

**BEFORE THE PROPOSED OTAGO
REGIONAL POLICY STATEMENT
HEARINGS PANEL**

UNDER

the Resource Management Act
1991

AND

IN THE MATTER

of submissions on the
proposed Otago Regional
Policy Statement 2021
(excluding parts determined to
be a freshwater planning
instrument)

**EVIDENCE IN CHIEF OF AINSLEY JEAN MCLEOD ON BEHALF OF
TRANSPower NEW ZEALAND LIMITED (314 and FS00314)**

PLANNING

24 November 2022

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1. SUMMARY OF EVIDENCE

1.1 The submissions made by Transpower New Zealand Limited (**Transpower**) on the proposed Otago Regional Policy Statement (**pORPS**) are concerned with how the pORPS recognises and provides for the nationally significant National Grid, and particularly the extent to which the provisions of the pORPS give effect to the National Policy Statement on Electricity Transmission 2008 (**NPSET**).

1.2 To give effect to the NPSET, Transpower's submission reflects a nationally consistent approach to plan and policy statement provisions that has evolved over time. The submission seeks that such approaches are embedded in the pORPS. Transpower's submission also expresses concern and caution in respect of:

- (a) the influence of, and weight given to, a range of proposed statutes and policies that do not have legal weight, including the exposure draft of the Natural and Built Environment Bill (and now the Natural and Built Environment Bill itself); and
- (b) provisions that appear to have borrowed concepts from higher order planning instruments and applied them in a different context.

1.3 Transpower's further submissions generally:

- (a) supports further refinement to provisions that provide for, and manage the effects of, important infrastructure;
- (b) opposes relief sought in primary submissions that would result in the pORPS not giving effect to the NPSET.

1.4 My evidence considers the relief sought by Transpower and addresses (as relevant to this relief) the recommendations in respect of submissions made in the suite of documents prepared under the provisions of section 42A of the Resource Management Act 1991 (**RMA**), including supplementary evidence (**Section 42A Report**).

1.5 It is my evidence that the provisions of the pORPS, as drafted (and recommended for amendment in the Section 42A Report) do not give effect to the NPSET because the provisions:

- (a) do not recognise and provide for the national, regional and local benefits of the National Grid;
- (b) do not enable minor upgrading of the National Grid;
- (c) do not appropriately recognise and provide for the development or major upgrade of the National Grid;
- (d) do not reflect the nuanced approach to the management of potential adverse effects of the development of the National Grid that is set out in the NPSET; and
- (e) do not avoid adverse effects, including reverse sensitivity effects, on the National Grid or ensure that the operation, upgrade and development of the National Grid is not compromised.

1.6 My evidence suggests amendments to the provisions of the pORPS that:

- (a) recognise that the need to operate, maintain, develop and upgrade the National Grid as a matter of national significance and therefore a significant issue in the Otago region;
- (b) distinguishes and enables the minor upgrading of the National Grid;
- (c) amends the approach to avoiding activities that may have an adverse effect or otherwise compromise the National Grid;
- (d) refines the way in which the potential adverse effects of new, or major upgrades to, nationally significant infrastructure (and particularly the National Grid) are managed;
- (e) remove explicit references to 'limits' insofar as such limits impose ill-defined boundaries on the operation, maintenance, upgrade and development of the National Grid; and similarly

- (f) remove explicit direction that a precautionary approach be applied in general circumstances.

1.7 The amendments suggested in, and supported by, my evidence are consolidated in **Attachment A**. My evidence concludes that these amendments are necessary and the most appropriate (in terms of the requirements of section 32 of the RMA) to:

- (a) give effect to the NPSET, alongside other national policy statements;
- (b) where the amendments are to policies, achieve the relevant objectives of the pORPS (including as supported by, or amended by, my evidence); and
- (c) achieve the purpose of the RMA, including by enabling people and communities to provide for their social, economic and cultural well-being and their health and safety.

2. QUALIFICATIONS AND EXPERIENCE

2.1 My full name is Ainsley Jean McLeod. I hold the qualifications of a Bachelor of Arts (Geography and Anthropology) and a Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute.

2.2 I am a self-employed planner, trading as Ainsley McLeod Consulting Limited. I have over 20 years' experience in planning practice, primarily as a consultant planner based in Otago, Wellington and Christchurch, during which time I have undertaken consenting, designation and policy planning work. I have provided planning advice to a range of clients including central and local government, and the private sector.

2.3 I have particular expertise in infrastructure and network utilities, having provided planning advice in relation to power transmission, distribution and generation, water and waste, rail and roading, and telecommunications projects. I have acted as an expert witness on

a number of occasions before hearings panels, boards of inquiry and the Environment Court.

2.4 More specifically, I have provided expert planning advice to Transpower since 2001, where Transpower has sought to build new National Grid transmission lines and substations and upgrade existing assets. In this role, I have provided advice on the relevant planning instruments, including the NPSET and the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (**NESETA**). I am familiar with the ways in which plans and policy documents respond to these planning instruments, having advised Transpower in respect of a number of regional policy statement, regional plan and district plan reviews. In the context of Otago, I have advised Transpower on the partially operative Otago Regional Policy Statement, the proposed Queenstown Lakes District Plan and the proposed Dunedin City District Plan.

2.5 I assisted with the preparation of Transpower's submission and further submissions on the pORPS, participated in pre-hearing discussions with representatives of Otago Regional Council and other submitters, and am now engaged to provide expert planning evidence in relation to these submissions.

Code of conduct

2.6 Although this matter is not before the Environment Court, I confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses as contained in the Court's 2014 Practice Note. I have complied with the Code of Conduct when preparing my written statement of evidence and will do so when I give oral evidence before the Hearings Panel.

2.7 My qualifications as an expert are referenced above. I confirm that the issues addressed in this statement of evidence are within my area of expertise. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out

in the evidence. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

3. SCOPE OF EVIDENCE

3.1 My evidence:

- (a) briefly sets out the statutory requirements for the pORPS in relation to the NPSET;
- (b) summarises Transpower's submission and further submissions on the pORPS; and
- (c) addresses (as relevant to the relief sought by Transpower) the recommendations made in the Section 42A Report.¹

3.2 In addition to the documents referred to above, in preparing this evidence I have also reviewed the following documents insofar as they relate to the relief sought in Transpower's submissions:

- (a) the 'Section 32 Evaluation Report Consideration of alternatives, benefits and costs' (May 2021) (**Section 32 Report**);
- (b) the New Zealand Coastal Policy Statement 2010 (**NZCPS**);
- (c) the National Policy Statement on Freshwater Management 2020 (**NPSFM**);
- (d) the National Policy Statement on Urban Development 2020 (**NPSUD**);
- (e) the National Policy Statement on Highly Productive Land 2022 (**NPSHPL**);
- (f) the National Planning Standards;
- (g) Rautaki Hanganga o Aotearoa New Zealand Infrastructure Strategy 2022 - 2052; and
- (h) submissions and further submissions made by various parties.

¹ <https://www.orc.govt.nz/plans-policies-reports/regional-plans-and-policies/otago-regional-policy-statements/proposed-otago-regional-policy-statement-2021-non-freshwater-parts/proposed-rps-21-non-freshwater-parts-hearing/section-42a-hearing-report>.

3.3 For the purposes of my evidence, I rely on the evidence of Mr Roy Noble. Mr Noble's evidence:

- (a) provides an overview of the National Grid assets in Otago;
- (b) describes the operation, maintenance and minor upgrading of the National Grid;
- (c) explains the technical, operational and functional requirements of the National Grid;
- (d) sets out how the activities of other parties impact on the National Grid;
- (e) describes the role of the National Grid in facilitating growth in Otago, and the future of electricity transmission in Otago, including in respect of New Zealand's future zero-carbon economy;
- (f) summarises Transpower's approach to selecting the location of new assets; and
- (g) provides case studies of Queenstown Lakes District and Dunedin City.

3.4 My analysis and consideration of the relief sought by Transpower is informed by the statutory framework for regional policy statements set out in the RMA and generally described in the Section 32 Report.²

3.5 My evidence is structured to accord with the chapters of the pORPS. I have compiled all of the amendments to the provisions of the pORPS (as recommended for amendment by the Section 42A Report) sought in my evidence in **Attachment A**. The Section 42A Report amendments are shown in black underline and ~~strikethrough~~ and the further amendments supported in my evidence are shown in red double underline and ~~double-strikethrough~~.

3.6 I note that at the time of drafting my evidence, the version of the pORPS that was on ORC's website does not appear to include some of the changes recommended in supplementary evidence filed on behalf of ORC in October 2022. To the best of my

² Section 32 Report, Part 6.

knowledge, my evidence addresses changes recommended in supplementary evidence.

4. THE STATUTORY FRAMEWORK RELEVANT TO THE NATIONAL GRID

4.1 Section 62(3) and 61(1)(e) of the RMA direct (respectively) that a regional policy statement must give effect to a national policy statement, and must be prepared in accordance with any regulations, which includes any national environment standards.

4.2 I understand that 'give effect' means 'to implement' and is a strong statutory directive that places a firm obligation in respect to the content of a regional policy statement.

The National Policy Statement on Electricity Transmission 2008

4.3 The NPSET directs the management of the National Grid under the RMA. The full text of the NPSET is at **Attachment B**.

4.4 The need to operate, maintain, develop and upgrade the National Grid is recognised as a matter of national significance by the NPSET.

4.5 The Preamble to the NPSET describes the rationale for the NPSET. It states that "the efficient transmission of electricity on the National Grid plays a vital role in the well-being of New Zealand, its people and the environment". The Preamble notes that the National Grid has particular physical characteristics and operational/security requirements that have been challenging to manage under the RMA. It also acknowledges the potential significance of some effects of transmission lines (including the inability for these to be avoided or mitigated), along with the significant constraints that development and the activities of other parties can place on the network. It notes that adverse effects are experienced at the local level, while benefits are regional or national, requiring a balanced consideration of effects. Finally, it recognises the importance of consistent policy and regulatory approaches by local authorities.

4.6 The NPSET has a single Objective 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.”*

4.7 The Objective is supported by 14 Policies. The following Policies are relevant to obligations the NPSET places on decision-makers in the context of Transpower’s submission and further submissions on the pORPS:

- (a) *“... decision-makers must recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission. ...”* (Policy 1);
- (b) *“... decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.”* (Policy 2);
- (c) *“When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision-makers must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network.”* (Policy 3);
- (d) *“... decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection”* for new infrastructure or major upgrades (Policy 4);
- (e) *“... decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets”* when considering environmental effects associated with transmission activities (Policy 5);

- (f) *“Substantial upgrades ... should be used as an opportunity to reduce existing adverse effects ... including such effects on sensitive activities where appropriate”* (Policy 6);
- (g) Planning and development of the National Grid *“... should minimise adverse effects on urban amenity and avoid adverse effects on town centres and areas of high recreational value or amenity and existing sensitive activities”* (Policy 7);
- (h) In rural environments, planning and development of the National Grid *“... should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities”* (Policy 8);
- (i) *“... decision-makers must to the extent reasonably practicable manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading and development of the electricity network is not compromised”* (Policy 10);
- (j) *“Local authorities must consult with the operator of the National Grid to identify an appropriate buffer corridor within which sensitive activities will generally not be provided for ... ”* (Policy 11); and
- (k) *“Regional councils must include objectives, policies and methods to facilitate the long-term planning for investment in transmission infrastructure and its integration with land uses”* (Policy 14).

Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009

- 4.8** Under s 61(1)(e) of the RMA, the Council must prepare the RPS in accordance with any regulations (which includes any national environmental standard.³
- 4.9** The NESETA came into effect in January 2010 and sets out a national regulatory framework for activities related to existing

³ Section 43(1).

National Grid transmission lines, including the operation, maintenance and upgrading of such lines. The NESETA specifies permitted electricity transmission activities (subject to standards) and establishes resource consent requirements where these activities do not meet the standards.

- 4.10** Given the NESETA regulates specific activities, it is my view that the NESETA is less relevant to regional policy statement-type provisions. That said, the NESETA can usefully inform the pORPS provisions in respect of activities, and associated adverse effects, that should be anticipated by, and enabled in, pORPS provisions. It is also acknowledged that, where the NESETA regulations require a resource consent for a specific activity, the objectives and policies of the pORPS (and in the further, the objectives and policies of district plans that implement the pORPS) will be relevant considerations.

5. TRANSPOWER'S SUBMISSIONS

- 5.1** Transpower's submission⁴ seeks:

- (a) amendments to refine provisions that address nationally significant infrastructure and regionally significant infrastructure;
- (b) amendments to provisions to align approaches to the management of potential adverse effects of the development of the National Grid with the direction given in the NPSET;
- (c) provisions that appropriately enable the operation, maintenance and minor upgrading of the National Grid; and
- (d) the deletion of provisions that have been drafted in anticipation of future planning instruments.

- 5.2** Transpower has also made a further submission (dated 12 November 2021) that addresses a number of submissions. Transpower's further submission generally supports further

⁴ Submission reference 00314, 3 September 2021.

refinements to definitions and provisions that relate to important infrastructure. Transpower's further submission also opposes submissions where the relief sought in the primary submission would result in the pORPS not giving effect to the NPSET.

5.3 The remainder of my evidence addresses the relief sought in these submissions.

6. PART 1 - INTRODUCTION AND GENERAL PROVISIONS

How the policy statement works

6.1 In relation to this section of the pORPS, Transpower seeks amendments to "Cross-boundary matters".

6.2 Transpower's submission⁵ generally supports the commentary included in the pORPS in respect of cross-boundary matters but seeks limited amendments to better express cross-boundary matters related to the National Grid (including that positive effects may accrue across boundaries), and to include reference to nationally significant infrastructure.

6.3 The Section 42A Report⁶ recommends that:

- (a) the "editorial" amendments to the first bullet point be accepted;
- (b) that the amendment sought, to include 'regionally significant infrastructure, nationally significant infrastructure' in the third bullet point be rejected because infrastructure is addressed in the fifth bullet point and the amendment would introduce confusion;
- (c) that the amendments sought in the fifth bullet point to better express cross boundary matters in relation to the National Grid, except for the deletion of "local", be accepted.

⁵ Submission reference 00314.002.

⁶ 'Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 2: Submissions on Part 1 – Introduction and general provisions.

- 6.4** For the same reasons as given the Section 42A Report, I support the amendments to the first and fifth bullet points that are recommended in response to Transpower’s submission.
- 6.5** In terms of the third bullet point and the inclusion of reference to regionally significant infrastructure and nationally significant infrastructure, I agree with the Section 42A Report that infrastructure that crosses boundaries is specifically addressed in the fifth bullet point. That said, if the third bullet point is intended to address all resources that cross boundaries, I am of the view that the examples provided may suggest that cross-boundary matters are confined to natural resources, rather than both natural and physical resources. In this regard, the National Grid is a nationally important physical resource that crosses boundaries. The NPSET recognises in the Preamble that the National Grid “*is an extensive and linear system which makes it important that there are consistent policy and regulation approaches by local authorities*”. For this reason, and to avoid any ambiguity, I support amending the third bullet point to reference ‘natural and physical’ resources that cross local authority boundaries.
- 6.6** Transpower’s submission also seeks that the sub-section that addresses ‘cooperation at a national level’ be clarified through amendments to refer to ‘significant infrastructure’ and the ‘National Grid’. The Section 42A recommends that the submission be accepted on the basis that the amendment achieves consistency across the pORPS. For the same reasons, I agree with this conclusion.

Interpretation – ‘electricity sub-transmission infrastructure’

- 6.7** Transpower’s submission⁷ seeks limited amendments to the definition of ‘electricity sub-transmission infrastructure’ to better distinguish sub-transmission infrastructure from National Grid infrastructure.⁸

⁷ Submission reference 00314.003.

⁸ Transpower’s submission is supported by the further submission made by Horticulture NZ FS00236.018.

6.8 The Section 42A Report⁹ recommends that Transpower's submission be accepted by amending the definition of 'electricity sub-transmission infrastructure' as follows:

*"means electricity infrastructure that is not the National Grid and that which conveys electricity between:
(a) energy generation sources and zone substations,
(b) the National Grid and zone substations; or and
(c) between zone substations."*

6.9 I support the amended definition on the basis that the amendments distinguish the National Grid from other electricity infrastructure. In turn, this aids the interpretation of pORPS provisions that relate to electricity infrastructure.

