

**Before the Proposed Te Tai o Poutini Plan - A Combined District Plan
for the West Coast, Hearings Panel**

Under the Resource Management Act 1991 (the Act)

In the matter of the Proposed Te Tai o Poutini Plan: A Combined
District Plan for the West Coast – Hearing Topic 3

- **General District Wide Matters**

Between **Te Tai o Poutini Plan Committee**
Comprising the Buller, Grey and Westland District
Councils

And **Transpower New Zealand Limited**
Submitter 229 and Further Submitter FS110

**Statement of evidence of Pauline Mary Whitney for Transpower New
Zealand Limited**

Dated 16 October 2023

1 Executive Summary

- 1.1. As outlined in my Hearing Topic 1 and 2 Evidence, Transpower owns and operates the National Grid, which transmits electricity throughout New Zealand from energy generation sources to distribution networks and direct-connect customers. The need to operate, maintain, develop and upgrade the electricity transmission network is recognised as a matter of national significance through the National Policy Statement on Electricity Transmission 2008 (“**NPSET**”).
- 1.2. Transpower’s submission on the Proposed Te Tai o Poutini Plan (“**pTTPP**”) was extensive. While the approach adopted in the pTTPP was broadly supported by Transpower, changes were sought to give effect to the National Policy Statement on Electricity Transmission 2008 (“**NPSET**”). Transpower’s submission will be heard across multiple hearings and therefore Transpower requests the panel refer to the Transpower evidence to Hearing Topics 1 and 2 in considering the submission points relevant to Hearing Topic 3. For the sake of efficiency, the background and planning contextual information will not be repeated.
- 1.3. Specific to Hearing Topic 3, Transpower’s interested is confined to 11 submission points (four original and seven further points), relating to the Earthworks provisions.
- 1.4. The matters raised within the Transpower submissions can be summarised under four ‘topic’ matters as follows:
 - Definition: Earthworks
 - Location of Earthworks rules
 - Policy EW-P4
 - Rules EW-R2 and EW-R7
- 1.5. Given the limited number of submission points relating to this hearing and the largely favourable S42A Report recommendations, there is only one outstanding matter addressed within this evidence. This relates to the default activity status for earthworks within the officer recommended National Grid Yard rule EW-RX that do not comply with the standards. In its submission Transpower sought a non-complying activity. The officer has rejected this and recommended the proposed default restricted discretionary activity status be retained. I also propose other minor refinements to the rule.

- 1.6. Attached as **Appendix B** to my evidence is a table outlining all the submission points relevant to Hearing Topic 3.
- 1.7. Attached as **Appendix C** is a Section 32AA evaluation of the change in activity status that I support in response to the officer recommended rule EW-RX.

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2. Qualifications and Experience

- 2.1. My full name is Pauline Mary Whitney.
- 2.2. For my qualifications and experience and other introductory comments, please refer to paragraphs 2.1 – 2.7 of my statement of evidence for Hearing Topics 1 and 2 (“Hearing 1 and 2 Evidence”), dated 29 September 2023.
- 2.3. I have read the Code of Conduct for Expert Witnesses contained in Section 9 of the Environment Court Consolidated Practice Note (2023), and I agree to comply with it.

3. Scope of Evidence

- 3.1. My evidence will address the following:
 - A brief outline of the National Grid Framework and Transpower’s interests in Hearing Topic 3; and
 - Responses to the officer recommendations, focusing on those amendments sought in this evidence.

4. The National Grid Policy Framework

- 4.1. As outlined in my Hearing 1 and 2 Evidence, Transpower owns and operates the National Grid, which transmits electricity throughout New Zealand from energy generation sources to distribution networks and direct-connect customers. The need to operate, maintain, develop and upgrade the electricity transmission network is recognised as a matter of national significance through the National Policy Statement on Electricity Transmission 2008 (‘NPSET’). This significance applies universally across the country regardless of the nature of the specific National Grid asset.
- 4.2. In my Hearing 1 and 2 evidence I outlined the three broad aspects to the NPSET which must be given effect to in local authority policies and plans, being:
 - a. Enabling the National Grid,
 - b. Managing the effects of the National Grid; and
 - c. Managing the effects on the National Grid.

- 4.3. Of specific relevance to this hearing are effects **on** the National Grid with details provided within my Hearing 1 and 2 evidence as to the basis and reasoning for National Grid corridor provisions. My earlier evidence stands and is applicable to this hearing.

5. Summary of Hearing Topic 3 Submission Points

- 5.1. Transpower lodged 11 submission points (four original and seven further points) allocated to Hearing Topic 3, relating to Earthworks. The submission points are summarised as follows:

- **Definition: Earthworks.** In its original submission Transpower supported the definition¹ as notified. In its further submission Transpower opposed² amendment to the definition to exclude mineral extraction, prospecting, and exploration.
- **Location of Earthworks rules³.** In its original submission Transpower sought provision of all earthwork rules in the earthworks chapter. In its further submission Transpower opposed⁴ reference to vegetation clearance within the earthworks rules.
- **Policy EW-P4.** In its original submission Transpower supported⁵ the policy as notified.
- **Rules EW-R2 and EW-R7.** In its original submission⁶ Transpower sought amendment to Rules R2 and R7 to remove references to the National Grid and provision of separate National Grid specific rule (with a permitted activity status default to non-complying where the standards are not complied with). In its further submission⁷ Transpower opposed reference to cultivation as this activity is excluded from the definition of earthworks and therefore is not captured by the rule. It also opposed⁸ a default restricted discretionary activity status, and amendment to the National Grid Yard restricted discretionary activity rule EW-R7 matters to include reference to benefits⁹ and constraints¹⁰. Transpower also opposed¹¹ in its further submission replacement of the National Grid rule provisions with those in the operative Grey District Plan.

