

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 7 (Energy,
Infrastructure and Earthworks, and
Activities on the Surface of Water)**

**Statement of Evidence of Ainsley Jean McLeod on behalf of
Transpower New Zealand Limited
(submitter reference 101 and further submitter reference 30)
dated 22 October 2024**

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:
 - 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; and
 - h. Method INF.2 – District plans.
4. In respect of the matters that are the subject of Hearing Stream 7, Transpower’s submission, and further submission, support a number of provisions, but seek amendments to:
 - a. refine various infrastructure related definitions;
 - b. clarify the role of the Infrastructure Chapter and its relationship to other chapters in the Proposed District Plan;

- c. require resource consent for a non-complying activity where activities are not permitted in the National Grid Yard;
 - d. give effect to Policies 5, 10 and 11 of the NPSET and the SRPS infrastructure related policies in the Infrastructure Chapter policies;
 - e. achieve alignment with the regulations in New Zealand Electrical Code of Practice for Electrical Safe Distances (“NZECP 34:2001”);
 - f. ensure that the benefits of infrastructure are considered in future resource consent processes; and
 - g. refine the exemptions and exclusions that apply to earthworks so that the National Grid is not compromised.
5. My evidence considers the relief sought by Transpower and addresses, as relevant to this relief, the recommendations made in the following reports (“Section 42A Report” or “Section 42A Reports”):
- a. the ‘Section 42A Report – Activities on the Surface of Water’;
 - b. the ‘Section 42A Report – Earthworks’;
 - c. the ‘Section 42A Report – Energy and Infrastructure’.
6. I support a number of recommendations made in the Section 42A Reports for the reasons given in Transpower’s submissions and/or the Section 42A Report. These recommendations are set out in **Attachment A**.
7. My evidence concludes that further direction needs to be included in the Proposed District Plan in respect of the relationship between the Infrastructure Chapter and other chapters in a manner that is consistent with the National Planning Standards and resolves tension or conflict within the Proposed District Plan.
8. I suggest and support amendments to Objective INFR-O1; Rule INFR-R4 and Standard INFR-S5 (Matters of Discretion) so that the benefits of the National Grid are appropriately included in the Proposed District Plan in order to give effect to Policy 1 of the NPSET and Policy INF.1 of the SRPS.
9. My evidence supports amendments to Policy INFR-P6 to protect the operation, maintenance, upgrading and development of the National Grid in order to give effect to Policies 10 and 11 of the NPSET.
10. My evidence also supports a limited amendment to Policy INFR-P7 to give effect to Policy 5 of the NPSET in respect of considering the inherent constraints on the management of the effects of infrastructure as a result of the operational needs and functional needs of that infrastructure.

11. In respect of earthworks, my evidence supports refinements to the way in which exemptions and exceptions impact on the management of effects on the National Grid and concludes that Rule EW-R12 (and associated exemptions) requires refinement to give effect to Policy 10 of the NPSET and to align with NZECP34:2001.
12. The amendments to the provisions of the Proposed District Plan that are suggested in, and supported by, my evidence are set out in the body of my evidence. It is my conclusion that these amendments 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;
 - b. improve the efficiency, clarity and usability of the Proposed District Plan; and
 - c. therefore achieve the purpose of the RMA.

INTRODUCTION

13. My full name is Ainsley Jean McLeod. I am a self-employed planner, trading as Ainsley McLeod Consulting Limited.
14. 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.
15. This is the fourth 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.
16. 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 7.
17. For the purpose of my evidence, I rely on the evidence of Mr John Sutherland that was filed by Transpower for Hearing Stream 1 and 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

18. 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

19. My evidence:
- a. acknowledges the statutory requirements for the Proposed District Plan relevant to Hearing Stream 7;
 - b. describes Transpower's submission and further submission on the Proposed District Plan that are the subject of Hearing Stream 7; and
 - c. addresses (as relevant to the relief sought by Transpower) the recommendations made in the Section 42A Reports.

RELEVANT STATUTORY FRAMEWORK

20. 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 and that "give effect to" is a strong statutory directive in the RMA that was interpreted in the *EDS v New Zealand King Salmon* Supreme Court case as meaning "to implement".¹
21. 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.²
22. In addition, my evidence addresses NZECP34:2001 (approved under the Electricity Act 1991) that include regulations that set minimum safe electrical distance requirements for overhead electric line installations and other works associated with the supply of electricity from generating stations to end users. The safe distances are to protect persons, property, vehicles and mobile plant from harm or damage from electrical hazards.
23. 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.

¹ *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited*, NZSC 38, 17 April 2014.

² *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.

24. Where amendments to the provisions of the Proposed District Plan are suggested in, and supported by, my evidence these are shown as follows:
- a. Section 42A Report recommendation text: black underline and ~~black strikethrough~~;
 - b. Submission and further submission text: red underline and ~~red strikethrough~~; and
 - c. evidence text: blue double underline and ~~blue double strikethrough~~.

SECTION 42A REPORT RECOMMENDATIONS

25. As a preliminary matter, I acknowledge that there are recommendations in the Section 42A Reports relating to the relief sought by Transpower that are consistent with my opinion and conclusions in respect of that relief. In the interest of brevity, I have included a table as **Attachment A** that lists these recommendations. I confirm that the reasons for my support of these recommendations are those included in either, or both, Transpower's submission and the relevant Section 42A Report. I also set out my opinion in respect of minor refinements in respect of the Section 42A Report recommendations. I do not address these matters further in my evidence.
26. Those submission points that remain outstanding relate to:
- a. the relationship between the infrastructure chapter and other chapters in the Proposed District Plan;
 - b. Objective INFR-O1;
 - c. Policy INFR-P6;
 - d. Policy INFR-P7;
 - e. Rule INFR-R4 and Standard INFR-S5 (Matters of Discretion);'
 - f. the rules that regulate earthworks and land disturbance in the National Grid Yard, and the exemptions to those rules.

PART 2 – DISTRICT-WIDE MATTERS

Energy, Infrastructure and Transport – Infrastructure

Relationship between chapters

27. Transpower's submission and further submission seeks (or supports) amendments to provisions and directions in the Proposed District Plan that:
- a. clarify the direction given in respect of the relationship between the provisions in the Infrastructure chapter and the provisions in other District wide and area specific chapters; and

- b. as an alternative, should the provisions in other District wide and area specific chapters apply, resolve potential tension or conflict between provisions in the various chapters and give effect to the higher order planning instruments, where such provisions may apply to the operation, maintenance, development or upgrading of the National Grid.
28. Where Transpower seeks or supports further clarification, the relevant parts of the submission are considered as part of Hearing Stream 7. Where Transpower seeks that the provisions in other District wide and Area specific chapters are amended, the relevant parts of the submission have, or will be, considered in different hearing streams. The submissions and further submissions, along with the relevant Section 42A Report recommendations that are considered in Hearing Stream 7 are set out in the following table.

Provision	submission reference	Relief sought by Transpower	Relevant Section 42A Report recommendation
PART 2 - DISTRICT-WIDE MATTERS			
Energy, Infrastructure and Transport			
INFR - Infrastructure INFR-Overview	FS30.011 (Further submission on S35.012 Chorus New Zealand Limited)	The primary submission notes that it is unclear how rules in the infrastructure chapter are to be applied. Under the National Planning Standards all provisions relating to infrastructure that are not specific to the special purpose zone chapter or sections must be located in one or more chapters under the Energy, Infrastructure and Transport Heading.	The Energy and Infrastructure Section 42A Report recommends that the primary submission be accepted in part and comments as follows: <i>“168. ... Their submission requesting that the overview is updated to explain how the chapter interacts with other chapters within the district plan is supported in intent, however this is best implemented through a note, which is proposed to be amended to clarify this relationship.”</i> The recommended amendments to the Note are as follows: <i>“The provisions in this chapter apply in addition to the provisions of the other <u>district wide</u> chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. <u>This Rules and standards in Part 3 - Area Specific Matters (zones) do not apply to activities managed under this</u></i>
	FS30.080 (Further submission on S154.012 Spark New Zealand Trading Limited)	The submission seeks an additional paragraph explaining how the infrastructure chapter interacts with other chapters of the DP noting that it is a standalone chapter and there are no rules in any other chapter which apply to the activities regulated under the INFR chapter.	
	FS30.058 (Further submission on S32.012 One New Zealand Group Limited)	Transpower generally supports the submission and is similarly of the view that the clear direction should be included in the Overview to explicitly explain how the INF Chapter relates to, and interacts with, other chapters in the Proposed District Plan.	
	FS30.015 (Further submission on S37.012 Connexa Limited)		
	FS30.027 (Further submission on S33.012 Forty South)		
INFR - Infrastructure INFR-Overview	FS30.012 (Further submission on S35.023 Chorus New	The primary submission seeks that, in order to comply with NPS, it must be a standalone chapter. Noting the proposed amendments to INFRR9, the only other	

Provision	submission reference	Relief sought by Transpower	Relevant Section 42A Report recommendation
	Zealand Limited)	chapters which should be applicable to infrastructure are the subdivision and general district wide matters chapters in Part 2 of the plan. All other actual and potential effects of infrastructure are provided for within the Infrastructure chapter.	<u>chapter, unless expressly identified within the chapter.</u> "
	FS30.081 (Further submission on S154.023 Spark New Zealand Trading Limited)	Amend Note 1 as follows: <i>"The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua, on a district wide basis. As such the rules in the zone chapters do not apply. The provisions in the subdivision and General District Wide matters chapters in Part 2 of the District Plan are applicable."</i>	
	FS30.059 (Further submission on S32.023 One New Zealand Group Limited)		
	Stream 7 FS30.016 (Further submission on S37.023 Connexa Limited)		
	FS30.028 (Further submission on S33.023 Forty South)		
INFR - Infrastructure INFR – General Support	FS30.020 (Further submission on S109.034 Department of Conservation)	The submitter recommends amending Note 1 to identify which other provisions apply to provide clarity. Retain with the following amendments (or words to similar effect): <u>"Note 1 - Include a more specific description of what other provisions apply to this chapter such as the ECO chapter provisions."</u> Transpower supports the submission to the extent that the relief sought seeks to clarify where provisions in other chapters of the Proposed District Plan apply.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and comments as follows: <i>"150. ...DOC's request that Note 1 is amended to include a more specific description of what other provisions apply to this chapter is acknowledged and supported. Note 1 has been updated accordingly, to make it clear that other district wide chapters apply to this chapter, however the underlying zone provisions do not, unless expressly stated."</i>
PART 3 - AREA SPECIFIC MATTERS			
Residential Zones			
Large Lot Residential Zone – LLRZ Note 1 Provisions in Other Chapters	101.078	Oppose. Amend Note 1 as follows: <i>"The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also</i>	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part and comments as follows:

Provision	submission reference	Relief sought by Transpower	Relevant Section 42A Report recommendation
		<i>implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. <u>Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities.</u></i> Transpower does not support Note 1 on the basis that the Note is not sufficiently clear in terms of the rules that might apply to critical infrastructure generally, and the National Grid specifically. That is, as written, the Note could be understood to direct that the Large Lot Residential Zone rules apply to infrastructure in addition to the rules in the Infrastructure Chapter. This would result in Rule LLRZ-R12 applying and all infrastructure activities being non-complying activities. Transpower seeks that Note 1 is amended to explicitly set out that the General Industrial Zone rules do not apply to infrastructure.	<i>“184. Transpower’s submission is broadly supported in intent, however their specific relief requesting a note is added to various zone chapters is not supported. The ENRG and INFR Chapters were intended to be utilised as specific activity chapters, zone rules are not intended to apply to these activities in order to avoid double dipping of provisions and unnecessary resource consents. The District Wide Chapters however are intended to apply as these manage important areas and activities within the District. Based on this it is recommended the notes within both the ENRG and INFR Chapters be amended to make it clear to plan users’ which aspects of the plan apply, and which do not.”</i>
General Residential Zone – GRZ Note 1 Provisions in Other Chapters	101.081	Oppose. Amend Note 1 as follows: “The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. <u>Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities.</u>” Transpower does not support Note 1 on the basis that the Note is not sufficiently clear in terms of the rules that might apply to critical infrastructure generally, and the National Grid specifically. That is, as written, the Note could be understood to direct that the General Residential Zone rules apply to infrastructure in addition to the rules in the Infrastructure Chapter. This would result in Rule GRZ-R15 applying and all infrastructure activities being non-complying activities. Transpower seeks that Note 1 is amended to explicitly set out that the General	