Interpretation – 'National Grid'

6.10 Transpower's submission¹⁰ supports the inclusion of a definition of 'National Grid' but considers that it is more appropriate to rely on the definition included in the NPSET, as opposed to the definition included in the NPSREG.

6.11 Transpower's submission is opposed by the further submission made by Kāi Tahu ki Otago¹¹ on the basis that the NPSREG seems a more realistic definition, with the NPSET definition in theory applying to any asset owned by Transpower, regardless of whether it has use in the transmission of electricity.

6.12 The Section 42A Report¹² recommends that Transpower's submission be accepted by amending the definition of 'National Grid' as follows:

"has the same meaning as in the Interpretation section of the National Policy Statement on Electricity Transmission 2008

9 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 11: Energy, Infrastructure and Transport 4 May 2022, paragraph 64.

10 Submission reference 00314.004.

11 Further submission reference FS00226.484.

12 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 11: Energy, Infrastructure and Transport 4 May 2022, paragraph 72.

for Renewable Electricity Generation 2011 (as set out in the box below)

means the ~~assets lines and associated equipment~~ used or owned by Transpower New Zealand Limited ~~to convey electricity~~”

- 6.13** I agree with the Section 42A Report and support the amended definition. A number of provisions in the pORPS have been drafted to give effect to the NPSET. To ensure that these provisions do give effect to the NPSET, it is more appropriate that they be reliant on the definition in the NPSET. Such an approach avoids any risk of ‘gaps’ in the pORPS provisions.

Interpretation – ‘Nationally significant infrastructure’

- 6.14** Transpower’s submission¹³ supports the inclusion of a definition of ‘nationally significant infrastructure’, but considers that it is not necessary to refer to both the ‘National Grid’ and the ‘electricity transmission network’ and suggests that the definition be further refined to delete reference to infrastructure that is not located in Otago.¹⁴
- 6.15** The Section 42A Report¹⁵ does not support the amendments proposed by Transpower, or any amendments, on the basis that to do so would alter the definition set out in the NPSUD.
- 6.16** While there are no foreseeable implications for Transpower if the definition is retained as notified, I am of the view that there is merit in making the amendments set out in Transpower’s submission because:
- (a) relying on the defined term, ‘National Grid’ avoids any confusion or suggestion that ‘electricity transmission network’ is something different;

13 Submission reference 00314.005.

14 Transpower’s submission is supported by the further submission made by Horticulture NZ FS00236.021.

15 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 11: Energy, Infrastructure and Transport 4 May 2022, paragraph 539.

- (b) it is not a requirement (as it is through the National Planning Standards (2019)) that the NPSUD definition be included in the pORPS;
- (c) the context and use of the definition in the pORPS is not the same and is broader than in the NPSUD, with the NPSUD definition relevant to the urban environment only and used in the context of 'qualifying matters' and consultation requirements; and
- (d) the deletion of the parts of the NPSUD definition that are not relevant to Otago would not offend against the definition (or giving effect to the NPSUD) in any case.

6.17 For the reasons set out above, I therefore support the following amendments to the definition of 'nationally significant infrastructure':

~~"has, to the extent applicable to the Otago Region, the same meaning as in clause 1.4(1) of the National Policy Statement for Urban Development 2020 (as set out in the box below)~~

means all of the following:

- (a) State highways
- (b) the National Grid ~~electricity transmission network~~
- (c) renewable electricity generation facilities that connect with the National Grid
- ~~(d) the high pressure gas transmission pipeline network operating in the North Island~~
- ~~(e) the refinery pipeline between Marsden Point and Wai~~
- ~~(d~~f~~)~~ the New Zealand rail network (including light rail)
- ~~(e~~e~~)~~ rapid transit services (as defined in this clause)
- ~~(f~~a~~)~~ any airport (but not its ancillary commercial activities) used for regular air transport services by aeroplanes capable of carrying more than 30 passengers
- ~~(g~~f~~)~~ the port facilities (but not the facilities of any ancillary commercial activities) of each port company referred to in item 6 of Part A of Schedule 1 of the Civil Defence Emergency."

Interpretation – ‘regionally significant infrastructure’

- 6.18** Transpower’s submission¹⁶ seeks, for the purpose of clarity, the inclusion of “the National Grid” in the definition of ‘regionally significant infrastructure’.¹⁷
- 6.19** The Section 42A Report¹⁸ recommends that Transpower’s submission be accepted through the inclusion of “any infrastructure identified as nationally significant infrastructure” in the definition. For the same reasons as those given in the Section 42A Report, I support the amendment proposed.

Interpretation – ‘sensitive activities’

- 6.20** Transpower’s submission¹⁹ supports the definition of ‘sensitive activities’ on the basis that the term is defined with reference to the NPSET.
- 6.21** Transpower’s submission is not explicitly addressed in the Section 42A Reports, however, I acknowledge that it is recommended that the definition be retained as notified, given that the use of the term is in relation to confined provisions, including those that relate to the National Grid.²⁰ I support the retention of the definition and consider that consistency with the NPSET assists the pORPS to fully give effect to the NPSET.

Mana whenua

- 6.22** Transpower’s submission²¹ seeks that the following further clause be added to Policy MW-P4 – Sustainably use of Māori land in order to give effect to Policy 10 and Policy 11 of the NPSET:

16 Submission reference 00314.006.

17 Transpower’s submission is supported by the further submission made by Meridian Energy Limited FS00306.002.

18 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 11: Energy, Infrastructure and Transport, paragraph 546.

19 No number allocated and not included in the summary of submissions.

20 Brief of Supplementary Evidence of Lisa Maree Hawkins Definitions and Abbreviations Chapter, paragraph 11.

21 Submission reference 00314.008.

“... x. avoiding adverse effects, including reverse sensitivity effects, on the National Grid.”

6.23 Transpower’s submission is opposed by the further submission made by Kāi Tahu ki Otago²² on the basis that the relief sought is an inappropriate way to achieve the objectives of the pORPS. No further explanation is given.

6.24 The Section 42A Report²³ recommends that the submission be rejected and comments as follows:

“I consider the needs of the National Grid are provided for by policies within the EIT chapter of the RPS, and generally within this policy. I consider it would be odd to include the National Grid in this policy and not other vital infrastructure, and including all types of infrastructure would make the policy unwieldy. I recommend Transpower’s submission be rejected.”

6.25 In response to other submissions, the Section 42A Report recommends amendments to Policy MW-P4 as follows:

“MW-P4 – Sustainable use of ~~Māori land~~ Native Reserves and Māori land

Kāi Tahu are able to ~~protect~~, develop and use land and resources within native reserves and ~~land held under Te Ture Whenua Māori Act 1993~~ Māori land in accordance with mātauraka and tikaka, ~~a way consistent with their culture and traditions and to provide for their economic, cultural and social aspirations, including for papakāika, marae and marae related activities.~~, while:

(1) ~~avoiding adverse effects on the health and safety of people,~~

(2) ~~avoiding significant adverse effects on matters of national importance, and~~

22 Further submission reference FS00226.485

23 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 4: MW – Mana whenua, paragraph 164.

~~(3) avoiding, remedying, or mitigating other adverse effects.”~~

6.26 The revised Policy is accompanied by a recommended new definition of ‘Māori land’ as follows:

“For the purposes of the Otago RPS, means land within the region that is:

1. Māori communal land gazetted as Māori reservation under s338 Te Ture Whenua Māori Act 1993;
2. Māori customary land and Māori freehold land as defined in s4 and s129 Te Ture Whenua Māori Act 1993;
3. Former Māori land or general land owned by Māori (as those terms are defined in Te Ture Whenua Māori Act 1993) that has at any time been acquired by the Crown or any local or public body for a public work or other public purpose, and has been subsequently returned to its former Kāi Tahu owners or their successors and remains in their ownership;
4. General land owned by Māori (as defined in Te Ture Whenua Māori Act 1993) that was previously Māori freehold land, has ceased to have that status under an order of the Māori Land Court made on or after 1 July 1993 or under Part 1 of the Māori Affairs Amendment Act 1967 on or after 1 April 1968, that is in the ownership of Kāi Tahu whānui;
5. Vested in a Trust or Māori incorporation under Te Ture Whenua Māori Act 1993;
6. Held or claimed by Te Rūnanga o Ngāi Tahu and/or related entities including by a person or persons with a whakapapa connection to Kāi Tahu, where the land was transferred or vested, is an entitlement, or is part of an ancillary claim:
 - (a) as part of redress for the settlement of Treaty of Waitangi claims; or
 - (b) by the exercise of rights under a Treaty settlement Act or Treaty settlement deed (as

those terms are defined under the Urban Development Act 2020);

7. Owned by a person or persons with evidence of Kāi Tahu whakapapa connection to the land (where documentary evidence of whakapapa connection is provided from either the Māori Land Court or the Te Rūnanga o Ngāi Tahu Whakapapa Unit).²⁴

6.27 In making this recommendation, the Section 42A Report also suggests that there should be further discussion about whether the following should also be included:

- (a) land owned by Te Rūnanga o Ngāi Tahu or its constituent papatipu rūnaka;
- (b) land owned or leased by a person or persons with evidence of Kāi Tahu whakapapa connection to the land (where documentary evidence of whakapapa connection is provided from either the Māori Land Court or the Te Rūnanga o Ngāi Tahu Whakapapa Unit).

6.28 Transpower's submission is concerned that Policy MW-P4 could give rise to activities and development near the National Grid in a manner that does not give effect to Policy 10 and Policy 11 of the NPSET. That is, Policy MW-P4 could enable sensitive activities near the National Grid and sensitive activities that compromise the National Grid without constraint.

6.29 In my view, Transpower's concern is justified on the basis it is not clear how Policy MW-P4 and Policy EIT-INF-P15 – Protecting nationally significant infrastructure and regionally significant infrastructure would be reconciled in practice. I also consider that this concern is exacerbated by:

- (a) the breadth and inherent uncertainty of the proposed new definition of 'Māori land';

- (b) the potential consequences of deleting the limits or constraints on the enablement of development in clauses (1) to (3) in notified Policy MW-P4.

6.30 In terms of the proposed definition of 'Māori land', the Section 42A Report does not contemplate the extent of land that is subject to the definition at the present time, and how this might change in the future. Without a clear understanding of the parts of Otago that are 'Māori land', I am of the view that it is not possible to reach a safe conclusion that the definition (and provisions that rely on that definition) are appropriate, efficient or effective in terms of Section 32 of the RMA. Further, without a clear understanding of the extent of 'Māori land', it is similarly not possible to conclude that Policy MW-P4 gives effect to the NPSET.

6.31 That said, I acknowledge that the Section 42A Report includes a section 32AA evaluation. This evaluation concludes that:

- (a) removing clauses (1) to (3) from MW-P4 gives better effect to RMA s6(e);
- (b) consequential amendment to MW-M5 better balances the relationship with other matters of national importance, while still preserving their values.

6.32 The Section 42A Report concludes that "*there may be some environmental cost if there are impacts on matters of national importance. However, I believe these are appropriate in the circumstances and likely to be minimal, given the Te Ao Kāi Tahu approach to environmental matters.*"²⁵

6.33 I do not agree with the conclusion in the Section 42A Report and consider that:

- (a) Policy MW-P4 goes beyond recognising and providing for the *relationship* of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga in section 6(e). 'Māori land' as recommended

²⁵ Brief of Evidence of James Henry Adams Mw – Mana Whenua, paragraph 68.

to be defined is a broader concept than “ancestral lands, water, sites, waahi tapu, and other taonga”;

- (b) including direction in a Method does not alter the effect of a Policy where a consent authority is considering an application for resource consent or notice of requirement for a designation;
- (c) Method MW-M5, as recommended for amendment, continues to provide for the use of ‘Māori land’ and allow adverse effects (including effects on the National Grid) in a manner that does not give effect to the NPSET; and as such
- (d) the needs of the National Grid in respect of Māori land are not addressed in Policy MW-P4 or provisions elsewhere in the pORPS.

6.34 That said, I acknowledge that the Section 42A Report anticipates that the pORPS does, or should, provide for the protection of the National Grid. Further, I agree with the Section 42A Report to the extent it may not be efficient or appropriate to address effects of the use of Māori land on the National Grid in Policy MW-P4 and on that basis support addressing impact of development on Māori land in Policy EIT-INF-P15 – Protecting nationally or regionally significant infrastructure that is addressed in detail later in my evidence.

6.35 In my opinion, the amendment to Policy EIT-INF-P15 that I support recognises and provides for the matters in section 6(e) of the RMA, gives effect to the NPSET and, as such, achieves the purpose of the RMA.

7. PART 2 – RESOURCE MANAGEMENT OVERVIEW

SRMR Significant resource management issues for the region

7.1 Transpower's submission²⁶ does not support the SRMR as currently drafted because:

- (a) the introductory text is inconsistent with the purpose of the RMA because it does not contemplate the use, development and protection of important physical resources;
- (b) the SRMR does not include matters of national significance as being important at a regional level.

7.2 Transpower's submission seeks that the SRMR is amended to address the use, development and protection of physical resources and that a new issue is added that addresses the need to operate, maintain, develop and upgrade the National Grid as regionally important.

7.3 Transpower's further submissions support submissions made by Aurora Energy Limited (**Aurora**) and Chorus New Zealand Limited, Spark New Zealand Limited and Vodafone New Zealand (**Telecommunications companies**) that similarly seek the inclusion of a SRMR that relates to electricity and infrastructure respectively and offer specific wording.²⁷

7.4 My understanding of the Section 42A Report²⁸ position in respect of Transpower's submission, is as follows:

- (a) the Transpower submission is seeking more detail than is appropriate for the issues statement;
- (b) the matters it raises are covered more generally in the existing text (with the opening sentence of the introduction acknowledging that Otago's natural resources provide for

²⁶ Submission reference 00314.009.

²⁷ Submission references 00315.015 and 00310.003.

²⁸ Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 5: Submissions on Part 2 – Resource management overview paragraphs 62, 550 and 551

the social, economic and cultural well-being of people and communities, and the importance of natural resources to infrastructure and energy generation are acknowledged in the second paragraph);

- (c) the existing issue statements have been workshopped and widely consulted on and it is not appropriate to add significant resource management issues to the existing suite when they have not been through the same consultation process;²⁹
- (d) the requested issue statements deal with industry specific concerns and do not warrant a dedicated issue statement; and
- (e) the requested issue statements are addressed through one or more existing issues statements.

7.5 In this regard, I accept that any revisions or amendments to the SRMR should reflect the level of detail and drafting style of the pORPS.

7.6 The Section 42A Report has not addressed the amendment sought by Transpower to refer to the use, development and protection of physical resources in the introductory text.

7.7 In my opinion, identifying 'Issues' as they relate only to natural resources is inappropriately narrow and inconsistent with:

- (a) the sustainable management purpose of the RMA;
- (b) the explicit direction in section 59 of the RMA that a "regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve **integrated management of the natural and physical resources** of the whole region"; and
- (c) a regional council's responsibility under section 30(1) of the RMA to the establish, implement, and review "*objectives, policies, and methods to achieve **integrated***

²⁹ It is my understanding that no consultation has occurred with Transpower prior to notification and that Transpower was not invited or represented on any infrastructure reference group.

management of the natural and physical resources of the region” [my emphasis].

7.8 Further, because section 62 of the RMA sets out that policies respond to the issues and objectives, it is critical that the SRMR ‘Issues’ provide the framework upon which the pORPS achieves the statutory purpose.

7.9 I am of the view that the SRMR would benefit from substantial amendments, to addresses the matters raised above. However, I consider that limited amendments will also result in the introductory text being better aligned to the statutory purpose. For this reason, I therefore support amending the Introduction to better reflect the statutory direction for regional policy statements by deleting Figure 2 and amending the text as follows:

“Otago’s people and communities rely on ~~the~~ natural and physical resources that Otago’s environment provides to enable their social, economic, and cultural well-being. Natural resources include freshwater (i.e. surface and groundwater, wetlands, estuaries), land and soil, terrestrial, and freshwater ecosystems, coastal and marine ecosystems, and air, landscapes, vegetation and natural landforms. Physical resources include infrastructure, buildings and facilities. From an economic perspective natural and physical resources support, and are impacted by, agricultural industries (e.g. grazing, cropping, horticulture, viticulture), urban development, industrial development, infrastructure, energy generation, transport, marine industries (fishing and aquaculture), tourism and mineral extraction. From a social and cultural perspective natural and physical resources support and are impacted by recreation, housing, and cultural activities ~~(Refer Figure 2).~~ ~~Figure 2 – Relationships between natural resources, resource use and strategies~~ ...”

