

Before the Independent Hearings Panel at Gore District Council

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing Submissions and Further submissions on the Proposed
Gore District Plan.

**Statement of supplementary planning evidence of Mishka Banhidi on behalf of Gore
District Council for Hearing Stream 7 – Infrastructure and Energy**

Date: 5 November 2024

Introduction:

1. My full names is Mishka Banhidi. My Section 42A reports sets out my qualifications and experience as an expert in planning.
2. I confirm that we are continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's practice Note 2023, as applicable to this independent hearing panel.
3. I have prepared this statement of evidence to provide a response to expert evidence and statements presented in relation to Hearing Stream 7– Infrastructure and Energy Chapters. This includes the evidence of:

Department of Conservation (s109)

- a. Elizabeth Moya Williams

Transpower (s101 & FS30)

- a. Ainsley Jean McLeod

Greenbriar Limited (s128)

- a. Megan Justice

KiwiRail Holdings Limited (s132)

- a. Louise Elizabeth Robertson Taylor

PowerNet Limited (s95)

- a. Megan Justice

Spark New Zealand Trading Limited (s154)

- a. Graeme McCarrison
- b. Tom Anderson

Chorus New Zealand (s35)

- a. Andrew Kantor
- b. Tom Anderson

One NZ Group (s32)

- a. Colin Clune
- b. Tom Anderson

FortySouth (s33)

- a. Colin Clune
- b. Tom Anderson

Connexa Limited (s37)

- a. Fiona Matthews
- b. Tom Anderson

4. Late evidence was received by the following:

Fire and Emergency New Zealand (s124)

- a. Kate Oranje (BECA)

Powernet (s95)

- a. Mark Lindsey Dennison Zwies

Mercury NZ Limited (s130)

- a. Stuart Davie
- b. Shirley Chamerlin

Recommendations Overview

- 5. The Section 42A reports for the Infrastructure and Energy Chapters provides an overview of issues raised in submissions and the changes recommended relating to those chapters. I do not propose to repeat those here but instead focus on responding to submitters evidence, and in particular matters which remain in contention.
- 6. Further recommended amendments to the Infrastructure Chapter are provided in **Appendix A** to reflect the recommendations made within this evidence.
- 7. Further recommended amendments to the Energy Chapter are provided in **Appendix B** to reflect the recommendations made within this evidence.
- 8. Further recommended amendments to the Temporary Activities Chapter are provided in **Appendix C** to reflect the recommendations made within this evidence.
- 9. Further recommended amendments to the Interpretation Chapter are provided in **Appendix D** to reflect the recommendations made within this evidence.

Detailed Responses to Evidence seeking changes to Section 42A Recommendations

- 10. Evidence received by the following submitters in support of the Section 42A recommendations is acknowledged. For conciseness, this support will not be individually addressed and instead I will focus on responding to the matters which remain in contention.

Department of Conservation (DoC) evidence

11. Elizabeth Williams has provided evidence on behalf of DoC who raised a number of submission points in relation to how potential impacts on the environment are managed from the effects of Infrastructure and Energy. Ms Williams is generally accepting that the ECO and NFL Chapters still apply but notes that further evidence in relation to the ECO and NFL chapter provisions will be filed as part of the later Hearing Stream 9. Ms Williams recommends changes to ENRG-P7, ENRG-P11, ENRG-R1, ENRG-S1, ENRG-S2, and ENRG-S4. The rationale for the changes is as follows:
12. Ms Williams considers that just because the NPS-IB does not apply to 'the development... of renewable energy electricity generation assets and activities...' ¹ that this provides greater direction on providing for renewable energy or that this means that indigenous biodiversity values should not be considered. The NPS-IB does not express priority for renewable energy generation (REG) and does not change the way assessments on REG have previously been undertaken.
13. Ms Williams identifies that it is relevant to note that a draft Proposed National Policy Statement for Renewable Electricity Generation (NPS-REG) was released in April 2023 and considers that the logical conclusion to be drawn is that the renewable electricity was not applied to the NPS-IB to avoid pre-empting or conflicting with development of the new NPS-REG.
14. Policy C2 of the NPS-REG requires an assessment in terms of how any environmental effects of renewable electricity generation activities can be avoided, remedied or mitigated. Then, where this cannot be fully achieved and there are residual adverse effects, the NPS-REG requires decision makers to have regard to offsetting measures or environmental compensation which benefit the local environment and community. Further, the Southland Regional Policy Statement (SRPS) includes Objective ENG.2² and Policy ENG.6³ which seeks to avoid, remedy, mitigate adverse effects on the environment, or where appropriate, to offset or compensate for those effects.
15. Based on this information, Ms Williams recommends the following:
16. ENRG-P7 be retained as notified, given that it requires consideration of whether the location can be avoided within areas of high significance (RMA s6 matters) unless adverse effects are mitigated. The supporting policy ENRG-P9 then addresses how any residual environmental effects are managed through offsetting and compensation measures in accordance with the NPS-REG and SRPS.

¹ NPS-IB, Clause 1.3(3)

² Objective ENG.2: Use and development of energy resources Use, development, transmission and distribution of local and regional energy resources is undertaken where the adverse effects on the environment (including communities) are avoided, remedied, mitigated, or where appropriate, and such measures are volunteered by the resource user, offset or compensated for.

³ Policy ENG.6: Offsetting and/or environmental compensation When considering any residual environmental effects (including social effects) arising from the use and development of new energy resources that cannot be avoided, remedied or mitigated, decisionmakers shall have regard to offsetting measures or environmental compensation where appropriate, and such measures are volunteered by the resource user, including measures or compensation which benefit the local environment and community affected, including tangata whenua.

17. ENRG-P11 clause 7 and ENRG-R1 include consideration of SNA's as shown in Appendix 1 of submitter's expert evidence.
18. ENRG-S1, ENRG-S2, and ENRG-S4 include consideration of indigenous biodiversity values as shown in Appendix 1 of submitter's expert evidence.

Assessment:

19. I concur with Ms Williams, particularly that the exclusion in the NPS-IB for renewable electricity generation (clause 1.3(3)) means that the PDP can address renewable electricity generation in relation to SNAs given RMA requirements and SRPS provisions.
20. NPS-IB 1.3(3) states that nothing in the NPS-IB "applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities. For the avoidance of doubt, renewable electricity generation assets and activities, and electricity transmission network assets and activities, are not "specified infrastructure" for the purposes of this National Policy Statement." While the NPS-IB may not cover renewable electricity generation and electricity generation assets and activities there is still a broader obligation under the RMA to protect SNAs (s6(c)) and maintain indigenous biodiversity (s31(1)(b)(iii)) while also having particular regard to the benefits derived from the use and development of renewable energy (s7(j)).
21. The management of renewable electricity generation and electricity generation assets and activities is guided by the NPSREG, NPSET and NESETA.
22. The NPSREG acknowledges that the benefits of renewable electricity generation can compete with matters of national importance including SNAs and there is a need for greater consistency for decision makers, applicants and the wider community in resolving these competing interests.⁴ While the NPSREG policies recognize the benefits of renewable electricity generation activities (Policy A), acknowledge practical implications of achieving targets from renewable resources (Policy B), acknowledge the practical constraints associated with new and existing REG activities (Policy C), and the need to incorporate provisions for REG generally and small and community scale REG activities in district plans (Policy E and F), these policies do little to address the competing interest with SNAs that is highlighted in the NPSREG preamble.
23. The NPSET objective seeks to recognise the significance of the electricity network while managing adverse effects of the network and other activities on the network. Policy 8 notes that the planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreational value and amenity in rural areas but there is no specific reference to SNAs. In Gore all SNAs are in rural areas and are identified using criteria from the NPSIB/SRPS relating to representativeness, diversity and pattern, rarity and distinctiveness, and ecological context. The unspoiled natural form of SNAs could be

⁴ NPSREG Preamble

considered to contribute to Gore's amenity values of the rural area given that the definition of amenity values in the RMA⁵ includes natural qualities that contribute to peoples appreciation of pleasantness, cultural and recreational attributes particularly given that SNAs include taonga species identified by mana whenua and a number are located within recreational areas.