¹ S299.003

² FS110.006

³ S299.057

⁴ FS110.047

⁵ S299.058

⁶ S299.059

⁷ FS110.042

⁸ FS110.044

⁹ FS110.045

¹⁰ FS110.046

¹¹ FS110.043

6. Response to the Section 42A Report Recommendations

- 6.1. The following section responds to the Hearing Topic 3 S42A Report recommendations on Transpower's submission points.
- 6.2. For clarity, attached as **Appendix B** is a table outlining all the submission points relevant to Hearing Topic 3, and my response. I note Transpower concurs with my reasoning and response as provided in **Appendix B**.
- 6.3. Before I comment on specific submission points, I think it is helpful to outline why earthwork activities are of relevance to Transpower activities. In my opinion, earthwork activities are a form of development contemplated by the NPSET that can compromise the National Grid. As outlined in the evidence of Mr Shortland-Witehira, earthworks adjacent to towers or poles can undermine the stability of the structure foundations, causing the structure to lean or, worse, collapse, leading to power outages. Excavations or mounding mid-span can increase risks by reducing the clearance between the ground and conductors. Excavated areas or piles of earthworks can also restrict Transpower's ability to access and locate the heavy machinery required to maintain support structures and conductors around the lines, including in emergency situations. For these reasons, Transpower seeks controls on earthworks near the National Grid. The provision of a rule framework achieves Policies 2 and 10 of the NPSET in that it protects the integrity of the National Grid and the ability to maintain and operate it.
- 6.4. The Transpower submission points can be broadly categorised under four 'topic' matters:
 - a. Definition of Earthworks
 - b. Location of Earthworks rules
 - c. Policy EW-P4
 - d. Rules EW-R2 and EW-R7

Definition of Earthworks

- 6.5. In its submission Transpower supported the definition for earthworks on the basis it reflects the National Planning Standards. Specific to effects on the National Grid, I

agree with the reporting officer¹² to not exclude mining, prospecting and exploration from the definition as: a) it would not reflect the National Planning Standards and b) would have implications for the application of the National Grid earthworks rule. I support the officer recommendation for retention of the definition as notified.

Location of Earthworks rules

- 6.6. In its original submission Transpower sought provision of all earthworks rules in the earthworks chapter. In its further submission Transpower opposed reference to vegetation clearance within the earthworks rules.
- 6.7. Based on the officer recommended National Grid specific rule EW-R7, I accept the officer recommendations¹³ and am not seeking relocation of provisions through this evidence.

Policy EW-P4

- 6.8. In its original submission Transpower supported the policy as notified. I support the retention acknowledging that whilst policy EW-P4 relates to the effects of earthworks on critical infrastructure, a more specific and directive National Grid policy is provided in the Energy Chapter (ENG-P9), noting amendments have been sought to the policy and will be addressed at Hearing Topic 4.
- 6.9. Although not of specific relevance to Transpower, I note EW-P4 refers to 'critical infrastructure'. While this term captures the National Grid, the use of the term does give rise to comments regarding definitions (refer my Topic 1 and 2 evidence) and the need for careful consideration as to which terms are used in the pTTPP.

Rules EW-R2 and EW-R7 and recommended rule EW-RX

- 6.10. In its original submission Transpower sought amendment to Rule R2 to remove references to the National Grid, deletion of the default National Grid Yard restricted discretionary rule R7, and provision of a new National Grid specific rule (being a permitted rule which defaults to non-complying).
- 6.11. In its further submission Transpower opposed reference to cultivation as this activity is excluded from the definition of earthworks and therefore is not captured by the rule. It also opposed a default restricted discretionary activity status, and amendment to the National Grid Yard restricted discretionary activity rule EW-R7 matters to include

¹² Refer para 66 and 67 of the S42 Report Hearing Topic 3

¹³ Refer para 60 of the S42 Report Hearing Topic 3

reference to benefits and constraints. Transpower also opposed in its further submission replacement of the National Grid rule provisions with those in the operative Grey District Plan.

6.12. In response to the officer recommendations, I support:

- the officer recommended amendment to EW-R2 to remove the National Grid clause 2.i.
- deletion of the default National Grid Yard restricted discretionary rule EW-R7; and
- provision of a new National Grid Yard specific rule EW-RX

In relation to the recommended rule EW-RX, while I support the permitted nature of the rule, I do not support the default restricted discretionary activity status within the rule and instead support a non-complying activity status where certain standards are not met. I also support through this evidence some minor refinements to the recommended rule EW-RX. These matters are discussed in detail and the tracked changes of the amendments sought outlined further in this evidence.

Rule EW-R2 and EW-R7

6.13. The deletion of the National Grid clause 2.i. is supported. Although not of specific relevance to the National Grid, I do have concerns with the recommended amendment to the title of Rule EW-R1 and EW-R2 to replace 'earthworks' with 'land disturbance'. These terms are defined in the pTTPP as follows (and reflect that of the National Planning Standards).

EARTHWORKS

means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavating of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fenceposts.

LAND DISTURBANCE

means the alteration or disturbance of land, (or any matter constituting the land including, soil, clay, sand and rock), that does not permanently alter the profile, contour or height of the land.

6.14. The terms have different definitions with 'land disturbance' being for a very limited range of activities which does not change the height, profile or contour of the land. The implications of the rule title changes may be to confine the rules to the limited land disturbance activities and create confusion as to whether the rules also capture

'earthworks' that are not land disturbance. The confusion will be compounded by references to 'earthworks' in the body of the rules. As such I support retention of the rule titles as notified.

- 6.15. In terms of the further submission point by Transpower in relation to the word 'cultivation' the deletion of the word was supported on the basis cultivation is excluded from the definition of earthworks and therefore an exemption in the rule is not needed. However, in order to assist with plan interpretation, I support it's retention (within Rule EW-RX2.b.) to assist with plan interpretation and for the avoidance of doubt.
- 6.16. Based on the recommended new National Grid Yard rule EW-RX, I support the deletion of the National Grid Yard default restricted discretionary rule EW-R7.
- 6.17. As an aside regarding EW-R2, I do note the recommended tracked changes to rule EW-R2 provided on page 48 (Para 138) of the S42A Report differs from the version shown in Appendix 1. The amendments are in response to submission point S438.121 The differences have implications for how rule is applied and read in terms of a) whether it applies to RSI or critical infrastructure and b) whether it only applies to stockpiles or all earthworks including stockpiles. I support the wording as sought by the submitter¹⁴ to clarify that the rule is not confined to stockpiles. Extracts are as follows:

Section 42A Report – page 48.

- d. ~~These are earthworks including~~ Are stockpiles required for repair, maintenance, operation, upgrading and establishment of network utility or critical regionally significant infrastructure ~~maintenance, operation, repair, upgrade, or installation of new network utilities including public roads;~~*

Appendix 1

~~d. These are earthworks including stockpiles required for repair, maintenance, operation, upgrading and establishment of network utility or critical infrastructure ~~maintenance, operation, repair, upgrade, or installation of new network utilities including public roads; or~~~~

¹⁴ *These are earthworks including stockpiles required for repair, maintenance, operation, upgrading and establishment of network utility or critical regionally significant infrastructure ~~maintenance, operation, repair, upgrade, or installation of new network utilities including public roads; or~~*

