

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHĪ

Decision No. [2025] NZEnvC 323

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First
Schedule to the Act

BETWEEN ARA POUTAMA AOTEAROA
DEPARTMENT OF
CORRECTIONS (and twelve other
appeals as set out in Schedule One to
this Order)

(ENV-2024-CHC-21)

Appellants

AND OTAGO REGIONAL COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 2 October 2025

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

¹ Resource Management Act 1991.



- (1) the following appeal points are allowed subject to the amendment of the provisions of the proposed Otago Regional Policy Statement (Non-freshwater) 2021 (PORPS) as set out in **Annexure 1**, attached to and forming part of this Order:

- (a) Meridian Energy Limited's appeal points in relation to:
 - (i) EIT-INF-P13 – Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment;
 - (ii) EIT-EN-P6 – Managing effects; and
 - (iii) HCV-WT-P2 – Management of effects on wāhi tupuna.
- (b) Aurora Energy Limited, Network Waitaki Limited, and PowerNet Limited's appeal points in relation to:
 - (i) Definition: Significant electricity distribution infrastructure;
 - (ii) EIT-INF-P13;
 - (iii) EIT-EN-P8 – Small and community scale distributed electricity generation;
 - (iv) LF-FW-P12 – Identifying and managing outstanding water bodies; and
 - (v) LF-FW-P13 – Preserving natural character and instream values.
- (c) Royal Forest & Bird Protection Society of New Zealand Incorporated's appeal points in relation to:
 - (i) Definition: Commercial port activity;
 - (ii) Definition: Regionally significant infrastructure;
 - (iii) EIT-INF-O4 – Provision of infrastructure;
 - (iv) EIT-INF-O5 – Integration;
 - (v) EIT-INF-P12 – Upgrades and development;
 - (vi) EIT-INF-P13;

- (vii) EIT-EN-O2 – Renewable electricity generation;
 - (viii) EIT-EN-P1 – Operation, maintenance and upgrade;
 - (ix) EIT-EN-P2 – Recognising renewable electricity generation activities in decision making;
 - (x) EIT-EN-P4 – Identifying new sites or resources;
 - (xi) EIT-EN-P5 – Non-renewable energy generation;
 - (xii) EIT-EN-M1 – Regional plans;
 - (xiii) EIT-EN-M2 – District plans;
 - (xiv) EIT-TRAN-O10 – Commercial port activities;
 - (xv) EIT-TRAN-P23 – Commercial port activities; and
 - (xvi) EIT-EN-M7 – Regional Plans.
- (d) Cain Whānau’s appeal points in relation to:
- (i) EIT-INF-P12;
 - (ii) EIT-INF-P13;
 - (iii) EIT-INF-P13A – Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment;
 - (iv) EIT-INF-P14 – Decision making considerations;
 - (v) EIT-INF-P15 – Protecting nationally significant infrastructure and regionally significant infrastructure;
 - (vi) EIT-INF-P16 [deleted in Decisions Version];
 - (vii) EIT-INF-P17 – Urban Growth and infrastructure;
 - (viii) EIT-EN-M1;
 - (ix) EIT-EN-M2; and
 - (x) EIT-EN-PR1 – Principal reasons.
- (e) Manawa Energy Limited’s appeal points in relation to:
- (i) EIT-INF-P13;
 - (ii) EIT-EN-O1 – Energy and social and economic wellbeing;
 - (iii) EIT-EN-O2A – Greenhouse gas emissions and renewable energy targets;
 - (iv) EIT-EN-P5;

- (v) EIT-EN-P6;
 - (vi) EIT-EN-P7 – Reverse sensitivity;
 - (vii) EIT-EN-M2;
 - (viii) EIT-EN-AER1; and
 - (ix) EIT-EN-AER3.
- (f) Transpower New Zealand Limited’s appeal points in relation to:
- (i) EIT-INF-O5;
 - (ii) EIT-INF-O6 – Long-term planning for electricity transmission infrastructure [deleted in Decisions Version];
 - (iii) EIT-INF-P13;
 - (iv) EIT-INF-P13A;
 - (v) EIT-INF-P15;
 - (vi) EIT-INF-PX;
 - (vii) EIT-INF-M4 – Regional plans;
 - (viii) EIT-INF-M5 – District plans;
 - (ix) EIT-EN-P16 – Providing for the National Grid;
 - (x) LW-FW-P12;
 - (xi) CE-P4 – Natural character;
 - (xii) CE-P5 – Coastal indigenous biodiversity;
 - (xiii) CE-P6 – Natural features and landscapes;
 - (xiv) ECO-P4 – Provisions for new activities;
 - (xv) ECO-P5 – Existing activities in significant natural areas;
 - (xvi) ECO-P6 – Maintaining indigenous biodiversity;
 - (xvii) Definition: Effects management hierarchy (in relation to indigenous biodiversity); and
 - (xviii) HCV-WT-P2.
- (g) Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Poketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o ŌRAKA Aparima, and Te Rūnanga o Awarua, and Te Rūnanga o Ngāi Tahu’s appeal points in relation to:

- (i) Definition: Regionally significant infrastructure;
 - (ii) EIT-INF-P12;
 - (iii) EIT-INF-P13A;
 - (iv) EIT-INF-P14;
 - (v) EIT-EN-P6; and
 - (vi) EIT-EN-P9A – Providing for electricity distribution.
- (h) Environmental Defence Society’s appeal points in relation to:
- (i) Definition: Commercial port activity;
 - (ii) EIT-INF-O4;
 - (iii) EIT-INF-P12;
 - (iv) EIT-INF-P13;
 - (v) EIT-EN-O2;
 - (vi) EIT-EN-P1;
 - (vii) EIT-EN-P4;
 - (viii) EIT-EN-P5;
 - (ix) EIT-EN-P6;
 - (x) EIT-EN-M1;
 - (xi) EIT-EN-M2;
 - (xii) EIT-TRAN-O10;
 - (xiii) EIT-TRAN-P23; and
 - (xiv) EIT-TRAN-M7.
- (i) Queenstown Airport Corporation’s appeal points in relation to:
- (i) EIT-INF-O4;
 - (ii) EIT-INF-O5;
 - (iii) EIT-INF-OX [new objective sought];
 - (iv) EIT-INF-OXX [new objective sought];
 - (v) EIT-INF-P12;
 - (vi) EIT-INF-P13;
 - (vii) EIT-INF-P14; and
 - (viii) EIT-INF-P15.

- (2) the appeals, in respect of the Energy, Infrastructure and Transport chapter, new definitions and other provisions of the PORPS addressed in this Order, are otherwise dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[2] This proceeding concerns appeals filed against parts of the decisions by the Otago Regional Council (ORC) on the proposed Otago Regional Policy Statement (Non-freshwater) 2021 (PORPS) in relation to provisions in the Energy, Infrastructure and Transport chapter (EIT) located in 'Part 3 – Domain and Topics.

[3] The EIT chapter includes three subchapters:

- (a) INF – Infrastructure;
- (b) EN – Energy; and
- (c) TRAN – Transport.

[4] Thirteen appellants sought amendments to the provisions of the EIT chapter:

- (a) Ara Poutama Department of Corrections (Ara Poutama);
- (b) Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird);
- (c) Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o Ōraka Aparima, and Te Rūnanga o Awarua and Te Rūnanga o Ngāi Tahu (Kāi Tahu);

- (d) Aurora Energy Limited, Network Waitaki Limited, PowerNet Limited – electricity distribution businesses (EDBs);
- (e) Environmental Defence Society Incorporated (EDS);
- (f) Transpower New Zealand Limited (Transpower);
- (g) Queenstown Airport Corporation Limited (QAC);
- (h) Queenstown Lakes District Council (QLDC);
- (i) New Zealand Transport Agency – Waka Kotahi (NZTA);
- (j) Manawa Energy Limited (Manawa Energy);
- (k) Cain Whānau;
- (l) Meridian Energy Limited (Meridian Energy); and
- (m) Port Otago Limited (POL).

INF – Infrastructure

Regionally significant infrastructure

[5] Ara Poutama, Forest & Bird and Kāi Tahu appealed the Decisions Version of the definition for ‘Regionally significant infrastructure’.

Ara Poutama

[6] Ara Poutama’s appeal sought that “Otago Corrections Facility and community corrections activity” be included as regionally significant infrastructure in the PORPS. As secondary relief, Ara Poutama sought “any such alternative or consequential amendments to give effect to this relief”. Ara Poutama’s position was that its facilities were an essential social function which is necessary for the effective functioning of the justice system and the health, safety, and wellbeing of all New Zealanders.

[7] Kāi Tahu and QAC gave notice of an intention to join this part of Ara Poutama’s appeal under s274 RMA.

Forest & Bird

[8] Forest & Bird’s appeal sought the removal of significant electricity distribution infrastructure, established community-scale irrigation and stockwater infrastructure, oil terminals, bulk fuel storage and supply infrastructure, and ancillary pipelines at Port Chalmers and Dunedin and landfills and associated solid waste sorting and transfer facilities which are designated by or are owned or operated by a local authority from the definition for ‘Regionally significant infrastructure’. Forest & Bird’s appeal sought, in the alternative, “any wording that would adequately address the reasons for its appeal” and “any consequential changes made necessary by the relief sought”.

[9] Forest & Bird also sought amendments to clauses (2) and (4) of the definition for clarity. Forest & Bird’s position was that the definition captured too many activities which are not of regional significance which was inappropriate, created uncertainty and resulted in some provisions no longer giving effect to national direction. In relation to community-scale irrigation and stockwater infrastructure, Forest & Bird was concerned that it was too uncertain what constituted ‘community-scale irrigation’.

[10] The following persons gave notice of an intention to join this part of Forest & Bird’s appeal under s274 RMA:

- (a) Director-General of Conservation (DGC);
- (b) QLDC;
- (c) Ara Poutama;
- (d) Darby Asset Management LP (Darby Planning);
- (e) Mount Cardrona Station Limited (MCSL);
- (f) QAC;
- (g) Real Group Limited (RealNZ);
- (h) EDBs;
- (i) Chorus New Zealand Limited, One New Zealand Group Limited and

- Spark New Zealand Trading Limited (the Telcos);
- (j) Dunedin City Council (DCC);
- (k) Otago Water Resource Users Group (OWRUG);
- (l) Falls Dam Irrigation Company Limited (Falls Dam);
- (m) Maniototo Irrigation Company Limited;
- (n) Federated Farmers of New Zealand (Federated Farmers);
- (o) Meridian Energy;
- (p) POL;
- (q) BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (The Fuel Companies);
- (r) Forest & Bird; and
- (s) Waitaki Irrigators Collective Limited (WIC).

Kāi Tahu

[11] The Kāi Tahu appeal sought the removal of established community-scale irrigation and stockwater infrastructure, landfills and associated solid waste sorting and transfer facilities which are designated by or are owned by a local authority and ski area infrastructure from the definition for ‘Regionally significant infrastructure’. The Kāi Tahu appeal sought, in the alternative, “any such further, alternative or consequential amendments required to give effect to this relief”.

[12] The Kāi Tahu position was that it was inappropriate to expand the definition for ‘Regionally significant infrastructure’ in the notified PORPS beyond what could be considered lifeline utilities. In relation to community-scale irrigation, Kāi Tahu said it was unclear what “community-scale” was. Further, “established” infrastructure included networks or water races and storage dams that were established around 100 years ago without consideration of the values of affected water bodies, are inefficient and may need significant maintenance or replacement. The parties considered that this would have a perverse effect of favouring the ongoing maintenance of those networks above their replacement that is more fit-for-purpose and that will provide for the outcomes required by the

NPS-FM.

[13] In relation to the ski area infrastructure, Kāi Tahu had concerns that its inclusion as regionally significant infrastructure would give priority to a commercial activity which takes place in areas with highly vulnerable ecosystems. Kāi Tahu also noted that landfills and waste facilities did not meet the definition for infrastructure under the Act.

[14] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal under s274 RMA:

- (a) Cain Whānau;
- (b) EDBs;
- (c) DGC;
- (d) Ara Poutama;
- (e) Otago and Central South Island Fish and Game Councils (Fish & Game);
- (f) POL;
- (g) QAC;
- (h) QLDC;
- (i) Falls Dam;
- (j) Federated Farmers;
- (k) MIC;
- (l) OWRUG;
- (m) WIC;
- (n) RealNZ; and
- (o) NZSki Limited (NZSki).

Resolution

[15] The parties proposed that the definition for ‘Regionally significant infrastructure’ be amended as follows (henceforth, additions are shown in underline and deletions are shown in strikethrough):

means:

1. roads which provide a lifeline connection for a community OR roads classified as being of regional importance in accordance with the One Network Framework;
2. electricity sub-transmission infrastructure;
- (2A) significant electricity distribution infrastructure;
3. renewable electricity generation facilities that connect with the local distribution network but not including renewable electricity generation facilities designed and operated principally for supplying a single premise or facility;
4. networks for the purpose of telecommunication and radiocommunication networks as respectively defined in section 5 of the Telecommunications Act 2001 and in section 2 of the Radiocommunications Act 1989,
5. public transport, terminals and stations;
6. the following airports: Dunedin, Queenstown, Wānaka, Alexandra, Balclutha, Cromwell, Ōamaru, Taiari;
7. navigation infrastructure associated with airports and commercial ports which are nationally or regionally significant;
8. defence facilities for defence purposes in accordance with the Defence Act 1990;
- (8A) established *community-scale irrigation and stockwater infrastructure*;
9. community drinking water abstraction, supply treatment and distribution infrastructure that provides no fewer than 25 households with drinking water for not less than 90 days each calendar year, and community water supply abstraction, treatment and distribution infrastructure (excluding delivery systems or infrastructure primarily deployed for the delivery of water for irrigation of land or rural agricultural drinking-water supplies),
10. community stormwater infrastructure;
11. wastewater and sewage collection, treatment and disposal infrastructure serving no fewer than 25 households;
- (11A) oil terminals, bulk fuel storage and supply infrastructure, and ancillary pipelines at Port Chalmers and Dunedin Bulk Port;
12. Otago Regional Council's hazard mitigation works including flood protection infrastructure and drainage schemes;
13. ~~landfills and associated solid waste sorting and transfer facilities which are designated by, or are owned or operated by a local authority;~~
14. ski area infrastructure at Remarkables, Cardrona, Treble Cone and

Coronet Peak; and

15. any infrastructure identified as nationally significant infrastructure.