Provision	submission reference	Relief sought by Transpower	Relevant Section 42A Report recommendation
		Industrial Zone rules do not apply to infrastructure.	
Rural Zones			
General Rural Zone – GRUZ Note 1 Provisions in Other Chapters	101.084	Oppose, amend Note 1 as follows: <i>“The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. <u>Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities.</u>”</i> Transpower does not support Note 1 on the basis that the Note is not sufficiently clear in terms of the rules that might apply to critical infrastructure generally, and the National Grid specifically. That is, as written, the Note could be understood to direct that the General Rural Zone rules apply to infrastructure in addition to the rules in the Infrastructure Chapter. This would result in Rule GRUZ-R20 applying and all infrastructure activities being non-complying activities. Transpower seeks that Note 1 is amended to explicitly set out that the General Industrial Zone rules do not apply to infrastructure.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part and comments as follows: “184. Transpower’s submission is broadly supported in intent, however their specific relief requesting a note is added to various zone chapters is not supported. The ENRG and INFR Chapters were intended to be utilised as specific activity chapters, zone rules are not intended to apply to these activities in order to avoid double dipping of provisions and unnecessary resource consents. The District Wide Chapters however are intended to apply as these manage important areas and activities within the District. Based on this it is recommended the notes within both the ENRG and INFR Chapters be amended to make it clear to plan users’ which aspects of the plan apply, and which do not.”
Rural Lifestyle Zone – RLZ Note 1 Provisions in Other Chapters	S101.087	Oppose. Amend Note 1 as follows: <i>“The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. <u>Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities.</u>”</i> Transpower does not support Note 1 on the basis that the Note is not sufficiently clear in terms of the rules that might apply to critical infrastructure generally,	

Provision	submission reference	Relief sought by Transpower	Relevant Section 42A Report recommendation
		and the National Grid specifically. That is, as written, the Note could be understood to direct that the Rural Lifestyle Zone rules apply to infrastructure in addition to the rules in the Infrastructure Chapter. This would result in Rule RLZ-R13 applying and all infrastructure activities being non-complying activities. Transpower seeks that Note 1 is amended to explicitly set out that the General Industrial Zone rules do not apply to infrastructure.	
Industrial Zones			
General Industrial Zone – GIZ Note 1 Provisions in Other Chapters	101.089	Oppose, amend Note 1 as follows: <i>“The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. <u>Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities.</u>”</i> Transpower does not support Note 1 on the basis that the Note is not sufficiently clear in terms of the rules that might apply to critical infrastructure generally, and the National Grid specifically. That is, as written, the Note could be understood to direct that the General Industrial Zone rules apply to infrastructure in addition to the rules in the Infrastructure Chapter. This would result in Rule GIZ-R12 applying and all infrastructure activities being non-complying activities. Transpower seeks that Note 1 is amended to explicitly set out that the General Industrial Zone rules do not apply to infrastructure.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part and comments as follows: “184. Transpower’s submission is broadly supported in intent, however their specific relief requesting a note is added to various zone chapters is not supported. The ENRG and INFR Chapters were intended to be utilised as specific activity chapters, zone rules are not intended to apply to these activities in order to avoid double dipping of provisions and unnecessary resource consents. The District Wide Chapters however are intended to apply as these manage important areas and activities within the District. Based on this it is recommended the notes within both the ENRG and INFR Chapters be amended to make it clear to plan users’ which aspects of the plan apply, and which do not.”

29. I generally support the Section 42A Report recommendation to revise the Note 1 to provide greater clarity in respect of the relationship between the chapters of the Proposed District Plan. The amended Note 1 means that, in addition to the Infrastructure Chapter:
- the District wide chapters also apply to infrastructure in their entirety (objectives, policies, rules and standards); and

- b. the rules and standards in Part 3 for area specific matters do not apply to infrastructure, but the objectives and policies do.
30. As noted in the submissions listed above, the National Planning Standards include the following mandatory direction in respect of the Energy, Infrastructure and Transport:
 - “5. Provisions relating to energy, infrastructure and transport that are not specific to the Special purpose zones chapter or sections must be located in one or more chapters under the Energy, infrastructure and transport heading. These provisions may include:
 - a. statement about the status of transport corridors eg, the adjoining zoning applies to the centre line of mapped roads
 - b. noise-related metrics and noise measurement methods relating to energy, infrastructure and transport, which must be consistent with the 15. Noise and vibration metrics Standard
 - c. the management of reverse sensitivity effects between infrastructure and other activities.
 6. The chapters under the Energy, infrastructure and transport heading must include cross-references to any energy, infrastructure and transport provisions in a Special purpose zones chapter or sections.
 7. Zone chapters must include cross-references to relevant provisions under the Energy, infrastructure and transport heading.”
 31. In my view the amendments to Note 1 fall short of achieving this mandatory standard because the district wide chapters and the area specific objectives and policies also apply to infrastructure so that the Infrastructure Chapter does not standalone. As a result, the specific cross referencing to relevant provisions, as required by the National Planning Standards is limited.
 32. In my experience, the relationship between infrastructure specific provisions and other district plan provisions is a matter that arises in most plan-making processes. This is because, without explicit direction and clarity, provisions elsewhere in a district plan can give rise to tension, inconsistencies or conflicting direction.
 33. By way of example, the Rural Section 42A Report (Hearing Stream 3) recommends that Policy RLZ-P7 is amended as follows:

“RLZ-P7 Avoid activities in the Rural Lifestyle Zone that do not have an operational need or functional need to locate there are incompatible with the character, qualities and purpose of the Rural Lifestyle Zone.”

34. I consider that Policy RLZ-P7 (and other similar provisions in the Proposed District Plan) could have the effect of preventing the upgrading or development of the National Grid in a manner that fails to give effect to the NPSET and SRPS given the firm 'avoid' direction, irrespective of the infrastructure specific policies in the Infrastructure Chapter. It is not clear to me whether it is intended or unintended for the same policy direction that applies to all use and development to also apply to infrastructure in addition to the specific provisions in the Infrastructure Chapter.
35. To address this uncertainty, Transpower's submission seeks the inclusion of cross-referencing and amendments to provisions in other chapters (including zone chapters) of the Proposed District Plan to give effect to the NPSET by ensuring that there is a 'policy pathway' for the development and upgrading of the National Grid through the provisions that apply to the National Grid as directed by Note 1. With reference to Transpower's submission, this relief often takes the form of a repetitious exemption for the National Grid, or a National Grid specific clause.
36. In my view it is the role of the Proposed District Plan to resolve this tension, conflict and inconsistencies within the Plan and it is therefore my conclusion that amendments are required to achieve this. There are a number of alternative approaches to resolving this tension in a manner that gives effect to the NPSET as follows:
- a. specifically providing for the National Grid infrastructure more generally in the other chapters of the Proposed District Plan where these provisions would otherwise conflict with the Infrastructure Chapter provisions that fail to give effect to the NPSET (as with Policy RLZ-P7), consistent with the relief sought in Transpower's submission;
 - b. including more explicit direction in the Infrastructure Chapter to make it clear that the Infrastructure objectives and policies 'apply instead', 'take precedence' or 'prevail over' the area-specific provisions;
 - c. including a 'carve out' provision where a clause in the relevant infrastructure policy or policies states that "*in the event of conflict between [other provision reference] and [infrastructure policy] , [infrastructure policy] prevails*".
37. I am aware of, and support, the differing approaches taken to resolve this issue in recent district plan processes where I have appeared as an expert witness.
38. In the Mackenzie District Plan the decisions version of the Infrastructure Chapter includes following direction. This direction includes explicit cross-referencing to the provisions that are intended to apply to infrastructure activities:³

³ Subject to appeal.

“In addition to the provisions in this chapter, the provisions in Table 1 also apply to infrastructure. Beyond the provisions listed in Table 1, no other provisions in this plan apply to infrastructure, except where specified within the provisions of this chapter.

Table 1

Topic	Plan Provisions that Apply to Activities Managed in this Chapter
<i>Strategic Directions</i>	<i>All provisions in the ATC, MW, NE and UFD chapters</i>
<i>Natural Hazards</i>	<i>Section 5 – Business Objective 4 Section 7 – Rural Objective 7, Rural Policies 7A & 7B All provisions in Section 18</i>
<i>Historic Heritage</i>	<i>All provisions in Section 11 – Heritage Protection</i>
<i>Notable Trees</i>	<i>All provisions in Section 11 – Heritage Protection</i>
<i>Sites and Areas of Significance to Māori</i>	<i>SASM-R5 and SASM-R6</i>
<i>Ecosystems and Indigenous Biodiversity</i>	<i>Section 19 – Ecosystems and Indigenous Biodiversity - Rules 1.1.1.1, 2.1.1 and 2.2.1 (relating to the National Grid) and the Objective and Policies but only insofar as they apply to the activities managed by Rules 1.1.1.1, 2.1.1 and 2.2.1</i>
<i>Activities on the Surface of Water</i>	<i>Section 7 - Rural Objective 8, Rural Policies 8A – 8H, and Rules 7A – Activities on or Within Waterbodies</i>
<i>Lighting</i>	<i>All provisions in the Light Chapter</i>
<i>Noise</i>	<i>Section 5 – Rules 1.3.1.b, 1.5.1, 1.6.1, 3.3.6.g, 3.5.1 Section 6 – Rule 12 Section 7 – Rules 15.1.1, 15.1.1h and 15.2.1 Section 8 – Rule 1.7.7</i>
<i>Signs</i>	<i>All provisions in Section 12 – Signs and Aerial Distractions</i>

The provisions in the earthworks chapter do not apply to earthworks ancillary to the infrastructure activities managed in this chapter (unless specified within the rules in this chapter), but do apply to the construction of new roads and access tracks associated with any infrastructure.

Activities which are managed in the Renewable Electricity Generation chapters are not subject to the provisions in the Infrastructure chapter.”

39. In Timaru District, while the evidence for the Infrastructure Chapter is yet to be heard, the relevant reports prepared under Section 42A of the RMA have contemplated the potential for tension and conflict. The Section 42A Report Natural Open Space Zone, Open Space Zone, and Sport and Active Recreation Zone includes the following commentary:

“7.3.11 ... I note that the section 42A reports for Hearings B (prepared by Andrew MacLennan, Alanna Hollier and Liz White) each reached the conclusion that the PDP lacks clear direction in the way infrastructure is addressed at a policy level, and that

there is a need to address potential tension or conflict between the policies in the Energy and Infrastructure and area-wide chapters.

7.3.12 *Liz White's Hearing B Interim Reply has recommended a pathway for infrastructure to achieve EI-O1; and reflect that EI-P2 already provides policy direction for managing adverse effects of infrastructure. This includes controlling the height, bulk and location of other infrastructure, consistent with the role, function, character and identified qualities of the underlying zone; minimising adverse visual effects on the environment through landscaping and/or the use of recessive colours and finishes; and requiring other infrastructure to adopt sensitive design to integrate within the site, existing built form and/or landform and to maintain the character and qualities of the surrounding area.*

7.3.13 *The recommendation is that the policy contained in the Energy and Infrastructure Chapter shall prevail over the zone chapters. This is considered to be a more effective than amending the policies across multiple zone chapters. This change will be achieved by adding the following notes to plan users within the Introduction of the Energy and Infrastructure Chapter (or similar wording to like effect):*

In the case of conflict with any other provision in the District Plan, the NESETA and NESTF prevail.