New recommended Rule EW-RX

- 6.18. I support the provision of a new separate and comprehensive rule that will give effect to Policies 2 and 10 of the NPSET in that it protects the integrity of the National Grid and the ability to operate it. The rule also provides clarity for plan users.
- 6.19. Notwithstanding the above support, I do not support the default restricted discretionary activity status and instead support a non-complying activity status where the standards are not met. Through this evidence I also support refinements to the recommended rule EW-RX.
- 6.20. **In relation to refinements to the rule**, I suggest the following to assist with the interpretation and application of the rule: (Note: the sought changes are shown below in paragraph 6.37, in context of the rule).
- Amendment to clause 2. to widen the application of the exemptions so the listed exemptions apply to four of the standards (but not the standard for NZECP Table 4 conductor clearance distances) and not just the depth standards in clause 1.a. and b. This makes the exemptions more lenient than that notified in that they have wider application. A dispensation is not available under NZECP34 for the NZECP Table 4 conductor clearance distance standard and therefore it should not (and cannot) be exempted. I have suggested reordering of the standards to assist with the rule application.
 - Inclusion of ‘footpaths’ and ‘driveways’ within the exemptions clause 2.c. (on the basis the activities are similar in effect to vehicle access or farm tracks).
 - Amendment to clause 2.e. to apply the exemption to ‘earthworks and vertical holes’ as opposed to other earthworks or land disturbance. This would ensure that activities captured by clause 1. could be permitted where Transpower provides its consent through a dispensation. This would enable minor infringements (for example to the depth standards) to be permitted.
- 6.21. I did consider deletion of clause 2.b ‘Agricultural or domestic cultivation’ as such activities are not considered earthworks within the definition of earthworks, but I accept their retention to provide clarity and certainty for plan users. I note the submission point S486.048 for their inclusion (as an exemption).

- 6.22. **Specific to the default activity status**, in its submission Transpower sought a default non-complying activity status. This relief was rejected by the reporting officer¹⁵, largely due to the ‘manage’ wording within the NPSET. There is no commentary on the effects of earthworks on the National Grid. Based on the evidence of Mr Shortland-Witehira, I support a non-complying activity status where any of the standards (relating to depth, access, stability and clearance) are not met.
- 6.23. I wish to highlight that rule EW-RX is a permitted rule with a range of permitted activities (subject to standards) provided. Clear exemptions are also provided.
- 6.24. Specific reasoning for my support for a default non complying activity status is provided below and includes national direction, the pTTPP and RPS policy directives, the nature of activity status, alignment with NZECP, and consistency with other district plans.
- 6.25. National Direction – The Objective of the NPSET is to effectively recognise the national significance of the National Grid by managing activities. This outcome is achieved by the policies. As noted in the Preamble to the NPSET (bullet point 6)

The operation, maintenance, and future development of the transmission network can be significantly constrained by the adverse environmental impact of third-party activities and development.

- 6.26. In my opinion a restricted discretionary activity would be inconsistent with the firm statutory direction in higher order planning instruments. Policy 10¹⁶ of the NPSET is very directive in requiring that decision makers “must” manage activities to ensure the “operation, maintenance, upgrading and development of the electricity transmission network is not compromised”. Earthworks are an activity that can compromise the National Grid. While the policy refers to ‘manage’ it is very directive in that the outcome is to ensure the Grid is not compromised. The rule and policy framework is the way in which activities will be managed. This is achieved by a permitted activity rule which allows for a range of activities, but where the standards are not met, a non-complying rule applies. Such a rule framework provides for the ‘manage’ directive in the NPSET to which the officer has relied on. I do not accept the word ‘manage’ automatically denotes a restricted discretionary activity status as a such a proposition ignores the directive parts of the policy (to ensure the electricity transmission network is not

¹⁵ Refer Paragraphs 154-157 of the S42 Report Hearing Topic 3

¹⁶ 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

compromised) and the underlying permitted activity status of the rule. The strong directive within Policy 10 of the NPSET was addressed in the 2017 High Court decision on the Auckland Unitary Plan with the decision finding at paragraph 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.

- 6.27. pTTPP PDP and RPS Policy Framework – As notified, pTTPP Policy EW-P4 is very directive in its wording, being to:

Protect critical infrastructure and natural hazard defences from the adverse effects of earthworks.

- 6.28. A non-complying activity in my opinion gives effect to the policy to protect the National Grid (being critical infrastructure and of national significance). While not the subject of this hearing (and subject to a Transpower submission point), the National Grid specific policy ENG-P9¹⁷ is equally directive within clauses a) and b), and d).
- 6.29. Chapter 6 - Policy 4¹⁸. of the West Coast RPS requires RSI to be ‘protected’ from the adverse effects of other activities, which would compromise the effective operation, maintenance, upgrading, or development of the infrastructure. Such a policy directive is in my opinion very clear.

¹⁷ ENG - P9 Manage activities within the National Grid Yard and the National Grid Subdivision Corridor to:

- a. Ensure the safe and efficient operation, maintenance, repair, upgrading and development of the National Grid is not compromised;
- b. Avoid incompatible land use;
- c. Manage subdivision to avoid subsequent land use activities from compromising the operation, maintenance, upgrading and development of the National Grid;
- d. Achieve compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001) and avoid exposure to health and safety risks from the National Grid; and
- e. Avoid potential for reverse sensitivity effects on the National Grid

¹⁸ West Coast RPS Policy 4. Recognise that RSI important to the West Coast’s wellbeing needs to be protected from the reverse sensitivity effects arising from incompatible new subdivision, use and development, and the adverse effects of other activities, which would compromise the effective operation, maintenance, upgrading, or development of the infrastructure.

6.30. Purpose of Non-complying activities - As provided on the Quality Planning Website¹⁹, “*non-complying activities are those that the RMA, regulations (including a national environmental standard), or a plan describes as non-complying. This activity status is often reserved for those activities where the potential adverse effects are great but do not necessarily warrant prohibition*”. As outlined in the evidence of Mr Shortland-Witehira, the potential adverse effects of earthworks on the National Grid are significant, bearing in mind the national significance of the electricity transmission network as recognised in the NPSET.

6.31. The use of Restricted Discretionary activity status is further discussed on the Quality Planning website with advice provided to:

“*Avoid:*

- *making the matters over which discretion is restricted so wide as to make the restriction meaningless. Where the matters over which discretion is to be restricted are wide consider using the (unrestricted) 'discretionary' activity status instead*
- *using the restricted discretionary status for activities where the intent is to only grant consent in 'exceptional circumstances' (consider, for example, using the non-complying status with clear policy direction as to what 'exceptional circumstances' may be instead).”*

6.32. In my opinion both the matters above apply in how Rule EW-RX is framed in that: the matters of discretion within EW-R8 are incredibly wide (i.e. *clause f. Discretion is restricted to: The impact of earthworks on critical infrastructure*”.) and in effect meaningless, and the resulting effects from earthworks within the National Grid Yard are such that consent would only be granted in exceptional circumstances.