[16] The parties advised that the agreed amendments in clause (4) respond to Forest & Bird’s appeal point. The amendments link “telecommunication” and “radiocommunication” to the relevant acts where they are defined.

[17] Further, while the parties agree on the importance of the Otago Corrections Facility and community corrections activity, the parties disagreed on whether this facility/activity fitted comfortably within the definition for ‘infrastructure’ in s2 RMA. The parties have instead agreed that Ara Poutama’s appeal point on the definition for ‘Regionally significant infrastructure’ could be resolved by amendments to UFD-P7 to recognise the national and regional importance of the Otago Corrections Facility in accordance with Ara Poutama’s relief set out at paragraph [6] of its notice of appeal. The parties advised that that policy and related discussion will be part of the consent memorandum for ‘LF – Land and freshwater’.

[18] The parties advised that deletion of clause (13) responds to Forest & Bird and the Kāi Tahu appeal points. The parties agreed that while important, landfills and waste facilities are not infrastructure as defined in s2 RMA. Instead, the parties have agreed that the importance of landfills can be recognised in a new policy in the ‘HAZ – Hazards and risks’ chapter. The new policy and related discussion was inserted by the consent order issued on 12 September 2025.²

[19] The parties advised that the amendments to clause (14) respond to the Kāi Tahu appeal point. The amendments limit the status of ‘Regionally significant infrastructure’ to the four main existing ski fields.

[20] Further to the agreed amendments to the definition for ‘Regionally significant infrastructure’, in response Kāi Tahu and Forest & Bird’s appeal points

² [2025] NZEnvC 307.

seeking to remove “established community scale irrigation and stockwater infrastructure” from the definition, the parties agreed to include a definition for ‘Community-scale irrigation infrastructure’ and a new policy ‘EIT-INF-PZ – Established community-scale irrigation and stockwater infrastructure’.

[21] The new definition reads:

Community-scale irrigation and stockwater infrastructure means
infrastructure to take, convey or store water for irrigation or stock drinking water
that supplies water to five or more properties and that is administered by a trust,
company, incorporated society, or other legal entity.

[22] The new policy reads:

EIT-INF-PZ – Established community-scale irrigation and stockwater
infrastructure

Encourage and provide for the upgrade of established community-scale and
stockwater infrastructure to the maintenance of existing infrastructure where this
will contribute to achieving the long-term visions for freshwater.

[23] The parties consider that the new definition addresses the uncertainty identified by Kāi Tahu and Forest & Bird as it makes it explicit what is meant and captured by ‘community-scale irrigation and stockwater infrastructure’.

[24] The new policy addresses the concern about the potential for perverse effects that could arise if ongoing maintenance of old irrigation and stockwater infrastructure is given more favourable treatment than their replacement with infrastructure that is more fit-for-purpose. The parties consider that the new policy gives effect to the NPS-FM.

Scope

[25] In its Minute dated 12 August 2025, the court directed that counsel are to include outstanding appeal points on a relevant topic, with an explanation as to

how these appeal points are to be resolved, raising any potential issues of scope.

[26] The parties advised that the following appeal points on the definition for ‘Regionally significant infrastructure’ will only be resolved in full by the inclusion of new policies for:

- (a) the Ara Poutama appeal, a new policy in the ‘LF – Land and freshwater’ chapter;
- (b) the Forest & Bird and the Kāi Tahu appeals seeking to delete landfills and associated solid waste sorting and transfer facilities from the definition, a new policy in the ‘HAZ – Hazards and risks’ chapter;
- (c) the Forest & Bird and the Kāi Tahu appeals seeking to delete established community-scale irrigation and stockwater infrastructure from the definition, a new policy and definition for ‘community-scale irrigation and stockwater infrastructure’ within the EIT chapter.

[27] The relief must not go beyond what is fairly and reasonably raised in the respective appellants’ submissions³ and notices of appeal on the PORPS.⁴

[28] Ara Poutama, Forest & Bird and Kāi Tahu each submitted on and subsequently appealed on the definition for ‘Regionally significant infrastructure’.

[29] The assessment of whether any amendment is reasonably and fairly raised is to be approached in a realistic workable fashion, not from the perspective of legal nicety.⁵

[30] The significant of the appeal points (and preceding submissions) seeking to

³ *Re Vivid Holdings* [1999] NZRMA 467 at [19] and *Countdown Properties (Northlands) Ltd v Dunedin City Council* (1994) HC Wellington AP 214/93, 13 February 1996, at 41 as applied in *Albany North Landowners v Auckland Council* [2017] NZHC 138 at [115].

⁴ *Gertrudes Saddlery Ltd v Arthurs Point Natural Landscape Society Ltd* [2021] NZCA 398 at [25] and [26], *Transit New Zealand v Pearson* [2002] NZRMA 318 at paragraphs [45], [46] and [47].

⁵ *Royal Forest and Bird Protection Society Inc v Southland District Council* [1997] NZRMA 408 at 413.

include or exclude elements from the definition of ‘Regionally significant infrastructure’ is that a more enabling policy framework applies to regionally significant infrastructure.

[31] The substantive issue raised by these appeal points is whether the enabling policy framework for ‘Regionally significant infrastructure’ should apply to landfills, community-scale irrigation infrastructure and correction facilities.

[32] The parties advised that the potential (within scope) outcomes which flow from this issue are:

- (a) the enabling policy framework for ‘Regionally significant infrastructure’ does apply (i.e. the activity is included in the definition); or
- (b) the enabling policy framework for ‘Regionally significant infrastructure’ does not apply (i.e. the activity is not included in the definition) and no policy recognition is given; or
- (c) some policy recognition is given, but not to the full extent afforded to ‘Regionally significant infrastructure’.

[33] They advised that, in each instance, the agreed alternative relief is the third of these possibilities i.e. some policy recognition is given but not to the full extent afforded to ‘Regionally significant infrastructure’, or in the case of the appeals on established community-scale irrigation and stockwater infrastructure, to apply that policy recognition to a defined class of activity, in addition to the new policy.

[34] For the agreed relief on each appeal point additional provisions (or definitions) are proposed. The parties consider that this does not, of itself, bear on scope, but that it reflects that the full policy recognition applying to ‘Regionally significant infrastructure’ will not apply, and the agreed more limited policy recognition needs to be recorded in an appropriate location within the PORPS (or will apply to a defined class of activity). The parties advised that the alternative relief for these three appeal points is within scope because:

- (a) each appeal point relates to whether the enabling policy framework applicable to ‘Regionally significant infrastructure’ should apply to the activity at issue;
- (b) in each case the agreed relief is to provide similar but more limited policy recognition, or to provide the same policy recognition to a defined class of activity; and
- (c) recording this in new provisions (or definitions), and the location of those provisions in the PORPS, is a drafting matter, not a matter going to scope.

[35] The agreed new policies (and definitions) fall on the spectrum of within-scope outcomes on each appeal point for each class of activity i.e. the full enabling policy framework for ‘Regionally significant infrastructure’, no recognition, or somewhere in between.

[36] Accordingly, had the relief now agreed been set out in the notices of appeal, no person who had not already joined the appeal would have had cause to do so. The parties consider that the limited (or more refined) policy recognition now agreed on each appeal point is subsumed within the broader issue on each appeal, which is whether the activity at issue should be part of the enabling policy framework for ‘Regionally significant infrastructure’.

[37] Whilst not requiring a new policy, the Kāi Tahu appeal seeking deletion of “ski area infrastructure” from the definition for ‘Regionally significant infrastructure’ has been resolved by amendments to the definition to refer only to named commercial ski fields. Similar to the relief agreed for established ‘community-scale irrigation and stockwater infrastructure’, the parties consider that the amendments fall somewhere in the middle between the relief sought in the appeal and the Decisions Version, and are therefore within scope for the same reasons as the new policies and definitions above.

[38] The parties consider that the amendments to the definition for ‘Regionally

significant infrastructure’, the inclusion of a definition for ‘community-scare irrigation and stockwater infrastructure’ and new Policy ‘EIT-INF-PZ – Established community-scare irrigation and stockwater infrastructure and the addition of HAZ-CL-PX concerning municipal landfills and UFD-P7(7) concerning the Otago Corrections Facility (for which orders were made in the consent order dealing with the HAZ chapter⁶ and for which orders will be sought in the consent memorandum foreshadowed by the parties which will deal with the ‘LF – Land and freshwater’ chapter) are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(a) and 7(b).

EIT-INF-O4 – Provision of infrastructure

[39] EDS, Forest & Bird and QAC appealed the Decisions Version of objective ‘EIT-INF-O4 – Provision of infrastructure’.

EDS and Forest & Bird’s appeals

[40] In their respective appeals, EDS and Forest & Bird (the Societies) sought that the words “within environmental limits” be reinstated in line with the Notified Version of the objective. The Societies were concerned about “unconstrained growth” and their position was that “environmental limits” are akin to environmental bottom lines which are contained in various national policy statements.

[41] The following persons gave notice of an intention to join this part of the Societies’ appeals under s274 RMA:

- (a) EDBs;
- (b) DGC;
- (c) Ara Poutama;
- (d) Fish & Game;

⁶ [2025] NZEnvC 307.

- (e) Manawa Energy;
- (f) Meridian Energy;
- (g) NZTA;
- (h) OWRUG;
- (i) QAC
- (j) QLDC;
- (k) Transpower;
- (l) Darby Planning;
- (m) Falls Dam;
- (n) MIC;
- (o) WIC; and
- (p) the Telcos.

QAC

[42] QAC's appeal sought the insertion of various new limbs into EIT-INF-O4. QAC's position was that the PORPS contained no objectives for the management of the effects of regionally or nationally significant infrastructure, or the management of effects of incompatible activities on this infrastructure.

[43] The following persons gave notice of an intention to join this part of QAC's appeal under s274 RMA:

- (a) Ara Poutama;
- (b) the Telcos;
- (c) EDBs;
- (d) Fish & Game;
- (e) DGC;
- (f) Forest & Bird;
- (g) Kāi Tahu;
- (h) Meridian Energy; and
- (i) QLDC.

Resolution

[44] The parties proposed that EIT-INF-O4 be amended as follows:

EIT-INF-O4 – Provision of infrastructure

Effective, efficient, safe and resilient infrastructure, nationally significant infrastructure and regionally significant infrastructure enables the people and communities to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth in the region, while adverse effects are managed.

[45] The parties advised that the addition of the new text in the last sentence responds to the Societies' appeal point. The parties consider that the addition provides high-level policy direction on the management of growth in the region by making clear that growth is not "unconstrained"; that the adverse effects of growth and development must be managed.

[46] Further to the amendment to EIT-INF-O4, the parties have agreed it was preferable to include a new objective specifically responding to QAC's appeal point. Rather than including additional limbs into EIT-INF-O4, the parties have proposed the following new objective:

EIT-INF-OX – Protecting infrastructure with national or regional significance

Regionally significant infrastructure and nationally significant infrastructure are not compromised by subdivision, use and development.

[47] The parties consider that the new objective provides policy direction on the management of subdivision, use and development activities that are potentially incompatible, to ensure regionally and nationally significant infrastructure are not compromised.

[48] The parties consider that the amendments to EIT-INF-O4 and the inclusion of the new Objective EIT-INF-OX are within the jurisdiction of the

court and give effect to the relevant parts of Act, including ss5 and 7(b).

EIT-INF-O5 – Integration

[49] Transpower, QAC and Forest & Bird appealed the Decisions Version of ‘EIT-INF-O5 – Integration’.

Transpower

[50] Transpower’s appeal sought amendments to this objective to make clear that it did not apply to the National Grid. Transpower’s position was that the text “minimising adverse effects” in the objective could be misconstrued as applying to the adverse effects of the National Grid; and this would not be consistent with the National Policy Statement for Electricity Transmission (NPS-ET).

[51] The following persons gave notice of an intention to join this part of Transpower’s appeal under s274 RMA:

- (a) QAC;
- (b) Fish & Game;
- (c) DGC;
- (d) EDBs;
- (e) EDS;
- (f) Forest & Bird;
- (g) Kāi Tahu; and
- (h) QLDC.

QAC

[52] QAC’s appeal sought the deletion of this objective. QAC’s position was that the objective conflates different outcomes resulting in the intent of the objective being unclear.

[53] The following persons gave notice of an intention to join this part of QAC's appeal under s274 RMA:

- (a) Ara Poutama;
- (b) Meridian Energy;
- (c) Transpower;
- (d) Fish & Game;
- (e) EDS;
- (f) DGC;
- (g) Forest & Bird;
- (h) Kāi Tahu; and
- (i) QLDC.

Forest & Bird

[54] Forest & Bird's appeal sought amendments to confine the objective to regionally and nationally significant infrastructure and strengthen the management framework for adverse effects, noting that sometimes adverse effects must be avoided under national direction.

[55] The following persons gave notice of an intention to join this part of Forest & Bird's appeal under s274 RMA:

- (a) DGC;
- (b) DCC;
- (c) Darby Planning;
- (d) Fish & Game;
- (e) QAC;
- (f) QLDC;
- (g) Ara Poutama;
- (h) EDBs;
- (i) Falls Dam;
- (j) MIC;

- (k) Meridian Energy;
- (l) OWRUG;
- (m) Transpower; and
- (n) WIC.