The policies in this chapter take precedence over policies in any Zone Chapter of Part 3 – Area Specific Matters - Zone Chapters.”⁴ ⁵

40. For the reasons set out above, I consider that further amendments are necessary to clearly set out how other provisions in the Proposed District Plan relate to the Infrastructure Chapter. The Mackenzie and Timaru District Plan examples demonstrate two ways that this could be achieved in a manner that aligns with the form and content of the Gore District Plan. I support either of these approaches replacing the direction in Note 1.

Objective INFR-O1

41. Transpower's submission⁶ supports in part Objective INFR-O1 but seeks the following amendments to the Objective to fully give effect to Policy INF.1 of the SRPS and Policy 1 of the NPSET by making reference to the benefits of infrastructure):

“INFR-O1 The benefits derived from infrastructure are realised and the ~~The~~ operation, maintenance, upgrading and development of infrastructure is provided for to meet the needs of the community and businesses. Recognise the benefits to

⁴ [Hearing-D-Open-Space-and-Recreation-Zones-Nick-Boyes-s42A-Report.pdf](#)

⁵ The Reply referred to in the Section 42A Report can be found here: [Hearing-B-L-White-Interim-reply-in-response-to-Minute-14-incl-Appendices.pdf \(timaru.govt.nz\)](#).

⁶ This submission is supported by the further submission made by Mercury NZ Limited (FS26.018).

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.”⁷

42. The Energy and Infrastructure Section 42A Report recommends that Transpower's submission be rejected because:

“209. Transpower’s requested amendment to Objective INFR-O1 is too lengthy and does not substantially improve the objective as notified. The original wording sufficiently addresses the key points without unnecessary complexity. Therefore, the change sought by Transpower is not supported.”

43. I agree with the Section 42A Report that Transpower's relief is lengthy and consider that the new sentence sought is unnecessary. I am of the view that this additional sentence may have been included in Transpower's relief in error.
44. That said, I do not agree with the conclusion in the Section 42A Report that the original wording 'sufficiently addresses' the key points.
45. In my view, the 'key points' derive from Policy 1 of the NPSET and Policy INF.1 of the SRPS. These are as follows:

NPSET POLICY 1

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

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

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

⁷ Submission reference S101.016.

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.”

46. Policy 2 of the NPSET goes on to direct the following:

“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.”

47. I consider that the higher order planning instruments clearly distinguish the direction in relation to the recognition of the benefits of infrastructure from the direction relating to the provision for the operation, maintenance, upgrading and development of infrastructure. It is my opinion that the same distinction should be made in Objective INFR-O4 so that these planning instruments are given effect to in the Proposed District Plan. For this reason, I support the following amendments to Objective INFR-O4:

“The benefits derived from infrastructure are realised and the ~~The~~ operation, maintenance, upgrading and development of infrastructure is provided for to meet the needs of the community and businesses.”

Policy INFR-P6

48. Transpower’s submission⁸ seeks the following amendments to Policy INFR-P6 in order to give effect to Policies 10 and 11 of the NPSET:

“INFR-P6 Adverse effects (including reverse sensitivity effects) are avoided, remedied or mitigated where activities are adjacent to critical infrastructure, including the avoidance management of sensitive activities near the National Grid and the avoidance of and the effects (including reverse sensitivity effects) of subdivision, use and development that may compromise the operation, maintenance, upgrade and development of the National Grid.”⁹

49. The Energy and Infrastructure Section 42A Report recommends that the submission be rejected for the following reasons:

“296. The submission from Transpower is rejected on the basis that Policy 10 of the NPSET refers to managing activities to avoid reverse sensitivity and this is

⁸ This submission is opposed by the further submission made by Kāinga Ora – Home and Communities (FS28.018).

⁹ Submission reference S101.021.

ensured through national grid yards. Adding in reverse sensitivity twice to the policy is unnecessary.”

50. I do not agree with the conclusion reached in the Section 42A Report and consider that the Policy fails to give effect to Policies 10 and 11 of the NPSET; fails to give effect to Policy INF.3 of the SRPS; and fails to properly implement Objective INFR-O3.
51. In this regard, I understand that Policy INFR-P6 is the Policy in the Proposed District Plan that is to give effect to Policies 10 and 11 of the NPSET. Therefore, the Policy needs to ‘do more’ than manage reverse sensitivity effects on the National Grid because Policies 10 and 11 of the NPSET relate to direct effects on the National Grid, as well as reverse sensitivity effects.
52. The NPSET Policies are as follows:

POLICY 10

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

POLICY 11

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

53. Further, Policy INFR-P6 must also give effect to the Policy INF.3 – Infrastructure protection in the SRPS that reads as follows:

“Protect regionally significant, nationally significant and critical infrastructure, particularly from new incompatible land uses and activities under, over or adjacent to the infrastructure”.

54. In my view all of these policies provide very firm direction for the protection of the National Grid. That is:
- a. activities must be managed to **avoid** reverse sensitivity effects (NPSET Policy 10);
 - b. local authorities must **ensure** that the operation, maintenance, upgrading, and development of the electricity transmission network **is not compromised** (NPSET Policy 10);

- c. sensitive activities will **generally not be provided** within a buffer corridor (NPSET Policy 11);
 - d. significant infrastructure must be **protected** (SRPS Policy INF.3); and
 - e. infrastructure, is **protected** from adverse effects of subdivision, use and development that is incompatible or may compromise the construction, maintenance, upgrade and use of infrastructure (Proposed District Plan Objective INFR-O3).
55. In respect of NPSET Policy 10, my view is consistent with the High Court’s findings in *Transpower v Auckland Council* (CIV-2016-404-002330 [2017] NZHC 281) as follows:
- “[85] Policy 10, though subject to the “reasonably possible” proviso, is, in my judgment, relatively prescriptive. It requires that decision-makers “must” manage activities to avoid reverse sensitivity effects on the electricity transmission network, and “must” ensure that the operation, maintenance, upgrading and development of the electricity transmission network is not compromised. What is sought to be protected is the national electricity transmission grid – an asset which the NPSET recognises is of national significance. A mandatory requirement to ensure that an asset of national significance is not compromised is, in my judgment, a relatively strong directive.”*
56. It is my conclusion that Policy INFR-P6 requires further amendments to give effect to the higher order planning instruments and implement Objective INFR-O3. I have given consideration to the most appropriate form of the necessary amendments and concluded that splitting the Policy into two separate clauses ensures that direction given in the NPSET does not have inappropriately broad application in respect of infrastructure that is not the National Grid. The amendments I support are consistent with the relief sought by Transpower and are set out below:
- “INFR-P6 (a) Adverse effects (including reverse sensitivity effects) are avoided, remedied or mitigated where activities are adjacent to critical infrastructure, including the management of sensitive activities and the effects of subdivision, use and development that may compromise the operation, maintenance, upgrade and development of ~~the National Grid~~ and the State Highway Network.”*
- (b) The operation, maintenance, upgrading and development of the National Grid is protected by:*
- i. identifying a National Grid Yard within which sensitive activities are avoided; and*
 - ii. managing subdivision, use and development in the vicinity of the National Grid to avoid adverse effects (including reverse sensitivity effects on the National Grid and to ensure that the*

operation, maintenance, upgrade and development of the
National Grid is not compromised.”

57. Transpower’s further submission¹⁰ opposes the primary submission made by Andrea McMillan and Tony Harpur that seeks the deletion of Policy INFR-P6 in its entirety.¹¹
58. The Energy and Infrastructure Section 42A Report recommends that the submission be rejected for the following reasons:

“300. The submission by Andrea McMillan & Tony Harpur is rejected on the basis that the policy gives effect to the national direction of the NPSETG (specifically policy 10 and 11) and is required to manage adverse effects on critical infrastructure.”

59. For the reasons set out in Transpower’s further submission, and in the Section 42A Report, I support the Section 42A Report recommendation in this regard.

Policy INFR-P7

60. Transpower’s submission supports Policy INFR-P7 and seeks that the Policy is retained as notified because, insofar as the Policy is relevant to the National Grid, the Policy appropriately reflects the range of responses to adverse effects directed by the NPSET.¹²
61. The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part on the basis that amendments to Policy INFR-P7 are recommended in response to other submissions as follows:

“INFRA-P7 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*
- 2. any actual or potential effects on mana whenua and the values they associate with the area including whakapapa, the mauri of natural resources, wāhi tapu, mahinga kai, the ability to exercise manaakitanga, mātauranga associated with the current landscape, and the exercise of kaitiakitanga; while*
- 3. recognising the functional need and operational needs of infrastructure.”*

¹⁰ Further submission reference FS30.008.

¹¹ Submission reference S134.008.

¹² Submission reference S101.022.

62. I generally support the recommended amendments to Policy INFR-P7, but consider that the Policy should be further amended to:
- correct the expression in clause (2); and
 - in clause (3) give effect to, and align with the direction given in, Policy 3 of NPSET and Policy INF.2 of the SPRS that read as follows:

NPSET 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.” [my emphasis].*

SRPS POLICY INF.2

*“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**:*

- 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; ...” [My emphasis]*

63. The further amendments I support are as follows:

“INFRA-P7 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*
- 2. ~~any actual or potential effects on~~ mana whenua and the values they associate with the area including whakapapa, the mauri of natural resources, wāhi tapu, mahinga kai, the ability to exercise manaakitanga, mātauranga associated with the current landscape, and the exercise of kaitiakitanga; while*
- 3. ~~considering the constraints imposed on measures to avoid remedy or mitigate adverse effects by recognising~~ the functional need and operational needs of infrastructure.”*

64. In my opinion the NPSET direction requiring that decision-makers 'must consider' and the SRPS direction 'should be taken into account' is firmer than 'while recognising'. In my view this firmer direction must be given, in order to give effect to the NPSET and SRPS.

65. Transpower's further submission:

- a. opposes the primary submission¹³ made by the Director General of Conservation that seeks the following amendment to Policy INFR-P6:

*"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.~~ and, where there are no practicable alternative locations, applying the effects management hierarchy where adverse effects cannot be avoided."*¹⁴

- b. opposes the primary submission¹⁵ made by Mercury NZ Limited that seeks the following amendment to Policy INFR-P6:

*"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,~~ or offset, or compensated for."*¹⁶

66. The Energy and Infrastructure Section 42A Report recommends that both primary submissions be rejected. I support this recommendation for the same reasons as those given in the Section 42A Report as follows:

311. *The submission from DOC is rejected on the basis that the NPSET is enabling of electricity transmission and does not direct that adverse effects are to be avoided or include a test of 'no practicable alternative locations'. Rather a manage approach is utilised throughout the NPSET. The effects management hierarchy relates to the NPS-IB and is managed through the ECO chapter, specifically ECO-P4 and as such additional inclusion within the INFR Chapter is considered unnecessary.*

312. *Mercury's submission to include 'offset or compensated for' is rejected on the basis that the NPSET does not require offsetting, while these measures could be offered to satisfy section 104 of the RMA, it is not appropriate to include the requirement within a policy. Further, offsetting and compensation formed part of the trend of the draft suite of national planning directions to replace the RMA,*

¹³ Further submission reference FS30.019.

¹⁴ Submission reference S109.033.

¹⁵ Further submission reference FS30.053.

¹⁶ Submission reference S130.036.

however, with these are now set to be replaced, reliance on that draft policy direction is considered inappropriate.”

Rule INFR-R4 and Standard INFR-S5

67. Transpower’s submission seeks that:

- a. Rule INFR-R4(1) and (2) is amended to replicate the Matter of Discretion from Rule INFR-R3 as follows:

“The functional and operational needs of, and benefits derived from, the infrastructure, including the potential impact on the levels of service or health and safety if the work is not undertaken.”¹⁷

- b. Standard INFR-S5 is amended to:

- i. confirm that the Standard is not intended to regulate activities that are managed by the Southland Regional Council or activities that traverse (but do not disturb) the areas subject to the setbacks in the Standard; and
- ii. provide for a consideration of the benefits of infrastructure in the Matters of Discretion.¹⁸

68. In respect of Rule INFR-R4, the Energy and Infrastructure Section 42A Report recommends that the submission be rejected for the following reason:

“354. Transpower’s submission (s101.027) requesting INFR-R4 to be amended to add in an additional matter of discretion the importance of infrastructure and the risk of it not being constructed, is support in intent, however it is considered that matter of discretion 1 as notified enables a similar assessment to be provided, whilst not creating the impression that the importance of infrastructure outweighs all other considerations. Based on this the submission is rejected.”