24. NESETA provides for vegetation clearance associated with existing transmission lines in Natural Areas (which include SNAs) generally as a controlled activity (s31) while clearance associated with new lines are not addressed.
25. The SRPS also provides guidance in that Policy BIO.2 requires the protection and enhancement of SNAs while having regard to potential adverse effects relating to fragmentation and loss of values. At the same time Policy INF.1 recognises the benefits of nationally and regionally significant infrastructure and critical infrastructure, while Policy INF.2 seeks to manage adverse effects of infrastructure on the environment while taking into account a range of matters including functional and operational need, alternative locations and designs and the requirements of NPSET (2008).
26. While the NPS-IB might not cover renewable electricity generation and electricity transmission, the broader coverage of the RMA and SRPS means that an exclusion for SNAs should not be provided in relevant provisions. This is further supported by the lack of direction in NPSREG, the need to avoid adverse effects in recreational and amenity areas in the NPSET and the lack of coverage in the NESETA for new lines.
27. I also note that the ECO chapter will address vegetation clearance and land disturbance associated with infrastructure and energy via ECO-R1 as this permits critical infrastructure, network utilities, and the safe operation or maintenance of the National Grid.
28. I therefore recommend the following changes to partly revert back to the notified version of ENRG-P1, whilst referencing large scale REG activities.

ENRG-P1 Avoid the location of

~~1. renewable and non-R~~*renewable electricity generation activities-large scale* and *non-renewable electricity generation activities within the outstanding natural features and landscapes, unless adverse effects can be mitigated, and*
~~2. non-renewable electricity generation activities~~ *within the* following areas unless adverse effects can be mitigated:

1. outstanding natural features and landscapes
2. significant natural areas
3. areas of indigenous *biodiversity*

⁵ **amenity values** means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes

7. effects on sensitive activities and significant environmental values, such as Outstanding Natural Features and Landscapes [and Significant Natural Areas](#)
29. In relation to specific rules and standards, I consider it more appropriate to manage the impact on indigenous biodiversity and SNAs through the Eco Chapter, noting that this may require further discussion in Hearing Stream 10 relating to Ecosystems and Indigenous biodiversity.

Transpower New Zealand Limited (Transpower) evidence

30. Ainsley Jean McLeod has provided evidence on behalf of Transpower and identified the following submission points which are outstanding and further evidence has been provided:
- 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.
31. Ms McLeod generally supports the section 42A authors recommendation to revise Note 1 to provide greater clarity for plan users but considers that amendments fall short in achieving the National Planning Standards regarding the mandatory direction with respect to the Energy, Infrastructure and Transport Chapters.
32. It is the opinion of Ms McLeod that this mandatory standard is not achieved because the district wide chapters and the area specific objectives and policies also apply to infrastructure so that the Infrastructure Chapter does not stand alone. As a result, the specific cross referencing to relevant provisions, as required by the National Planning Standards is limited.
33. In Ms McLeod's experience, without explicit direction and clarity, provisions elsewhere in a district plan can give rise to tension, inconsistencies or conflicting direction. The following approaches are provided to resolve any potential policy tension in the proposed district plan and give effect to the NPS-ET:
- 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”.
34. Ms McLeod considers that further amendments are necessary to clearly set out how other provisions in the Proposed District Plan relate to the Infrastructure Chapter and has provided examples of how Mackenzie and Timaru District Plans are achieving this relief sought and supports either of the approaches replacing the direction in Note 1.

Assessment:

35. With regard to note 1, further clarification was requested from Ms McLeod in terms of which objectives or policies within Part 3 of the plan would create conflict, Ms McLeod provided the following:

“Note 1

In relation to the amendments to Note 1, Transpower’s submission identifies the following zone policies that would not give effect to the NPSET because the policy would potentially prevent the National Grid being located in the zones. This is due to ‘avoid’ policies or provisions that direct compatibility or same/similar scale:

- LLRZ-O3
- LLRZ-P8
- GRZ-P9
- GIZ-P3
- FDZ-P10.”

36. From a review of these objectives and policies I do not consider that any of these would result in a direct conflict for suitably located national grid activities. While additional consideration of the appropriateness of largescale natural grid infrastructure within residential zones will need to be carefully considered, this consideration would be proportionate with the sensitivity of these zones. Area specific consideration is considered appropriate at an objective and policy level, and as such I do not recommend amending the note.
37. With regard to Objective INFR-O1, Ms McLeod acknowledges that the requested relief is lengthy, and the new sentence sought is unnecessary. However, Ms McLeod does not

agree that the notified INFR-O1 wording sufficiently addresses the key points of Policy 1⁶ of the NPSET and Policy INF.1⁷ of the SRPS.

38. Ms McLeod considers 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 and is of the opinion that the same distinction should be made in Objective INFR-O4. Further discussions were had with Ms McLeod to transpwers proposed wording, this information was provided with the proposed wording recommended by Ms McLeod:

"INFR-O1 The benefits of infrastructure are realised by providing ~~Provide for~~ The operation, maintenance, upgrading and development of infrastructure that is:

1. Efficient, effective and resilient;

2. Provides and distributes ~~Delivers~~ essential and secure services as part of local, regional or national networks, including in emergencies;

3. Co-ordinates with urban development and land uses throughout the district; and

4. Enables people and communities to provide for their ~~health, safety and wellbeing.~~

5. Integrates with existing and potential future infrastructure in a safe and efficient way.

~~provided for to meet the needs of the community and businesses."~~

Assessment:

39. I support the amended wording recommended by Ms Ainsley. My initial position, reflected within the 42A report, was that Transpwers original relief added unnecessary wording to the objective. However, I consider the revised relief more efficiently aligns with the NPSET, Policy 1 and Policy INF.1 of the SRPS, without excessive wording. The recommended changes to INFR-O1 are adopted as per Appendix A - Infrastructure Chapter Amendments.

⁶ 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 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.

40. With regard to Policy INFR-P6, Ms McLeod does not agree with the conclusion of the s42A author and considers that the Policy fails to give effect to Policy 10⁸ and Policy 11⁹ of the NPSET, fails to give effect to Policy INF.3¹⁰ of the SRPS, and fails to properly implement Objective INFR-O3.
41. As Policy 10 and Policy 11 of the NPSET relate to direct effects on the National Grid, as well as reverse sensitivity effects, Ms McLeod considers that Policy INFR-P6 requires further amendments to give effect to the higher order planning instruments. Ms McLeod considers that splitting the Policy into two separate clauses as shown below ensures that direction given in the NPSET does not have an inappropriately broad application in respect of infrastructure that is not the National Grid.

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.

Assessment:

42. On further reflection and considering Ms McLeod amended relief I agree with her recommended changes for the reasons outlined within her evidence. The proposed changes provide an appropriate framework for the relevant provisions (INFR-R7) reinforcing policies 10 and 11 of the NPSET. The recommended changes to INFR-P6 (now policy 5) are adopted as per Appendix A - Infrastructure Chapter Amendments.

⁸ NPSET 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.

⁹ NPSET 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).

¹⁰ Policy INFR.3 Infrastructure protection: Protect regionally significant, nationally significant and critical infrastructure, particularly from new incompatible land uses and activities under, over or adjacent to the infrastructure.

