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6th October 2010

Stratford District Council
PO Box 320
STRATFORD

Attention: Mike Avery

Via Email: mavery@stratford.govt.nz

Dear Mike,

**RE: SUBMISSION BY TRANSPOWER NEW ZEALAND LIMITED ON VARIATION 1 TO
THE PROPOSED STRATFORD DISTRICT PLAN 2009**

Please find enclosed a submission by Transpower New Zealand Limited ("Transpower") on Variation 1 (Indigenous Forest and Biodiversity) to the Proposed Stratford District Plan 2009.

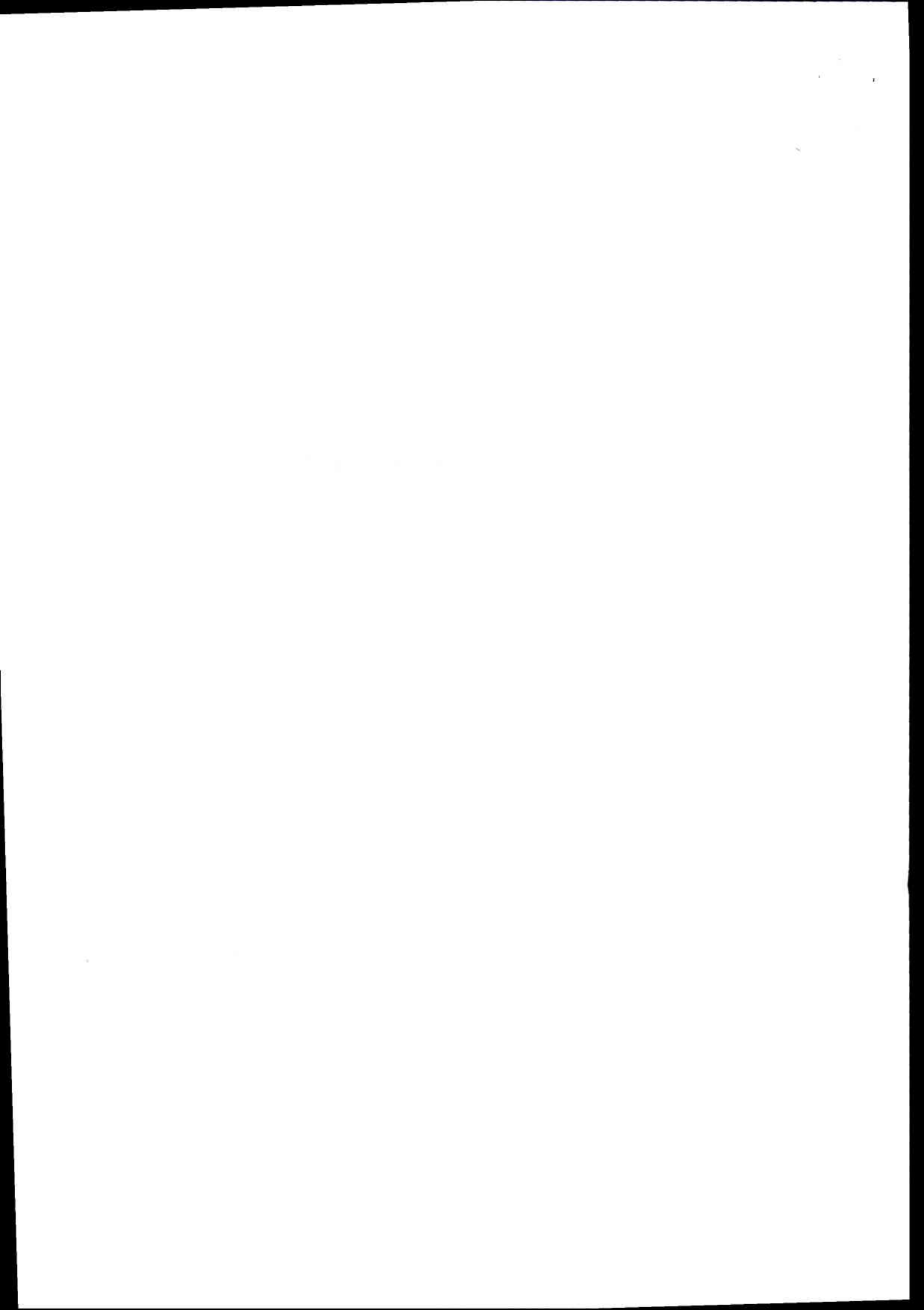
Please do not hesitate to contact Kathryn Lacey should you require any further information regarding Transpower's submission.