7.10 In terms of whether it is necessary for the SRMR to address the National Grid, I do not consider that the SRMR currently addresses the National Grid, or important infrastructure more generally. I am of the view that because the NPSET establishes that “the need to operate, maintain, develop and upgrade the electricity transmission network” is a matter of national significance, it follows that this ‘need’ is also a regionally significant matter.

7.11 That said, I am of the view that addressing the nationally significant ‘need’ does not have to be specific to the National Grid or specific to infrastructure, provided there is a logical ‘home’ elsewhere in the SRMR. However, in this instance, given the natural resource focus of the SRMR, I do not consider that an existing Issue is able to accommodate an ‘Issue’ that is related to the nationally significant ‘need’ in respect of the National Grid and, acknowledging the Section 42A Report comments in relation to level of detail and industry specificity, I support the inclusion of a new general infrastructure ‘Issue’ in the SRMR. In this regard,

7.12 I am of the view that the drafting should be guided by ‘Rautaki Hanganga o Aotearoa New Zealand Infrastructure Strategy 2022-2052’ (**Infrastructure Strategy**).³⁰ This document clearly sets out the challenges New Zealand’s infrastructure faces, along with strategies to address these challenges (including in respect of the planning framework). In particular, the Infrastructure Strategy includes:

- (a) a ‘Case for Change’ that describes the issues for infrastructure and the ‘tools’ to address the issues;
- (b) ‘A thriving New Zealand’ that sets out actions to respond to the challenges in the form of strategic objectives and recommendations to achieve the objectives.

30 Te Waihanga New Zealand Infrastructure Commission (2022).

IM Integrated management – Objective IM-O1 – Long term vision

7.13 Transpower’s submission³¹ generally supports Objective IM-O1 and seeks limited amendments to also reflect outcomes for physical resources and to also include reference to ‘health and safety’, alongside ‘well-being’.³²

7.14 The Section 42A Report³³ recommends that Transpower’s submission be rejected as follows:

“Transpower seeks to clarify that it is “natural and physical resources” that support wellbeing. I consider this changes the intent of the objective – as I read the objective, it is the management of natural and physical resources that is intended to support the well-being of present and future generations. Transpower also seeks to include reference to health and safety as well as well-being of people and communities. I consider health and safety are part of well-being. I do not recommend accepting the submission by Transpower.”

7.15 I generally agree with the Section 42A Report, but support two minor amendments to ensure the environmental outcomes in IM-O1 are better aligned with the purpose of the RMA as follows:

“The management of natural and physical resources—in Otago, by and for the people of Otago, including in partnership with Kāi Tahu, and as expressed in all resource management plans and decision making, achieves a healthy, and resilient, and safeguarded natural systems environment, and including the ecosystem services they offer it provides, and supports the health, safety and well-being of present and future generations; (mō tātou, ā, mō kā uri ā muri ake nei).”

31 Submission reference 00314.010.

32 Transpower’s submission is supported by the further submission made by Oceana Gold FS00115.064.

33 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 6: IM – Integrated management paragraph 92.

IM Integrated management – Policy IM-P2 Decision priorities

7.16 Transpower’s submission³⁴ seeks the deletion of Policy IM-P2 in its entirety on the basis that the policy creates a hierarchy that is not present in section 5 of the RMA and because it is inappropriate to ‘borrow’ the NPSFM objective for the management of freshwater and apply it to the management of all natural and physical resources.³⁵

7.17 In respect of the matters raised in Transpower’s submission, the Section 42A Report³⁶ concludes:

“I agree with Transpower and Federated Farmers that it may not be appropriate to adopt a concept developed for freshwater management for management of the wider environment. However, I do not consider that section 5 of the RMA prevents prioritising the natural environment over other matters in some situations. I note that section 5(2) is explicit that “protection of natural and physical resources” forms a part of sustainable management and therefore I consider that prioritising this protective element in some instances is appropriate.”

7.18 The Section 42A Report recommends that Policy IM-P1 and Policy IM-P2 be replaced by a single policy as follows:

*“IM-P1 – Integrated approach to decision-making
Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions that cannot be resolved by the application of higher order documents, prioritise:*

34 Submission reference 00314.011.

35 Transpower’s submission is opposed by the further submission made by Kāi Tahu ki Otago FS00226.486.

36 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 6: IM – Integrated management paragraph 198.

- (1) *the life-supporting capacity and mauri of the natural environment and the health needs of people, and then*
- (2) *the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.”*

7.19 While I also agree that it is not appropriate to ‘adopt’ the NPSFM Objective (in part), I am of the view that the Policy (as amended) continues to generally do so. It is my understanding the Objective of the NPSFM would be relevant in the context of freshwater in any case through reference to “higher order documents”. In addition, I note that, while the Section 42A Report references the section 5 concept of ‘protection’ of natural and physical resources, physical resources are not explicitly addressed in the revised Policy.

7.20 It is my opinion that the revised Policy continues to create a hierarchy for managing the use, development, and protection of natural and physical resources (in situations where tensions between provisions need to be resolved) that does not exist in the RMA. That is, the protection of ‘natural resources is prioritised over ‘use’, ‘development’ and ‘physical resources’. For this reason, I do not consider that the expression of priorities in Policy IM-P1 achieves the purpose of the RMA and instead I support the deletion of clauses (1) and (2) as follows:

“IM-P1 – Integrated approach to decision-making

Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions, consider ~~that cannot be resolved by the application of~~ higher order documents; ~~prioritise:~~

- ~~(1) the life-supporting capacity and mauri of the natural environment and the health needs of people, and then~~
- ~~(2) the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.”~~

IM Integrated management – Policy IM-P14 – Human impact

7.21 Transpower’s submission³⁷ opposes Policy IM-P14 on the basis that the Policy appears to embed the concept of environmental limits from the consultation draft of the Natural and Built Environment Bill in a manner that is uncertain and inappropriate.³⁸ The submission also seeks, as a consequence, the deletion of reference to environmental limits elsewhere in the pORPS.

7.22 The Section 42A Report³⁹, considers the use of environmental limits and concludes that the:

“ inclusion of ‘environmental’ has the potential to introduce uncertainty as it is unclear whether that means limits originating in the environment or limits on the environment, which is a matter raised (indirectly) by some submitters. In addition, I consider this has become somewhat confused due to the use of the term, and its definition, in the NPSFM. In my view, ‘limit’ is the correct term to use and I therefore recommend rescinding my section 42A recommendation to incorporate a definition of ‘environmental limit’, as well as consequential amendments to remove “environmental” throughout the pORPS provisions that use the term ‘environmental limits’.”⁴⁰

7.23 The rationale for this change is to clarify that:

- (a) The provisions of the pORPS are intended to reflect ‘boundaries’ on the use and development of resources in order for that use and development to remain sustainable, as opposed to biophysical limits; and
- (b) the ‘limit’ should be understood (except when in relation to freshwater) as having its everyday meaning as “any of the fixed points between which the possible or permitted

37 Submission reference 00314.012.

38 Transpower’s submission is supported by the further submission made by Waka Kotahi NZ Transport Agency FS00305.034 and opposed by the further submission made by Kāi Tahu ki Otago FS00226.487.

39 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 1: Introduction and general themes and Brief of Supplementary Evidence of Felicity Ann Boyd Introduction and general themes.

40 Brief of Supplementary Evidence of Felicity Ann Boyd Introduction and general themes, paragraph 21.

extent, amount, duration, range of action, or variation of anything is confined; a bound which may not be passed, or beyond which something ceases to be possible or allowable.”

7.24 It is my understanding that the Section 42A recommendation provides greater clarity in respect of terminology, but does not change the intent or meaning where the term ‘limit’ is used. That is, the intention of provisions that now use the term ‘limit’ is to establish a hard boundary that should not be crossed. I am of the view that using ‘limit’ in this way is a very firm directive that effectively suggests that crossing, or going beyond the boundary, is prohibited. Further, I consider that establishing or directing a threshold of this nature at a regional policy statement level, prepared under the existing RMA framework, needs to be carefully considered in the context of its use and in terms of the appropriateness, efficiency, effectiveness and certainty of the intended (and possibly unintended) outcomes. It is for this reason that in the remainder of my evidence, I give consideration to the use of the term ‘limit’ relative to its use and context.

7.25 In the context of IM-P14, noting that the Policy explicitly relates to the preparation of plans, it is my opinion that the direction is a very firm one that could be read as requiring plans to include prohibited activity rules. Further, Policy IM-P14 is broad, given its use of the words “wherever practicable”. This suggests that any type of activity could be prevented by the identification of a limit.

7.26 In all, it is my view directing that plans include ‘limits’ within which activities must occur wherever practicable without stating what those limit may apply to is inappropriate, onerous and vague. For this reason I support amendments to Policy IM-P14 to delete reference to ‘limits’ as follows:

“IM-P14 – Human impact

When preparing regional plans and district plans, Preserve opportunities for future generations by:

- ~~(1) identifying environmental limits wherever practicable, to both growth and adverse effects of human activities beyond which the environment will be degraded,~~
- ~~(2) requiring that providing for activities are established in places, and carried out in ways, that are within those environmental limits and are compatible with the natural capabilities and capacities of the natural and physical resources they rely on, and~~
- ~~(3) regularly assessing the capabilities and capacities of the natural and physical resources and adjusting environmental limits and thresholds for activities over time in light of the actual and potential environmental impacts of activities, including those related to climate change, and~~
- ~~(4) promoting activities that reduce, mitigate, or avoid adverse effects on the environment.”~~

7.27 As a consequence, I also support the deletion of clause (6) in Method IM-M1 – Regional plans and district plans.

IM Integrated management – Policy IM-P15 Precautionary approach

7.28 Transpower’s submission⁴¹ seeks the deletion of Policy IM-P15 – Precautionary approach in its entirety on the basis that the Policy lack specificity and risks being applied incorrectly.⁴²

7.29 The Section 42A Report⁴³ recommends that Transpower’s submission be deleted and comments as follows:

“Adopting a precautionary approach in the coastal environment has been required by the NZCPS since 2010, so although I appreciate that it may be a less well-known concept outside the coastal environment, there is considerable practice and case law on its meaning and application. I do not agree that the policy should be unnecessary due to the clarity

41 Submission reference 00314.013.

42 Transpower’s submission is supported by the further submission by Waka Kotahi FS00305.040 and opposed by the further submission made by Kāi Tahu ki Otago.

43 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 6: IM – Integrated management, paragraph 449.

provided by the remaining provisions in the pORPS 2021. There will always be uncertainties in resource management, as well as evolving information and new activities occurring. In my view, the degraded state of many parts of the environment in Otago (particularly fresh water and indigenous biodiversity) demonstrates that decisions have perhaps not been precautionary enough in the past.”

- 7.30** The Section 42A Report recommends that Policy IM-P15 be deleted with the following amended clause in respect of ‘precautionary approach’ instead being included in Policy IM-P6 - Acting on best available information:

“(2) adopt a precautionary approach towards activities whose effects are uncertain, unknown, or little understood, but potentially significantly adverse.”

- 7.31** In my opinion, including a direction to adopt a precautionary approach in the manner proposed adds very little to achieve integrated management as anticipated by section 59 of the RMA. This is because the clause does not include any specific direction in terms of where such an approach is warranted and how it is to apply. I consider that, if the clause were deleted, nothing would prevent a precautionary approach being taken in decision-making in any case.

- 7.32** The Section 42A Report has suggested that the precautionary approach should apply to the management of freshwater and also notes that Policy 3 of the NZCPS directs that a precautionary approach should be applied in the coastal environment. I note that Policy 3 of the NPCPS includes greater specificity about particular circumstances, and how the precautionary approach should be applied.

- 7.33** It is my opinion that, if the precautionary approach is relevant to freshwater management and the coastal environment, the appropriate provisions should be included in Chapter 8 and Chapter 9 of the pORPS (and as addressed in the relevant methods), rather

than set out generically. Similarly, I note that the pORPS embeds the precautionary approach in relation to natural hazards in precisely this way. I therefore support the deletion of clause (2) in Policy IM-P15.

8. PART 3 - DOMAINS AND TOPICS

CE Coastal Environment

Objective CE-O3 – Natural Character, features and landscape

8.1 Transpower's submission⁴⁴ supports Objective CE-O3 and seeks its retention. The Section 42A Report recommends that limited amendments to this Objective in response to submissions. I generally support the Objective, as amended to the extent that it is consistent with provisions of the NZCPS.

Policy CE-P1 Links with other chapters

8.2 Transpower's submission⁴⁵ supports Policy CE-P1 – Links with other chapters to the extent that the Policy recognises that provisions elsewhere in the pORPS apply. Transpower's submission seeks the same approach be applied to the National Grid through the inclusion of an additional clause to direct that the EIT-INF provisions apply to the National Grid and that those provisions prevail (where there is conflict).⁴⁶

8.3 The Section 42A Report⁴⁷ recommends that the Policy be amended to include cross-references to other chapters that apply in the coastal environment. This includes the Energy, Infrastructure and Transport Chapter.

8.4 I address the EIT-INF provisions later in my evidence, but for the purposes of Policy CE-P1, I note that Policy EIT-INF-P13A addresses the effects of infrastructure in the coastal

44 Submission reference 00314.014.

45 Submission reference 00314.015.

46 Transpower's submission is opposed by the further submissions made by Kāi Tahu ki Otago FS00226.489 and Te Rūnanga o Ngāi Tahu FS00234.121

47 Proposed Otago Regional Policy Statement 2021 Chapter 8: CE – Coastal environment.

environment. My evidence supports the inclusion of a new clause in Policy EIT-INF-P13A that reflects the nuanced and nationally consistent approach to managing the effects of the National Grid in the coastal environment. It is my view (expressed later in my evidence) that Policy EIT-INF-P13A is the appropriate provision to reconcile tensions between the NZCEP and the NPSET and as such it is important that this is clearly reflected to users of the pORPS (and subordinate documents). On this basis, I support a further amendment to Policy CE-P1 as follows:

“Implement an integrated approach to managing Otago’s coastal environment which ~~R~~recognises that:

...

(x) nationally significant infrastructure in the coastal environment must be managed in accordance with EIT-INF-P13A.”

Policy CE-P8 – Public Access, Policy CE-P9 – Activities on land within the coastal environment and Policy CE-P10 – Activities within the coastal marine area

8.5 Transpower’s submission⁴⁸ supports the following provisions and seeks that they be retained:

- (a) Policy CE-P8 – Public Access, and particularly clauses (1) and (8) to the extent that the Policy provides for the restriction of public access to protect people and the National Grid assets;
- (b) Policy CE-P9 – Activities on land within the coastal environment, and particularly clause (3) on the basis that the Policy recognises the importance of infrastructure on land in the coastal environment; and
- (c) Policy CE-P10 – Activities within the coastal marine area on the basis that the Policy provides a ‘pathway’ for activities that have an operational or functional need to be located in the coastal marine area.

48 Submission references 00314.019, 00314.020 and 00314.021.

8.6 I have reviewed the revised provisions of the pORPS and can confirm that the provisions that are supported in Transpower's submission have been retained in their entirety or in intent as part of the Section 42A Report recommendations. In this regard, I confirm my view that the provisions supported by the Transpower submission provide for, and protect, the National Grid in a manner that contributes to the pORPS giving effect to the NPSET.

LF – Land and Fresh water: LF-FW – Fresh water

Objective LF-FW-O10 – Natural Character

8.7 Transpower's submission⁴⁹ supports Objective LF-FW -O10 – Natural Character on the basis that the Objective is consistent with Part of the RMA and seeks that it be retained as notified. The Section 42A Report⁵⁰ recommends that the Objective is retained as notified. I support this conclusion for the reason included in the submission.

Policy LF-FW-P13 – Preserving Natural Character

8.8 Transpower's submission⁵¹ seeks the inclusion of reference to 'operational need' in Policy LF-FW-P13(1)(a).

8.9 The Section 42A Report⁵² recommends that Transpower's submission be rejected because the wording of clause (1) is taken from the mandatory policy (for regional plans) set out in clause 3.24(1) of the NPSFM and therefore there is no benefit in widening the scope. While I note that the pORPS is not a regional plan, I agree with the Section 42A Report recommendation.

49 Submission references 00314.22.

50 Section 42A Hearing Report, Proposed Otago Regional Policy Statement 2021 Chapter 9: LF – Land and freshwater.

51 Submission reference 00314.25.

52 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 9: LF – Land and freshwater, paragraph 1098.