Resolution

[56] The parties proposed that EIT-INF-O5 be amended as follows:

EIT-INF-O5 – Integration

Development of infrastructure ~~and, as well as~~ land use change is coordinated, where appropriate, ~~occurs in a co-ordinated manner to minimise adverse effects on the environment and increase efficient in the delivery, operation and use of the infrastructure.~~

[57] The parties consider that the amendments simplify the objective and clarify its intent as sought by QAC. The simplification addresses Transpower’s concern that plan users may interpret “minimise adverse effects” as applying to the National Grid.

[58] The parties advised that the addition of “where appropriate” responds to Forest & Bird’s appeal point, as it makes clear that there may be circumstances where development is inappropriate, such as when development would conflict with national direction or matters of national importance in s6 RMA.

[59] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5 and 7(b).

EIT-INF-P12 – Upgrades and development

[60] EDS, Forest & Bird, QAC and Kāi Tahu appealed the Decisions Version of policy ‘EIT-INF-P12 – Upgrades and development’.

[61] All four appeals sought the addition of a new clause in EIT-INF-P12 for

differing reasons.

The Societies

[62] In their respective appeals, the Societies sought the addition of a new clause in EIT-INF-P12 to require that development and upgrades of infrastructure occur in the context of also protecting, maintaining and restoring indigenous biodiversity and other matters of national importance. The Societies' position was that an additional clause was necessary to achieve this.

[63] The following persons gave notice of an intention join this part of EDS's appeal under s274 RMA:

- (a) DGC;
- (b) Forest & Bird;
- (c) Fish & Game;
- (d) QAC;
- (e) QLDC;
- (f) Ara Poutama;
- (g) EDBs;
- (h) Manawa Energy;
- (i) NZTA;
- (j) Meridian Energy;
- (k) OWRUG; and
- (l) Transpower.

[64] The following persons gave notice of an intention to join this part of Forest & Bird's appeal under s274 RMA:

- (a) DGC;
- (b) Kāi Tahu;
- (c) Darby Planning;
- (d) Fish & Game;

- (e) Ara Poutama;
- (f) EDBs;
- (g) Falls Dam;
- (h) Manawa Energy;
- (i) Meridian Energy;
- (j) MIC;
- (k) NZTA;
- (l) OWRUG;
- (m) QAC;
- (n) Transpower; and
- (o) WIC.

QAC

[65] QAC's appeal sought the addition of a new clause in EIT-INF-P12 to provide direction for weighing and resolving conflicts that may arise between long-term land use planning goals and infrastructure. QAC's position was that EIT-INF-P12 provided no policy direction in this regard.

[66] The following persons gave notice of an intention to join this part of QAC's appeal under s274 RMA:

- (a) Ara Poutama;
- (b) EDBs;
- (c) Fish & Game;
- (d) DGC;
- (e) Forest & Bird;
- (f) Kāi Tahu; and
- (g) QLDC.

Kāi Tahu

[67] The Kāi Tahu appeal sought the addition of a new clause in EIT-INF-P12

to require upgrades and development of infrastructure to occur in a way that is resilient to climate change. The Kāi Tahu position was that consideration of climate change effects had not been adequately integrated across the PORPS.

[68] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal under s274 RMA:

- (a) DGC;
- (b) Forest & Bird;
- (c) DCC;
- (d) EDBs;
- (e) Cain Whānau;
- (f) Fish & Game;
- (g) Meridian;
- (h) POL;
- (i) Falls Dam;
- (j) MIC;
- (k) QAC; and
- (l) WIC.

Resolution

[69] The parties to proposed to amend EIT-INF-P12 as follows:

EIT-INF-P12 – Upgrades and development

Provide for upgrades to existing, and development of, nationally significant infrastructure or regionally significant infrastructure while ensuring that:

- (1) it is designed and located, as far as practicable, to maintain functionality during and after natural hazard events;
- (1A) it is resilient, to the extent reasonably practicable, to the current and future effects of sea level rise and climate change;
- (2) it is, as far as practicable, co-ordinated with long-term land use planning; and
- (3) its delivery, operation or use is efficient.

[70] The parties advised that the addition of clause (1A) requires that the development of infrastructure occurs in a way that is resilient to climate change as sought by Kāi Tahu. The requirement is qualified with “to the extent reasonably practicable”, acknowledging it will not always be practicable or even possible to develop and upgrade infrastructure in a way that achieves resilience in the context of, and in response to, climate change.

[71] The Societies’ appeals on EIT-INF-P12 were resolved on the basis of the agreed inclusion of clause (1A). QAC’s appeal on EIT-INF-P12 was resolved on the basis of amendments agreed to other provisions, including ‘EIT-INF-OX – Protecting infrastructure with national or regional significance’ and ‘EIT-INF-O5 – Integration’.

[72] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 6(h), 7(b) and 7(i).

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

[73] ‘EIT-INF-P13 – Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment’ seeks to provide a policy framework within a single policy for the management of adverse effects of new infrastructure, including adverse effects on s6 matters and matters which are the subject of various national direction.

[74] Despite EIT-INF-P13, the EDBs and Transpower appeals each sought a bespoke policy framework for the electricity distribution network and the National Grid respectively. EIT-INF-P13 was also appealed by EDS, Forest & Bird, QLDC, QAC, NZTA, and Manawa Energy.

EDBs

[75] The following persons gave notice of an intention join this part of the EDBs' appeal under s274 RMA:

- (a) QAC;
- (b) DCC;
- (c) Fish & Game;
- (d) DGC;
- (e) EDS;
- (f) Forest & Bird;
- (g) Kāi Tahu; and
- (h) QLDC.

Transpower

[76] Transpower's appeal sought a bespoke policy for the management of adverse effects from the National Grid and a corresponding exemption from the management framework in EIT-INF-P13 and elsewhere in the PORPS.

[77] Transpower's position was that the NPS-ET includes a comprehensive higher order policy for the National Grid, and that a bespoke policy framework for the National Grid was required because the approach taken in the PORPS failed to give effect to the direction in the NPS-ET, and did not attempt to reconcile the explicit 'recognise' and 'provide for' policy direction in the NPS-ET with part 2 of the RMA (or the National Policy Statement for Freshwater Management (NPS-FM) and New Zealand Coastal Policy Statement (NZCPS)).

[78] While EIT-INF-P13 includes some effects management hierarchy steps that are specific to infrastructure, it also refers across to other policies in the PORPS that apply to all activities. Transpower's appeal raised concerns that the other related policies did not give effect to the NPS-ET and the bespoke effects regime included in that national direction.

[79] Transpower submitted it would be a more effective and efficient drafting approach to have a single policy that was bespoke to the National Grid, rather than seek to draft bespoke ‘carve-outs’ into EIT-INF-P13 throughout the policy that would only apply to the National Grid. Transpower also sought that the bespoke policy apply both outside of, and within, the coastal environment, given the NPS-ET applies across both.

[80] The following persons gave notice of an intention to join this part of Transpower’s appeal under s274 RMA:

- (a) EDBs;
- (b) Fish & Game;
- (c) QAC;
- (d) DGC;
- (e) EDS;
- (f) Forest & Bird;
- (g) Kāi Tahu; and
- (h) QLDC.

EDS

[81] EDS’s appeal sought amendments to EIT-INF-P13 to more accurately reflect the effects management hierarchies in the NPS-FM or the National Policy Statement for Indigenous Biodiversity (NPS-IB). EDS’s position was EIT-INF-P13 did not follow the sequenced approach set out in those higher order documents.

[82] The following persons gave notice of an intention to join this part of EDS’s appeal under s274 RMA:

- (a) DGC;
- (b) Kāi Tahu;
- (c) Fish & Game;

- (d) Ara Poutama;
- (e) EDBs;
- (f) the Telcos;
- (g) Meridian Energy;
- (h) OWRUG;
- (i) the Fuel Companies;
- (j) Transpower; and
- (k) QAC.

Forest & Bird

[83] Forest & Bird's appeal sought various amendments to EIT-INF-P13, including the reinstatement of two clauses that had been deleted from the Notified Version of the PORPS. Forest & Bird's position was that EIT-INF-P13 did not give effect to the NPS-FM or the NPS-IB.

[84] The following persons gave notice of an intention to join this part of Forest & Bird's appeal under s274 RMA:

- (a) DGC;
- (b) DCC;
- (c) Kāi Tahu;
- (d) QLDC;
- (e) Darby Planning;
- (f) Fish & Game;
- (g) RealNZ;
- (h) Ara Poutama;
- (i) EDBs;
- (j) the Telcos;
- (k) Falls Dam;
- (l) Rayonier Matariki Forests, City Forests Limited, Ernslaw One Limited, and Port Blakely NZ Limited (Forestry appellants);

- (m) MIC;
- (n) Meridian Energy;
- (o) NZTA;
- (p) OWRUG;
- (q) QAC;
- (r) Transpower; and
- (s) WIC.

QAC

[85] QAC’s appeal sought that a new clause be inserted for the management of adverse effects of nationally and regionally significant infrastructure outside of sensitive areas. QAC’s position was that the PORPS provided no management framework in this regard.

[86] The following persons gave notice of an intention to join this part of QAC’s appeal under s274 RMA:

- (a) DGC;
- (b) Kāi Tahu;
- (c) QLDC;
- (d) Fish & Game;
- (e) EDBs;
- (f) Ara Poutama;
- (g) the Telcos; and
- (h) Meridian Energy.

NZTA

[87] NZTA’s appeal sought that EIT-INF-P13 be amended so that reference to “wetlands” was replaced with “natural inland wetlands” for consistency with the NPS-FM. NZTA’s position was that it was unreasonable for EIT-INF-P13 to apply to all wetlands generally.

[88] The following persons gave notice of an intention to join this part of NZTA's appeal under s274 RMA:

- (a) DGC;
- (b) Kāi Tahu;
- (c) Forestry Appellants;
- (d) Fish & Game;
- (e) EDBs;
- (f) Ara Poutama;
- (g) Meridian Energy; and
- (h) Forest & Bird.

Manawa Energy

[89] Manawa Energy's appeal sought amendments to EIT-INF-P13 to remove what it perceived to be duplication of EIT-EN-P6. Manawa Energy's position was that there was overlapping and inconsistent provisions within the 'EIT – Infrastructure' and 'EIT – Energy' sections of the EIT chapter applying to renewable electricity generation.

[90] The following persons gave notice of an intention to join this part of Manawa Energy's appeal under s274 RMA:

- (a) DGC;
- (b) Kāi Tahu;
- (c) Fish & Game;
- (d) EDBs;
- (e) Ara Poutama;
- (f) Meridian Energy;
- (g) Forest & Bird;
- (h) QLDC;
- (i) the Telcos; and
- (j) EDS.

Resolution

[91] The parties proposed that EIT-INF-P13 be amended as follows:

EIT-INF-P13 – Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coast environment

When providing for new infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment:

- (1) avoid, as the first priority, locating infrastructure in all of the following:⁷
 - (a) significant natural areas;
 - (b) outstanding natural features and landscapes;
 - (c) natural inland wetlands and rivers;
 - (d) outstanding water bodies;
 - (f) areas or places of special or outstanding historic heritage; and
 - (g) wāhi tupuna; and
- (2) if it is not reasonably practicable to avoid 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, or electricity distribution networks:
 - (i) in significant natural areas, in accordance with ECO-P3, ECO-P4, and ECO-5A~~P6~~,
 - (ii) in natural inland wetlands or rivers, in accordance with LF-FW-P10A and LF-FW-P13 ~~the relevant provisions in the NESF~~,
 - (iii) in outstanding water bodies, in accordance with LF-FW-P12,
 - (iiia) in relation to wāhi tupuna, in accordance with HCV-WT-P2,
 - (iv) in other areas listed in EIT-INF-P13(1) above, the adverse effects of the infrastructure on the values that contribute to the area's importance shall be:

⁷ The court has used the paragraph numbering in the memorandum and appendix submitted to the court, and that is missing a sub-paragraph (e), for the matters listed in (1).

- (I) remedied or mitigated to the extent practicable,
 - (II) where they cannot be practicable remedied or mitigated, regard shall be had to offsetting and/or compensation of more than minor residual adverse effects;
- (b) for all infrastructure that is not nationally significant infrastructure, ~~or~~ regionally significant infrastructure, or electricity distribution networks, avoid adverse effects on the values that contribute to the area's outstanding nature or significance except in relation to historic heritage which is not significant or outstanding, then HCV-HH-P5(3) will apply.

[92] The parties advised that the amendments to 1(c) and 2(a)(ii) respond to NZTA, EDS and Forest & Bird's appeals as they more accurately reflect the requirements of the NPS-FM.

[93] They advised that the additions to clauses 2(a) and 2(b) to include "electricity distribution networks" respond to EDBs' appeal point seeking a management regime for the electricity distribution network. The amendments provide for those parts of the electricity distribution network that are not caught by the definition of 'Regionally significant infrastructure' to be managed under clause 2(a).

[94] The parties advised that the addition allows all parts of the electricity distribution network to be considered under the respective chapters of the PORPS, including 'ECO – Ecosystems and indigenous biodiversity' and 'LF – Land and freshwater', which contain their own significance criteria established under their respective national policy statements.

[95] Manawa Energy's appeal point was resolved on the basis of the agreed amendments to EIT-INF-P13(1) and (2). QAC's appeal point was resolved on the basis of amendments agreed to other provisions, including 'EIT-INF-O4 Provision of infrastructure'.

[96] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 6(a), 6(b), 6(c), 6(e), 6(f), 7(b), 7(ba), 7(g) and 7(j).

A focused and specific policy direction for the effects of the National Grid

[97] In response to Transpower's appeal point, the parties agreed it was appropriate to include a policy framework specific for managing the effects of the National Grid.

