

In the Environment Court of New Zealand
at Christchurch

I mua i te Kōti Taiao o Aotearoa
I te rohe o Ōtautahi

ENV-2025-CHC-

under: the Resource Management Act 1991

in the matter of: an appeal under clause 14 of Schedule 1 of the
Resource Management Act 1991

between: **Transpower New Zealand Limited**
Appellant

and: **Buller District Council**
Respondent

and: **Grey District Council**
Respondent

and: **Westland District Council**
Respondent

Notice of appeal by Transpower New Zealand Limited against
decisions on Proposed Te Tai o Poutini District Plan

Dated: 8 December 2025

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**NOTICE OF APPEAL BY TRANSPOWER NEW ZEALAND LIMITED AGAINST DECISIONS
ON PROPOSED TE TAI O POUTINI DISTRICT PLAN**

Clause 14(1) of First Schedule, Resource Management Act 1991

To The Registrar
Environment Court
Christchurch

Introduction

- 1 Transpower New Zealand Limited (*Transpower*) appeals against parts of a decision of the Buller, Grey and Westland District Councils (*Councils*) on Te Tai o Poutini Plan, being the proposed combined District Plan for the West Coast, covering Buller, Grey and Westland districts (*Proposed Plan*) (*Decision*).
- 2 Transpower made a submission (number 299) and further submission (number 110) on the Proposed Plan.
- 3 Transpower is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (*RMA*).
- 4 Transpower received notice of the Decision on 10 October 2025.
- 5 The Decision was made by the Councils.
- 6 The parts of the Decision that Transpower is appealing are decisions on:
 - 6.1 The Strategic Directions Overview;
 - 6.2 Objective UFD-01;
 - 6.3 Policy UFD-P4;
 - 6.4 Policy CE-P3;
 - 6.5 Policy CE-P8;
 - 6.6 Earthworks Chapter – Other relevant Te Tai o Poutini Plan provisions;
 - 6.7 Rule EW-R6;
 - 6.8 Policy ENG-P8;
 - 6.9 Provisions of the ECO – Ecosystems and Indigenous Biodiversity – Ngā Pūaha Rauropi me te Kanorau Koiora chapter, relevant to Transpower, including:
 - (a) Policies ECO-P3, ECO-P7, Policy ECO-P8, ECO-P10 and Policy ECO-P11.
 - (b) Rule-ECO R1, Rule ECO-R2, Rule ECO-R7, Rule ECO-R9, Rule ECO-R10, Rule ECO-R11, and Rule ECO-R12.

Reasons for the appeal

- 7 Transpower is generally supportive of the Decision as it relates to the National Grid. However, Transpower considers that amendments are needed to ensure that the Decision:
 - 7.1 accords with the relevant requirements of Part 2 of the RMA;
 - 7.2 gives effect to the National Policy Statement on Electricity Transmission (*NPSET*), as required by section 75(3)(a) of the RMA;
 - 7.3 gives effect to the West Coast Regional Policy Statement (*WCRPS*), particularly Chapter 6 (Policies 2 and 7) and Chapter 9 (Policy 2);
 - 7.4 promotes the sustainable management of natural and physical resources;
 - 7.5 promotes the efficient use and development of natural and physical resources;
 - 7.6 results in the most appropriate plan provisions in terms of section 32 of the RMA;
 - 7.7 implements the Councils' functions under section 31 of the RMA; and
 - 7.8 accords with best resource management practice.
- 8 Without limiting the generality of the reasons at paragraph 7 above, the specific reasons for Transpower's appeal are:
 - 8.1 The Strategic Overview reference to regionally significant infrastructure does not address "development" or "upgrade", which are activities that will be needed over the life of the District Plan.
 - 8.2 The restructuring and simplification of UFD-O1 in the Decision gives inappropriate prominence to the word 'attractive'.
 - 8.3 The reference to 'reverse sensitivity' in UFD-P4 unduly narrows this policy. Other effects can also compromise regionally significant infrastructure. The reference to 'Infrastructure' does not recognise the distinction the District Plan makes between Infrastructure and Energy activities, both of which need to be covered by this policy.
 - 8.4 Policy CE-P3 requires an 'or' to be added to the end of the penultimate line to make it clear that the listed matters are alternative exemptions.
 - 8.5 The reference in CE-P8 in the second sentence to 'upgrades' of the National Grid is inappropriately restrictive as should refer to 'major upgrades'. This change is consistent with the equivalent policy ENG-P8 in the Energy chapter.
 - 8.6 The statement in the introduction to the Earthworks chapter ('Other relevant Te Tai o Poutini Plan provisions') that the earthworks rules in this chapter do not apply to mineral extraction, mineral prospecting or mineral exploration, means the National Grid Yard Earthworks rule (EW-R6) would not apply to these activities. This exemption does not give effect to the NPSET.

- 8.7 There is an error in EW-R6 in the exemption cross-referencing. There should also be no exemption for the listed activities from ground to conductor clearance distance requirements. The reference to EW-R1 within the rule incorrectly implies no other earthwork rules apply.
- 8.8 The wording of Policy ENG-P8 may create ambiguity as to how it is read alongside policies that require “protection” or “avoidance” of effects on the natural environment. It needs to be clear that Policy ENG-P8 takes precedence over those other policies in the event of any conflict.
- 8.9 The new policy framework in the ECO – Ecosystems and Indigenous Biodiversity chapter raises similar interpretive issues to ENG-P8 as to how they are to be read together. The policies need to be amended to clearly enable activities relating to the National Grid.
- 8.10 The rules in the ECO – Ecosystems and Indigenous Biodiversity chapter are unclear as to what activities are captured and which standards apply. These provisions also contain inappropriate activity status for National Grid activities.
- 8.11 The additional specific reasons set out in **Appendix A** to this notice.

Relief sought

- 9 Transpower seeks the following relief (or relief with the same or similar effect):
 - 9.1 Amendments to the specified and related provisions necessary to address the general and specific reasons for Transpower’s appeal set out above; and/or
 - 9.2 The amendments set out in **Appendix A**; and/or
 - 9.3 Such other or consequential relief as may be necessary to address the matters raised in Transpower’s submissions and this appeal.
- 10 The following documents are attached to this notice:
 - 10.1 Further reasons and particulars of the relief sought (**Appendix A**);
 - 10.2 A copy of Transpower’s submission and further submission (**Appendix B**);
 - 10.3 A copy of the relevant parts of the Decision (**Appendix C**); and
 - 10.4 A list of names and addresses of persons to be served with a copy of this notice (**Appendix D**).
- 11 Transpower agrees to participate in mediation or other alternative dispute resolution mechanism.

Signed for and on behalf of Transpower New Zealand Limited by its solicitors and authorised agents Chapman Tripp



Luke Hinchey
Partner
8 December 2025

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission or the part of the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

APPENDIX A - FURTHER REASONS AND PARTICULARS OF THE RELIEF SOUGHT

Provision appealed	Reasons for appeal	Relief sought (changes tracked with additions <u>underlined</u> and deletions in ~~striketrough~~)
Strategic Directions Overview	Clause 6 refers only to the 'operation' and 'maintenance' of regionally significant infrastructure. Transpower considers it important that this strategic framing also includes reference to the 'development and 'upgrade' of regionally significant infrastructure which are distinct and unrelated activities that will be needed over the life of the District Plan.	<i>The Strategic Directions are intended to demonstrate:</i> ... 6. Operation, <u>development, upgrade</u> and maintenance of regionally significant infrastructure;
UFD-01	The restructured objective/policy structure has inappropriately elevated the requirement for urban environments to be 'attractive', particularly as this is the sole objective informing the policies. The Councils' decision-making panel accepted this wording to be problematic but did not remove the word 'attractive'. This reference in the objective may lead to an unduly narrow and unnecessary interpretation of associated policies for urban form and design. For example, the need to achieve safe, efficient and effective infrastructure (UFD-P4) has no link to making urban environments "attractive" in an urban design sense. Given there is no specific strategic decision policies for Energy, Infrastructure and Transport, UFD-01 (and the associated policies) will have high relevance to the National Grid.	<i>UFD - 01</i> <i>Urban environments and built form ~~are attractive to~~ <u>support</u> residents, businesses and visitors and support economic viability and function on Te Tai o Poutini/the West Coast.</i>
UFD-P4	The added reference to 'reverse sensitivity' in UFD-P4 undermines the utility of this policy as the policy now does not recognise there may be other effects that can compromise regionally significant infrastructure. This	<i>UFD - P4</i>

Provision appealed	Reasons for appeal	Relief sought (changes tracked with additions <u>underlined</u> and deletions in ~~strikethrough~~)
	approach does not give effect to the higher-level policy direction in Policy 10 of the NPS-ET, which is not limited to reverse sensitivity, but requires managing activities to ensure the operation, maintenance, upgrading, and development of the electricity transmission network is not compromised (i.e. the management of <i>direct</i> effects). The added reference to 'and energy' after the word 'infrastructure' reflects the distinction the plan makes between Energy and Infrastructure activities and is needed to help avoid any uncertainty.	<i>Promote the safe, efficient and effective provision and use of infrastructure <u>and energy activities</u>, including the optimisation of the use of existing infrastructure <u>and energy activities</u>, and protection of regionally significant infrastructure from <u>effects from other activities</u>, including reverse sensitivity effects.</i>
CE-P3	CE-P3 should follow the standard approach in the Plan by adding an 'or' to the end of the penultimate line to make it clear that the listed matters are alternative exemptions.	CE - P3 <i>Only allow new subdivision, use and development within areas of outstanding coastal natural character, outstanding coastal natural landscapes and outstanding coastal natural features where:</i> <i>a. The elements, patterns, processes and qualities that contribute to the outstanding or high natural character or landscape are maintained;</i> <i>b. Adverse effects on areas of significant indigenous biodiversity, and Outstanding Coastal Environment Areas are avoided;</i> <i>c. The development is of a size, scale and nature that is appropriate to the environment;</i> <i>d. It is for:</i> <i>i. Poutini Ngāi Tahu activities; or</i> <i>ii. Māori Purpose Activities within the Māori Purpose Zone; or</i> <i>iii. Cultural harvest;</i> <i>e. It is National Grid infrastructure that has a functional or operational need to locate in these areas; <u>or</u></i>

Provision appealed	Reasons for appeal	Relief sought (changes tracked with additions <u>underlined</u> and deletions in ~~strikethrough~~)
		<i>f. It has a minor or transitory effect.</i>
CE-P8	The reference to 'upgrades' of the National Grid in the second sentence should refer to enabling 'major upgrades', to be consistent with the equivalent policy in the Energy chapter (ENG-P8).	CE - P8 <i>Enable the maintenance, repair, operation and minor upgrade of the National Grid. Where new development and <u>major</u> upgrades of the National Grid are required, seek to avoid and otherwise remedy or mitigate adverse effects on Overlay Chapter areas.</i>
EW - Other relevant Te Tai o Poutini Plan provisions	The Earthworks chapter was amended through the hearing process to exclude mining activities from all the EW rules, which would mean the protective National Grid Yard Earthworks rule (EW-E6) would not apply to mineral extraction, mineral prospecting or mineral exploration. A blanket exemption for <i>mineral extraction, mineral prospecting or mineral exploration</i> may have been unintended and does not give effect to the NPSET.	Other relevant Te Tai o Poutini Plan provisions <i>In addition to the provisions in this chapter, earthworks are also subject to additional provisions in some zone chapters and a number of Part 2: District-Wide Matters chapters, including:</i> <i>Earthworks Associated with Mineral Extraction - the Zone and Overlay Chapters have provisions which manage mineral extraction and its ancillary activities. <u>Except for EW-R6,</u> ~~t~~The earthwork rules within this chapter do not apply to mineral extraction, mineral prospecting or mineral exploration.</i>
EW-R6	There is an error in EW-R6 in the exemption cross-reference, which should not refer to EW-R7.1(a) to (e). Further, there should be no exemption from ground to conductor clearance distances as required by the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001. This Code of Practice ensures the health and safety of people.	EW - R6 <i>Earthworks and vertical holes within the National Grid Yard</i> <i>Activity Status Permitted</i> <i>Where:</i> ~~1. All standards in Rule EW - R1 are complied with; and~~

Provision appealed	Reasons for appeal	Relief sought (changes tracked with additions <u>underlined</u> and deletions in ~~strikethrough~~)
	Deletion is also sought of Clause 1. "All standards in Rule EW-R1 are complied with; and". This clause was inserted through the decision. The purpose of EW-R6 is to provide an additional rule for earthworks and vertical holes in the defined National Grid Yard. The reference to requiring compliance with EW-R1 implies that compliance with EW-R2 – EW-R5 is not required. Multiple rules can apply. As outlined in the introductory text to the rules within the chapter "In some cases, consent may be required under rules in this Chapter as well as rules in other Chapters in the Plan. In those cases, unless otherwise specifically stated in a rule, consent is required under each of those identified rules."	1. <i>Earthworks and vertical holes do not:</i> i. <i>Exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure;</i> ii. <i>Exceed 3m in depth between 6m and 12m of the outer visible edge of a National Grid support structure;</i> ~~(iii) 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;~~ iii. <i>Compromise the stability of any National Grid support structures; ~~and~~</i> iv. <i>Result in the loss of vehicular access to a National Grid support structure; ~~and~~</i> v. <i><u>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.</u></i> 2. <i>Earthworks and vertical holes for the following activities are exempt from compliance with EW - ~~R7.1(a) to (e)~~ <u>R6.1(i) to (iv)</u>:</i> ~~a~~i. <i>Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991;</i> ~~b~~ii. <i>Agricultural or domestic cultivation;</i> ~~c~~iii. <i>The repair, sealing or resealing of a vehicle access, farm track, footpath, or driveway;</i> ~~d~~iv. <i>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</i> ~~e~~v. <i>Earthworks and vertical holes subject to a dispensation from Transpower under New Zealand NZECP 34: d2001</i>

Provision appealed	Reasons for appeal	Relief sought (changes tracked with additions <u>underlined</u> and deletions in ~~strikethrough~~)
ENG-P8	The wording of Policy ENG-P8 does not give this policy clear precedence in the event of conflict with other policies. This policy is critical to give effect to the NPSET and provide a sufficiently enabling policy pathway for National Grid activities.	ENG - P8 <i>Manage the adverse effects of the development and major upgrade of the National Grid by:</i> <i>a. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;</i> <i>b. Seeking to avoid adverse effects on areas of significant environmental values and the values identified in Schedules One - Eight and Appendix Ten;</i> <i>c. Where the National Grid has a functional need or operational need to locate within the Coastal Environment, manage adverse effects by: <i>i. Seeking to avoid adverse effects on areas and values identified in Schedules One - Eight and Appendix Ten and where it is not practicable to avoid because of functional needs or operational needs of the National Grid, to remedy or mitigate; and</i> <i>ii. Seeking to avoid significant adverse effects on other areas of natural character, natural attributes and character of natural features and landscapes and indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010; and</i> </i> <i>d. Recognise that there may be some areas within the sites and areas identified in Schedules One - Eight and Appendix Ten where avoidance of adverse effects is required to protect the identified values and characteristics; and</i> <i>e. Remedying or mitigating any adverse effects from the operation, maintenance, upgrade or development of the National Grid which cannot be avoided, to the extent practicable.</i> <i>f. <u>In the event of any conflict with any other policies within the Plan Policy ENG-P8 takes precedence.</u></i>

Provision appealed	Reasons for appeal	Relief sought (changes tracked with additions <u>underlined</u> and deletions in ~~strikethrough~~)
Policies ECO-P3, ECO-P7, ECO-P8, ECO-P10 and ECO-P11.	The proposed new policy framework in the ECO – Ecosystems and Indigenous Biodiversity chapter does not provide adequate clarity on how competing policy directions will be reconciled for activities relating to the National Grid. ECO-P11 is a specific policy for the National Grid, but the wording does not give this policy precedence in the event of conflict with the related provisions in ECO-P3, ECO-P7, ECO-P8 and ECO-P10.	<i>ECO - P11</i> <i>In relation to the National Grid and renewable electricity generation activities, the adverse effects on indigenous biodiversity will be managed:</i> <i>a. In relation to the National Grid by:</i> <i>i. Recognising and providing for the operation, maintenance and upgrade of existing National Grid assets, and in areas of significant indigenous biodiversity and SNA identified in Schedule Four, avoiding, remedying or mitigating adverse effects to the extent practicable;</i> <i>ii. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;</i> <i>iii. For new activities, seeking to avoid adverse effects on areas of significant indigenous biodiversity and SNA identified in Schedule Four and where having regard to the route, site and method selection and functional need or operational need, it is not practicable to avoid all adverse effects, to remedy or mitigate any residual adverse effects to the extent practicable;</i> <i>iv. For new activities within the coastal environment seeking to avoid significant adverse effects on indigenous biodiversity values that meet the criteria in Policy 11 (b) of the NZCPS 2010, and where adverse effects cannot be avoided, remedy or mitigate any residual adverse effects to the extent practicable;</i> <i>b. In relation to renewable electricity generation activities by:</i> <i>i. Recognising and providing for the operation, maintenance, repair and upgrade of existing renewable electricity generation activities, and in areas of significant indigenous biodiversity and SNA identified in Schedule Four, avoiding,</i>

Provision appealed	Reasons for appeal	Relief sought (changes tracked with additions <u>underlined</u> and deletions in ~~strikethrough~~)
		<i>remedying or mitigating adverse effects to the extent practicable;</i> <i>ii. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;</i> <i>iii. Seeking to avoid adverse effects on areas of significant indigenous biodiversity and SNA identified in Schedule Four and where it is not practicable to avoid because of functional need or operational need, remedy or mitigate any residual adverse effects to the extent practicable;</i> <i>iv. Within the coastal environment, seeking to avoid significant adverse effects on indigenous biodiversity values that meet the criteria in Policy 11 (b) of the NZCPS 2010, and where adverse effects cannot be avoided, remedy or mitigate any residual adverse effects to the extent practicable;</i> <i>c. By considering the net gain for biodiversity values of biodiversity offsetting or compensation where this is offered.</i> <i>d. <u>In the event of any conflict with any other policies within the Plan relating to indigenous biodiversity, Policy ECO-P11 takes precedence.</u></i> Alternatively, Transpower seeks that if clause d. is not inserted in ECO-P11, then specific statements within applicable ECO policies (specifically policies ECO-P3, ECO-P7, ECO-P8 and ECO-P10) are updated to the effect that these policies do not apply to the National Grid. The appropriate wording would reflect that within ECO-P9, which states, "Except in relation to the National Grid..."
Rules ECO-R1, ECO-R2, ECO-R7, ECO-R9, ECO-	The updated proposed Ecosystems and Indigenous Biodiversity chapter does not provide the required clarity on what activities are captured and which standards apply. It applies inappropriate default (potentially non-complying) activity status given the nature of various National Grid	Transpower seeks broad drafting changes to ensure these rules are structured to work as intended and provide clarity. Transpower is willing to engage in mediation and/or discussions on drafting options to achieve these outcomes.