6.33. The matters of discretion within Rule EW-R8 are such that there is no consideration of risks relating to health or public safety, including the risk of property damage. There is also no explicit recognition of the extent to which the earthworks may compromise the safe access to and operation, maintenance and repair, upgrading and development of the National Grid; no specific consideration of stability of support structures and surrounding land; and no consideration of any advice provided by Transpower as the owner and operator of the National Grid. While the matter of discretion f) *The impact of earthworks on critical infrastructure* could arguably encompass some of the above

¹⁹ <https://www.qualityplanning.org.nz/node/611>

matters (but not risks to health or public safety), the processing officer would not necessarily be aware of the above specific issues and therefore the assessment would in my opinion be potentially lacking. While I acknowledge the officer recommended deleted rule *EW-R7 Earthworks within the National Grid Yard not meeting rule EW-R2*, has a more prescriptive list of matters of discretion, this does not negate or address the overall appropriateness of a restricted discretionary vs non complying activity status. The specific reasoning in the S42A report²⁰ for the recommended deletion of Rule EW-R7 is not clear given the officer has recommended the retention of the restricted discretionary activity status.

- 6.34. As a side matter, I am perplexed by the pTTPP rule framework to provide for matters of discretion as a separate and generic rule (EW-R8) which are not specific to the effects of the specific earthworks activity. There is no clear linkage between rule EW-RX and rule EW-R8.
- 6.35. Restricted discretionary activity status does not provide for activities to be the subject of a greater level of scrutiny that is achieved by the statutory test that applies to non-complying activities under section 104D of the RMA (when compared to the narrowed consideration under section 104C).
- 6.36. Further, in my opinion, restricted discretionary activity status may result in plan users having unrealistic expectations that consent would be approved. In my opinion, plans that set unrealistic expectations are not efficient or effective. Conversely, non-complying activity status sends a clear signal that a proposed activity is not anticipated and therefore less likely to be consistent with the Plan and to successfully gain resource consent. I note the General approach section to the pTTPP provides that a non-complying activity *“May be declined and/or the Council may impose conditions on such application. An applicant must first demonstrate that the effects of a proposal are no more than minor or that the proposal is not contrary to the objectives and policies of Te Tai o Poutini Plan before it can be considered”*.
- 6.37. For completeness I do not support a discretionary activity status. As also outlined on the Quality Planning Website²¹, *“Other reasons that may give rise to an activity being classed as discretionary in a plan: where it is not suitable in all locations in a zone, where the effects of the activity are so variable that it is not possible to prescribe standards to control them in advance; where an activity defaults to discretionary*

²⁰ S42A Report – General District Wide Matters, Paragraph 152-163.

²¹ <https://www.qualityplanning.org.nz/node/611>

because it cannot meet all the standards for a permitted activity, where activities are not suitable in most locations in a zone or part of a zone but may be suitable in a few locations”.

- 6.38. Consistency with NZECP34 - In considering the appropriateness of a non-complying activity status I am also mindful of the requirements under NZECP34. As outlined by Mr Shortland-Witehira, the scope and purpose of NZECP34 is confined to safety. It is the Code of Practice that sets minimum safe distances to primarily protect persons, property, vehicles and mobile plant from harm or damage from electrical hazards and is focused only on minimum safety standards. It does not address the wider third-party effects that compromise the National Grid, which are managed by the NPSET and required to be managed in the district plan, including by the directive within Chapter 6 - Policy 4 of the RPS.
- 6.39. As noted earlier, EW-RX is a permitted rule with a range of permitted activities (subject to standards) provided. Clear exemptions are also provided. The rule is aligned with NZECP and as highlighted by Mr Shortland-Witehira, there are very limited circumstances in which Transpower would provide a dispensation under NZECP34. In my opinion it would be an anomaly to provide a more permissive consenting pathway (through a RDA activity status) under the district plan for earthworks, where it is not appropriate (or able) to provide a dispensation for under NZECP34.
- 6.40. Consistency with other district plans – I have been involved within assisting Transpower on numerous district plan reviews across New Zealand. During that time in response to new and changing national direction and on the ground effects of certain activities, I have seen rules and policies evolve. The ‘overall’ activity status for earthworks is one such evolution. In the past Transpower has accepted a restricted discretionary activity where the depth standards (in EW-RX 1.a. and b.) are exceeded, but still adopting a non-complying activity status where the standards are not met.
- 6.41. I consider that consistency in approach across jurisdictions is appropriate when giving effect to a national planning instrument such as the NPSET and dealing with linear infrastructure such as the National Grid. The need for consistency is emphasised by the preamble to the NPSET that states *“the transmission network is an extensive and linear system which makes it important that there are consistent policy and regulation approaches by local authorities”*. Notwithstanding the activity status sought through other district plan processes, Transpower’s position and one that I support based on the evidence of Mr Shortland-Witehira and the policy directive within Chapter 6 - Policy

4 of the RPS, Policy 10 of the NPSET, and pTTPP EW-P4, is for a default non complying activity status where any of the standards are not met. The most recent example where this has been sought is the Proposed Wellington City District Plan.

6.42. Costs and Benefits – Attached as **Appendix C** is a Section 32AA evaluation of the change in activity status to Rule EW-RX.

6.43. Based on the above, the amendments I would support are as follows (amendments recommended in the S42A report and which I support are shown as black underline text. Further amendments sought through this evidence are shown as blue text):

EW – RX Earthworks and vertical holes within the National Grid Yard

Activity Status Permitted

Where:

1. Earthworks and vertical holes do not:

a. Exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure;

b. Exceed 3m in depth between 6m and 12m of the outer visible edge of a National Grid support structure;

~~c.~~ Compromise the stability of any National Grid support structures; and

~~d.~~ Result in the loss of vehicular access to a National Grid support structure.

~~e.~~ Result in a reduction of the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001;

2. Earthworks and vertical holes for the following activities are exempt from compliance with EW-RX.1(a) ~~to (d) and (b)~~:

a. Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991;

b. Agricultural or domestic cultivation;

c. The repair, sealing or resealing of a vehicle access or farm track, footpath or driveway;

d. Vertical holes not exceeding 500mm in diameter that are more than 1.5m from the outer edge of a National Grid pole or stay wire, or are a post hole for a farm fence or horticulture structure more than 6m from the visible outer edge of a National Grid tower foundation; and

e. ~~Any other earthwork or land disturbance activities~~ Earthworks and vertical holes subject to a dispensation from Transpower under New Zealand NZECP 34:2001.

Activity status where compliance not achieved:

Restricted Discretionary Non complying

Notification 1. An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA. When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, the Council will give specific consideration to any adverse effects on Transpower New Zealand Limited.

