

BEFORE PROPOSED GORE DISTRICT PLAN HEARING PANEL

In the matter of

the Resource Management Act 1991

and

**the hearing of submissions made on
the Proposed Gore District Plan:
Hearing Stream 10 (Ecosystems and
Indigenous Biodiversity)**

**Statement of Evidence of Ainsley Jean McLeod on behalf of
Transpower New Zealand Limited
(submitter reference 101 and further submitter reference 30)
dated 10 February 2025**

SUMMARY OF EVIDENCE

1. The submission made by Transpower New Zealand Limited ("Transpower") on the Proposed Gore District Plan ("Proposed District Plan") is concerned with how the Proposed District Plan recognises and provides for the nationally significant National Grid, and particularly the extent to which the provisions of the Proposed District Plan:
 - a. give effect to the National Policy Statement on Electricity Transmission 2008 ("NPSET");
 - b. give effect to the operative Southland Regional Policy Statement 2017 ("SRPS"), and
 - c. appropriately reflect the relationship of the Proposed District Plan with the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 ("NESETA").
2. The NPSET provides policy direction in relation to:
 - a. recognising the benefits of the National Grid;
 - b. managing the adverse effects on the environment of the National Grid;
 - c. managing the adverse effects of land use and development on the National Grid; and
 - d. long-term strategic planning for transmission assets.
3. The SRPS includes the following provisions that are directly relevant to the National Grid, and the provisions of the Proposed District Plan that are the subject of Hearing Stream 10:
 - a. Objective INF.1 – Southland's infrastructure;
 - b. Policy INF.1 – Regional, national and critical infrastructure;
 - c. Policy INF.2 – Infrastructure and the environment;
 - d. Policy INF.3 – Infrastructure protection;
 - e. Policy INF.4 – Natural hazards;
 - f. Policy INF.5 – Development, subdivision and land use;
 - g. Policy INF.6 – Promoting consistent and integrated management of infrastructure across the region;
 - h. Objective BIO.2 – Maintain and protect;
 - i. Policy BIO.2 – Protect significant areas;
 - j. Policy BIO.4 – Maintain indigenous biodiversity;
 - k. Policy BIO.9 – Biodiversity offsets and environmental compensation; and
 - l. Method BIO.8 – Lawful maintenance and operation of existing activities;

- m. Method INF.2 – District plans.
4. In respect of the matters that are the subject of Hearing Stream 10, Transpower's submission, and further submission:
- a. supports an amendment to the definition of 'effects management hierarchy' so that it is clear that the definition relates to biodiversity;
 - b. seeks amendments to Objective ECO-O3 so that the Objective better reflects the direction given in Policy BIO.2 of the SRPS;
 - c. generally supports Policy ECO-P2, but seeks a limited amendment to recognise that an activity may have a functional need to locate in a Significant Natural Area ("SNA");
 - d. opposes the further submission made by the Royal Forest and Bird Protection Society of New Zealand Inc. ("Forest and Bird") that seeks the addition of 'and there are not practicable alternative locations' in Policy ECO-P2 on the basis that the higher order planning instrument that includes this direction (being the National Policy Statement for Indigenous Biodiversity 2023 ("NPSIB")) does not apply to the National Grid;
 - e. seeks the inclusion of exemptions for the National Grid in Policies ECO-P3 and ECO-P4 in order to give effect to the NPSET and reflect the exclusion of the National Grid from the NPSIB;
 - f. opposes the 'default' non-complying activity status in Rule ECO-R1 and seeks the inclusion of an additional matter of discretion to allow a consideration of the benefits of the National Grid;
 - g. opposes the requirement to offset residual adverse effects in Policy ECO-P11 on the basis that the same requirement in the NPSIB does not apply to the National Grid; and
 - h. seeks that SNAs are mapped in order to provide clarity and certainty for plan users.
5. My evidence considers the relief sought by Transpower and addresses, as relevant to this relief, the recommendations made in the 'Hearing Stream 10 – Ecosystems and Indigenous Biodiversity (ECO) Section 42A of the Resource Management Act 1991 Report' ("Section 42A Report").
6. My evidence:
- a. Concludes that an amendment to the definition of 'effects management hierarchy' so that it is clear that the definition relates to biodiversity is not necessary;
 - b. supports recommended amendments to Objective ECO-O3 and further supports a limited amendment so that the Objective relates to the values of SNAs;

- c. supports the inclusion of reference to 'operational need' in Policy ECO-P2, but concludes that a further amendment is required to reflect the fact that the National Grid is not subject to the provisions of the NPSIB;
 - d. similarly concludes that Policies ECO-P3 and ECO-P4 require amendment so that these provisions, that are to give effect to the NPSIB, do not impose NPSIB requirements on the National Grid because nothing in the NPSIB applies to the National Grid;
 - e. notes that rules for the operation, maintenance and upgrading of the National Grid are not relevant because the NESETA applies to such activities and supports the inclusion of a National Grid specific discretionary activity rule for vegetation clearance and land disturbance in order properly reconcile the relevant provisions of higher order planning instruments;
 - f. concludes that a further clause should be included in Policy ECO-P11 to provide for offsetting of residual effects of the National Grid in situations where Transpower offers such offsetting, as opposed to imposing the compulsory requirement embedded in the NPSIB;
 - g. acknowledges the mapping that has been undertaken and expresses a preference for maps to be incorporated in the Proposed District Plan.
7. It is my conclusion that the amendments I support are necessary and the most appropriate (in terms of the requirements of section 32 of the RMA) to:
- a. achieve consistency with, and give effect to the relevant higher order provisions where these apply to the National Grid (noting that the NPSIB does not);
 - b. improve the efficiency, clarity and usability of the Proposed District Plan; and
 - c. therefore achieve the purpose of the RMA.