Provision appealed	Reasons for appeal	Relief sought (changes tracked with additions <u>underlined</u> and deletions in ~~striketrough~~)
R10, ECO-R11, and ECO-R12.	activities and their effects. The relationship between the rules is not clear. Some more specific issues include: a. R1 – the wording is not clear as to what it captures. The exemption from clause 3 for the National Grid is not clearly worded. b. R2 – it is not clear what breach of standards result in the default activity status applying, and what the default restricted discretionary and discretionary status applies to. The relationship between R1 and R2 is not clear as to whether R1 applies in addition to R2 (as both rules apply to the National Grid). c. R7 – it is not clear how the rule would be applied to existing activities. d. R9 – It is not clear if these standards are intended to apply to R1 and R2. e. R10 – The potential default non-complying activity status is not appropriate for the National Grid. f. R11 - As drafted, notwithstanding the earlier rules, this discretionary rule applies to all National Grid activities for any indigenous biodiversity clearance (whether significant or not). The rule does not cross reference to any earlier rules. g. R12 – The non-complying rule that could (by default) apply to the National Grid is not supported.	

APPENDIX B – COPY OF TRANSPOWER’S SUBMISSION AND FURTHER SUBMISSION

Submission by Transpower New Zealand Limited on the Proposed Te Tai o Poutini Plan

26 October 2022

Keeping the energy flowing



TRANSPOWER



Te Tai o Poutini Plan Proposed Plan

Submission form

Te Tai o
Poutini Plan
Proposed
Plan

**Have
your
say!**

We need your feedback. We want to hear from you on the proposed Te Tai o Poutini Plan. What do you support and what would you like changed? And why? It is just as important to understand what you like in the Proposed Plan as what you don't. Understanding everyone's perspectives is essential for developing a balanced plan.

Your details:

First name:

Surname:

Are you submitting as an individual, or on behalf of an organisation?

☐

Individual

☒

Organisation

Organisation (if applicable): Transpower New Zealand Limited

Would you gain an advantage in trade competition through this submission?

☐

Yes

☒

No

If you **could** gain an advantage in trade competition through this submission please complete the following:

I am ☐ /am not ☐ directly affected by an effect of the subject matter of the submission that (a) adversely affects the environment; and (b) does not relate to trade competition or the effects of trade competition.

Postal address: 31 Gilberthorpes Road, Islington 8042, Christchurch

Email: environment.policy@transpower.co.nz

Phone:

03 590 7126

Signature:

Date:

26 October 2022

Refer Address For Service details

Your submission:

The specific provisions of the proposal that my submission relates to are:

☒ Strategic Direction

☒ Energy Infrastructure and Transport

☒ Hazards and Risks

☒ Historical and Cultural Values

☒ Natural Environment Values

☒ Subdivision

☒ General District Wide Matters

☒ Zones

☒ Schedules

☒ Appendices

☒ General feedback

All submitters have the opportunity to present their feedback to Commissioners during the hearings process. Hearings are anticipated to be held in the middle of 2023. Please indicate your preferred option below:

☒ I wish to speak to my submission

☐ I do not wish to speak to my submission

If others make a similar submission, would you consider presenting a joint case with them at a hearing?

☐ Yes, I would consider presenting a joint case

☒ No, I would not consider presenting a joint case

Public information - all information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information. The content provided in your submission form will be published to the Te Tai o Poutini Plan website and available to the public. It is your responsibility to ensure that your submission does not include any personal information that you do not want published.

Want to know more?

www.tppp.nz

0508 800 118



**Te Tai o Poutini
PLAN**

A combined district plan for the West Coast

(Include whether you support or oppose the specific provisions or wish to have them amended, reasons for your views and the decision you seek from us).

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

[illegible]

Please attach more pages if required.

► Did you know you can complete this submission form online?



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**TTPP Submissions, PO Box 66,
Greymouth 7840**

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www.ttpz.nz
0508 800 118



Te Tai o Poutini

PLAN

A combined district plan for the West Coast

ADDRESS FOR SERVICE

Trudi Burney – Senior Environmental Planner
Environmental Policy and Planning Group
Address: 31 Gilberthorpes Road, Islington 8042, Christchurch
Ph: 03 590 7126

Email: environment.policy@transpower.co.nz

Submission by Transpower New Zealand Limited on the Proposed Te Tai o Poutini Plan

Introduction

Transpower New Zealand Limited (“**Transpower**”) welcomes the opportunity to make a submission on the Proposed Te Tai o Poutini Plan (“**Proposed Plan**”). The following provides an overview of Transpower’s role and function including;

- a description of Transpower’s assets on the West Coast;
- an overview of the Resource Management Act 1991 (RMA) statutory framework as it relates to Transpower’s assets and functions; and
- specific comments on provisions of the Proposed Plan.

Transpower appreciates that Council has incorporated some of its feedback on the exposure draft of the District Plan, particularly in the Energy Chapter. However, it notes that there are some fundamental elements which have not been incorporated into the plan provisions, particularly in the overlay chapters. Section 75(3)(a) of the RMA requires that district plans must ‘give effect’ to a National Policy Statement, and the operative Regional Policy Statement. Case law has established that the words “give effect to” means to implement, which is a strong directive, creating a firm obligation on the part of those subject to it. Transpower reiterates its concerns that the Proposed Plan does not give effect to the National Policy Statement on Electricity Transmission 2008.

Overview

The following comments are provided to inform the Proposed Plan to ensure that its corresponding planning framework appropriately recognises and provides for the National Grid.

From Transpower’s perspective, the provisions of the District Plan need to ensure:

- The National Policy Statement on Electricity Transmission 2008 (“**NPSET**” or “**NPS**”) is given effect to;
 - The sustainable management of the National Grid as a physical resource of national significance is recognised;
 - The benefits of the National Grid at local, regional and national levels are recognised and provided for;
 - The need for the operation, maintenance, upgrade and development of the electricity transmission network is recognised and provided for; and
- The protection of the National Grid from issues of reverse sensitivity and the adverse effects of others’ activities is recognised to ensure the National Grid is not compromised.

Introduction to Transpower

Transpower is a State-Owned Enterprise that plans, builds, maintains and operates New Zealand’s National Grid, the high voltage electricity transmission network for the country. The National Grid links electricity generators directly to major industrial users and distribution

companies, feeding electricity to the local networks that distribute electricity to homes and businesses. The role of Transpower is shown in Figure 1 below. The National Grid comprises towers, poles, lines, cables substations, a telecommunications network and other ancillary equipment stretching and connecting the length and breadth of the country from Kaikohe in the North Island down to Tiwai in the South Island, with two national control centres (in Hamilton and Wellington).

The National Grid includes approximately 11,000 km of transmission lines and over 170 substations, supported by a telecommunications network of around 300 telecommunication sites, which help link together the components that make up the National Grid.

Transpower's role and function is determined by the State-Owned Enterprises Act 1986, the company's Statement of Corporate Intent, and the regulatory framework within which it operates. Transpower does not generate electricity, nor does it have any retail functions.

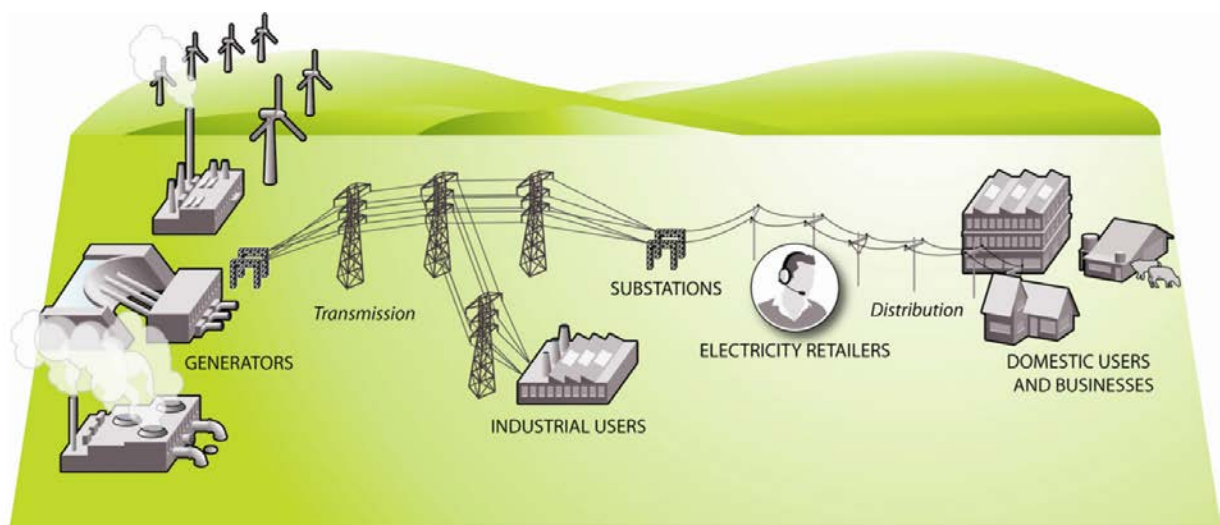


Figure 1. Role of Transpower in New Zealand's electricity industry. (Source: MBIE)

Transpower's role as outlined in its Statement of Corporate Intent for July 2022, states that:

Transpower is central to the New Zealand electricity industry, connecting New Zealanders to their power system through safe, smart solutions for today and tomorrow. Our principal commercial activities are:

- As grid owner, to reliably and efficiently transport electricity from generators to distributors and large users, and*
- As system operator, to operate a competitive electricity market and deliver a secure power system*

In line with the above, Transpower needs to efficiently maintain and develop the network to meet increasing demand, to connect new generation, and to seek security of supply, thereby contributing to New Zealand's economic and social aspirations. It must be emphasised that the National Grid is an ever-developing system, responding to changing supply and demand patterns, growth, reliability and security needs. As the economy electrifies in pursuit of the most cost efficient and renewable sources, the base case in Transpower's "Whakamana i Te Mauri Hiko" predicts that electricity demand is likely to increase around 55% by 2050. Whakamana i Te Mauri Hiko suggests that meeting this projected demand will require

significant and frequent investment in New Zealand's electricity generation portfolio over the coming 30 years, including new sources of resilient and reliable grid connected renewable generation. In addition, new connections and capacity increases will be required across the transmission system to support demand growth driven by the electrification of transport and process heat. Simply put, New Zealand's electricity transmission system is the infrastructure on which our zero-carbon future will be built. This work supports Transpower's view that there will be an enduring role for the National Grid in the future, and the need to build new National Grid lines and substations to connect new, renewable generation sources to the electricity network.

The National Grid has operational requirements and engineering constraints that dictate and constrain where it is located and the way it is operated, maintained, upgraded and developed. Operational requirements are set out in legislation, rules and regulations that govern the National Grid, including the Electricity Act 1992, the Electricity Industry Participation Code, the New Zealand Electricity Code of Practice for Electricity Safe Distances (NZECP 34:2001), and the Electricity (Hazards from Trees) Regulations 2003.

It is important to note that Transpower's role is distinct from electricity generation, distribution or retail. Transpower provides the required infrastructure to transport electricity from the point of generation to local lines distribution companies, which supply electricity to everyday users. These users may be a considerable distance from the point of generation.

West Coast Area Assets

The following National Grid assets are within the West Coast region.

- Arahura - Dobson A (AHA-DOB-A) 66kV Single Circuit line on Single and Pi Poles
- Arahura – Dobson A1 – CBL Section 66KV primary system voltage
- Arahura - Otira A (AHA-OTI-A) 66kV Double Circuit line on Single, Pi-Poles (Transpower own this from TMR (Three Mile Road) to OTI)
- Blackwater - Inangahua A (BWR-IGH-A) 110kV Single Circuit line on Pi Poles
- Coleridge - Otira A (COL-OTI-A) 66kV Double Circuit line on Single Poles, Pi Poles, Triple Poles and Steel Towers
- Dobson - Blackwater A (DOB-BWR-A) 110kV Single Circuit line on predominantly Single Poles
- Dobson - TEE A (DOB-TEE-A) 110kV Single Circuit line on Single and Pi Poles
- Greymouth - Kumara A (GYM-KMU-A) (Westpower owned, Leased to Transpower)
- Inangahua - Kikiwa A (IGH-KIK-A) 110kV Single Circuit line on predominantly Steel Towers but with a few Pi Poles
- Inangahua - Kikiwa B (IGH-KIK-B) 110kV operation voltage (220 design voltage) Double Circuit line on Steel Towers
- Inangahua - Reefton A (IGH-RFN-A) 110kV Single Circuit line on Single Poles and Pi Poles)
- Inangahua - Waimangaroa A (IGH-WMG-A) 110kV Single Circuit line on Steel Towers
- Inangahua - Westport B (IGH-WPT-B) 110kV Double Circuit line on Steel Towers

- Kumara – Kawhaka Tee (Westpower Owned, leased to Transpower)
- Waimangaroa - Westport A (WMG-WPT-A) 110kV Single Circuit line on Pi Poles
- Robertson Street – Tee A (ROB-TEE-A) 110kV
- Robertson Street – Tee B (ROB-TEE-B) 110kV
- Orowaiti Tee (ORO)

There are also 10 substations (some of which are not Transpower owned and operated) within the district being the Atarau Substation, Dobson Substation, Kumara Substation (Westpower owned with Transpower having some equipment and operational control), Hokitika and Greymouth Substations (Westpower owned and operated), Inangahua Substation, Otira Substation, Reefton Substation (Westpower owned and operated), Robertson Street Substation (Buller Electricity owned and operated), and the Waimangaroa Substation. The former Westport Substation has been dismantled. A further asset is the Inangahua-Murchison underground fibreoptic cable.

There is one other leased line being the Hokitika-Two Mile River Tee A (Westpower). There is also the Two Mile River Tee and Kawhaka Tee.

Refer to Appendix 1 for a map showing the location of these assets.

Statutory Framework

The National Policy Statement on Electricity Transmission (“NPSET”) was gazetted on 13 March 2008. The NPSET confirms the national significance of the National Grid and establishes national policy direction to ensure decision-makers under the Resource Management Act (“RMA”) duly recognise the benefits of transmission, manage the effects of the National Grid and appropriately manage the adverse effects of activities and development close to the Grid. The NPSET only applies to the National Grid – the assets used or owned by Transpower – and not to electricity generation or distribution networks.

The NPSET sets a clear directive to councils on how to provide for National Grid resources (including future activities) when drafting all their plans. Thus, councils have to work through how to make appropriate provision for the National Grid in their district/city plans, in order to give effect to the NPSET.

The one objective of the NPSET is as follows:

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.*

The NPSET’s 14 policies provide for the recognition of the benefits of the National Grid, as well as the environmental effects of transmission and the management of adverse effects on the National Grid. The policies have to be applied by both Transpower and decision-makers under the RMA, as relevant. The development of the National Grid is explicitly recognised in the NPSET.

Policy 1 of the NPSET provides that decision-makers must recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission. Explicit reference is made to the benefits of security of supply, efficient transfer of energy, development and use of new electricity generation, and enhanced supply.

Policies 2 to 9 provide RMA decision-makers direction for managing the environmental effects of transmission activities.

Recognition of the development of the National Grid is also required in Policy 2 of the NPSET, in that *“decision makers must recognise and provide for ... the development of the electricity transmission network”*. Policy 2 is as follows:

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.

Policies 3 to 5 contain matters to which decision-makers must consider or have regard, including:

- the constraints imposed on avoiding, remedying or mitigating adverse effects by the technical and operational requirements of the network
- the role of the route, site and method selection process in avoiding, remedying or mitigating adverse effects for new or major upgrades of transmission infrastructure, and
- the enablement of the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets.

Policies 6 to 8 relate to Transpower’s responsibilities under the NPSET, with Policy 6 promoting the reduction of existing adverse effects where substantial upgrades of transmission line infrastructure are undertaken. Policies 7 and 8 relate to circumstances in which the effects of transmission infrastructure could be reduced, minimised or avoided in urban and rural environments.

Policy 8 of the NPSET directs that within rural environments, planning and development of the National Grid should seek to avoid adverse effects on certain identified environments/areas (being outstanding natural landscapes, areas of high natural character, and areas of high recreation value and amenity, and existing sensitive activities). The wording of NPSET Policy 8 (“should seek to avoid”) does not impose an absolute requirement for the National Grid to avoid all adverse effects. Rather, the NPSET recognises total avoidance is not always possible given the technical and operational requirements of the National Grid (as recognised in Policy 3 of the NPSET).

Policy 8 is as follows:

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 specifically relates to standards for dealing with electric and magnetic fields.

Policies 10 and 11 of the NPSET provide the primary direction on the management of adverse effects of subdivision, land use and development activities on the transmission network. These policies are critical matters for a District Plan to address. Policy 10 is as follows:

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 relates to the development of buffer corridors, and is as follows:

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).

Policy 12 requires the identification of the transmission network on territorial authority planning maps.

Policies 13 and 14 relate to the long-term strategic planning for transmission assets. Under 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.

Section 75(3)(a) of the RMA requires that district plans must 'give effect' to a National Policy Statement. Case law has established that the words "give effect to" means to implement, which is a strong directive, creating a firm obligation on the part of those subject to it.

It is therefore a requirement that local policy reflects national direction and that the local policy is effective in helping support the integrated management of natural and physical resources across the region as a whole.

Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009

The Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009 ("NESETA") came into effect on 14 January 2010, providing a national framework of permissions and consent requirements for the operation, maintenance and upgrading of National Grid lines existing at 14 January 2010: it does not apply to substations or electricity distribution lines, and nor does it apply to the construction of new transmission lines (which are typically designated).

Activities covered by the NESETA are activities relating to the operation, maintenance, upgrading, relocation or removal of an existing transmission line, including:

- a construction activity
- use of land or occupation of the coastal marine area
- activities relating to an access track to an existing transmission line
- undergrounding an existing transmission line.

Under Section 44A of the RMA, local authorities are required to ensure there are no duplications or conflicts between the provisions of the NESETA and a proposed plan. The NESETA regulates how Transpower's existing lines in the District are developed and maintained, rather than the District Plan Rules. In accordance with Section 43B of the RMA, the District Plan rules cannot be more lenient or stringent than the NESETA rules and therefore the NESETA rules in effect prevail.

West Coast Regional Policy Statement 2020

The National Grid is explicitly addressed in Chapter 6. Regionally Significant Infrastructure ("RSI") and Chapter 9. Coastal Environment of the West Coast Regional Policy Statement ("RPS") 2020. In addition to general RSI provisions, the following policies are of specific relevance:

Chapter 6. Regionally Significant Infrastructure (RSI)

Policy 2. Provide for the development, operation, maintenance and upgrading of new and existing RSI including renewable electricity generation activities and National Grid infrastructure.

Explanation: Policy 2 seeks to ensure that RSI are provided for to meet the needs of the people and communities of the West Coast. RSI is defined in the Glossary. Policy 2 also gives effect to Policies E1-E4 of the NPSREG which requires provision for renewable electricity generation, and Policy 2 of the NPSET which requires recognition of the National Grid.

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.

Explanation: The operation, maintenance and future development of RSI can be significantly constrained by the adverse environmental impact of encroaching activities and development, also known as reverse sensitivity, or by the effects of existing resource use. Policy 4 gives effect to Policies 10 and 11 of the NPSET for managing reverse sensitivity effects on RSI including the National Grid.

Policy 7. (1) In the case of the National Grid, operation, maintenance or minor upgrading of existing National Grid infrastructure shall be enabled.