43. With regard to Policy INFR-P7, Ms McLeod notes that Transpower supported the notified policy but it was amended due to submissions from other submitter's. The recommended amendments are generally supported but further amendments are requested to:
- a. correct the expression in clause (2); and
 - b. in clause (3) give effect to, and align with the direction given in, Policy 3¹¹ of NPSET and Policy INF.2¹² of the SPRS.
44. Ms McLeod is of the opinion that the NPSET direction requiring that decision makers 'must-consider' and the SRPS direction 'should be taken into account' is firmer than 'while recognising' and this firmer direction must be given effect to.
45. The further amendments sought to clause (2) and clause (3) of INFR-P7 are as follows:
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.

Assessment:

46. The requested relief of Transpower is supported, the proposed amendments correct minor errors, simplifies the wording and gives better effect to Policy 3 of the NPSET. The recommended changes to INFR-P7 (now policy 6) are adopted as per Appendix A - Infrastructure Chapter Amendments.
47. With regard to Rule INFR-R4 and Standard INFR-S5, Ms McLeod supports amending standard INFR-S5 so that the minimum setbacks from rivers and streams applies to the foundation of infrastructure buildings and structures. However, Ms McLeod does not agree with the s42A author 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) of the RMA. This is because section

¹¹ 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.

¹² Policy INF.2 Infrastructure and the environment: Where practicable, avoid, remedy or mitigate the adverse effects of infrastructure on the environment. In determining the practicability of avoiding, remedying, or mitigating adverse effects on the environment, the following matters should be taken into account:

- (a) any functional, operational or technical constraints that require the physical infrastructure of regional or national significance to be located or designed in the manner proposed;
- (b) whether there are any reasonably practical alternative designs or locations; whether good practice approaches in design and construction are being adopted;
- (c) where appropriate, and such measures are volunteered by a resource user, whether any significant residual adverse effects can be offset or compensated for;
- (d) and the need to give effect to the NPSET (2008) including that planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

104(1)(ab)¹³relates to offsetting and compensation ‘measures’ that give rise to positive effects, as opposed to a consideration of the benefits of an activity per se.

48. Further, Ms McLeod does 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.
49. Ms McLeod is of the opinion that 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 give effect to Policy 1¹⁴ of the NPSET and Policy INF.1¹⁵ of the SRPS.
50. For the above reason, Ms McLeod supports inclusion of the following as a Matter of Discretion to INFR-R4 and INFR-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.

Assessment:

51. Upon further consideration I agree with Ms McLeod’s recommended relief. My initial concerns centred around whether it is appropriate to consider the “benefits” (positive effect) through a matter of discretion, when positive effects cannot be considered through s95 of the RMA, considering s104 of the RMA a more appropriate place to consider this.
52. However, outside of a s95 assessment, inclusion within a matter of discretion provides for a more direct link to the relevant objectives, or policies. While s104c of the RMA does not specifically refer to objectives and policies, providing a clear link between matters of discretion and the relevant objective (in this case INFRA-O1) assists with interpretation and reinforces any assessment under s104. Based on this I support the requested relief

¹³ 104 Consideration of applications: (1)(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; and

¹⁴ 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

¹⁵ 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.

of inclusion of a matter of discretion within INFRA-R4 and INFR-S5 as per Appendix A - Infrastructure Chapter Amendments.

53. Ms McLeod supports the amendments to Note 3 made by the s42A author but notes the following minor correction is requested:

Section 55 and Section 75(3) of the RMA directs that the district plan must give effect to any National Policy Statement (NPS)...

Assessment:

54. This change is supported as correcting an obvious error.

Greenbriar Limited (Greenbriar) evidence

55. Megan Justice has provided evidence to discuss Greenbriar's submission points relating to the Energy Chapter. The s42A author has largely recommended that the submission points be rejected on the basis that the relief sought is more appropriately contained in the Rural Zone Chapter. Ms Justice considers that amendments are necessary to maintain consistency.
56. Ms Justice considers that minor changes to the Overview Statement are required to ensure it does not contradict the relief sought in Hearing Stream 3 to include a New Vale Precinct in the General Rural Zone, should this relief be accepted by the Panel. Ms Justice considers that the sentence relating to the development of lignite technology should be deleted because it does not align with the relief sought relating to the inclusion of the New Vale Precinct and it relates to the extraction process, which is not managed by the Energy Chapter.
57. Ms Justice also considers that recognition of the large scale production facilities that currently rely on coal as their energy source is required in the overview statement and can be achieved by amending paragraph 4 as follows:

Small scale electricity generation is utilised in the District using solar, water and wind sources. Coal, including lignite, remains a significant source of home heating and energy for large scale production facilities.

58. Greenbriar's original submission sought objective level recognition for the role that non-renewable energy plays in New Zealand's energy sector. Ms Justice considers an objective that is specific to non-renewable energy that recognises there will be some reliance on non-renewable energy while the transition to renewable energy takes place, will provide an appropriate level of recognition for non-renewable energy, whilst acknowledging that the direction of the chapter overall is to enable and encourage the development of renewable energy.
59. Ms Justice considers that Objective ENRG-O1 should be amended to remove reference to non-renewable energy and the following new objective included:

ENRG-O3A The need for non-renewable energy on a transitional basis is recognised and activities associated with sourcing non-renewable energy resources are appropriately managed.

60. In the Section 42a report I recommended the inclusion of a new policy (ENRG-P13) which sets parameters for when non-renewable energy infrastructure and non-renewable electricity generation activities are appropriate.
61. Ms Justice considers that the term 'non-renewable energy infrastructure' used in the new policy is not defined in the PDP and could inadvertently be applied to the mining activities. In order to clarify the intent of the policy, which is to manage the effects of non-renewable electricity generation activities, Ms Justice considers the following amendment is necessary:

ENRG-P13 Only allow the operation, maintenance, and upgrading of ~~non-renewable energy infrastructure and non-renewable electricity generation activities where...~~

Assessment:

62. In relation to the Overview section, I agree with Ms Justice in relation to removing the sentence that discusses the extraction of lignite. This is necessary in order to align with my interpretation that the Energy Chapter is intended to address the infrastructure required to generate energy from non-renewable sources, not the land use activities involved in sourcing those materials. I also consider this change is necessary as a consequence of the recommendations put forward in Hearing Stream 3 for the Rural Chapters, and the New Vale Precinct.
63. In relation to the inclusion of a reference to acknowledge large scale production facilities use of coal for energy, I recommended this sentence if moved to follow the mention of 'lignite' previously as it concerns the same subject matter. It is however necessary to include 'coal' as part of the small-scale electricity generating sources given its use in the district. I recommend the overview reads as follows:

The Gore District has the potential to provide for large scale energy production utilising wind. The District also contains substantial lignite reserves. ~~However, the adverse environmental effects arising from its extraction, production and use, particularly its contribution to climate change, rules out the development of lignite under current technology. Coal, including lignite, remains a significant source of home heating and energy for large scale production facilities. The Southland Regional Air Plan includes provisions providing for a transition away from this energy source.~~

Small scale electricity generation is utilised in the District using coal, solar, water and wind sources. ~~Coal, including lignite, remains a significant source of home heating. The Southland Regional Air Plan includes provisions providing for a transition away from this energy source.~~

64. In relation to an additional objective ENRG-O3A, I do not consider this achieves anything over and above ENRG-O1. ENRG-O1 acknowledges that there is a transition period to

renewable energy generation in which non-renewable energy will be utilised, and that this is to be appropriately and sustainably managed.

65. In relation to ENRG-P13, Ms Justice considers the inclusion of 'non-renewable energy infrastructure' could inadvertently be applied to the mining activities as it is not defined. I accept that the removal of this phrase of the policy will still achieve its intent to restrict new non-renewable electricity generation activities.
66. The proposed changes to the Energy Chapter are outlined in Appendix B.