[98] Unlike other infrastructure, the importance of the efficient transmission of electricity on the National Grid and its vital role in the wellbeing of New Zealand is encapsulated in the NPS-ET and requires the National Grid be recognised and provided for.

[99] The NPS-ET includes a policy framework for the management of the environmental effects of transmission and the adverse effects of third parties on the transmission network (e.g. the National Grid).

[100] The proposed new policy provides a management framework specific to the National Grid as sought by Transpower gives effect to the NPS-ET, while also reconciling other national policy statements such as the NZCPS in respect of the coastal environment, and the NPS-FM in respect of wetlands, rivers and lakes, and part 2 of the RMA more generally. It applies both within and outside the coast environment.

[101] The parties proposed that a new policy for the management of the effects of the development of the National Grid be included as follows:

EIT-INF-Px Managing the effects of the development of the National Grid within and outside the coastal environment

Manage the adverse effects of the operation, maintenance, upgrade and development of the National Grid by:

- (1) enabling the operation, maintenance and minor upgrading of the National Grid,
- (2) in urban environments, avoiding adverse effects on the values and characteristics of town centres, areas of high recreation value and existing sensitive activities,
- (3) managing effects on the values or extent of wetlands in accordance with LF-FW-P10A(1) and (2),
- (4) managing effects on the values or extent of rivers and lakes in accordance with LF-FW-P13(1) and (2),
- (5) in the coastal environment, recognising in terms CE – Coastal Environment that there will be areas where avoidance of adverse effects on the values and characteristics of those areas is required,
- (6) for wāhi tupuna:
 - (a) as a first priority, seek to avoid adverse effects on the values or characteristics of wāhi tupuna; and
 - (b) where it is demonstrated that adverse effects on the values or characteristics of wāhi tupuna cannot be avoided, then either remedying or mitigating adverse effects in a manner that maintains the values of the wāhi tupuna,
- (7) ensuring that the ability to develop, use and protect native reserves and Māori land in accordance with MW-P4 is not compromised,
- (8) where (1) to (7) do not apply (and including in the coastal environment), as a first priority, seeking to avoid adverse effects on the values or characteristics of the following:
 - (a) outstanding water bodies,
 - (b) areas of high or outstanding natural character,
 - (c) outstanding natural features, outstanding natural landscapes or outstanding natural seascapes,
 - (d) significant natural areas,
 - (e) areas or places of special or outstanding historic heritage,
 - (f) in rural environments, areas of high recreation value and amenity (including highly valued natural features and landscapes) and existing sensitive activities,
- (9) where adverse effects on the values or characteristics of the areas or places listed in (8) cannot be avoided, then remedying or mitigating adverse effects, while having regard to:
 - (a) the operational needs and functional needs of the National Grid and

- the extent those requirements constrain measures to avoid, remedy or mitigate adverse effects,
- (b) the extent to which significant adverse effects are avoided,
- (c) the extent to which any adverse effects have been avoided, remedied or mitigated by route, site and construction method selection for new infrastructure or major upgrades,
- (d) the extent to which existing adverse effects have been reduced as part of any substantial upgrade,
- (e) the extent to which adverse effects on urban amenity have been minimised,
- (f) the extent to which the upgrading or development of the National Grid is required to provide the benefits of electricity transmission for present and future generations,
- (g) in circumstances where there are more than minor residual adverse effects on indigenous biodiversity values, the need to:
 - (i) first, provide biodiversity offsetting if that is reasonably possible; or
 - (ii) provide biodiversity compensation, if that is practicable;
- (10) avoiding, remedying, or mitigating other adverse effects other than those addressed in (2) to (8), having regard to the matters in (9)(a) to (g); and
- (11) the objectivities and policies in this regional policy statement apply, except that in the event of any conflict between EIT-INF-Px and other policies in this regional policy statement, EIT-INF-Px prevails over those policies.

[102] The parties advised that inclusion of the new EIT-INF-PX will also resolve Transpower's appeal points on the following provisions, which are located in various chapters of the PORPS:

- (a) 'LF-FW-P12 – Identifying and managing outstanding water bodies';
- (b) 'EIT-INF-P13A – Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment';
- (c) 'CE-P4 – Natural Character';
- (d) 'CE-P5 – Coastal indigenous biodiversity';
- (e) 'CE-P6 – Natural features and landscapes';
- (f) 'ECO-P4 – Provision for new activities';

- (g) 'ECO-P5 – Existing activities in significant natural areas';
- (h) 'ECO-P6 – Maintaining indigenous biodiversity';
- (i) Effects management hierarchy (in relation to indigenous biodiversity);
and
- (j) 'HCV-WT-P2 – Management of effects on wāhi tupuna'.

[103] This is because EIT-INF-Px has either included a specific reference across to the listed provision (e.g. LF-FW-P13(1) and (2)), and Transpower has accepted that is appropriate, or new EIT-INF-Px includes within limbs (3) to (8), a specific policy direction in respect of the relevant resource (e.g. the matters listed in limb (8) of EIT-INF-Px).

[104] In the Decisions Version of the PORPS, EIT-INF-P13 set out the effects management hierarchy for effects of the National Grid and was located in the 'INF – Infrastructure' subchapter. However, other related objectives and policies relating to effects on the National Grid were located in the 'EIT – Energy' subchapter. The parties have agreed that the 'INF – Infrastructure' subchapter is the appropriate place for the policy framework for the management of the National Grid (both effects of the National Grid and effects on the National Grid).

[105] The new National Grid policy and relocation of the remainder of the management framework for the National Grid from the 'EIT – Energy' subchapter to the 'EIT – Infrastructure' subchapter necessitates consequential amendments to various provisions as set out below.

EIT-EN-P16 – Providing for the National Grid

[106] The parties proposed that EIT-EN-P16 be amended as follows:

~~EIT-ENINF-P16~~ – Providing for the National Grid

~~Maintain a secure and sustainable electricity supply in Otago by:~~ Facilitate the operation, maintenance, upgrade and development of the National Grid by:

- (4) enabling the reasonable operation, maintenance and minor ~~upgrade~~

upgrading requirements of established National Grid assets, and

- (1) providing for ~~the effective operation, maintenance, more than minor upgrading,~~ and development of ~~the~~ National Grid assets, ~~development of, and upgrades to, the electricity transmission network and requiring, as far as reasonably practicable, its integration with land use,~~
- ~~(2) considering the requirements of and constraints associated with the functional and operational needs of the National Grid in its management,~~
- ~~(5) minimising the adverse effects of the National Grid on urban amenity, and avoiding adverse effects on town centres, areas of high amenity or recreational value and existing sensitive activities,~~
- ~~(6) in rural areas, seek to avoid adverse effects in areas of high natural character and areas of high recreation value and amenity, and, where this is not practicable, apply EIT-INF-P13(2)(a)(iv), and~~
- ~~(7) in addition to clause (6), apply EIT-INF-P13 where relevant.~~

[107] The change in the title reflects that the policy is to be moved to the EIT-INF subchapter.

[108] The parties consider that the proposed change to the chapeau more accurately reflects the intent of the policy, which is about facilitating the National Grid, with limbs (4) and (1) addressing different types of activities, consistent with the policy direction in the NPS-ET.

[109] The parties proposed clauses (2), (5), (6) and (7) be deleted to remove duplication of matters now covered by the proposed new National Grid policy EIT-INF-Px where they are better located as they relate to the effects of the National Grid.

EIT-EN-M2 – District plans

[110] The parties proposed that EIT-EN-M2 be amended by removing reference to the National Grid as follows:

EIT-EN-M2 – District plans

- (1) provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation,
- (3) manage the adverse effects of developing or upgrading renewable electricity generation activities and National Grid infrastructure, including identifying activities that qualify as minor upgrades that are on:
 - (a) are on the surface of rivers and lakes and on land outside the coastal marine area, or
 - (b) the beds of lakes and rivers,
- (4) provide for the continued operation and maintenance of renewable electricity generation activities on the surface of rivers and lakes and on land outside the coastal marine and the beds of lakes and rivers,
- (5) restrict the establishment or occurrence of activities that may adversely affect the efficient functioning of renewable electricity generation infrastructure,
- ~~(5A) enable planning for National Grid,~~
- ~~(5B) map the National Grid, and identify a buffer corridor within which sensitive activities shall generally not be allowed,~~
- (5C) map significant electricity distribution infrastructure and, where necessary, provide controls on activities to ensure that the functional needs of the significant electricity distribution infrastructure are not compromised,
- (5D) where necessary, establishing controls for buildings, structures and other activities adjacent to electricity infrastructure, to ensure the functional needs of that infrastructure 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), and
- (6) require the design of subdivision development to optimise solar gain, including through roading, lot size, dimensions, layout and orientation.

[111] Due to the proposed management of the National Grid in the ‘EIT – Infrastructure’ subchapter, the parties proposed that reference to and the management of the National Grid be removed from this method which is located in the ‘EIT – Energy’ chapter.

[112] The parties therefore propose that the content removed from this method be reproduced in the 'EIT – Infrastructure' methods 'EIT-INF-M4 – Regional plans' and 'EIT-INF-M5 – District plans' as set out below.

EIT-INF-M4 – Regional plans

[113] The parties proposed that EIT-INF-M4 be amended as follows:

EIT-INF-M4 – Regional plans

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

- (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) recognise and provide for the operation, maintenance, upgrade and development of the National Grid.

[114] The parties consider that the inclusion of clause (2) in EIT-INF-M4 gives effect to the Objective and Policy 1 of the NPS-ET which requires decision-makers to recognise and provide for the National Grid, including its maintenance upgrade and development.

EIT-INF-M5 – District plans

[115] The parties proposed that EIT-INF-M5 be amended as follows:

EIT-INF-M5 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

- (1) require a strategic approach to the integration of land use and infrastructure, nationally significant infrastructure or regionally significant infrastructure,
- (4) manage the subdivision, use and development of land to ensure infrastructure, nationally significant infrastructure or regionally significant infrastructure can develop to meet increased demand,
- (5) manage the adverse effects of developing, operating, maintaining, or

upgrading infrastructure, nationally significant infrastructure or regionally significant infrastructure, including, where appropriate, identifying activities that qualify as minor upgrades, that are on:

- (a) the surface of rivers and lakes and on land outside the coastal marine area, and
- (b) the beds of lakes and rivers,
- (6) ensure that development is adequately served with infrastructure,

(X) In relation to the National Grid:

- (a) enable planning for the National Grid,
- (b) map the National Grid, and identify a buffer corridor within which sensitive activities shall generally not be allowed,
- (c) where necessary, establish controls for subdivision, buildings, structures and other activities adjacent to the National Grid, to ensure the National Grid is not compromised.

[116] EIT-INF-M5(X)(a) and (b) replace the methods removed from EIT-EN-M2(5A) and (5B). The parties advised there is no change in substance to limbs EIT-INF-M5(X)(a) and (b), only a relocation to the 'INF – Infrastructure' methods.

[117] The parties advised that EIT-INF-M5(X)(c) provides policy direction for the management of activities to ensure that the National Grid is not compromised. They consider that this method specific to the National Grid is consistent with the policy direction in 'EIT-INF-P15 – Protecting nationally significant infrastructure and regionally significant infrastructure' for the protection of other regionally and nationally significant infrastructure.

EIT-INF-P14 – Decision making considerations

[118] QAC and Kāi Tahu appealed the Decisions Version of 'EIT-INF-P14 – Decision making considerations'.

QAC

[119] QAC's appeal sought the deletion of EIT-INF-P14. QAC's position was

that EIT-INF-P14 conflicted with the management framework provided in EIT-INF-P13. QAC's position was that the wording could be read as requiring adverse effects, such as noise, be reduced when carrying out upgrades to the airport.

[120] The following persons gave notice of an intention to join this part of QAC's appeal under s274 RMA:

- (a) the Fuel Companies;
- (b) DGC;
- (c) Kāi Tahu;
- (d) Fish & Game;
- (e) EDBs;
- (f) Ara Poutama;
- (g) Forest & Bird;
- (h) QLDC.

Kai Tahu

[121] The Kāi Tahu appeal sought that an additional clause be added in EIT-INF-P14 to require consideration of climate change when considering proposals to upgrades or development of infrastructure. The Kāi Tahu position was that consideration of climate change effects had not been adequately integrated across the PORPS. The Kāi Tahu appeal point was accepted in part by the Hearing Panel on the recommendations of the s42A Report. The amendment to EIT-INF-P14 to include clause (1A) was not carried through into the Decisions Version of the PORPS in error.

[122] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal under s274 RMA:

- (a) DGC;
- (b) DCC;
- (c) EDBs;

- (d) Cain Whānau;
- (e) Fish & Game;
- (f) QLDC;
- (g) Falls Dam;
- (h) MIC;
- (i) Meridian Energy;
- (j) QAC; and
- (k) WIC.

Resolution

[123] The parties proposed that EIT-INF-P14 be amended as follows:

EIT-INF-P14 – Decision making considerations

When considering proposals to develop or upgrade infrastructure:

- (1) require consideration of alternative sites, methods and designs if adverse effects are potentially significant or irreversible, ~~and~~
- (1A) require consideration of the current and future effects of sea level rise and climate change, and
- (2) recognise that ~~utilise the opportunity of substantial~~ upgrades of infrastructure may provide opportunities to reduce adverse effects ~~of that result from~~ the existing infrastructure, ~~including on sensitive activities, where appropriate.~~

[124] The parties advised that inclusion of new clause (1A) responds directly to the Kāi Tahu appeal point and corrects the error identified at paragraph [101] above.

[125] They advised that the amendments to clause (2) respond to QAC's appeal point and make clear that the policy intent is not to require the reduction of adverse effects existing infrastructure when undertaking upgrades in every instance.