INTRODUCTION

- 8. My full name is Ainsley Jean McLeod. I am a self-employed planner, trading as Ainsley McLeod Consulting Limited.
- 9. I have been engaged by Transpower to provide expert planning evidence in relation to the submission and further submission made by Transpower on the Proposed District Plan.
- 10. This is the tenth statement of evidence prepared by me in relation to Transpower's submission and further submission. My qualifications and relevant experience are set out in my earlier evidence that was filed for Hearing Stream 1. I will not repeat this information here, but for completeness, I confirm that I am familiar with Transpower's roles and responsibilities and am also generally familiar with approaches taken in policy statements and plans to providing for infrastructure and utilities, including the National Grid, across New Zealand.

11. My evidence should be read in conjunction with my earlier evidence and, to avoid unnecessary repetition, I rely on that evidence where it is relevant to Hearing Stream 10.
12. For the purpose of my evidence, I rely on the evidence of Mr John Sutherland that was filed by Transpower for Hearing Stream 1. It describes Transpower's assets in Gore and gives an overview of Transpower's roles and responsibilities, including in respect of the pivotal role the National Grid plays in achieving New Zealand's 'Paris Climate Accord' commitment and decarbonisation.

CODE OF CONDUCT

13. Although this matter is not before the Environment Court, I acknowledge the Hearings Panel direction in Minute 6 (paragraph 5.24) and confirm that I have read the Code of Conduct for Expert Witnesses as contained in section 9 of the Environment Court Practice Note 2023. I further confirm that I have complied with this Code of Conduct when preparing my written statement of evidence and will do so, when giving evidence or otherwise participating in the hearing process.

SCOPE OF EVIDENCE

14. My evidence:
 - a. acknowledges the statutory requirements for the Proposed District Plan relevant to Hearing Stream 10;
 - b. describes Transpower's submission and further submission on the Proposed District Plan that are the subject of Hearing Stream 10; and
 - c. addresses (as relevant to the relief sought by Transpower) the recommendations made in the Section 42A Report.

RELEVANT STATUTORY FRAMEWORK

15. The statutory and policy considerations and directions for the Proposed District Plan, are referenced in my earlier evidence and I rely on my earlier evidence and do not repeat the relevant provisions here except to emphasise that the Proposed District Plan must give effect to the NPSET and the SRPS.
16. In respect of Hearing Stream 10 it is also important to emphasise that clause 1.3(3) of the NPSIB states that:

"Nothing in this National Policy Statement applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities. For the avoidance of doubt, renewable electricity generation assets and activities, and electricity transmission

network assets and activities, are not “specified infrastructure” for the purposes of this National Policy Statement.”

17. Because the NPSIB does not apply to National Grid assets and activities (and renewable electricity generation), provisions in the Proposed District Plan that are to give effect to the NPSIB should similarly not apply to these assets and activities. Instead, indigenous biodiversity is managed in respect of the operation, maintenance, upgrading and development of the National Grid with reference to the NPSET and section 6 of the RMA.
18. My analysis and consideration of the relief sought by Transpower is informed by the statutory framework for decisions on the Proposed District Plan set out in the Section 32 Reports, the RMA, and the on-going guidance provided by the modified Long Bay test.¹
19. Where my evidence addresses or emphasises a particular statutory requirement, such requirements are set out in the body of my evidence.
20. The remainder of my evidence describes Transpower’s submission and further submission and considers these submissions alongside the recommendations made in the Section 42A Reports.
21. Amendments to the provisions of the Proposed District Plan are shown in my evidence as follows:
 - a. Section 42A Report recommendation text, including text amended in any subsequent ‘right of reply’: black underline and ~~black strikethrough~~;
 - b. submission and further submission text: red underline and ~~red strikethrough~~; and
 - c. amendments that I support in my evidence: blue double underline and ~~blue double strikethrough~~

PART 1 - INTRODUCTION AND GENERAL PROVISIONS: INTERPRETATION

Definition – ‘Effects management hierarchy’

22. Transpower’s further submission² supports the primary submission made by Mercury NZ Limited³ seeking the following amendment to the definition of ‘effects management hierarchy’:

“Biodiversity Effects Management Hierarchy”

¹ *Long Bay – Okura Great Park Society v North Shore City Council* NZEnvC A078/2008, 16 July 2008, at [34], *High Country Rosehip Orchards Ltd v Mackenzie District Council* [2011] NZEnvC 387 and *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC55.

² Further submission reference FS30.050.

³ Primary submission reference 130.002.

23. The Section 42A Report recommends that the primary submission be rejected as follows:

“237. Mercury’s submission point seeking to retitle the term to “Biodiversity” effects management hierarchy is rejected as unnecessary given the term ‘effects management hierarchy’ is only used in the PDP in the ECO chapter (ECO-P4 and ECO-P10) and the definition starts:

*Means an approach to managing adverse effects of an activity on
indigenous biodiversity that requires... [emphasis added]”*

24. For the same reasons as those given in the Section 42A Report, I agree with the Section 42A Report recommendation and similarly consider that the relief sought is unnecessary.

PART 2 - DISTRICT-WIDE MATTERS: NATURAL ENVIRONMENT VALUES

Ecosystems and Indigenous Biodiversity – ECO: Objective ECO-O3

25. Transpower’s submission⁴ generally supports Objective ECO-O3 but considers that the Objective is more stringent than is appropriate or required by RMA or the SRPS and seeks that the Objective better reflects Policy BIO.2 of the SRPS through the following amendments:

“ECO-O3 Provide for ~~appropriate~~ subdivision, use and development within Significant Natural Areas where the values of the area ~~can be~~ are maintained and, where appropriate, enhanced.”⁵

26. The Section 42A Report recommends that Transpower’s submission be rejected. No explicit reasons for this recommendation are given in the Report. The Report recommends that the Objective is amended to as follows:

“ECO-O3 ~~Provide for appropriate subdivision, use and development within Significant Natural Areas where the values of the area can be maintained and enhanced.~~ Significant Natural Areas/ Significant Indigenous Vegetation Areas are protected by avoiding or managing adverse effects from new subdivision, use and development.”