KiwiRail Holdings Limited (KiwiRail) evidence

67. Louise Elizabeth Robertson Taylor has provided evidence on behalf of KiwiRail and generally supports the s42A authors recommendations on KiwiRail's original submissions. Ms Taylor has provided evidence on submissions that remain in contention.
68. KiwiRail sought changes to the definition of 'Critical Infrastructure' to include the 'rail network' instead of 'rail corridor'. The s42A author invited KiwiRail to provide clarification as to what infrastructure would not be captured with the 'rail corridor' terminology used in the notified definition.
69. Ms Taylor advised that the 'rail corridor' denotes the physical space utilised by the railway lines and other rail activities and is generally the extent of KiwiRail's designation. In contrast, the 'rail network' captures all the interlinking activities associated with KiwiRail's network, including sidings, storage racks, tracks, loading and maintenance yards, and mechanical facilities which help to service the network.
70. Rail network is a broader term and Ms Taylor considers it appropriate to be used within the definition of Critical Infrastructure as it is more in line with the rest of the definition which refers to activities as opposed to land area. Ms Taylor recommends the following wording for the second bullet point in the definition of 'Critical Infrastructure' as follows:

rail network activities within the rail corridor;

71. Ms Taylor considers the addition is particularly important given the s42A authors recommendation to amend the first bullet point of the definition, to "strategic ~~land~~ transport network including the State Highway network and arterial roads";. The reason being that the recommended amended wording is now less clear as this bullet point includes the rail network, as the current wording refers to "land transport network". The term "land transport infrastructure" is a defined term in the Proposed Plan, and in my opinion, the first bullet point should refer to "land transport infrastructure", as opposed to "strategic transport network" or "strategic land transport network" which are not defined terms.

Assessment:

72. having now reviewed the additional information provided I am comfortable with the requested relief to include reference to "rail network activities, as outlined by Ms Taylor this is more inline with the other activity based aspects such as "telecommunications activities" , I do consider that the activities included within "rail network activities" could

be considered more ancillary to, rather than a fundamental part of “critical infrastructure”, however given these are restricted to the rail corridor on balance I do not believe this consists of an overreach.

73. The change to “~~land~~ transport network”, was intentional as the previous structure of the sentence created the appearance that the term “land transport network” was defined, rather than “land” and “transport network”. Transport network is defined as “Means any transport route that support the movement of people and goods and includes trains, motorised vehicles, non-motorised modes of transport and pedestrians.” This is considered sufficiently broad a definition to be utilised as and as such, is recommended to be retained.
74. Regarding standard INFR-S4, KiwiRail sought a 5 metre setback for buildings and structures from the rail corridor with associated matters of discretion. Provided that KiwiRail's relief regarding setbacks from the rail corridor is accepted in the other zone chapters of the Proposed Plan, Ms Taylor agrees that the s42A author's recommendation to refer more broadly to "rail corridor setbacks" achieves the outcome sought by KiwiRail's submission.
75. However, Ms Taylor continues to support the inclusion of specific matters of discretion relating to impacts on the rail network in INFR-S4 where the setback is not complied with as follows:
- a. the safe and efficient operation of the rail network;*
 - b. compatibility with the surrounding environment; and*
 - c. the reason for the reduced setback.*

Assessment:

76. I acknowledge Ms Taylors requested relief and accept this in part. Upon reflection and consideration of KiwiRail's evidence I agree that a matter of discretion to consider the safety and functionality of the rail network is appropriate and therefore recommend the following amendments to INFR-S4 Matter of discretion 4:

Impacts on the safety and functionality of the road and rail network, including any footpath or cycleway.

PowerNet Limited (PowerNet) evidence

77. Megan Justice has provided evidence on behalf of PowerNet and considers that the PDP rules framework appropriately provides for the electricity distribution network. Submission points that remain in contention are discussed below.
78. In their original submission, PowerNet sought that INFR-P2 be amended so it relates only to urban areas. This submission was rejected on the basis that the second part of the policy ‘where practicable and appropriate for the functional needs and operational needs of the network utility’ provides guidance to decision makers when considering resource consent applications.

79. Ms Justice considers that amending this policy to make it clear that the requirement to underground new network utilities applies to urban areas, is appropriate as it reflects the rule framework, which provides for new above ground infrastructure as a permitted activity in the General Rural, Rural Lifestyle, Camp Columba and Field Days Zones. Ms Justice identifies that 'urban area' is not identified in the District Plan and suggests that the words 'Outside Rural Zones, Industrial Zones, the Camp Columba Zone and the Field Days Zone' could be used in the policy instead. The following amendment is requested:

Outside Rural Zones, Industrial Zones, the Camp Columba Zone and the Field Days Zone require the underground placement of network utilities where practical and appropriate for the functional needs and operational needs of the network utility.

Assessment:

80. I reject this requested relief, for the reasons outlined within my 42a assessment.
81. PowerNet submitted that the definition of Critical Infrastructure should include 'electricity distribution network' and the s42A author suggested that PowerNet provide clarity on the difference between the 'electricity transmission network' and the 'electricity distribution network'.
82. Ms Justice explains that the electricity distribution network owned and operated by PowerNet is referred to as an 'electricity distribution network'. This network comprises lines and associated equipment that conveys electricity between 400V - 22kV and the term "distribution network" typically also includes the 'sub-transmission network' which is the lines and networks.
83. Ms Justice points out that 'Transmission Network' does not include the 'electricity distribution network' which is managed by PowerNet. Ms Justice confirms that 'electricity distribution network' is captured by the 'Critical Infrastructure' definition in the SRPS and is recognized as a lifeline utility in the Civil Defence and Emergency Management Act 2002 Act. Ms Justice recommends the following wording for the definition of 'Critical Infrastructure' in the PDP:

Critical Infrastructure: means those necessary facilities, services, and installations which are critical or of significance to either New Zealand, Southland, or Gore. This may include but is not limited to: (...)

- *the electricity transmission network (the National Grid) and distribution networks;*

84. Given the above evidence and requested relief, Ms Justice recommends the following definition to ensure clarity within the PDP:

Electricity Distribution Network: Means the conveyance of electricity via electricity subtransmission and distribution lines, cables, support structures, substations, transformers, switching stations, kiosks, cabinets, and ancillary buildings and structures, including communication equipment, by a network utility operator. This includes the assets shown on the planning maps.

85. PowerNet also sought the inclusion of a definition for 'Electricity Distribution Yard', and associated rule to manage activities within this 'yard'. The original submission was rejected by the s42A author and Ms Justice has provided further evidence to support the definition and associated rules.
86. Ms Justice explains that the definition sought for 'electricity distribution yard' is as follows and a diagram be included to assist in interpretation:

Electricity Distribution Yard means the area located within 10m of the centreline of a 110kV, 66kV or 33 kV electricity distribution line on single poles / towers or within 10m of a foundation of an associated support structure, as depicted in Diagram 1 – Electricity Distribution Yard

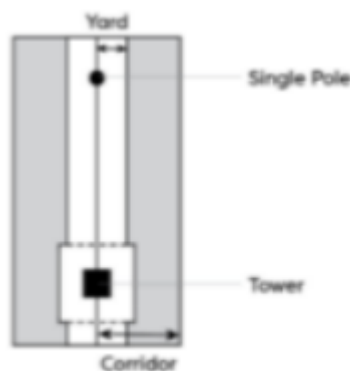


Diagram 1 – Electricity Distribution Yard Note: The Electricity Distribution Yard does not apply to underground cables or any distribution lines (or sections of line) that are designated

87. The rule sought applies to new buildings or structures within 10m of the centre line of a 66kV line or 5m within the centreline of a 33kV line, and limits fence height in the 'yard' to 2.5m, and restricts the storage of explosives beneath the lines. Ms Justice details that the purpose of the rule is to manage buildings and structures that have potential to adversely affect the line or its maintenance. This approach for managing potential adverse effects of the larger capacity lines in the distribution network is used in other District Plans. Suggested wording for the rule is:

INFR-RX Activities and development (other than earthworks and other than electricity distribution network activities) within the Electricity Distribution Yard

All Zones Activity Status: Permitted

Where:

1. Any building or structure, excluding a fence, is located at least 10m from the centre line of a 66kV electricity distribution line or at least 10m of a foundation of an associated support structure; or

2. Any building or structure, excluding a fence, is located at least 5m from the centre line of a 33kV electricity distribution line or at least 5m of a foundation of an associated support structure; or

3. A fence not exceeding 2.5m in height above ground level; or

4. The building or structure is not used for the handling or storage of hazardous substances with explosive or flammable intrinsic properties (this does not apply to the accessory use and storage of hazardous substances in domestic scale quantities).