Policy 7. (2) In the case of the National Grid, following a route, site and method selection process and having regard to the technical and operational constraints of the network, new development or major upgrades of the National Grid shall seek to avoid adverse effects, and otherwise remedy or mitigate adverse effects, on areas of significant indigenous vegetation and significant habitats of indigenous fauna, outstanding natural features and natural landscapes, and the natural character of wetlands, and lakes and rivers and their margins outside the Coastal Environment.

Explanation: Policy 7 provides a specific management approach for the National Grid. 'Seek to avoid' means that the operator must make every possible effort to avoid adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna, outstanding natural features and landscapes, and natural character. Policy 7 sets the policy framework for the effects of the National Grid to be assessed in a considered manner, taking into account the technical and operational constraints of the network and the route, site and method selection process. It enables a case by case merits assessment of specific National Grid projects, taking into account the nature of the adverse effects and the values adversely affected.

Method 3. As part of regional and district plan development or review processes, regional and district councils must consult with the National Grid operator about identifying appropriate buffer corridors to manage the adverse effects of subdivision, use and development on the National Grid.

9. Coastal Environment

Policy 2. (1) In the case of the National Grid, operation, maintenance or minor upgrading of existing National Grid infrastructure shall be enabled.

Policy 2. (2) In the case of the National Grid, following a route, site and method selection process and having regard to the technical and operational constraints of the network, new development or major upgrades of the National Grid shall seek to avoid adverse effects, and otherwise remedy or mitigate adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna, outstanding natural features and landscapes, and areas of high and outstanding natural character located within the coastal environment.

Explanation: Policy 2 provides a specific management approach for the National Grid. 'Seek to avoid' means that the operator must make every possible effort to avoid adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna, outstanding natural features and landscapes, and high or outstanding natural character. The circumstances in which adverse effects must be avoided will be dependent on the nature of the adverse effects and values adversely affected, taking into account the technical and operational constraints of the network and the route, site and method selection process.

The RPS provides a clear policy framework that distinguishes the National Grid from other infrastructure and provides a policy framework relating to the effects of the grid as well as the effects of other activities on the grid.

Policy 2 and Policies 7(1) and (2) provide a clear policy directive to provide for and enable the development, operation, maintenance and upgrading of the National Grid. Method 3 of the RPS is clear in its directive that as part of the district plan development processes, the council(s) must consult with the National Grid operator about identifying appropriate buffer corridors to manage the adverse effects of subdivision, use and development on the National Grid.

Section 75(3) of the RMA requires the district plan to give effect to the RPS.

Specific National Grid Policy Framework

The primary basis and reasoning for the district plan provisions is to recognise the national significance of the National Grid and enable its operation, maintenance, upgrade and development. The sought policy framework is a result of Transpower's evolving approach to the management of activities near the National Grid as it works with Councils around the country on various plan review and plan change processes to give effect to the NPSET.

The need to operate, maintain, upgrade and develop the electricity transmission network is recognised as a matter of national significance through the NPSET. This significance applies universally across the country regardless of the nature of the specific National Grid asset. The NPSET Objective recognises that the network itself potentially gives rise to adverse effects, and that other activities can potentially adversely affect the network. The NPSET policies give direction on how to achieve the objective by providing for the recognition of the benefits of electricity transmission, as well as the management of the environmental effects of electricity transmission and the adverse effects of other activities on the transmission network. As such, the NPSET policies impose obligations on both decision-makers and Transpower itself.

There are three broad aspects to the NPSET which must be given effect to in district plans, as below.

Enabling the National Grid:

Policies and plans must provide for the effective operation, maintenance, upgrading and development of the National Grid. This includes recognising the national benefits. Policy 1 specifies that decision-makers must recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission. Explicit reference is made to the benefits of security of supply, efficient transfer of energy and facilitating the use and development of new electricity generation, including renewable generation in the management of the effects of climate change.

In terms of its existing assets, Transpower undertakes a wide range of maintenance activities across its entire asset base. Typical maintenance activities include earthworks, vegetation trimming and clearance, and support structure maintenance activities. Some but not all of these activities are regulated under the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009. Transpower considers it necessary for the District Plan to adopt an enabling framework through which the benefits of the National Grid can be considered and recognised.

Managing the effects of the National Grid:

Associated with the development of National Grid assets is the potential for adverse environmental effects. Policies 2 to 9 relate to management of the environmental effects of electricity transmission. In particular, Policy 2 states: *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."*

Policies 3 to 5 contain matters which decision-makers must consider, including technical and operational constraints, the route, site and method selection process, and operational requirements.

Policy 6 of the NPSET seeks to reduce existing adverse effects where appropriate, while Policies 7 and 8 relate to effects on urban and rural environments respectively. Policy 9 specifically relates to health standards.

Policies 2 to 9 are particularly relevant to the Proposed District Plan as they provide the policy framework for managing the environmental effects of electricity transmission in recognising and providing for the ongoing operation and development of the National Grid.

The development of the National Grid must therefore be managed to ensure the potential for adverse effects is appropriately managed while recognising the significance of the National Grid and the constraints under which it operates. The NPSET requires the District Plan to include objectives and policies that:

- Allow for the consideration of the technical constraints and operational requirements under which the National Grid operates for example. the linear nature of the transmission lines.
- Have regard to the extent to which adverse effects have been avoided, remedied or mitigated through the route, site and method selection.
- Ensure new planning and development seeks to avoid adverse effects on more sensitive areas.

This policy direction within the NPSET sets an appropriate rule framework for National Grid infrastructure.

Policies, plans and decision makers must take in to account the characteristics of the National Grid, its technical and operational constraints, and the route, site and method selection process when considering the adverse effects of new National Grid infrastructure on the environment.

Managing the effects on the National Grid:

In addition to the health and safety issues of activities locating within proximity of the National Grid, the National Grid can be affected by other activities that establish beneath or in close proximity to its lines and/or structures. Such activities can generate reverse sensitivity effects where landowners/ operators request a Council to impose constraints on existing infrastructure to manage effects such as noise, reduced visual amenity, radio and television interference, perceived Electric and Magnetic Field ('EMF') effects, or interference with business activities beneath the lines. The location of buildings and activities, particularly 'sensitive activities' such as schools and residential properties, beneath or in close proximity to lines and/or structures can also compromise Transpower's ability to maintain, upgrade and develop the National Grid. Additionally, the stability of National Grid lines can be affected by earthworks that destabilise support structures resulting in their need to be relocated.

Of particular relevance in terms of the effects of activities on the National Grid are NPSET Policies 10 and 11. These policies act as the primary guide to inform how adverse effects on the National Grid are managed. The policies seek to:

- Avoid sensitive activities near electricity transmission lines and infrastructure;

- Manage other activities to avoid reverse sensitivity effects on the Grid; and
- Manage activities to ensure the operation, maintenance, upgrading and development of the Grid is not compromised.

The most effective and efficient way of managing the potential for adverse effects on the National Grid is to adopt a corridor approach. This corridor approach is often referred to as the “National Grid Yard” and the “National Grid Subdivision Corridor”. Adopting the National Grid corridor approach is supported by NPSET Policy 10, that requires councils to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and ensure that the operation, maintenance, upgrading, and development of the electricity transmission network is not compromised and Policy 11, that requires councils to identify an appropriate buffer corridor, within which sensitive activities should generally not be provided for.

Transpower supports the inclusion of these corridors within the Proposed Plan.

Transpower’s Feedback on the proposed Te Tai o Poutini Plan

In its comments Transpower has identified a number of provisions which Transpower specifically supports, as well as those to which amendment are sought. Transpower considers that further amendments to the Proposed Plan are required in order to give effect to the NPSET and be consistent with the intent and effect of the NESETA.

An overview of key matters in Transpower’s submission is as follows:

Definitions - Ngā Tautuhinga

- Minor amendments are required to the definitions relating to the National Grid, to ensure that they are consistent with the NPSET requirements and consistent with those applied in many planning documents across the country. Specific to the definition of National Grid Subdivision Corridor, it is erroneous to apply the NPSET requirements to distribution lines, as the NPSET (and buffer corridor provided for within Policy 10 and 11) only applies to the National Grid electricity transmission network.
- Transpower also seeks a new definition for the term ‘minimise’. This is used throughout the natural environment chapters and a definition is critical to the accurate interpretation of these chapters and would assist in plan interpretation and application.

Strategic Outcomes/Objectives- Te Pae Tawhiti

- Transpower supports the Strategic Objectives but seeks the provision of a new Strategic Objective specific to the National Grid.

Energy Chapter - Te Pūngao

- Transpower is generally comfortable with the application of the NPSET in the Energy Chapter, however has concerns that other chapters in the Proposed Plan do not reflect the nuances of the NPSET and as such are not considered to give effect to the

NPSET. A self-contained Energy Chapter that incorporates all of these matters would negate many of the comments Transpower has made on specific Proposed Plan provisions.

- Clarity is required as to the relationship of the Energy chapter to other chapters in the plan. Transpower's preference is for the Energy chapter to be entirely self-contained, so that other chapters in the plan do not apply to the National Grid. However, Transpower has made submissions on other chapters in the Proposed Plan to indicate what changes would be required, whether they are incorporated into the Energy Chapter or remain in their current location.
- The term 'minimise' is used throughout the Energy chapter. Notwithstanding the appropriateness of the term when applied to non-quantifiable effects, Transpower would support a definition for this term given its wide application and directive application.
- Transpower generally supports the rules in this chapter, subject to amendment/clarification.

Infrastructure Chapter – Te Tūhanga

- Transpower supports the direction provided in the Infrastructure Chapter that it does not apply to energy activities. Transpower seeks additional wording to make it clear that it does not apply to the National Grid.

Subdivision Chapter – Te Wawaetanga

- Transpower supports the provision of a specific rule relating to subdivision in proximity of the National Grid. However, amendments are sought to the rule including clarifying that it only applies to the National Grid, amending the activity status, deletion of provisions which do not relate to the effects of the subdivision on the National Grid (but instead are general subdivision matters for consideration), and inclusion of matters for discretion.

Earthworks Chapter – Te Huke Whenua

- A specific National Grid Yard earthworks rule is sought with amended activity status and permitted activity conditions.

Coastal Environment Chapter – Te Taiao o te Takutai

- Transpower largely supports the references to the National Grid within the Coastal Environment chapter but seeks clarification to the Energy chapter noting policy ENG-P8 specifically addressed the National Grid within the Coastal Environment.

Natural Character and Outstanding Natural Features and Landscapes Chapter

- As currently drafted, the NFL and NC chapters would apply to the National Grid and while Transpower would prefer that the Energy Chapter is self-contained, it is not necessarily opposed to this approach. Transpower does seek clarification as to the relationship to the Energy Chapter, particularly in light of the sought National Grid

specific policies within the ENG chapter which adopts a “seek to avoid’ approach for the National Grid.

Ecosystems and Indigenous Biodiversity Chapter

- As currently drafted, the ECO chapter would apply to the National Grid and while Transpower is not necessarily opposed to this approach, it does seek clarification as to the relationship to the Energy Chapter, particularly in light of the sought National Grid specific policies within the ENG chapter which adopts a “seek to avoid’ approach for the National Grid.
- It is further noted that many provisions within the ECO Chapter apply to indigenous vegetation and are not confined to significant indigenous vegetation. This has wide implications for many activities. While Transpower supports the recognition of vegetation clearance and disturbance for the construction and operation of the National Grid within ECO rules R1 and R2 which apply to indigenous biodiversity, it notes the wide application of the rule and would have implications for any change in the rules as they apply to the National Grid.
- The activity status and rule cascade of Rule R1 requires clarification – the application of the rules is currently very unclear.

Sites and Areas of Significance to Māori - Ngā Wāhi Tāpua ki te Māori

- Transpower generally supports the provisions in this chapter.

Specific Comments

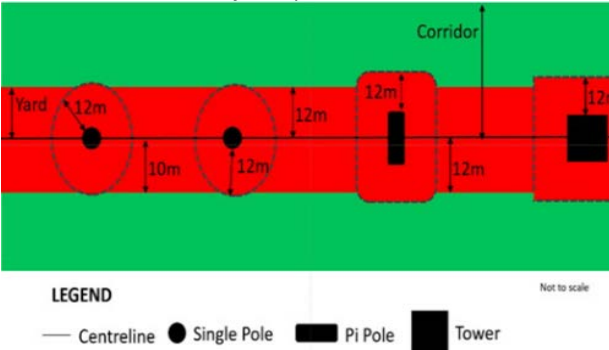
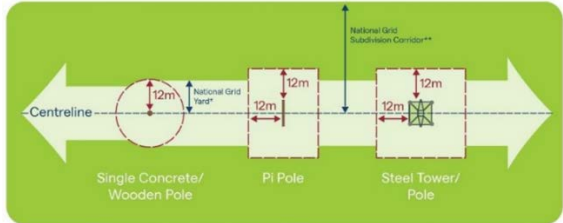
In addition to the general commentary above (which for the avoidance of doubt, forms part of the Transpower submission in that it outlines additional reasoning for the specific relief sought in the following table), the following provides specific submissions points.

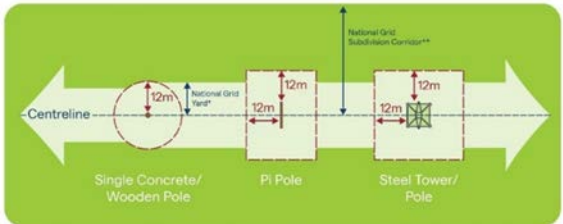
Amendments sought through this submission are shown as ~~red-strikethrough~~ and underline text. For the avoidance of doubt all the points below include any consequential amendments.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
Part 1 – Introduction and General Provisions			
Interpretation – Definitions - Ngā Tautuhinga			
CONTAMINATED LAND <i>means land that has hazardous substance in or on it that:</i> <i>a. has significant adverse effects on the environment; or</i> <i>b. is reasonably likely to have significant adverse effects on the environment.</i>	Support	Transpower supports this definition as it reflects the National Planning Standards.	Retain the definition.
CRITICAL INFRASTRUCTURE <i>means the rail network, state highways, special purpose roads, airports, wastewater, reticulated water and stormwater plants, defence facilities, telecommunications networks and electricity generation, transmission and distribution assets.</i>	Support	On the basis the definition applies to the National Grid, Transpower supports the definition.	Retain the definition.
EARTHWORKS <i>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.</i>	Support	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.	Retain the definition.
ENERGY ACTIVITY <i>means the use of land, buildings and structures for the purpose of energy investigation, generation, transmission and distribution. This includes all types of renewable electricity generation.</i>	Support	Transpower supports the definition on the basis it includes reference to energy transmission., which although is not specific to the National Grid, would encompass the National Grid electricity transmission network.	Retain the definition.
FUNCTIONAL NEED <i>means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.</i>	Support	Transpower supports this definition as it reflects the National Planning Standards.	Retain the definition.
INFRASTRUCTURE <i>means</i>	Support	Transpower supports this definition as it reflects the RMA definition.	Retain the definition.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
a. <i>pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel or geothermal energy;</i> b. <i>a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001;</i> c. <i>a network for the purpose of radiocommunication as defined in Section 2(1) of the Radiocommunications Act 1989;</i> d. <i>facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures if a person- i. <i>uses them in connection with the generation of electricity for the person's use; and</i> ii. <i>does not use them to generate any electricity for supply to any other person;</i> </i> e. <i>a water supply distribution system, including a system for irrigation;</i> f. <i>a drainage or sewerage system;</i> g. <i>structures for transport on land by cycleways, rail, roads, walkways, or any other means;</i> h. <i>facilities for the loading or unloading of cargo or passengers transported on land by any means;</i> i. <i>an airport as defined in section 2 of the Airport Authorities Act 1966;</i> j. <i>a navigation installation as defined in section 2 (1) of the Port Companies Act 1988;</i> k. <i>anything described as a network utility operation in regulations made for the purposes of the definition of network utility operator in section 166.</i>			
MAINTENANCE <i>means,</i> a. <i>In relation to infrastructure and renewable electricity generation activities, any work or activity necessary to continue the operation and</i>	Support	Notwithstanding that the NESETA regulates maintenance associated with existing National Grid lines, the definition of maintenance is supported as it recognises activities associated with the ongoing operation and functioning of existing infrastructure.	Retain the definition.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
/ or functioning of existing infrastructure. It does not include upgrading. b. In relation to historic heritage, is work or activity that does not result in the following: i. Changes to the extent, floor levels, form, proportion and scale of the historic heritage item; ii. Changes to the design, texture or form of the fabric; iii. Use of materials other than those that are the same as the original, or most significant fabric, or the closest equivalent; or iv. Damage to the building or structure as a consequence of affixing scaffolding.			
NATIONAL GRID means the assets used or owned by Transpower NZ Limited.	Amend	Transpower supports the inclusion of a definition for the National Grid, as the term is used numerous times throughout the Plan. However, Transpower requests that the meaning is amended to refer to the definition in the National Policy Statement on Electricity Transmission 2008 (NPSET), rather than incorporating the current NPSET definition directly. This ensures that the definition remains consistent with the NPSET without requiring a plan change, if the NPSET definition is updated at any point during the life of the Plan. It also provides clarity to plan users that the definition reflects that in the NPS.	Amend the definition as follows: NATIONAL GRID <i>has the same meaning as provided in the National Policy Statement on Electricity Transmission 2008.</i> ~~means the assets used or owned by Transpower NZ Limited.~~ The term 'National Grid' should be capitalised throughout the Plan.
NATIONAL GRID YARD means as illustrated in red below a. the area located 10m either side of the centreline of an overhead 66kV or 110kV National Grid transmission line on single poles;	Amend	The provision of a definition specific to the National Grid is supported on the basis it gives effect to the NPSET and specifically polices 10 and 11 which establish the mandate for the yard (corridor) approach applying to the electricity transmission network (being the assets used or owned by Transpower).	Amend the definition as follows: NATIONAL GRID YARD <i>means as illustrated in red below:</i>

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
b. the area located 12m in any direction from the outer edge of a support structure for an overhead 66kV or 110kV National Grid transmission line; and c. the area located 12m either side of the centreline of any 66kV or 110kV overhead National Grid transmission on pi poles or towers (including tubular steel towers where these replace steel lattice towers). The measurement of setback distances from National Grid transmission lines must be undertaken from the centre line of the National Grid transmission line and the outer visible edge of any support structure. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span.  LEGEND — Centreline ● Single Pole ■ Pi Pole ■ Tower Not to scale		Notwithstanding the support for the inclusion of the definition, Transpower seeks a minor amendment so that (b) refers to the outer 'visible' edge. The underground components of support structures, for example. foundations, may extend further than the outermost point of the structure above ground level, but do not have any bearing on activities that occur aboveground. Additionally, it can be difficult for the public to determine the extent of structures below ground.	a. the area located 10m either side of the centreline of an overhead 66kV or 110kV National Grid transmission line on single poles; b. the area located 12m in any direction from the outer <i>visible</i> edge of a support structure for an overhead 66kV or 110kV National Grid transmission line; and c. the area located 12m either side of the centreline of any 66kV or 110kV overhead National Grid transmission line on pi poles or towers (including tubular steel towers where these replace steel lattice towers). The measurement of setback distances from the National Grid transmission lines must be undertaken from the centre line of the National Grid transmission line and the outer visible edge of any support structure. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span. 
NATIONAL GRID SUBDIVISION CORRIDOR means the area measured either side of the centreline of above ground National Grid transmission and distribution lines as follows (and illustrated in green below): a. 14m for 66kV or 110kV transmission lines on single poles; b. 16m for 110kV transmission lines on pi poles; and c. 32m for 110kV transmission lines on towers (including tubular steel towers where these replace steel lattice towers).	Amend	The provision of a definition specific to the National Grid is supported on the basis it gives effect to the NPSET and specifically polices 10 and 11 which establish the mandate for the yard (corridor) approach applying to electricity transmission network (being the assets used or owned by Transpower). Notwithstanding the support for the inclusion of the definition, Transpower seeks amendment to provide clarity in the application of the definition, and	Amend the definition as follows: NATIONAL GRID SUBDIVISION CORRIDOR means the area measured either side of the centreline of above ground National Grid transmission <i>and distribution</i> lines as follows (and illustrated in green below): a. 14m for 66kV or 110kV transmission lines on single poles; b. 16m for 110kV transmission lines on pi poles; and

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		specifically deletion of reference to ‘distribution’ within the definition. The reference to ‘distribution’ is opposed on the basis it is confusing to plan users and means the subdivision corridor provisions also apply to the local distribution lines. Transpower does not support this approach. NPSET policies 10 and 11 establish the mandate for the corridor approach applying to the electricity transmission network (being the assets used or owned by Transpower) and not distribution. Amendment to the text would avoid confusion and ensure the correct application of the NPSET. Further text is also sought to provide guidance on how the corridor is to be measured, and to ensure consistency with the ‘National Grid Yard’ definition.	c. 32m for 110kV transmission lines on towers (including tubular steel towers where these replace steel lattice towers). <u>The measurement of setback distances from National Grid transmission lines must be undertaken from the centre line of the National Grid transmission line. The centre line at any point is a straight line between the centre points of the two support structures at each end of the span.</u> 
NETWORK UTILITY OPERATOR has the same meaning as in s166 of the RMA (as set out below) means a person who- - undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or - operates or proposes to operate a network for the purpose of- - telecommunication as defined in section 5 of the Telecommunications Act 2001; or - radio communication as defined in section 2 (1) of the Radio Communications Act 1989; or - is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or	Support	Transpower supports this definition as it reflects the meaning from s166 of the RMA.	Retain the definition.