LF – Land and fresh water: LF-LS – Land and soil

Policy LF-LS-P19 – Highly productive land

8.10 Transpower’s submission⁵³ seeks that clause (2) of Policy LF-LS-P19 be amended to state that highly productive land is prioritised ahead of other land uses “but not ahead of regionally significant infrastructure and nationally significant infrastructure”.⁵⁴

8.11 The Section 42A Report⁵⁵ has been substantially revised to account for the recently gazetted NPSHPL. The Section 42A Report identifies that:

“Clause 3.9 of the NPSHPL provides a pathway for the use or development of highly productive land where it would otherwise be considered inappropriate. Clause 3.9 sets out several situations where the use or development of highly productive land is not inappropriate, which includes the maintenance, operation, upgrade or expansion of specified infrastructure. “Specified infrastructure” is defined in the NPSHPL.”

8.12 On this basis the Section 42A Report does not recommend any amendments. In this regard I note that the new specified infrastructure may not benefit from the specified infrastructure exemption. That said, the Report recommends that clause (2) be amended as follows:

“(2) prioritising the use of highly productive land for land-based primary production ~~food and fibre production~~ primary production ahead of other land uses, except as provided by EIT-INF-P12 and EIT-INF-P16, and...”

8.13 I support the revised wording of clause (2) on the basis that highly productive land is appropriately given priority, but that this priority is

53 Submission reference 00314.27.

54 Transpower’s submission is opposed by the further submission made by Hort NZ FS00236.078

55 Brief of Second Supplementary Evidence of Felicity Ann Boyd Lf – Land and Freshwater (Highly Productive Land).

not above all land uses, including nationally significant infrastructure.

Policy LF-LS-P22 – Public access

- 8.14** Transpower's submission⁵⁶ seeks the inclusion of an additional clause in Policy LF-LS-P22 that would enable public access along lakes and rivers to be restricted to ensure security consistent with the operational requirements of a lawfully established activity.⁵⁷
- 8.15** The Section 42A Report⁵⁸ recommends that Transpower's submission be accepted. Similarly, I support the amendment and consider that the proposed additional clause assists in giving effect to Policy 10 of the NPSET.

ECO – Ecosystems and Indigenous Biodiversity

Policy ECO-P4 – Provision for new activities and Policy ECO-P5 – Existing activities in significant natural areas

- 8.16** Transpower's submission⁵⁹ supports Policy ECO-P4 – Provision for new activities and Policy ECO-P5 – Existing activities in significant natural areas and seeks their retention as notified (subject to relief sought elsewhere in Transpower's submission).
- 8.17** I address Policy ECO-P4 later in my evidence, including amending the Policy to delete clause (1) and need not address this further here. In terms of Policy ECO-P5, I have reviewed the Section 42A Report version and I note that the Policy has been amended to reference maintenance and minor upgrading. I support these further amendments particularly because the amended Policy better gives effect to Policy and Policy 5 of the NPSET. In addition, the Policy is aligns with management approaches in the NESETA regulations.

56 Submission reference 00314.028

57 Transpower's submission is supported by the further submission made by Contact Energy FS00318.098

58 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 9: LF – Land and freshwater

59 Submission references 00314.029 and –314.030.

EIT - Energy Infrastructure and Transport

Restructuring the order of the chapters and inclusion of electricity generation in the Energy chapter

8.18 The Section 42A Report⁶⁰ has concluded that the EIT Chapter could be improved by setting out the provisions related to infrastructure generally first, followed by the energy and transport subchapters.

8.19 Notwithstanding my evidence in respect of the location of provisions that relate to electricity transmission (below), I support the recommended restructuring of the Chapter for the same reasons as set out in the Section 42A Report.

Transferring electricity transmission to the Energy section

8.20 The Section 42A Report⁶¹ comments on the location of provisions that relate to electricity transmission as follows:

“The electricity transmission and distribution companies consider that better alignment could be achieved by including the electricity distribution and transmission activities in the EIT-EN – Energy sub-chapter (alongside renewable electricity generation), rather than the EIT-INF – Infrastructure section. I agree that both distribution and transmission are solely associated with energy.”

8.21 The Section 42A Report goes on to recommend that EIT-INF-O6, EIT-INF-P16, EIT-INF-M5(2) and (3) to EIT-EN-M2(5A) and (5B) be relocated to the Energy sub-chapter.

8.22 Transpower’s submission does not seek this restructure (nor had support of that approach been confirmed by Transpower during the without prejudice discussions that occurred earlier in 2022) and I do not see any particular advantage in terms of the efficiency and

60 Brief of Evidence of Marcus Hayden Langman, Energy Infrastructure and Transport, Paragraph 22.

61 Brief of Evidence of Marcus Hayden Langman, Energy Infrastructure and Transport, Paragraphs 17 to 21.

legibility of the pORPS in having provisions that relate to the National Grid in both the Energy and Infrastructure sub-chapters, as opposed to being entirely contained in the Infrastructure sub-chapter. In my view, disbursing the provisions adds complexity and has the potential to give rise to tension, inconsistency and duplication. Conversely, I do see some advantage in restructuring the provisions if the Energy sub-chapter were to stand alone so that the Infrastructure sub-chapter would not apply to the National Grid – but that is not the recommendation made in the Section 42A Report.

Consideration of standalone provisions managing the effects of REG infrastructure and electricity transmission and distribution infrastructure (including the National Grid)

8.23 The Section 42A Report⁶² goes on to consider whether there is the need for ‘carve out’ provisions to manage the effects of renewable electricity generation and the National Grid and concludes that there is no need for a carve out because there needs to be a clear justification. The section 42A Report states further that:

- (a) *“although some of the effects of infrastructure are covered by the respective NPSs, neither NPS manages the effects of infrastructure on significant indigenous biodiversity, for example”;*
- (b) *“there is a need to provide an appropriate framework for all infrastructure that properly recognises those provisions in s 6”;*
- (c) *“if standalone provisions enable a situation where the protection of significant indigenous biodiversity is not achieved, for example, it would be contrary to the purpose of the Act”;* and
- (d) *“there would need to be a clear situation where the NPSET or NPSREG make a specific direction, regarding a particular resource, which is in conflict with the other national instruments, before an alternative approach to the management of the resource is justified”.*

62 Brief of Evidence of Marcus Hayden Langman, Energy Infrastructure and Transport, Paragraphs 17 to 21.

- 8.24** The Section 42A Report concludes that “I do not consider that this is a situation that the NPSs anticipate, as they are also required to recognise and provide for the matters of national importance”.
- 8.25** I agree with the Section 42A Report that the NPSET does not **require** a ‘carve out’ approach. I also accept that more generic provisions to manage the potential adverse effects of important infrastructure can also manage the effects of the National Grid. However, where the generic approach is taken, they must also give effect to the National Grid. It has been my experience that a ‘carve out’ approach, or provisions that distinguish the National Grid, in policy statements and plans are generally necessary and the most efficient and succinct approach to giving effect to the NPSET. It is noted that a ‘carve out’ can be achieved as a standalone provision or as a specific clause in many provisions.
- 8.26** In addition, it is noted that a ‘carve out’ can be advantageous to Transpower, but also a disadvantage. That is, the ‘carve out’ has, in some situations, resulted in more stringent provisions applying to the National Grid than would otherwise apply. What is important, however, is that the provisions give effect to the NPSET.
- 8.27** In terms of the need for a ‘carve out’, I disagree with the Section 42A Report assertion that the NPSET and NESREG do not manage all potential adverse effects of the National Grid. That is, the Section 42A Report suggests that where there is no explicit direction in respect of the management of effects on a particular natural or physical resource the NPSET has a ‘gap’ and does not apply.
- 8.28** In my view, this suggestion fails to acknowledge that, in approving the NPSET, the Minister for the Environment was required to consider the matters in Part 2 of the RMA and to undertake a section 32 evaluation to confirm that the provisions are the most appropriate to achieve the purpose of the RMA (section 52 of the RMA).
- 8.29** My understanding of the NPSET is that the NPSET is intended to address the management of all adverse effects of the National Grid

on the environment, but this management does not occur in a vacuum. Rather, the NPSET provision must be reconciled or balanced alongside other matters of national significance and matters of national importance in section 6 of the RMA. In this regard, I am guided by the High Court in *Transpower New Zealand Limited v Auckland Council*⁶³ that states:

“I accept the submission advanced by Ms Caldwell and Mr Allan that the NPSET is not as all embracing of the Resource Management Act’s purpose set out in s 5 as is the New Zealand Coastal Policy Statement. In my judgment, a decision-maker can properly consider the Resource Management Act’s statutory purpose, and other Part 2 matters, as well as the NPSET, when exercising functions and powers under the Resource Management Act. They are not however entitled to ignore the NPSET; rather they must consider it and give it such weight as they think necessary.”

8.30 In my experience, the outcome of not ignoring the NPSET and the necessary weighing exercise is often the need for bespoke provision for the National Grid, achieved in a policy context by a ‘carve out’ approach. Examples of this include Policy 4.3.6 in the Partially Operative ORPS and Objective 5.2.X (and implementing policies) of the Proposed Dunedin City District Plan.

8.31 In the case of the pORPS, Transpower’s submission⁶⁴ seeks a standalone ‘carve out’ approach (similar to the Partially Operative ORPS) with the following four limbs:

- (a) The first limb embeds the ‘avoid’ and ‘seek to avoid’ approaches in the NPSET for areas with particular values. This is achieved in Policy EIT-INF-P13 as “avoid, as a first priority”.
- (b) The second limb sets out how effects in those areas are managed (as opposed to managing the effects in a generic way, or as effects are managed for all activities).

63 CIV-2016-404-002330 [2017] NZHC 281, paragraph 84.
64 Submission reference 00314.038

- (c) The third limb provides for the avoidance, remedying or mitigating of other adverse effects (achieved as a 'minimise' in Policy EIT-INF-P13).
- (d) The fourth limb confirms the carve out by seeking that the provisions prevail over others if there is a conflict.⁶⁵

8.32 That said, given the clear preference expressed in the Section 42A Report for existing policies to manage the effects of the development of the National Grid, I have drafted proposed amendments to existing Policy EIT-INF-P13 and proposed Policy EIT-INF-P13A to provide for the nationally consistent approach to giving effect to the NPSET.

8.33 As part of the drafting I proposed, I have sought to appropriately address the management approach to the operation, maintenance and minor upgrading of infrastructure. The pORPS provisions are structured as follows:

- (a) Policy EIT-INF-P11 – Operation and maintenance addresses the operation and maintenance of regionally and nationally significant infrastructure and **includes** direction in respect of avoiding or minimising potential adverse effects;
- (b) Policy EIT-INF-P12 – Upgrade and development addresses the upgrading and development of all infrastructure but **does not include** a direction in relation to adverse effects;
- (c) Policies EIT-INF-P13 and EIT-INF-P13A address the management of potential adverse effects of all new infrastructure, but **does not address** the adverse effects of minor or substantial upgrades to existing infrastructure.

⁶⁵ Transpower's submission is opposed by the further submissions made by Federated Farmers FS00239.268, Hort NZ FS00236.091, Kāi Tahu ki Otago FS00226.495, Otago Fish and Game FS00609.191 and Forest and Bird FS00230.121.

8.34 In my opinion the combined approach results in some gaps and possible unintended consequences as follows:

- (a) The provisions do not include explicit direction for the management of effects of upgrades (whether minor or more substantial).
- (b) The approach to the management of potential effects of the operation and maintenance of infrastructure may be more stringent than for new infrastructure, including because the operation and maintenance does not benefit from the direction and cross referencing across the pORPS for Policy EIT-INF-P13. As such the provision in other parts of the pORPS (including 'avoid' policies) would apply.
- (c) The provisions do not enable the operation and maintenance of **all** infrastructure.

8.35 In addition, I am of the view that the provisions that relate to the upgrading of infrastructure do not give effect to the NPSET and particularly Policy 5 that requires decision-makers to **enable** the reasonable operational, maintenance and minor upgrade requirements of established National Grid assets.

8.36 To resolve these matters, and give effect to the NPSET, I suggest amendments to the Policies as follows:

- (a) reference to "major upgrades" be included in the first sentence of Policy EIT-INF-P13 to reflect the distinction between minor and major upgrades in the NPSET;
- (b) the direction for the management of effects of regionally and nationally significant infrastructure be deleted from Policy EIT-INF-P11, being clauses (1) and (2); and
- (c) a new clause in INF-P13 be included to enable minor upgrades.

8.37 In all, the amendments to Policy EIT-INF-P11 and Policy EIT-INF-P13 that I support are as follows:

“EIT-INF-P11 – Operation and maintenance

~~Except as provided for by ECO – P4,a~~ Allow for the operation and maintenance of existing ~~nationally significant infrastructure and regionally significant infrastructure while:~~
~~(1) avoiding, as the first priority, significant adverse effects on the environment, and~~
~~(2) if avoidance is not practicable, and for other adverse effects, minimising adverse effects.”~~

“EIT-INF-P13 – ~~Locating and M~~managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment

(1) When providing for the operation, maintenance and minor upgrading of nationally significant infrastructure and regionally significant infrastructure outside the coastal environment, avoid, remedy or mitigate significant adverse effects.

(2) When providing for new, or major upgrades to, infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment:

(a) In urban environments, avoid adverse effects of the National Grid on town centres, areas of high recreation value and existing sensitive activities;

(b) where (a) does not apply, avoid, as the first priority, adverse effects on the characteristics and values ~~locating infrastructure in all~~ of the following:

(i) significant natural areas,

(ii) outstanding natural features and landscapes,

(iii) natural wetlands,

(iv) outstanding water bodies,

~~(ve)~~ areas of high or outstanding natural character,

~~(vif)~~ areas or places of significant or outstanding historic heritage,

~~(viig)~~ wāhi tūpuna ~~wāhi tapu, wāhi taoka,~~ and areas with protected customary rights, and

~~(viih)~~ areas of high recreational value and areas of high amenity value in rural environments, and

~~(32)~~ if it is not possible ~~demonstrably~~ practicable to avoid, adverse effects on the characteristics and values of ~~locating in~~ the areas listed in (1) above, ~~because of the functional needs or operational needs of the infrastructure, nationally significant infrastructure and regionally significant infrastructure~~ manage adverse effects as follows:

(a) for nationally significant infrastructure or regionally significant infrastructure remedy or mitigate adverse effects having regard to:

(i) the operational needs or functional needs of the National Grid and the extent to which those requirements constrain measures to avoid, remedy or mitigate adverse effects;

(ii) the extent to which significant adverse effects are avoided;

(iii) the extent to which any adverse effects have been avoided, remedied or mitigated by route, site and method selection;

(iv) for upgrades, the extent to which existing adverse effects have been reduced as part of any substantial upgrade;

(v) the extent to which adverse effects on urban amenity have been minimised; and

(vi) offsetting or compensation residual adverse effects on indigenous biodiversity values that is offered or agreed by an applicant or requiring authority;

(b) *for all infrastructure for all infrastructure that is not nationally significant infrastructure or regionally significant infrastructure, avoid adverse effects on the values that contribute to the area's outstanding nature or significance.*

~~*in significant natural areas, in accordance with ECO-P4,*~~

~~*(ii) in natural wetlands, in accordance with the relevant provisions in the NESF,*~~

~~*(iii) in outstanding water bodies, in accordance with LF-FW-P1,*~~

~~*(iiia) in relation to wāhi tūpuna, in accordance with HCV-WT-P2*~~

~~*(iv) in other areas listed in EIT-INF-P13(1) above, minimise the adverse effects of the infrastructure on the values that contribute to the area's importance,*~~

~~*(4) avoiding, remedying, or mitigating other adverse effects, having regard to the matters in 6(a) to (f).*~~

8.38 The following further summarises my rationale for the amendments to Policy EIT-INF-P13 above:

- (a) The Policy heading is amended to delete “locating and” because the heading reads as if the Policy manages the location of effects, rather than the effect of that infrastructure.
- (b) A new clause (1) is included so that the ‘avoid’ component of Policy 7 of the NPSET, which applies to urban environments, is given effect to. I am of the view that this clause should be specific to the National Grid given the particular direction in Policy 7.
- (c) Renumbered clause (2) is amended to refer to avoiding adverse effects on the characteristics and values of areas listed in the clause, as opposed to avoiding the location. This approach is consistent with the expression in the NPSET and enables the matters of national importance in section 6 of the RMA to be recognised and provided for.