69. In respect of Standard INFR-S5, the Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part and comments as follows:

“478. Transpower’s submission is accepted in part, as it relates to the foundations of buildings and structures. However, their requested relief to the matter of discretion is not supported. An assessment of the positive effects of the infrastructure is able to be assessed through the s104(1)(ab) process of a resource consent, stating this within a matter of discretion is considered to tip the correct balance between providing for infrastructure (INFR-O1), whilst managing

¹⁷ Submission reference S101.027 and S101.029. These submissions points are supported by the further submission made by Mercury NZ Limited FS26.030 and FS26.035.

¹⁸ Submission reference S101.037.

the adverse effects (INFR-04). Based on this I consider it inappropriate to include this as a matter of discretion.”

70. I support amending Standard INFR-S5 so that the minimum setbacks from rivers and streams applies to the foundation of infrastructure buildings and structures. In my opinion, it is appropriate to exclude infrastructure (such as transmission line conductors), that traverse, but do not disturb, the areas subject to the minimum setbacks from the Standard on the basis that the potential adverse effects in respect of water quality, bank stability, riparian vegetation, indigenous biodiversity, natural character, cultural values, access and natural hazards would be nil to negligible.
71. I do not agree with Section 42A Report conclusion that providing for a consideration of the benefits of infrastructure in the Matters of Discretion is not necessary because positive effects are able to be assessed through section 104(1)(ab). This is because I understand that section 104(1)(ab) relates to offsetting and compensation ‘measures’ that give rise to positive effects, as opposed to a consideration of the benefits of an activity per se. Section 104(1)(ab) reads as follows:
- “(ab) any measure 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; ...”*
72. Further, I also do not agree that allowing for a consideration of the benefits of infrastructure as a matter of discretion ‘tips the balance’ or ‘outweighs’. Rather, section 104C of the RMA directs that a consent authority must only consider those matters over which it has restricted the exercise of its discretion. As such, including a consideration of the benefits of infrastructure as a matter of discretion merely provides a consent authority with the ability to exercise its discretion, and does not give weight to the provision of infrastructure. Weight is determined through the exercise of discretion in a particular circumstance, including with reference to the relevant policy direction in a district plan. Conversely, if the Matters of Discretion do not provide for such a consideration, the ability to consider the contribution infrastructure makes to the health, safety and wellbeing of people and communities would not be a relevant consideration.
73. In this regard, I note that reference to the ‘benefits derived from’ infrastructure or network utilities is included in the Matters of Discretion in the following provisions and, having reviewed the Section 32 Report, I do not consider that there is any reason for a different approach being taken in Standard INFR-S5:
- a. Rule INFR-R3;
 - b. Rule INFR-R8;
 - c. Standard INFR-S1;

- d. Standard INFR-S2;
 - e. Standard INFR-S3;
 - f. Standard INFR-S4;
 - g. Standard INFR-S6; and
 - h. Standard INFR-S7.
74. In my opinion, the inclusion of a consideration of the benefits of infrastructure in the matters of discretion in Rule INFR-R4 and Standard INFR-S5 is necessary and appropriate in order to:
- a. give effect to the Policy 1 of the NPSET insofar as the Standard relates to the National Grid that reads as follows:

“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.”
 - b. give effect to Policy INF.1 of the SRPS that reads as follows:

“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.”
 - c. achieve consistency with other rules and standards that apply to infrastructure activities.
75. For these reasons, I support the inclusion of the following as Matter of Discretion in Rule INFR-R4 and Standard IINFR-S5:
- “x. The benefits derived from, the infrastructure, including the potential impact on the levels of service or health and safety if the work is not undertaken.”*

General District Wide Matters - Earthworks

Exemptions to the Earthworks Rules

76. Transpower's submission seeks:

- a. that the exemptions to the rules in the Earthworks Chapter be amended as follows:

*"Earthworks and Land Disturbance of the following activities are exempt from the rules in this chapter, other than Rule EW-R12, of the District Plan: ..."*¹⁹

- b. that, as a consequence, the exemptions in NZECP34:2001 are embedded in Rule EW-R12 so that the earthworks that have the potential to have an impact on the National Grid are appropriately regulated, or exempt, in a manner consistent with NZECP34:2001;²⁰

77. The Earthworks Section 42A Report addresses the role of exemptions to the Earthworks Rules in some detail as follows:

"167. Stoney Creek Station Limited (S3.083) and a number of identical submissions listed in paragraph 159 seek that the listed exemptions are converted to permitted activity rules. Exemptions to rules and standards are not uncommon within plan provisions. Although the exemptions apply to activities generally considered low risk or are managed through other methods, one potential issue with overall exemptions in the chapter is that none of the rules or standards capture these activities. This issue is highlighted by the Transpower New Zealand Limited (S101.070) submission that some of the exempt activities could impact on electrical safe distances and should be subject to EW-R12, and the Heritage New Zealand Pouhere Taonga submissions (S123.016) (FS11.003) (FS11.004) (FS11.040) (FS11.055) in relation to the protection of previously undiscovered archaeological sites.

168. A review of other recently reviewed district plans, including Selwyn, New Plymouth, Porirua and Wellington City, for a consistency approach, shows that many of the exempt activities listed in the PDP are included as permitted activities in other district plans, or are exempt from specific rules or standards, rather than included as an overall exemption. Although it should be noted that Timaru include a similar list of exemptions within the general earthworks rule heading in their proposed district plan.

169. For the above reasons I consider that there is merit in converting some of the exemptions to permitted activities, and accept the submissions listed in paragraph 159, the Transpower submission S101.070 and Heritage New Zealand submissions (S123.016) (FS11.003) (FS11.004) (FS11.040) (FS11.055). I recommend that the

¹⁹ Submission reference S101.070.

²⁰ Submission reference S101.070.

permitted activities are grouped as low risk earthworks and land disturbance activities which would not be subject to all earthworks standards, for example cut and fill heights, and remain without time or scale limitations. I consider that the standards that should apply are the same as those that apply to land disturbance for fences and include standards EW-S3 setback to rivers and streams - with an exemption for indigenous vegetation restorations as plantings are often undertaken in riparian margins with overall benefits to stream values, EW-S5 Erosion, sediment, and dust control, and EW-S7 Accidental Discovery Protocol. Moreover, some of the listed exemptions of a similar nature can be combined to avoid repetition, such as cultivation of land and planting vegetation, trees and crops. Although some additional restrictions would apply as the exempt activities are not currently subject to any standards and rules, the compliance aspect is not considered particularly onerous, and the benefits are considered to overall outweigh the cost.

- 170. The support of the exemptions from the Department of Conservation (S109.110) for earthworks associated with the restoration of indigenous vegetation, and Waka Kotahi NZ Transport Agency (S112.087) and KiwiRail Holdings Ltd (S132.073) for the exemption from the rules in particular points 10 and 11 which relate to regional councils and natural hazard mitigation are acknowledged. I consider that the exemption for restoration of indigenous vegetation can be converted to a permitted activity, as detailed above, with little cost in practice and therefore accept the Department of Conservation (S109.110) submission in part, and accept the Transport Agency (S112.087) and KiwiRail (S132.073) submissions that the exemptions for earthworks activities managed by the regional council, or for natural hazard mitigation works on behalf of a statutory authority be retained as exemptions.”*
78. In my opinion, the use of permitted activity rules, as opposed to exemptions, goes some way to addressing the concerns raised in Transpower’s submission in respect of the potential for exempt earthworks activities to compromise the National Grid in a manner that is contrary to Policy 10 of the NPSET and possibly also not comply with the regulations in NZECP34:2001.
79. That said, exemptions remain for earthworks either permitted by a rule in a regional plan or resource consent issued by Environment Southland and earthworks for natural hazard mitigation undertaken by or on behalf of a statutory authority.
80. It is my understanding that the scale of earthworks that could be undertaken under these retained exemptions could be substantial and, when in the vicinity of the National Grid, could result in the operation, maintenance, upgrading and development of the National Grid being compromised, and present health and safety risks to people and communities. For instance, I am aware of an example where flood mitigation works on the Waimakariri River were undertaken adjacent to, and beneath the National Grid in a manner that breached the NZECP34:2001 regulations by creating ground to conductor clearance violations.

81. NZECP34:2001 includes exemptions for small vertical holes, normal agricultural cultivation, and the repair, sealing, or resealing of the existing surface of any road, footpath, or driveway so that where these activities are near the National Grid the regulations in NZECP34:2001 do not apply. Conversely, NZECP34:2001 does not include exemptions for earthworks that have a regional resource consent or that are for natural hazard mitigation meaning that such earthworks may be constrained or limited by the NZECP34:2001 regulations in order to protect the electricity lines, including the National Grid, and provide safe approach distances for people undertaking those earthworks.
82. In my opinion, aligning Rule EW-R12 with NZECP34:2001 is an efficient and effective way ensure that the National Grid is not compromised and to provide for the health and safety of people and communities. I therefore consider that Rule EW-R12 should apply to such works in order to give effect to Policy 10 of the NPSET. This can be achieved by either:
- further new permitted activity rules for the retained exemptions; or
 - amending the exemption so that the exempt activities remain subject to Rule EW-R12 as follows:

<i>Earthworks and Land Disturbance Exempt from District Plan Rules in this Chapter</i>	
<i>All Zones</i> <u><i>Excluding Historic Heritage sites, Significant Natural Areas, Outstanding Natural Landscapes or Features</i></u>	<i>Earthworks and Land Disturbance of the following activities are exempt from the rules in this chapter of the District Plan, <u>other than Rule EW-R12 that continues to apply:</u></i> <i>1. Cultivation of land</i> <i>2. Planting vegetation, trees and crops</i> <i>3. Restoration of indigenous vegetation</i> <i>4. Gardening, planting or any vegetation and/or the construction or maintenance of garden amenities</i> <i>5. Drilling bores</i> <i>6. Internments in a burial ground, cemetery or urupā, within the burial plot of that internment</i> <i>7. Filling of building foundation with granular fill under concrete slab foundation</i> <i>8. Filling with drainage metal behind a retaining wall</i> <i>9. Digging of hāngī pits, or other small-scale cultural cooking methods</i> <i>10. Earthworks either permitted by a rule in a regional plan or Resource Consent issued by Environment Southland.</i> <i>11. Earthworks for natural hazard mitigation undertaken by or on behalf of a statutory authority.</i>

Rule EW-R12

83. Transpower's submission seeks that Rule EW-R12 is amended as follows:²¹

Rule EW-R12	Earthworks <u>and land disturbance</u> within National Grid Yards	
All Zones ~~Excluding~~ ~~Historic~~ ~~Heritage sites,~~ ~~Significant~~ ~~Natural Areas,~~ ~~Outstanding~~ ~~Natural~~ ~~Landscapes or~~ ~~Features~~	Activity status: Permitted Where, within the National Grid Yard: 1. The depth of the earthworks <u>or land disturbance</u> is no greater than 300mm within 6m of the outer edge of the visible foundation of a National Grid support structure; and x. <u>The depth of the earthworks or land disturbance is no deeper than 3 metres when located between 6 metres and 12 metres from the National Grid Support Structure; and</u> 2. The stability of the National Grid support structure is not compromised; and 3. Physical and practical access to the National Grid support structures is maintained; and 4. The earthworks <u>or land disturbance</u> <u>does</u> not result in a reduction in the ground to conductor clearance distances, below what is required by Table 4 of NZECP34:2001; and 5. <u>The eEarthworks</u> ~~that~~ otherwise comply with clause 2.4.1 of NZECP34:2001. Note: ~~Clauses (1) Rule EW-R12 above~~ does not apply to earthworks or land disturbance: 1. Undertaken as part of normal agricultural, horticultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track; 2. Involving vertical holes not exceeding 500mm in diameter, provided they: (a) are more than 1.5m from the outer edge of the pole structure or stay wire; or (b) are a post hole for a farm fence or horticulture structure more than 6 m from the visible outer edge of the tower or support structure foundation."	Activity status where compliance is not achieved: Non-complying

84. Transpower's submission in relation to Rule EW-R12 is opposed by the further submission made by Heritage New Zealand Pouhere Taonga for the following reasons:

²¹ Submission reference S101.072.

