

Resource Management Act (RMA) processes

HOW DOES THE RESOURCE MANAGEMENT ACT (RMA) APPLY TO THIS PROJECT?

The RMA provides for Requiring Authorities (network utility operators such as Transpower) to carry out public works – in this case transmission lines – by identifying areas of land where the works can be carried out. This identification is called a Designation and is shown in the relevant district plan(s).

As a “network utility operator” Transpower can use special provisions of the RMA to designate land for the proposed North Island Grid Upgrade Project

When it has completed the consultation for the new elements of the project, Transpower will prepare statutory documentation for lodgement with local councils to secure the necessary approvals for the whole of the North Island Grid Upgrade Project under the Resource Management Act. This is expected to be in March 2007. The documentation will comprise a Notice of Requirement (to designate the land required for the transmission line, cable and substations) and other applications, including resource consents and special approvals (where required).

WHAT IS A DESIGNATION?

A designation is a provision in a district plan (i.e. an area shown on plan maps). It relates to a specific site or route and allows the requiring authority to carry out activities on that site, or route, that accord with the site’s designated purpose. A designation places restrictions on what others can do on the designated land without the requiring authority’s agreement. Designations also over-ride zone provisions in district plans.

WHAT IS A NOTICE OF REQUIREMENT FOR A DESIGNATION?

A Notice of Requirement for a designation is the document that formally informs a council (or in this case, seven district councils) that land is required for a particular work.

A Notice of Requirement must contain information on:

- the proposed work (i.e. a description of the proposal) and the reasons the designation is needed
- the environmental effects of the work and the measures proposed to address adverse affects
- alternative sites, routes and methods that were considered
- consultation undertaken
- other resource consents that are needed.

WHAT HAPPENS WHEN THERE IS A REQUEST FOR A NOTICE OF REQUIREMENT FOR A DESIGNATION?

Once a Notice of Requirement is submitted, the council will then publicly advertise it and call for submissions.

WHO CAN PARTICIPATE IN THE DESIGNATION PROCESS?

Anyone can make a submission and present their views to a hearings panel.. In Transpower’s case, due to the importance of the project and number of district councils involved (seven), it is likely that either the councils will establish a panel of commissioners to assess the proposals, or that the government will “call in” the project to be heard by an independent panel (see below)..

WHAT IS TAKEN INTO ACCOUNT IN MAKING DECISIONS?

The RMA sets out the matters that must be considered in determining the designation. This includes consideration of:

- the Notice of Requirement
- the effects the work will have on the environment and the ways in which any adverse effects will be minimised
- national and regional policy statements, and regional and district plans (as relevant)
- information presented at the hearing (both by submitters and the requiring authority)
- any other information the council considers relevant.

WHO MAKES THE DECISION ABOUT WHETHER TO APPROVE A DESIGNATION REQUEST?

If the designation process is handled by the combined local authorities, the councils (or independent commissioners) will make a recommendation about whether or not to approve, decline or modify the designation request. The requiring authority will then consider this recommendation and issue its decision, which the council must then distribute to all submitters. Any submitter, or the council, can appeal the decision of the requiring authority to the Environment Court. The decision of the court is final, unless there is a challenge to the High Court on points of law.

If the designation process is "called in", the process would be slightly different, but the public has full rights of involvement.

WHO PAYS FOR THE DESIGNATION PROCESSES AND WHAT COSTS ARE INVOLVED?

The reasonable costs of preparing the designation request are paid for by the requiring authority. These costs include notifying the request, assessing the environmental impacts of the proposal and running the submission and hearings process.

CAN CENTRAL GOVERNMENT GET INVOLVED IN THE PROCESS?

The Resource Management Amendment Act 2005 introduced a number of new ways for central government to be involved with projects that are considered to be of national significance. Where the government decides a project is of national significance, and/or where the decision-making process warrants some form of intervention, it can use any combination of the following options:

- leave the decision-making power with local authorities and make a submission on the project
- require the councils to have joint hearings for the project
- appoint a project manager to manage the process
- "call-in" the project and refer it to either a board of inquiry or directly to the Environment Court.

The 2005 Amendment Act does not affect the ability of any party to make a submission on the project. However, if the Notices of Requirement are "called-in", the decision of any government-appointed board is not subject to appeal to the Environment Court.

CAN CHANGES BE MADE TO THE PROPOSAL AFTER THE DESIGNATION IS CONFIRMED?

Once the designation is confirmed, the requiring authority will have the right to undertake the work it proposed through the Notices of Requirement, subject to any conditions that are attached to the designation.

Any changes that go beyond the original proposal, or go outside the conditions, will require an alteration to the designation itself before the work can be carried out. Only the requiring authority that is responsible for the designation can alter it. The authority can do this at any time by giving notice to the council of its requirement to alter the designation. The alteration would normally need to go through a further consultation and public notification process.

WILL RESOURCE CONSENTS OR OTHER APPROVALS ALSO BE NEEDED?

Resource consents may be required for activities such as excavations (e.g. those associated with construction of the towers) and disturbance to watercourses (e.g. for access tracks).

Other approvals that may also be required include:

- special approvals - where a line crosses Crown or Department of Conservation land
- archaeological authorities (from the Historic Places Trust) - where archaeological sites may be affected by construction activities.

HOW LONG WILL THE RMA PROCESS TAKE?

Transpower hopes to complete the RMA process in a timely manner that will allow contracts to be let and the new transmission line to be constructed and connected to the national grid in 2011.