- (d) Renumbered clause (2)(h) is amended to distinguish the approach to rural environments in Policy 8 of the NPSET, as opposed to the urban environments addressed by new clause (1).
- (e) Reference to “demonstrably” in renumbered clause 3 is deleted on the basis that the term is unnecessary in a policy context. When applied, the policy necessarily places a positive obligation on the proponent of new, or upgraded, infrastructure to demonstrate how they have sought to avoid adverse effects.
- (f) Reference to functional needs and operational needs being the reason that ‘avoidance’ is not possible is deleted in renumbered clause (3) and addressed later in the Policy EIT-INF-P13 because, while this is likely to be the case, Policy 3 of the NPSET is broader in that it applies to measures to remedy and mitigate adverse effects (as well as avoid), and also requires a consideration of effects.
- (g) Instead of managing adverse effects that are not avoided by cross-referencing to other provisions in the pORPS (as drafted in the notified version), I support explicit direction to remedy or mitigate adverse effects being included in Policy EIT-INF-P13 (renumbered clause (3)) alongside a range of relevant considerations that are primarily directed by Policy 3, Policy 4, Policy 6 and Policy 7 of the NPSET.
- (h) New clause (4) is included to provide a ‘default’ approach to avoiding, remedying or mitigating all other adverse effects (that is, where new or upgraded infrastructure is located outside of the areas listed in clause (1)). I note that Policy EIT-INF-P13 seeks that such effects are minimised. I do not support this approach insofar as it relates to the National Grid because use of the term ‘minimise’ may imply that adverse effects must be made minimal. Such an outcome may not always be practicable or appropriate in the context of the National Grid and the NPSET does not require effects to be minimised in all circumstances.

8.39 In terms of the deletion of the cross-references to provisions elsewhere in the pORPS, I note that the policy direction that would apply via the deleted cross-referencing is as follows:

- (a) In significant natural areas, Policy ECO-P4 – Provision for new activities is cross-referenced. This Policy in clause (1) relates to new activities and explicitly provides for the development, along with the operation, maintenance or upgrade of nationally significant infrastructure and regionally significant infrastructure that has a functional need or operational need to locate within a significant natural area or where they may adversely affect indigenous species or ecosystems that are taoka. Given the amendments to Policy EIT-INF-P13 set out above, I am of the opinion that clause (1) in Policy ECO-P4 can be deleted in order to avoid any inconsistency and duplication in both the provision of activities and the management of adverse effects.
- (b) In natural wetlands, the relevant provisions in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NESF**) are cross-referenced. In my opinion it is unusual to introduce regulations that set out the activity status for a range of freshwater related activities into a policy. In my view, irrespective of the amendments to the Policy that I support, I consider that this cross-reference must be deleted.
- (c) In outstanding water bodies Policy LF-FW-P12 is cross referenced. This Policy, as amended by the Section 42A Report, provides for the absolute protection of the values of outstanding water bodies. Initially the Section 42A Report recommended that Policy LF-FW-P12 include a cross reference to Policy EIT-INF-P13, however this created circular referencing. In my opinion, with the deletion of cross-references in Policy EIT-INF-P13, I support the reinstatement of the cross-reference to avoid inconsistency and potential conflict between the provisions.

- (d) In relation to wāhi tūpuna, Policy HCV-WT-P2 is cross-referenced. This Policy includes a requirement to avoid significant adverse effects on wāhi tupuna. This requirement is more stringent than the 'avoid, as a first priority' directive in renumbered clause (2) of Policy EIT-INF-P13 and as such creates a conflict within the pORPS and also within Policy EIT-INF-P13. In my opinion, this conflict is most effectively resolved by including a cross-reference in Policy HCV-WT-P2 (and I have also recommended it be reinstated for Policy LF-FW-P12).
- (e) In natural features and landscapes, Policy NFL-P2 – Protection of outstanding natural features and landscapes includes recommended clause (3) that cross-references Policy EIT-INF-P13. I support the inclusion of this cross reference. Policy NFL-P3 does not include the same cross-reference. In my opinion, including the same cross-reference is necessary and consistent with the approach I support.

8.40 Turning to recommended Policy EIT-INF-P13A - Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment, this Policy directs the users of the pORPS to the Coastal Environment Chapter. This Chapter, in turn, includes Policy CE-P1 – Links with other chapters, clause (4), that, as amended in the Section 42A Report⁶⁶ (and further amended by my evidence) confirms that the Energy, Infrastructure and Transport Chapter also applies in the coastal environment. Given Policy CE-P1, I am of the view there is no hurdle to including the provisions that relate to the effects of nationally significant infrastructure in the coastal environment in the Energy, Infrastructure and Transport Chapter and I consider that to do so has advantages from a consistency and pORPS user perspective. As set out earlier in my evidence, I also seek an amendment to Policy CE-P1 to confirm that Policy EIT-INF-P13A applies to nationally significant infrastructure in the coastal environment.

8.41 In this regard, I support the inclusion of the following policy as a EIT-INF-P13A. This policy is based on the nationally consistent and nuanced approach to reconciling the NPSET and NZCPS:

“EIT-INF-P13A – Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment

(1) When providing for new nationally significant infrastructure within the coastal environment, manage effects in accordance with Policy EIT-INF-P13, but recognise that there will be areas of the coastal environment where avoidance of adverse effects is required to protect the values and characteristics of those areas.

(2) When managing the effects of ~~other infrastructure, nationally significant infrastructure and regionally significant infrastructure~~ within the coastal environment the provisions of the CE – Coastal environment chapter apply.”

8.42 It is my conclusion that the amendments to Policy EIT-INF-P13 and Policy EIT-INF-P13A are the most appropriate, efficient and effective approach to give effect to the NPSET, particularly in terms of clarity and succinctness. I consider that the amendments I support are necessary to give effect to the NPSET, achieve the relevant pORPS Objectives and also achieve the purpose of the RMA.

8.43 In addition, I note that in addition to the matters addressed in respect of the cross-references above, there are other provisions of the pORPS that have the potential to give rise to conflicts or tensions between Policy EIT-INF-P13 and Policy EIT-INF-P13A. In this regard, I am mindful that some submitters have concerns with a ‘prevails over’ approach and therefore, as any conflict arises, my preference is for the pORPS provisions to be consequently amended to cross-reference to EIT-INF-P13 and Policy EIT-INF-P13A in the same manner as I have supported for, for instance, in Policy LF-FW-P12. It is for this reason that I support amendments

to Policy ECO-P6 – Maintaining indigenous biodiversity and Policy HCV-HH-P5 – Managing historic heritage.

8.44 I also note that Transpower’s submission presents alternate relief whereby provisions to give effect to the NPSET in respect to the management of potential adverse effects of the National Grid are sought in various chapters. I do not consider that this relief is necessary if the amendments to Policies EIT-INF-P13 and EIT-INF-P13A are made, along with appropriate cross-referencing or direction in respect to these policies. The relief that would not be necessary is allocated to the following submission points:

- (a) 00314.016 in relation to Policy CE-P4 – Natural character;
- (b) 00314.017 in relation to Policy CE-P5 – Coastal indigenous vegetation;
- (c) 00314.018 in relation to Policy CE-P6 Natural features and landscapes;
- (d) 00314.24 in relation to LF-FW-P12 – Protecting outstanding water bodies.

8.45 As a final matter, and as a consequence of the amendments that I support in Policy EIT-INF-P13, I am of the view that Policy EIT-INF-P14 is not necessary because the direction given is included in Policy EIT-INF-P13. I have considered the merits of the location of the considerations in Policy EIT-INF-P14 and am of the view that including the consideration alongside the direction in respect of adverse effects is more efficient. Therefore I support the deletion of Policy EIT-INF-P14, if the Panel adopts my proposed amendments to Policy EIT-INF-P13.

EIT-INF objectives

Objective EIT-INF-O4 – Provision of infrastructure

8.46 Transpower’s submission⁶⁷ supports Objective EIT-INF-O4 but seeks that the Objective is amended to delete reference to “Otago”

67 Submission reference

and “within the region” because the benefits of the National Grid may extend beyond the local context.⁶⁸ Transpower’s submission also seeks the deletion of reference to environmental limits for reasons set out earlier in my evidence.

8.47 The Section 42A Report does not recommend that the amendments sought by Transpower be accepted. I do not agree with this recommendation.

8.48 In my opinion deleting “of Otago” and “within the region” so that the Objective recognises outcomes beyond the region is fundamental to the nature of significant infrastructure. The Preamble of the NPSET refers to the contribution that the National Grid makes to the well-being of New Zealand and notes that benefits accrue beyond the regional level. Further, Policy 1 of the NPSET requires decision-makers to recognise and provide for national benefits of the National Grid. It is therefore my view that deleting reference to Otago is necessary to give effect to the NPSET.

8.49 As I set out earlier in my evidence, using the term ‘limits’ must be done with care and with reference to the context it is used because the term implies an inflexible boundary. In the context of Objective EIT-INF-O4, I do not support the reference to limits because the Objective relates to infrastructure that is in place and delivering outcomes for people and communities, as opposed to the development of infrastructure. To reference ‘limits’ in this context would suggest that there are boundaries that apply to the operation of infrastructure such that the outcome in the first part of the Objective would be frustrated. Further, it is not clear what limits or boundaries could apply to infrastructure and whether these would differ depending on the type or importance of the infrastructure.

⁶⁸ Transpower’s submission is supported by the further submissions made by New Zealand Defence Force FS00304.018 Mercury FS00605.090 Waka Kotahi NZ Transport Agency FS00305.076.

- 8.50** The amendments that I recommend be made to Objective EIT-INF-O4 are as follows:

“Effective, efficient and resilient infrastructure, nationally significant infrastructure and regionally significant infrastructure enables the people and communities ~~of Otago~~ to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth ~~in within the region,~~ ~~within environmental limits.~~”

Objective EIT-INF-O5 – Integration

- 8.51** Transpower’s submission⁶⁹ seeks significant amendments to Objective EIT-INF-O5 as follows:⁷⁰

“Development of nationally and regionally significant infrastructure is coordinated with, ~~as well as~~ land use change, so that the operation and use of the infrastructure is efficient and ~~occurs in a co-ordinated manner to minimise~~ adverse effects on the environment are managed and increase efficiency in the delivery, ~~operation and use of the infrastructure.~~”⁷¹

- 8.52** The Section 42A Report⁷² does not support the relief sought by Transpower because “the amendments would result in an objective becoming a method not an outcome”.

- 8.53** I acknowledge that the Objective should be expressed as an outcome and therefore do not support the amendments, as drafted in Transpower’s submission. However, I share the concern raised in the submission with respect to the use of ‘minimise’. I do not support the use of the term in respect of the potential effects of the National Grid because the NPSET does not require effects to be

69 00314.034

70 Transpower’s submission is supported by the further submissions made by Aurora Energy FS00315.033 and Mercury FS00605.091

71 Transpower’s submission is supported by the further submissions made by Aurora Energy FS00315.033 and Mercury FS00605.091

72 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 11: Energy, Infrastructure and Transport paragraph 605.

minimised and, on the contrary, the Preamble to the NPSET explicitly recognises that the effects of the National Grid can be significant. I am therefore of the view that a policy that applies to the National Grid requiring effects to be minimised does not give effect to the NPSET, not least because it would be difficult to recognise and provide for the National Grid (Policy 2 of the NPSET) with such a policy directive.

8.54 I therefore support the following amendment to the Objective:

*“~~Development of nationally and regionally significant~~
nationally significant infrastructure and regionally significant infrastructure as well as land use change, occurs in a co-ordinated manner to avoid, remedy or mitigate or minimise adverse effects on the environment and increase efficiency in the delivery, operation and use of the infrastructure.”*

Objective EIT-INF-O6 Long term planning for electricity transmission infrastructure

8.55 Transpower’s submission⁷³ supports the inclusion of a specific policy for the National Grid, but is concerned that Objective EIT-INF-O6, alongside Objective EIT-INF-O4 and EIT-INF-O5, does not give effect to the NPSET as a whole (noting the context of the NPSET Objective) and accordingly does not meet the obligation set out in Policy 14 of the NPSET. Transpower proposes a replacement policy that is more akin to the Objective of the NPSET.⁷⁴

8.56 The Section 42A Report⁷⁵ recommends that Transpower’s submission be rejected as follows:

“I consider it substantially changes the intent of the provision from being an objective that recognises long term considerations and is focussed on sustained

⁷³ Submission reference 00314.035

⁷⁴ Transpower’s submission is supported by Federated Farmers FS00239.269 and Hort NZ FS00236.093 and opposed by Aurora Energy FS00315.038.

⁷⁵ Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 11: Energy, Infrastructure and Transport paragraph 623.

integration with land use, to what is effectively a provision focussing primarily on national grid considerations only. I recommend rejection of the submission.”

8.57 In response to the Section 42A Report, I note that the provision, as notified would only apply to the National Grid. That said, I acknowledge that it is recommended in the Section 42A Report that the Objective be expanded to also apply to electricity distribution. I do not oppose this change on the basis that the Objective continues to give effect to Policy 14 of the NPSET.

8.58 That said, I generally agree with the Section 42A Report that replacing this Objective is inappropriate given its direct relationship to Policy 14. However, I consider that the Objectives of the Energy, Infrastructure and Transport Chapter as a whole do not give effect to the NPSET because they do not recognise and provide for the benefits of the National Grid and, in turn, do not provide an appropriate basis for the implementing Policies. For this reason, rather than replace or amend Objective EIT-INF-O6, I support a new Objective that reflects the outcome set out in the NPSET Objective as follows:

*“Objective EIT-INF-EN-X – Electricity transmission
The national, regional and local benefits of electricity
transmission are realised by the facilitation of the
operation, maintenance, upgrade and development of
the National Grid.”*

Policy EIT-INF-P15 – Protecting nationally or regionally significant infrastructure

8.59 Transpower’s submission⁷⁶ seeks the following amendments to Policy EIT-INF-P15 – Protecting nationally or regionally significant

⁷⁶ Submission reference 00314.36.

infrastructure in order to give effect to Policy 10 and Policy 11 of the NPSET:⁷⁷

~~“Seek to avoid the establishment of, or expansion of existing, activities that may result in reverse sensitivity adverse effects, including reverse sensitivity effects, on nationally or regionally significant infrastructure, and/or where they may compromise the functional or operational needs of nationally or regionally significant infrastructure.”~~

8.60 The Section 42A Report recommends that Policy EIT-INF-P15 be replaced in its entirety and concludes that “NPSET Policy 10 and Policy 11 on reverse sensitivity matters will be more effectively addressed, and that such considerations can apply equally to other nationally and regionally significant infrastructure”:⁷⁸

“EIT-INF-P15 – Protecting nationally significant infrastructure ~~and~~ and regionally significant infrastructure

Protect the efficient and effective operation of nationally significant infrastructure and regionally significant infrastructure by seeking to:

- (1) avoid activities that may give rise to an adverse effect on the functional or operational needs of nationally significant infrastructure or regionally significant infrastructure,*
- (2) avoid activities that may result in reverse sensitivity effects on nationally significant infrastructure or regionally significant infrastructure,*
- (3) avoid activities and development that forecloses an opportunity to adapt, upgrade or develop nationally significant infrastructure or regionally significant infrastructure to meet future demand.”*

⁷⁷ Transpower’s submission is supported by the further submissions made by Aurora Energy FS00315.082, Big Stone Forest FS00603.006, Dunedin International Airport FS00316.008, NZ Defence Force FS00304.030 and opposed by the further submissions made by Federated Farmers FS00239.274 and Hort NZ FS00236.102.

⁷⁸ Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 11: Energy, Infrastructure and Transport paragraph 777.

8.61 I generally support the replacement Policy EIT-INF-P15, but consider that limited refinements are required to give effect to Policy 10 and Policy 11 of the NPSET and to improve legibility of the Policy. These amendments are:

- (a) The deletion of “the efficient and effective operation of” because the opening sentence confines the Policy to ‘operation’ whereas sub-clause (3) addresses ‘adaption, upgrade and development’.
- (b) The replacement of the ‘seeking to avoid’ direction with ‘avoid’. The ‘seek to avoid’ language appears to be borrowed from Policy 8 of the NPSET, but is not used in Policy 10 and 11 of the NPSET that require the management of activities to **avoid** reverse sensitivity effects, **ensuring** that the operation, maintenance, upgrade and development of the electricity transmission network is **not compromised** and the identification of a buffer corridor within which it can be expected that **sensitive activities will generally not be provided for**. I consider that these are very strong directives that should be given effect to with an ‘avoid’ policy.
- (c) The inclusion of explicit reference to Māori land in order to avoid any ambiguity in respect of the outcomes directed by Policy MW-P4 (addressed earlier in my evidence).
- (d) Combining sub-clauses (1) and (2) to achieve more efficient drafting.
- (e) Deleting reference to “functional⁷⁹ or operational needs⁸⁰” the way in which an activity or development can impact on a ‘need’ is difficult to understand and a different concept to avoiding direct adverse effects on the infrastructure, as required by Policy 10 of the NPSET.