Activity status where compliance is not achieved: Restricted Discretionary

Matters of Discretion:

1. The effects of the activities or building or structure on the operation of the electricity distribution infrastructure and the ability for the electricity distribution infrastructure to be maintained on an ongoing basis.

Assessment:

88. While I do believe it may be appropriate to provide for management of electricity distribution, more directly. The proposed relief is very broad and could benefit from further structure. If the additional provisions were limited to critical infrastructure rather than the definition requested within Ms Justices evidence, it may be more appropriate to include this relief in part.
89. Dunedin City Council has a more structured version of this that refers to a “critical electricity distribution infrastructure” with vary specific electricity infrastructure included.
90. On balance I recommend rejecting their relief in lieu of further refinement to address the issues associated with the infrastructure appropriately.
91. PowerNet in its original submission also sought the inclusion of its 11kv and 33kv lines in the District Planning Maps. Ms Justice emailed Council to withdraw the part of the submission that sought PowerNet’s important 11kV lines be identified in the District Plan maps but considers it important that the 33kv line network is included in the District Plan maps to identify where the line is located and alert plan users to the specific rule that manages activities in proximity to the lines requested above.

Assessment:

92. The points above are acknowledged, the 33kv Powernet lines are already included within the GIS maps as “ Powernet HV lines” . If the panel is of a mind to grant Powernet’s requested provision above, this layer can be utilised.
93. PowerNet also sought in their original submission that standard INFR-S3 be amended to increase the height limit that applies to poles and masts from 13m to 16m. Ms Justice identifies that the 13m height limit in the INFR-S3 will apply to new and replacement

poles in the Field Days and Camp Columbia Zones and replacement poles in all other zones except for the General Rural and Rural Lifestyle Zone.

94. It is the view of Ms Justice that the actual and potential adverse effects for replacement poles in all other zones besides the General Rural and Rural Lifestyle Zones will not result in unacceptable adverse environmental effects on the amenity values of the relevant zones, as the effects will be the same or similar to the existing receiving environment. The amendment will allow for replacement of existing poles in urban areas where the lines are already established overground. Erecting smaller poles is more cost effective than erecting larger poles. Therefore, PowerNet would only install a 16m high replacement pole where this is required from an operational perspective.
95. The relief sought would also enable new 16m support poles for new lines in the Rural Zones and Camp Columba and Field Days Zones. Ms Justice does not expect that new 16m high support structures for overhead lines would generate unacceptable adverse effects on the visual amenity values in these zones as powerlines are an expected and necessary visual element in rural areas.
96. Ms Justice also considers that Rule INFR-R4 requires an amendment to the exemption to provide for all new lines to be underground in the General Industrial Zone and Light Industrial Zone as a permitted activity to align Rule INFR-R4 with Standard INFR-S3. Ms Justice acknowledges that this relief was not part of PowerNet's submission or further submission but considers that Council can make this as a clause 16 amendment if the intention of the INFR-R4 and INFR-S3 is to provide for new aboveground lines up to 25m in height in the General Industrial and Light Industrial Zone. It is Ms Justice's view that providing for overground lines in industrial environments where lower amenity values are anticipated is appropriate.

Assessment:

97. The requested relief of increased height limits is rejected as per the recommendations within the 42a report. The provisions aim to provide a balance between operational and functional requirements of the infrastructure and zone appropriate amenity.
98. The intention of INFR-R4 is to encourage the underground placement of new lines, the industrial zones have not been excluded in order to encourage the undergrounding of lines in this area. It is acknowledged that industrial areas have lower amenity expectations than residential, however the undergrounding of powerlines is still a desirable outcome.

Spark New Zealand Trading Ltd (Spark), Chorus New Zealand Ltd (Chorus), One New Zealand Group (One NZ), FortySouth, and Connexa- Telecommunications Companies Evidence

99. The above companies, whom I shall refer to as the 'telecommunication companies' have provided two joint statements of evidence. The first I will respond to is provided by Tom Anderson who drafted and submitted submissions for the telecommunications companies on the Proposed District Plan. The second statement of evidence is a joint statement between Graeme McCarrison (Spark), Andrew Kantor (Chorus), Colin Clune (One NZ/ FortySouth) and Fiona Matthews (Connexa).

100. The same or similar relief has been sought through the two further submissions, but the evidence has been addressed separately below for clarity.

Evidence provided by Tom Anderson

101. Mr Anderson has identified the following matters which remain in contention after review of the Energy and Infrastructure Section 42A Report:
- a. The standalone nature of the Network Utilities Chapter;
 - b. INFR-O4, regarding recognition of functional and operational need at objective level;
 - c. INFR-R4 regarding to breadth of activities that are permitted with regard to above ground infrastructure;
 - d. INFR-R8 concerning Controlled Activity status for antennas up to a certain size;
 - e. INFR-R9 concerning activity status of infrastructure in specified areas;
 - f. INFR-S1 concerning what a navigable waterbody is;
 - g. INFR-S3 regarding permitted pole heights in all zones; and The Telecommunication Companies 3 Evidence of Tom Anderson Gore PDP Hearing Stream 7 October 2024
 - h. Relocation of, and amendments to, TEMP-R10 from the Temporary Activities Chapter to the Network Utilities Chapter
102. Where Mr Anderson has requested relief, his suggested relief will be shown in blue text while the amendments recommended in the Energy and Infrastructure s42A report will be shown as red text, with either underline (new) or strikethrough (delete) depending on the recommendation.
103. Regarding how the Infrastructure Chapter in the PDP interacts with other chapters, Mr Anderson is generally comfortable that the matter is addressed through Note 1, however, considers that the Note requires amendment from what has been recommended by the s42A author.
104. The s42A author has recommended the following sentence be added to Note 1 'This Rules and standards in Part 3 - Area Specific Matters (zones) do not apply to activities managed under this chapter, unless expressly identified within the chapter'. Mr Anderson considers that the recommendation does not align with the direction set in Standard 7.5 ¹⁶of the National Planning Standards.

¹⁶ Standard 7.5 of the National Planning Standards: 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 e.g., 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

105. Mr Anderson considers that Note 1 as recommended by the Reporting Officer indicates that provisions relating to infrastructure may located in the zone chapters. This effectively undermines the National Planning Standards, and requires plan users seeking direction regarding network utilities to assess the network utility chapter, other district wide chapters and the relevant zone chapter in order to be able to determine the activity status of any given proposal.

106. Mr Anderson recommends the s42A authors recommendation is removed and the following wording included to Note 1:

The provisions in this chapter apply in addition to the provisions of the other district wide 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. (...)

Assessment:

107. I support Mr Anderson's evidence regarding how this chapter interacts with the rest of the plan in principle, the intent of the reference within note 1 "*unless expressly identified within the chapter*" is intended to refer to where standards from area specific chapters have been utilised within this chapter, rather than to provide for provisions within areas specific chapters to manage infrastructure, for example, INFR-S2, refers to the relevant maximum height provisions for the zone.