“The depth of earthworks, and distance from the support structure, may affect identified or unknown archaeological sites. For example, an Archaeological Authority (2021/719) was required and obtained by Transpower New Zealand Ltd to “undertake work to reform an access track to allow for strengthening the foundations of a power line tower at Channel Road, Naseby.” This authority was granted as this work to Tower A0304 had the potential to impact H41/89, an archaeological site relating to gold mining activities that covered a large area. permitted status as the proposed works should be assessed to determine the effects on historic heritage, including archaeology.”

HNZPT submits that this activity should not be assigned a permitted status as the proposed works should be assessed to determine the effects on historic heritage, including archaeology.”²²

85. The Section 42A Report recommends that the submission be accepted in part and comments as follows:

“221. In relation to EW-R12 Transpower New Zealand Limited (S101.072) submission, I accept the advice of Transpower as the relevant government authority for nationally consistent approach to the management of earthworks in the vicinity the National Grid consistent with the NPS-ET. However, in terms of the exclusions, these address potential environmental effects that relate to Section 6 matters of national importance, and the exemptions are considered consistent with policy 8 of the NPS-ET that seeks to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity. I therefore accept the submission in part with the amendments to the rule, but not the removal of the exemptions.”

86. For the reasons set out in Transpower’s submission, I support the amendments to Rule EW-R12 that are recommended in the Section 42A Report.
87. That said, I do not support the S42A Report recommendation to reject the part of Transpower’s relief that seeks the deletion of ‘exclusions’ that have the effect of Rule EW-R12 not applying to earthworks in historic heritage sites, significant natural areas, outstanding natural landscapes or features.
88. In my view, the Section 42A Report, along with the further submission made by Heritage New Zealand Pouhere Taonga, have misunderstood the reason that Transpower seeks the deletion of the overlay exclusions. The Section 42A Report and further submission suggest that deleting the exclusions erodes the protection of the values associated with the various overlays by enabling earthworks that would otherwise be regulated in those overlays. This is

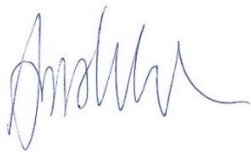
²² Further submission reference FS11.020.

not the purpose of Transpower's relief. Rule EW-R12 is intended to protect the National Grid, rather than provide an enabling pathway for earthworks associated with the National Grid.

89. The purpose of deleting the exclusions in Rule EW-R12 is to ensure that, where earthworks occur in the various overlays these earthworks and are in the vicinity of the National Grid, these earthworks are regulated to protect the National Grid in addition, and not instead of, provisions that regulate earthworks in those overlays.
90. My understanding is that retaining the exclusion in Rule EW-R12 means that the National Grid would not be protected from the adverse effects of any earthworks that occur in the various overlays. The results in a regulation 'gap' that does not give effect to Policy 10 of the NPSET.
91. Conversely, I am of the view that deleting the exclusion in Rule EW-R12 means that earthworks in the overlays must comply with Rule EW-R12 and also must comply with rules for earthworks in a particular overlay. That is, deleting the exclusion does not remove protection for the overlays, but adds a further layer of regulation for a difference purpose or protection.
92. For instance, should earthworks be undertaken in an outstanding natural landscape an in the vicinity of the National Grid, Rule EW-R12 should apply so that the National Grid is protected and Rule NFL-R3 should apply so that the values associated with the outstanding natural landscape are also protected. In this regard, it is noted that the permitted earthworks in Rule NFL-R3 may not be permitted in Rule EW-R12, and vice versa.
93. For these reasons, I consider that the deletion of the exemptions is necessary to ensure that the National Grid is not compromised and to therefore give effect to Policy 10 of the NPSET. I support the following further amendment to Rule EW-R12.

Rule EW-R12	<u>Earthworks and land disturbance within National Grid Yards</u>	
<i>All Zones</i> ~~<i>Excluding</i>~~ ~~<i>Historic</i>~~ ~~<i>Heritage sites,</i>~~ ~~<i>Significant</i>~~ ~~<i>Natural Areas,</i>~~ ~~<i>Outstanding</i>~~ ~~<i>Natural</i>~~ ~~<i>Landscapes or</i>~~ ~~<i>Features</i>~~	<i>Activity status: Permitted</i> <i>Where, within the National Grid Yard:</i> <i>1. <u>The depth of the earthworks or land disturbance is no greater than 300mm within 6m of the outer edge of the visible foundation of a National Grid support structure; and</u></i> <i>2. <u>The depth of the earthworks or land disturbance is no deeper than 3 metres when located between 6 metres and 12 metres from the National Grid Support Structure; and</u></i> <i>3. <u>The stability of the National Grid support structure is not compromised; and</u></i> <i>4. <u>Physical and practical access to the National Grid support structures is maintained; and</u></i> <i>5. <u>The earthworks or land disturbance do not result in a reduction in the ground to conductor</u></i>	<i>Activity status where compliance is not achieved:</i> <i>Non-complying</i>

	clearance distances, below what is required by Table 4 of NZECP34:2001; and 6. ~~The eEarthworks that~~ otherwise comply with clause 2.4.1 of NZECP34:2001. 7. <u>All Earthworks Standards are complied with.</u> Note: <u>Rule EW-R12</u>~~Clauses (1) above~~ does not apply to earthworks or land disturbance: 1. Undertaken as part of normal agricultural, horticultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track; 2. Involving vertical holes not exceeding 500mm in diameter, provided they: (a) are more than 1.5m from the outer edge of the pole structure or stay wire; or (b) are a post hole for a farm fence or horticulture structure more than 6 m from the visible outer edge of the tower or support structure foundation."	
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Ainsley Jean McLeod

22 October 2024

ATTACHMENT A: SUPPORTED SECTION 42A REPORT RECOMMENDATIONS

In the following Table the relief sought by Transpower is shown in red underline and ~~red strikethrough~~ and the amendments recommended by the Section 42A Report are shown in black underline and ~~black strikethrough~~.

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
PART 1 - INTRODUCTION & GENERAL PROVISIONS			
Interpretation			
Definitions 'Conductor'	S101.004	Support in part. Retain the definition of 'conductor' as notified or, alternatively, amend the definition as follows: <i>"(a) means wire or cable used for carrying electric current along an <u>electricity</u> transmission line <u>or electricity distribution line</u>; and</i> <i>(b) includes any hardware and insulation associated with the wire or cable"</i> Transpower supports the definition of 'conductor' on the basis that the definition is consistent with the definition included in the NESETA. That said, it is acknowledged that the inclusion of reference to 'transmission' means that the definition would not apply to conductors that convey electricity as part of the distribution network. For this reason, Transpower would not oppose the definition being amended to refer to an 'electricity transmission line or electricity distribution line'.	The Energy and Infrastructure Section 42A Report comments as follows: <i>"121. Transpower's submission that changes should be made to the definition of conductor is not supported. While the changes are minor the notified definition aligns with NESET and should not be varied from this to avoid national inconsistency."</i> I support the Section 42A Report recommendation for the reasons given in Transpower's submission.
Definitions 'Critical infrastructure'	S101.005	Support. Retain the definition of critical infrastructure as notified. Transpower supports the definition of 'critical infrastructure' on the basis that the definition appropriately includes "the electricity transmission network (the National Grid)" in a manner that reflects the national significance of the National Grid. Further Transpower supports the definition to the extent that the definition supports the Proposed District Plan giving effect to the relevant provisions of the SRPS that relate to nationally significant, regionally significant and critical infrastructure.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part and comments as follows: <i>"67. Transpower's support for the critical infrastructure definition is acknowledged."</i> I support the Section 42A Report recommendation for the reasons given in Transpower's submission.
Definitions	S101.006	Support in part. Amend the definition of 'national grid' as follows.	The Energy and Infrastructure Section 42A Report comments as follows:

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation		
'national grid'		~~"National Grid~~ means the network that transmits high-voltage electricity in New Zealand ~~and that, at the commencement of these regulations,~~ is owned, used or and operated by Transpower New Zealand Limited, including— (a) transmission lines; and (b) electricity substations" Transpower generally supports the definition of "national grid" to the extent that the definition is borrowed from the NESETA. However, Transpower seeks minor amendments to the definition to: - ensure that the term is capitalised consistently throughout the Proposed District Plan; - delete reference to "~~at the commencement of these regulations~~" in order to better define the National Grid for the purposes of the District Plan (including for the purpose of new National Grid infrastructure).	"123. Transpower's submission that changes should be made to the definition of National Grid is supported. While as outlined above it is important to align with the NESET, the proposed changes better define the national grid for the purpose of the District Plan." For the reasons given in Transpower's submission, and in the Section 42A Report, I support the Section 42A Report recommendation.		
Definitions 'national grid subdivision corridor'	S101.007	Support in part. Amend the definition of 'national grid subdivision corridor' as follows: ~~"National Grid~~ subdivision corridor ... " Transpower generally supports the definition of "national grid subdivision corridor" on the basis that the definition is consistent with Transpower's national approach to the management of subdivision in the vicinity of the National Grid. Transpower seeks that the definition be retained, subject to minor amendments to ensure that the term 'National Grid' is capitalised consistently throughout the Proposed District Plan.	The Energy and Infrastructure Section 42A Report comments as follows: "125. Transpower's submission that National Grid be capitalised is accepted, the submission will provide consistency and not result in any unintended consequences." For the reasons given in Transpower's submission, and in the Section 42A Report, I support the Section 42A Report recommendation.		
Definitions 'national grid yard'	S101.008	Support in part. Amend the definition of 'national grid yard' as follows: <table><tr><td>~~"National Grid~~ yard</td><td>The area located (as illustrated below): (a) 12 metres in any direction from the outside edge of a National Grid support structure foundation;</td></tr></table>	~~"National Grid~~ yard	The area located (as illustrated below): (a) 12 metres in any direction from the outside edge of a National Grid support structure foundation;	The Energy and Infrastructure Section 42A Report recommends that Transpower's submission be accepted and comments as follows:
~~"National Grid~~ yard	The area located (as illustrated below): (a) 12 metres in any direction from the outside edge of a National Grid support structure foundation;				

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
		~~(b)~~ 12 metres from the boundary of a National Grid substation; ~~(be)~~ 10 metres either side of the centreline of an overhead 110kV National Grid transmission line on poles ~~(ce)~~ 12 metres either side of the centreline of any other overhead National Grid transmission line. ... Transpower generally supports the definition of "national grid yard" on the basis that the definition is generally consistent with Transpower's nationally consistent approach to the management of structures and activities in the vicinity of the National Grid. Transpower seeks that the definition be retained, subject to minor amendments to: - ensure that the term 'National Grid' is capitalised consistently throughout the Proposed District Plan; and - correct the reference to the voltage of transmission lines on poles.	"101. Transpower's requested amendments to the definition of National Grid Yard are accepted as providing greater alignment with national direction. 102. Regarding the submissions requesting the definition is amended to align with the NZECP34 Code of Practice for Electrical Safe Distances, as outlined within Transpower's further submission and within the s32A assessment, the current definition maintains national consistency and is aimed to align with the NPSET. Based on this it is recommended that these submissions be rejected." For the reasons given in Transpower's submission, Transpower's further submissions, and in the Section 42A Report, I support the Section 42A Report recommendation.
	FS30.077 (Further submission on S126.033 Federated Farmers of New Zealand)	Disallow the primary submissions seeking that the National Grid Yard definition be amended so it is consistent with NZECP34 Code of Practice for Electrical Safe Distances, particularly Section 2.4.1 around support structures. This definition and the yard widths are not consistent and unnecessarily onerous compared to the Code. It is vital to remember that the National Grid runs over private property, and farmers will be overwhelmingly affected by any regulation that exceeds the Code. This means the 12m distance around any structure is in excess of what is in the Code, and what is needed for engineering safety. The Code requires a safe distance of 8m around a 110kv pole. [Refer to original submission for full reasons at pg. 15]. Amend the definition to align with NZECP34 Code of Practice for Electrical Safe Distances, particularly Section 2.4.1, and make any consequential amendments	
	FS30.004 (Further submission on S148.046 Alistair & Bernadette Hunt)		
	FS30.041 and FS30.042(Further submission on S68.154 John Baynes)		
	FS30.046		