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d. undertakes or proposes to undertake the distribution of water for supply (including irrigation); or e. undertakes or proposes to undertake a drainage or sewerage system; or f. constructs, operates, or proposes to construct or operate, a road or railway line; or g. is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or h. is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or i. undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act,- and the words network utility operation have a corresponding meaning.			
OPERATIONAL NEED means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.	Support	Transpower supports this definition as it reflects the National Planning Standards.	Retain the definition.
REVERSE SENSITIVITY means the potential for an approved, existing or permitted activity to be compromised or constrained, by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an approved, existing or permitted activity.	Support	Transpower supports this definition as it provides clarity to plan users.	Retain the definition.
SENSITIVE ACTIVITY means any: a. residential activity; b. visitor accommodation; c. retirement home; d. healthcare facility; e. community facility; and f. educational facility.	Support	Transpower supports this definition as it is generally consistent with the definition of 'sensitive activities' in the National Policy Statement on Electricity Transmission 2008.	Retain the definition.

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SIGNIFICANT ELECTRICITY DISTRIBUTION LINE <i>means an overhead electricity line that is not part of the national grid but is designed and built to be operated at a voltage of 33kV or greater.</i>	Support	Transpower supports this definition as it provides a clear distinction between the National Grid and other distribution lines.	Retain the definition.
SIGNIFICANT NATURAL AREA <i>means</i> a. <i>areas that have been assessed as an area of significant indigenous vegetation or significant habitat of indigenous fauna in accordance with the criteria set out in the West Coast Regional Policy Statement; or</i> b. <i>areas that have been identified as Significant Natural Areas in any West Coast Regional or District Plan.</i>	Amend	While Transpower does not oppose the definition itself, the lack of identification of such areas (outside Grey District) has implications for linear infrastructure such as the National Grid. The lack of identification will lead to uncertainty and plan interpretation and application issues given the lack of certainty.	Identify SNAs on the planning maps for the entire area.
SUBSTATION (ZONE) <i>means the ground-mounted equipment used to convert sub-transmission voltage (33kV and higher) to distribution voltages (22 or 11kV), and this equipment is generally enclosed in a fenced yard.</i>	Amend	The wording is used within rule ENG-R2 and R11. Transpower supports the inclusion of definitions and provisions that relate specifically to substations. However, the intent of this definition is unclear. It includes both the term 'sub-transmission' which indicates it would not apply to Transpower's substations, but also states that it applies to 33kV and higher – no upper limit is provided. There are no other substation definitions that clearly apply to substations that convert transmission to distribution voltages. Transpower requests that this definition is amended to clarify that it does not apply to National Grid substations, or alternatively, the definition be amended to apply to all substations. Note: a consequential amendment is required to Rule ENG-R11 to provide for other substations not captured by the definition.	Amend the definition as follows: SUBSTATION (ZONE) <i>means the ground-mounted equipment used to convert sub-transmission voltage (33kV and higher) to distribution voltages (22 or 11kV), and this equipment is generally enclosed in a fenced yard.</i> <i><u>This does not include substations that are directly connected to the National Grid.</u></i>
TRANSMISSION LINES <i>means:</i> a. <i>the facilities and structures used for, or associated with, the overhead or underground transmission of electricity in the national grid and:</i>	Amend	Transpower supports the inclusion of a definition for transmission lines, as the term is used numerous times throughout the Plan. However, Transpower requests that the meaning is amended to refer directly to the definition in the Resource Management (National Environmental	Amend the definition as follows: TRANSMISSION LINES <i><u>has the same meaning as provided in the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.</u></i> ~~<i>means:</i>~~

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b. includes transmission line support structures, telecommunication cables, and telecommunication devices to which paragraph a) applies; but c. does not include an electricity substation.		Standards for Electricity Transmission Activities) Regulations 2009 (NESETA). This ensures that the definition remains consistent with the NESETA without requiring a plan change, if the NESETA definition is updated at any point during the life of the Plan.	~~a. the facilities and structures used for, or associated with, the overhead or underground transmission of electricity in the national grid and;~~ ~~b. includes transmission line support structures, telecommunication cables, and telecommunication devices to which paragraph a) applies; but~~ ~~c. does not include an electricity substation.~~
UPGRADING <i>means in relation to infrastructure and renewable electricity generation activities, the improvement or increase in carrying capacity, operational efficiency, security or safety of existing infrastructure and renewable electricity generation activities, but excludes maintenance and repair.</i>	Support	Notwithstanding that the NESETA regulates upgrading associated with existing National Grid lines, the definition of upgrading is supported as it recognises activities associated with the ongoing operation and functioning of existing infrastructure.	Retain the definition.
New Definition - MINIMISE	New Definition	The term 'minimise' is used across the plan in multiple policies and matters of discretion. Transpower has concerns with the use of the term when applied to non-quantifiable effects and would refer the directive to 'avoid, remedy or mitigate' or greater articulation within policies as to what is sought to be achieved. Given the importance of the term, should it be retained. The provision of a definition would assist with plan interpretation.	Insert a definition as follows: <u>MINIMISE</u> <u>means to reduce to the smallest amount reasonably practicable.</u>
Part 2 – District Wide Matters			
Strategic Direction – Te Pae Tawhiti			
CR Connections and Resilience - - Ngā Hononga me te Manawa Titi New strategic direction	New strategic direction	While Transpower supports CR-O1 to CR-O4, they are not specific to the operation, upgrade or development of infrastructure, rather are linked to natural hazards and resilience. While Transpower does not oppose this, in order to recognise the significance and importance of the National Grid and give effect to the	Provide a new Strategic Direction CR-O5 as follows: <u>CR-O5 National Grid</u> <u>The national significance of the National Grid is recognised, and sustainable, secure and efficient electricity transmission is provided through and within the district.</u>

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		NPSET, Transpower would support the provision of a strategic objective specific to the National Grid.	
UFD – Urban form and development - Te āhua me te whanaketanga o te tāone UFD-O1 <i>To have urban environments and built form on the West Coast/Te Tai o Poutini that:</i> <i>8. Promote the safe, efficient and effective provision and use of infrastructure, including the optimisation of the use of existing infrastructure and protection of critical infrastructure;</i> 	Support	Transpower supports this objective, particularly the following point: <i>8. Promote the safe, efficient and effective provision and use of infrastructure, including the optimisation of the use of existing infrastructure and protection of critical infrastructure.</i>	Retain the definition.
Sites and Areas of Significance to Māori - Ngā Wāhi Tāpua ki te Māori			
General comments – entire chapter	Support	It appears that the SASM chapter applies to National Grid activities. Transpower is not opposed to this approach, although it would prefer that all provisions relating to the National Grid are located in the Energy Chapter. It is important that the objectives and policies already in the ENG chapter are applied to any National Grid activity. The overall approach in the SASM chapter, as it relates to the National Grid, is generally consistent with the NPSET.	No specific relief sought.
SASM - P8 <i>Where an activity is proposed within any site or area of significance to Māori identified in Schedule Three ensure that:</i> a. <i>Engagement with Poutini Ngāi Tahu occurs to ensure that effects of the activity on the values of the site or area are understood;</i> b. <i>The accidental discovery protocol in Appendix Four is adopted for any earthworks;</i>	Support	Transpower supports the approach outlined in this policy where an activity is proposed within a Schedule Three area, but requests that clause c. provides for ‘operational need’ alongside ‘functional need’. This recognises that the location in which some activities are able to take place are severely limited due to operational constraints, and, via clause d. continues to require that the values of the site are protected, maintained or enhanced.	Amend the policy as follows: SASM - P8 <i>Where an activity is proposed within any site or area of significance to Māori identified in Schedule Three ensure that:</i> a. <i>Engagement with Poutini Ngāi Tahu occurs to ensure that effects of the activity on the values of the site or area are understood;</i>

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c. Any adverse effects on identified values are avoided, unless it can be demonstrated that due to the functional needs of the activity it is not possible to avoid all adverse effects; and d. Any residual effects that cannot be practicably avoided are mitigated in a way that protects, maintains or enhances the values of the site or area.			b. The accidental discovery protocol in Appendix Four is adopted for any earthworks; c. Any adverse effects on identified values are avoided, unless it can be demonstrated that due to the functional needs <i>or operational need</i> of the activity it is not possible to avoid all adverse effects; and d. Any residual effects that cannot be practicably avoided are mitigated in a way that protects, maintains or enhances the values of the site or area.
SASM - P13 Enable activities in sites and areas of significance to Poutini Ngāi Tahu included in Schedule Three where the cultural and spiritual values of the site or area are protected. This includes: a. Alterations to, demolitions and removal of existing buildings and structures; b. Maintenance, operation, repair and upgrading of existing network utility structures and critical infrastructure; c. Customary harvest and other cultural practices in accordance with tikanga; d. Indigenous vegetation clearance; e. Temporary events; f. Small-scale earthworks for burials within an urupā, fencing, archaeological survey and maintenance of overhead network utilities, roads and tracks; g. Animal grazing where identified values are maintained.	Support	Transpower supports an enabling policy for maintenance, operation, repair and upgrading of critical infrastructure (on the basis that this applies to the National Grid).	Retain the policy.
SASM-P15 Allow any other use and development on sites and areas of significance to Māori in Schedule Three where it can be demonstrated that the identified values of the site or area are protected and maintained, having regard to:	Support	Notwithstanding its sought 'seek to avoid policy' within the Energy Chapter which would apply to sites and areas of significance to Māori in Schedule Three, Transpower supports this policy which provides for activities to be undertaken where there is functional or operational need for it to occur in that location, and where the values of the site or area are protected.	Retain the policy.

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a. Whether there are alternative methods, locations or designs that would avoid or reduce the impact on the values associated with the site or area of significance; b. The functional or operational need for the activity to be undertaken in the location; c. Outcomes articulated by Poutini Ngāi Tahu through an assessment of environmental effects, cultural impact assessment or iwi planning documents; d. The potential to enhance the values of the site of significance and the relationship of Poutini Ngāi Tahu with their taonga, commensurate with the scale and nature of the proposal; e. How values of significance to Poutini Ngāi Tahu, including tikanga, kaitiakitanga and mātauranga Māori may be incorporated; and f. Any practical mechanisms to maintain or enhance the ability of Poutini Ngāi Tahu to access and use the site or area of significance for karakia, monitoring, cultural activities and ahi kā roa.			
Energy – Te Pūngao			
General comments	Amend	Transpower's preference is for the Energy chapter to be entirely self-contained, so that other chapters in the plan do not apply to the National Grid. However, should this approach not be adopted, Transpower has made submissions on other chapters in the Proposed Plan to indicate what changes would be required, whether they are incorporated into the Energy Chapter or remain in their current location.	Amend the Energy Chapter so that it is self-contained, and reference to other chapters is not required.
Overview			
<i>Energy activities, including renewable electricity generation, transmission, distribution and operation are recognised as regionally significant infrastructure in the West Coast Regional Policy Statement. As such they require specific</i>	Amend	Transpower supports the provision of an energy chapter and in particular supports the recognition of the National Grid and NPSET.	Amend parts of the overview as follows: ... <i>The Energy Chapter contains the objectives, policies, rules for managing energy activities—~~Infrastructure Chapter~~</i>

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<i>recognition and protection, as they are critical to the social, cultural and economic wellbeing of people and communities.</i> <i>The National Policy Statement for Electricity Transmission Activities requires specific recognition and protection of the National grid, with renewable electricity recognised in the National Policy Statement on Renewable Energy Generation.</i> <i>Certain activities must also comply with the rules managing activities which may compromise the operation, maintenance and upgrading of the National Grid transmission lines, including reverse sensitivity effects. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains mandatory restrictions on activities in relation to the National Grid and electricity distribution lines. Compliance with the rule requirements of Te Tai o Poutini Plan does not ensure compliance with NZECP 34:2001 or vice versa.</i> <i>Vegetation planted in the vicinity of the National Grid or electricity distribution lines must comply with the Electricity (Hazards from Trees) Regulations 2003.</i> <i>Where an activity relates to the operation, maintenance and upgrading of existing National Grid transmission lines, the Resource Management Regulations 2009 (National Environmental Standards for Electricity Transmission Activities) apply.</i> <i>The Energy Chapter contains the objectives, policies, rules for managing energy activities - the Infrastructure Chapter rules and the Area Specific Provisions (Zone chapters) do not apply to energy activities, however the Overlay chapters and other District Wide rules also apply where relevant.</i> Other relevant Te Tai o Poutini Plan provisions <i>It is important to note that in addition to the provisions in this chapter, a number of other Part 2: District-wide Matters</i>		Transpower does not support the approach that other rules in the plan potentially apply. Such an approach does not achieve a stand-alone Energy chapter and provides an overly complicated and potentially contradictory rule framework for energy activities. Amendments are suggested to address this.	~~rules and the Area Specific Provisions (Zone chapters) do not apply to energy activities, however the Overlay chapters and other District Wide also apply where relevant. Provisions in other chapters do not apply.~~ ... Overlay Chapters—~~the Overlay Chapters have relevant provisions in relation to Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Landscape and Natural Features; Natural Character and Margins of Waterbodies; Natural Hazards; and the Coastal Environment. Where an energy activity is located within an overlay area (as identified in the planning maps) then the relevant overlay provisions apply.~~ Other relevant Te Tai o Poutini Plan provisions ~~It is important to note that in addition to the provisions in this chapter, a number of other Part 2: District-wide Matters chapters also contain provisions that may be relevant for energy activities, including:~~ ● ~~Overlay Chapters— the Overlay Chapters have relevant provisions in relation to Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Landscape and Natural Features; Natural Character and Margins of Waterbodies; Natural Hazards; and the Coastal Environment. Where an energy activity is located within an overlay area (as identified in the planning maps) then the relevant overlay provisions apply.~~ ● ~~Subdivision— The Subdivision chapter sets out the requirements for the development of new electricity connections as part of subdivision activities.~~ ● ~~Financial Contributions— The Financial Contributions chapter sets out the requirements for contributions of costs for activities which impact on infrastructure.~~

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chapters also contain provisions that may be relevant for energy activities, including: • Overlay Chapters - the Overlay Chapters have relevant provisions in relation to Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Landscape and Natural Features; Natural Character and Margins of Waterbodies; Natural Hazards; and the Coastal Environment. Where an energy activity is located within an overlay area (as identified in the planning maps) then the relevant overlay provisions apply. • Subdivision - The Subdivision chapter sets out the requirements for the development of new electricity connections as part of subdivision activities. • Financial Contributions - The Financial Contributions chapter sets out the requirements for contributions of costs for activities which impact on infrastructure. • General District Wide Matters - provisions in relation to Activities on the Surface of Water, Noise and Earthworks in particular may be relevant to energy activities.			• ~~General District Wide Matters – provisions in relation to Activities on the Surface of Water, Noise and Earthworks in particular may be relevant to energy activities.~~
Energy Objectives and Policies			
ENG - 01 To recognise the local and regional benefits of electricity transmission, distribution and renewable electricity generation activities, for their development, operation, maintenance and upgrading to meet the needs of Te Tai o Poutini/the West Coast.	Support	Transpower supports this objective, noting that ENG-04 is specific to the National Grid and gives effect to Policy 1 of the NPSET.	Retain the objective.
ENG – 02 To recognise the functional and operational needs associated with the location and design of energy activities, and to minimise adverse effects of these activities on communities and the environment.	Support	Transpower supports this objective, and particularly that it recognises functional and operational need for energy activities.	Retain the objective.

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ENG – 03 <i>To provide for the development, operation, maintenance and upgrade of energy activities and to protect them from the adverse effects of incompatible subdivision and development.</i>	Support	Transpower supports the objective noting that ENG-04 is specific to the National Grid and gives effect to the NPSET.	Retain the objective.
ENG-04 <i>To recognise and provide for the national, regional and local significance and benefits of the National Grid, by ensuring the safety, efficiency, operation, maintenance, repair, upgrade and development is not adversely affected by subdivision, use and development.</i>	Support	Transpower supports this objective as it specifically recognises the significance of the National Grid and the criticality of its continuing and safe operation. The objective informs the policies and gives effect to the NPSET. It also gives effect to Chapter 6 policies 2, 4 and 7 of the RPS.	Retain the objective.
ENG – P1 <i>Provide for the development, operation, maintenance and upgrading of existing and new electricity transmission, distribution and renewable generation infrastructure and assets.</i>	Support	Transpower supports this policy, noting that policies ENG-P7, ENG-P8 and ENG-P9 are specific to the National Grid.	Retain the policy.
ENG – P2 <i>When considering proposals to develop and operate new and existing energy activities have particular regard to the benefits to be obtained from the proposal, including;</i> <i>a) Maintaining or increasing security of renewable electricity supply by diversifying the type and/or location of electricity generation;</i> <i>b) Maintaining or increasing renewable electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;</i> <i>c) Economic, social, environmental or cultural wellbeing;</i> <i>d) The contribution the proposal will have towards New Zealand meeting its renewable electricity generation targets;</i> <i>e) Effective transmission and distribution of electricity supply;</i> <i>f) Facilitation and use of renewable energy;</i> <i>g) Security of electricity supply; and</i> <i>h) Meeting New Zealand/Aotearoa me Te Waipounamu's climate change obligations.</i>	Support	Transpower supports this policy noting that policies ENG-P7, ENG-P8 and ENG-P9 are specific to the National Grid.	Retain the policy.