108. While the specific relief requested provided by Mr Anderson is supported in its intent, the proposed wording would not include the objectives and policies of Part 3 of the plan, which as outlined in response to Transpower, is recommended. Based on this no change to note 1 is recommended.

109. The telecommunication companies supported the intent of INFR-O4, however sought amendment so that it specifically required management of adverse effects of critical infrastructure within the context of the functional and operational need of that infrastructure. The s42A author concluded that reference to functional and operational need is more appropriate as a policy and the requested amendments were not supported.

110. Mr Anderson considers it appropriate for functional and operational needs to be recognized through objectives and policies as it immediately contextualises how effects are to be assessed. The Resource Management Act 1991 recognizes the need to provide for the ongoing wellbeing of people and the environment and in some instances, infrastructure in order to achieve its purpose, might have an effect which cannot be completely mitigated due to the functional or operational need of that specific piece of infrastructure.

111. Mr Anderson seeks the following relief to INFR-O4:

*Adverse effects from the construction, maintenance, upgrade and use of **critical** infrastructure are managed, including by taking into account the functional and operational needs of the infrastructure.*

Assessment:

112. I maintain my position as outlined within the 42a report, this wording is more appropriate as a policy. I recommend that this relief be rejected.
113. In the telecommunications companies original submission, amendments to INFR-R4 were sought so that replacement support structures were recognised, and compliance with all INFR standards achieved. Mr Anderson agrees with the s42A author in that the inclusion of 'or replacement' and 'including buildings' is unnecessary as it is provided for in other rules. However, the recommended relief in the s42A Report does discuss replacement support poles and specific reference to electric charging stations and, based on the above, Mr Anderson considers this to be unnecessary and the rule now confusing.
114. To provide clarity and widen the scope so that all above ground infrastructure, except lines, is permitted in the urban zones, and as such aligns with what is permitted under INFR-R4.3 for the rural zones, Mr Anderson requests the following amendments to the rule:

INFR-R4	Establishment of above ground infrastructure (including Green Infrastructure) ~~not otherwise addressed by another rule in this chapter.~~	
All Zones exempting the General Rural, Rural Lifestyle, Field Days and Camp Columba	Activity status: Permitted Where: 1. ~~Other than where existing support poles structures are used, the above ground infrastructure is not a lines are to be located underground and replacement support poles meet the permitted provisions in INFR-R3(1); and~~ 2. ~~electric vehicle charging stations that complies with Compliance with all INFR Standards is achieved.~~	Activity status where compliance is not achieved with: INFR-R4(1 and 2): Restricted Discretionary Matters of discretion: 1. The reason for the lines being above ground. 2. The amenity values of the respective zone and the extent to which any adverse visual amenity effects can be avoided, remedied or mitigated.

Assessment:

115. I agree with Mr Anderson that INFR-R4 is confusing, the original purpose of this rule was to encourage undergrounding of powerlines, however, became the default rule for all above ground infrastructure, the addition of electric vehicle charging stations does not change this, however does make it more obvious. Mr Anderson's proposed relief is supported. In intent, with the caveat that that this could permit large scale above ground infrastructure such as large substations. Based on this I have recommended accepting this relief in part with an additional scale constraint of 40m².

116. With regard to INFR-R8, the telecommunications companies sought Controlled Activity status for panel and dish antenna up to a certain size, but which do not meet the permitted activity regulations of the NETSF. The NESTF through a number of its permitted regulations, permits panel antenna up to 0.7m wide¹⁷ and dish antenna of varying sizes between 0.38m and 1.2m in diameter.¹⁸
117. Regarding panel antennas, Mr Anderson considers that a difference in width between 0.7m and 0.8m would be very difficult to discern in terms of effect. The additional width sought would provide for greater efficiency in terms of the operation of antenna.
118. Regarding dish antenna, the additional diameter requested has been refined to a width sought to 0.6m in diameter within residential zones and 3m within all other zones. Mr Anderson considers that this provides for an additional amount of diameter when compared to the NESTF, and provides the same benefits as the additional width sought for panel antenna, and is unlikely to result in noticeable adverse effects on the environment.
119. The following relief is requested to INFR-R8:

¹⁷ NESTF Regulations 27(3), 31(3), 33(3) and 35(2)(e)

¹⁸ NESTF Regulations 27(4), 29(3), 31(4), 33(3), and 35(2)(f).

INFR-R8	Telecommunications lines, cabinets, poles and new antennas regulated by the NESTF that do not meet the permitted activity standards in Regulations 20, 21, 22, 27, 29, 31, 33, 35 or 37 of the NESTF and are not expressly provided for as a controlled activity in Part 3 of the NESTF.
All Zones	<u>Activity status: Controlled</u> <u>Where:</u> 1. <u>for panel antenna a width of 0.8m is not exceeded;</u> 2. <u>for dish antenna, the antenna does not exceed a diameter of:</u> <u>a. 0.6m in a residential zone; or</u> <u>b. 3m in all other zones.</u> <u>Matters of Control:</u> 3. <u>The visual effect of the antenna, the benefits derived from the antenna and the potential impact on the levels of service or health and safety if the work is not undertaken.</u> Activity status: Restricted Discretionary Matters of discretion: 14. <u>Where 1 or 2 is not met, the functional needs and operational needs of, and benefits derived from, the network utility, including the potential impact on the levels of service or health and safety if the work is not undertaken.</u>

Assessment:

120. Mr Anderson requested relief is acknowledged from a functional perspective, however provides for a parting of ways with the NESTF which is not supported a such this relief is not supported.
121. Regarding INFR-R9, submissions s32.030, s33.030, s35.030, s37.030 and s154.030 sought Restricted Discretionary rather than Discretionary Activity status for the establishment of new infrastructure within specified areas. These submissions were rejected by the s42A author on the basis that Restricted Discretionary Activity status is inappropriate within specified areas.
122. Mr Anderson is of the view that if new infrastructure is proposed within a specified area, the resource consent application typically considers the effects of the proposal on those areas, alongside any functional and operational needs of the infrastructure, as well as the benefits it will provide. Given this, Restricted Discretionary activity status is suitable.

Assessment:

123. I stand by my recommendation within the s42a assessment. A discretionary activity status is more appropriate for works within these areas.
124. Mr Anderson also notes that the amendments to the rule recommended by the s42A author propose the inclusion of hazard areas, in particular land inside of the river side of a Southland Regional Council Stopbank, and critical infrastructure on Land subject to a high or very high risk of liquefaction. This recommendation creates an inconsistency between the PDP and Regulation 57¹⁹ of the NESTF which exempts regulated activities under the NESTF from having to comply with District Plan rules about natural hazards.

Assessment:

125. I acknowledge Mr Anderson's point regarding the NESTF and agree this provision should not apply to regulated activities in order to align with the NESTF.
126. The telecommunications companies rely on local authorities to identify hazards then have resilience requirements as essential infrastructure networks and lifeline utilities under the Civil Defence Emergency Management Act 2002 (CDEMA). It is Mr Anderson's experience that telecommunication network resilience to natural hazards is achieved by avoiding the hazard in the first instance, but where the hazard cannot be avoided for the infrastructure to provide its function, designing the infrastructure to be as resilient as possible to the hazard.
127. On this basis, Mr Anderson does not consider there is a need to regulate the resilience of telecommunications networks, an approach that has been accepted by Kaikoura District Council and is being considered by the proposed Wellington City District Plan Change and Change 1 to the Wellington Regional Policy Statement. Mr Anderson's relief sought is as follows:

¹⁹ NESTF Regulation 57: District rules about natural hazard areas disappplied

(1) A territorial authority cannot make a natural hazard rule that applies to a regulated activity.

(2) A natural hazard rule that was made before these regulations came into force, does not apply in relation to a regulated activity.