Yours faithfully,

BURTON PLANNING CONSULTANTS LTD

Kathryn Lacey

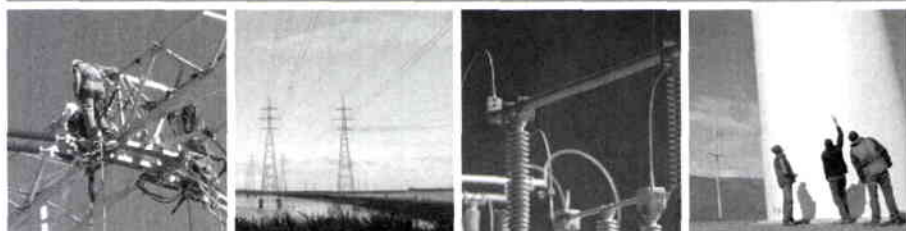
Planner



Submission by Transpower New Zealand Ltd on Variation 1 to the Stratford District Plan – Indigenous Forest and Biodiversity

6th October 2010

Keeping the energy flowing



TRANSPOWER



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APPROVED FOR RELEASE



Nicola Cordner – Environmental Advisor

On behalf of the Environment, Strategy and Approvals Manager

Transpower New Zealand Ltd

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Wellington 6140

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Note: This is not the address for service

Submission by Transpower New Zealand Ltd on Variation 1 (Indigenous Forest and Biodiversity) to the Stratford District Plan

A INTRODUCTION

A1. Introduction to Transpower

- 1.1 Transpower New Zealand Limited (Transpower) is the State Owned Enterprise that plans, builds, maintains and operates New Zealand's high voltage transmission network – the National Grid – which links generators to distribution companies and major industrial users. The grid, which extends from Kaitaia in the North Island down to Tiwai in the South Island, transports electricity throughout New Zealand.
- 1.2 The National Grid comprises some 13,000 km of transmission lines and some 186 substations. The control centre (located in Wellington) operates a network of some 300 telecommunication sites, most of which operate on a line of sight basis and link together the components that make up the National Grid.
- 1.3 The following National Grid transmission assets are located within the Stratford District:
- The Stratford Thermal Power Station
 - Stratford – Taumaranui A 220kV double circuit line on towers
 - Brunswick – Stratford A 220kV double circuit line on towers
 - Brunswick – Stratford B 220kV single circuit line on towers
 - Wellington – Stratford A 110kV single circuit line on poles
 - Opunake – Stratford A 110kV double circuit line on towers
 - New Plymouth – Stratford A 220kV double circuit line on towers
 - Carrington Street – Stratford A 110kV double circuit line on towers

The Stratford – Taumaranui A 220kV transmission line traverses the Awahou Scenic Reserve and the Conservation Covenants.

A2. National Policy Statement on Electricity Transmission 2008

- 2.1 Under the Resource Management Act 1991 (RMA), Transpower's electricity infrastructure is a significant physical resource that must be sustainably managed, and any adverse effects on that infrastructure must be avoided, remedied or mitigated. The National Policy

Statement on Electricity Transmission 2008 (NPSET) confirms the national significance of the resource and the need to appropriately manage activities and development close to it.

2.2 The objective of the NPSET is as follows:

To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- *Managing the adverse environmental effects of the network; and*
- *Managing the adverse effects of other activities on the network.*

2.3 The NPSET contains 14 policies. Policy 1 recognises the national benefits of transmission, while policies 2 – 9 guide the management of the environmental effects of transmission. Policies 10 and 11 seek to manage the adverse effects of third party activities on the transmission network. Policy 12 requires District Councils to identify the electricity network on their planning maps. Policy 13 requires decision makers to recognise the designation process as facilitating long-term planning of the infrastructure and Policy 14 is directed towards Regional Councils.

2.4 The preamble to the NPSET makes it clear that decision makers are to be guided by it when drafting plan rules and that it should be taken into account during the hearing and decision making process. Section 75(3)(a) of the RMA requires a District Plan to give effect to a National Policy Statement (NPS).

A3. The National Environment Standards for Electricity Transmission 2009

3.1 The National Environment Standards for Electricity Transmission 2009 (NESETA) came into effect on 14 January 2010. The standards:

- specify that transmission activities are permitted, subject to terms and conditions to ensure that these activities do not have significant adverse effects; and
- specify resource consent requirements for transmission activities that do not meet the terms and conditions for permitted activities.