[126] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 7(b), 7(f) and 7(g).

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

[127] Transpower, QAC, and Manawa Energy appealed the Decisions Version of ‘EIT-INF-P15 – Protecting nationally significant infrastructure and regionally significant infrastructure’.

Transpower

[128] Transpower’s appeal sought various amendments to EIT-INF-P15 to require avoidance of activities that may result in adverse effects, including reverse sensitivity effects, on nationally significant infrastructure or regionally significant infrastructure. Transpower’s position was that as drafted, EIT-INF-P15 does not give effect to Policy 10 of the NPS-ET in respect of reverse sensitivity effects and direct effects.

[129] The following persons gave notice of an intention to join this part of Transpower’s appeal under s274 RMA:

- (a) Ara Poutama;
- (b) EDBs;
- (c) Meridian Energy;
- (d) QAC;
- (e) the Fuel Companies;
- (f) Fish & Game;
- (g) DGC;
- (h) EDS;
- (i) Forest & Bird; and
- (j) Kāi Tahu.

QAC

[130] QAC’s appeal sought EIT-INF-P15 be deleted and replaced/redrafted to

provide greater protection for nationally and regionally significant infrastructure from incompatible activities. QAC's position that the use of words "to the extent practicable" diminished the protection otherwise afforded by this policy.

[131] The following persons gave notice of an intention to join this part of QAC's appeal under s274 RMA:

- (a) Ara Poutama;
- (b) EDBs;
- (c) the Telcos;
- (d) Meridian Energy;
- (e) the Fuel Companies;
- (f) Transpower;
- (g) Fish & Game;
- (h) Forest & Bird;
- (i) Kāi Tahu; and
- (j) QLDC.

Manawa Energy

[132] Manawa Energy's appeal sought EIT-INF-P15 be amended to remove duplication it says is contained within EIT-INF-P13, EIT-EN-P6 and EIT-EN-P7 in relation to effects management and reverse sensitivity and to better align EIT-INF-P15 with the National Policy Statement for Renewable Electricity Generation (NPS-REG).

[133] The following persons gave notice of an intention to join this part of Manawa Energy's appeal under s274 RMA:

- (a) EDBs;
- (b) Meridian Energy;
- (c) DGC;
- (d) Fish & Game;

- (e) Kāi Tahu;
- (f) QLDC; and
- (g) EDS.

Resolution

[134] It is proposed that EIT-INF-P15 be amended as follows:

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

Protect the efficient and effective operation, maintenance, upgrading and development of nationally significant infrastructure and regionally significant infrastructure by:

- (1) to the extent reasonably possible, managing ~~avoiding~~ activities; to ensure that the extent reasonably practicable, that may give rise to an adverse effect on the functional needs or operational needs of the operation, maintenance, upgrading and development of nationally significant infrastructure or regionally significant infrastructure is not compromised,
- (2) ~~avoiding activities~~, to the extent reasonably possible practicable, managing activities to avoid that may result in reverse sensitivity effects on nationally significant infrastructure or regionally significant infrastructure, and
- (3) identifying areas where sensitive activities are to be avoided.
- ~~(3) avoid or minimise the effects of activities and development so that the opportunity to adapt, upgrade or extend existing nationally significant infrastructure or regionally significant infrastructure to meet future demand is not compromised.~~

[135] The parties consider that the proposed change to the chapeau is consistent with the NPS-ET and NPS-REG which seek to recognise and provide for the operation, maintenance and upgrades to the transmission network and renewable electricity generation activities.

[136] The parties consider that the amendments to clauses (1) and (2) to refer “to the extent reasonably possible” instead of “to the extent reasonably practicable” is more consistent with NPS-ET and NPS-REG and responds to QAC’s concern

that the former wording (“reasonably practicable”) was not protective enough of infrastructure.

[137] The result of the agreed amendments to clause (1) is that clause (3) is no longer necessary.

[138] The parties consider that the amendments to EIT-INF-P15 better express the policy intent, which is the protection of regionally and nationally significant infrastructure from incompatible activities, or activities likely to give rise to reverse sensitivity effects.

[139] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 7(b), 7(ba) and 7(j).

EN – Energy

Definition: Significant electricity distribution infrastructure

[140] The EDBs appealed the Decisions Version of the definition for ‘significant electricity distribution infrastructure’.

[141] The EDBs’ appeal sought amendments to the definition of ‘significant electricity distribution infrastructure’ to remove the requirement that it be identified in a district plan. The EDBs’ position was that parts of its network may become significant electricity distribution infrastructure through development and upgrades but not receive policy recognition until district plan maps have been amended.

[142] The following persons gave notice of an intention to join this part of the EDBs’ appeal:

- (a) DCC;
- (b) Fish & Game;
- (c) QAC;
- (d) DGC;
- (e) EDS; and
- (f) Forest & Bird.

Resolution

[143] The parties proposed that the definition for ‘significant electricity distribution infrastructure’ be amended as follows:

means electricity infrastructure ~~identified in a district plan~~ which supplies:

- (a) essential public services (such as emergency services and hospitals and lifeline utilities facilities);
- (b) other regionally significant infrastructure or individual consumers requiring supply of 1MW or more;
- (c) 700 or more consumers; or
- (d) communities that are isolated and which do not have an alternative supply in the event the line or cable is compromised and where the assets are difficult to replace in event of failure.

[144] The parties advised that the amendments respond to the EDBs’ concerns and extend the definition to refer to ‘emergency services’ generally. The amendments also correct an error where ‘lifeline utilities’ are referred to instead of ‘lifeline facilities’ which is defined in the PORPS.

[145] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 7(b), 7(ba), 7(i) and 7(j).

EIT-INF-O6 – Long-term planning for the National Grid and distribution infrastructure

[146] Transpower appealed the Decisions Version of ‘EIT-INF-O6 – Long-term planning for the National Grid and distribution infrastructure’.

[147] The objective was located in the Energy section of the EIT chapter but was entitled EIT-INF-O6.

[148] Transpower’s appeal sought that the Decisions Version of EIT-INF-O6 be replaced with the Notified Version of the objective.

[149] Transpower’s position was that EIT-INF-O6 did not give effect to Policy 2 of the NPS-ET which requires that decision-makers recognise and provide for the National Grid.

[150] The following persons gave notice of an intention to join this part of Transpower’s appeal under s274 RMA:

- (a) Fish & Game;
- (b) QAC;
- (c) DGC;
- (d) EDS;
- (e) Forest & Bird; and
- (f) EDBs.

Resolution

[151] The parties proposed that EIT-INF-O6 be amended as follows:

~~EIT-INF-O6 – Long-term planning for the National Grid and distribution infrastructure~~ 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.

~~Long-term investment in, and planning for, electricity transmission infrastructure, and its integration with land use, is sustained.~~

[152] The parties agreed that EIT-INF-O6 would be more appropriately located in the 'EIT – Infrastructure' section of the EIT chapter and proposed it be relocated accordingly.

[153] The parties consider that the proposed amendment to EIT-EN-O6 better gives effect to the NPS-ET.

[154] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 7(b), 7(ba) and 7(i).

EIT-EN-P2 – Recognising renewable electricity generation activities in decision making

[155] Forest & Bird appealed the Decisions Version of 'EIT-EN-P2 – Recognising renewable electricity generation activities in decision making'.

[156] Forest & Bird's appeal sought amendments to EIT-EN-P2 to recognise that allocation of water for renewable electricity generation was a third order priority under the NPS-FM. Forest & Bird also considered the terminology used in EIT-EN-P2 suggested that the three listed considerations were the only matters which decision-makers are to consider.

[157] The following persons gave notice of an intention to join this part of Forest & Bird's appeal under s274 RMA:

- (a) Kāi Tahu;
- (b) EDBs;
- (c) Darby Planning;
- (d) DCC;

- (e) Fish & Game;
- (f) QAC;
- (g) DGC;
- (h) Falls Dam;
- (i) Manawa Energy;
- (j) MIC;
- (k) Meridian Energy;
- (l) OWRUG; and
- (m) WIC.

Resolution

[158] The parties proposed that EIT-EN-P2 be amended as follows:

EIT-EN-P2 – Recognising renewable electricity generation activities in decision making

Decisions on the allocation and use of natural and physical resources, including the use of fresh water and development of land:

- (1) recognise the national significance of renewable electricity generation activities, including the national, regional and local benefits of renewable electricity generation activities, and
- (2) have particular regard to the need for, and benefits of, maintaining, or and increasing of current renewable electricity generation capacity, and
- ~~(3) recognise that the attainment of increases in renewable electricity generation capacity will require significant development of renewable electricity generation activities.~~

[159] The parties consider that deletion of clause (3) makes clear that the policy intent is not to seek to elevate renewable electricity generation within the hierarchy of obligations in the NPS-FM.

[160] They advised that the additional matters included in clause (2) expand the matters to which decision-makers must have particular regard when making decisions on the allocation and use of resources.

[161] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 7(b), 7(ba), 7(i) and 7(j)

EIT-EN-P5 – Non-renewable energy generation

[162] EDS, Forest & Bird and Manawa Energy appealed the Decisions Version of ‘EIT-EN-P5 – Non-renewable energy generation’.

The Societies

[163] The Societies’ appeals sought various text be removed from EIT-EN-P5, including the text “where practicable”. The Societies’ position was that “where practicable” enables economic consideration to be factored into decision-making and could be used to stall the transition to renewables.

[164] The following persons gave notice of an intention to join this part of EDS’s appeal under s274 RMA:

- (a) DGC;
- (b) Forest & Bird;
- (c) Fish & Game;
- (d) QAC;
- (e) Meridian Energy;
- (f) OWRUG.

[165] The following persons gave notice of an intention to join this part of Forest & Bird’s appeal under s274 RMA:

- (a) DGC;
- (b) EDBs;
- (c) Darby Planning;
- (d) DCC;

- (e) Fish & Game;
- (f) QAC;
- (g) Falls Dam;
- (h) MIC;
- (i) Meridian Energy;
- (j) OWRUG; and
- (k) WIC.

Resolution

[166] The parties proposed that EIT-EN-P5 be amended as follows:

EIT-EN-P5 – Non-renewable energy generation

In relation to non-renewable energy generation:

- (1) except as provided for in (2) below, restrict the development of non-renewable energy generation activities in Otago, ~~where practicable~~, and facilitate the replacement of non-renewable energy sources, including the use of fossil fuels, in energy generation, and
- (2) in relation to new heat devices for industrial process heat:
 - (a) avoid discharges from new heat devices that burn coal and deliver heat at or above 300 degrees Celsius, unless there is no technically feasible and financially viable lower emissions alternative,
 - (b) avoid discharges from new heat devices that burn coal and deliver heat below 300 degrees Celsius, and
 - (c) avoid discharges from new heat devices that burn any fossil fuel other than coal, unless there are no technically feasible and financially viable lower emissions alternative, and
- (3) in relation to existing heat devices for industrial process heat:
 - (a) restrict discharges from existing heat devices that burn coal and deliver heat at or above 300 degrees Celsius,
 - (b) restrict and phase out discharges from existing heat devices that burn coal and deliver heat below 300 degrees Celsius, and
 - (c) restrict discharges from existing heat devices that burn any fossil fuel other than coal.

[167] The parties consider that removal of “where practicable” provides stronger policy direction for the restriction of non-renewable energy generation, which will assist in the prioritisation of renewable energy alternatives.

[168] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 6(h), 7(b), 7(ba), 7(g), 7(i) and 7(j).

EIT-EN-P6 – Managing effects

[169] Cain Whānau, EDS, Kāi Tahu, Meridian Energy, and Manawa Energy appealed the Decisions Version of ‘EIT-EN-P6 – Managing effects’.

Cain Whānau

[170] Cain Whānau’s appeal sought recognition and provision within EIT-EN-P6 for the rights and interests of owners of Māori land in relation to their land. Cain Whānau’s position was that amendments were required to ensure that Māori landowners were not discernibly restricted from protecting, subdividing, using and developing their land for a range of uses.

[171] The following persons gave notice of an intention to join this part of Cain Whānau’s appeal under s274 RMA:

- (a) Kāi Tahu;
- (b) EDBs;
- (c) Oceana Gold Limited (OGL);
- (d) DCC;
- (e) Forest & Bird;
- (f) Meridian Energy;
- (g) OWRUG;
- (h) QLDC.

EDS

[172] EDS’s appeal sought that the word “significant” be removed from clause (3) of EIT-EN-P6. EDS’s position was that the inclusion of “significant” was not consistent with the effects management hierarchy in the NPS-IB.

[173] The following persons gave notice of an intention to join this part of EDS’s appeal under s274 RMA:

- (a) DGC;
- (b) Forest & Bird;
- (c) EDBs;
- (d) Fish & Game;
- (e) QLDC;
- (f) Meridian Energy; and
- (g) OWRUG.

Kāi Tahu

[174] The Kāi Tahu appeal sought that the word “significant” in EIT-EN-P6 be replaced with the wording “more than minor”. The Kāi Tahu position was that the use of “significant” as a threshold was inconsistent with the “more than minor” threshold used in EIT-INF-P13 and in the effects management hierarchies in the NPS-FM and NPS-IB.

[175] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal under s274 RMA:

- (a) Cain Whānau;
- (b) DGC;
- (c) Fish & Game;
- (d) Forest & Bird;
- (e) EDBs;

- (f) QAC;
- (g) QLDC;
- (h) DCC;
- (i) MIC;
- (j) Meridian Energy;
- (k) OWRUG; and
- (l) WIC.

Meridian Energy

[176] Meridian Energy's appeal sought amendments that would result in the inclusion of an effects management hierarchy within EIT-EN-P6 for renewable electricity generation activities. Meridian Energy's position was that multiple effects management hierarchies applied to renewable electricity generation activities in other chapters in the PORPS and this outcome did not give effect to the NPS-REG.