(3) In this regulation, natural hazard rule means a district rule that prescribes measures to mitigate the effect of natural hazards in an area identified in the district plan as being subject to 1 or more natural hazards.

INFR-R9	Establishment of new <i>infrastructure</i> within specified areas
All Zones	Activity status: Restricted Discretionary <u>Where:</u> - the establishment of new infrastructure <u>is</u> within: - an Outstanding Natural Landscape or Feature - a <i>Significant Natural Area</i> 20m of the Mataura River - Is critical infrastructure in the Mataura River Floodway - a site containing an item on the Heritage Schedule, a <i>Notable Tree</i>, ~~a Site of Significance to Māori~~ or an Archaeological Site ~~land inside of the river side of a Southland Regional Council Stopbank~~ ~~is critical infrastructure on Land subject to a high or very high risk of liquefaction~~ <u>Matters of Discretion:</u> <u>The effects on the specified area within which the network utility is proposed;</u> <u>Any functional need or operational need which means critical infrastructure must be located within a specified area;</u> <u>The benefits derived from the critical infrastructure, including any potential impacts on the levels of service or health and safety if the work is not undertaken.</u>

Assessment:

128. As per my above assessment I do not accept the relief of a restricted discretionary activity my recommended changes are limited to exemption regulated telecommunications activities as per regulation 57 of the NESTF.
129. Regarding INFR-S1, the telecommunications companies supported the intent of the standard but sought that the navigable rivers referred to in the standard be included on the planning maps so it is abundantly clear what waterbodies the standard applies to. This recommendation was rejected by the s42A author on the basis that waterbodies change in flow and location and mapping is likely to be outdated quickly. The s42A author suggests that common usage of the term is utilised, and a judgement call made on whether or not a water body is considered navigable.

130. Mr Anderson considers that a standard should be absolutely precise and not subject to interpretation to allow for applicant to act with certainty. The following suggestions are made to alleviate the issue:

- Map the navigable waterbodies in the District Plan maps;
- Name the navigable waterbodies in standard INF-S1; or
- Define what a navigable waterbody is in the District Plan.

131. Mr Anderson's preference would be for the waterbodies to be named in the standard.

Assessment:

132. I acknowledge the preference for navigable water bodies to be either mapped, or named, however given the changeable nature of waterbodies I do not recommend this. The Environment Southland Navigation Safety bylaw defines navigable water body as follows: *"means any waters whether coastal or inland which are able to be navigated; and includes harbours"*. This allows for the applicants to demonstrate that a water body is not navigable and avoids unintended exclusion or exclusion of waterbodies.

133. The telecommunications companies sought changes to INFR-S3 for various height amendments to the standard as follows:

- The maximum height clearly excludes any lightning rod or GPS antenna
- A 25m permitted height in any industrial zone
- A 35m permitted height in any rural zone
- The underlying zone building height plus 5m in all other zones, and
- Allowing an additional 5m of height for co-location (where there are two or more providers on a single pole/tower)

134. The submissions were rejected by the s42A author as the changes would create a complicated standard that significantly raises the permitted height limit for poles and masts.

135. Mr Anderson has provided images depicting how higher mast height provides better outdoor and indoor coverage for end users. As the antenna height increases, clutter created by buildings and trees is avoided. Mr Anderson also explains that all proposed antennas must be assessed against New Zealand Standard 2772.1:1999 Radiofrequency fields - Maximum exposure levels. Through providing pole heights that exceed the permitted building heights without enabling a corresponding increase in mobile telecommunication facility height, there is potential for people to be exposed to greater levels of radiofrequency. As a result of migration towards 5G technology nationwide, the radio frequency fields emitted from 5G antennas are larger and to ensure compliance with NESTF (which regulates all radiofrequency emissions from Telcos), antennas need to be placed on correspondingly higher poles.

136. Mr Anderson considers that by providing for poles and masts that are 5m above the permitted building height in the zone, some of the matters addressed above are addressed.
137. Mr Anderson addresses the following:
138. Regarding the industrial zone, which typically have the least amount of urban amenity, enabling taller pole structures can reduce the need for mobile phone facilities in potentially more sensitive urban zones.
139. Regarding the rural zones, one of the most challenging barriers to the efficient functioning of a mobile antenna is large trees which is particularly an issue in the southland region. Mr Anderson then draws attention to Regulations 34 and 35 of the NESTF which permit poles provided they do not exceed 25m in height. If any of these regulations are not met, under Regulations 14 to 16, the activity status of the District Plan informs what the activity status is to be under the NESTF.
140. Mr Anderson identifies that Regulation 14²⁰ of the NESTF is of particular relevance as the relief sought to increase the permitted height of a pole/mast in the rural zones to 35m would result in the need for a resource consent application for any proposed facility in the rural zone which is between 25m and 35m high. The matter of control would be the effect of the additional height above 25m, and that control, in my view, gives Council sufficient certainty to address any residual effects which might exist from such an application, including in a rural lifestyle zone.
141. Regarding the additional 5m for co-location, Mr Anderson considers that the primary driver is the ability for a provider to serve its customers which is achieved through height. Mr Anderson considers that 5m of additional height on a single structure to be a preferential outcome to the alternative, which is two structures of the same height in close proximity.
142. Regarding lightning rods and GPS antenna, Mr Anderson considers that these are both small structures. Given this, their addition to the top of a telecommunications facility is imperceptible. Further, lightning rods are specifically excluded from height calculation within the NESTF, excluding them from height in the PDP would provide consistency between NESTF regulated and PDP regulated telecommunications facilities.
143. Mr Andersons relief sought to INFR-S3 is as follows:

²⁰ NESTF Regulation 14: Controlled activities

(1) A regulated activity is a controlled activity if—

(a) it is carried out not in accordance with the standard; and

(b) under the relevant district plan or proposed district plan, it is a permitted activity or controlled activity.

(2) For the purposes of [section 87A\(2\)\(b\)](#) of the Act, control is reserved over the subject matter of each regulation (or component of a regulation)—

(a) compliance with which is part of the standard; and

(b) that is not complied with

INFR-S3	Lines over <i>waterbodies</i>	
Rural Zone, Rural Lifestyle Zone, General Industrial Zone and Light Industrial Zone	The maximum height of any utility pole or mast (~~excluding any lightning rod or GPS antenna~~), ~~and associated electricity lines~~ shall be: 1. ~~25m~~ 35m	Activity status where compliance is not achieved: Restricted Discretionary Matters of discretion: 1. Alternative locations for the structure. 2. The <i>functional needs</i> and <i>operational needs</i> of, and benefits derived from, the structure, including the potential impact on the levels of service if a structure of the proposed size is not approved. 3. The <i>amenity values</i> of the respective zone and the extent to which any adverse visual amenity <i>effects</i> can be avoided, remedied or mitigated. 4. Impacts on ~~Ngai Tahu~~ cultural values, including those listed in the MW-2.3
General Industrial Zone and Light Industrial Zone	2. 25m	
All Other Zones	~~23. 13m~~ The underlying permitted building height for the zone + 5m.	

Assessment:

The requested relief is supported, the revised relief improves clarity and enables a zone specific approach to balance anticipated amenity with functional and operational needs.

144. Mr Anderson considers the recommendations made to TEMP-R10, which was addressed through Hearing Stream 5, does not fully address submissions s32.038, s33.038, s35.038, s37.038 and s154.038 which sought the inclusion of a new rule permitting temporary network utilities that are in place for no longer than 12 months. Mr Anderson considers this rule should sit in the Infrastructure Chapter and proposed amendment to enable temporary network utility to locate on a site provided it does not exceed 12 months.

