001) ISSN 01140663.</p>
All Zones	<p>2. Activity status: Permitted</p> <p>Where:</p> <p>a. Compliance with any of the requirements of EW-R18.1.a-d are not achieved; and</p> <p>b. Dispensation from Transpower in respect of that non-compliance under EW-R18.1.a-d is provided under New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) ISSN 01140663.</p>
All Zones	<p>2. Activity status: Restricted Discretionary</p> <p>Where:</p> <p>a. Compliance with any of the requirements of EW-R18.1.a is not achieved.</p> <p>Matters of discretion are:</p> <p>1. The extent and effect of non-compliance with any relevant standard as specified in the associated assessment criteria for the infringed standards;</p> <p>2. Impacts on the operation, maintenance, upgrading and development of the National Grid;</p> <p>3. The risk to the structural integrity of the affected National Grid support structure(s);</p> <p>4. Any impact on the ability of Transpower to access the National Grid;</p> <p>5. The risk of electrical hazards affecting public or individual safety, and the risk of property;</p> <p>6. Technical advice provided by Transpower; and</p> <p>7. Any effects on National Grid support structures including the creation of an unstable batter.</p> <p>Notification Status:</p> <p>An application for resource consent made in respect of rule EW-R18.2 is precluded from being publicly notified.</p> <p>Notice of any application for resource consent under this rule must be served on Transpower New Zealand Limited in accordance with Clause 10(2)(i) of the Resource Management (Forms, Fees, and Procedures) Regulations 2003.</p>
All Zones	<p>3. Activity status: Non-complying</p> <p>Where:</p> <p>a. Compliance with any of the requirements of EW-R18.1.a-d is not achieved and the activity is not permitted under EW-R18.2; or</p> <p>b. Compliance with any of the requirements of EW-R18.1.e is not achieved.</p> <p><u>Notice of any application for resource consent under this rule must be served on Transpower New Zealand Limited in accordance with Clause 10(2)(i) of the Resource Management (Forms, Fees, and Procedures) Regulations 2003.</u></p>