[177] The following persons gave notice of an intention to join this part of Meridian Energy appeal under s274 RMA:

- (a) Fish & Game;
- (b) DGC;
- (c) EDS;
- (d) Forest & Bird;
- (e) Kāi Tahu; and
- (f) QLDC.

Manawa Energy

[178] Manawa Energy's appeal sought that EIT-EN-P6 be amended to remove duplication it says exists between EIT-EN-P13 and EIT-EN-P6 and to better align with the NPS-REG. Manawa Energy's position was that the EIT chapter of the PORPS created conflicting requirements with the provisions for managing the

effects of renewable electricity generation and reverse sensitivity.

[179] The following persons gave notice of an intention to join this part of Manawa Energy's appeal under s274 RMA:

- (a) EDBs;
- (b) the Telcos;
- (c) Meridian Energy;
- (d) Fish & Game;
- (e) DGC;
- (f) EDS;
- (g) Forest & Bird;
- (h) Kāi Tahu; and
- (i) QLDC.

Resolution

[180] The parties proposed that EIT-EN-P6 be amended as follows:

EIT-EN-P6 – Managing effects

Manage the adverse effects of renewable electricity generation activities by:

- (1) applying EIT-INF-P13 and EIT-INF-P13A, while
- (2) having particular regard to:
 - (a) the functional need to locate renewable electricity generation activities where resources are available,
 - (b) the operational need to locate where it is possible to connect to the National Grid or electricity sub-transmission infrastructure, and
- (3) having regard to the extent and magnitude of adverse effects on the environment and the degree to which unavoidable adverse effects can be remedied or mitigated, or ~~significant~~ more than minor residual adverse effects are offset or compensated for, ~~and~~
- (3A) while also providing for the ability of Kāi Tahu to develop, use and protect native reserves and Māori land (excluding in relation to the allocation and prioritisation of freshwater) in accordance with MW-P4, and
- (4) requiring consideration of alternative sites, methods and designs, and

offsetting or compensation measures (in accordance with any specific requirements for their use in this RPS), where adverse effects are potentially significant or irreversible.

[181] The parties advised that addition of the cross reference to ‘EIT-INF-P13A – Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment’ in clause (1) ensures adverse effects of renewable electricity generation are appropriately managed in the coastal environment.

[182] They advised that addition of “while” at the end of clause (1) is to ensure that, when either EIT-INF-P13 or EIT-INF-P13A are engaged, in context of renewable electricity generation, there are additional matters to be applied. With respect to clauses (2), (3) and (4), the parties advised this is intended to acknowledge the particular constraints involved in consenting new renewable energy generation, and to give effect to the NPS-REG.

[183] The parties agreed to remove “significant” and replace it with “more than minor” in clause (3) in response to EDS and the Kāi Tahu appeals. The parties consider this amendment better aligns EIT-EN-P6 with the NPS-FM and NPS-IB, which also use the wording “more than minor” in their respective effects management frameworks.

[184] The parties advised that the inclusion of clause (3A) responds to Cain Whānau’s appeal point. Inserting limb (3A) and the use of the words “while also” directs plan makers (and, sometimes, consent authorities) that in the context of renewable electricity generation, the Kāi Tahu interests under MW-P4 are to be provided for as well as renewable electricity generation interests. Intentionally, the provision does not give either interest precedence over the other, such that if there is conflict the decision-maker will need to resolve this by reference to the specific circumstances being considered. The parties consider this recognises that there is a broad range of circumstances in which renewable electricity generation may be considered, and an equally broad range of the Kāi Tahu interests under MW-P4.

The PORPS cannot predict, or direct the outcome, in all potential circumstances.

[185] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 6(a), 6(c), 6(e), 7(a), 7(aa), 7(b), 7(ba), 7(f), 7(i) and 7(j).

EIT-EN-P7 – Reverse sensitivity

[186] Meridian Energy appealed the Decisions Version of ‘EIT-EN-P7 – Reverse sensitivity’.

[187] Manawa Energy’s appeal sought amendments to EIT-EN-P7. Its position was that there was duplication between EIT-EN-P7 and EIT-INF-P15.

[188] The following persons gave notice of an intention to join this part of Manawa Energy’s appeal under s274 RMA:

- (a) Meridian Energy;
- (b) EDBs;
- (c) Fish & Game;
- (d) DGC;
- (e) EDS;
- (f) QLDC; and
- (g) Kāi Tahu.

[189] The general theme of Manawa Energy’s appeal points on many of the provisions within the EIT chapter was that the chapter created conflicting requirements with the provisions for managing the effects of renewable electricity generation and reverse sensitivity.

Resolution

[190] The parties proposed that EIT-EN-P7 be deleted.

[191] EIT-INF-P15 requires the management of activities to ensure regionally and nationally significant infrastructure is not compromised and also manages reverse sensitivity effects.

[192] The parties agreed that EIT-EN-P7 is not necessary and that its deletion will ensure there is no conflicting requirements in the policy framework for renewable electricity generation as sought by Manawa Energy.

[193] The parties consider that the amendment is within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5 and 7(b).

EIT-EN-P9A – Providing for electricity distribution

[194] Kāi Tahu and Cain Whānau appealed the Decisions Version of ‘EIT-EN-P9A – Providing for electricity distribution’.

Kāi Tahu

[195] The Kāi Tahu appeal sought amendments to refer to the effects management framework in EIT-INF-P13. The Kāi Tahu position was that EIT-EN-P9A appeared to manage only adverse effects of distribution infrastructure on existing land use and this would create a more flexible approach for distribution infrastructure than for the National Grid.

[196] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal under s274 RMA:

- (a) Cain Whānau;
- (b) DGC;
- (c) Fish & Game;
- (d) Forest & Bird;
- (e) EDBs;
- (f) QAC;

- (g) QLDC;
- (h) DCC;
- (i) Falls Dam;
- (j) MIC;
- (k) WIC; and
- (l) OWRUG.

Cain Whānau

[197] Cain Whānau’s appeal sought the inclusion of an additional clause requiring the avoidance of adverse effects on Māori land from the distribution network unless the right and interests of owners of Māori land were recognised and provided for. Cain Whānau’s position was that EIT-EN-P9A could restrict use and development opportunities on Māori land.

[198] The following persons gave notice of an intention to join this part of Cain Whānau’s appeal under s274 RMA:

- (a) Kāi Tahu;
- (b) EDBs;
- (c) OGL;
- (d) DCC;
- (e) Forest & Bird;
- (f) Meridian Energy;
- (g) OWRUG;
- (h) QLDC; and
- (i) Transpower.

Resolution

[199] The parties proposed that EIT-EN-P9A be amended as follows:

EIT-ENINF-P9A – Providing for electricity distribution

Recognise and provide for electricity distribution infrastructure, by all of the following:

(1A) Managing adverse effects in accordance with EIT-INF-P13 and EIT-INF-P13A,

- (1) recognising the functional needs of electricity distribution activities,;
- (2) restricting the establishment of activities that may result in reverse sensitivity effects;
- (3) avoiding, remedying or mitigating adverse effects from other activities on the functional needs of that infrastructure,;
- ~~(4) minimising adverse effects of new and upgraded electricity distribution infrastructure on existing land uses;~~
- (5) identifying significant electricity distribution infrastructure and managing effects of potentially incompatible activities through methods such as corridors, and

(5A) ensuring that the ability to develop, use and protect native reserves and Māori land in accordance with MW-P4 is not compromised.

[200] Because EIT-EN-P9A relates to infrastructure, the parties agreed that it is appropriate it be relocated to the ‘EIT – Infrastructure’ section of the EIT chapter. They proposed the policy title be amended accordingly.

[201] The parties advised that the addition of clause (1A) and deletion of clause (4) clarifies the policy direction for the management of the adverse effects of the distribution network.

[202] They also advised that the addition of clause (5A) directs plan makers (and, sometimes, consent authorities) that in the context of providing for electricity distribution infrastructure, they must ensure that the Kāi Tahu interests under MW-P4 are not compromised.

[203] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 6(e), 7(a), 7(aa), 7(b), 7(ba), 7(i) and 7(j).

EIT-EN-PR1 – Principal reasons

[204] Cain Whānau appealed the Decisions Version of ‘EIT-EN-PR1 – Principal reasons’.

[205] Cain Whānau’s appeal sought an amendment to EIT-EN-PR1 to include an acknowledgement that renewable electricity generation may not be appropriate in some locations, such as where this would adversely affect or compromise development opportunities on Māori land.

[206] The following persons gave notice of an intention to join this part of Cain Whānau’s appeal under s274 RMA:

- (a) Kāi Tahu;
- (b) EDBs;
- (c) OGL;
- (d) DCC;
- (e) Forest & Bird;
- (f) Meridian Energy;
- (g) OWRUG;
- (h) QLDC; and
- (i) Transpower.

Resolution

[207] The parties proposed that the third paragraph of EIT-EN-PR1 be amended as follows:

EIT-EN-PR1 – Principal reasons

...

Renewable electricity generation facilities can cause significant adverse effects on the environment because of their functional need to locate in particular areas. These areas are where resources are available, for example water for hydro-electricity generation, but they may also contain other significant values such as

outstanding natural features or landscapes, significant indigenous vegetation or sites of significance to mana whenua values. In some situations, it may not be possible to avoid adverse effects on these significant values after considering alternative sites or design options. In these circumstances the effects should be remedied or mitigated, and consideration should be given to whether those effects that cannot be avoided are offset or compensated. Renewable electricity generation facilities may not be appropriate in some locations.

...

[208] The parties agreed that some areas may not be suitable for renewable electricity generation facilities. The proposed amendment provides express acknowledgement of this.

[209] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 6(e), 7(a), 7(aa), 7(b), 7(ba), 7(i) and 7(j).

TRAN – Transport

[210] The following provisions of the ‘TRAN – Transport’ subchapter are the subject of appeals by the Societies:

- (a) Definition for ‘Commercial port activity’; and
- (b) ‘EIT-TRAN-O1 – Commercial port activities’; and
- (c) ‘EIT-TRAN-P23 – Commercial port activities’; and
- (d) ‘EIT-TRAN-M7 – Regional plans’.

[211] In their respective appeals, the Societies sought various amendments to the above provisions. The Societies’ position was that the provisions are connected and did not give effect to the NZCPS or reflect the key findings of the Supreme Court in *Port Otago Limited v Environmental Defence Society Incorporated (Port Otago)*.⁸

⁸ [2023] NZSC 112.

[212] The Societies appealed the Decisions Version of the definition for ‘Commercial port activity’ together with ‘EIT-TRAN-O1 – Commercial port activities’, ‘EIT-TRAN-P23 – Commercial port activities’, and ‘EIT-TRAN-M7 – Regional plans’.

[213] The following persons gave notice of an intention to join this part of EDS’s appeal under s274 RMA:

- (a) Cain Whānau;
- (b) Kāi Tahu;
- (c) EDBs;
- (d) Forestry Appellants;
- (e) QLDC;
- (f) POL;
- (g) DGC;
- (h) Forest & Bird;
- (i) Meridian Energy;
- (j) Fish & Game;
- (k) the Fuel Companies; and
- (l) QAC.

[214] The following persons gave notice of an intention to join this part of Forest & Bird’s appeal under s274 RMA:

- (a) EDBs;
- (b) Cain Whānau;
- (c) Darby Planning;
- (d) RealNZ;
- (e) the Fuel Companies;
- (f) Kāi Tahu;
- (g) Meridian Energy;
- (h) MIC;

- (i) WIC;
- (j) POL;
- (k) Forestry Appellants;
- (l) DGC;
- (m) DCC;
- (n) Fish & Game;
- (o) QLDC; and
- (p) QAC.

Resolution

[215] The parties proposed that the definition for ‘Commercial port activity’ be amended as follows:

means ~~commercial shipping operations associated with the Otago Harbour and the activities carried out to service commercial ship operators calling at the ports at Port Chalmers and Dunedin, (including the wharves at Ravensbourne and Careys Bay)~~ commercial shipping operations associated with the Otago Harbour and the activities carried out to service commercial ship operators calling at the ports at Port Chalmers and Dunedin, (including the wharves at Ravensbourne and Careys Bay) which include:

- (a) Operation of marine services vessels; ~~commercial ships in Otago Harbour~~;
- (b) Loading and unloading of goods and passengers carried by sea (~~except~~ except for loading and unloading of passengers at Ravensbourne);
- (c) Facilities for the storage of goods carried by sea (~~except at Ravensbourne~~);
- (d) Buildings, installations, other structures or equipment at or adjacent to a port and used in connection with the ports’ operation or administration (~~except at Ravensbourne~~);
- (e) Structures, facilities and pipelines for fuel storage, and refuelling of ships;
- (f) Provision, maintenance and development of shipping channels and swing basins;
- (g) Disposal of dredged materials at A0 Heyward Point, Aramoana and Shelly Beach referred to at MAP2;
- (h) Installation and maintenance of beacons and markers for navigation safety; and
- (i) Provision and maintenance of the mole at Aramoana.