Assessment:

145. I do not recommend that the rule is moved to the Infrastructure Chapter. Note 1 states that the other district wide chapters apply to infrastructure activities which would include the Temporary Activities Chapter. The rule is to manage "Temporary Network Utilities" and therefore in my opinion it should sit within the Temporary Activities Chapter.
146. Mr Anderson considers the current rule does not account for providing a community with an essential critical infrastructure service where there has either been a failure to an existing facility, a rapid increase in population, or while a more permanent site is being sought.

147. I consider the rule as currently rule as drafted, would accommodate instances such as additional capacity to support a large event or natural hazard recovery.
148. I consider Mr Anderson raises a valid point in relation to temporary critical infrastructure services in lieu of permanent solution. I consider the rule should enable the provision of temporary network capacity or supporting the network when an existing site is being upgraded, or the pole replaced. As such, I recommend the rule is amended as proposed by Mr Anderson to include '3. Are located on a site for a duration which does not exceed 12 months' under the permitted activities.

Joint Evidence between Graeme McCarrison, Andrew Kantor, Colin Clune and Fiona Matthews

149. Joint Evidence was provided on behalf of the above authors, seeking the same or similar relief as discussed by Tom Anderson.
150. Clarification was requested to Note 1 of the Infrastructure chapter about what other chapter provisions apply. The joint authors consider the s42A authors proposed wording with reference to Part 3 an improvement, they note that designations are within Part 3. The joint authors consider that the evidence of Tom Anderson addresses a solution. This is discussed in paragraph XX above. The joint authors consider that Note 1 should convey to the infrastructure chapter user's similar clarity about what other chapter provisions apply and what provisions prevail.
151. Regarding temporary facilities, the joint authors celebrate the provision of the new temporary activities rule (TEMP-R10), but are concerned that the scope of the rule does not support how and when deployment of temporary facilities such as a CoP (Cell on Platform) or CoW (Cell on Wheels) is required.

Assessment:

152. The above points are discussed in response to Mr Anderson's evidence above, and the same recommendation is given here.
153. The joint authors support co-location of infrastructure and appropriate heights within zones. The rationale given for this support is broadly summarized as follows:
- Consistency of permitted pole heights nationally to enable standardization of cell site design and delivery of new sites to fill coverage gaps
 - Co-location is critical for better network coverage across Aotearoa
 - Improved coverage in industrial and rural zones with increased pole heights
 - height is determined by the network operator's requirement for that locality
154. The joint authors seek the following:
- 30m pole height as permitted within the Industrial zones

- 35m pole height for a single operator and 40m pole height to enable co-location in the rural zones

Assessment:

155. The above relief is rejected in favour of Mr Anderson's suggested relief as discussed above.

156. Regarding INFR-R8, the joint authors seek controlled activities status that enables Council assessment on certain matters and conditions, whilst the industry has the certainty of a consent and what reasonable size of upgrading is appropriate. Having a regulatory framework that is appropriate for the provisions it enables and provides flexibility for upgrading, encourages operators to upgrade the network as required. The joint authors seek controlled activity status for the following activities and sizes for INFR-R8 as originally requested:

1. for panel antenna a width of 0.8m is not exceeded;

2. for dish antenna, the antenna does not exceed a diameter of:

a. 1.2m in a residential zone; or

b. 3m in all other zones.

3 Any activity which does not meet the NESTF permitted regulations but otherwise complies with the INFR standards.

157. The joint authors request the flexibility to relocate a structure up to 10m without triggering a resource consent. Reasons for relocation include, accommodating a new driveway, development of the property or adjoining site, road carriage changes or safety.

158. The joint authors requested that waterbodies, where INFR-S1 applies be mapped for clarity. It would seem, potentially there is a single navigable waterbody within the Gore District, that being the Mataura River. If this is the case, the joint authors would be satisfied if the Mataura River was specified, and words 'navigable waterbody' removed from INFR-S1.

Assessment:

159. The above relief is rejected in accordance with the recommendations provided in response to Mr Anderson above.

160. The below evidence was supplied after the submitter evidence deadline and as such my response is more streamlined to enable consideration prior to the hearing.

Evidence of Kate Orange on behalf of Fire and Emergency New Zealand

161. Fire and Emergency New Zealand (FENZ) provided late evidence on the 30th October 2024.
162. This emphasised FENZ reasons for requesting an exception to height limits for poles and towers. As this evidence did not provide any visual evidence of what structures they are seeking, or any effects based reasoning further information was requested, which was provided on the 31 October.
163. An example structure is included below, with Kate Oranje on behalf of FENZ providing the following summarised effects-based rationale for the requested exclusion:
- Exemption will apply to relatively few situations
 - The effects can be largely anticipated
 - Effects do not differ from several anticipated activities in the urban and rural environments such as tv aerials, small satellite dishes and chimneys



FIGURE 1: IMAGE OF STRUCTURE REQUESTED TO BE EXEMPT FROM HEIGHT LIMITS. (TAUPO TOWER)

Assessment:

164. I recommend rejecting FENZ's proposed relief. The example images provided do not appear to support their request. The Taupō example, in particular, illustrates a situation which should not be encouraged as a permitted activity. As outlined by Ms Oranje, this requirement would apply in relatively few cases, meaning the process of obtaining resource consent should be a manageable obligation. I agree that the effects are largely anticipated, specifically visual; intrusion, dominance and adverse amenity effects, and would need site specific analysis to determine suitability. I disagree with the comparison to TV aerials and chimneys; the Taupo example clearly exceeds the scale of these structures.

165. Based on the above I recommend the requested relief is rejected.

Further evidence of Mark Zwies - Powernet

166. Height of support poles: The relief sought from Mr Zwies differs from that of Mr Anderson in relation to relief sought by Powernet. As addressed in response to Mr Andersons request his relief is preferred over Mr Zwies.

Evidence of Mercury Energy (s130) - Stuart Davie and Shirely Champerlin.

167. Electricity Distribution networks - Mercury support Powernets requested relief regarding electricity distribution networks. This is addressed in response to Powernets evidence above.

168. REG definitions (Renewable Electricity Generation) - Mercury have provided clarification that their requested relief was to provide for a new definition for renewable electricity generation, as per the NPS-REG²¹ (with the exception of references to tidal, wave or ocean currents).

169. This relief is supported and is considered to provide greater consistency and clarity for plan users. The following definition is recommended to be included:

“Renewable electricity generation means generation of electricity from solar, wind, hydroelectricity, geothermal and biomass.”

170. ENRG-O3 and ENRG-P11 Mercury appear to now be seeking further relief above that of their original submission. The inclusion of functions and operational is suitable to replace “constraints (technical, locational and operational)” is acknowledged as better aligning with defined terms, if the panel is of a mind to accept this relief from a scoping perspective, they may consider adopting this relief.

171. Repowering of wind farms. I stand behind my original position within my s42a report. Repowering where the scale is increased needs to be carefully considered. An increase of 10% could result in noticeable adverse effects which would need to be carefully considered.

²¹ National Policy Statement for Renewable Electricity Generation 2011

172. ENRG-S4. Mercury have restated their requested relief. In lieu of effects-based reasoning I recommend this relief is rejected in accordance with my recommendation within the s42a assessment.

173. The change proposed are outlined in **Appendix A, Appendix B, Appendix C and Appendix D.**

Section 32AA Evaluation:

174. The proposed recommendations seek to improve the effectiveness and efficiency of the subdivision and public access chapters. The need for a detailed assessment under Section 32AA is not necessary.

175. The recommendations are minor in scope and primarily focus on enhancing the clarity and comprehensibility of the existing recommended provisions. These amendments do not significantly alter the intent of the existing provision framework. Instead, they seek to clarify existing rules and requirements, making it easier for decision makers and plan users to understand and implement them. The changes do not have any substantive impacts on the environment, social or economic conditions, or community well-being.

176. The proposed amendments are considered to be a more appropriate way to achieve the objectives than the notified version of the PDP.