27. In my view, Objective ECO-O3, as notified, is intended to set out the outcome for the Gore District where activities are located in SNAs. I share the view expressed in Transpower’s submission that, in directing that activities are provided for where values not only maintained but also enhanced, the Objective is more onerous than higher order planning instruments, and in particular SRPS Policy BIO.2 that includes a ‘where appropriate’ test as follows:

⁴ Submission reference 101.051.

⁵ Transpower’s submission is supported by the further submission made by Stoney Creek Station Limited (further submission reference FS25.024)

“Policy BIO.2 – Protect significant areas

Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the Southland region will be protected and, where appropriate, enhanced.”

28. The recommended new Objective ECO-O3 is rewritten so that it is expressed as an outcome that achieves ‘protection’ through avoiding and managing adverse effects from new subdivision, use and development. The Objective no longer refers to ‘enhancing’ and does not ‘provide’ for activities.
29. It is my view that the recommended Objective better aligns with SRPS Policy BIO-P2 and appropriately sets the outcome for activities that are located in SNAs and Significant Indigenous Vegetation Areas (“SIVAs”). This would include situations where the National Grid must traverse such areas. That said, I note that Objective ECO-O3 refers to the maintenance and enhancement of the values of SNAs, whereas recommended Objective ECO-O3 refers to the protection of SNAs and SIVAs as a whole. I consider that the use of ‘values’ more clearly expresses what is to be protected and enables a more nuanced approach to managing the adverse effects of activities in SNAs and SIVAs by acknowledging that there may be areas within a SNA or SIVA that do not have significant, or any, indigenous biodiversity values. For this reason, I support retention of reference to ‘values’ in Objective ECO-O3 as follows:

“ECO-O3 ~~Provide for appropriate subdivision, use and development within Significant Natural Areas where the values of the area can be maintained and enhanced.~~ The values of Significant Natural Areas/ Significant Indigenous Vegetation Areas are protected by avoiding or managing adverse effects from new subdivision, use and development.”

Ecosystems and Indigenous Biodiversity – ECO: Policy ECO-P2

30. Transpower’s submission⁶ generally supports Policy ECO-P2 on the basis that the Policy recognises that there are circumstances where it is appropriate for activities to be located within SNAs where they have a functional need for a location, but considers that it is important to provide for activities that have an operational need, for a location and seeks the following amendment to the Policy:

“ECO-P2 Allow activities within Significant Natural Areas that may impact indigenous biodiversity values where:

...

⁶ Submission reference 101.052.

3. The activity has a functional need or operational need to be located in the area; or ...”⁷

31. Transpower’s further submission⁸ opposes the primary submission made by Forest and Bird that seeks the following amendment to Policy ECO-P2:

“ECO-P2 Allow activities within Significant Natural Areas that may impact indigenous biodiversity values where:

...

3. The activity has a functional need to be located in the area and there are no practicable alternative locations; or ...”⁹

32. The Section 42A Report: Ecosystems and Indigenous Biodiversity recommends that Transpower’s submission be accepted in part and Forest and Bird’s submission be accepted for the following reasons:

“369. Operational need is defined in the National Planning Standards and the PDP as “the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.”

370. NPS-IB clause 3.15 also states that an established activity means any activity (including maintenance, operation, and upgrade). For alignment purposes it is appropriate to enable activities that not only have a functional but also operational need to locate within SNA, particularly where this relates to an established activity, and does not result in a loss of extent or ecological integrity of an SNA.

...

380. The Forest and Bird submission point (S110.029) seeking amendments to ECO-P2(3) to note that there may be no practicable alternative location is accepted as this aligns with NPS-IB 3.11(1)(c) which limits activities with an operational or functional need to locate in SNAs where there are no alternative locations for the new subdivision, use or development. The following amendment is therefore recommended:

⁷ Transpower’s submission is supported by the further submissions made by Supported by the further submissions made by Southland Federated Farmers of New Zealand (further submission reference FS17.022) and Stoney Creek Station Limited (further submission reference FS25.029).

⁸ Further submission reference FS30.070.

⁹ Primary submission reference 110.029.

...3. The activity has a functional or operational need to be located in the area and there are no alternative locations; or...

381. Consequently, Transpower (S101.052) and NZTA (S112.064) submission points are accepted in part. Greenbriar's submission point (S128.024) is also accepted in part to the extent that this also seeks reference to operational need, however the change to include locationally constrained is not accepted as this does not align with NPS-IB 3.11(1)(c) as the locational constraint relies on operational and functional need criteria also being met. Changes to clause 3 as amended by the Forest and Bird submission point may provide some relief to Greenbriar in this respect."

33. Recommended amendments to Policy ECO-P2 are as follows:

"ECO-P2 ~~Enable~~ Allow activities within or affecting SNAs/SIVAs that may impact ~~indigenous biodiversity values~~ the extent or ecological integrity of the SNA/SIVA where:

1. the activity is a lawfully established activity; or
2. Their purpose is to facilitate or express Ngāi Tahu rights, interests, or cultural purpose; or
3. The activity has a functional or operational need to be located in the area and there are no alternative locations; or
4. The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat, and/or Ngāi Tahu cultural purpose; or
5. activities are consistent with a biodiversity covenant or management plan for the purpose of protecting or restoring the SNAs/SIVAs ecological values; or
6. The activity is no greater in intensity, scale or character: or
7. The activity involves the removal of exotic species and pest plants and pest animals in accordance with the Regional Pest Management Plan."