⁷⁹ ‘Functional need’ is defined as “*the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment*”.

⁸⁰ ‘Operational need’ is defined as “*the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints*”.

8.62 The amendments I support are set out as follows:

~~“Protect the efficient and effective operation of nationally significant infrastructure and regionally significant infrastructure by avoiding seeking to:~~

~~(1) avoid activities and development, including the use of Māori land, that may give rise to an adverse effect, including reverse sensitivity effects, on the functional or operational needs of nationally significant infrastructure or regionally significant infrastructure.~~

~~(2) avoid activities that may result in reverse sensitivity effects on nationally significant infrastructure or regionally significant infrastructure.~~

~~(23) avoid activities and development that forecloses an opportunity to adapt, upgrade or develop nationally significant infrastructure or regionally significant infrastructure to meet future demand.”~~

8.63 It is my conclusion that Policy EIT-INF-P15, as amended by my evidence appropriately, efficiently and effectively achieves the relevant pORPS Objectives (as amended by my evidence); gives effect to the NPSET, and as such, also achieves the purpose of the RMA.

EIT-INF-P16- Providing for electricity transmission and the National Grid

8.64 Transpower’s submission⁸¹ supports the inclusion of a specific provision to recognise and provide for the National Grid on the basis that such a policy is the most efficient way to give effect to Policy 1, Policy 2 and Policy 5 of the NPSET. Transpower’s submission seeks amendments to the Policy to clarify that the Policy is intended to only relate to the National Grid, and is generally related to improving alignment within the pORPS and consistency with the NPSET.⁸²

81 Submission reference 00314.027.

82 Transpower’s submission is supported by the further submissions made by Federated Farmers FS00239.276 and Hort NZ FS00236.104

- 8.65** Aside from relocating the Policy to the energy sub-chapter, the Section 42A Report recommends limited amendments to the Policy to include reference to sites of significance to mana whenua and to insert a new clause that cross-references to Policy EIT-INF-P13.
- 8.66** In my opinion Policy EIT-INF-P16 requires further amendments to provide greater clarity, to delete duplication and to give effect to the NPSET as follows.
- 8.67** I support amending the title of the policy by deleting reference to the National Grid. The reason for this amendment is to be clear that electricity transmission and the National Grid are effectively the same thing. As drafted the title implies they are two different things that are provided for. This misunderstanding is also embedded in the Policy through the repetition of clauses (1) and (3). I have elected to use 'electricity transmission' because this is the activity that is provided for by the National Grid.
- 8.68** In this regard, I am of the view that the same clarification is necessary in paragraphs in EIT-EN-E1 – Explanation and EIT-EN-PR1 – Principal reasons that have been proposed in the Section 42A Report. The amendments I propose follow Policy EIT-INF-P16 below.
- 8.69** With reference to Policy 1 of the NPSET, it is my view that the NPSET directs more than purely maintenance of electricity supply. That is, the NPSET identifies maintained or **improved** security of supply as one of the benefits (with these being local, regional and national benefits) of the National Grid. For this reason, I support amendments to the initial sentence of Policy EIT-INF-P16 of give effect to Policy 1 of the NPSET.
- 8.70** Further, it is my opinion that referencing approaches to managing the potential effects of the National Grid is unnecessary duplication of the clear direction given in Policy EIT-INF-P13.

8.71 My proposed amendments are as follows:

~~“EIT-INF-P16 – Providing for electricity transmission and the National Grid~~

~~Recognise and provide for the local, regional and national benefits of the National Grid, including the maintenance and improvement of a secure, and sustainable and efficient electricity supply in Otago by:~~

~~(1A) applying EIT-INF-P13,~~

~~(1) providing for development of, and upgrades to, the electricity transmission network and requiring, as far as practicable, its integration with land use,~~

~~(2) considering the requirements of and constraints on the functional needs or operational needs of the electricity transmission network,~~

~~(3) providing for the efficient and effective development, operation, maintenance, and upgrading of the National Grid,~~

~~(4) enabling the reasonable operation, maintenance and minor upgrade requirements of the National Grid established electricity transmission assets, and~~

~~(5) minimising the adverse effects of the electricity transmission network on urban amenity, and avoiding adverse effects on town centres, areas of significance to mana whenua such as wāhi tūpuna, areas of high amenity or recreational value and existing sensitive activities.”~~

~~“EIT-EN-E1 – Explanation~~

~~...~~

~~In addition, the policies also contain relevant considerations for the transmission and distribution of electricity, both in terms of the National Grid, significant electricity distribution infrastructure and other electricity transmission and distribution activities.”~~

~~“EIT-EN-PR – Principal Reasons~~

~~...~~

In relation to the National Grid and significant electricity infrastructure (which are both a subset of infrastructure), specific provision is made which recognises some of the operational and functional constraints for electricity transmission and distribution. ~~as well as addressing~~ Matters that are required to be given effect to by the NPSET are addressed in respect of the National Grid to which the NPSET applies.”

Method EIT-INF-M4 – Regional plans

- 8.72** Transpower’s submission⁸³ seeks amendments to Method EIT-INF-M4 to refer to recognising and providing for the National Grid and to note that effects will be minimised ‘where practicable’.
- 8.73** The Section 42A Report does not address the relief sought.
- 8.74** In my view that it is essential for regional plans to be directed to recognise and provide for the operation, maintenance, upgrade and development of the National Grid, so that a regional plan can then also give effect to the NPSET. Further, as a consequence of amendments I support earlier in my evidence, I also suggest limited refinements to EIT-INF-M4. My revisions to the Method are as follows:

“Otago Regional Council must prepare or amend and maintain its regional plans to:

- (1) manage the adverse effects of infrastructure activities, including, where appropriate, identifying activities that qualify as minor upgrades, that:*
 - (a) are in the beds of lakes and rivers, or*
 - (b) are in the coastal marine area, or*
 - (c) involve the taking, use, damming or diversion of water or,*
 - (d) involve the discharge of water or contaminants, and*
- (2) require the prioritisation of sites for infrastructure where adverse effects on highly valued natural and physical*

83 Submission reference 00314.039.

resources and mana whenua values can be avoided or, at the very least, minimised, to the extent practicable.
(3) recognise and provide for the operation, maintenance, upgrade and development of the National Grid.”

Method EIT-INF-M2 – District plans

8.75 Transpower’s submission⁸⁴ seeks amendments to Method EIT-INF-M2 to:

- (a) refer to recognising and providing for the National Grid;
- (b) clarify what is meant by electricity transmission;
- (c) refine the approach to effects on the National Grid; and
- (d) note that effects will be minimised ‘where practicable’.⁸⁵

8.76 The Section 42A Report relocates portions of EIT-INF-M2 to the energy sub-chapter and refines a number of methods relevant to the National Grid (at (5A) to (5D)). The Section 42A Report also includes a range of methods for electricity distribution.

8.77 I have reviewed EIT-EN-M2 – District Plans, and generally support the Method subject to limited amendments to clause (5D) to reflect Transpower’s nationally consistent approach to the content of district plans. These amendments reflect Policy 10 of the NPSET noting that Policy refers to the National Grid not being compromised (as opposed to the operational need). Further, I am of the view that reference to the regulations is misleading because the protections Transpower seeks are not only derived from these relatively confined regulations.

(5D) where necessary, establishing controls for buildings, structures and other activities adjacent to electricity infrastructure, to ensure the ~~functional needs of that infrastructure is are not compromised based on NZECP34:2001 Electrical Code of Practice for Electrical Safe Distances and the Electricity (Hazards~~

⁸⁴ Submission reference 00314.040.

⁸⁵ Transpower’s submission is opposed by the further submissions made by Federated Farmers FS00239.280 and Hort NZ FS00236.108

~~from Trees) Regulations 2003 (prepared under the Electricity Act 1992), ...”~~

Anticipated environmental results

8.78 Transpower’s submission⁸⁶ seeks the following amendments to the ‘Anticipated environmental results’:

- (a) In EIT-INF-AER5, include reference to the provision of services beyond the Otago community,⁸⁷
- (b) In EIT-INF-AER7, include reference to adverse effects, as opposed to only reverse sensitivity effects;⁸⁸
- (c) In EIT-INF-AER8, replace ‘minimised’ with ‘managed’.⁸⁹

8.79 The Section 42A Report does not support Transpower’s relief on the basis that referring to ‘beyond Otago’ would broaden the scope of the AER and, similarly, referencing ‘all adverse effects’ would broaden the scope beyond the policy intent and finally replacing minimised with ‘managed’ reflects a process rather than an outcome.

8.80 I agree with the Section 42A Report and do not support including ‘beyond Otago’ in the AER. I also acknowledge that ‘managed’ may not be the correct term, and instead I support the more general “avoided, remedied or mitigated” to reflect the overarching directive given by the NPSET.

8.81 However, I disagree with the Section 42A Report in respect of adverse effects on the National Grid and support the amendment in Transpower’s submission as follows:

“EIT-INF-AER7 Nationally significant infrastructure and regionally significant infrastructure is protected from

86 Submission references 00314.41, 00314.42 and 00314.43.

87 Transpower’s submission is opposed by the further submission made by by Federated Farmers FS00239.281.

88 Transpower’s submission is support by the further submission made by Mercury Energy FS00605.092 and opposed by Hort NZ FS00236.109)

89 Transpower’s submission is supported by the fFurther submission made in support by Mercury Energy FS00605.093.

adverse effects, including reverse sensitivity effects caused by incompatible activities.

EIT-INF-AER8 The adverse effects associated with ~~nationally and regionally significant infrastructure~~ infrastructure are avoided, remedied or mitigated~~minimised~~.”

HAZ – Hazards and risks

HAZ-NH – Natural hazards

8.82 Transpower’s submission⁹⁰ opposes Policy HAZ-NH-P3 because the Policy prevents, through an ‘avoid’ policy, situations where the operational or functional needs of the National Grid necessitate its location in an area where the activity would be assessed as having a significant risk. The submission seeks an amendment to clause (1) to provide an exception to the need to avoid an activity where an activity is nationally significant infrastructure that has a functional needs or operational need for its location and the risk is appropriately managed.

8.83 The ‘Chapter 12:HAZ – Hazards and risks Section 42A Report’ recommends that the submission be rejected for the following reasons:

“In relation to the submitters that seek an exemption for functional or operational needs of nationally or regionally significant infrastructure or new roads, I am unconvinced an exemption is required. I note that APP6 requires an assessment of the likelihood and consequence of an event occurring. This assessment takes place through plan reviews, plan changes, or resource consents. If an infrastructure project was considered a ‘significant’ risk, it would mean that the consequences of undertaking that project would be considerable. In this instance I consider it is appropriate that the significant risk is avoided. Given the nature of nationally or regionally significant infrastructure, I consider most if not all

90 Submission reference 00314.044.

new infrastructure projects would likely have an 'Insignificant' or 'Minor' consequence when assessed in accordance with APP9 (or even reduce the risk of natural hazards) and therefore would not trigger the 'significant' risk threshold."⁹¹

8.84 I generally agree with the Section 42A Report on the basis that, with reference to 'APP6 – Methodology for natural hazard risk assessment', new National Grid assets would likely be designed to have at least a 'tolerable' risk and therefore 'significant' risk is avoided.

8.85 That said, I note that the Policy does not direct the avoidance of 'significant risk, but instead directs the avoidance of an activity. In my opinion the expression used in this Policy may have unintended consequences in its implementation, particularly in the context of plan making. This is because, the HAZ-NH-M3 – Regional plans and HAZ-NH-M4 – District plans direct that plans manage activities to achieve, amongst other matters, Policy HAZ-NH-P 3 and it follows that, to achieve the 'avoidance' required by the Policy, the future regional and district plans would likely set out areas where activities are avoided, rather than allowing for the consideration of a specific new activity or level of risk.

8.86 For this reason, I support the following amendment to Policy HAZ-NH-P3 – New activities:

"Once the level of natural hazard risk associated with an activity has been determined in accordance with HAZ-NH-P2, manage new activities to achieve the following outcomes:

- 1. avoid significant ~~when the natural hazard risk is significant, the activity is avoided,~~*
- 2. when the natural hazard risk is tolerable, manage the level of risk so that it does not ~~become significant~~ exceed tolerable, and*
- 3. when the natural hazard risk is acceptable, maintain the level of risk."*

91 'Chapter 12:HAZ – Hazards and risks Section 42A Report', paragraph 132.

UFD – Urban form and development

Objective UFD-O2 – Development of urban areas

8.87 Transpower’s submission⁹² seeks the following limited amendments to Objective UFD-O2 to give effect to Policies 10 and 11 of the NPSET.⁹³

“The development and change of Otago’s urban areas:

...

2. allows business and other non-residential activities to meet the needs of communities where those activities are in appropriate locations,

...

6. minimises conflict between incompatible activities and, in the case of the National Grid, avoids adverse effects on the operation, maintenance, upgrade and development of the National Grid,

...

9. achieves integration of land use with existing and planned development infrastructure and additional infrastructure and facilitates the safe and efficient ongoing use, maintenance, upgrade and development of regionally significant infrastructure,

....”

8.88 In respect of the amendment sought to clause (6), as an alternative the submission seeks the addition of a cross reference to Policy EIT-INF-P15.

8.89 In terms of clause (2), the Section 42A Report⁹⁴ recommends that the submission be rejected because the additional detail is not necessary.

⁹² Submission reference 00314.050.

⁹³ Transpower’s submission is supported by the further submission made by Aurora Energy Limited FS00315.156 and opposed by the further submission made by Horticulture NZ FS00236.110.

⁹⁴ Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 15: UFD – Urban form and development, paragraph 147.

- 8.90** I agree that the amendment is not necessary and therefore do not support amending clause (2).
- 8.91** The Section 42A Report⁹⁵ does not explicitly address Transpower’s submission in respect of clause (6) and does not respond to the rationale for seeking an amendment. The Report does not recommend any amendments to clause (6) because *“the existing wording is considered to capture reverse sensitivity as well as other potential impacts between all activities, in all places and times in the region”*.⁹⁶
- 8.92** Insofar as clause (6) relates to the National Grid and the direction given in Policy 10 and Policy 11 of the NPSET, I am of the view that ‘minimising conflict’ could be understood to be less stringent than the direction to ‘avoid’ and ‘not compromise’ in these Policies. However, I accept that the ways in which the outcome of conflicts being minimised in urban areas is achieved are varied in different circumstances and can be set out more explicitly in the implementing Policy UFD-P3 – Urban Expansion. For this reason, but subject to the content of Policy UFD-P3 (addressed below), I agree that the amendment sought by Transpower is not necessary.
- 8.93** The Section 42A Report recommends that clause (9) be amended and split into two clauses as follows:
- “(9) achieves integration of land use with existing and planned development infrastructure and additional infrastructure,*
- (9A) ~~and~~ facilitates the safe and efficient ongoing use, maintenance, upgrade and development of nationally significant infrastructure and regionally significant infrastructure, ...”*

95 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 15: UFD – Urban form and development.

96 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 15: UFD – Urban form and development, paragraph 150.

8.94 I support the recommended new clause (9A) and consider that the revised wording is generally aligned to the wording of the NPSET Objective and, as such, gives effect to this higher order document.

Objective UFD-O4 – Development in rural areas

8.95 Transpower’s submission⁹⁷ seeks amendments to clause (1) and clause (2) of Objective UFD-O4 to:

- (a) delete the direction to ‘avoid’ effects on significant values and features (clause (1));
- (b) reference approaches to addressing conflict between incompatible activities in a similar way to Objective UFD-O2 (clause (1)); and
- (c) remove the ‘first priority’ given to highly productive land (clause (2)).⁹⁸

8.96 The Section 42A Report (including supplementary statements)⁹⁹ recommends:

- (a) the deletion of clause (1) in its entirety on the basis that the clause creates ambiguity in respect of provision elsewhere in the pORPS; and
- (b) proposes amendments to clause (2) to give effect to the NPSHPL as follows:

“Development in Otago’s rural areas occurs in a way that:
~~(1) avoids impacts on significant values and features identified in this RPS,~~
(2) avoids as the first priority, highly productive land and soils identified as highly productive by LF-LS-P19 unless there is an operational need or functional need for the development to be located in rural areas, ...””