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
	(Further submission on S115.034 Kevin Robertson) FS30.066 (Further submission on S60.036 Ronald Crispin) FS30.071 (Further submission on S143.045 Rural Ratepayers Group)		
Definitions 'network utilities'	S101.009	Support. Retain the definition of 'network utilities' as notified. Transpower supports the definition of 'network utilities' to the extent that the definition appropriately includes the "transformation, transmission, or distribution of electricity" in a manner that is generally consistent with the definitions in section 166 of the RMA.	The Energy and Infrastructure Section 42A Report recommends that Transpower's submission be accepted but goes on to comment as follows: <i>"108. SDC's submission outlines a conflict between the 'network utility' definition and 'network utility operator'. This has been accepted because it is in accordance with section 166 of the RMA and the National Planning standards. The definition of 'network utility operator' in the RMA includes the phrase "the words network utility operation have a corresponding meaning" therefore it is considered that the definition for Network Utility Operator includes undertaking the works and activities, which includes the land use and all structures necessary for operation and maintenance of the network. It is therefore recommended that the definition of network utility shall be amended as per the below:</i> <u>Network Utilities: shall mean any activities undertaken by a "network utility operator"</u>

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
			<u>as set out in section 166 of the Resource Management Act 1991, and this plan.</u> For the reasons given in the Section 42A Report, I support the Section 42A Report recommendation.
Definitions 'transmission line'	S101.012	Support in part. Amend the definition of "electricity transmission" as follows: <i>~~"Has the same meaning as per the National Environmental Standards for Electricity Transmission Activities (2009) - Means:~~</i> <i>(a) the facilities and structures used for, or associated with, the overhead or underground transmission of electricity ~~in~~ on the National Grid; and ..."</i> Transpower supports the definition of 'transmission line' on the basis that the definition is consistent with the definition included in the NESETA. Transpower suggests limited amendments to refine the definition.	The Energy and Infrastructure Section 42A Report recommends that the submission be rejected for the following reason: <i>"119. Transpower's submission that changes should be made to the definition of 'Transmission line' is not supported. While the changes are minor the notified definition aligns with NESET and should not be varied from this to avoid national inconsistency."</i> For the reasons given in the Section 42A Report, I support the Section 42A Report recommendation.
PART 2 - DISTRICT-WIDE MATTERS			
Energy, Infrastructure and Transport			
Energy ENRG Policy ENRG-P8	S101.014	Support in part. Amend Policy ENRG-P8 as follows: <i>"ENRG-P8 Protect electricity generation activities, ~~transmission~~ and associated infrastructure and undeveloped energy resources from reverse sensitivity effects from incompatible subdivision, land use and development."</i> Transpower does not oppose Policy ENRG-P8, but considers that reference to electricity transmission in this Policy is not necessary and may give rise to inconsistent provisions within the Energy, Infrastructure and Transport Chapter of the Proposed District Plan. This is because, effects on electricity transmission activities and assets are managed by the provisions in the INFR Sub-Chapter.	The Energy and Infrastructure Section 42A Report recommends that the submission be rejected and comments as follows: <i>"634. Transpower's submission is acknowledged, however it is considered that the reference to transmission within this policy is compatible with INFR-P5. Based on this no change is recommended."</i> While reference to 'transmission' is unnecessary, subject to my evidence in relation to Policy INFR-P5 (renumbered), I accept that there is no inconsistency between Policies INFR-P5 and ENRG-P8.

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
Infrastructure – INFR Overview	S101.015	<i>Support in part. Amend the 'Overview' as follows:</i> “ ... <i>It is recognised that infrastructure, and particularly critical infrastructure, is essential to providing for the health, safety and well-being of the people and communities of Gore and beyond.</i> <i>The purpose of this chapter is to ensure existing infrastructure and land reserved for future infrastructure can be developed and maintained for their intended purpose, whilst managing the adverse effects of infrastructure. However, some sites technically ideal for the location of infrastructure may be unsuitable having regard to their environmental effects, including impacts on landscape and biodiversity values, or the underlying relationships Ngāi Tahu hold with the natural environment. Designations may also provide for infrastructure.</i> <i><u>This chapter must also give effect to the National Policy Statement on Electricity Transmission 2008 (NPSET) where the provisions relate to the National Grid. The NPSET identifies the need to operate, maintain, develop and upgrade the National Grid as a matter of national significance and directs decision-makers to recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission. ...</u></i> “ <i>While the use and operation of infrastructure can have adverse effects on adjoining activities and sites, activities adjoining infrastructure can also have adverse effects, including reverse sensitivity <u>effects</u>, on infrastructure.”</i> Transpower generally supports the 'Overview' to the Infrastructure Sub-Chapter but seeks limited amendments to: - reflect that infrastructure located in Gore, such as the National Grid, may deliver benefits outside of the District also; - mirror the approach taken in the Energy Sub-Chapter (that refers to the National Policy Statement on Renewable Electricity Generation 2011) by being explicit that the purpose of the Infrastructure Sub-Chapter is, at least in part, to give effect to the NPSET; and - make reference to reverse sensitivity 'effects'.	The Energy and Infrastructure Section 42A Report recommends that the submission be rejected for the following reasons: “166. Transpower's submission while supported in intent, is considered more appropriate as a note, which is provided for through Note 3. All National Policy Statements apply, whilst the NPSET does have particular relevance, this has informed the development of the chapter and reiterating this within the overview does not provide any measurable value for plan users.” I accept the rationale, and preference expressed, in the Section 42A Report. While the appropriate location is identified as Note 3, the Section 42A Report falls short of recommending that Transpower's relief be included.

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
Infrastructure – INFR Objective INFR-O3	S101.017 ²³	Support. Retain Objective INFR-O3 as notified. Transpower supports Objective INFR-O3 on the basis that the Objective gives effect to Policy INF.3 of the SRPS and because, insofar as it relates to the National Grid, the Objective reflects the concept of protection in Policies 10 and 11 of the NPSET.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part on the basis that amendments to Objective INFR-O3 are recommended in response to other submissions as follows: <i>“INFRA-O3 Infrastructure or land reserved for future infrastructure, is protected from adverse effects, including reverse sensitivity, from of subdivision, use and development that is incompatible or may compromise the construction, maintenance, upgrade and use of infrastructure.”</i> For the reasons given in Transpower's submission and the Section 42A Report, I support the Section 42A Report recommendation.
Infrastructure - INFR Objective INFR-O4	S101.018 ²⁴	Support. Retain Objective INFR-O4 as notified. Transpower supports Objective INFR-O4 on the basis that the Objective reflects the range of responses to adverse effects directed by Policy INF.2 of the SRPS and, insofar as the Objective is relevant to the National Grid, appropriate reflects the range of responses to adverse effects directed by the NPSET.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and recommends the following amendment to Objective INFR-O4: <i>“INFR-O4 Adverse effects from the construction, maintenance, upgrade and use of ~~critical~~ infrastructure are managed.”</i> For the reasons given in Transpower's submission and the Section 42A Report, I support the Section 42A Report recommendation.
Infrastructure - INFR Note 3 National Policy Statements	S101.023	Support in part. Amend Note 3 as follows: <i>“<u>Section 55 and</u> Section 75(3) of the RMA directs that the district plan must give effect to any National Policy Statement (NPS) and <u>Section 44A of the RMA, directs local authorities to ensure that there are no</u></i>	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part for the following reasons:

²³ This submission is supported by the further submission made by Power Net Limited (FS23.005).

²⁴ This submission is opposed by the further submission made by Kāinga Ora - Homes and Communities (FS28.016).

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
and Natural Environmental Standards for Infrastructure		<u>~~duplications or conflicts between the provisions of a National Environmental Standard (NES) and a proposed plan National Environmental Standard (NES).~~</u> NES's must be observed and enforced by local authorities. Section 43B of the RMA directs that a NES prevails over District Plan rules unless a NES expressly ~~states~~ <u>states</u> that it does not. <u>The National Policy Statement on Electricity Transmission 2008 must be given effect to in respect of District Plan provisions that recognise and provide for the National Grid; manage the effects of the National Grid and manage the effects of other activities on the National Grid.</u> <u>The Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 include a suite of provisions that provide for the operation, maintenance and upgrading of existing transmission lines. These provisions prevail over any similar provisions in the District Plan."</u> Transpower is generally supportive of the approach to including a note that references national policy statements and national environmental standards, however, Transpower considered that the 'Note' does not correctly reflect the relationship between a district plan and these higher order documents and is inconsistent with more explicit references elsewhere in the Proposed District Plan.	"149. Transpower's request Note 3 be amended to reflect the legal position of the NES-ET. While their requested amendments are factually correct and a matter of law, this is also true of every NES. It is considered an unnecessary edition of the note and if implemented should for consistency be added to every chapter and mention every NES. Based on this only partial relief to the Transpower submission is recommended." The amendments that are recommended are as follows: <u>"Section 55 Section 75(3) of the RMA directs that the district plan must give effect to any National Policy Statement (NPS) and Section 44A of the RMA, directs local authorities to ensure that there are no duplications or conflicts between the provisions of a National Environmental Standard (NES) and a proposed plan National Environmental Standard (NES).</u> NES's must be observed and enforced by local authorities. Section 43B of the RMA directs that a NES prevails over District Plan rules unless a NES expressly ~~states~~ <u>states</u> that it does not." For the reasons given in the Section 42A Report, I support the Section 42A Report recommendation. That said, I support the following minor correction: <u>"Section 55 ~~and~~ Section 75(3) of the RMA directs that the district plan must give effect to any National Policy Statement (NPS) ..."</u>
Infrastructure – INFR Rule INFR-R1 Establishment, operation,	S101.024	Support. Retain Rule INFR-R1 as notified. Transpower supports Rules INFR-R1 on the basis that a permitted activity status for infrastructure that is located below ground appropriately recognises that the permanent effects of such activities are nil or very minor.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and that Rule INFR-R1 be retained as notified, subject to a minor amendment to add

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
maintenance, replacement, upgrade, repair or removal of infrastructure (including Green Infrastructure) below ground level.			<i>"not otherwise addressed by another rule in this chapter".</i> For the reasons given in Transpower's submission and the Section 42A Report, I support the Section 42A Report recommendation.
Infrastructure – INFR Rule INFR-R2 Establishment, operation, maintenance, replacement, upgrade, repair or removal of infrastructure within a building.	S101.025	Support. Retain Rule INFR-R2 as notified. Transpower supports Rules INFR-R2 on the basis that a permitted activity status for infrastructure that is located in a building appropriately recognises that the permanent effects of such activities are nil or very minor.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and that Rule INFR-R2 be retained as notified. For the reasons given in Transpower's submission, I support the Section 42A Report recommendation.
Infrastructure – INFR Rule INFR-R3 Operation, maintenance, replacement, upgrade, repair or removal of existing above ground level infrastructure and access tracks	S101.026 and S101.028 ²⁵	Support. Retain Rule INFR-R3 as notified. Transpower supports Rule INFR-R3 to the extent that the permitted activity conditions generally reflect the regulations for permitted activities in the NESETA, subject to matters raised in this submission in respect of the Standards that apply. In addition, Transpower supports the Matters of Discretion that apply because these matters allow for a consideration of the benefits of infrastructure in a manner that gives effect to the Objective and Policy 1 of the NPSET and Policy INF.1 of the SRPS.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part on the basis that amendments are recommended to Rule INFR-R3 (matters of discretion) in response to other submissions as follows: “ ... 4. <i>Impacts on the <u>safety and function of the road, including any footpath or cycleway.</u></i> 5. <i><u>Impacts on the function of the rail network, including vehicle access tracks. ...</u></i>”

²⁵ These submissions are supported by the further submissions made by Mercury NZ Limited (FS26.025 and FS26.026).