[216] The parties proposed that EIT-TRAN-P23 be amended as follows:

EIT-TRAN-P23 – Commercial port activities

Recognise the national and regional significance of commercial port activities by:

- (1) ensuring that other activities in the coastal environment do not adversely affect the efficient and safe operation of commercial port activities, or their connections with other transport modes,
- (2) providing for the efficient and safe operation of commercial port activities and efficient connections with other transport modes and for the development of the ports' capacity for national and international shipping in and adjacent to existing commercial port activities, while meeting the requirements of policies CE-P3 to CE-P12, CE-P13(4), CE-P14, CE-P15 and HAZ-NH-P3~~providing for the development of the ports' capacity for national and international shipping in and adjacent to existing port activities,~~
- ~~(3) ensuring that development in the coastal environment does not adversely affect the efficient and safe operation of these ports, or their connections with other transport modes, and~~
- (3) if any of policies CE-P3 to CE-P12, CE-P13(4), CE-P14, CE-P15 cannot be implemented while providing for the safe and efficient operation of commercial port activities, then apply the following effects management steps:
 - (a) give preference to avoiding activities locating within areas or values referenced in CE-P3 to CE-P12, CE-P13(4), CE-P14 and CE-P15
then
 - (b) where it is not practicable to meet (a) because of functional need or operational need, void, remedy or mitigate significant adverse effects to the extent practicable;
- (4) ~~if any of policies CE-P3 to CE-P12 cannot be achieved while providing for the safe and efficient operation or development of~~provided the steps in (3) above have been undertaken and where commercial port activities may cause adverse effects on the values that contribute to the significant or outstanding matters addressed in policies CE-P3 to CE-P12, CE-P13(4), CE-P14, CE-P15 or in respect of natural hazards where HAZ-NH-P3 cannot be met, then resource consent for such activities may be sought where:
 - (a) the proposed work is required for the safe and efficient operation of commercial port activities, and
 - (b) the adverse effects from the operation or development are established to be the minimum necessary to achieve the safe and

efficient operation of the commercial port activities.

[217] The parties have agreed that no changes are required to be made to ‘EIT-TRAN-O1 – Commercial Port Activities’ or ‘EIT-TRAN-7 – Regional plans’.

[218] The parties referred to *Port Otago* which concerned the relationship between the policies in the NZCPS requiring aspects of the natural environment to be protected and Policy 9, the ports policy as it related to Port Otago Limited, which was critical existing infrastructure.

[219] The Supreme Court held that the NZCPS Policy 9 directs decision-makers to recognise that a port network is required and must be interpreted in light of an already established ports network and the need to maintain the safe and efficient operation of that network.

[220] Reconciliation of any conflict between the NZCPS avoidance policies and the ports policy should be dealt with at the regional policy statement and plan level as far as possible.

[221] The parties consider that the amendments to the definition for ‘Commercial port activity’ and EIT-TRAN-P23 provide a means of reconciliation between providing provision for the port network and the similarly directive policies in the other chapters of the PORPS which require protection.

[222] They agreed that a definition for ‘Commercial port activity’ is required for the safe and efficient operation of Port Otago, but that the definition should be amended to narrow its scope to reflect the decision of the Supreme Court. The parties advised that the proposed amendments remove the implication that the definition includes the operation of third-party commercial ships calling at the Port (e.g. container ships, cruise vessels, etc). The revised definition covers the activities and facilities of the Port which includes the use of Port operated vessels only, e.g. pilot boats.

[223] The parties advised that the proposed amendments to EIT-TRAN-P23 provides decision-makers with a policy framework to undertake a structured analysis in situations where conflict might arise when recognising and providing for the safe and efficient operation of the port network in EIT-TRAN-P23 and other policies and/or policy direction in the PORPS.

[224] The parties consider that the proposed amendments to EIT-TRAN-P23 better reflect the structured analysis approach set out in the *Port Otago* decision.

[225] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5, 6(a), 6(b), 6(c), 6(h), 7(b), 7(g) and 7(i).

MAP2 – EIT-TRAN-M7 Port Activities

[226] POL appealed the Decisions Version of ‘MAP2 – EIT-TRAN-M7 Port Activities’.

[227] The map mistakenly omitted the location of navigation beacons in the Upper Harbour.

[228] DCC joined this part of POL’s appeal under s274 RMA.

Resolution

[229] The parties have agreed to correct the map by including the navigation beacons in the Upper Harbour, shown in **Annexure 1**.

[230] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss5 and 7(b).

Consideration

[231] I have read and considered the consent memorandum of the parties dated

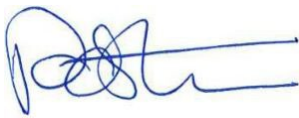
12 September 2025 which proposes to resolve all appeals points on the EIT chapter of the PORPS, and other relevant definitions and provisions as set out in ‘A:’ at the commencement of this Order.

[232] The parties advise that no appeals on the non-freshwater planning instrument parts of the PORPS are fully resolved as a result of this Order.

[233] The parties advise that all matters proposed for the court’s endorsement fall within the court’s jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Outcome

[234] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



P A Steven
Environment Judge



Schedule One

1. Ara Poutama Aotearoa Department of Corrections (ENV-2024-CHC-21)
2. Aurora Energy Limited, Network Waitaki Limited and Powernet Limited (ENV-2024-CHC-24)
3. Environmental Defence Society Incorporated (ENV-2024-CHC-39)
4. Manawa Energy Limited (ENV-2024-CHC-32)
5. Meridian Energy Limited (ENV-2024-CHC-22)
6. Port Otago Limited (ENV-2024-CHC-33)
7. Queenstown Airport Corporation Limited (ENV-2024-CHC-40)
8. Royal Forest and Bird Protection Society of New Zealand Incorporated (ENV-2024-CHC-26)
9. Cain Whānau (ENV-2024-CHC-30)
10. Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o Ōraka Aparima, and Te Rūnanga o Awarua and Te Rūnanga o Ngāi Tahu (ENV-2024-CHC-36)
11. Transpower New Zealand Limited (ENV-2024-CHC-35)
12. Queenstown Lakes District Council (ENV-2024-CHC-37)
13. New Zealand Transport Agency – Waka Kotahi (ENV-2024-CHC-38)

Annexure 1

EIT – Energy, infrastructure and transport

INF – Infrastructure

The amendments to the INF - Infrastructure section of the chapter are as follows:

Amend definitions:

Community-scale irrigation and stockwater infrastructure means *infrastructure to take, convey or store water for irrigation or stock drinking water that supplies water to five or more properties and that is administered by a trust, company, incorporated society, or other legal entity.*

Regionally significant infrastructure means:

1. roads which provide a lifeline connection for a community OR roads classified as being of regional importance in accordance with the One Network Framework,
2. electricity sub-transmission infrastructure,
- (2A) significant electricity distribution infrastructure,
3. renewable electricity generation facilities that connect with the local distribution network but not including renewable electricity generation facilities designed and operated principally for supplying a single premise or facility,
4. networks for the purpose of telecommunication and radiocommunication networks as respectively defined in section 5 of the Telecommunications Act 2001 and in section 2 of the Radiocommunications Act 1989,
5. public transport, terminals and stations,
6. the following airports: Dunedin, Queenstown, Wānaka, Alexandra, Balclutha, Cromwell, Ōamaru, Taiari.
7. navigation infrastructure associated with airports and commercial ports which are nationally or regionally significant,
8. defence facilities for defence purposes in accordance with the Defence Act 1990,
- (8A) established community-scale irrigation and stockwater infrastructure,
9. community drinking water abstraction, supply treatment and distribution infrastructure that provides no fewer than 25 households with drinking water for not less than 90 days each calendar year, and community water supply abstraction, treatment and distribution infrastructure (excluding delivery systems or infrastructure primarily deployed for the delivery of water for irrigation of land or rural agricultural drinking-water supplies),
10. community stormwater infrastructure,
11. wastewater and sewage collection, treatment and disposal infrastructure serving no fewer than 25 households,
- (11A) oil terminals, bulk fuel storage and supply infrastructure, and ancillary pipelines at Port Chalmers and Dunedin Bulk Port,
12. Otago Regional Council's hazard mitigation works including flood protection infrastructure and drainage schemes,
13. ~~landfills and associated solid waste sorting and transfer facilities which are designated by, or are owned or operated by a local authority,~~
14. ski area infrastructure at Remarkables, Cardrona, Treble Cone and Coronet Peak, and
15. any infrastructure identified as nationally significant infrastructure.

Amend objectives:

EIT-INF-O4 – Provision of *infrastructure*

Effective, efficient, safe and resilient *infrastructure*, *nationally significant infrastructure* and *regionally significant infrastructure* enables the people and communities to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth in the region-, while adverse effects are managed.

EIT-INF-O5 – Integration

Development of *infrastructure* ~~and, as well as land use change~~ is coordinated, where appropriate, ~~occurs in a co-ordinated manner to minimise adverse effects on the environment and increase efficiency in the delivery, operation and use of the infrastructure.~~

EIT-INF-OX – Protecting infrastructure with national or regional significance

Regionally significant infrastructure and *nationally significant infrastructure* are not compromised by subdivision, use and development.

EIT-INF-O6 – Long term planning for the National Grid and distribution infrastructure **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*.

~~Long term investment in, and planning for, electricity transmission infrastructure, and its integration with land use, is sustained.~~

Amend policies:

EIT-~~EN~~INF-P9A – Providing for electricity distribution

Recognise and provide for electricity distribution infrastructure, by all of the following:

(1A) Managing adverse effects in accordance with EIT-INF-P13 and EIT-INF-P13A,

- (1) recognising the functional needs of electricity distribution activities;
- (2) restricting the establishment of activities that may result in reverse sensitivity effects;
- (3) avoiding, remedying or mitigating adverse effects from other activities on the functional needs of that infrastructure
- ~~(4) minimising adverse effects of new and upgraded electricity distribution infrastructure on existing land uses;~~
- (5) identifying significant electricity distribution infrastructure and managing effects of potentially incompatible activities through methods such as corridors, and

(5A) ensuring that the ability to develop, use and protect native reserves and Māori land in accordance with MW-P4 is not compromised.

EIT-INF-P12 – Upgrades and development

Provide for upgrades to existing, and development of new, *nationally significant infrastructure* or *regionally significant infrastructure* while ensuring that:

- (1) it is designed and located, as far as practicable, to maintain functionality during and after *natural hazard* events,
- (1A) it is resilient, to the extent reasonably practicable, to the current and future *effects* of sea level rise and *climate change*,
- (2) it is, as far as practicable, co-ordinated with long-term *land* use planning, and
- (3) its delivery, operation or use is efficient.

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

When providing for new *infrastructure*, *nationally significant infrastructure* and *regionally significant infrastructure* outside the coastal environment:

- (1) avoid, as the first priority, locating *infrastructure* in all of the following:
 - (a) significant natural areas,
 - (b) outstanding natural features and landscapes,
 - (c) natural inland wetlands and rivers,
 - (d) outstanding water bodies,
 - (f) areas or places of special or outstanding *historic heritage*, and
 - (g) wāhi tupuna, and
- (2) if it is not reasonably practicable to avoid 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*, or electricity distribution networks:
 - (i) in *significant natural areas*, in accordance with ECO-P3, ECO-P4, and ECO-5AP6,
 - (ii) in natural inland wetlands or rivers, in accordance with LF-FW-P10A and LF-FW-P13 ~~the relevant provisions in the NESF,~~
 - (iii) in *outstanding water bodies*, in accordance with LF-FW-P12,
 - (iiia) in relation to wāhi tūpuna, in accordance with HCV-WT-P2,
 - (iv) in other areas listed in EIT-INF-P13 (1) above, the adverse *effects* of the *infrastructure* on the values that contribute to the area's importance shall

be:

- (I) remedied or mitigated to the extent practicable,
 - (II) where they cannot be practicably remedied or mitigated, regard shall be had to offsetting and/or compensation of more than minor residual adverse effects.
- (b) for all *infrastructure* that is not *nationally significant infrastructure*, ~~or regionally significant infrastructure~~, or electricity distribution networks, avoid adverse effects on the values that contribute to the area's outstanding nature or significance except in relation to historic heritage which is not significant or outstanding, then HCV-HH-P5(3) will apply.

EIT-INF-P14 – Decision making considerations

When considering proposals to develop or upgrade *infrastructure*:

- (1) require consideration of alternative sites, methods and designs if adverse *effects* are potentially significant or irreversible, and
- (1A) require consideration of the current and future effects of sea level rise and climate change, and
- (2) recognise that ~~utilise the opportunity of substantial~~ upgrades of *infrastructure* may provide opportunities to reduce adverse *effects* ~~of that result from~~ the existing *infrastructure*, ~~including on sensitive activities, where appropriate.~~

EIT-INF-P15 – Protecting *nationally significant infrastructure* and *regionally significant infrastructure*

Protect the efficient and effective operation, maintenance, upgrading and development of *nationally significant infrastructure* and *regionally significant infrastructure* by:

- (1) to the extent reasonably possible, managing ~~avoiding~~ activities, to ensure that the extent reasonably practicable, that may give rise to an adverse effect on the functional needs or operational needs of the operation, maintenance, upgrading and development of nationally significant infrastructure or regionally significant infrastructure is not compromised,
- (2) ~~avoiding activities,~~ to the extent reasonably possible ~~practicable~~, managing activities to avoid that may result in reverse sensitivity effects on nationally significant infrastructure or regionally significant infrastructure, and
- (3) identifying areas where sensitive activities are to be avoided.
- ~~(3) avoid or minimise the effects of activities and development so that the opportunity to adapt, upgrade or extend existing nationally significant infrastructure or regionally significant infrastructure to meet future demand is not compromised.~~

EIT-ENINF-P16 – Providing for the *National Grid*

~~Maintain a secure and sustainable electricity supply in Otago by:~~ Facilitate the operation, maintenance, upgrade and development of the *National Grid* by:

- ~~(4) enabling the reasonable operation, maintenance and minor upgrade~~ enabling the operation, maintenance and minor upgrading requirements of established *National Grid* assets, and
- ~~(1) providing for the effective operation, maintenance, more than minor upgrading, and development of the *National Grid* assets. development of, and upgrades to, the electricity transmission network and requiring, as far as reasonably practicable, its integration with land use,~~
- ~~(2) considering the requirements of and constraints associated with the functional and operational needs of the *National Grid* in its management,~~
- ~~(5) minimising the adverse effects of the *National Grid* on urban amenity, and avoiding adverse effects on town centres, areas of high amenity or recreational value and existing sensitive activities,~~
- ~~(6) in rural areas, seek to avoid adverse effects in areas of high natural character and areas of high recreation value and amenity, and, where this is not practicable, apply EIT-INF-P13(2)(a)(iv), and~~
- ~~(7) in addition to clause (6), apply EIT-INF-P13 where relevant.~~