⁹⁷ Submission reference 00314.051.

⁹⁸ Transpower’s submission is supported by the further submission made by Aurora Energy FS00315.158 and opposed by the further submission made by Hort NZ FS00236.111.

⁹⁹ Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 15: UFD – Urban form and development, Brief of Supplementary Evidence of Elizabeth Jane White Urban Form and Development Chapter, and Brief of Second Supplementary Evidence of Elizabeth Jane White UFD – Urban Form and Development (Highly Productive Land).

- 8.97** The Section 42A Report does not address Transpower's submission in relation to incompatible activities.
- 8.98** I support the deletion of clause (1) and agree that, as drafted, the clause has the potential to create ambiguity in respect of how values and features are managed across the pORPS.
- 8.99** I do not support amended clause (2) because the direction to avoid highly productive land as a first priority is more stringent than the direction given by the NPSHPL. That is, the NPSHPL prioritises the use of highly productive land for land-based primary production. The NPSHPL does not assign **first** priority and does not direct absolute avoidance. On the contrary, the NPSHPL sets out circumstances where the use and development of highly productive land that is not land-based primary production is appropriate, including in respect of the National Grid, this includes where the maintenance, operation, upgrade, or expansion of specified infrastructure (which includes the National Grid) has a functional or operational need for its location. Further, revised clause (2) fails to state the purpose of the priority.
- 8.100** For this reason, I support further amendments to clause (2) to achieve consistency with, and properly give effect to, the NPSHPL as follows:

“Development in Otago’s rural areas occurs in a way that:

(1) ~~avoids impacts on significant values and features identified in this RPS,~~

(2) ~~avoids as the first priority,~~ prioritises the use of highly productive land for land-based primary production ~~and soils identified as highly productive by LF-LS-P19 unless there is an operational need or functional need for the development to be located in rural areas, ...”~~

- 8.101** In terms of the way in which Objective UFD-O4 addresses incompatible activities and important infrastructure, it is my opinion that there is a ‘gap’ in the Objective when read alongside Objective UFD-O2 to the extent that the Objective fails to contemplate the

need for, and appropriateness of, important infrastructure being operated, maintained and developed in rural areas. It is my view that a further clause (as follows) should be added to Objective UFD-O4 mirror the direction for urban areas so that it is clear that important infrastructure is anticipated in rural areas:

“Development in Otago’s rural areas occurs in a way that:

...

(x) facilitates the safe and efficient ongoing use, maintenance, upgrade and development of nationally significant infrastructure and regionally significant infrastructure.”

Policy UFD-P3 – Urban intensification

8.102 Transpower’s submission¹⁰⁰ seeks that Policy UFD-P3, and particularly clause (6) be retained as notified.

8.103 The Section 42A Report¹⁰¹ recommends, as relevant to the relief sought by Transpower:

- (a) the deletion of clause (6) in its entirety on the basis that the clause creates ambiguity in respect of provision elsewhere in the pORPS; and
- (b) the inclusion of the following new clause in response to other submissions:

“(2A) does not compromise the safe and efficient ongoing use of nationally significant infrastructure”

8.104 I support the deletion of clause (6) and agree that, as drafted, the clause has the potential to create ambiguity in respect of how values and features are managed across the pORPS.

100 Submission reference 00314.052.

101 Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 15: UFD – Urban form and development, Brief of Supplementary Evidence of Elizabeth Jane White Urban Form and Development Chapter, and Brief of Second Supplementary Evidence of Elizabeth Jane White UFD – Urban Form and Development (Highly Productive Land).

8.105 I also generally support the inclusion of new clause (2A), but suggest the following further amendments to this clause to give effect to the NPSET by also referring to the maintenance, upgrading and development of important infrastructure in a manner consistent with Policy 10 of the NPSET that refers to “*the operation, maintenance, upgrading, and development of the electricity transmission network is not compromised*”:

“(2A) does not compromise the safe and efficient ongoing use, maintenance, upgrading and development of nationally significant infrastructure or regionally significant infrastructure.”

Policy UFD-P4 – Urban Expansion

8.106 Transpower’s submission¹⁰² seeks the retention of clause (5) and amendments to clause (6) to delete the ‘first priority’ given to avoiding highly productive land.¹⁰³

8.107 The Section 42A Report¹⁰⁴, as relevant to the relief sought by Transpower recommends:

- (a) the deletion of clause (5) in its entirety on the basis that the clause creates ambiguity in respect of provision elsewhere in the pORPS;
- (b) the inclusion of the same new clause as in UFD-P3 (as clause 3A) in respect of not compromising nationally significant infrastructure or regionally significant infrastructure in response to other submissions; and
- (c) amendments to clause (6) to give effect to the NPSHPL.

¹⁰² Submission reference 00314.053.

¹⁰³ Transpower’s submission is opposed by the further submission made by Hort NZ FS00236.113.

¹⁰⁴ Section 42A Hearing Report Proposed Otago Regional Policy Statement 2021 Chapter 15: UFD – Urban form and development, Brief of Supplementary Evidence of Elizabeth Jane White Urban Form and Development Chapter, and Brief of Second Supplementary Evidence of Elizabeth Jane White UFD – Urban Form and Development (Highly Productive Land).

8.108 I have addressed these amendments in the context of other provisions in the Urban form and development chapter and, for the same reasons as I have given earlier:

- (a) I support the deletion of clause (5);
- (b) I support the inclusion of new clause 3A, subject to a further amendment to give effect to Policy 10 of the NPSET;
- (c) support further amendments to clause (6) to properly give effect to the NPSHPL as follows:

“Expansion of existing urban areas is facilitated where, at minimum, the expansion:

...

(3A) does not compromise the safe and efficient ongoing use maintenance, upgrading and development of nationally significant infrastructure and regionally significant infrastructure.

...

~~(5) manages adverse effects on other values or resources identified by this RPS that require specific management or protection,~~

(6) prioritises the use of avoids, as the first priority, highly productive land, for land-based primary production~~identified in accordance with LF-LS-P19, ...”~~



24 November 2022

Ainsley Jean McLeod

ATTACHMENT A: AMENDMENTS SOUGHT IN AND OR SUPPORTED BY EVIDENCE

The following sets out the amendments to the provisions of the Proposed Otago Regional Plan that are proposed by and supported in evidence. This suite of provisions does not include provisions that are supported in my evidence as recommended in the Section 42A Report.

The Section 42A Report amendments that are relevant to Transpower's relief are shown in black underline and ~~striketrough~~ and the further amendments supported in evidence are shown in red double underline and ~~red double striketrough~~.

PART 1 – INTRODUCTION AND GENERAL PROVISIONS

How the policy statement works

Cross-boundary matters

Amend the commentary in relation to cross-boundary matters as follows:

“Cross-boundary issues can arise in several ways, and generally manifest in issues for either plan preparation and review, or plan administration and the processing of applications for resource consents. Otago’s cross-boundary matters include:

- ~~adverse~~ *effects in one jurisdiction due to the activities in another, particularly including where territorial authority boundaries do not match catchment boundaries, as with the Clutha Mata-au, or the Waitaki River catchment over which Otago and Canterbury Regional Councils share jurisdiction, or Otago’s coastal environment, which covers three territorial authorities’ jurisdictions, and may be affected by land uses in the other two (through sediment flowing down the Clutha Mata-au, for instance);*
- *Kāi Tahu interests, which span Otago as a whole, across local authority boundaries;*
- Natural and physical *resources that cross local authority boundaries which must be managed in a uniform manner, such as outstanding natural features, outstanding natural landscapes and significant natural areas;*
- *differences in policies or methods across plans, particularly where district plans and regional plans are at different planning stages and may be out of step with current regulation;*
- *local, regionally significant infrastructure or nationally significant infrastructure being developed and operated ~~operating~~ across local authority boundaries, as with transport and electricity ~~supply~~ networks, and potentially shared services such as waste disposal; and ...*

...

Cooperation at a national level

Cross-boundary issues may arise that are significant at a national level. This is particularly likely when addressing nationally ~~important~~ significant infrastructure such as the National Grid ~~electricity transmission grid~~ or land transport infrastructure. ...”

Interpretation

Amend the definitions as follows:

Term	Definition
Nationally significant infrastructure	<p>“has, to the extent applicable to the Otago Region, the same meaning as in clause 1.4(1) of the National Policy Statement for Urban Development 2020 (as set out in the box below)</p> <p>means all of the following:</p> <ul style="list-style-type: none">(a) State highways(b) the <u>N</u>ational <u>G</u>rid electricity transmission network(c) renewable electricity generation facilities that connect with the <u>N</u>ational <u>G</u>rid(d) the high pressure gas transmission pipeline network operating in the North Island(e) the refinery pipeline between Marsden Point and Wiri<u>(d)</u> the New Zealand rail network (including light rail)<u>(e)</u> rapid transit services (as defined in this clause)(f) any airport (but not its ancillary commercial activities) used for regular air transport services by aeroplanes capable of carrying more than 30 passengers<u>(g)</u> the port facilities (but not the facilities of any ancillary commercial activities) of each port company referred to in item 6 of Part A of Schedule 1 of the Civil Defence Emergency.”

PART 2 – RESOURCE MANAGEMENT OVERVIEW

SRMR Significant resource management issues for the region

Amend the introductory text to the SRMR as follows:

“Otago’s people and communities rely on ~~the~~ natural and physical resources that Otago’s environment provides to enable their social, economic, and cultural well-being. Natural resources include freshwater (i.e. surface and groundwater, wetlands, estuaries), land and soil, terrestrial, and freshwater ecosystems, coastal and marine ecosystems, and air, landscapes, vegetation and natural landforms. Physical resources include infrastructure, buildings and facilities.

From an economic perspective natural and physical resources support, and are impacted by, agricultural industries (e.g. grazing, cropping, horticulture, viticulture),

urban development, industrial development, infrastructure, energy generation, transport, marine industries (fishing and aquaculture), tourism and mineral extraction. From a social and cultural perspective natural and physical resources support and are impacted by recreation, housing, and cultural activities. ~~(Refer Figure 2)~~
[delete figure 2]

~~Figure 2 Relationships between natural resources, resource use and strategies~~

This RPS identifies the eleven most significant issues impacting the Otago region. Issues firstly considered include natural hazards, climate change, pest species, water quantity and quality, and biodiversity loss, collectively the “natural asset-based issues”. Two “place-based issues” of regional significance are then addressed - being Otago’s coast and Otago’s lake areas. Finally, issues of economic and domestic pressures, cumulative impacts and resilience are considered.

While the issues in this section are considered individually, this RPS considers and responds to them in a joined-up manner as part of a complex system with ~~biophysical~~ environmental limits, inherent uncertainty, potentially irreversible and sometimes catastrophic impacts, and interdependent behaviours.

Each issue is considered in the following manner:

- an issue statement
- context
- impacts on the environment, economy, and society”.

Amend the SRMR to include a new ‘Infrastructure’ Issue based on ‘Rautaki Hanganga o Aotearoa New Zealand Infrastructure Strategy 2022- 2052’.

IM Integrated management

Objective IM-O1 – Long term vision

Amend Objective IM-O1 as follows:

~~“The management of natural and physical resources in Otago, by and for the people of Otago, including in partnership with Kāi Tahu, and as expressed in all resource management plans and decision making, achieves a healthy, and resilient, and safeguarded natural systems environment, and including the ecosystem services they offer it provides, and supports the health, safety and well-being of present and future generations; (mō tātou, ā, mō kā uri ā muri ake nei).”~~

Policy IM-P1 – Integrated approach and Policy IM-P2 – Decision priorities

Delete IM-P1 and IM-P2 and replace with the following:

“IM-P1 – Integrated approach to decision-making

Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions, consider ~~that cannot be resolved by the application of~~ higher order documents, ~~prioritise:~~

~~(1) the life supporting capacity and mauri of the natural environment and the health needs of people, and then~~

~~(2) the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.”~~

Policy IM-P14 – Human impact

Amend IM-P14 as follows

“IM-P14 – Human impact

When preparing regional plans and district plans, Preserve opportunities for future generations by:

~~(1) identifying environmental limits wherever practicable, to both growth and adverse effects of human activities beyond which the environment will be degraded,~~

(2) requiring that providing for activities ~~are established in places, and carried out in ways,~~ that are ~~within those environmental limits and are~~ compatible with the ~~natural~~ capabilities and capacities of the natural and physical resources they rely on, and

(3) regularly assessing the capabilities and capacities of the natural and physical resources ~~and adjusting environmental limits and thresholds for activities over time~~ in light of the actual and potential environmental impacts of activities., including those related to climate change, and

(4) promoting activities that reduce, mitigate, or avoid adverse effects on the environment.”

Policy IM-P15 Precautionary approach

Delete clause (2) of Policy IM-P15 as follows:

“ ... ~~(2) adopt a precautionary approach towards activities whose effects are uncertain, unknown, or little understood, but potentially significantly adverse.”~~

Method IM-M1 – Regional plans and district plans

Delete clause (6) in Method IM-M1 as follows:

~~“(6) establish environmental limits wherever practicable to support clear thresholds for, and limits on, activities that have the potential to adversely affect healthy ecosystem services and intrinsic values.”~~

PART 3 – DOMAINS AND TOPICS

CE – Coastal Environment

Policy CE-P1 Links with other chapters

Amend Policy CE-P1 as follows:

“Implement an integrated approach to managing Otago’s coastal environment which
Recognises that:

...

(x) nationally significant infrastructure in the coastal environment must be managed in accordance with EIT-INF-P13A.”

LF – Land and fresh water: Fresh water

Policy LF-FW-P12 Protecting outstanding water bodies

Amend Policy LF-P12 as follows:

“Identify outstanding water bodies and their significant and outstanding values in the relevant regional plans and district plans and protect those values, except as provided by EIT-INF-P13 and EIT-INF-P13A.”

ECO – Ecosystems

Policy ECO-P4 Provision for new activities

Amend Policy ECO-P4 to delete clause (1) as follows:

~~“(1) the development, operation, maintenance or upgrade of nationally significant infrastructure and regionally significant infrastructure that has a functional need or operational need to locate within the relevant significant natural area(s) or where they may adversely affect indigenous species or ecosystems that are taoka.”~~

Policy ECO-P6 – Maintaining indigenous biodiversity

Amend Policy ECP-P6 as follows:

“Except as provided by EIT-INF-P13, maintain Otago’s indigenous biodiversity ...”

EIT – Energy Infrastructure and Transport: INF – Infrastructure

Objective EIT-INF-04 – Provision of infrastructure

Amend Objective EIT-INF-04 as follows:

“Effective, efficient and resilient infrastructure, nationally significant infrastructure and regionally significant infrastructure enables the people and communities ~~of Otago~~ to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth ~~in within the region, within environmental limits.~~”

Objective EIT-INF-05 – Integration

Amend Objective EIT-INF-05 as follows:

“Development ~~of nationally and regionally significant~~ nationally significant infrastructure and regionally significant infrastructure as well as land use change, occurs in a co-ordinated manner to avoid, remedy or mitigate ~~or minimise~~ adverse effects on the environment and increase efficiency in the delivery, operation and use of the infrastructure.”

New Objective EIT-INF-EN-X

Insert a new Objective as follows:

*“Objective EIT-INF-EN-X – Electricity transmission
The national, regional and local benefits of electricity transmission are realised by the facilitation of the operation, maintenance, upgrade and development of the National Grid.”*

EIT-INF-P11 – Operation and maintenance

Amend Policy EIT-INF-P11 as follows:

“EIT-INF-P11 – Operation and maintenance

~~Except as provided for by ECO – P1, a~~ Allow for the operation and maintenance of existing ~~nationally significant infrastructure and regionally significant~~ infrastructure ~~while:~~

*~~(1) avoiding, as the first priority, significant adverse effects on the environment, and~~
~~(2) if avoidance is not practicable, and for other adverse effects, minimising adverse effects.”~~*

Policy EIT-INF-P13 – Locating and Managing effects of infrastructure

Amend Policy EIT-INF-P13 as follows:

“EIT-INF-P11 – Operation and maintenance

~~Except as provided for by ECO – P4, a~~ Allow for the operation and maintenance of existing ~~nationally significant infrastructure and regionally significant~~ infrastructure while:

~~(1) avoiding, as the first priority, significant adverse effects on the environment, and
(2) if avoidance is not practicable, and for other adverse effects, minimising adverse effects.”~~

“EIT-INF-P13 – ~~Locating and M~~anaging effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment

(1) When providing for the operation, maintenance and minor upgrading of nationally significant infrastructure and regionally significant infrastructure outside the coastal environment, avoid, remedy or mitigate significant adverse effects.