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
			For the reasons given in Transpower's submission, I support the Section 42A Report recommendation.
Infrastructure – INFR Rule INFR-R6 Network utilities emitting electric and magnetic fields	S101.030	Support. Retain Rule INFR-R6 as notified. Transpower supports Rule INFR-R6 on the basis that it is consistent with, and gives effect to, Policy 9 of the NPSET and the NESETA Regulations.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and that Rule INFR-R6 be retained as notified. For the reasons given in Transpower's submission, I support the Section 42A Report recommendation.
Infrastructure – INFR Rule INFR-R7 Activities and development (other than earthworks) within the National Grid Yard	S101.031	Support in part. Amend Rule INFR-R7 as follows: <i>“Activity status where compliance is not achieved: Discretionary-Non-complying”</i> Transpower supports Rule INFR-R7 to the extent that the permitted activity conditions that apply appropriately reflect Transpower's nationally consistent engineering-based approach to the management of activities and structures within the National Grid Yard to give effect to Policy 10 and Policy 11 of the NPSET. That said, Transpower opposes the inclusion of a 'default' to discretionary activity status for the following reasons: (a) The Energy and Infrastructure Section 32 Report does not give explicit consideration to the necessary and appropriate activity status; (b) Discretionary activity status is inconsistent with, and does not give effect to, the firm statutory direction in Policies 10 and 11 of the NPSET. Policy 10 of the NPSET requires decision-makers, to the extent reasonably possible to manage activities to avoid reverse sensitivity effects on the National Grid and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised. “Avoiding” reverse sensitivity effects and “ensuring” the Grid is “not compromised” in practice, generally means that buildings and structures will not be able to be constructed in the National Grid Yard and it is considered that non-complying activity status is	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and comments as follows. <i>“366. Transpower's requested change to a non-complying activity status is appropriate. Transpower's opposition to discretionary activity status aligns with the firm statutory direction in Policies 10 and 11 of the NPSET. Specifically, Policy 10 requires that decision-makers must, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on the electricity transmission network. A non-complying activity status provides a higher threshold of assessment achieving this policy. Policy 11 requires local authorities to consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for. A non-complying status better aligns with this and promotes a consistent national approach across jurisdictions for managing the National Grid.”</i>

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
		appropriate in circumstances where activities should generally not be proceeding in any form. (c) The High Court has considered Policy 10 and concluded: “[85] Policy 10, though subject to the “reasonably possible” proviso, is, in my judgment, relatively prescriptive. It requires that decision-makers “must” manage activities to avoid reverse sensitivity effects on the electricity transmission network, and “must” ensure that the operation, maintenance, upgrading and development of the electricity transmission network is not compromised. What is sought to be protected is the national electricity transmission grid – an asset which the NPSET recognises is of national significance. A mandatory requirement to ensure that an asset of national significance is not compromised is, in my judgment, a relatively strong directive.” (d) Policy 11 of the NPSET requires the identification of a buffer corridor within which it can be expected that sensitive activities will “generally not be provided for in plans and/or given resource consent”. Non-complying activity status is the most appropriate activity status to ensure that resource consent will generally not be available. (e) Non-complying activity status results in a consistent approach across jurisdictions that is appropriate when giving effect to a national planning instrument such as the NPSET and dealing with linear infrastructure such as the National Grid. The need for consistency is emphasised by the preamble to the NPSET that states “<i>the transmission network is an extensive and linear system which makes it important that there are consistent policy and regulation approaches by local authorities</i>”.	For the reasons given in Transpower's submission, and in the Section 42A Report, I support the Section 42A Report recommendation.
Infrastructure – INFR Rule INFR-R9 Establishment of new infrastructure within specified areas	S101.032	Support. Retain Rule INFR-R9, subject to relief sought as a consequence of Transpower's submission elsewhere. Subject to relief sought elsewhere, Transpower supports Rule INFR-R9 and considers that discretionary activity status is appropriate for new infrastructure in 'protected' areas and, insofar as the Rule relates to the National Grid, consistent with approaches taken to giving effect to the NPSET across New Zealand.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part and comments as follows: <i>“384. Transpower's submission regarding INFR-R9, is supported in part with the majority of the requested relief considered to give better effect to the NPSET, however the distinction of new</i>

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
			infrastructure "that has foundations, is considered to be overly prescriptive, any infrastructure considered to be within these areas should be captured so that associated effects are appropriately considered, particularly when considering the visual sensitivities of the ONF/Ls. 385. It is noted that this relief ties in with Transpower's submission on the Natural Hazards (NH) Chapter requesting rules relating to infrastructure within natural hazards area to be located within the INFR Chapter. While typically activities within areas of natural hazards are considered within the NH Chapter, in this instance it is considered appropriate to accept Transpower's relief to include hazard areas in INFR-R9. The activities these rules are seeking to manage are specific to infrastructure and therefore it is considered appropriate to manage them within the INFR Chapter." For the reasons given in Transpower's submission, and in the Section 42A Report, I support the Section 42A Report recommendation.
Infrastructure – INFR Rule INFR-R9 Establishment of new infrastructure within specified areas	FS30.021 (Further submission on S109.037 Department of Conservation)	The primary submission considers that the consenting process for new infrastructure within specified areas is assessed as a non complying activity. Further, that the rule should be amended to identify any unmapped areas of significant indigenous biodiversity, areas of highly mobile fauna and riparian margins. Retain with the following amendments (or words to similar effect): "Activity status: ~~Discretionary~~ <u>Non complying</u> Where: 1. The establishment of new infrastructure within: (a) an Outstanding Natural Landscape or Feature	The Energy and Infrastructure Section 42A Report recommends that the submission be rejected and comments as follows: "388. DOC's submission is rejected as a non-complying activity status is considered inconsistent with the NPSET and the objectives and policies of this chapter. The requested relief, that specified areas include unmapped areas of significant biodiversity, areas of highly mobile fauna and riparian margins is also rejected. The definition of significant natural area

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
		(b) <i>a Significant Natural Area <u>or unmapped SNA that has been assessed as significant against the criteria in Appendix 4, areas of highly mobile fauna</u></i> (c) <i>20m of the Mataura River, or within a riparian margin</i> (d) <i>a site containing an item on the Heritage Schedule, a Notable Tree, a Site of Significance to Māori or an Archaeological Site"</i> Transpower opposes the relief sought because: - insofar as the Rule relates to the National Grid, non-complying activity status fails to give effect to the NPSET and would be inconsistent with district plan provisions throughout New Zealand; - the submission does not provide sufficient justification in terms of the appropriateness and necessity of non-complying activity status (as required by section 32 of the RMA); - including unmapped areas is not sufficiently certain in the context of a Rule such that plan users are unable to determine whether an activity is compliant with the rule.	<i>includes unmapped areas and as such this relief is considered to already be granted. INFRA-S5 addresses riparian margins sufficiently and as such it is not recommended that this is also included within this rule. In regards to areas of highly mobile fauna, these are not mapped and without evidence demonstrating where these are located would require infrastructure providers to provide a site specific ecological assessment to prove compliance. DOC are invited to provide further information demonstrating where these areas are and further consideration can be undertaken through the hearings process."</i> For the reasons given in Transpower's further submission, and in the Section 42A Report, I support the Section 42A Report recommendation. It is noted that the recommended amendments relate to Transpower's submission on the Natural Hazards chapter.
Infrastructure – INFR Rule INFR-R10 All other infrastructure	S101.033	Support. Retain Rule INFR-R10 as notified Transpower supports Rule INFR-R10 to the extent that the Rule provides a 'default' discretionary activity status for all other infrastructure on the basis that the rule enables a fulsome consideration of any adverse effects of such infrastructure through a resource consent process.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and that Rule INFR-R10 be retained as notified. For the reasons given in Transpower's submission, I support the Section 42A Report recommendation.
Infrastructure – INFR Standard INFR-S1 Lines over waterbodies	S101.034	Support in part. Amend Standard INFR-S1 as follows: <i>"1. Above-ground lines are to be at least 10m above the water level of a navigable waterbody when at its maximum navigable flow or attached to, and no lower than, existing structures over a navigable waterbody <u>or otherwise comply with NZECP34:2001.</u>"</i>	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and comments as follows: <i>"407. Transpower's submission requesting an alternative permitted pathway if compliance is achieved with NZECP34:2001 is supported. This is</i>

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
		Transpower does not oppose Standard INFR-S1, but notes that NZECP34:2001 includes a suite of regulations to manage conductor clearances, including over navigable waterways. Transpower considers that where compliance with the requirements in NZECP34:2001 is achieved, requiring a resource consent is unnecessary and inappropriate duplication of regulation. Transpower therefore seeks that the Standard be amended to ensure that conductors that achieve compliance with NZECP34:2001 do not also trigger the requirement for resource consent. In addition, Transpower supports the Matters of Discretion that apply because these matters allow for a consideration of the benefits of infrastructure in a manner that gives effect to the Objective and Policy 1 of the NPSET and Policy INF.1 of the SRPS.	<i>considered an efficient and effective means of managing lines over waterbodies as it will not result in a duplication of regulation or consenting requirements."</i> For the reasons given in Transpower's submission and the Section 42A Report, I support the Section 42A Report recommendation.
Infrastructure – INFR Standard INFR-S2 Height of Infrastructure	S101.035	Support. Retain Standard INFR-S2 as notified. Transpower notes that there may be merit in defining poles and masts to include all types of support structures. Transpower supports Standard INFR-S2 to the extent that it 'imports' the zone height standards but provides an exemption for utility poles and masts. Transpower's support for this Standard, is based on the assumption that all transmission line support structures would be considered utility poles or masts. In addition, Transpower supports the Matters of Discretion that apply because these matters allow for a consideration of the benefits of infrastructure in a manner that gives effect to the Objective and Policy 1 of the NPSET and Policy INF.1 of the SRPS.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part on the basis that an amendment to Standard INFR-S2 is recommended in response to another submission. This amendment is not material to Transpower's relief. For the reasons given in Transpower's submission, I support the Section 42A Report recommendation.
Infrastructure – INFR Standard INFR-S3 Height of Poles and Masts	S101.101 ²⁶	Support. Retain Standard INFR-S3 as notified. Transpower notes that there may be merit in defining poles and masts to include all types of support structures. Transpower supports Standard INFR-S3 on the basis that it sets a clear standard for the permitted height of utility poles and masts in various zones. Transpower's support for this Standard, is based on	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part on the basis that amendments to Standard INFR-S3 is recommended in response to other submissions. These amendments are consistent with Transpower's relief.

²⁶ This submission is supported by the further submission made by Mercury NZ Limited (FS26.032).