6.44. Attached as **Appendix C** is a Section 32AA evaluation of the amendments recommended through this evidence.

7. Conclusion

7.1. The National Grid is recognised as a matter of national significance through the NPSET, which seeks to ensure a nationally consistent approach to managing this important national resource.

7.2. Specific to Hearing Topic 3, Transpower lodged 11 submission points (four original and seven further point) relating to Earthworks.

7.3. I have reviewed the S42A Report recommendations and largely support or accept the majority of the officer recommendations. The only changes I support through this evidence are to the National Grid specific rule EW-RX.

Pauline Mary Whitney

16 October 2023

Appendix A

National Policy Statement on Electricity Transmission 2008

NATIONAL POLICY STATEMENT

on Electricity Transmission

Issued by notice in the Gazette on 13 March 2008

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newzealand.govt.nz

Preamble

This national policy statement sets out the objective and policies to enable the management of the effects of the electricity transmission network under the Resource Management Act 1991.

In accordance with section 55(2A)(a) of the Act, and within four years of approval of this national policy statement, local authorities are to notify and process under the First Schedule to the Act a plan change or review to give effect as appropriate to the provisions of this national policy statement.

The efficient transmission of electricity on the national grid plays a vital role in the well-being of New Zealand, its people and the environment. Electricity transmission has special characteristics that create challenges for its management under the Act. These include:

- Transporting electricity efficiently over long distances requires support structures (towers or poles), conductors, wires and cables, and sub-stations and switching stations.
- These facilities can create environmental effects of a local, regional and national scale. Some of these effects can be significant.
- The transmission network is an extensive and linear system which makes it important that there are consistent policy and regulatory approaches by local authorities.
- Technical, operational and security requirements associated with the transmission network can limit the extent to which it is feasible to avoid or mitigate all adverse environmental effects.
- The operation, maintenance and future development of the transmission network can be significantly constrained by the adverse environmental impact of third party activities and development.
- The adverse environmental effects of the transmission network are often local – while the benefits may be in a different locality and/or extend beyond the local to the regional and national – making it important that those exercising powers and functions under the Act balance local, regional and national environmental effects (positive and negative).
- Ongoing investment in the transmission network and significant upgrades are expected to be required to meet the demand for electricity and to meet the Government’s objective for a renewable energy future, therefore strategic planning to provide for transmission infrastructure is required.

The national policy statement is to be applied by decision-makers under the Act. The objective and policies are intended to guide decision-makers in drafting plan rules, in making decisions on the notification of the resource consents and in the determination of resource consent applications, and in considering notices of requirement for designations for transmission activities.

However, the national policy statement is not meant to be a substitute for, or prevail over, the Act’s statutory purpose or the statutory tests already in existence. Further, the national policy statement is subject to Part 2 of the Act.

For decision-makers under the Act, the national policy statement is intended to be a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act.

This preamble may assist the interpretation of the national policy statement, where this is needed to resolve uncertainty.

1. Title

This national policy statement is the National Policy Statement on Electricity Transmission 2008.

2. Commencement

This national policy statement comes into force on the 28th day after the date on which it is notified in the *Gazette*.

3. Interpretation

In this national policy statement, unless the context otherwise requires:

Act means the Resource Management Act 1991.

Decision-makers means all persons exercising functions and powers under the Act.

Electricity transmission network, electricity transmission and transmission activities/assets/infrastructure/resources/system all mean part of the national grid of transmission lines and cables (aerial, underground and undersea, including the high-voltage direct current link), stations and sub-stations and other works used to connect grid injection points and grid exit points to convey electricity throughout the North and South Islands of New Zealand.

National environmental standard means a standard prescribed by regulations made under the Act.

National grid means the assets used or owned by Transpower NZ Limited.

Sensitive activities includes schools, residential buildings and hospitals.

4. Matter of national significance

The matter of national significance to which this national policy statement applies is the need to operate, maintain, develop and upgrade the electricity transmission network.

5. Objective

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

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

6. Recognition of the national benefits of transmission

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. Managing the environmental effects of transmission

POLICY 2

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

POLICY 3

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

POLICY 4

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

POLICY 5

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

POLICY 6

Substantial upgrades of transmission infrastructure should be used as an opportunity to reduce existing adverse effects of transmission including such effects on sensitive activities where appropriate.

POLICY 7

Planning and development of the transmission system should minimise adverse effects on urban amenity and avoid adverse effects on town centres and areas of high recreational value or amenity and existing sensitive activities.

POLICY 8

In rural environments, 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.

POLICY 9

Provisions dealing with electric and magnetic fields associated with the electricity transmission network must be based on the International Commission on Non-ionising Radiation Protection *Guidelines for limiting exposure to time varying electric magnetic fields (up to 300 GHz)* (Health Physics, 1998, 74(4): 494-522) and recommendations from the World Health Organisation monograph *Environment Health Criteria* (No 238, June 2007) or revisions thereof and any applicable New Zealand standards or national environmental standards.

8. Managing the adverse effects of third parties on the transmission network

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.

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).

9. Maps

POLICY 12

Territorial authorities must identify the electricity transmission network on their relevant planning maps whether or not the network is designated.

10. Long-term strategic planning for transmission assets

POLICY 13

Decision-makers must recognise that the designation process can facilitate long-term planning for the development, operation and maintenance of electricity transmission infrastructure.

POLICY 14

Regional councils must include objectives, policies and methods to facilitate long-term planning for investment in transmission infrastructure and its integration with land uses.

Explanatory note

This note is not part of the national policy statement but is intended to indicate its general effect

This national policy statement comes into force 28 days after the date of its notification in the *Gazette*. It provides that electricity transmission is a matter of national significance under the Resource Management Act 1991 and prescribes an objective and policies to guide the making of resource management decisions.

The national policy statement requires local authorities to give effect to its provisions in plans made under the Resource Management Act 1991 by initiating a plan change or review within four years of its approval.

Appendix B

Summary Table - Hearing 3 - Response to s42A Report Officer Recommendations

Those officer recommendations opposed and addressed in evidence are shaded light orange.

Submitter	Plan Section	Decision Requested and Reasons	S42A Recommendation and recommended text changes	Response to recommendation
S299.003 Transpower NZ Ltd	Definition Earthworks	<p>Relief sought: Retain the definition</p> <p>Reasons: Transpower supports this definition as it reflects the National Planning Standards. Earthworks are an activity which can directly impact on the National Grid and Transpower supports the provision of a nationally consistent definition.</p>	<p>Accept. <i>114. Earthworks is defined in the pTTPP as: “means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.”</i> <i>115. Cultivation is defined in the pTTPP as: “means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) for the purpose of sowing, growing or harvesting of pasture or crops.”</i> <i>116. Both definitions are National Planning Standard definitions and cannot be changed.</i></p> <p>No recommended change.</p>	The retention of the definition as notified is supported and reflects that sought in the Transpower submission.
S299.057 Transpower NZ Ltd	Earthworks	<p>Relief sought: Provide all relevant earthwork rules within the Earthworks Chapter</p> <p>Reasons: Transpower has concerns as to the provision of earthwork rules across multiple chapters. Such an approach will lead to a myriad of applicable rules which is potentially confusing to plan users and creates the potential for contradictory provisions.</p>	<p>Reject <i>60. Numerous submitters seek to have all earthworks provisions located within the EARTH chapter, and to remove all referencing within EARTH to sites of significance to Māori. The National Planning Standards mandatory direction 7.30, 7.32 and 7.37 require that provisions relating to Earthworks, Light and Temporary Activities must be located in chapters within the General District Wide Matters section of the plan. The National Planning Standards under mandatory direction 7 also requires other district wide provisions such as Energy and Natural Environmental Values to be contained within relevant District Wide topic chapters. The National Planning Standards do not provide any direction with respect to cross referencing or how to manage overlaps. The pTTPP has been structured so that all overlay provisions are located within their respective District Wide topic chapters, whilst generic district wide matters are contained within the General District Wide Matters section, therefore, I do not support the relief sought by Transpower NZ Ltd (S299.057). Cross referencing within the EARTH overview provides clarity for the plan user.</i></p> <p>No recommended change.</p>	On the basis of the officer recommended new rule EW-RX, the officer recommendation is accepted and relocation of the provisions is not sought through evidence.
S299.058 Transpower NZ Ltd	Earthworks EW - P4	<p>Relief sought: Retain Policy EW-P4</p> <p>Reasons: Transpower supports Policy P4 on the basis it recognises critical infrastructure.</p>	<p>Accept <i>95. That EW-P4 be retained as notified.</i></p> <p>No recommended change.</p>	The retention of the policy as notified is supported and reflects that sought in the Transpower submission

<p>S299.059 Transpower NZ Ltd</p>	<p>Earthworks Earthworks Rules</p>	<p>Relief sought: Amend Rule EW-R2 and EW-R7 to exclude earthworks within the National Grid and to provide a stand-alone earthworks rule: Reasons: (a) Specific to earthworks, Transpower supports the provision of standards specific to earthworks on the basis such activities can compromise the National Grid and are a form of development contemplated by the NPSET. are not compromised.</p>	<p>Accept in part <i>152. Numerous submitters have sought to retain rule EW-R7 as notified. Transpower NZ Limited (S299.059 and FS110.044) sought to amend EW-R2 and EW-R7 to exclude earthworks within the National Grid and have sought a new permitted earthworks rule. For the additional rule sought by Transpower, Transpower propose that where compliance is not achieved, consent is required for a non-complying activity. Transpower consider a non-complying activity status is the most effective means of giving effect to the NPSET’s objective of managing the adverse effects of the network and managing the adverse effects of other activities on the network. In particular, in Transpower’s submission, a non-complying activity status:</i> <i>(a) Most appropriately recognises and provides for the effective operation, maintenance, upgrading and development of the network, as required by NPSET Policy 2;</i> <i>(b) Is the best method to manage other activities to ensure the operation, maintenance, upgrading, and development of the network is not compromised, as required by Policy 10.</i> <i>153. Transpower consider that the NPSET provides a strong direction that cannot be achieved by use of the restricted discretionary activity status. Such policy direction can only be achieved by way of a non-complying activity status. Transpower seek that rules EW-R2 and EW-R7 exclude earthworks associated within the National Grid and the following rule be included:</i> <i>154. I agree with Transpower NZ Limited, that a stand-alone rule will be easier for plan implementation and plan users with respect to earthworks and the National Grid. As proposed the rule accurately reflects the requirements NPSET and NZECP 34:2001. However, Transpower have requested a non-complying activity status for any non-compliance with the permitted activity standards. Transpower consider that NPSET provides strong direction for this approach. I note that Objective 1 of the NPSET requires the recognition and facilitation of electricity transmission whilst managing adverse effects on the network (my emphasis added):</i> <i>155. In my view the directive to ‘manage’ adverse effects does not automatically equate to a non-complying activity status. There is also no direction in the earthworks objectives or policies that supports a non-complying activity status.</i> <i>156. Furthermore policies 10 and 11 of the NPS-ET set policy direction with respect to managing adverse effects of third parties on the transmission network (my emphasis added):</i> <i>157. In my opinion the non-complying activity status requested is disproportionate to the</i></p>	<p>While I support the officer recommended amendment to EW-R2 to remove the National Grid references, deletion of the default National Grid yard restricted discretionary rule EW-R7, and provision of a new National Grid Yard specific rule EW-RX, in my evidence I have outlined refinements to the recommended rule and a change in default activity status from restricted discretionary to non-complying.</p>
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			<p><i>policy direction to manage effects to the extent reasonably possible to avoid and to generally not provide for activities within the National Grid buffer corridor. Therefore, I do not support the non-complying activity status sought.</i></p> <p>Changes are recommended to R2, deletion of R7 and insertion of a new National Grid specific rule EW-RX.</p>	
<p>S486.048 Horticulture New Zealand</p> <p>FS110.042 Transpower NZ Ltd</p>	EW - R2	<p>Relief sought: Support. Retain EW-R2 2) i)</p> <p>Reasons: Provision for cultivation in the National Grid Yard is supported.</p> <p>Transpower: Oppose – In its submission, Transpower sought a new National Grid specific earthworks rule. Cultivation is excluded from the definition of earthworks and permitted within the proposed earthworks rule. Where it becomes earthworks, it is permitted in the rule provided access to and stability of support structures are not lost/compromised. Given cultivation is excluded from the definition of earthworks (and therefore not subject to the rule), Transpower would support removal of the term from the rule.</p>	<p>Accept OS. Reject FS.</p> <p>113. Horticulture New Zealand (S486.048) seeks to retain EW-R2.2(i). Transpower NZ Limited (FS110.042) oppose this relief seeking to remove “cultivation” from the rule, because cultivation is excluded from the definition of earthworks (and therefore not subject to the rule). I consider that the effectiveness of EW-2.2 is compromised by the interchanging use of definitions, furthermore, that it is appropriate to enable cultivation where potential effect on the National Grid is managed.</p> <p>114. Earthworks is defined in the pTTPP as: “means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.”</p> <p>115. Cultivation is defined in the pTTPP as: “means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) for the purpose of sowing, growing or harvesting of pasture or crops.”</p> <p>116. Both definitions are National Planning Standard definitions and cannot be changed. The National Planning Standards provide no direction with respect to how cultivation must be addressed in a District Plan, nor does it specify that cultivation cannot be included in the Earthworks Chapter. “Earthworks” and “Cultivation” definitions both refer to land disturbance which is defined by the National Planning Standards as: “means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) that does not permanently alter the profile, contour or height of the land.”</p> <p>117. To resolve interpretation issues and improve effectiveness of the provisions, I recommend that the title of EW-R1 and EW-R2 be amended to refer to “land disturbance”.</p> <p>Changes are recommended to Rule EW-E2, including amendment to the rule title.</p>	<p>The issues with reference to Land Disturbance with the rule titles are outlined in evidence. In relation to the word ‘cultivation’ the deletion of the word was sought on the basis cultivation is excluded from the definition of earthworks and therefore an exemption in the rule is not needed. However, in order to assist with plan interpretation, I support its retention (Rule EW-RX2.b.) and for the avoidance of doubt.</p>

<p>S486.050 Horticulture New Zealand</p> <p>FS110.044 Transpower NZ Ltd</p>	<p>EW – R7</p>	<p>Relief sought: Support. Retain EW-R7</p> <p>Reasons: HortNZ supports a restricted discretionary activity rule for earthworks in the National Grid Yard that do not meet EW-R2.</p> <p>Transpower: Oppose – In its submission, Transpower sought a new permitted earthworks rule. Where compliance is not achieved, consent is required for a noncomplying activity. For the reasons outlined in its original submission, Transpower seeks a no complying activity status.</p>	<p>Accept OS. Reject FS. <i>157. In my opinion the non-complying activity status requested is disproportionate to the policy direction to manage effects to the extent reasonably possible to avoid and to generally not provide for activities within the National Grid buffer corridor. Therefore, I do not support the non-complying activity status sought.</i></p> <p>Changes are recommended to R2, deletion of R7 and insertion of a new National Grid specific rule EW-RX. The new rule retains a restricted discretionary activity status.</p>	<p>The recommendation is opposed and addressed in evidence.</p>
<p>S545.010 Martin & Lisa Kennedy</p> <p>FS110.043 Transpower NZ Ltd</p>	<p>EW - R2</p>	<p>Relief sought: Replace the rules with those developed in the operative Grey District Plan with regard to National Grid matters</p> <p>Reasons: While we understand the need for rules we do not understand why the existing rules have not just been reinstated.</p> <p>Transpower :Oppose – In its submission, Transpower sought a new National Grid specific earthworks rule. While Transpower understands the intent behind the submission to replace the rules with those in the operative Grey District Plan, there are some discrete differences in the rules sought in the Transpower submission and those in the Grey Plan (including activity status).</p>	<p>Reject OS. Accept FS. <i>121. Martin & Lisa Kennedy (S545.010) and Nick Pupich Sandy Jefferies (S546.101) seek to replace the National Grid rules with those developed in the Operative Grey District Plan. Transpower NZ Limited (FS110.043) has opposed this relief sought, stating Transpower sought a new National Grid specific earthworks rule. While Transpower understands the intent behind the submission to replace the rules with those in the operative Grey District Plan, there are some discrete differences in the rules sought in the Transpower NZ Limited (S229.059) original submission and those in the Grey Plan (including activity status). The wording sought reflects and is consistent with the approach sought across New Zealand. I note that the Transpower NZ Limited (S229.059) submission is addressed separately, I do not support relief sought by these submitters.</i></p> <p>Changes are recommended to R2, deletion of R7 and insertion of a new National Grid specific rule EW-RX.</p>	<p>The recommendation is supported. The operative Grey Plan Rule (Item 19.7, 3A(c)) has different depth standards and only applies within 5m of a support structure. Otherwise, the rules are largely aligned and therefore the approach with recommended Rule EW-RX largely reflects the operative Grey Plan rule.</p>

<p>S547.475 Westpower Limited FS110.046 Transpower NZ Ltd</p>	<p>EW - R7</p>	<p>Relief sought: Amend – Add h. Any technical, locational, functional or operational constraints or requirements of the proposed activity. Reasons: To provide for consideration of the needs, constraints or requirement of the activity. Transpower: Oppose – While Transpower understands the intent of the relief sought, it does not consider the sought wording.</p>	<p>Reject OS. Accept FS. <i>158. Westpower Limited (S547.474 and S547.475) seeks to delete clause e. and add a new clause which provides for any technical, locational, functional or operational constraints or requirements of the proposed activity and a new clause which 28ecognizes the benefits arising from the proposed new activity. Transpower NZ Ltd (FS110.046) have opposed this relief sought.</i> Changes are recommended to R2, deletion of R7 and insertion of a new National Grid specific rule EW-RX. The submitters sought references to “Any technical, locational, functional or operational constraints or requirements of the proposed activity” are not included.</p>	<p>The recommendation to not include the clause is supported.</p>
<p>S547.476 Westpower Limited FS110.045 Transpower NZ Ltd</p>	<p>EW – R7</p>	<p>Relief sought: Amend – Add i. The benefits arising from the proposed new activity. Reasons: Transpower: Oppose – While Transpower understands the intent of the relief sought, Transpower has sought a new rule for earthworks within the National Grid Yard.</p>	<p>Reject OS. Accept FS. <i>158. Westpower Limited (S547.474 and S547.475) seeks to delete clause e. and add a new clause which provides for any technical, locational, functional or operational constraints or requirements of the proposed activity and a new clause which recognises the benefits arising from the proposed new activity. Transpower NZ Ltd (FS110.046) have opposed this relief sought.</i> Changes are recommended to R2, deletion of R7 and insertion of a new National Grid specific rule EW-RX. The submitters sought references to “The benefits arising from the activity” are not included.</p>	<p>The recommendation to not include the clause is supported.</p>
<p>S560.325 Royal Forest and Bird Protection Society of New Zealand Inc FS110.047 Transpower NZ Ltd</p>	<p>EW - R7</p>	<p>Relief sought: Amend Make it clear in these two rules, by way of a condition, that: any vegetation clearance that is caused by the earthworks, or by the associated works (e.g., smothering by the excavated materials) must comply with the provisions of the ECO chapter. Reasons: Make it clear in these rules that any vegetation clearance associated with the earthworks must comply with the ECO chapter. Transpower: Oppose – While Transpower does not oppose the intent of the relief sought, it is not considered necessary given the Overview to the Earthworks Chapter.</p>	<p>Reject OS. Accept FS. <i>159. Forest & Bird (S560.325) seek to amend EW-R7 to include a condition with respect to vegetation clearance. Transpower NZ Limited (FS110.047), Westpower Limited (FS222.0319) and Bathurst Resources Limited and BT Mining Limited (FS89.079) have opposed this relief sought as these matters are addressed in the District Wide Chapters and Overlay Chapters referenced in the EARTH Overview. I agree with the further submitters that the EARTH Overview provides appropriate cross referencing.</i> Changes are recommended to R2, deletion of R7 and insertion of a new National Grid specific rule EW-RX. The submitters sought references are not included.</p>	<p>The recommendation is supported. The overview to the chapter makes it clear other provision in the plan (specifically within overlays) also apply.</p>

<p>S604.005 Birchfield Ross Mining Limited</p> <p>FS110.006 Transpower NZ Ltd</p>	<p>Definitions Earthworks</p>	<p>Relief sought: Amend the definition of earthworks to exclude minerals extraction prospecting and exploration, as follows: "means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavating of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, mineral prospecting, mineral extraction, mineral exploration and disturbance of land for the installation of fenceposts."</p> <p>Reasons: The definition of earthworks would currently capture minerals extraction, exploration and prospecting.</p> <p>Transpower: Oppose – While Transpower understands the intent behind the submission and relief sought, it is opposed to the relief sought on the basis the amendments would result in the definition being inconsistent with that of 'Earthworks' provided in the National Planning Standards. Such inconsistency will generate unnecessary confusion and would have significant implications in the application of the definition within the Proposed Te Tai O Poutini Plan.</p>	<p>Reject OS. Accept FS.</p> <p><i>66. I support minor amendments to the Overview to provide improved clarity with respect to earthworks associated with mineral extraction. I also note that the advice notes under EW-R6 will provide further direction. In my opinion, these provisions will provide sufficient clarity to plan users on the relationship between the Earthworks chapter and mineral extraction activities.</i></p> <p><i>67. A number of submitters seek to amend the definition of 'earthworks' on the basis that the proposed definition would capture minerals extraction, exploration and prospecting. I do not support further amendments to this definition as the proposed definition is in keeping with the National Planning Standards. I consider that the number of amendments recommended to the EARTH Overview, EW-R1, and EW-R2 which will provide sufficient clarification on the relationship between the EARTH chapter and other activities, including activities associated with mineral extraction.</i></p> <p>The overview is amended as follows:</p> <p><i>Other relevant Te Tai o Poutini Plan provisions</i></p> <p><i>In addition to the provisions in this chapter, earthworks and land disturbance are also subject to additional provisions in some zone chapters and a number of Part 2: District-Wide Matters chapters, including:</i></p> <p>...</p> <p><i>Earthworks Associated with Mineral Extraction - the rules that apply to mineral extraction activities are located in the Zone Chapters have provisions in relation to mineral extraction and its ancillary activities including earthworks.</i></p>	<p>The retention of the definition as notified is supported and reflects that sought in the Transpower submission.</p> <p>Specific to effects on the National Grid, I agree with the reporting officer (refer para 66 and 67 of the S42A report) to not exclude mining, prospecting and exploration from the definition as a) it would not reflect the National Planning Standards and b) would have implications for the application of the National Grid earthworks rule.</p>
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Appendix C

Section 32AA – Change in default activity status to Rule EW-RX

<p>EW – RX Earthworks and vertical holes within the National Grid Yard</p> <p>Activity Status Permitted</p> <p>Where:</p> <p>1. Earthworks and vertical holes do not:</p> <p>a. Exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure;</p> <p>b. Exceed 3m in depth between 6m and 12m of the outer visible edge of a National Grid support structure;</p> <p>c. Compromise the stability of any National Grid support structures; and</p> <p>d. Result in the loss of vehicular access to a National Grid support structure; and</p> <p>e. Result in a reduction of the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001;</p> <p>2. Earthworks and vertical holes for the following activities are exempt from compliance with EW-RX.1(a) to (d) and (b):</p> <p>a. Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991;</p>	<p><i>Other reasonably practicable options</i></p> <p>The other reasonably practical options are:</p> <ol style="list-style-type: none"> 1. No changes to the activity status rule 2. Deletion of a National Grid specific rule <p>Given the policy directive within Chapter 6 - Policy 4 of the RPS and requirement that a district plan give effect to the NPSET, the deletion of the earthworks rule is not an option that could be considered the most appropriate way to give effect to the NPSET and achieve pTTPP objective EW-O1 and EW-P4..</p> <p>Based on the evidence provided by Transpower, the retention of the rule as notified is also not considered the most appropriate way.</p> <p><i>Costs and benefits</i></p> <p>The officer recommendation to include a new separate National Grid Yard rule for earthworks is supported.</p> <p>This evidence seeks a change in the default activity status. The benefits of the recommended change are to provide a robust and comprehensive rule framework for earthworks within the National Grid Yard to ensure the Grid assets are not compromised and security of supply is ensured.</p> <p>The costs are that the amended activity status will impose a more stringent consenting regime for earthworks near the National Grid. However, it is noted that the need for resource consent does not change and that a robust assessment of effects would still be required for a restricted discretionary activity. As such the costs do not outweigh the benefits of ensuring a continued safe and secure supply of electricity.</p> <p><i>Effectiveness and efficiency</i></p> <p>The amended policy will be effective in achieving Objective EW-O1, EW-P4, RPS Chapter 6 - Policy 4, and giving effect to the NPSET Policy 10.</p>
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- b. Agricultural or domestic cultivation;
- c. The repair, sealing or resealing of a vehicle access or farm track, [footpath or driveway](#);
- d. Vertical holes not exceeding 500mm in diameter that are more than 1.5m from the outer edge of a National Grid pole or stay wire, or are a post hole for a farm fence or horticulture structure more than 6m from the visible outer edge of a National Grid tower foundation; and
- e. ~~Any other earthwork or land disturbance activities~~ [Earthworks and vertical holes](#) subject to a dispensation from Transpower under New Zealand NZECP 34:2001.

Activity status where compliance not achieved:

~~Restricted Discretionary~~ [Non complying](#)

Notification 1. An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA. When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, the Council will give specific consideration to any adverse effects on Transpower New Zealand Limited.

Risk of acting or not acting

The risk of not acting is extremely significant in terms of risk to the integrity of the National Grid which could affect thousands of homes and businesses. There is also a high risk to both structures and lives if inappropriate earthworks are carried out within close proximity to the lines and support structures. The Grid is a linear network so an issue on one component can have wider ramifications.

Decision about most appropriate option

Having considered the costs and benefits, the benefits outweigh the costs, and the amended activity status within the rule will be effective in achieving Objective EW-O1, EW-P4, RPS Chapter 6 - Policy 4, and giving effect to the NPSET Policy 10.