3.2 The NESETA applies to existing high voltage transmission lines (i.e. existing National Grid Transmission lines). The standards in the NESETA recognise and provide for the effective

operation, maintenance and upgrading, relocation and removal of the existing transmission network, having considered operational constraints and technical requirements. The standards provide a framework of consent requirements and permissions that take into account the policies in the NPSET. The NESETA does not apply to new lines.

- 3.3 The Ministry for the Environment has prepared guidance to assist local authorities with reviewing and amending plans to fully incorporate the NESETA. See <http://www.mfe.govt.nz/publications/rma/neselectricitytransmissionregulations/plans1.html>. This Variation provides the opportunity for the Stratford District Council to ensure that an appropriate linkage with the NESETA is provided for in the District Plan, and to ensure that there are no conflicts between the provisions of the Plan and the NESETA in terms of s44A of the RMA.

B. TRANSPOWER'S SUBMISSION ON VARIATION 1 TO THE STRATFORD DISTRICT PLAN

B1. General Comments

- 1.1 Proposed Variation 1 to the Stratford District Plan proposes a range of changes to the Proposed Stratford District Plan in regard to the way in which wetlands, indigenous vegetation and indigenous fauna are managed.
- 1.2 Transpower generally supports the nature and intent of the current provisions in Variation 1, and in particular those provisions that provide for tree trimming associated with the ongoing operation, maintenance and upgrading of utilities such as the National Grid. However Transpower seeks a minor change to ensure that the Variation is consistent with the NESETA. The reasons for Transpower's support are outlined in further detail below:

B2 Vegetation Trimming

- 2.1 Transpower's transmission lines are inspected on a regular basis to ascertain the potential hazard posed to the lines by any vegetation. Vegetation that is likely to pose a risk to the integrity of the network is trimmed or sometimes cleared in accordance with the Electricity (Hazards from Trees) Regulations 2003 ("The Tree Regulations")¹. It is important that

¹ The Regulations can be found online at: http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_reg

Transpower is able to trim and clear any vegetation around its lines that may affect the operation of those lines.

2.2 The Tree Regulations define the safe separation distances required between trees and overhead transmission lines. When tree branches get close to or contact a power line, they can create a significant public safety hazard (e.g. setting fire to vegetation or causing it to become live) and may cause an interruption of electrical service or an outage. In addition, power lines that are downed or broken by trees or tree branches can be live, and live lines can be extremely dangerous. Transpower regularly trims branches and other vegetation to prevent them from interfering with the overhead electric lines and equipment.

2.3 Regulation 30 of the NESETA provides for the trimming, felling or removal of any tree or vegetation in relation to an existing transmission line provided that a number of conditions can be complied with, these conditions include the following:

- no rule prohibits or restricts the trimming, felling or removal of a tree vegetation or the tree or vegetation is located within a natural area;
- The land in which the tree is located is not controlled in a regional plan for soil conservation or avoiding or mitigating flooding;
- The land in which the tree is located is not administered by the Department of Conservation under the Conservation Act 1987 or an Act specified in Schedule 1 of that Act;
- The felling or removal of any tree or vegetation does not create or contribute to instability of a slope or another land surface or the erosion of the bend or bank of a water body or coastal marine area;
- Debris from the trimming, felling or removal of a tree must not enter a water body or the coastal marine area.

2.4 Trimming, felling or removal of any tree or vegetation that is located within a natural area where the trimming, felling or removal is required to reduce risk to an existing transmission line is a controlled activity (Regulation 31) provided all other conditions can be met. If the conditions cannot be met then the activity becomes a restricted discretionary activity.

2.5 In accordance with s44A of the Resource Management Act, Councils are required to ensure that there are no conflicts between the District Plan and the NESETA. Therefore, it is important that the District Plan contains appropriate provisions to provide for tree trimming associated with the operation and maintenance of existing transmission lines as a permitted activity.

2.6 Indigenous vegetation disturbance is defined in the Variation as follows:

“Indigenous vegetation disturbance”

means felling, destruction or damage to indigenous vegetation, including indigenous trees, manuka, kanuka, grasses, shrubs or other plants, by any means including cutting, burning, crushing or spraying except that indigenous forest disturbance does not include:

.....

(b) tree trimming or the selective removal of vegetation necessary for the operation and maintenance of legally established infrastructure, including roads, stream or river access, fire water points, utilities and the upgrading of utilities, structures and fence lines; and

.....