EIT-INF –PX – Managing the effects of the development of the *National Grid* within and outside the coastal environment

Manage the adverse effects of the operation, maintenance, upgrade and development of the *National Grid* by:

- (1) enabling the operation, maintenance and minor upgrading of the *National Grid*,
- (2) in urban environments, avoiding adverse effects on the values and characteristics of town centres, areas of high recreation value and existing sensitive activities,
- (3) managing effects on the values or extent of wetlands in accordance with LF-FW-P10A(1) and (2),
- (4) managing effects on the values or extent of rivers and lakes in accordance with LF-FW-P13(1) and (2),
- (5) in the coastal environment, recognising in terms of CE – Coastal Environment that there will be areas where avoidance of adverse effects on the values and characteristics of those areas is required,
- (6) for wāhi tupuna:
 - (a) as a first priority, seek to avoid adverse effects on the values or characteristics of wāhi tupuna; and
 - (b) where it is demonstrated that adverse effects on the values or characteristics of wāhi tupuna cannot be avoided, then either remedying or mitigating adverse effects in a manner that maintains the values of the wāhi tupuna,

- (7) ensuring that the ability to develop, use and protect native reserves and *Māori land* in accordance with MW-P4 is not compromised,
- (8) where (1) to (7) do not apply (and including in the coastal environment), as a first priority, seeking to avoid adverse *effects* on the values or characteristics of the following:
 - (a) *outstanding water bodies,*
 - (b) areas of high or outstanding natural character,
 - (c) outstanding natural features, outstanding natural landscapes or outstanding natural seascapes,
 - (d) *significant natural areas,*
 - (e) areas or places of special or outstanding *historic heritage,*
 - (f) in rural environments, areas of high recreation value and amenity (including *highly values natural features and landscapes*) and existing *sensitive activities,*
- (9) where adverse effects on the values or characteristics of the areas or places listed in (8) cannot be avoided, then remedying or mitigating adverse *effects*, while having regard to:
 - (a) the operational needs and functional needs of the *National Grid* and the extent those requirements constrain measures to avoid, remedy or mitigate adverse effects,
 - (b) the extent to which significant adverse *effects* are avoided,
 - (c) the extent to which any adverse *effects* have been avoided, remedied or mitigated by route, site and construction method selection for new *infrastructure* or major upgrades,
 - (d) the extent to which existing adverse *effects* have been reduced as part of any substantial upgrade,
 - (e) the extent to which adverse *effects* on urban amenity have been minimised,
 - (f) the extent to which the upgrading or development of the *National Grid* is required to provide the benefits of electricity transmission for present and future generations,
 - (g) in circumstances where there are more than minor residual adverse *effects* on *indigenous biodiversity* values, the need to:
 - (i) first, provide *biodiversity offsetting* if that is reasonably possible; or
 - (ii) provide *biodiversity compensation*, if that is practicable;
- (10) avoiding, remedying, or mitigating other adverse *effects* other than those addressed in (2) to (8), having regard to the matters in (9)(a) to (g); and
- (11) the objectives and policies in this regional policy statement apply, except that in the event of any conflict between EIT – INF – Px and other policies in this regional policy statement, EIT – INF – Px prevails over those policies.

Encourage and provide for the upgrade of *established community-scale irrigation and stockwater infrastructure* in preference to the maintenance of existing *infrastructure* where this will contribute to achieving the long-term visions for freshwater.

Amend methods

EIT-INF-M4 – Regional plans

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) recognise and provide for the operation, maintenance, upgrade and development of the *National Grid*.

EIT-INF-M5 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) require a strategic approach to the integration of land use and infrastructure, nationally significant infrastructure or regionally significant infrastructure,
- (4) manage the subdivision, *use* and development of *land* to ensure *infrastructure, nationally significant infrastructure or regionally significant infrastructure* can develop to meet increased demand,
- (5) manage the adverse *effects* of developing, operating, maintaining, or upgrading *infrastructure, nationally significant infrastructure or regionally significant infrastructure*, including, where appropriate, identifying activities that qualify as minor upgrades, that are on:
 - (a) the surface of *rivers* and *lakes* and on *land* outside the *coastal marine area*, and
 - (b) the beds of lakes and rivers,
- (6) ensure that development is adequately served with *infrastructure*,
- (X) In relation to the *National Grid*:
 - (a) enable planning for the *National Grid*,
 - (b) map the *National Grid*, and identify a buffer corridor within which sensitive activities shall generally not be allowed,

- (c) where necessary, establish controls for subdivision, buildings, structures and other activities adjacent to the *National Grid*, to ensure the *National Grid* is not compromised.

EN – Energy

The amendments to the EN - Energy section of the chapter are as follows:

Amend definition: Significant electricity distribution infrastructure

means electricity infrastructure ~~identified in a district plan~~ which supplies:

- (a) essential public services (such as emergency services and hospitals and lifeline utilities facilities);
- (b) other regionally significant infrastructure or individual consumers requiring supply of 1MW or more;
- (c) 700 or more consumers; or
- (d) communities that are isolated and which do not have an alternative supply in the event the line or cable is compromised and where the assets are difficult to replace in the event of failure.

Amend policies:

EIT-EN-P2 – Recognising renewable electricity generation activities in decision making

Decisions on the allocation and use of *natural and physical resources*, including the use of *fresh water* and development of *land*:

- (1) recognise the national significance of *renewable electricity generation activities*, including the national, regional and local benefits of *renewable electricity generation activities*, and
- (2) have particular regard to the need for, and benefits of, maintaining, ee and increasing of current-renewable electricity generation capacity, and
- (3) ~~recognise that the attainment of increases in renewable electricity generation capacity will require significant development of renewable electricity generation activities.~~

EIT-EN-P5 – Non-renewable energy generation

In relation to non-renewable energy generation:

- (1) except as provided for in (2) below, restrict the development of non-renewable energy generation activities in Otago, ~~where practicable~~, and facilitate the replacement of non-renewable energy sources, including the use of fossil fuels, in energy generation, and
- (2) in relation to *new heat devices for industrial process heat*:

- (a) avoid discharges from *new heat devices* that burn coal and deliver heat at or above 300 degrees Celsius, unless there is no technically feasible and financially viable lower emissions alternative,
- (b) avoid discharges from *new heat devices* that burn coal and deliver heat below 300 degrees Celsius, and
- (c) avoid discharges from *new heat devices* that burn any *fossil fuel* other than coal, unless there are no technically feasible and financially viable lower emissions alternative, and
- (3) in relation to existing heat devices for industrial process heat:
 - (a) restrict *discharges* from existing *heat devices* that burn coal and deliver heat at or above 300 degrees Celsius,
 - (b) restrict and phase out *discharges* from existing *heat devices* that burn coal and deliver heat below 300 degrees Celsius, and
 - (c) restrict *discharges* from existing *heat devices* that burn any *fossil fuel* other than coal.

EIT-EN-P6 – Managing *effects*

Manage the adverse effects of *renewable electricity generation activities* by:

- (1) applying EIT-INF-P13 and EIT-INF-P13A, while
- (2) having particular regard to:
 - (a) the functional need to locate renewable electricity generation activities where resources are available,
 - (b) the *operational need* to locate where it is possible to connect to the *National Grid* or *electricity sub-transmission infrastructure*, and
- (3) having regard to the extent and magnitude of adverse *effects* on the *environment* and the degree to which unavoidable adverse *effects* can be remedied or mitigated, or significant more than minor residual adverse *effects* are offset or compensated for; and
- (3A) while also providing for the ability of Kāi Tahu to develop, use and protect native reserves and Māori land (excluding in relation to the allocation and prioritisation of *freshwater*) in accordance with MW-P4, and
- (4) requiring consideration of alternative sites, methods and designs, and offsetting or compensation measures (in accordance with any specific requirements for their use in this RPS), where adverse *effects* are potentially significant or irreversible.

~~EIT-EN-P7 – Reverse sensitivity~~

~~Activities that may result in reverse sensitivity *effects* on consented or existing *renewable electricity generation activities* or compromise the operation or maintenance of *renewable electricity generation activities* are, as the first priority, prevented from establishing and only if that is not reasonably practicable, managed so that reverse sensitivity *effects* are minimised.~~

Amend methods:

EIT-EN-M2 – District plans

Territorial authorities must prepare or amend and maintain their *district plans* to:

- (1) provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for *renewable electricity generation*,
- (3) manage the adverse *effects* of developing or upgrading *renewable electricity generation activities* and *National Grid infrastructure*, including identifying activities that qualify as minor upgrades that are on:
 - (a) ~~are on~~ the surface of *rivers* and *lakes* and on *land* outside the *coastal marine area*, or
 - (b) the beds of lakes and rivers,
- (4) provide for the continued operation and maintenance of *renewable electricity generation activities* on the surface of *rivers* and *lakes* and on *land* outside the *coastal marine area* and the *beds* of *lakes* and *rivers*,
- (5) restrict the establishment or occurrence of activities that may adversely affect the efficient functioning of *renewable electricity generation infrastructure*,
- ~~(5A) enable planning for *National Grid*,~~
- ~~(5B) map the *National Grid*, and identify a buffer corridor within which *sensitive activities* shall generally not be allowed,~~
- (5C) map significant electricity distribution infrastructure and, where necessary, provide controls on activities to ensure that the functional needs of the significant electricity distribution infrastructure are not compromised,
- (5D) where necessary, establishing controls for *buildings*, *structures* and other activities adjacent to electricity *infrastructure*, to ensure the *functional needs* of that *infrastructure* 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), and
- (6) require the design of *subdivision* development to optimise solar gain, including through roading, lot size, dimensions, layout and orientation.

Amend principal reasons:

EIT-EN-PR1 – Principal reasons

Amend paragraph 3:

Renewable electricity generation facilities can cause significant adverse *effects* on the environment because of their *functional need* to locate in particular areas. These areas are where resources are available, for example *water* for hydro-electricity generation, but they may also contain other significant values such as outstanding natural features or landscapes, significant *indigenous vegetation* or sites of significance to *mana whenua* values. In some situations, it may not be possible to avoid adverse *effects* on these significant values after considering alternative sites or design options. In these circumstances the *effects* should be remedied or mitigated, and consideration should be given

to whether those *effects* that cannot be avoided are offset or compensated. Renewable electricity generation facilities may not be appropriate in some locations.

TRAN – Transport

Amend definition: Commercial port activity

means ~~commercial shipping operations associated with the Otago Harbour and the activities carried out to service commercial ship operators calling at the ports at Port Chalmers and Dunedin, (including the wharves at Ravensbourne and Careys Bay)~~ which include:

- (a) Operation of marine services vessels; ~~commercial ships in Otago Harbour~~;
- (b) Loading and unloading of goods and passengers carried by sea (~~except~~ except for loading and unloading of passengers at Ravensbourne);
- (c) Facilities for the storage of goods carried by sea (~~except at Ravensbourne~~);
- (d) Buildings, installations, other *structures* or equipment at or adjacent to a port and used in connection with the ports' operation or administration (~~except at Ravensbourne~~);
- (e) *Structures*, facilities and pipelines for fuel storage, and refuelling of *ships*;
- (f) Provision, maintenance and development of shipping channels and swing basins;
- (g) Disposal of dredged materials at A0 Heyward Point, Aramoana and Shelly Beach referred to at MAP2;
- (h) Installation and maintenance of beacons and markers for navigation safety; and
- (i) Provision and maintenance of the mole at Aramoana.

Amend policies

EIT-TRAN-P23 – Commercial port activities

Recognise the national and regional significance of *commercial port activities* by:

- (1) ensuring that other activities in the coastal environment do not adversely affect the efficient and safe operation of *commercial port activities*, or their connections with other transport modes,
- (2) providing for the efficient and safe operation of *commercial port activities* and efficient connections with other transport modes and for the development of the ports' capacity for national and international shipping in and adjacent to existing *commercial port activities*, while meeting the requirements of policies CE-P3 to CE-P12, CE-P13(4), CE-P14, CE-P15 and HAZ-NH-P3~~providing for the development of the ports' capacity for national and international shipping in and adjacent to existing port activities,~~
- ~~(3) —ensuring that development in the coastal environment does not adversely affect the efficient and safe operation of these ports, or their connections with other transport modes, and~~
- (3) if any of policies CE-P3 to CE-P12, CE-P13(4), CE-P14 and CE-P15, cannot be implemented while providing for the safe and efficient operation of *commercial port activities*, then apply the following effects management steps:

- (a) give preference to avoiding activities locating within areas or values referenced in CE-P3 to CE-P12, CE-P13(4), CE-P14 and CE-P15 then
 - (b) where it is not practicable to meet (a) because of *functional need* or *operational need*, avoid, remedy or mitigate significant adverse *effects* to the extent practicable;
- (4) ~~if any of policies CE-P3 to CE-P12 cannot be achieved while providing for the safe and efficient operation or development of~~ provided the steps in (3) above have been undertaken and where *commercial port activities* may cause adverse *effects* on the values that contribute to the significant or outstanding matters addressed in policies CE-P3 to CE-P12, CE-P13(4), CE-P14, CE-P15, or in respect of natural hazards where HAZ-NH-P3 cannot be met, then resource consent for such activities may be sought where:
 - (a) the proposed work is required for the safe and efficient operation of *commercial port activities*, and
 - (b) the adverse *effects* from the operation or development are established to be the minimum necessary to achieve the safe and efficient operation of the *commercial port activities*.

Amend map as follows:

