

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 6 (Contaminated Land,
Hazardous Substances, Noise, Public
Access and Subdivision Chapters)**

**Statement of Evidence of Ainsley Jean McLeod on behalf of
Transpower New Zealand Limited
(submitter reference 101 and further submitter reference 30)
dated 30 September 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 6, Transpower’s submission, and further submission, support a number of provisions, but seek amendments to:
 - a. clarify the definition of sensitive environments;
 - b. include a rule for subdivision to create allotments to accommodate network utilities;

- c. give effect to Policies 10 and 11 of the NPSET in the Subdivision Chapter policies and rules; and
 - d. include provision for the use of helicopters for the operation, maintenance, upgrading and development of the National Grid.
- 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 – Contaminated Land and Hazardous Substances';
 - b. the 'Section 42A Report – Noise';
 - c. the 'Section 42A Report – Public Access';
 - d. the 'Section 42A Report – Subdivision'.
- 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 generally agrees with the Section 42A Report that the definition of 'sensitive environments' is not clear in respect of the use of the term 'areas' and supports an amendment to the definition that is sought in the primary submission made by Mercury NZ Limited ("Mercury").
- 8. My evidence concludes that the subdivision policies, as recommended for amendment, do not give effect to higher order planning instruments and supports further amendments to the policies in order to give effect to the NPSET.
- 9. Further, my evidence supports the Section 42A Report recommendation to include a new rule SUB-RX to regulate subdivision in the National Grid Subdivision Corridor and suggests limited amendments to the recommended rule to refine the way in which potential adverse effects on the National Grid are managed.
- 10. My evidence also supports the inclusion of a new rule TEMP-R11 that provides for the use of helicopters for the operation, maintenance, upgrading and development of the National Grid and suggests a definition of 'emergency works' to support the implementation of this Rule.
- 11. 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

12. My full name is Ainsley Jean McLeod. I am a self-employed planner, trading as Ainsley McLeod Consulting Limited.
13. 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.
14. This is the third 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.
15. 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 6.
16. 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. I also note that Transpower intends to file further evidence as part of Hearing Stream 7 (Activities on the Surface of Water, Earthworks, Infrastructure, and Energy) that will further describe the role of the National Grid and explain the technical, operational and functional requirements of the National Grid in detail.

CODE OF CONDUCT

17. 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

18. My evidence:
 - a. acknowledges the statutory requirements for the Proposed District Plan relevant to Hearing Stream 6;

- b. describes Transpower's submission and further submission on the Proposed District Plan that are the subject of Hearing Stream 6; and
- c. addresses (as relevant to the relief sought by Transpower) the recommendations made in the Section 42A Reports.

RELEVANT STATUTORY FRAMEWORK

- 19. 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
- 20. 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
- 21. 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.
- 22. 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

- 23. 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 do not address these matters further in my evidence.

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. Those submission points that remain outstanding relate to:
- a. the definition of 'sensitive environments';
 - b. the manner in which the subdivision policies give effect to higher order planning instruments;
 - c. a new rule (SUB-RX) that regulates subdivision in the National Grid Subdivision Corridor; and
 - d. a new rule (TEMP-R11) that regulates, amongst other matters, helicopter use for the operation, maintenance, upgrading and development of the National Grid.

PART 1 – INTRODUCTION AND GENERAL PROVISIONS

Interpretation – Definitions 'Sensitive environments'

25. Transpower's further submission³ supports the primary submission made by Mercury⁴. The primary submission states that it is not clear what an 'area' is in the definition of 'sensitive environments', or how an 'area' is defined. The primary submission seeks the following amendment to the definition:

"Means land identified with: Outstanding Natural Features and Landscapes or Significant Natural Area ~~or Areas of Indigenous Biodiversity.~~"

26. The Section 42A Report includes the following consideration of the submissions on the definition of 'sensitive environments':

"88. ... I note that the term 'sensitive environments' is only used in the PDP within the Hazardous Substances (HAZS) Chapter. The term is defined as follows:

...

89. The intent of the definition was to provide a streamlined means of referring to the individual areas, landscapes, and features which relate to Section 6 matters covered in the Ecosystem and Indigenous Biodiversity (ECO) Chapter and Natural Features and Landscapes (NFL) Chapter. However, I note that whilst other chapters, such as the Energy Chapter have not used the term 'sensitive environments' instead includes a disaggregated version of the definition to reference the relevant Section 6 matters.

90. In this report I will consider the submissions on the definition only as they relate to the HAZS Chapter.

...

³ Further submission reference FS30.51.

⁴ Submission reference S130.007.

93. *I acknowledge that 'areas of indigenous biodiversity' are not defined within the PDP. However, while any landowner could obtain an ecologist report to provide guidance on the levels of biodiversity present on site, in the context of the PDP it may be unclear whether the levels of biodiversity constitute an 'area'.*
- ...
96. *Removing the reference to 'areas of indigenous biodiversity' from the definition of 'sensitive environments' would mean that extensions to existing facilities where the location or quantity of hazardous substance storage, use or disposal does not change would be permitted even if it were in an area of indigenous biodiversity. However, there would be no change in relation to new significant hazardous facilities which would still require either a discretionary or non-complying resource consent and as decision makers are not limited in the range of matters they can consider the PDP would be read as a whole and the objectives and policies of other Chapters, such as ECO, would be relevant.*
97. *Therefore, in response to the submissions and further submissions from Mercury (s130.007), Powernet (s95.008), Transpower (FS30.051) and Contact Energy (FS24.004) I accept that it is difficult to know where these 'areas' are. Furthermore, I note that there are rules within the ECO Chapter (ECO-R1) which will aid in maintaining indigenous biodiversity through managing indigenous vegetation clearance which would apply regardless of any provisions within the HAZS. Accordingly, it may be the case that the provisions within the HAZS Chapter do not need to further manage adverse effects on areas of indigenous biodiversity because ECO-R1 will apply to any land to be developed for a new significant hazardous facility and will also apply to any indigenous vegetation clearance required to extend an existing facility.*
- ...
99. *Given the hearing on the ECO Chapter is not until early 2025 it is unclear what amendments to that Chapter may be recommended in response to submissions. Therefore, references to 'areas of indigenous biodiversity' may evolve through definitions and/or clearer articulation. In which case it may be appropriate to retain the reference in the definition of 'sensitive environment'.*
100. *Therefore, in summary, for the purposes of this report I accept the submissions and further submissions from Mercury (s130.007), Powernet (s95.008), Transpower (FS30.051) and Contact Energy (FS24.004) and reject the submission from DOC (FS31.006 & FS31.008) on the basis that there is a rule (ECO-R1) in the ECO Chapter which will achieve the purpose of maintaining indigenous biodiversity regardless of provisions in the HAZS. Furthermore, as the PDP does not currently make it expressly clear where areas of indigenous*

biodiversity are I accept that it would be difficult for Plan users to understand if they are compliant with the rules. However, I recommend that the panel reserve final decisions on these submissions until the ECO Chapter has been considered as part of hearing stream 9."

27. For the reasons given in the Section 42A Report, I support the recommendation to accept the primary submission made by Mercury and Transpower's further submission. That said, while the submission and further submission are recommended to be accepted, there is no amendment made to the recommended provisions in Appendix A to the Section 42A Report. For the avoidance of doubt, and noting the recommendation to await the consideration of submissions on the Ecosystems and Indigenous Biodiversity sub-chapter, it is my conclusion that the definition of 'sensitive environments' should be amended in the manner sought in Mercury's submission as follows:

"Means land identified with: Outstanding Natural Features and Landscapes or Significant Natural Area ~~or Areas of Indigenous Biodiversity.~~"

PART 2 – DISTRICT-WIDE MATTERS

Subdivision

Policy SUB-P3 and New Policy

28. Transpower's submission⁵ opposes the subdivision policies to the extent that the policies fail to appropriately address the potential impacts of subdivision on the National Grid in a manner that gives effect to the NPSET (and particularly Policies 10 and 11). The submission seeks that Policy SUB-P3 is amended to delete reference to the National Grid and a new policy is included as follows:

"SUB-P3 Ensure subdivisions are designed to avoid and manage effects from site constraints, including but not limited to topography, ~~the national grid,~~ and significant natural areas."

"SUB-PX. Avoid subdivision in the National Grid subdivision corridor where future activities may result in adverse effects on the National Grid, including reverse sensitivity effects, that would compromise the operation, maintenance, upgrading and development of the National Grid."

29. The Section 42A Report recommends that the submission be rejected and comments as follows:

"150. Transpower seek SUB-P3 is amended to remove the reference to the national grid in favour of a new policy offering protection to the Transpower asset. The

⁵ Submission reference S101.064.

submitter highlights that another policy SUB-P5 offers protection to infrastructure such as the rail network and state highway from reverse sensitivity and seeks similar protection for the national grid in the new policy. I consider the relief sought by the submitter can be achieved by making minor amendment to SUB-P3 and SUB-P5 rather than creating an additional standalone policy.”

30. The Section 42A Report recommends the following amendments to Policy SUB-P3 and SUB- P5:

“SUB-P3 Ensure subdivisions are designed to avoid, remedy or mitigate ~~and manage~~ effects from site constraints, including but not limited to topography, the national grid, and significant natural areas.”

“SUB-P5 Ensure reverse sensitivity effects, from subdivision, on adjacent land uses, including critical infrastructure, the railway network and State Highways, are avoided, remedied or mitigated ~~or managed, including from adjacent land uses, railway lines and States Highways.~~

31. While I acknowledge that it is possible to achieve the outcome sought in Transpower’s relief through amendments to the existing Policies, I do not agree with the Section 42A Report conclusion that the minor amendments that are recommended to Policies SUB-P3 and SUB-P5 achieve the relief sought by Transpower. This is because both Policies (as recommended for amendment) include a direction to avoid, remedy or mitigate effects on the National Grid and I consider that such a direction fails to give effect firm direction in Policies 10 and 11 of the NPSET. Policy 10 and 11 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. ...”* [my emphasis]

32. It is noted that the High Court in *Transpower v Auckland Council* (CIV-2016-404-002330 [2017] NZHC 281) consider Policy 10 of the NPSET 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.”

33. Similarly, SRPS Policy INF.3 includes a strong direction to ‘protect’ nationally significant infrastructure 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.”

34. Subdivision in the vicinity of the National Grid has the potential to give rise to direct adverse effects, in addition to reverse sensitivity effects. Examples include:

- a. where a subdivision is designed in a way that prevents access to National Grid support structures for maintenance or upgrading work;
- b. where a subdivision design necessitates earthworks or retaining structures that compromise the stability of National Grid support structures or prevent access to those structures for maintenance or upgrading work; or
- c. where a subdivision design results in land parcels that cannot accommodate buildings and land uses in a manner that avoids reverse sensitivity effects on the National Grid.

35. In this regard, as I have set out above, I note that Transpower intends to file further expert evidence as part of Hearing Stream 7 (Activities on the Surface of Water, Earthworks, Infrastructure, and Energy) that will further describe the role of the National Grid and explain the technical, operational and functional requirements of the National Grid in detail.

36. Given the stringent direction in higher order planning instruments, it is my view that it is necessary to amend the Subdivision policies. I consider that this can be achieved by either the inclusion of a new National Grid specific policy or through amendments to Policy SUB-P3. The alternate approaches are as follows:

National Grid specific policy approach

“SUB-PX. Avoid subdivision in the National Grid subdivision corridor where future activities may result in adverse effects on the National Grid, including reverse sensitivity effects, that would compromise the operation, maintenance, upgrading and development of the National Grid.”

Existing SUB-P3 approach

“SUB-P3 Ensure subdivisions are designed to:

a. avoid, remedy or mitigate and manage effects from site constraints, including but not limited to topography, ~~the national grid~~, and significant natural areas;

b. avoid adverse effects, including reverse sensitivity effects, on the National Grid and ensure that the operation, maintenance, upgrading and development of the National Grid is not compromised.”

Subdivision – SUB: New Rule

37. Transpower’s submission⁶ seeks the inclusion of a new rule to regulate subdivision within an area defined as the ‘National Grid Subdivision Corridor’ as follows:

<u>SUB-RX</u>	<u>Subdivision in the National Grid Subdivision Corridor</u>	
<u>All Zones</u>	<u>Activity status: restricted discretionary</u> <u>Where:</u> <u>1. a building platform is identified on the subdivision plan that is outside of the National Grid Yard, to be secured by way of a consent notice.</u> <u>Matters of discretion</u> <u>1. The extent to which the subdivision allows for earthworks, buildings and structures to comply with the requirements of NZECP34:2001.</u> <u>2. The provision for the ongoing efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued reasonable access to existing transmission lines for maintenance, inspections and upgrading.</u> <u>3. The extent to which potential adverse effects (including visual and reverse sensitivity effects) are mitigated through the location of an identified building platform or platforms.</u> <u>4 The extent to which the design and construction of the subdivision allows for activities to be set back from the National Grid, including the ability to ensure adverse effects on, and from, the National Grid and on public safety and property are appropriately avoided, remedied or mitigated, for example, through the location of roads and reserves under the transmission lines.</u> <u>5. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid.</u>	<u>Activity status where compliance not achieved: Non-complying</u>

⁶ Submission reference S101.066.

	<u>6. The outcome of any consultation with Transpower New Zealand Limited.</u> <u>7. The extent to which the subdivision plan clearly identifies the National Grid and identified building platform or platforms.</u> <u>Notification</u> <u>An application for a restricted discretionary activity under this rule is precluded from being publicly notified, but may be limited notified only to Transpower New Zealand Limited, where the consent authority considers this is required, absent its written approval.</u>	
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38. The Section 42A Report recommends that the submission be accepted in part and comments as follows:

“74. Transpower seek an additional rule in the Subdivision chapter to manage subdivision in proximity to the National Grid. Subdivision located within the National Grid Subdivision Corridor (definition below) would require a restricted discretionary activity consent, so long as all building platforms are outside of the National Grid Yard (definition below), to be secured by way of a consent notice. These areas are not mapped in the PDP, instead they are described in the definitions. The National Grid Yard is narrower than the National Grid Subdivision Corridor.

...

75. I have researched a variety of recently reviewed district plans to understand whether this rule is utilised elsewhere around the country. This is summarised in the Table below:

...

76. As the table above shows, this type of rule is commonplace in recent district plans. Figure 1 below shows the National Grid crosses the district in multiple areas. Thus, I consider it would be appropriate to include additional assessment of this matter within the PDP.

77. I recommend a new rule is included in the plan which would be triggered in addition to the other relevant subdivision rules, for subdivision within the National Grid Subdivision Corridor. The matters of discretion proposed are similar to those listed above and will apply in addition to the matters of discretion detailed by the other relevant subdivision rule.

78. I consider there is existing and sufficient policy provision for the additional rule in the PDP. Objective SUB-O4 discusses the protection of significant physical

resources which this rule would give effect to. SUB-P3 ensures subdivisions are designed to avoid, remedy or mitigate effects from site constraints, including the national grid. SUB-P5 seeks to ensure reverse sensitivity effects, from subdivision, on critical infrastructure is avoided, remedied or mitigated. Therefore, I do not consider additional policy provision is necessary to accompany the new rule. ...”

39. The Section 42A Report recommends that inclusion of the following new Rule SUB-RX:

<u>SUB-RX Subdivision within the National Grid Subdivision Corridor</u> <u>Activity Status: Restricted Discretionary</u> <u>Where:</u> <u>1. a building platform is identified on the subdivision plan that is outside of the National Grid Yard</u> <u>Matters of discretion:</u> <u>1. The nature of the consent notice or other mechanism proposed to ensure activities are contained within the building platform.</u> <u>2. impacts on the operation, maintenance, upgrade and development of the National Grid.</u> <u>3. The extent to which the subdivision allows for earthworks, buildings and structures to comply with the requirements of NZECP34:2001.</u> <u>2. The extent to which potential adverse effects (including visual and reverse sensitivity effects) are mitigated through the location of an identified building platform or platforms.</u> <u>3. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</u> <u>4. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid.</u>	<u>Activity status where compliance not achieved:</u> <u>Non-complying.</u>
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40. I support the Section 42A Report recommendation to include new Rule SUB-RX and similarly acknowledge that this Rule generally reflects the approach taken to regulation subdivision in the vicinity of the National Grid in district plans across New Zealand in a manner that gives effect to SRPS Policy INF-6 and responds to the Preamble to the NPSET that notes “*the transmission network is an extensive and linear system which makes it important that there are consistent policy and regulatory approaches by local authorities*”.
41. That said, I support the following limited amendments to recommended Rule SUB-RX:
- a. Amending clause (1) to include a requirement to demonstrate that buildings and sensitive activities are able to be located outside of the National Grid Yard, as opposed to requiring a consent notice in the context of a rule. This is because at the time a resource consent application is made a consent notice would not be in place and

therefore it would be challenging to demonstrate compliance with clause (1). In addition, amending Matter of Discretion (1) to align with the approach suggested in clause (1).

- b. Amending Matter of Discretion (2) to make explicit reference to achieving access to National Grid assets. This amendment is suggested based on my understanding that one of the main adverse effects of subdivision on the National Grid is the loss of access to assets.
- c. Including an additional Matter of Discretion to allow for a consideration of setbacks for activities in addition to building platforms that are addressed in Matter of Discretion renumbered as (4).
- d. Including an additional Matter of Discretion to allow of a consideration of any outcomes of consultation with Transpower in order to provide clear direction to plan users that, where subdivision is proposed in the vicinity of the National Grid, Transpower feedback should be sought. In this regard, I note that obtaining feedback from Transpower is an efficient and effective approach to addressing the Matters of Discretion generally and achieving consistency with the relevant policies that are implemented by the recommended Rule.

<u>SUB-RX Subdivision within the National Grid Subdivision Corridor</u> <u>Activity Status: Restricted Discretionary</u> <u>Where:</u> 1. <u>~~a building platform is identified on the subdivision plan that is all~~ resulting allotments, except allotments for access or a public work demonstrate that they are capable of locating a building platform for the principal building and any residential unit or sensitive activity outside of the National Grid Yard.</u> <u>Matters of discretion:</u> 1. <u>The nature of the consent notice or other mechanism proposed to ensure ~~activities are contained within the building platforms are~~ located outside of the National Grid Yard.</u> 2. <u>impacts on the operation, maintenance, upgrade and development of the National Grid, including the ability for continued reasonable access to National Grid transmission lines and structures.</u> 3. <u>The extent to which the subdivision allows for earthworks, buildings and structures to comply with the requirements of NZECP34:2001.</u> 4. <u>The extent to which potential adverse effects (including visual and reverse sensitivity effects) are mitigated through the location of an identified building platform or platforms.</u> 5. <u>The extent to which the design and construction of the subdivision allows for activities to be set back from the National Grid.</u>	<u>Activity status where compliance not achieved:</u> <u>Non-complying.</u>
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<u>63. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</u> <u>74. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid.</u> <u>8. The outcome of any consultation with Transpower New Zealand Limited.</u>	
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42. As a final matter, I acknowledge that Transpower's submission seeks the inclusion of explicit direction in respect of notification. This element of Transpower's relief is not considered in the Section 42A Report. However, I note that the Subdivision chapter does not include such direction in any subdivision rules. For reasons of consistency across the subdivision rules, I therefore do not consider that the inclusion of notification direction is necessary and acknowledge that the normal notification tests in the RMA will apply.
43. It is my conclusion that recommended Rule SUB-RX, including the limited amendments that I support (set out above):
- gives effect to Policies 10 and 11 of the NPSET;
 - gives effect to Policies INF-3 and INF-5 of the SRPS; and
 - achieves the purpose of the RMA.

General District-wide Matters – Noise

Rule NOISE-R9 Noise from the take-off and landing of helicopters (Other than for agricultural aviation)

44. Transpower's submission⁷ generally supports Rule NOISE-R9 but is concerned that the Rule does not contemplate the use of helicopters for inspections, maintenance and upgrading of the National Grid. Transpower seeks that Rule NOISE-R9 is amended as follows to explicitly allow for such use:

“Activity status: Permitted

Where:

x. The take-off and landing are to and from a location adjacent to the National Grid where the helicopter use is for the operation, maintenance and upgrading of the National Grid; or

- The take-off and landing are to and from a helicopter landing area which is:*
 - separated from the notional boundary on another site by a minimum distance of 300m; and*

⁷ Submission reference S101.073.

- (b) *separated from any occupied building that does not contain a noise sensitive activity on another site in any zone by a minimum distance of 200m; and*
 - 2. *The flight path to the helicopter landing area is not within a horizontal distance of 250m of any notional boundary on any other site; and*
 - 3. *The number of movements to and from the helicopter landing area does not exceed:*
 - (a) *2 movements per day; and*
 - (b) *4 movements per week; and*
 - (c) *10 movements per month.”*
45. The Section 42A Report recommends that the submission be accepted in part and comments as follows:
- “149. *This rule relates to helicopter movements which are not associated with agricultural aviation and could cover commercial or private helicopter uses. I recognise that for certain temporary purposes, use of helicopter movements may be limited and so should not be required to comply with the rule or noise standards.*
150. *Therefore, in response to NZDF (s147.017) and Transpower (s101.073) I recommend a new rule in the Temporary Activity Chapter which would address the matters raised in their submission. I consider this amendment also addresses the further submission from NZAAA (FS4.20).*

TEMP-R11 Aircraft and Helicopter Movements

Activity Status: permitted

Where:

- 1. Aircraft and helicopter movements for the purposes of:*
 - a. emergency works, including fire and rescue;*
 - b. military or law enforcement; or*
 - c. in relation to helicopters the maintenance, upgrade or installation of infrastructure associated with the National Grid where compliance with NOISE-R9(3); or*
 - d. temporary military training where there are no more than*
 - i. 6 movements per day; and*
 - ii. 30 movements per year*

Activity status where compliance is not achieved: Discretionary

...

152. Further, in order to then ensure temporary aircraft and helicopter activities are not captured by noise standards I recommend an amendment to NOISE-R10 to reference the new temporary activity rule as follows:

NOISE-R10 Noise from Temporary Events and Temporary Activities

Permitted

Where:

.....

3. The temporary activity is permitted under TEMP-R11

Activity status where compliance is not achieved with NOISE-R11(1) and (2):

Restricted Discretionary

.....

Activity status where compliance is not achieved with NOISE-R11(3):

Discretionary”

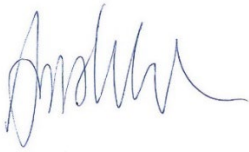
46. For the reasons given in the Section 42A Report, and in Transpower’s submission, I support the Section 42A Report recommendation to include a new permitted activity rule (Rule TEMP-R11) in the Temporary Activity sub-chapter for the use of helicopters associated with the maintenance, upgrade or development of the National Grid.
47. The recommended Rule TEMP-R11 requires compliance with Rule NOISE-R9(3). This Rule imposes a limit on the number of helicopter movements to and from a helicopter landing area. I note that the limit is more stringent than the limit that applies to temporary military training. From an effects perspective, it is not clear to me why different standards apply to different activities. That said, it is my understanding that Transpower’s regular maintenance and inspection work would typically achieve compliance with Rule NOISE-R9(3) and therefore be permitted by Rule TEMP-R11.
48. In situations where helicopters are used by Transpower to respond to an emergency situation it is anticipated that the activity would be considered emergency works under Rule TEMP-R11(1)(a). The Section 42A Report includes a commentary on ‘emergency works’ and notes that the use of the term ‘emergency works’ recommended the wording ‘emergency works’ to align with the wording of section 330 of the RMA.⁸ While I do not oppose the use of the term

⁸ At paragraph 151.

'emergency works' in recommended Rule TEMP-R11, I am of the view that there is merit in considering the inclusion of a definition in the Proposed District Plan as opposed to relying on section 330 of the RMA. In this regard, I am familiar with the following definition of 'emergency' that is included in the partially operative Selwyn District Plan, the proposed Waimakariri District Plan and the Christchurch City District Plan:

"means a situation that:

- a. is the result of any happening, whether natural or otherwise, including any accident, explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, fire, leakage or spillage of any dangerous gas or substance, technological failure, infestation, plague, epidemic, failure of or disruption to an emergency service or a lifeline utility, or actual or imminent attack or warlike act; and*
- b. causes or may cause loss of life or injury or illness or distress or in any way endangers the safety of the public or property in New Zealand or any part of New Zealand."*



Ainsley Jean McLeod

30 September 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 2 – DISTRICT WIDE MATTERS			
Hazards and Risks			
Contaminated Land – CL Policy CL-P2	101.040	Support, retain Policy CL-P2 as notified. Transpower supports Policy CL-P2 on the basis that the Policy directs that contaminated land is managed to a level appropriate for the intended use. Such an approach is appropriate for Transpower's substations that are considered 'contaminated land', but continue to be appropriately used as substations.	The Contaminated Land and Hazardous Substances Section 42A Report recommends that the submission be accepted and Policy CL-P2 is recommended to be retained as notified. I support the Section 42A Report recommendation for the reasons given in Transpower's submission.
Contaminated Land – CL Policy CL-P3	101.042/101.102	Support, retain Policy CL-P3 as notified. Transpower supports Policy CL-P3 to the extent that the Policy directs that contaminated land is managed relative to the existing and future use of the site and using a range of measures. Such an approach is appropriate for Transpower's substations that are considered 'contaminated land', but continue to be appropriately used as substations.	The Contaminated Land and Hazardous Substances Section 42A Report recommends that the submission be accepted. That said, the Section 42A Report recommends the following amendment to the Policy: <i>"CL-P3 Determine appropriate management action for contaminated land on the basis of:</i> ... <i>3. The values of site – including, heritage, archaeological and biodiversity values, ~~and values to Māori communities whakapapa, mauri and effects on any wāhi tapu, mahinga kai or other customary uses.~~ ..."</i> The recommended amendment to Policy CL-P3 is not material to the relief sought by Transpower. I support the Section 42A Report recommendation for the reasons given in Transpower's submission.

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
Natural Environment Values			
Public Access – PA Policy PA-P5	101.062	Oppose, amend Policy PA-P5 as follows: <i>“Restrict public access in areas that would result in adverse effects on <u>critical infrastructure</u>, natural character, indigenous biodiversity, historic heritage, cultural, or landscape values or health and safety.”</i> Transpower generally supports the maintenance of public access, but notes that there may be situations where, for instance, work is occurring on transmission lines or substations and it is appropriate and necessary to restrict public access in order to protect the operation of the National Grid and provide for the safety of people. Transpower seeks that this is recognised in Policy PA-P5.	The Part 2: Natural Environment Values – Public Access Section 42A Report recommends that the submission be rejected and comments as follows: <i>“104. Transpower’s submission to include direct reference to critical infrastructure within PA-P5 is acknowledged, however it is considered that the adverse effects from a health and safety perspective are addressed through PA-O3 and PA-P5.</i> <i>105. In terms of protecting critical infrastructure from the public, it is less clear what adverse effects are aiming to be mitigated by restricting public access in relation to the National Grid. Transpower is invited to provide evidence demonstrating what effects are aiming to be mitigated by their requested relief, however in the interim it is not considered a necessary addition to the policy.”</i> I support the Section 42A Report recommendation and similarly consider that the inclusion of reference to ‘health and safety’ in the Policy provides a policy ‘pathway’ for the restriction of public access, where necessary, for the operation, maintenance, upgrading and development of the National Grid.
Subdivision			
Subdivision – SUB Objective SUB-O4	S101.063	Oppose, amend Objective SUB-O4 as follows: <i>“SUB-O4 Subdivisions are designed and developed in a way that:</i> <i>1. protects significant <u>physical</u>, natural, ecological, historical and cultural features, values and resources,</i> <i>2. recognises and provides for the underlying relationships between Ngāi Tahu and the natural environment; and</i> <i>3. responds to the physical characteristics and constraints of the site and surrounding environment.”</i>	The Subdivision Section 42A Report recommends that the submission be accepted as follows: <i>“127. In relation to the submission from Transpower I agree significant resources can be physical resources and recommend the objective is amended to reflect this.”</i> The Objective is recommended for amendment as follows: <i>“SUB-O4 Subdivisions are designed and developed in a way that:</i>

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation						
		Transpower does not support Objective SUB-O4 as currently drafted on the basis that the Objective fails to recognise the potential impact of subdivision on the National Grid in a manner that gives effect to Policies 10 and 11 of the NPSET. Transpower seeks limited amended to address this by inserting reference to subdivision design protecting of physical resources, as well as natural resources.	1. <i>protects significant <u>physical, natural, ecological, historical and cultural features, values and resources,</u></i> 2. <i>~~recognises and provides for the underlying relationships between Ngāi Tahu and the natural environment~~ <u>maintains or enhances mahinga kai values, and protects wāhi tapu from inappropriate access or disturbance;</u> and</i> 3. <i>responds to the physical characteristics and constraints of the site and surrounding environment."</i> For the reasons given in Transpower's submission, and in the Section 42A Report, I support the Section 42A Report recommendation.						
Subdivision - SUB New Rule	S101.065	Oppose, amend the subdivision rules to include the following new rule: <table><tr><td><u>SUB-RX</u></td><td colspan="2"><u>Subdivision for network utilities</u></td></tr><tr><td><u>All Zones</u></td><td><u>Activity status: permitted</u> <u>Where:</u> <u>1. The subdivision creates an allotment for the purpose of any unstaffed network utilities, accessway or road.</u></td><td><u>Activity status where compliance not achieved:</u> <u>N/A</u></td></tr></table> Transpower opposes the rules that relate to subdivision on the basis that the rules do not include a rule that provides for the creation of an allotment for the purposes of accommodating a network utility. This is a common approach in many district plans and allows for the rule to include relaxed standards on the basis that network utilities have different characteristics and needs in terms of size and servicing and broad benefits to the community.	<u>SUB-RX</u>	<u>Subdivision for network utilities</u>		<u>All Zones</u>	<u>Activity status: permitted</u> <u>Where:</u> <u>1. The subdivision creates an allotment for the purpose of any unstaffed network utilities, accessway or road.</u>	<u>Activity status where compliance not achieved:</u> <u>N/A</u>	The Subdivision Section 42A Report recommends that the submission be accepted in part and comments as follows: "87. Transpower seek a permitted activity rule for subdivisions creating unmanned utility lots. I consider permitted activity subdivisions are inappropriate as the Council has no ability to review or assess a proposal unless a certificate of compliance is requested. Should a certificate of compliance be required to demonstrate the activity is permitted, the same level of information and assessment would be necessary as a controlled activity. I reject the submission point but will take into account the intended outcome of the submission in consideration of the other submissions requesting a specific rule for utility lots. 88. Spark (s154.049), One NZ (s32.049), FortySouth (s33.049), Connexa (s37.049) and Chorus (s35.049) all seek a new rule for subdivision for infrastructure purposes. The PDP currently lacks specific provisions for the subdivision for utility lots, which accommodate essential infrastructure such as telecommunications, water supply, and electricity
<u>SUB-RX</u>	<u>Subdivision for network utilities</u>								
<u>All Zones</u>	<u>Activity status: permitted</u> <u>Where:</u> <u>1. The subdivision creates an allotment for the purpose of any unstaffed network utilities, accessway or road.</u>	<u>Activity status where compliance not achieved:</u> <u>N/A</u>							

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
			networks. The submissions seek to insert a new rule into the PDP that provides for the creation of utility lots ensuring these lots meet the unique needs of infrastructure development while not being subject to inappropriate subdivision standards. 89. I have researched a variety of recently reviewed district plans to understand whether this rule is utilised elsewhere around the country. This is summarised in the Table below. ... 90. A separate rule for subdivision for utility lots is provided for in three out of the four district plans reviewed. I further note a similar rule currently provides for this type of subdivision in the Gore ODP6. 91. I agree utility lots have other requirements compared to conventional residential, commercial, or industrial lots. For example, utility lots may not require full urban services like wastewater or stormwater drainage. They typically involve infrastructure such as substations, water treatment facilities, or telecommunications hubs, which are essential to broader community services. 92. A separate rule acknowledges these differences and ensures that utility lots are not subject to restrictive subdivision rules meant for other types of land use. Utility lots may not comply with minimum lot size required for residential or commercial lots, as the physical area needed for utility infrastructure may be smaller or more variable. A dedicated rule ensures that the PDP has flexible provisions, allowing these lots to be subdivided in a way that meets the functional needs of utility providers. 93. A separate rule for utility lots allows the subdivision process to be more effective and efficient. Further, utility infrastructure is often subject to national and regional policy objectives, such as those in the

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation				
			National Policy Statement on Electricity Transmission. 94. I consider there is existing and sufficient policy provision for the additional rule in the PDP. Objective SUB-O4 discusses the protection of significant physical resources which this rule would give effect to. SUB-P3 ensures subdivisions are designed to avoid, remedy or mitigate effects from site constraints. I do not consider additional policy provision is necessary to accompany the new rule. 95. It is recommended that a new rule is added to the plan to provide for subdivisions creating utility lots, as follows: <table><tr><td colspan="2"><u>SUB-R6 Subdivision of land solely to create an allotment that is for the purpose of network utilities</u></td></tr><tr><td><u>Subdivision to create any site to be used solely for the provision of network utilities</u> <u>Where:</u> <u>1. Other than the site(s) created for network utilities, there are no more sites after the subdivision than existed before the subdivision.</u> <u>Activity status: Controlled</u> <u>Matters of control:</u> <u>1. The size, design and layout of lots for the purpose of network utilities.</u> <u>2. Legal and physical access to and from lots.</u> <u>3. Where relevant, provision of appropriate infrastructure and services, including water supply (including firefighting water supply), wastewater systems,</u></td><td><u>Activity status where compliance is not achieved:</u> <u>SUB-R6 (1):</u> <u>SUB-R7 applies and where relevant SUB-R10 – SUB-R15</u></td></tr></table>	<u>SUB-R6 Subdivision of land solely to create an allotment that is for the purpose of network utilities</u>		<u>Subdivision to create any site to be used solely for the provision of network utilities</u> <u>Where:</u> <u>1. Other than the site(s) created for network utilities, there are no more sites after the subdivision than existed before the subdivision.</u> <u>Activity status: Controlled</u> <u>Matters of control:</u> <u>1. The size, design and layout of lots for the purpose of network utilities.</u> <u>2. Legal and physical access to and from lots.</u> <u>3. Where relevant, provision of appropriate infrastructure and services, including water supply (including firefighting water supply), wastewater systems,</u>	<u>Activity status where compliance is not achieved:</u> <u>SUB-R6 (1):</u> <u>SUB-R7 applies and where relevant SUB-R10 – SUB-R15</u>
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<u>Subdivision to create any site to be used solely for the provision of network utilities</u> <u>Where:</u> <u>1. Other than the site(s) created for network utilities, there are no more sites after the subdivision than existed before the subdivision.</u> <u>Activity status: Controlled</u> <u>Matters of control:</u> <u>1. The size, design and layout of lots for the purpose of network utilities.</u> <u>2. Legal and physical access to and from lots.</u> <u>3. Where relevant, provision of appropriate infrastructure and services, including water supply (including firefighting water supply), wastewater systems,</u>	<u>Activity status where compliance is not achieved:</u> <u>SUB-R6 (1):</u> <u>SUB-R7 applies and where relevant SUB-R10 – SUB-R15</u>						

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation	
			<u>stormwater control and disposal, telecommunications and electricity.</u> <u>4. Subdivision design in response to the sites and surrounding areas natural and physical features, character, amenity, constraints and vegetation.</u> <u>5. Measures to avoid, remedy or mitigate adverse effects: of any natural hazards or other risks; any historic heritage or notable tree; a Significant Natural Area or Outstanding Natural Landscape or Feature; waterbodies, ecosystems; existing infrastructure; and on existing or permitted adjoining or adjacent land uses.</u>	
			For the reasons given in Transpower's submission, and in the Section 42A Report, I support the Section 42A Report recommendation to include the new rule.	