2.7 Transpower generally supports this definition, in particular clause (b) that excludes tree trimming or the selective removal of vegetation associated with operation, maintenance and upgrading of utilities. Furthermore Rule B1.2.1.1 provides for the removal of any vegetation whatsoever, and including indigenous vegetation (with the exception of any tree identified in Appendix 5: Notable Trees Identified for Protection) as required for the operation and maintenance of legally established infrastructure, which includes electricity lines in accordance with the Electricity (Hazards from Trees) Regulations 2003. The inclusion of clause (b) and the permitted rule signals that it is not intended that any vegetation trimming or clearance for the operation and maintenance of the National Grid needs to be regulated. This intent is supported.

2.8 The Variation provisions effectively set rules for removal or disturbance of indigenous vegetation that apply across the Rural Zone (i.e. blanket provisions). They apply to indigenous vegetation where it is either within 20m of any scheduled wetland or riparian margin or the indigenous vegetation is greater than 3m in height. Notwithstanding the intent to exclude vegetation clearance and trimming associated with network utilities, the net effect of the blanket provision raises potential concerns for Transpower in terms of interface of these provisions with the NESETA and consequent interpretation. In accordance with condition 31(1)(a)(i) of the NESETA Transpower is required to obtain a controlled activity consent for trimming, felling or removal of vegetation where the vegetation is in a “natural area”. The NESETA defines “natural area” as “an area that is protected by a rule because it has outstanding natural features or landscapes, significant indigenous vegetation, or significant habitat of indigenous fauna”. It is possible (although clearly not the intent) to interpret the blanket Rural Zone rules as an area protected by a rule and therefore run the risk that the Rural Zone is deemed to be a “natural area” for the purposes of the NESETA.

Clearly this is not the intent nor should it be the consequence. It would not make sense to deem the whole Rural Zone to be such a "natural area" and Transpower would be opposed to the construction of such an interpretation and arguably the definition is not fulfilled if an exemption as has been made is included in such rules. The potential for confusion is a situation Transpower seeks to avoid, as it would impose unnecessary delays and costs for what is considered routine maintenance works. Therefore, Transpower seeks that a clause is included in Rule B1.2.1.1 which states that for the avoidance of doubt the Rural Environment is not considered a natural area for the purposes of the NESETA.

2.9 Rule B1.2.1.1(b) provides for the trimming of vegetation as required for the current operation, maintenance and upgrading of existing utilities as follows:

(b) the current operation and maintenance of existing infrastructure, including roads, stream or river access, fire water points, utilities and the upgrading of utilities, structures and fence lines to a maximum distance of 3 metres from the infrastructure, road, access, fire water point, utility, structure or fence or, in the case of any electricity line, such distance as is prescribed by the Electricity (Hazards from Trees) Regulations 2003.

Transpower supports this rule and seeks that it is maintained in the District Plan.

B3 Relief Sought

3.1 Retain without modification the definition of "Indigenous Vegetation Disturbance" in Variation 1 and in particular (b) as follows:

*"Indigenous vegetation disturbance"
means felling, destruction or damage to indigenous vegetation, including indigenous trees, manuka, kanuka, grasses, shrubs or other plants, by any means including cutting, burning, crushing or spraying except that indigenous forest disturbance does not include:*

.....

(b) tree trimming or the selective removal of vegetation necessary for the operation and maintenance of legally established infrastructure, including roads, stream or river access, fire water points, utilities and the upgrading of utilities, structures and fence lines; and

.....

3.2 Retain Rule B1.2.1.1 and in particular clause (b) and include the following advice note to the beginning of the rule:

Rural Zone Permitted Activities

Advice Note: For the avoidance of doubt the Rural environment is not considered a natural area for the purposes of the National Environmental Standards for Electricity Transmission Activities 2010.

B1.2.1.1 The following are permitted activities throughout the Rural Zone, subject to compliance with the Standards, Conditions and Terms in Part B2 relevant to the zone in which the activity is undertaken and provided that no part of the activity is listed in either B1.2.1.2, B1.2.1.3, B1.2.1.4, B1.2.1.5 or B1.2.1.6:

.....

The removal or trimming of any vegetation whatsoever, and including indigenous vegetation, (with the exception of any tree identified in Appendix 5: Notable Trees Identified for Protection) as required for:

.....

(b) the operation and maintenance of legally established infrastructure, including roads, stream or river access, fire water points, utilities and the upgrading of utilities, structures and fence lines to a maximum distance of 3 metres from the road, stream or river access, fire water point, utility, structure or fence or, in the case of any electricity line, such distance as is prescribed by the Electricity (Hazards from Trees) Regulations 2003.

3.3 Adopt any other such relief, including additions, deletions or consequential amendments necessary as a result of the matters raised in these submissions, as necessary to give effect to this submission