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ENG – P3 <i>Minimise reverse sensitivity effects from subdivision, use and development on energy activities and protect energy activities from adverse effects to ensure their ongoing operation, maintenance, upgrade or development.</i>	Amend	Transpower generally supports this policy, noting that policies ENG-P7, ENG-P8 and ENG-P9 are specific to the National Grid. However, the interpretation of the policy would be assisted by defining what is required by the term 'minimise'. Transpower is concerned with how the 'minimise' requirement would be applied.	Retain the policy but define 'minimise', as per other submission points.
ENG – P4 <i>Minimise adverse effects on communities and the environment from energy activities by:</i> <i>a) Having regard to the values associated with areas identified as having significant environmental values, urban amenity, areas of high recreational value, outstanding and high natural character areas, outstanding landscapes and features, Poutini Ngāi Tahu and heritage sites, and significant natural areas;</i> <i>b) Implementing industry best management practices around electrical safe distances;</i> <i>c) Maintaining ongoing access to grid and distribution elements and structures for maintenance and upgrading works; and</i> <i>d) Avoiding exposure to health and safety risks.</i>	Amend	Transpower generally supports the policy, noting that policies ENG-P7, ENG-P8 and ENG-P9 are specific to the National Grid. However, as identified in other submission points, the interpretation of the policy would be assisted by defining what is required by the term 'minimise'. Transpower is concerned with how the 'minimise' requirement would be applied.	Retain the policy but define 'minimise', as per other submission points.
ENG-P5 <i>When considering proposals to develop, operate, maintain and upgrade new and existing energy activities:</i> <i>a. Recognise their functional constraints and operational requirements; and</i> <i>b. Where new transmission infrastructure and major upgrades to transmission infrastructure are proposed have regard to the extent to which any adverse effects have been minimised in the route, site and method selection.</i>	Amend	Specific to clause b. of the policy, 'transmission infrastructure' is not defined in the proposed plan, rather transmission lines are (to which Transpower has submitted seeking amendment to the definition reflect that provided in the NESETA). Transpower supports the intent of this policy, however the way it is currently drafted it appears that (b) would apply to the National Grid. On the basis of the specific National Grid policy ENG-P7, Transpower seeks either deletion or modification of clause b so that it does not apply to transmission activities which are undertaken by the National Grid. It is not necessary or efficient to have two policies specific to the National Grid.	Amend the policy as follows: ENG-P5 <i>When considering proposals to develop, operate, maintain and upgrade new and existing energy activities:</i> <i>a. Recognise their functional constraints and operational requirements; and</i> <i>b. Where new ~~transmission infrastructure~~ significant electricity distribution lines and major upgrades to ~~transmission infrastructure~~ significant electricity distribution lines are proposed have regard to the extent to which any adverse effects have been minimised in the route, site and method selection.</i>
ENG-P6 <i>Provide for the development, upgrading, maintenance and operation of:</i>	Support	Transpower supports this policy, noting that policies ENG-P7, ENG-P8 and ENG-P9 are specific to the National Grid.	Retain the policy.

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a. A range of small, community and large scale renewable electricity generation activities; and b. Activities that seek to investigate, identify and/or assess potential sites and energy sources for renewable electricity generation.			
ENG-P7 Recognise and provide for the national, regional and local benefits of the National Grid, including by: a. Enabling the operation, maintenance and minor upgrading requirements of existing National Grid assets; b. Providing for other upgrades and the effective development of new National Grid assets; and c. When considering measures to avoid, remedy and mitigate adverse effects of National Grid activities, have regard to: i. The technical and operational constraints of the National Grid; and ii. The extent to which proposals have avoided, remedied and mitigated effects through the route, site and method selection.	Amend	Transpower supports this policy as it gives effect to the NPSET and the RPS. Minor amendments to (c)(ii) to reflect that activities might include new infrastructure or major upgrades.	Amend the policy as follows: ENG-P7 Recognise and provide for the national, regional and local benefits of the National Grid, including by: a. Enabling the operation, maintenance and minor upgrading requirements of existing National Grid assets; b. Providing for other upgrades and the effective development of new National Grid assets; and c. When considering measures to avoid, remedy and mitigate adverse effects of National Grid activities, have regard to: i. The technical and operational constraints of the National Grid; and ii. The extent to which proposals <u>for new National Grid infrastructure or major upgrades to existing National Grid infrastructure</u> have avoided, remedied and mitigated effects through the route, site and method selection.
ENG-P8 Manage the adverse effects of the National Grid by: a. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects b. Seeking to avoid adverse effects on areas identified in Schedules; c. Where the National Grid has a functional or operational need to locate within the Coastal Environment, manage adverse effects by: i. Seeking to avoid adverse effects on Overlay Chapter areas and where it is not practicable to avoid, to remedy or mitigate;	Amend	Transpower is generally supportive of this policy as it gives effect to the NPSET (and in particular the 'seek to avoid' direction in Policy 8 of the NPSET), but it requires amendments to provide appropriate application of the seek to avoid approach. Transpower has requested changes to reflect this. Transpower also notes that not all of the Schedules are relevant to this policy, and therefore requests that references to 'Schedules' are amended to refer specifically to 'Schedules 1-8' only. There may be potential for some conflict between this policy and others in the Plan. Transpower seeks an	Amend the policy as follows: ENG-P8 Manage the adverse effects of the National Grid by: a. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects b. Seeking to avoid adverse effects on areas identified in Schedules <u>1-8</u>; c. Where the National Grid has a functional or operational need to locate within the Coastal Environment, manage adverse effects by:

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ii. Seeking to avoid significant adverse effects on other areas of natural character, natural attributes and character of natural features and landscapes and indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010; and d. Recognise that there may be some areas within the sites and areas identified in Schedules where avoidance of adverse effects is required to protect the identified values and characteristics.		amendment to this policy to make it clear that this policy takes precedence, reflecting the national, regional and local significance of the National Grid. An amendment is also sought to clause d. so that it only applies to the coastal environment, thereby reconciling the NPSET and NESETA. Outside the Coastal Environment, such a directive is not appropriate in context of the NPSET. A new clause d. is sought to provide a catch all requirement to remedy or mitigate other adverse effects.	i. Seeking to avoid adverse effects on ~~Overlay Chapter~~ areas <u>identified in Schedules 1-8 and where it is not practicable to avoid, to remedy or mitigate;</u> ii. <u>Where it is not practicable to avoid adverse effects on the values of the areas identified in Schedules 1-8 because of the functional needs or operational needs of the National Grid, remedy or mitigate adverse effects on those values.</u> iii. <u>Seeking to avoid significant adverse effects on:</u> - <u>other areas of natural character</u> - <u>natural attributes and character of other natural features and natural landscapes</u> - <u>indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010.</u> iv. ~~seeking to avoid significant adverse effects on other areas of natural character, natural attributes and character of natural features and landscapes and indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010; and~~ ~~d. v.~~ Recognise that there may be some areas within the sites and areas identified in Schedules <u>1-8</u> where avoidance of adverse effects is required to protect the identified values and characteristics. <u>d. Remedy or mitigate any adverse effects from the operation, maintenance, upgrade, major upgrade or development of the National Grid which cannot be avoided, to the extent practicable.</u> <u>In the event of any conflict with any other objectives and policies within the Plan, Policy ENG-P8 takes precedence.</u>
ENG-P9 Manage activities within the National Grid Yard and the National Grid Subdivision Corridor to:	Amend	Transpower is generally supportive of this policy as it gives effect to the NPSET, but requests amendments to:	Amend the policy as follows: ENG-P9 Manage activities within the National Grid Yard and the National Grid Subdivision Corridor to:

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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.		- Make it clear what is meant by ‘incompatible land use’ in terms of outlining the effects which are to be avoided. - Ensure that (c) only applies within the National Grid Subdivision Corridor - Retain provision for access for maintenance and upgrade works.	a. <i>Ensure the safe and efficient operation, maintenance, repair, upgrading and development of the National Grid is not compromised;</i> b. Avoid ~~incompatible~~ land use, <u>buildings and structures that may directly affect or otherwise compromise the National Grid or result in reverse sensitivity effects on the National Grid;</u> c. Manage subdivision <u>within the National Grid Subdivision Corridor</u> 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; e. <u>Maintain ongoing access for maintenance and upgrading works on the National Grid;</u> and f. Avoid potential for reverse sensitivity effects on the National Grid.
Energy Rules			
Note: 1. <i>There may be a number of Plan provisions that apply to an activity, building, structure and site. In the case of Energy Activities however neither the Infrastructure Chapter or the Part 3: Area Specific Matters Apply. In some cases, consent may be required under rules in this Chapter as well as rules in other Chapters in the Plan. In those cases unless otherwise specifically stated in a rule, consent is required under each of those identified rules. Details of the steps Plan users should take to determine the status of an activity is provided in General Approach.</i> 2. <i>Compliance with the New Zealand Code of Practice for Electrical Safe Distances (NZECP34: 2001) is mandatory</i>	Oppose	Transpower considers that point 1 does not provide sufficient clarity on the application of other chapters for energy activities. Transpower does not support the approach that other rules in the plan potentially apply. Such an approach does not achieve a stand-alone Energy chapter and provides an overly complicated and potentially contradictory rule framework for energy activities. Amendments are suggested to address this. Transpower supports the inclusion of points 2, 3 and 4 as they alert plan users to other enactments that may apply.	Amend the Energy Chapter so that it is self-contained, and reference to other chapters is not required. Amend the note as follows: Note: 1. ~~<i>There may be a number of Plan provisions that apply to an activity, building, structure and site. In the case of Energy Activities, however, neither the objectives, policies and rules of the Infrastructure Chapter other chapters or the Part 3: Area Specific Matters do not apply. In some cases, consent may be required under rules in this Chapter as well as rules in other Chapters in the Plan. In those cases unless otherwise</i>~~

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under the Electricity Act 1992. All activities regulated by NZECP34:2001, including buildings, structures, earthworks and the operation of mobile plant, must comply with that regulation. Activities should be checked for compliance even if they are permitted by Te Tai o Poutini Plan. 3. Vegetation to be planted around the National Grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003. 4. For any activity that relates to the operation, maintenance and upgrading of existing National Grid transmission lines, the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 apply.			~~specifically stated in a rule, consent is required under each of those identified rules. Details of the steps Plan users should take to determine the status of an activity is provided in General Approach.~~ 2. Compliance with the New Zealand Code of Practice for Electrical Safe Distances (NZECP34: 2001) is mandatory under the Electricity Act 1992. All activities regulated by NZECP34:2001, including buildings, structures, earthworks and the operation of mobile plant, must comply with that regulation. Activities should be checked for compliance even if they are permitted by Te Tai o Poutini Plan. 3. Vegetation to be planted around the National Grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003. 4. For any activity that relates to the operation, maintenance and upgrading of existing National Grid transmission lines, the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 apply.
ENG - R1 - Energy Permitted Activity Performance Standards Activity Status Permitted Where: Electric and Magnetic fields - An activity generating electric or magnetic fields does not exceed the maximum exposure level listed in the International Commission on Non-ionizing Radiation Protection Guidelines for limiting exposure to time-varying electric and magnetic fields (1Hz - 100 kHz) (Health Physics (6):818-836; 2010), and the recommendations from the World Health Organisation's monograph Environmental Health Criteria 238, June 2007.	Support	Transpower supports the provision of a permitted activity, and the default activity status provided.	Retain the rule.
ENG - R2 – Substations (Zone) Activity Status Permitted Where:	Support	Transpower is neutral on this rule on the proviso that the definition of substations (zone) is amended to make it clear this does not apply to its substations. Transpower's existing substations are designated and	Amend definition of substation (zone) as above. No changes required to the rule.

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1. <i>All performance standards in Rule ENG - R1 are complied with; and</i> 2. <i>This is the operation, maintenance, repair and upgrade of an existing substation (zone) where any upgrades are undertaken within existing switchyards or buildings, in any zone; or</i> 3. <i>This is a new substation (zone) or upgrade to an existing substation (zone):</i> i. <i>Located in an Industrial zone; and</i> ii. <i>The substation will be visually screened from the road and any residential building by fencing and / or landscaping</i>		Transpower accepts it appropriate that any new substations require resource consent as a restricted discretionary activity under ENG-R11.	
ENG - R4 – Operating existing transmission and distribution lines, new distribution and transmission lines, maintaining, minor upgrading, strengthening, upgrading and replacing support structures and foundations not managed by the National Environmental Standard for Electricity Transmission Activities Activity Status Permitted <i>Where:</i> 1. <i>All performance standards in Rule ENG - R1 are complied with;</i> 2. <i>Any realignment, relocation or replacement of a network utility pole, pipe, tower, structure, building or minor utility structure is within 5m of the alignment or location of the original existing pole, tower, structure, building or minor utility structure;</i> 3. <i>A replacement pole, tower, or structure does not exceed the height of the original pole, tower, or structure by more than 30 percent, measured from the top of the foundation;</i> 4. <i>The diameter or width of the replacement pole does not exceed twice that of the replaced pole at its widest point and; where a single pole is replaced with a pi pole, the width of the pi pole structure must not exceed three times that of the replaced pole at its widest point;</i>	Amend	Transpower is neutral on the rule as it is not directly applicable to Transpower given the NESETA. The reference in the rule to the NESETA is specifically supported. However, Transpower does query the reference in the rule to ‘new distribution and transmission lines’ given the permitted activity status and that new standards relate to new lines.	Amend the rule to clarify if it applies to new transmission lines.

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5. Additional conductors or lines do not increase the number of conductors or lines by more than 100 percent of the original; 6. The footprint of the structure or building does not increase by more than 30 percent of the existing building or structure, excluding any pole or pi pole structure provided above; 7. The face area of a replacement panel antenna or the diameter of a replacement dish antenna does not increase by more than 20 percent; 8. There are not additional towers; and 9. A pole is not replaced with a tower.			
ENG - R7 – Buildings, Structures and Activities within the National Grid Yard Activity Status Permitted Where: 1. <i>These are the following activities where they are also Permitted within the relevant zone and overlay:</i> - Fences less than 2.5m high; - Alterations and additions to existing buildings and structures used for sensitive activities that do not involve an increase in the building or structure height or footprint; - Infrastructure undertaken by a Network Utility Operator within a transport corridor or any part of electricity infrastructure that connects the National Grid; - Non - habitable farm or horticultural buildings or structures excluding commercial greenhouses, protective canopies, wintering barns, produce packing facilities, dairy and milking sheds; - An accessory building or structure associated with an existing residential activity that is less than 10m² and 2.5m in height; 2. <i>All buildings, structures and activities permitted by 1. above must have:</i>	Amend	Transpower supports the inclusion and wording of this rule as it is consistent with the direction provided in the NPSET. The NPSET directs that sensitive activities should not be located within the National Grid Yard and for the avoidance of doubt, Transpower requests an amendment to reflect this.	Amend the rule as follows: ENG - R7 – Buildings, Structures and Activities within the National Grid Yard Activity Status Permitted <i>Where:</i> 1. <i>These are the following activities where they are also Permitted within the relevant zone and overlay:</i> - Fences less than 2.5m high; - Alterations and additions to existing buildings and structures used for sensitive activities that do not involve an increase in the building or structure height or footprint; - Infrastructure undertaken by a Network Utility Operator within a transport corridor or any part of electricity infrastructure that connects the National Grid; - Non - habitable farm or horticultural buildings or structures excluding commercial greenhouses, protective canopies, wintering barns, produce packing facilities, dairy and milking sheds; <u>The activity is not a sensitive activity.</u>

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i. A minimum vertical clearance of at least 10m below the lowest point of a conductor - or meet the electrical distances required by NZECP 34: 2001 under all transmission line and building operation conditions; ii. Not result in the loss of vehicle access to a National Grid support structure; iii. Be located at least 12 metres from the outer visible edge of a foundation of a National Grid transmission support structure except where it is: a. Infrastructure undertaken by a network utility operator, or any part of electricity infrastructure that connects the National Grid; b. A fence not exceeding 2.5m in height that is located at least: I. 6m from the outer visible edge of a foundation of a National Grid transmission line tower; or II. 5m from the outer visible edge of a foundation of a National Grid transmission line pole; c. An artificial crop protection structure or crop support structure not exceeding 2.5m in height and located at least 8m from a National Grid transmission line pole that: I. Is removable or temporary to allow a clear working space of 12m from the pole for maintenance; and			vi. An accessory building or structure associated with an existing residential activity that is less than 10m² and 2.5m in height; 2. All buildings, structures and activities permitted by 1. above must have: i. A minimum vertical clearance of at least 10m below the lowest point of a conductor - or meet the electrical distances required by NZECP 34: 2001 under all transmission line and building operation conditions; ii. Not result in the loss of vehicle access to a National Grid support structure; iii. Be located at least 12 metres from the outer visible edge of a foundation of a National Grid transmission support structure except where it is: a. Infrastructure undertaken by a network utility operator, or any part of electricity infrastructure that connects the National Grid; b. A fence not exceeding 2.5m in height that is located at least: I. 6m from the outer visible edge of a foundation of a National Grid transmission line tower; or II. 5m from the outer visible edge of a foundation of a National Grid transmission line pole; c. An artificial crop protection structure or crop support structure not exceeding 2.5m in height and located at least 8m

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II. <i>Allows all weather access to the pole and sufficient area for maintenance equipment including a crane; or</i> d. <i>A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of NZECP34: 2001.</i>			<i>from a National Grid transmission line pole that:</i> I. <i>Is removable or temporary to allow a clear working space of 12m from the pole for maintenance; and</i> II. <i>Allows all weather access to the pole and sufficient area for maintenance equipment including a crane; or</i> d. <i>A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of NZECP34: 2001.</i>
ENG - R9 – Temporary Energy Activities Activity Status Permitted <i>Where:</i> <i>The temporary energy activity is for up to a period of 24 months following a national, regional or local state of emergency declaration;</i> <i>All performance standards in Rule ENG - R1 are complied with; and</i> <i>Any temporary structures are removed from the site when operation ceases and the sites is rehabilitated.</i>	Amend	Notwithstanding the NESETA regulates temporary activities associated with existing National Grid assets, Transpower supports this rule as it provides a clear and permissive pathway for responding to an emergency. A timeframe for removal of structures from the site would provide greater clarity, and Transpower requests that six months is provided. Installation of temporary structures and networks may be complex and sufficient time would be required for their safe removal.	Amend the rule as follows: ENG - R9 – Temporary Energy Activities Activity Status Permitted <i>Where:</i> <i>The temporary energy activity is for up to a period of 24 months following a national, regional or local state of emergency declaration;</i> <i>All performance standards in Rule ENG - R1 are complied with; and</i> <i>Any temporary structures are removed from the site <u>and the site is rehabilitated within six months of the</u> ~~when operation ceases and the sites is rehabilitated.~~</i>
ENG - R11 – Substations not meeting Permitted Activity standards Activity Status Restricted Discretionary <i>Discretion is restricted to:</i> <i>Landscape measures;</i> <i>Locational, technical and operational constraints;</i>	Amend	It appears that the intent is that any of Transpower's substations that are not designated would be captured by this rule. Clarification to the definition for 'substation (zone)' are sought to confirm this is the case and amendment to the rule to also apply to other substations not otherwise provided for.	Amend the rule as follows: ENG - R11 – Substations not meeting Permitted Activity standards, <u>or not otherwise provided for.</u> Activity Status Restricted Discretionary <i>Discretion is restricted to:</i>