Inclusion of 'operational need'

34. I support the recommendation to include reference to 'operational need' in clause (3). Insofar as the Policy relates to the National Grid, my support for the recommendation does not rely on clause 3.15 of the NPSIB, rather I am of the view that including 'operational need' in clause (3)

is necessary and appropriate to give effect to NPSET Policy 3 and SRPS Policy INF.2(a) as follows:

“POLICY 3

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

“Policy INF.2 – Infrastructure and the environment

Where practicable, avoid, remedy or mitigate the adverse effects of infrastructure on the environment. In determining the practicability of avoiding, remedying, or mitigating adverse effects on the environment, the following matters should be taken into account:

- (a) any functional, operational or technical constraints that require the physical infrastructure of regional or national significance to be located or designed in the manner proposed;*
- (b) whether there are any reasonably practical alternative designs or locations; ...”*

35. That said, I consider that a minor amendment should be made to clause (3) so that ‘operational need’ and ‘functional need’ are expressed in full to enable hyperlinks to the associated definitions in the Interpretation Chapter as follows:

“ECO-P2 ~~Enable~~ Allow activities within or affecting SNAs/SIVAs that may impact indigenous biodiversity values the extent or ecological integrity of the SNA/SIVA where:

- 3. The activity has a functional need or operational need to be located in the area ...*

Inclusion of ‘and there are no alternative locations’

36. I do not support the Section 42A Report recommendation to include ‘and there are no alternative locations’ in Policy ECO-P2(3) for the following reasons:

- a. To the extent that the recommendation relies on clause 3.11(1)(c) of the NPSIB, the recommended amendment does not include the ‘practicable’ test included in the NPSIB and as such is more absolute than is necessary or appropriate.
- b. To the extent that the Policy applies to infrastructure, the recommended amendment fails to give effect to the requirement to take into account ‘reasonably practical alternative designs or locations’ in SRPS Policy INF.2(b) (set out above).
- c. To the extent that the Policy applies to the National Grid and the recommendation relies on the NPSIB, the recommendation inappropriately extends a specific direction in the

NPSIB to apply to the National Grid despite the NPSIB explicitly stating that 'nothing' in the NPSIB applies to the National Grid.

- d. The recommendation fails to consider the consequences of such an absolute direction in respect of alternative locations. That is, clause (3) does not allow the weighing of competing values and instead would direct a activity to locate in a different area even when that alternative location may have significant values that are similarly matters of national importance under section 6 of the RMA; In this way the recommendation effectively elevating the values of an SNA or SIVA over other values, and preferring impacts on other values, that are similarly important under section 6 of the RMA.
- e. The recommendation is not effects-based and fails to consider situations where an activity can be located in an SNA or SIVA without having an adverse effect on the values of the SNA or SIVA. For instance, where transmission line conductors, but no support structure traverse the SNA or SIVA.
- f. Insofar as the Policy relates to the National Grid, the recommendation fails to give effect to the particular consideration of adverse effects directed by Policy 4 of the NPSET as follows:

"POLICY 4

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

37. On the basis that the recommended inclusion of 'and there are no alternative locations' is to give effect to the NPSIB, I am of the view that it is inappropriate for this direction to apply to the National Grid. As such, I support an amendment to Policy ECO-P2(3) as follows:

"ECO-P2 ~~Enable~~ Allow activities within or affecting SNAs/SIVAs that may impact indigenous biodiversity values the extent or ecological integrity of the SNA/SIVA where:

..

- 3. The activity has a functional need or operational need to be located in the area and, except for the National Grid, there are no alternative locations; or*

38. That said, in respect of infrastructure generally, I acknowledge the requirement in SPRS Policy INF-2 to take into account whether there are any reasonably practical alternative designs or locations and consider an alternative to the National Grid specific approach that I support (set out above), Policy ECO-P2(3) could be amended as follows:

“ECO-P2 ~~Enable~~ ~~Allow~~ activities within or affecting SNAs/SIVAs that may impact indigenous biodiversity values the extent or ecological integrity of the SNA/SIVA where:

..

- 3. The activity has a functional need or operational need to be located in the area and:*

(a) for infrastructure, reasonably practical alternative designs or locations are taken into account; and

(b) for other activities, there are no alternative locations; or ...

Ecosystems and Indigenous Biodiversity – ECO: Policy ECO-P3

39. Transpower’s submission¹⁰ supports in part Policy ECO-P3 but seeks an amendment to the Policy to reflect that nothing in the NPSIB applies to the National Grid as follows:

“ECO-P3 Any new subdivision, use, or development shall avoid adverse effects on an SNA that result in:

...

Unless they relate to:

x. The operation, maintenance, upgrading and development of the National Grid;

- 6. Construction of specified infrastructure that provides significant national or regional public benefit;*
- 7. Mineral and aggregate extraction that provides significant national public benefit that could not otherwise be achieved using resource in New Zealand;*
- 8. The operation or expansion of any coal mine that was lawfully established before 4 August 2023, except that after 31 December 2030 this exception applies only to coal mines that extract Coking coal; and*
- 9. There is a functional need or operational need to be in that particular location and there are no practicable alternative locations.”*

¹⁰ Submission reference 101.053.