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
		the assumption that all transmission line support structures would be considered utility poles or masts. In addition, Transpower supports the Matters of Discretion that apply because these matters allow for a consideration of the benefits of infrastructure in a manner that gives effect to the Objective and Policy 1 of the NPSET and Policy INF.1 of the SRPS.	For the reasons given in Transpower's submission, I support the Section 42A Report recommendation.
Infrastructure – INFR Standard INFR-S3 Height of Poles and Masts	FS30.054 (Further submission on S130.041 Mercury NZ Limited)	The primary submission notes that it is essential that electricity generated can be conveyed to National Grid. Amend: <i>"The maximum height of any utility pole or mast, and associated electricity lines shall be: Rural Zone, Rural Lifestyle Zone, General Industrial Zone and Light Industrial Zone</i> <i>2530m All other zones</i> <i>13m There is no voltage limit for electricity lines."</i> Transpower generally supports the submission and agrees that the Proposed District Plan does not set voltage limits or standards for electricity lines. This is appropriate because the voltage of electricity carried on a transmission line does not have adverse effects where standards that manage electric and magnetic fields are complied with.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted in part and comments as follows: <i>"443. Mercury's submission is supported in part and accepts that the standard should be amended to refer to associated electricity lines. The remainder of their submission requires further information to demonstrate why the requested decision, should be amended to raise the height limit and to further explain the reference to voltage limits."</i> For the reasons given in Transpower's submission and the Section 42A Report, I support the Section 42A Report recommendation.
Infrastructure – INFR Standard INFR-S4 Setbacks from boundaries	S101.036 ²⁷	Support in part. Amend Standard INFR-S4 as follows: <i>"1. Where the utility is a building, it must be set back in accordance with the side, rear and road boundary setbacks for buildings in the zone in which it is located.</i> <i>Except this rule does not apply to:</i> (a) <i>poles, antennas, and associated cabinets (cabinets up to 10m2 in area and 3m in height, exclusive of any plinth or other foundation), for <u>electricity transmission, electricity distribution, telecommunication and radio communication</u>;</i>	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and comments as follows: <i>"465. Transpower's submission is accepted as it is agreed both electricity transmission and distribution should have the same exceptions as telecommunications with similar effects anticipated."</i> For the reasons given in Transpower's submission and the Section 42A Report, I

²⁷ This submission is supported by the further submission made by Contact Energy Limited (FS24.022).

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
		(b) <i>lines and support structures for telecommunications <u>or electricity transmission and electricity distribution</u></i>; (c) <i>network utilities within legal road."</i> Transpower supports Standard INFR-S4 to the extent that it 'imports' the zone setbacks for buildings subject to exemptions. Transpower does not support the exemptions included in the Standard on the basis that the exemptions are limited to telecommunications infrastructure. Transpower does not consider that there is clear rationale for providing an exemption for telecommunications infrastructure, but not electricity infrastructure, where the effects of such infrastructure may be the same or similar in character. Transpower seeks that the Standard be expanded to include electricity infrastructure. In addition, Transpower supports the Matters of Discretion that apply because these matters allow for a consideration of the benefits of infrastructure in a manner that gives effect to the Objective and Policy 1 of the NPSET and Policy INF.1 of the SRPS.	support the Section 42A Report recommendation.
Infrastructure – INFR Standard INFR-S6 Footprint of buildings and structures	S101.038 ²⁸	Oppose. Amend Standard INFR-S6 as follows: <i>"The maximum footprint of any utility building or structure shall <u>comply with the relevant building coverage provisions for the zone they are located in or otherwise be</u></i>: <i>In the General Residential, Large Lot Residential, Medium Density Residential, Settlement, Town Centre, Local Centre, Neighbourhood Centre and Māori Purpose zones: 6m²</i> <i>In all other zones: 10m²"</i> Transpower does not support Standard INFR-S6 because the Standard has the potential to impose more stringent requirements on buildings for infrastructure, when compared to the same footprint requirements in any given zone. The Energy and Infrastructure Section 32 Report does not give any rationale for taking a more stringent approach to the footprint of infrastructure buildings when compared to other buildings. Transpower seeks that the Standard is	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and comments as follows: <i>"495. Transpower submission is accepted. I agree that the standard as notified, has the potential to impose more stringent requirements on buildings for infrastructure, when compared to the same footprint requirements in any given zone. I recommend that standard is amended so that infrastructure buildings may be developed in a manner that is consistent with the zone in which they are located. Based on this relief is granted in order to align with the zone provisions."</i>

²⁸ This submission is supported by the further submission made by Yrless Limited (FS21.060).

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
		amended so that infrastructure buildings may be developed in a manner that is consistent with the zone in which they are located.	For the reasons given in Transpower's submission and the Section 42A Report, I support the Section 42A Report recommendation. It is noted that the recommended amendments to Standard INFR-S6 do not mirror Transpower's relief and instead deleted clauses (1) and (2).
Infrastructure – INFR Standard INFR-S9 Electric and magnetic fields	S101.039	Support. Retain Standard INFR-S9 as notified. Transpower supports Standard INFR-S9 on the basis that it is consistent with, and gives effect to, Policy 19 of the NPSET and the NESETA Regulations.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and that Standard INFR-S9 be retained as notified. For the reasons given in Transpower's submission, I support the Section 42A Report recommendation.
INFR - Infrastructure INFR-Additional provisions sought	FS30.013 (Further submission on S35.038 Chorus New Zealand Limited) FS30.082 (Further submission on S154.038 Spark New Zealand Trading Limited) FS30.060 (Further submission on S32.038 One New Zealand Group Limited) FS30.017 (Further submission on S37.038 Connexa Limited) FS30.029 (Further submission on S33.038 Forty South)	The primary submission notes that temporary infrastructure is used when: a) an event-with insufficient infrastructure for capacity expected; b) construction activity requiring existing networks turned off; c) fault or disaster. Limiting temporary infrastructure to 12 months means that there is a time limit for any resultant environmental effects. The submission seeks a new rule permitting temporary network utilities. The only standard should be that the infrastructure must be removed within 12 months. The elevation can be to discretionary activity status. Transpower supports the relief sought on the basis that there are situations where temporary solutions are necessary in order to provide for the health, safety and wellbeing of people and communities.	The Energy and Infrastructure Section 42A Report recommends that the submission be accepted and notes: <i>"179. Regarding the telecommunications submissions requesting a new rule to provide for temporary network utilises, this is now provided for within the Temporary Activities Chapter through the s42a for this chapter. Based on this no new rule is proposed within this chapter as this relief is accepted elsewhere."</i> For the reasons given in the primary submission, Transpower's further submission and the Section 42A Report, I support the Section 42A Report recommendation. That said, having reviewed recommended Rule TEMP-R10, I comment as follows: - Consistent with my opinion that rules related to infrastructure/network utilities should be located in the Infrastructure Chapter, there is merit in considering the relocation of this Rule TEMP-R10 to the Infrastructure Chapter.

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
			- it is not clear whether recommended Rule TEMP-R10 would accommodate situations where construction of new infrastructure may require temporary services where existing networks are turned off (as sought in the primary submission). In my opinion, Rule TEMP-R10 could be further amended to ensure that such activities are permitted.
INFR - Infrastructure INFR-Additional provisions sought	FS30.069 (Further submission on S110.019 Royal Forest and Bird Society of NZ Inc)	The primary submission notes that there is no requirement in the plan to avoid SNAs. Seeks a new rule to ensure that SNAs are protected so they can continue to perform their function as follows: <u>"INFR-S10 - Minimum Setbacks from Significant Natural Areas All zones</u> <u>1. Any infrastructure building or structure must be set back 10 metres from the closest boundary of any identified Significant Natural Area.</u> <u>Activity status where compliance is not achieved: Restricted Discretionary</u> <u>Matters of discretion:</u> <u>1. Whether there is a functional need for the building or structure to be located in the Significant Natural Area, and the extent to which alternative practicable options have been considered and their feasibility.</u> <u>2. The effects on the indigenous biodiversity, habitats and eco-system within the Significant Natural Area.</u> <u>3. Impacts on Ngāi Tahu cultural values, including those listed in MW.2.3.</u> <u>4. Landscape effects</u> <u>5. Social effects."</u> Transpower does not support the relief sought on the basis that there is no clear effects-based rationale for requiring a setback from a SNA. Further, the submission suggests that the INF rules should include a requirement for infrastructure to avoid SNA's. In the case of the	The Energy and Infrastructure Section 42A Report recommends the submission be rejected for the following reasons: <i>"177. The submission from Forest and Bird requesting setbacks from SNA's is rejected on the basis that there is no clear rationale provided detailing what effects would be managed by including a setback requirement, rather than more direct interference with an SNA. Any clearance of vegetation within SNA's is managed within the ECO chapter."</i> For the reasons given in Transpower's further submission and the Section 42A Report, I support the Section 42A Report recommendation.

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
		National Grid, the NPSET, and other higher order planning instruments include no such requirement.	
General District Wide Matters – Activities on the Surface of Water			
Policy ASW-P3	S101.067	Support in part, amend Policy ASW-P3 as follows: <i>“ASW-P3 Enable the location of infrastructure and equipment used for monitoring or testing, where there is a functional need <u>or operational need</u> for this to be located on or above the surface of waterbodies”</i> Transpower supports Policy ASW-P3 because the Policy appropriately enables infrastructure to be located above the surface of waterbodies where there is a functional need. However, Transpower considers that it is equally important to provide for activities that have an operational need for locating above a waterbody. That is, the need to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints. Transpower seeks an amendment to Policy ASW-P2 to reference ‘operational need’. Such an approach is consistent with the direction in Policy 3 of the NPSET.	The Activities on the Surface of Water Section 42A Report recommends that the submission be accepted and comments as follows: <i>“67. In relation to the Transpower (S101.067) submission to include activities that have an operational need for locating above a waterbody ASW-P3, I agree that this is a relevant consideration when considering the location of infrastructure, and is consistent with Policy 3 of the NPS-ET, and therefore accept the submission.”</i> For the reasons given in Transpower’s submission, and in the Section 42A Report, I support the Section 42A Report recommendation.
Rule ASW-R3 Any activities associated with the ongoing operation, maintenance, or upgrading of any lawfully established infrastructure.	S101.068	Support, retain Rule ASW-R3 as notified. Transpower supports Rule ASW-R3 because the Rule provides for the operation, maintenance and upgrading of infrastructure in a manner that gives effect to Policy 2 and Policy 5 of the NPSET.	The Activities on the Surface of Water Section 42A Report acknowledges the submission and does not recommend any amendments to the Rule. For the reasons given in Transpower’s submission, I support the retention of Rule ASW-R3 as notified.
General District Wide Matters – Earthworks			
Policy EW-P2	S101.069	Support, retain Policy EW-P2 as notified. Transpower supports Policy EW-P2 because the Policy is consistent with, and gives effect (in part) to, Policy 10 of the NPSET.	The Earthworks Section 42A Report acknowledges the submission and does not recommend any amendments to the Rule. For the reason given in Transpower’s submission, I support the Section 42A Report recommendation.

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
Earthworks – EW Rule EW-R11 Earthworks and land disturbance for network utilities, including associated vehicle access tracks	S101.071	Support, Retain Rule EW-R11 as notified. Transpower supports the inclusion of a specific rule that relates to earthworks and land disturbance for network utilities, including access tracks. Transpower particularly supports the approach to having a maximum area open at any time (as opposed to a maximum per year or per site). For the avoidance of doubt, Transpower notes that this rule should apply in all areas of the District including those subject to overlays.	The Earthworks Section 42A Report acknowledges the submission and does not recommend any amendments to the Rule that is relevant to Transpower. For the reason given in Transpower's submission, I support the Section 42A Report recommendation.
PLANNING MAP			
Planning Maps – National Grid Notation	S101.098	Support in part. Revise the Planning Map as necessary to show all parts of the National Grid (including those parts of the National Grid that are designated). Transpower acknowledges that the Planning Map, as notified, includes the National Grid transmission lines as a solid black line with the notation 'Transpower HV Lines'. Transpower supports the mapping of the National Grid and notes that this is a requirement of Policy 12 of the NPSET that states: <i>"Territorial authorities must identify the electricity transmission network on their relevant planning maps whether or not the network is designated."</i> Transpower also notes that the National Grid is shown as a solid black line as set out in the National Planning Standards. That said, Policy 12 of the NPSET requires all part of the transmission network to be mapped and therefore Transpower suggests that the Planning Map is revised to include all parts of the National Grid (including substations).	The Energy and Infrastructure S42A Report recommends that the submission be accepted and comments as follows: <i>"152. Transpower's submission that all aspects of the National Grid be mapped is acknowledged and supported as meeting the Councils obligations under the NPSET. The notified planning maps included the National Grid lines but did not show the substations. This has been amended and included as Appendix C."</i> For the reasons given in Transpower's submission, and in the Section 42A Report, I support the Section 42A Report recommendation.