(2) When providing for new, or major upgrades to, infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment:

(a) In urban environments, avoid adverse effects of the National Grid on town centres, areas of high recreation value and existing sensitive activities;

(b) where (a) does not apply, avoid, as the first priority, adverse effects on the characteristics and values ~~locating infrastructure in all~~ of the following:

(i) significant natural areas,

(ii) outstanding natural features and landscapes,

(iii) natural wetlands,

(iv) outstanding water bodies,

(v) areas of high or outstanding natural character,

(vi) areas or places of significant or outstanding historic heritage,

(vii) wāhi tūpuna, wāhi tapu, wāhi taoka, and areas with protected customary rights, and

(viii) areas of high recreational value and areas of high amenity value in rural environments, and

(3) if it is not possible ~~demonstrably~~ practicable to avoid, adverse effects on the characteristics and values of ~~locating in~~ the areas listed in (1) above, because of the functional needs or operational needs of the infrastructure, nationally significant infrastructure and regionally significant infrastructure manage adverse effects as follows:

- (a) for nationally significant infrastructure or regionally significant infrastructure remedy or mitigate adverse effects having regard to:
- (i) the operational needs or functional needs of the National Grid and the extent to which those requirements constrain measures to avoid, remedy or mitigate adverse effects;
 - (ii) the extent to which significant adverse effects are avoided;
 - (iii) the extent to which any adverse effects have been avoided, remedied or mitigated by route, site and method selection;
 - (iv) for upgrades, the extent to which existing adverse effects have been reduced as part of any substantial upgrade;
 - (v) the extent to which adverse effects on urban amenity have been minimised; and
 - (vi) offsetting or compensation residual adverse effects on indigenous biodiversity values that is offered or agreed by an applicant or requiring authority;
- (b) for all infrastructure for all infrastructure that is not nationally significant infrastructure or regionally significant infrastructure, avoid adverse effects on the values that contribute to the area's outstanding nature or significance.

~~in significant natural areas, in accordance with ECO-P4,~~

~~(ii) in natural wetlands, in accordance with the relevant provisions in the NESF,~~

~~(iii) in outstanding water bodies, in accordance with LF-FW-P1,~~

~~(iiia) in relation to wāhi tūpuna, in accordance with HCV-WT-P2~~

~~(iv) in other areas listed in EIT-INF-P13(1) above, minimise the adverse effects of the infrastructure on the values that contribute to the area's importance,~~

~~(4) avoiding, remedying, or mitigating other adverse effects, having regard to the matters in 6(a) to (f).~~"

EIT-INF-P13A – Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment

Amend Policy EIT-INF-P13A as follows:

"EIT-INF-P13A – Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment

(1) When providing for new nationally significant infrastructure within the coastal environment, manage effects in accordance with Policy EIT-INF-P13, but

recognise that there will be areas of the coastal environment where avoidance of adverse effects is required to protect the values and characteristics of those areas.

- (2) When managing the effects of other infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment the provisions of the CE – Coastal environment chapter apply.”

Policy EIT-INF-P14 – Decision making considerations

Delete Policy EIT-INF-P14 in its entirety

Policy EIT-INF-P15 – Protecting nationally or regionally significant infrastructure

Amend Policy EIT-INF-P15 as follows:

“Protect ~~the efficient and effective operation of~~ nationally significant infrastructure and regionally significant infrastructure by ~~avoiding seeking to:~~

- (1) ~~avoid activities and development, including the use of Māori land, that may give rise to an adverse effect, including reverse sensitivity effects, on the functional or operational needs of~~ nationally significant infrastructure or regionally significant infrastructure.
- ~~(2) avoid activities that may result in reverse sensitivity effects on nationally significant infrastructure or regionally significant infrastructure.~~
- (23) ~~avoid~~ activities and development that forecloses an opportunity to adapt, upgrade or develop nationally significant infrastructure or regionally significant infrastructure to meet future demand.”

Policy EIT-INF-P16 – Providing for electricity transmission and the National Grid

Amend Policy EIT-INF-P16 as follows:

“EIT-INF-P16 – Providing for electricity transmission ~~and the National Grid~~
Recognise and provide for the local, regional and national benefits of the National Grid, including the maintenance and improvement of a secure, ~~and sustainable and efficient~~ electricity supply ~~in Otago~~ by:

~~(1A) applying EIT-INF-P13,~~

- (1) ~~providing for development of, and upgrades to, the electricity transmission network and requiring, as far as practicable, its integration with land use,~~
- ~~(2) considering the requirements of and constraints on the functional needs or operational needs of the electricity transmission network,~~
- ~~(3) providing for the efficient and effective development, operation, maintenance, and upgrading of the National Grid,~~

- (4) enabling the reasonable operation, maintenance and minor upgrade requirements of the National Grid established electricity transmission assets, and
- ~~(5) minimising the adverse effects of the electricity transmission network on urban amenity, and avoiding adverse effects on town centres, areas of significance to mana whenua such as wāhi tūpuna, areas of high amenity or recreational value and existing sensitive activities.~~

EIT-INF-M4 – Regional plans

Amend EIT-INF-M4 as follows:

“Otago Regional Council must prepare or amend and maintain its regional plans to:

- (1) *manage the adverse effects of infrastructure activities, including, where appropriate, identifying activities that qualify as minor upgrades, that:*
 - (a) *are in the beds of lakes and rivers, or*
 - (b) *are in the coastal marine area, or*
 - (c) *involve the taking, use, damming or diversion of water or,*
 - (d) *involve the discharge of water or contaminants, and*
- (2) *require the prioritisation of sites for infrastructure where adverse effects on highly valued natural and physical resources and mana whenua values can be avoided or, at the very least, minimised, to the extent practicable.*
- ~~(3) recognise and provide for the operation, maintenance, upgrade and development of the National Grid.”~~

Anticipated environmental results

Amend the Anticipated environmental results as follows:

“EIT-INF-AER7 Nationally significant infrastructure and regionally significant infrastructure is protected from adverse effects, including reverse sensitivity effects caused by incompatible activities.

EIT-INF-AER8 The adverse effects associated with ~~nationally and regionally significant infrastructure~~ infrastructure are avoided, remedied or mitigated~~minimised.~~”

EIT-EN-E1 – Explanation

Amend EIT-EN-E1 as follows:

“... ”

In addition, the policies also contain relevant considerations for the transmission and distribution of electricity, both in terms of the National Grid, significant electricity distribution infrastructure and other electricity ~~transmission and~~ distribution activities.”

EIT-EN-PR – Principal Reasons

Amend EIT-EN-PR as follows:

“ ...

In relation to the National Grid and significant electricity infrastructure (which are both a subset of infrastructure), specific provision is made ~~which recognises some of the operational and functional constraints for electricity transmission and distribution. ~~as well as addressing m~~~~Matters that are required to be given effect to by the NPSET ~~are addressed in respect of the National Grid to which the NPSET applies.~~”

Method EIT-EN-M2 – District plans

Amend Method EIT-EN-M2 as follows:

(5D) where necessary, establishing controls for buildings, structures and other activities adjacent to electricity infrastructure, to ensure the ~~functional needs of that infrastructure is are not compromised based on NZECP34:2001 Electrical Code of Practice for Electrical Safe Distances and the Electricity (Hazards from Trees) Regulations 2003 (prepared under the Electricity Act 1992), ...~~”

HAZ – Hazards and risks

HAZ-NH-Natural hazards

Policy HAZ-NH-P3-New activities

Amend Policy HAZ-NH-P3 as follows:

“Once the level of natural hazard risk associated with an activity has been determined in accordance with HAZ–NH–P2, manage new activities to achieve the following outcomes:

- 1. avoid significant ~~when the natural hazard risk is significant, the activity is avoided,~~*
- 2. when the natural hazard risk is tolerable, manage the level of risk so that it does not ~~become significant~~ exceed tolerable, and*
- 3. when the natural hazard risk is acceptable, maintain the level of risk.”*

HCV – Historical and cultural values

HCV-WT – Wāhi tūpuna

Policy HCT-WT- Management of wāhi tūpuna

Amend Policy HCT-WT as follows:

“Except as provided by EIT-INF-P13 and EIT-INF-P13A ~~w~~Wāhi tūpuna are protected by: ...”

HCV-HH Historic Heritage

Policy HCV-HH-P5 – Managing historic heritage

Amend Policy HCV-HH-P5 as follows:

“Except as provided by EIT-INF-P13 and EIT-INF-P13A, pProtect historic heritage ..

NFL- Natural Features and landscapes

Policy NFL- P3 – Maintenance of highly valued natural features and landscapes

Amend Policy NFL-P3 to include the following:

“(3) managing the adverse effects of infrastructure on the values of highly valued natural features and landscapes in accordance with EIT-INF-P13.”

UFD – Urban form and development

Objective UFD-O4 – Development in rural areas

Amend UFD-O4 as follows:

“Development in Otago’s rural areas occurs in a way that:

- ~~(1) avoids impacts on significant values and features identified in this RPS,~~
- (2) avoids as the first priority, prioritises the use of highly productive land for land-based primary production~~land and soils identified as highly productive by LF-LS P19 unless there is an operational need or functional need for the development to be located in rural areas, ...~~
- ...
- (x) facilitates the safe and efficient ongoing use, maintenance, upgrade and development of nationally significant infrastructure and regionally significant infrastructure.”

Policy UFD-P3 – Urban intensification

Amend UFD-P3 as follows:

~~“Within Provide for intensification in urban areas intensification is enabled where, as a minimum, it: ...~~

(2A) does not compromise the safe and efficient ongoing use, maintenance, upgrading and development of nationally significant infrastructure

...

~~(6) manages adverse effects on values or resources identified by this RPS that require specific management or protection.”~~

Policy UFD-P4 – Urban expansion

Amend UFD-P4 as follows:

“Expansion of existing urban areas is facilitated where, at minimum, the expansion:

...

~~(3A) does not compromise the safe and efficient ongoing use maintenance, upgrading and development of nationally significant infrastructure and regionally significant infrastructure.~~

...

~~(5) manages adverse effects on other values or resources identified by this RPS that require specific management or protection,~~

~~(6) prioritises the use of ~~avoids, as the first priority,~~ highly productive land, for land-based primary production identified in accordance with LF-LS-P19, ...”~~

ATTACHMENT B

NATIONAL POLICY STATEMENT

on Electricity Transmission

Issued by notice in the Gazette on 13 March 2008

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Preamble

This national policy statement sets out the objective and policies to enable the management of the effects of the electricity transmission network under the Resource Management Act 1991.

In accordance with section 55(2A)(a) of the Act, and within four years of approval of this national policy statement, local authorities are to notify and process under the First Schedule to the Act a plan change or review to give effect as appropriate to the provisions of this national policy statement.

The efficient transmission of electricity on the national grid plays a vital role in the well-being of New Zealand, its people and the environment. Electricity transmission has special characteristics that create challenges for its management under the Act. These include:

- Transporting electricity efficiently over long distances requires support structures (towers or poles), conductors, wires and cables, and sub-stations and switching stations.
- These facilities can create environmental effects of a local, regional and national scale. Some of these effects can be significant.
- The transmission network is an extensive and linear system which makes it important that there are consistent policy and regulatory approaches by local authorities.
- Technical, operational and security requirements associated with the transmission network can limit the extent to which it is feasible to avoid or mitigate all adverse environmental effects.
- The operation, maintenance and future development of the transmission network can be significantly constrained by the adverse environmental impact of third party activities and development.
- The adverse environmental effects of the transmission network are often local – while the benefits may be in a different locality and/or extend beyond the local to the regional and national – making it important that those exercising powers and functions under the Act balance local, regional and national environmental effects (positive and negative).
- Ongoing investment in the transmission network and significant upgrades are expected to be required to meet the demand for electricity and to meet the Government’s objective for a renewable energy future, therefore strategic planning to provide for transmission infrastructure is required.

The national policy statement is to be applied by decision-makers under the Act. The objective and policies are intended to guide decision-makers in drafting plan rules, in making decisions on the notification of the resource consents and in the determination of resource consent applications, and in considering notices of requirement for designations for transmission activities.

However, the national policy statement is not meant to be a substitute for, or prevail over, the Act’s statutory purpose or the statutory tests already in existence. Further, the national policy statement is subject to Part 2 of the Act.

For decision-makers under the Act, the national policy statement is intended to be a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act.

This preamble may assist the interpretation of the national policy statement, where this is needed to resolve uncertainty.

1. Title

This national policy statement is the National Policy Statement on Electricity Transmission 2008.

2. Commencement

This national policy statement comes into force on the 28th day after the date on which it is notified in the *Gazette*.

3. Interpretation

In this national policy statement, unless the context otherwise requires:

Act means the Resource Management Act 1991.

Decision-makers means all persons exercising functions and powers under the Act.

Electricity transmission network, electricity transmission and transmission activities/assets/infrastructure/resources/system all mean part of the national grid of transmission lines and cables (aerial, underground and undersea, including the high-voltage direct current link), stations and sub-stations and other works used to connect grid injection points and grid exit points to convey electricity throughout the North and South Islands of New Zealand.

National environmental standard means a standard prescribed by regulations made under the Act.

National grid means the assets used or owned by Transpower NZ Limited.

Sensitive activities includes schools, residential buildings and hospitals.

4. Matter of national significance

The matter of national significance to which this national policy statement applies is the need to operate, maintain, develop and upgrade the electricity transmission network.

5. Objective

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.

6. Recognition of the national benefits of transmission

POLICY 1

In achieving the purpose of the Act, decision-makers must recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission. The benefits relevant to any particular project or development of the electricity transmission network may include:

- i) maintained or improved security of supply of electricity; or
- ii) efficient transfer of energy through a reduction of transmission losses; or
- iii) the facilitation of the use and development of new electricity generation, including renewable generation which assists in the management of the effects of climate change; or
- iv) enhanced supply of electricity through the removal of points of congestion.

The above list of benefits is not intended to be exhaustive and a particular policy, plan, project or development may have or recognise other benefits.

7. Managing the environmental effects of transmission

POLICY 2

In achieving the purpose of the Act, decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.

POLICY 3

When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision-makers must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network.

POLICY 4

When considering the environmental effects of new transmission infrastructure or major upgrades of existing transmission infrastructure, decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection.

POLICY 5

When considering the environmental effects of transmission activities associated with transmission assets, decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets.

POLICY 6

Substantial upgrades of transmission infrastructure should be used as an opportunity to reduce existing adverse effects of transmission including such effects on sensitive activities where appropriate.

POLICY 7

Planning and development of the transmission system should minimise adverse effects on urban amenity and avoid adverse effects on town centres and areas of high recreational value or amenity and existing sensitive activities.

POLICY 8

In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

POLICY 9

Provisions dealing with electric and magnetic fields associated with the electricity transmission network must be based on the International Commission on Non-ionising Radiation Protection *Guidelines for limiting exposure to time varying electric magnetic fields (up to 300 GHz)* (Health Physics, 1998, 74(4): 494-522) and recommendations from the World Health Organisation monograph *Environment Health Criteria* (No 238, June 2007) or revisions thereof and any applicable New Zealand standards or national environmental standards.

8. Managing the adverse effects of third parties on the transmission network

POLICY 10

In achieving the purpose of the Act, decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.

POLICY 11

Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its medium to long-term plans for the alteration or upgrading of each affected section of the national grid (so as to facilitate the long-term strategic planning of the grid).

9. Maps

POLICY 12

Territorial authorities must identify the electricity transmission network on their relevant planning maps whether or not the network is designated.

10. Long-term strategic planning for transmission assets

POLICY 13

Decision-makers must recognise that the designation process can facilitate long-term planning for the development, operation and maintenance of electricity transmission infrastructure.

POLICY 14

Regional councils must include objectives, policies and methods to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses.

Explanatory note

This note is not part of the national policy statement but is intended to indicate its general effect

This national policy statement comes into force 28 days after the date of its notification in the *Gazette*. It provides that electricity transmission is a matter of national significance under the Resource Management Act 1991 and prescribes an objective and policies to guide the making of resource management decisions.

The national policy statement requires local authorities to give effect to its provisions in plans made under the Resource Management Act 1991 by initiating a plan change or review within four years of its approval.