40. The Section 42A Report: Ecosystems and Indigenous Biodiversity recommends that Transpower's submission be rejected and comments as follows:

- "399. The Transpower submission (S101.053) seeking an additional clause to exclude the operation, maintenance, upgrading and development of the National Grid given the exclusion in NPS-IB 1.3(3) is rejected. NPS-IB 1.3(3) states that nothing in the NPS-IB "applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities. For the avoidance of doubt, renewable electricity generation assets and activities, and electricity transmission network assets and activities, are not "specified infrastructure" for the purposes of this National Policy Statement."*
- 400. While the NPS-IB may not cover renewable electricity generation and electricity generation assets and activities there is still a broader obligation under the RMA to protect SNAs (s6(c)) and maintain indigenous biodiversity (s31(1)(b)(iii)) while also having particular regard to the benefits derived from the use and development of renewable energy (s7(j)).*
- 401. The management of renewable electricity generation and electricity generation assets and activities is guided by the existing NPSREG, NPSET and NESETA.*
- ...
- 403. The NPSET objective seeks to recognise the significance of the electricity network while managing adverse effects of the network and other activities on the network. Policy 8 notes that the planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreational value and amenity in rural areas but there is no specific reference to SNAs. In Gore all SNAs are in rural areas and are identified using criteria from the NPS-IB/SRPS relating to representativeness, diversity and pattern, rarity and distinctiveness, and ecological context. The unspoiled natural form of SNAs could be considered to contribute to Gores amenity values of the rural area given that the definition of amenity values in the RMA includes natural qualities that contribute to people's appreciation of pleasantness, cultural and recreational attributes particularly given that SNAs include taonga species identified by mana whenua and a number are located within recreational areas.*
- 404. The NESETA provides for vegetation clearance associated with existing transmission lines in Natural Areas (which include SNAs) generally as a*

controlled activity (s31), while clearance associated with new lines is outside the scope of NESETA and will be considered via the District Plan.

405. *The SRPS also provides guidance in that Policy BIO.2 requires the protection and enhancement of SNAs while having regard to potential adverse effects relating to fragmentation and loss of values which are similar to ECO-P3(1 to 5). At the same time Policy INF.1 recognises the benefits of nationally and regionally significant infrastructure and critical infrastructure, while Policy INF.2 seeks to manage adverse effects of infrastructure on the environment while taking into account a range of matters including functional and operational need, alternative locations and designs and the requirements of NPSET (2008).*

406. *While the NPS-IB might not cover REG and Electricity transmission the broader coverage of the RMA and SRPS means that an exclusion for these matters should not be provided in ECOP3. This is further supported by the lack of direction in NPSREG, the need to avoid adverse effects in recreational and amenity areas in the NPSET and the need for consent in the NESETA."*

41. While I agree with the Section 42A Report that, where the NPSIB does not apply, sections 6(c) and 31(1)(b)(iii) of the RMA provides direction in respect of indigenous biodiversity, I do not support the recommendation to reject Transpower's submission because:

- a. The consequence of the recommendation is to, somewhat perversely, set a more stringent 'avoid' policy direction for the National Grid than for 'specified infrastructure' because the National Grid is not 'specified infrastructure' in the NPSIB;
- b. The recommendation inappropriately applies a policy that is explicitly to give effect to the NPSIB to the National Grid despite nothing in the NPSIB applying to the National Grid. This is not the intention of the NPSIB and I note that the 'Recommendations and Decisions Report on the National Policy Statement for Indigenous Biodiversity' acknowledges a different pathway for electricity transmission, and further national policy direction in the future, as follows:

"The preferred approach includes a consent pathway and effects management hierarchy for significant environmental values that differs from the one in the NPSIB and the NPS-FM

...

This will leave all REG/ETN applications for new developments, upgrades, maintenance and operation to be dealt with directly by the RMA, and associated RMA plans and policy statements, until such time as the amendments to the NPS-REG and associated documents are finalised and come into effect.

...

This approach could ultimately provide a simpler, more consistent consent pathway for REG/ETN developments adversely affecting any of the significant environmental values identified as matters of national importance in section 6 of the RMA. It would also provide greater certainty to REG/ETN development in the longer term.”

- c. The recommendation fails to reconcile sections 6(c) and 31(1)(iii) of the RMA with the relevant enabling NPSET provisions as follows:

“Objective

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

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

POLICY 1

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

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

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

POLICY 2

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

POLICY 5

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

42. While the recommendation gives weight to the need for resource consent under Regulation 30 of the NESETA, I do not. The NESETA applies to existing transmission lines only whereas ECO-P3 applies to new subdivision, use and development. As such, I am of the view that the NESETA is of limited relevance. Further, the Section 42A Report fails to consider the role policies in the District Plan might play in the consideration of any application for resource consent made under Regulation 30 of the NESETA.
43. In my opinion, the Proposed District Plan must reconcile section 6(c) of the RMA with the relevant provisions in the NPSET and also give effect to SRPS Policy INF.2. In the context of Policy ECO-P3 this can be achieved by providing an exemption to the ‘avoid’ direction either by including the National Grid in the ‘specified infrastructure’ exemption or by including a National Grid specific clause that imposes the ‘seek to avoid’ direction in NPSET Policy 8 alongside the relevant effects considerations in the NPSET (Policies 3 and 4). In addition, consistent with my evidence in respect of Policy ECO-P2(3), I support a consequential amendment to Policy ECO-P3(9). The amendments I support are as follows:

OPTION 1

“ECO-P3 Any new subdivision, use, or development shall avoid adverse effects on an SNA/SIVA that result in:

...

Unless they relate to:

6. *Construction or upgrade of the National Grid or specified infrastructure that provides significant national or regional public benefit;*

...

9. *There is a functional need or operational need to be in that particular location and, except for the National Grid, there are no practicable alternative locations.”*

OPTION 2

“ECO-P3 Any new subdivision, use, or development shall avoid adverse effects on an SNA/SIVA that result in:

...

Unless they relate to:

6. *Construction or upgrade of specified infrastructure that provides significant national or regional public benefit;*

...

9. *There is a functional need or operational need to be in that particular location and there are no practicable alternative locations.*

x. The construction or upgrade of the National Grid, that shall seek to avoid adverse effects and regard is given to:

(a) the constraints imposed on the ability to avoid adverse effects by the functional needs or operational needs of the National Grid; and

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

44. I acknowledge that there is a further alternative drafting solution in respect of the National Grid, and giving effect to the NPSET. This is the development of a bespoke 'effects of the National Grid' policy (potentially located in the Infrastructure Chapter). I consider there are many efficiency and effectiveness advantages to giving effect to the NPSET by consolidating approaches to managing the effects of the National Grid. This includes eliminating the need to have National Grid specific clauses in a number of provisions throughout the Proposed District Plan and ensuring that approaches to give effect to the NPSET do not consequently enable or constrain other activities that are not electricity transmission activities.

Ecosystems and Indigenous Biodiversity – ECO: Policy ECO-P4

45. As with Policy ECO-P3, Transpower's submission¹¹ seeks the following exemption for the National Grid because nothing in the NPSIB applies to the National Grid and therefore it is inappropriate to impose a requirement to comply with the effects management hierarchy from the NPSIB (and embedded in Policy ECO-P4) on the National Grid, particularly because the NPSET includes specific approaches to the management of effects of the National Grid:

"With the exception of the operation, maintenance, development and upgrading of the National Grid, manage any adverse effects on an SNA from a new subdivision, use or

¹¹ Submission reference 101.054.

development relating to the following matters in accordance with the effects management hierarchy: ...”

46. The Section 42A Report: Ecosystems and Indigenous Biodiversity recommends that Transpower’s submission point be rejected as follows:

“418. Transpower’s submission point (S101.054) for an exclusion for the operation, maintenance, upgrading and development of the National Grid is rejected. As noted in the discussion under ECO-P3, the exclusion in the NPS-IB for renewable electricity generation and transmission lines does not mean that these matters do not need to be considered under the RMA and SRPS which require the protection and enhancement of SNAs along with consideration of impacts under NPSET and NESETA.”

47. I agree with the Section 42A Report that the adverse effects of the National Grid on indigenous biodiversity need to be considered. It is my view that the appropriate response to the explicit exclusion of the National Grid from the NPSIB is for district plan provisions for the National Grid to be drafted as if the NPSIB does not exist. As set out above, this means giving effect, and reconciling where necessary, the relevant provisions in the higher order planning instruments.

48. The effects management hierarchy in Policy ECO-P4 is entirely derived from, and intended to give effect to, the NPSIB. It is therefore my view that it is inappropriate for this effects management approach to apply to the National Grid. As set out above, and repeated in part here, the ‘Recommendations and Decisions Report on the National Policy Statement for Indigenous Biodiversity’ acknowledges a different pathway for electricity transmission, and further national policy direction in the future, as follows:

“The preferred approach includes a consent pathway and effects management hierarchy for significant environmental values that differs from the one in the NPSIB and the NPS-FM ...”

49. Consistent with my opinion in respect of Policy ECO-P3, it is my view that it is necessary and appropriate to apply the NPSET ‘seek to avoid’ policy direction included in Policy 8 of the NPSET. This is the most stringent policy direction in the NPSET for rural areas and is the policy direction given for matters of national importance under section 6 of the RMA. I am of the view that this is achieved through the amendment I support to Policy ECO-P3 and, based on that amendment, it is my conclusion that the National Grid should be exempt from Policy ECO-P4 so that the NPSIB effects management hierarchy does not apply.

50. The amendment I support to Policy ECO-P4 is as follows:

“Manage any adverse effects on an SNA/SIVA from a new subdivision, use or development, other than the development of the National Grid, relating to the following matters in accordance with the effects management hierarchy: ...”

Ecosystems and Indigenous Biodiversity – ECO: Policy ECO-P11

51. Transpower’s submission¹² opposes Policy ECO-P11 to the extent that the Policy directs the offsetting of adverse effects. Transpower does not oppose the offsetting of residual effects, but considers that (for the National Grid where the NPSIB does not apply) offsetting measures should be offered, as required by the RMA (for instance, as required by section 104). Similarly, Transpower’s submission notes that the NPSET does not requiring offsetting.¹³ Transpower seeks the following amendment to Policy ECO-P11:

“ECO-P11 Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where:

x. the offsetting measures are proposed or agreed to by an applicant or requiring authority: ...”

52. The Section 42A Report recommends that Transpower’s submission be rejected as follows:

“539. Transpower NZ’s submission point s101.055 that requests an additional clause to note that the offsetting measures are proposed or agreed to by an applicant or requiring authority is rejected as this level of detail is not necessary in a policy and can be worked through as part of a resource consent application that follows the effects management hierarchy assessment. NPS-IB clause 3.10 (4)(b) requires that each step of the effects management hierarchy must be applied and that the requirements of NPS-IB Appendix 3 and 4 are applied. This is not optional so the consideration of offsetting or compensation will be considered at the time of consent. NPS-IB clause 3.18(2)(e) also requires options for offsetting and compensation be considered in relation to specified Māori land.”

53. Insofar as Policy ECO-P11 and Transpower’s relief relates to the National Grid, I do not agree with the Section 42A Report recommendation for the following reasons:
- a. The Report recommends that Transpower’s submission be rejected on the basis that applying the effects management hierarchy ‘is not optional’. However, in my view Transpower’s relief is not intended to provide options in the effects management hierarchy. Rather, nothing in the NPSIB applies to the National Grid and as such, the

¹² Submission reference 101.055.

¹³ Transpower’s submission is supported by the further submission made by Stoney Creek Station Limited (further submission reference FS25.053).

NPSIB cannot direct that the effects of the National Grid must be offset or compensated for.

- b. The Report does not consider that the NPSET does not include a requirement for offsetting and neither does Regulation 30 of the NESETA that explicitly provides for the trimming and removal of vegetation in relation to existing National Grid transmission lines.
- c. To the extent that the Policy applies to infrastructure, the recommendation does consider the direction in, and does not give effect to, SRPS Policy INF.2 that is as follows”

“Policy INF.2 – Infrastructure and the environment

Where practicable, avoid, remedy or mitigate the adverse effects of infrastructure on the environment. In determining the practicability of avoiding, remedying, or mitigating adverse effects on the environment, the following matters should be taken into account:

...

- (d) where appropriate, and such measures are volunteered by a resource user, whether any significant residual adverse effects can be offset or compensated for; and ...”*

- 54. From a practical perspective, I understand that it is not always feasible or appropriate for Transpower to offset or compensate for adverse effects of the National Grid as exemplified by two of the following ‘real world’ examples:
 - a. Where indigenous vegetation removal and trimming was recently required for the completion of an upgrade of a transmission line in a National Park, the Department of Conservation did not support offsetting being provided on the basis that such work could introduce pest plant species or disease into the National Park.
 - b. Where Transpower is required to trim indigenous vegetation in order to achieve safe conductor clearance and comply with the Electricity (Hazards from Trees) Regulations 2003 and therefore protect electricity supply and prevent fire hazards, offsetting in close proximity to the transmission lines may have the effect of increasing the risk to those transmission lines. Further, such trimming is necessarily on-going as vegetation grows and requires trimming. A requirement to offset would mean that Transpower would need to repeatedly offset the adverse effects of the ongoing maintenance of vegetation in the vicinity of transmission lines.
- 55. For the reasons set out above, it is my opinion that the Policy direction in the Proposed District Plan in respect of offsetting and compensation for the adverse effects of the National Grid

should mirror, and be consistent with, sections 104(1)(ab) and 171(1B) of the RMA that provide for a consideration of measures “*proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity*”. Further, I consider that this policy direction should be more confined than the relief sought by Transpower in its submission by being specific to the National Grid. Such an approach gives effects to the NPSET, gives effect to SRPS Policy INF.2, reflects the exemption for the National Grid in the NPSIB, and achieves the purpose of the RMA. The amendment to Policy ECO-P11 that I support is as follows:

“ECO-P11 Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where:

x. for the National Grid, the offsetting measures are proposed or agreed to by Transpower New Zealand Limited: ...”

56. As I have stated above, again, I am of the view that there are advantages to, where National Grid specific policy responses are necessary to give effect to the NPSET, consolidating the policy direction for managing the effects of the National Grid in a single policy located in the Infrastructure Chapter. The amendment that I support to Policy ECO-P11 could be treated in this way.

ECO -Ecosystems and Indigenous Biodiversity: Rule ECO-R1

57. Transpower’s submission¹⁴ supports in part Rule ECO-R1 to the extent that the Rule provides for indigenous vegetation clearance for the safe operation or maintenance of the National Grid as a permitted activity. Such an approach gives effect to Policy 2 and Policy 5 of the NPSET and is appropriately aligned with the NESETA. Transpower’s submission does not support Rule ECO-R1 to the extent that the Rule applies a non-complying activity status to indigenous vegetation clearance and land disturbance for new or upgraded National Grid assets in a SNA.
58. Transpower seeks that Rule ECO-R1 is amended to provide for indigenous vegetation clearance for the National Grid (upgrading or development) as a restricted discretionary activity.
59. The Section 42A Report: Ecosystems and Indigenous Biodiversity recommends that Transpower’s submission be rejected as follows:

“634. The submission point s144.008 from Contact that seeks that clearance within SNAs associated with large scale electricity generation is a discretionary rather than non-complying activity is rejected. As noted earlier in response to

¹⁴ Submission reference 101.056.

Transpower submission point (s101.053), while the NPS-IB 1.3 (3) states that nothing in the NPS-IB applies to the development, operation, maintenance or upgrade of renewable electricity generation assets or activities and that these are not specified infrastructure, these matters still need management in accordance with the RMA and SRPS. Furthermore, the NPSREG notes that the benefits of renewable electricity generation can compete with SNAs and provides little guidance on how to balance these issues. Furthermore, a non-complying activity default has been set across the PDP and is appropriate for SNAs/SIVAs for the reasons outlined in response to Stoney Creek et al (see s3.013) above. This matter was also addressed in the supplementary evidence of Ms Banhidi for Hearing Stream 7 which confirmed that ENRG-P1 should avoid large scale renewable electricity generation within SNAs.

635. *It is also noted that ECO-R1 permits critical infrastructure and network utilities and the safe operation of the national grid. Critical infrastructure includes “national, regional, and local renewable electricity generation activities of any scale”. Network utilities includes “transmission and distribution” of electricity and the national grid includes “the network of high voltage electricity...operated by Transpower... including transmission lines and substations”. I therefore consider that ECO-R1 is enabling enough when it comes to the generation and distribution of renewable electricity generating activities....*
638. *Transpower’s submission point s101.056 to make non-compliance with ECO-R1(d) a restricted discretionary activity with the matters of discretion recognising the benefits of the National Grid to more closely align with regulation 32 of NESETA is rejected for the reasons outlined above and below. NESTA 32 states that trimming, felling or removing any tree or vegetation (including in a natural area), in relation to an existing transmission line is a restricted discretionary activity. Natural area includes SIVAs and the matters of discretion are:*
 - (a) replanting; and*
 - (b) disposal of trees and vegetation; and*
 - (c) control of erosion and sediment; and*
 - (d) visual, landscape, and ecological effects; and*
 - (e) the effects on drainage, flooding, and overland flow paths”*
639. *ECO-R1 (1)(d) provides for indigenous vegetation clearance associated with the safe operation or maintenance of the National Grid and does not apply a limit to the extent of vegetation clearance. ECO-R1(1)(a) also permits clearance for maintenance and repair within 1.5m of critical infrastructure and network utilities.*

This is consistent with NESTA 32 which relates specifically to an existing transmission line not a new transmission line. NESTA does not cover new infrastructure but regulates activities relating to existing infrastructure.”

60. Transpower’s further submission¹⁵ opposes the relief sought in the primary submission made by the Director-General of Conservation that seeks to:¹⁶

a. amend clause (d) as follows:

“d) For the safe operation or maintenance (but not extension) of the National Grid ...”

b. amend wording in respect of the activity status that applies to the clearance of indigenous vegetation inside and outside of SNAs.

61. In respect of the Rules that apply to indigenous vegetation clearance and land disturbance, I note that the NESETA sets out a regulatory framework for the operation, maintenance and upgrading of existing National Grid transmission lines. This means that for all existing National Grid transmission lines in Gore, the Proposed District Plan Rules do not apply. On this basis, I do not consider that it is necessary to include a rule or rules to enable the operation, maintenance and minor upgrading of the National Grid in the Ecosystems and Indigenous Biodiversity Chapter. For the same reason, I am of the view that the addition of “(but not extension)” that is sought by the Director-General of Conservation is inconsequential and unnecessary. For this reason, I do not support the relief sought by the Director-General.

62. The NESETA does not apply to new National Grid assets and therefore, the Proposed District Plan rules apply to new National Grid assets. In this regard, I understand Rule ECO-R1 would require resource consent:

a. for a discretionary activity for indigenous vegetation clearance and land disturbance takes place outside a SNA or SIVA (Rule ECO-R1(3)); and

b. for a non-complying activity for indigenous vegetation clearance and land disturbance inside a SNA or SIVA (ECO-R1(4)).

63. In my opinion non-complying activity status is an activity status that signals that an activity that is unlikely to be appropriate in a particular location. As such, it is my conclusion that non-complying activity status for the National Grid is not necessary or appropriate for the following reasons:

a. the activity status, and signal that the activity not likely to be appropriate, does not reflect the national importance of the National Grid and does not give effect to the

¹⁵ Further submission references FS30.022 and FS30.023.

¹⁶ Primary submission references 109.065 and 109.066.

enabling provisions of the NPSET (Objective and Policies 1 and 2 of the NPSET) as follows (repeated for convenience);

“Objective

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

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

POLICY 1

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

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

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

POLICY 2

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

- b. does not give effect to SRPS Policy INF.1 as follows:

“Policy INF.1 – Regional, national and critical infrastructure

*Recognise the benefits to be derived from, and **make provision for, the development**, maintenance, upgrade and ongoing operation of regionally significant, nationally significant and critical infrastructure and associated activities.” [my emphasis]*

- c. does not align with the direction for sensitive environments in Policy INFR-P6 (as recommended for amendment in Hearing Stream 7 as follows:

~~“Manage the development of infrastructure, so that adverse effects on adjoining activities, sites, ecosystem health, and Ngāi Tahu cultural values are avoided, remedied or mitigated to avoid, remedy, or mitigate any adverse effects on:~~

1. sensitive environments, adjoining activities, sites and ecosystem health and ...”

64. In my opinion, discretionary activity status is the most appropriate activity status for new National Grid assets on the basis that this activity status allows a comprehensive consideration of any application for resource consent for a new National Grid asset in a manner that gives effect to the higher order enabling planning instruments and also allow the activity to be ‘tested’ against the stringent ‘seek to avoid’ policy direction derived from NPSET Policy 8 (as supported earlier in my evidence). I consider that this is best achieved through a specific rule for the National Grid as follows:

ECO-R1	Indigenous vegetation clearance and land disturbance	
<u>In all areas</u>	<u>Activity status: Discretionary</u> <u>Where:</u> <u>1. it is for the development of the National Grid</u>	<u>Activity status where compliance is not achieved:</u> <u>N/A</u>

Appendix 4 - ECO-APP -Significant Natural Area Criteria: APP4-ECO-APP

65. Transpower’s further submission¹⁷ supports the primary submission made by Alistair and Bernadette Hunt that seeks that SNAs are mapped by the Council in collaboration with landowners before being included in any definition or rules.¹⁸ Transpower generally supports the submission on the basis that the inclusion of rules in the Proposed District Plan in respect of unmapped SNAs creates uncertainty for plan users to the extent that it is not clear or certain whether certain provisions or standards may apply to any proposed activity.
66. The Section 42A Report recommends that the primary submission be rejected as follows:

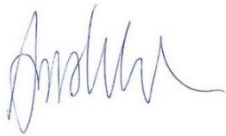
“693. As outlined above under “SNA Mapping”, preliminary mapping has been undertaken and the expectation is that detailed mapping will be done over time in consultation with landowners and this mapping will remain guidance only at this stage. There is the potential that ecological assessments will be funded by

¹⁷ Further submission reference FS30.003.

¹⁸ Primary submission reference 148.009.

Environment Southland until mid-2025 so the cost of assessments will not fall on landowners. This submission point is therefore rejected.”

67. My understanding of SNA and SIVA mapping is that mapping of these areas has been undertaken and that these maps do not form part of the Proposed District Plan but are intended to act as a tool for the implementation of the relevant provisions, including Rule ECO-R1.
68. I am of the view that mapping SNAs in the Proposed District Plan provides the greatest certainty in respect of where the provisions that relate to SNAs apply. Such an approach also provides the opportunity for those areas to be avoided as part of route and site selection processes. Further, I am of the view that inclusion of mapped areas in a district plan provides the opportunity for the mapping to be properly scrutinised through the submissions and the plan-making process as a whole.
69. That said, I acknowledge that this process is on-going and, for this reason, indicative mapping is not incorporated in the Proposed District Plan but is available to assist plan users to understand the extent to which provisions that relate to SNAs and SIVAs apply.
70. In my opinion, having publicly available mapping (and any accompanying information to support that mapping) sitting alongside the Proposed District Plan achieves a level of clarity and certainty for plan users, albeit without the rigour or testing of a RMA Schedule 1 process.



Ainsley Jean McLeod

10 February 2025