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c. Impacts on resilience of the community to natural hazards and climate change; d. The benefits of the proposal to Aotearoa New Zealand meeting its Greenhouse Gas targets; e. Impacts of contamination from the substation on any overlay; f. Benefits to the community from the substation; and g. The degree to which the proposed activity will cause significant adverse effects on Overlay Chapter matters.		Transpower supports this rule and seeks an amendment to (g) to refer to Schedules 1-8, rather than overlay chapters. Transpower is seeking that all provisions relating to energy be captured in the Energy Chapter, so reference to overlay chapters would not be required.	a. Landscape measures; b. Locational, technical and operational constraints; c. Impacts on resilience of the community to natural hazards and climate change; d. The benefits of the proposal to Aotearoa New Zealand meeting its Greenhouse Gas targets; e. Impacts of contamination from the substation on any overlay; f. Benefits to the community from the substation; and g. The degree to which the proposed activity will cause significant adverse effects on <u>features listed in Schedules 1-8 Overlay Chapter matters.</u>
ENG - R12 – Operating existing transmission and distribution lines, new distribution and transmission lines, maintaining, minor upgrading, strengthening, upgrading and replacing support structures and foundations not meeting Permitted Activity standards Activity Status Restricted Discretionary Where: 1. All performance standards in Rule ENG - R1 are complied with. Discretion is restricted to: a. Degree of non-compliance with Rule ENG - R4; b. Locational, technical and operational constraints; c. Benefits to the community; and d. The degree to which the proposed activity will cause significant adverse effects on Overlay Chapter matters.	Amend	Transpower supports this rule as it applies to new electricity transmission lines. However, on the basis activities relating to existing lines are covered by the NESETA, Transpower seeks deletion of reference to transmission in context of operating existing lines. If Transmission applies to activities other than the National Grid, this should be made clear within the rule such that the rule not apply to National Grid Transmission lines.	Amend the rule as follows: ENG - R12 – Operating existing ~~transmission and~~ distribution lines, new distribution and transmission lines, maintaining, minor upgrading, strengthening, upgrading and replacing support structures and foundations not meeting Permitted Activity standards Activity Status Restricted Discretionary
ENG – R19 Activities in and around the National Grid Yard and between the Significant Electricity Transmission Lines, that do not comply with Permitted Activity standards Activity Status Non-complying Activity status where compliance not achieved: N/A	Amend	Transpower supports the default non-complying activity status. However, Transpower seeks amendments so that the rule only applies to activities within the National Grid Yard – ‘in and around’ is very vague and would give rise to potential plan interpretation and application issues.	Amend the rule as follows: ENG – R19 Activities <u>within and around</u> the National Grid Yard <u>and between the Significant Electricity Transmission Lines,</u> that do not comply with Permitted Activity standards Activity Status Non-complying Activity status where compliance not achieved: N/A

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		Transpower does not support and seeks deletion of reference to the term 'Significant Electricity Transmission Lines' as the term is not defined in the proposed plan, the RMA or any other higher order policy document, and gives rise potential for confusion with the National Grid which is addressed within the National Grid Yard (which is defined in the proposed plan). If the reference to 'transmission' is an error and instead the term is 'Significant Electricity Distribution Lines' (which is defined in the proposed plan) Transpower is neutral on its retention.	
NEW RULE	Support	The Energy Chapter does not appear to contain a catch-all rule for any activities not specifically provided for. Transpower seeks the inclusion of a new rule with discretionary activity status to provide for these activities.	Add a new rule as follows: ENG – RXX <u>Any energy activity which is not a permitted, controlled, restricted discretionary or discretionary activity</u> <u>Activity Status Discretionary</u> <u>Activity status where compliance not achieved: N/A</u>
Infrastructure – Te Tūahanga			
Overview			
... <i>The Infrastructure Chapter also does not apply to energy activities as these are addressed in the Energy Chapter nor does it apply to Transport Activities that are addressed in the Transport Chapter.</i> ...	Amend	While the National Grid is addressed within the Energy Chapter, but the National Grid also falls within the definition of 'infrastructure' and therefore the overview needs to clearly state how the Infrastructure chapter would apply (given the National Grid falls within the definition). This sentence in the overview, along with the text in the overview of the Energy Chapter provide clear guidance on the application of each chapter's provision.	... <i>The Infrastructure Chapter also does not apply to energy activities nor National Grid activities as these are addressed in the Energy Chapter nor does it apply to Transport Activities that are addressed in the Transport Chapter.</i> ...

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		Transpower supports the approach described in the overview.	
Subdivision – Te Wawaetanga			
Subdivision Rules			
General Comment	Amend	The objectives and policies within the Subdivision zone do not address the effects of subdivision on network utilities/infrastructure/energy activities. Instead the matter is addressed in ENG-P3 and the recommended Transpower specific policy ENG-R10. If SUB-R8 is to be retained within the subdivision chapter, at a minimum cross reference is required to the policies within the Energy chapter.	Provide a cross reference within SUB-R8 to the Energy chapter policies ENG-P3 and ENG-P10.
SUB-R2 All Zones - Subdivision for a Network Utility or Critical Infrastructure Activity Status Permitted <i>Where:</i> - Any new lot created is solely for a network utility or critical infrastructure which is either a Permitted Activity under the Energy Chapter, Infrastructure Chapter or Transport Chapter or is approved as a result of a land use consent; - Any existing buildings comply with the relevant zone Permitted Activity standards; - All existing vehicle access points comply with the requirements of Rule TRN-R1; - Where the site is less than 4ha adjacent to a river >3m wide or the coast, the provision of an esplanade reserve or strip of 20m; - No new roading or access points are required; and - No new Council services are required.	Support	Transpower supports this provision as it provides for those limited situations where subdivision may be required for its National Grid infrastructure. The permitted activity standards are appropriate, as is controlled activity status where the standards are not met.	Retain this rule.

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SUB - R8 – Subdivision to create allotment(s) of Land that contains or is within the Electricity Transmission and Distribution Yard Activity Status Controlled Where: <i>This is not within a Significant Natural Area as identified in Schedule Four and subject to Rule SUB - R7;</i> <i>This is not within one of the following locations in the coastal environment:</i> <i>Outstanding Natural Landscape as identified in Schedule Five;</i> <i>Outstanding Natural Feature as identified in Schedule Six;</i> <i>High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight; or</i> <i>This is not within an area of:</i> <i>Outstanding Natural Landscape as identified in Schedule Five;</i> <i>Outstanding Natural Feature as identified in Schedule Six;</i> <i>Sites of Historic Heritage as identified in Schedule One;</i> <i>Sites and Areas of Significance to Māori as identified in Schedule Three;</i> <i>Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;</i> <i>This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;</i> <i>All Subdivision Standards are complied with; and</i> <i>Subdivision in the MPZ - Māori Purpose Zone is in accordance with an Iwi/Papatipu Rūnanga Management Plan for the site.</i> <i>This is not within the Earthquake Hazard Overlay;</i>	Amend	Transpower supports the provision of a rule relating to subdivision within proximity of the National Grid. However, amendments are sought to the rule as follows: - As sought in the definitions chapter, Transpower seeks amendment to the rule title to refer to the 'National Grid Subdivision Corridor'. Notwithstanding Transpower's concerns with "Electricity Transmission and Distribution Yard" the reference to 'yard' is confusing to plan users in that the 'yard' essentially relates to land use whereas the rule relates to subdivision and therefore 'subdivision corridor' is the correct term (as reflected in the definitions). The provision of a corridor approach gives effect to NPSET policies 10 and 11, noting the NPSET does not apply to energy distribution activities. - The bulk of the amendments seek deletion of provisions which do not relate to the effects of the subdivision on the National Grid but instead are general subdivision matters for consideration. The appropriate approach is to address these matters under the underlying zoning or overlay subdivision rule and not conflate these effects with effects on the National Grid: - Clauses 1, 2, and 4 are not specific to effects of the National Grid and are addressed under other rules (that is SUB-R6, R10, R11 and R15) and as these rules would also apply (as noted in the Note to the subdivision rules), reference is not required within SUB-R8. Their inclusion confuses the purpose of the rule. - Similarly, clauses 3, 5 and 9 are not required as the subdivision would need to comply with the rules for the subdivision in the underlying zoning or overlay and compliance with standards assessed as part of that consent. The compliance	SUB - R8 – Subdivision to create allotment(s) of Land ~~that contains or is within the~~ <u>National Grid Subdivision Corridor Electricity Transmission and Distribution Yard</u> Activity Status <u>Restricted discretionary</u> ~~Controlled~~ Where: <u>All resulting allotments, except allotments for access or a public work, demonstrate they are capable of accommodating the principal building or any dwelling or sensitive activity located entirely outside of the National Grid Yard.</u> <u>Vehicle access to National Grid assets is maintained.</u> Matters of discretion are: <u>The extent to which the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) ISSN01140663;</u> <u>The provision for the on-going efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued access to existing transmission lines (including support structures) for maintenance, inspections and upgrading;</u> <u>The extent to which potential adverse effects (including visual and reverse sensitivity effects) are mitigated through the location of building platforms;</u> <u>The extent to which the design and construction of the subdivision allows for activities to be setback from the National Grid to ensure adverse effects on, and from, the National Grid and on public safety and property are appropriately avoided, remedied or mitigated, for example, through the location of roads and reserves under the transmission lines;</u> <u>The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid;</u>

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8. Any allotment created can contain a 15x15m area of land which: - Is located entirely outside of the Electricity Transmission and Distribution Yard; - Has reasonable physical and legal access; and - Could accommodate a building which can comply with all Permitted Activity standards for the Zone it is located in. 9. The subdivision maintains any existing access to Electricity Transmission and Distribution Yard; 10. Written documentation is provided that demonstrates consultation has occurred with the Electricity Transmission Operator including any response from the operator; and 11. The minimum lot size for any allotment that contains any part of the Electricity Transmission Corridor shall be 1ha. Matters of control are: - The size, design, shape, location and layout of allotments; - Efficient use of land and compatibility with the role, function and predominant character of the Zone in which the subdivision is located; - Where relevant consistency with the NZS 4404 Code of Practice for Land Development and Subdivision infrastructure; - The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy; - The adequacy of water supply for firefighting; - The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12; - Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site; - Management of any contaminated land;		with the standards is not a matter relevant to the National Grid and is not appropriate for inclusion in the rule or assessed as part of the consent. It is also noted that the one hectare minimum allotment size referenced in clause 9 would apply to all zones and does not reflect the underlying zone features. - Transpower opposes the controlled activity status and supports a restricted discretionary activity status. The main concern is that a controlled activity status is not able to be declined. Given the national significance of the National Grid and potential for adverse effects, a controlled activity status is not supported. A restricted discretionary activity status for subdivision provides an appropriate incentive and opportunity to design subdivision layouts that avoid building sites within the National Grid Yard. Subdivision is considered the most effective point at which to ensure future reverse sensitivity effects, maintenance access issues, and adverse effects of transmission lines (including amenity issues) are avoided. This can be achieved by designing subdivision layouts to properly accommodate transmission corridors (including, for example, through the creation of reserves and/or open space where buffer corridors are located). - Similarly, given the underlying zoning subdivision rule and standards would apply, amendments are sought to delete those matters not relevant to effects on the National Grid. Transpower requests non-complying activity status for any activity that cannot meet clauses 1 or 2.	~~f. The outcome of any consultation with Transpower; and~~ ~~g. The extent to which the design and layout of the subdivision demonstrates that a suitable building platform(s) for the principal building or any dwelling or sensitive activity can be located outside of the National Grid Yard for each new allotment.~~ ~~1. This is not within a Significant Natural Area as identified in Schedule Four and subject to Rule SUB-R7;~~ ~~2. This is not within one of the following locations in the coastal environment:~~ ~~Outstanding Natural Landscape as identified in Schedule Five;~~ ~~Outstanding Natural Feature as identified in Schedule Six;~~ ~~High or Outstanding Coastal Natural Character as identified in Schedules Seven and Eight; or~~ ~~3. This is not within an area of:~~ ~~Outstanding Natural Landscape as identified in Schedule Five;~~ ~~Outstanding Natural Feature as identified in Schedule Six;~~ ~~Sites of Historic Heritage as identified in Schedule One;~~ ~~Sites and Areas of Significance to Māori as identified in Schedule Three;~~ ~~Any Flood Susceptibility, Flood Plain, Land Instability, Coastal Alert or Coastal Tsunami Hazard Overlay;~~ ~~4. This is not within an area of Flood Severe, Coastal Severe or Westport Hazard Overlay or the Airport Noise Control Overlay;~~ ~~5. All Subdivision Standards are complied with; and~~

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
i. Management of reverse sensitivity effects on the national grid; j. The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created; k. Management of any effects on the production value of any highly productive land or high value soils such as those located at Karamea and Totara Flat; l. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and m. Management of potential reverse sensitivity effects on existing land uses, including network utilities, rural activities or significant hazardous facilities. Advice Note: This rule does not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB - R4.			~~6. Subdivision in the MPZ – Māori Purpose Zone is in accordance with an Iwi/Papatipu Rūnanga Management Plan for the site.~~ ~~7. This is not within the Earthquake Hazard Overlay;~~ ~~8. Any allotment created can contain a 15x15m area of land which:~~ ~~iv. Is located entirely outside of the Electricity Transmission and Distribution Yard;~~ ~~v. Has reasonable physical and legal access; and~~ ~~vi. Could accommodate a building which can comply with all Permitted Activity standards for the Zone it is located in.~~ ~~9. The subdivision maintains any existing access to Electricity Transmission and Distribution Yard;~~ ~~10. Written documentation is provided that demonstrates consultation has occurred with the Electricity Transmission Operator including any response from the operator; and~~ ~~11. The minimum lot size for any allotment that contains any part of the Electricity Transmission Corridor shall be 1ha.~~ Matters of control are: ~~a. The size, design, shape, location and layout of allotments;~~ ~~b. Efficient use of land and compatibility with the role, function and predominant character of the Zone in which the subdivision is located;~~ ~~c. Where relevant consistency with the NZS 4404 Code of Practice for Land Development and Subdivision infrastructure;~~ ~~d. The provision of infrastructure and services for drinking water, wastewater and stormwater, telecommunications and energy;~~ ~~e. The adequacy of water supply for firefighting;~~ ~~f. The requirement for financial contributions as outlined in Rules FC – R1 to FC – R12;~~

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
			~~g. Effects on Poutini Ngāi Tahu values or notable trees within or adjacent to the site;~~ ~~h. Management of any contaminated land;~~ ~~i. Management of reverse sensitivity effects on the national grid;~~ ~~j. The provision of esplanade reserves or strips, and the need for access to be provided to any esplanade reserve or strip created;~~ ~~k. Management of any effects on the production value of any highly productive land or high value soils such as those located at Karamea and Totara Flat;~~ ~~l. Management of construction effects, including traffic movements, hours of operation, noise, earthworks and erosion and sediment control; and~~ ~~m. Management of potential reverse sensitivity effects on existing land uses, including network utilities, rural activities or significant hazardous facilities.~~ Advice Note: This rule does not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB - R4.
NEW RULE	Support	Transpower requests non-complying activity status for any rule that does not comply with SUB-R8. This rule provides that link.	Insert a new rule as follows: <u>SUB - R27 – Subdivision to create allotment(s) of Land within the National Grid Subdivision Corridor not meeting Restricted Discretionary Activity Standards Activity Status Non-complying</u>
Earthworks – Te Huke Whenua			
Earthworks Introduction, Objectives and Policies			
Introduction <i>Overlay Chapters - the Overlay Chapters have provisions in relation to Historic Heritage; Notable Trees; Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Natural Features and Landscapes; Natural</i>	Amend	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.	Provide all relevant earthwork rules within the Earthworks Chapter.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
<i>Character and Margins of Waterbodies; Natural Hazards; and the Coastal Environment. Where earthworks are located within an overlay area (as identified in the planning maps) then the relevant overlay chapter provisions apply.</i>			
EW - P4 Protect critical infrastructure and natural hazard defences from the adverse effects of earthworks.	Support	Transpower supports Policy P4 on the basis it recognises critical infrastructure.	Retain Policy EW-P4.
Earthworks Rules			
EW – R2 and EW-R7	Amend	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. Specifically, earthworks restrictions are supported as earthworks have the potential to undermine transmission line structures, generate dust, and reduce the clearances between the ground and conductors. They also have the potential to restrict Transpower’s ability to access the line and locate the heavy machinery required to maintain support structures around the lines and may lead to potential tower failure and significant constraints on the operation of the line. The provision of a rule framework gives 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. Based on the above, Transpower supports the provision of earthworks provisions on the basis such activities can compromise the National Grid and are a form of development contemplated by the NPSET. However, its preference is for a standalone rule specific to the National Grid that would provide the	Amend Rule EW-R2 and EW-R7 to exclude earthworks within the National Grid and to provide a stand-alone earthworks rule: Insert a new earthworks rule as follows: <u>EW-RX.1 EARTHWORKS AND VERTICAL HOLES WITHIN THE NATIONAL GRID YARD</u> <u>ACTIVITY STATUS: PERMITTED</u> <u>Where:</u> a. <u>Earthworks and vertical holes do not:</u> i. <u>Exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure;</u> ii. <u>Exceed 3m in depth between 6m and 12m of the outer visible edge of a National Grid support structure;</u> iii. <u>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;</u> iv. <u>Compromise the stability of any National Grid support structures; and</u> v. <u>Result in the loss of vehicular access to a National Grid support structure.</u>

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
		appropriate framework and activity status for earthworks that may affect the Grid. Key features of the recommended rule are: • Inclusion of reference to vertical holes as the National Planning Standards definition of earthworks specifically excludes the disturbance of land for the installation of fence posts. For this reason, the rule needs to be amended to cover vertical holes. • Inclusion of conditions relating to conductor clearance (iii), stability of support structures (iv), and access (v). Such conditions are required to ensure the National Grid assets are not compromised. • Insertion of a non-complying activity status where compliance with the standards within 1.a is not achieved, A non-complying activity status is considered 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, a non-complying activity status: (a) Most appropriately recognises and provides for the effective operation, maintenance, upgrading and development of the network, as required by NPSET Policy 2; (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. 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.	<u>Earthworks and vertical holes for the following activities are exempt from compliance with EW-Rx-1.a (i) and (ii):</u> • <u>Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991;</u> • <u>Agricultural or domestic cultivation;</u> • <u>The repair, sealing or resealing of a vehicle access or farm track;</u> • <u>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</u> • <u>Any other earthwork or land disturbance activities subject to a dispensation from Transpower under New Zealand NZECP 34:2001.</u> <u>Activity status: Non-complying</u> <u>Where:</u> <u>Compliance is not achieved with EW-Rx-1.a.</u> <u>Notification</u> • <u>An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.</u> • <u>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.</u>

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
Coastal Environment – Te Taiao o te Takutai			
General Comment	Support with amendment	As currently drafted, the CE chapter would apply to the National Grid (noting the Grid is specifically referenced in CE-P3 and CE-P8). Transpower seeks clarification as to the relationship to the Energy Chapter, particularly in light of the sought National Grid specific policies within the ENG chapter which adopts a “seek to avoid’ approach for the National Grid. It is noted the overview to the Energy Chapter provides <i>“The Energy Chapter contains the objectives, policies, rules for managing energy activities - the Infrastructure Chapter rules and the Area Specific Provisions (Zone chapters) do not apply to energy activities, however the Overlay chapters and other District Wide rules also apply where relevant.”</i> While rule CE- of the Coastal Environment chapter stipulates <i>“in the case of Energy Activities and Network Utilities the relevant Energy, Infrastructure or Transport Rules apply,”</i> it is not clear whether the policies of the Coastal Environment chapter apply to Energy activities. To clarify the relationship, Transpower seeks either: - specific wording that the Coastal Environment Chapter does not apply to Energy activities, or - a specific note to the recommended National Grid policy ENG-P8 that other policies in the plan do not apply; or Should the above not be accepted, Transpower supports specific policy recognition within the CE chapter subject to amendments as provided below.	Clarify the relationship between activities within the Energy Chapter and those within the Coastal Environment Chapter.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
		The discretionary status within Rule NC-R3 is supported (on the basis this is the rule that would apply to any new National Grid assets).	
Coastal Environment Objectives and Policies			
CE - O1 <i>To preserve the natural character, landscapes and biodiversity of the coastal environment while enabling people and communities to provide for their social, economic and cultural wellbeing in a manner appropriate for the coastal environment.</i>	Support	Transpower supports CE-O1 as it recognises well-being.	Retain this objective.
CE - O3 <i>To provide for activities which have a functional need to locate in the coastal environment in such a way that the impacts on natural character, landscape, natural features, access and biodiversity values are minimised.</i>	Amend	Notwithstanding the lack of clarity as to the relationship between the CE and ENG chapters, and what is meant by the term ‘minimised’, as drafted, Objective CE-O3 gives effect to the NZCPS. Transpower is not opposed to the objective but notes that the Coastal Environment Chapter is also required to give effect to the NPSET. Depending on the relationship with the ENG provisions Transpower seeks an amendment to the objective so that the National Grid is recognised within the policy framework. The National Grid is subject to operational needs as opposed to strict functional needs in that the National Grid is not dependent on the coastal resource but is constrained in its location given the linear nature of the network and that it is required to connect to generation to provide for the transmission of electricity).	Amend CE-O3 as follows: CE–O3 <i>To provide for activities which have a functional need <u>or operational need in respect of the National Grid</u> to locate in the coastal environment in such a way that the impacts on natural character, landscape, natural features and biodiversity values are minimised.</i>
CE – P1 <i>Identify and map a Coastal Environment overlay that recognises and provides for the extent of the coastal environment and different areas, elements or characteristics within it, including:</i>	Support	Transpower supports the identification and mapping of the coastal environment, including reference to infrastructure which have modified the coastal environment.	Retain Policy CE-P1.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
a. Areas where coastal processes, influences or qualities are significant; b. Elements and features that contribute to the natural character, landscape, visual qualities or amenity values; c. Areas along the coast and river mouths where coastal erosion and coastal inundation is likely, and within the wider coastal environment where there is a potential hazard risk should accelerated sea level rise occur; d. Historic heritage and Poutini Ngāi Tahu cultural areas or features; e. Areas of significant coastal vegetation and habitat of indigenous coastal flora and fauna species; and f. The built environment and infrastructure which have modified the coastal environment.			
CE - P2 Preserve the natural character, natural features and landscape qualities and values of areas within the coastal environment that have: a. Significant indigenous biodiversity including Significant Natural Areas as described in Schedule Four b. Outstanding natural landscapes as described in Schedule Five; c. Outstanding natural features as described in Schedule Six; d. High coastal natural character as described in Schedule Seven; and e. Outstanding coastal natural character as described in Schedule Eight.	Support	Transpower supports this policy.	Retain the policy.
CE -P3 Only allow new subdivision, use and development within areas of outstanding and high coastal natural character, outstanding coastal natural landscapes and outstanding coastal natural features where: a. The elements, patterns, processes and qualities that contribute to the outstanding or high natural character or landscape are maintained;	Oppose with amendment	Transpower supports the recognition (within clause e.) that there may be functional or operational need for National Grid infrastructure to locate in these areas. An amendment is sought to amend the 'and' to an 'or' to recognise both are not required and be consistent with the wording in other policies.	Amend the policy as follows: CE -P3 Only allow new subdivision, use and development within areas of outstanding and high coastal natural character, outstanding coastal natural landscapes and outstanding coastal natural features where:

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
b. Significant adverse effects on natural character, natural landscapes and natural features, and adverse effects on areas of significant indigenous biodiversity, areas of outstanding natural character and outstanding natural landscapes and features are avoided; c. The development is of a size, scale and nature that is appropriate to the environment; d. It is for a Poutini Ngāi Tahu cultural purpose; or e. It is National Grid infrastructure that has a functional and operational need to locate in these areas.		Transpower notes that clause b. does not reflect the policy title which relates to outstanding or high value areas.	a. The elements, patterns, processes and qualities that contribute to the outstanding or high natural character or landscape are maintained; b. Significant adverse effects on natural character, natural landscapes and natural features, and adverse effects on areas of significant indigenous biodiversity, areas of outstanding ~~and high~~ natural character, ~~and~~ outstanding <u>coastal natural</u> landscapes and <u>outstanding coastal natural</u> features are avoided; c. The development is of a size, scale and nature that is appropriate to the environment; d. It is for a Poutini Ngāi Tahu cultural purpose; or e. It is National Grid infrastructure that has a functional ~~and/or~~ operational need to locate in these areas.
CE -P5 Provide for buildings and structures within the coastal environment outside of areas of outstanding coastal natural character, outstanding natural landscape and outstanding natural features where these: a. Are existing lawfully established structures; or b. Are of a size, scale and nature that is appropriate to the area; or c. Are in the parts of the coastal environment that have been historically modified by built development and primary production activities; or d. Have a functional or operational need to locate within the coastal environment.	Support	Transpower supports the reference to functional and operational need on the basis it gives effect to the NPSET.	Retain the policy.
CE – P6 Recognise that there are existing settlements and urban areas located within the coastal environment of the West Coast/Te Tai o Poutini including parts of Westport, Greymouth and Hokitika and enable new subdivision, buildings and structures within and expansion of towns and settlements where: a. These are located in areas already modified by built development or primary production activities, or	Support	Transpower supports the recognition of existing communities and infrastructure.	Retain the policy.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
b. Where located in unmodified areas, any adverse impact on natural character can be mitigated; c. In areas of outstanding or high natural character: i. Provide for lawfully established land uses and activities to continue; ii. Allow for other uses with a functional need to locate in the coastal environment; iii. Allow for Poutini Ngāi Tahu cultural uses; iv. Avoid encroachment into unmodified areas of the coastal environment; and v. Ensure subdivision and development is of a scale and design where adverse effects on the elements, patterns and processes that contribute to natural character are minimised.			
CE – P8 Enable the maintenance, repair and operation of the National Grid. Where new development and upgrades of the National Grid are required, seek to avoid and otherwise remedy or mitigate adverse effects on Overlay Chapter areas.	Support	Transpower supports the specific recognition of the National Grid in this policy, and that it provides consistency with the ‘seek to avoid’ provisions in the Energy Chapter. However, Transpower does query the relationship of the policy with the energy policy ENG-P8.	Retain the policy.
Coastal Environment Rules			
All rules	Oppose	Transpower notes that it is unclear which rules apply to Energy Activities, and which are excluded. Some of the rules specifically note that they do not apply to energy activities, but most rules are silent. The plan should clearly state that none of the rules in this chapter apply to Energy Activities, and that only the Energy Chapter applies – this may require shifting or drafting of new rules in the Energy Chapter. Alternatively, it should be very clear which rules apply to the National Grid and whether these apply in addition to the Energy Chapter rules.	Amend the rules section to state that none of the rules in this chapter apply to Energy Activities, and that only the Energy Chapter applies – this may require shifting or drafting of new rules in the Energy Chapter. Alternatively, it should be very clear which rules apply to the National Grid and whether the rules in this Chapter apply in addition to the Energy Chapter rules. Note that ENG-P8 takes precedence for the National Grid over any policies in this chapter.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
CE - R4 Buildings and Structures in the Coastal Environment Activity Status Permitted <i>Where:</i> 1. <i>These are not located within:</i> a. <i>An Outstanding Natural Landscape identified in Schedule Five;</i> b. <i>An Outstanding Natural Feature identified in Schedule Six;</i> c. <i>An area of High Coastal Natural Character identified in Schedule Seven and subject to Rule CE - R5;</i> d. <i>An area of Outstanding Coastal Natural Character identified in Schedule Eight; and</i> 2. <i>These:</i> a. <i>Comply with the rules for buildings and structures within the relevant zone, except that within the GRUZ - General Rural Zone, RLZ - Rural Lifestyle and SETZ - Settlement Zone:</i> i. <i>Maximum height is 7m for new buildings;</i> ii. <i>No height limits apply where this is replacement of a lawfully established building with another building of the same height, in the same location; and</i> iii. <i>The gross ground floor area is:</i> I. <i>A maximum of 200m2 per building for new buildings;</i> II. <i>No maximum area where this is the replacement of a lawfully established building with another building of the same ground floor area, in the same location; or</i> b. <i>Are Energy Activities or Network Utilities, including ancillary earthworks, subject to provisions in the Energy, Infrastructure and Transport Chapters of the Plan; or</i>	Support	Transpower supports this rule on the basis that it clearly excludes Energy Activities and refers those to the Energy Chapter rules.	Retain the rule.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
c. <i>Are natural hazard mitigation structures constructed by a Statutory Agency or their authorised contractor.</i> Advice Note: <i>Refer to the Natural Hazards, Sites and Areas of Significance to Māori, Historic Heritage, Natural Character and Margins of Waterbodies Overlay Chapters for rules in relation to buildings and structures in these areas.</i> Activity status where compliance not achieved: <i>Outside of the scheduled overlay chapter areas and the Rural Zones, the relevant zone rules apply.</i> <i>In the case of Energy Activities and Network Utilities the relevant Energy, Infrastructure or Transport Rules apply.</i>			
CE - R22 Activities in the Coastal Environment that would destroy any Outstanding Natural Feature identified in Schedule Six or the values which make it Outstanding Activity Status Non-complying Notification: <i>Applications to destroy any Outstanding Natural Feature or the Values which make it Outstanding will always be Limited Notified to the Geosciences Society of New Zealand and may be publicly notified.</i> Advice Note: <i>When assessing resource consents for activities under this rule, assessment against both the Coastal Environment, and Natural Features and Landscapes policies will be required.</i> <i>This rule also applies to plantation forestry activities where this provision is more stringent than the NES - PF.</i>	Amend	Given the non-complying activity status, Transpower has concerns with the lack of clarity with the term ‘destroy’ and how the rule would be applied. The rule provides no direction or standards relating to the scale, nature or degree of the ‘destruction’. Given the strong policy directive and potential application of the rule, Transpower recommends the rule be amended to provide certainty as to its application.	Amend Rule CE-R22 to clarify/amend the term ‘destroy’ and the application of the rule.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
Ecosystems and Indigenous Biodiversity - Ngā Pūnaha Rauropi me te Kanorau Koiora			
Objectives and Policies			
General Comment	Amend	As currently drafted, the ECO chapter would apply to the National Grid and while Transpower is not necessarily opposed to this approach, it does seek clarification as to the relationship to the Energy Chapter, particularly in light of the National Grid specific policies within the ENG chapter which adopts a “seek to avoid” approach for the National Grid (specifically policy ENG-P8). It is further noted that many provisions within the ECO chapter apply to indigenous vegetation and are not confined to significant indigenous vegetation. This has wide implications for many activities. There is also a mix of terminology used. Transpower seeks clarification over the application of the rules.	Clarify the relationship between activities within the Energy Chapter and those within the Ecosystems and Indigenous Biodiversity Chapter.
ECO - P1 <i>Identify areas of significant indigenous vegetation and fauna habitat:</i> 1. <i>In the Grey District these areas are identified in Schedule Four;</i> 2. <i>In the Buller and Westland Districts:</i> i. <i>The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will be used to assess significance;</i> ii. <i>Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as district wide identification and mapping of significant natural areas is undertaken;</i>	Oppose	Transpower understands the reasoning for not identifying areas of significant indigenous biodiversity across the region but has concerns regarding the implications for any future resource consents or designations. When applied to linear infrastructure such as the National Grid, the implications are potentially significant. The approach of not identifying and mapping areas does not give effect to Objective 1 and Policy 1 of Chapter 7 the West Coast RPS, being <i>Objective 1</i>. <i>1. Identify in regional and district plans, and through the resource consent process, areas of significant</i>	Identify areas of significant indigenous biodiversity within the region as directed by the RPS.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
iii. <i>Buller and Westland district wide assessment, identification and mapping of significant natural areas will be undertaken and completed by June 2027; and</i> iv. <i>Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through a Plan Change.</i>		<i>indigenous vegetation and significant habitats of indigenous fauna in a regionally consistent manner.</i> <i>Policy 1</i> <i>1. a) Areas of significant indigenous vegetation and significant habitats of indigenous fauna will be identified using the criteria in Appendix 1; they will be known as Significant Natural Areas (SNAs), and will be mapped in the relevant regional plan and district plans.</i> <i>b) Significant wetlands will be identified using the criteria in Appendix 2; they will be known as Significant Natural Areas (SNAs), and will be mapped in the relevant regional plan.</i>	
ECO - P6 <i>When assessing consents for subdivision, use and development avoid activities which will:</i> <i>a. Prevent an indigenous species or community being able to persist within their natural range in the Ecological District;</i> <i>b. Result in a degradation of the threat status, significant loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification; and</i> <i>c. Result in a reasonably measurable reduction in the local population of threatened taxa in the Department of Conservation Threat Categories 1 – 3a -nationally critical, nationally endangered and nationally vulnerable.</i>	Oppose	Given the lack of identified SNA's across the region, Transpower has concerns as to the wide application of ECO-P6 given the avoid directive within the policy, and that it is not clearly confined to significant indigenous vegetation. Specific concerns are as follows: - Clause a. is very directive and could be applied such that no changes would be enabled. - Clause b. provides no reference to scale as to the site and effect that is, does it relate to the SNA as a whole or just the site), the term 'disruption' is open ended and not a commonly understood ecological term, and the clause is unclear as to whether the reference to 'one or two of the Threatened Environment Classification' applies to all the clause or just 'functions or connections'. - Clause c. reflects the RPS.	Clarify the relationship between activities within the Energy Chapter and those within the Ecosystem Chapter, adopt the 'seek to avoid' approach (policy ENG-P8) for the National Grid in respect of SNA's.
Rules			
ECO-R1 – Indigenous vegetation clearance and disturbance outside of the coastal environment Activity Status Permitted <i>Where:</i>	Amend	There is some crossover between 3(ii) and 3(ix), as both could apply to the operation of the National Grid. Transpower requests deletion of (ix), and amendments to (ii) to incorporate the National Grid and provide	Amend the rule as follows: ECO - R1 – Indigenous vegetation clearance and disturbance outside of the coastal environment ...

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
1. It is outside of a scheduled Significant Natural Area as identified in Schedule Four; 2. It is clearance permitted by the Natural Character and the Margins of Waterbodies Rule NC - R1; or 3. It is necessary for one of the following purposes: i. It is the removal of windthrown timber through: a. Use of helicopter recovery methods; or b. Where ground based recovery is only undertaken from areas adjacent to existing vehicle tracks; or ii. The maintenance, operation and repair of lawfully established tracks, fences, structures, buildings, critical infrastructure, network utilities, renewable electricity generation activities or natural hazard mitigation activities; iii. For the installation of temporary network activities following a regional or local state of emergency declaration; iv. To prevent a serious threat to people, property, structures or services; v. To ensure the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access; vi. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals; vii. To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor; viii. To comply with section 43 of the Fire and Emergency Act 2017; ix. For construction or operation of an above ground or below ground network utility or the national grid where: a. The construction corridor does not exceed 3m in width; and		consistency with ECO-R2. The basis for the application of clause 3.(ix) to the National Grid is not clear. It is unclear whether permitted activity conditions 1-5 all apply, or an activity only needs to comply with 1. 'And' or 'or' should be inserted at the end of, or between, conditions 1-5 so it is clear if any or all of them must apply for an activity to be permitted. Specific to the National Grid, the NESETA manages the trimming, felling and removal of vegetation and earthworks, with the activity status under the NESETA determined by the provisions in the Proposed TTPP. The NESETA provides for earthworks and trimming, felling or removal of any vegetation as permitted activities subject to conditions. Therefore, the NESETA would prevail over this rule for operation, maintenance, upgrading or removal of a transmission line. ECO-R1 would remain applicable for installation.	ii. The maintenance, operation, ~~and~~ repair, <u>upgrading and installation</u> of lawfully established tracks, fences, structures, buildings, critical infrastructure <u>including the National Grid</u>, network utilities, renewable electricity generation activities or natural hazard mitigation activities; ... ~~ix. For construction or operation of an above ground or below ground network utility or the national grid National Grid where:~~ ~~a. The construction corridor does not exceed 3m in width; and~~ ~~b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and~~ ~~c. Rehabilitation of disturbed areas is undertaken following the completion of construction;~~ Add 'and' or 'or' between conditions 1-5, or otherwise more clearly describe the activity status that applies to each non-compliance. The text in 'activity status where compliance not achieved' appears to have some errors and it does not clearly direct the plan user to an activity status.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
<i>b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and</i> <i>c. Rehabilitation of disturbed areas is undertaken following the completion of construction;</i> <i>x. It is cultural harvest undertaken by Poutini Ngāi Tahu; or</i> <i>xi. It is on MPZ - Māori Purpose Zoned land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or</i> <i>xii. It is within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument;</i> <i>4. Within the Grey District it is clearance outside of an Outstanding Natural Landscape identified in Schedule Five; or</i> <i>5. Within the Buller and Westland Districts:</i> <i>i. It is the removal or clearance of mānuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old, not exceeding 5ha per site over any continuous three year period, subject to provision of notice to the relevant District Council at least 20 working days prior to the proposed clearance including:</i> <i>a. Details of the location of the proposed clearance;</i> <i>b. Area of the proposed clearance; and</i> <i>c. Verification by documentary, photographic or other means that the vegetation is less than 15 years old and not part of any wetland; or</i> <i>ii. It is a maximum area of 5000m² per site, in total, over any continuous three year period.</i>			

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
ECO-R2 – Indigenous Vegetation Clearance in the Coastal Environment Where: - This is for: - Walking/cycling tracks, roads, farm tracks or fences; - Operation, maintenance, repair, upgrading and installation of new network utility infrastructure and renewable electricity generation activities; or - Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site; - The extent of indigenous vegetation disturbed and/or cleared per site does not exceed an area of 500m2 in area per site in any three year period; - The indigenous vegetation clearance does not disturb, damage or destroy nesting areas or habitat of protected species; and - The indigenous vegetation clearance does not occur in any area identified as a Significant Natural Area in Schedule Four. ...	Amend	Specific recognition of the National Grid (or at the very least Critical infrastructure) should be provided in 1(ii), for consistency with ECO-R1. Specific to the National Grid, the NESETA manages the trimming, felling and removal of vegetation and earthworks, with the activity status under the NESETA determined by the provisions in the Proposed TTPP. The NESETA provides for earthworks and trimming, felling or removal of any vegetation as permitted activities subject to conditions. Therefore, the NESETA would prevail over this rule for operation, maintenance, upgrading or removal of a transmission line. ECO-R2 would remain applicable for installation.	Amend the rule as follows: ECO-R2 – Indigenous Vegetation Clearance in the Coastal Environment Where: - This is for: - Walking/cycling tracks, roads, farm tracks or fences; - Operation, maintenance, repair, upgrading and installation of new network utility infrastructure and renewable electricity generation activities <u>including the National Grid</u>; or - Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site;
ECO-R5 – Indigenous vegetation clearance not meeting Permitted or Controlled Activity Standards Activity Status Restricted Discretionary Where: - This is not within: - A Significant Natural Area identified in Schedule Four; - An area of land environment of category one or two of the Threatened Environment Classification; - An Outstanding Natural Landscape identified in Schedule Five;	Support	ECO-R5 appears to be the default rule for indigenous vegetation clearance relating to the National Grid that is not permitted (nor within a specified area). Transpower supports the inclusion of functional or operational need for critical infrastructure as a matter for discretion.	Retain ECO-R7 on the basis the National Grid is retained within ECO-R1 and R2. Retain functional or operational need for critical infrastructure as a matter for discretion.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
iv. An Outstanding Natural Feature identified in Schedule Six; v. An area of High Coastal Natural Character identified in Schedule Seven; or vi. An area of Outstanding Coastal Natural Character identified in Schedule Eight. Discretion is restricted to: a. Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses; b. Constraints imposed by functional or operational need of network utilities and critical infrastructure; c. Effects on habitats of any threatened or protected species; d. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification; e. Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems; f. Effects on the intrinsic values of ecosystems; g. Effects on recreational values of public land; and h. The matters outlined in Policies ECO - P6 and ECO - P7. Activity status where compliance not achieved: Discretionary			
ECO - R7 Indigenous vegetation clearance not meeting ECO – R5 Activity Status Discretionary	Support	Transpower supports the discretionary activity status. The activity status and associated policies in the Energy Chapter and ECO-P7 provide an appropriate framework in which to manage the National Grid, noting that these provisions would only apply to ‘installation’ of National Grid activities, as other activities are managed under the NESETA.	Retain the rule.
Natural Features and Landscapes - Ngā Āhua me ngā Horanuku Aotūroa			

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
Objectives, Policies and Rules			
General comments	Support with amendment	As currently drafted, the NFL chapter would apply to the National Grid and while Transpower is not necessarily opposed to this approach, it does seek clarification as to the relationship to the Energy Chapter, particularly in light of the sought National Grid specific policies within the ENG chapter which adopts a “seek to avoid” approach for the National Grid. To clarify the relationship, Transpower recommend a note to the recommended policy ENG-P8 that other policies in the plan do not apply. Should this not be accepted, Transpower seeks specific policy recognition within the NFL chapter. The discretionary status within Rule NFL-R14 and R15 is supported.	Clarify the relationship between activities within the Energy Chapter and those within the Natural Features and Landscapes Chapter.
NFL – P4 <i>Require that new buildings, structures within outstanding natural features or landscapes minimise any adverse visual effects by:</i> <i>Ensuring the scale, design and materials of the building and/or structure are appropriate in the location;</i> <i>Using naturally occurring building platforms, materials and colour that blends into the landscape; and</i> <i>Limiting the prominence or visibility of buildings and structures including by integrating it into the outstanding natural feature or landscape.</i>	Oppose in part	In the absence of any certainty as to what is required by the term “minimise” Transpower has concerns as to the application of the policy, noting the requirement to ‘minimise’ applies to any adverse visual effects. Transpower has sought a definition for ‘minimise’. Specific to the National Grid, given the technical and operational constraints associated with National Grid infrastructure, its ability to minimise adverse effects by using ‘naturally occurring building platforms, materials and colour that blends into the landscape’ is severely constrained.	Clarify the term ‘minimise’ and that the policy does not apply to the National Grid.
NFL-P5 <i>Minimise adverse effects on outstanding natural landscapes and outstanding natural features by considering the following matters when assessing proposals for land use or subdivision:</i>	Support	Transpower supports the inclusion of functional, technical, operational or locational need as a matter for consideration in this policy. As within other submission points, if the term Minimise is to be retained, a definition is sought.	Retain this policy.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
a. <i>The scale of modification to the landscape;</i> b. <i>Whether the proposal is located within a part of the outstanding natural feature or outstanding natural landscape that has capacity to absorb change;</i> c. <i>Whether the proposal can be visually integrated into the landscape and whether it would break the skyline or ridgelines;</i> d. <i>The temporary or permanent nature of any adverse effects;</i> e. <i>The functional, technical, operational or locational need of any activity to be sited in the particular location;</i> f. <i>Any historical, spiritual or cultural association held by Poutini Ngāi Tahu;</i> g. <i>Any positive effects the development has on the identified characteristics and qualities;</i> h. <i>Any positive effects at a national, regional and local level;</i> i. <i>Any relevant public safety considerations; and</i> j. <i>The measures proposed to mitigate the effects on the values and characteristics, including:</i> i. <i>The location, design and scale of any buildings or structures, or earthworks;</i> ii. <i>The intensity of any activity; and</i> iii. <i>The finish of any buildings or structures, including materials, reflectivity and colour; and landscaping and fencing.</i>			
At end of policies: <i>Also where relevant refer to policies in the Energy, Infrastructure and Transport Chapters.</i>	Amend	Transpower supports this note as it provides some clarification as to the relationship to the Energy Chapter, particularly in light of the sought National Grid specific policies within the ENG chapter which adopts a 'seek to avoid' approach for the National Grid. Transpower requests that it is moved into the 'overview' section so that it is more visible to plan users.	Retain this text and move to the 'overview' section.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
NFL - R6 Earthworks within an Outstanding Natural Landscape described in Schedule Five or Outstanding Natural Feature described in Schedule Six Activity Status Permitted <i>Where:</i> <i>All performance standards for Earthworks Rule EW - R1 are complied with; and</i> <i>This is ancillary to:</i> <i>An infrastructure activity undertaken by a network utility operator in accordance with the Permitted Activity standards in Infrastructure Rule INF - R7; or</i> <i>An energy activity undertaken by a network work utility operator in accordance with the Permitted Activity standards in Energy Rule ENG - R4;</i> <i>For other earthworks, the following standards are complied with:</i> <i>The cut height or fill depth does not exceed one metre vertically;</i> <i>No more than 500m3 of earthworks are undertaken/12 month period/site; and</i> <i>The earthworks are undertaken outside of the Coastal Environment.</i> Advice Note: <i>Earthworks associated with natural hazard mitigation activities are subject to Rule NFL - R3.</i> <i>This rule also applies to plantation forestry activities, where this provision is more stringent than the NES - PF.</i> <i>Where activities are located in the Coastal Environment, the provisions in the Coastal Environment Chapter apply.</i>	Support	Transpower supports this rule as it specifically links to the relevant rules in the Energy Chapter. While most of Transpower's earthworks activities are covered by the NESETA, the clear direction in this rule is useful for any new construction or other activities that fall outside the scope of the NESETA.	Retain this rule.
Natural Character and Margins of Waterbodies Ngā Āhua me ngā Mahi ka Noho Hāngai ki ngā Hopua Wai			
Objectives, Policies and Rules			

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
NC - R1 – Indigenous Vegetation Clearance and Earthworks within the Riparian Margin of a River, Lake or Wetland Activity Status Permitted 1. <i>Where this is outside of any Significant Natural Area identified in Schedule Four, and for:</i> a. <i>Fence lines; or</i> b. <i>Maintenance, operation, minor upgrade and repair of network utilities, critical infrastructure or renewable electricity generation activities;</i> c. <i>Connections to wastewater, stormwater and reticulated network utility systems; or</i> d. <i>Installation of an environmental monitoring and extreme weather event monitoring facility; or</i> e. <i>Maintenance and repair of lawfully established structures; or</i> f. <i>The construction of parks facilities, parks furniture or public access points within an Open Space and Recreation Zone; or</i> g. <i>The establishment of a river crossing point up to 3m wide; or</i> h. <i>Poutini Ngāi Tahu activities;</i> i. <i>Activities on Māori Purpose Zoned land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or</i> j. <i>Natural hazard mitigation activities undertaken by a statutory agency or their nominated contractor;</i> 2. <i>The amount of indigenous vegetation clearance is not greater than 20m² per 200m length of Riparian Margin;</i> 3. <i>The amount of earthworks is not greater than 20m³ per 200m length of Riparian Margin;</i> 4. <i>All earthworks stockpiles are located outside of the Riparian Margin of the waterbody; and</i> 5. <i>Unless carried out by a statutory agency or their nominated contractor responsible for natural hazard mitigation, the clearance and earthworks are not located within areas used and identified for natural hazard mitigation structures.</i>	Amend	Transpower supports the inclusion of ‘critical infrastructure’ and ‘network utilities’ within this rule. The Advice Note should include specific reference to the Energy Chapter so that it is clear if those provisions also apply.	Retain the rule. Clarify relationship with Energy Chapter in the advice note.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
Advice Note: <i>Rules in other Overlay Chapters particularly Historic Heritage, Sites and Areas of Significance to Māori, Natural Hazards and Natural Features and Landscapes may also apply in these locations.</i> <i>Activities within the margins of waterbodies and wetlands are also the subject of regulation under the NES Freshwater, NPS Freshwater and the West Coast Regional Land and Water Plan.</i> <i>This rule also applies to plantation forestry activities, where this provision is more stringent than the NES - PF.</i>			
At end of policies: <i>Also where relevant refer to policies in the Energy, Infrastructure and Transport Chapters.</i>	Amend	Transpower supports this note as it provides some clarification as to the relationship to the Energy Chapter, particularly in light of the sought National Grid specific policies within the ENG chapter which adopts a 'seek to avoid' approach for the National Grid. Transpower requests that it is moved into the 'overview' section so that it is more visible to plan users.	Retain this text and move to the 'overview' section.
Subdivision Financial Contributions			
FC - P6 <i>To provide for the use of financial contributions for managing adverse environmental effects, including those on significant indigenous biodiversity and outstanding natural landscapes where these cannot be avoided, remedied or mitigated and the activities have specific spatial location requirements or functional and operational needs such as mineral extraction, renewable electricity generation activities and critical infrastructure.</i>	Oppose	Transpower opposes the policy as: • The basis for applying the policy to critical infrastructure is unclear. • The basis for extending the offsetting and compensation requirement beyond significant natural areas is not clear and not supported. • The policy does not adopt the mitigation hierarchy.	Either delete Policy FC-P6 or amend the policy to not apply to the National Grid.
FC - P7 <i>When calculating financial contributions as a method of managing adverse environmental effects of activities, take</i>	Support in part	While Transpower opposes the requirement for financial contributions for critical infrastructure, if it is retained, Transpower is supportive of this policy.	If Policy FC-P6 is retained, also retain this policy.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
<i>into account the local, regional and national benefits of the proposed activity.</i>			
FC - R1 Financial Contributions as Conditions of Consent 1. A condition may be imposed on a subdivision or land use consent to require the applicant, including network utility operators and/or requiring authorities, to make a financial contribution for the following purposes: i. The management of potential adverse effects arising from the activity; ii. Securing environmental compensation where any residual adverse effects of the subdivision, use or development that cannot be avoided, remedied or otherwise mitigated; iii. Providing and/or upgrading public network utility services and transport infrastructure; iv. Providing and/or upgrading public reserves, public access and community facilities; and 2. No financial contribution is payable for: i. Additions and alterations to residential buildings; ii. A residential building replacing one previously on the site; iii. An approved boundary adjustment; iv. An approved subdivision creating a certificate of title solely for a utility; v. An additional allotment where such land is set aside for ecological, historic heritage or cultural protection in perpetuity; and vi. Infrastructure for which a financial contribution has been made previously. ...	Oppose	The policy support for the application of R1 to requiring authorities is not evident. A financial contribution differs from offsetting and compensation. There is no clear policy direction or guidance as to the circumstances in which a contribution will be required.	Delete FC-R1 as it applies to the National Grid.
FC - R12 Financial Contribution for Offsetting and Compensation for Adverse Environmental Effects on Natural Landscape Values or Biodiversity Values 1. The maximum financial contribution for offsetting or compensation for adverse environmental effects on outstanding natural landscape values, areas of	Oppose	Transpower has significant concerns with the open nature of the rule and implications for the National Grid. Transpower has concerns how the contribution would be calculated, including to address effects on landscape values.	Clarify that R12 does not apply to the National Grid.

Specific Proposed Plan Provision	Support/ Oppose/ Amend	Submission	Relief sought
<i>significant indigenous vegetation or areas of significant habitat of indigenous fauna will be the amount of money needed to fully offset or compensate (or any combination of these) any adverse environmental effects that cannot otherwise be avoided, remedied or mitigated.</i> 2. <i>In assessing the level of financial contribution required for biodiversity offsetting and compensation the principles in Policy ECO - P9 will be adhered to.</i>			
Mapping			
Electricity Transmission Distribution Yard Electricity Transmission Distribution Subdivision	Amend	Policy 12 of the NPSET requires territorial authorities to “identify the electricity transmission network on their relevant planning maps whether or not the network is designated”. Transpower supports the identification of the ‘National Grid’ on the planning maps. However, it does have concerns with the spatial identification of the National Grid Yard and National Grid Subdivision Corridor as the aerial mapping cannot be relied upon given the distortion created in the mapping. As an example, the following are snapshots of the 66kV Arahura - Otira A on poles. Figure 2 and Figure 3 below illustrate variations in the yard setbacks on either side of the centreline.	Retain the ‘National Grid’ on the planning maps. Either correct or remove the spatial extent of the National Grid Yard and National Grid Subdivision Corridor (but retain the National Grid ‘centreline’. If the spatial extent is to be retained, Transpower would support the insertion of a note that the spatial extents are indicative only and the definitions within the District Plan should be relied on to determine the yard and corridor setback distances.



Figure 2. Spatial distortions on the 66kV Arahura - Otira A



Figure 3. Spatial distortions on the 66kV Arahura - Otira A

Appendix 1 National Grid Assets within the West Coast

Transpower Assets

West Coast Region

Legend

Region

Boundary

NZ Roads

Highways

Transpower Assets

Cable Protection Zone

Overhead Fibre Cable

Underground Fibre Cables

Site

ACSTN

COMMS

HVDC

TEE

Transmission Line

0kV Overhead

11, 66kV Underground

11, 33, 66 kV Overhead

110kV Underground

110 kV Overhead

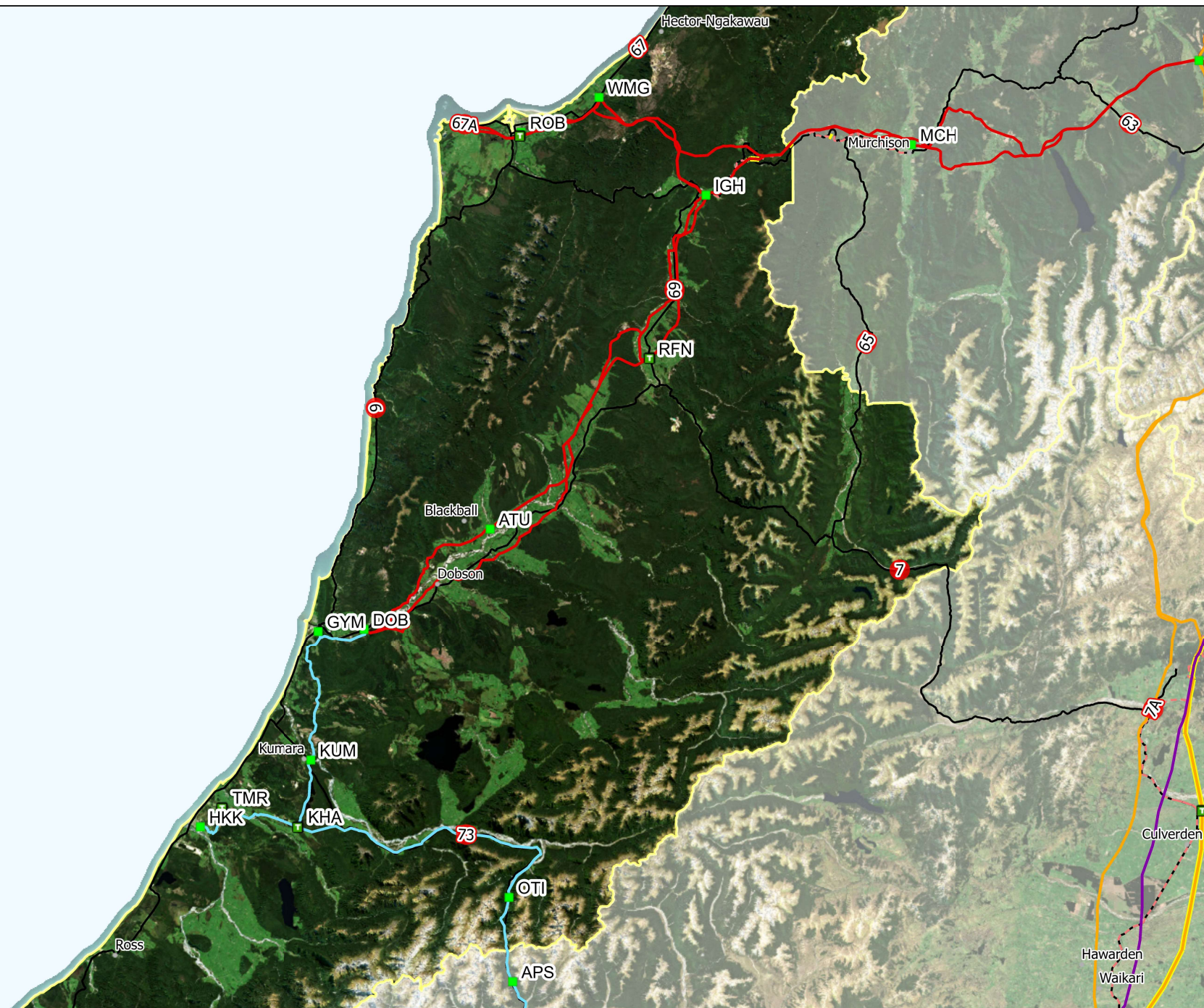
220kV Underground

220 kV Overhead

350 kV Overhead

350kV Submarine

400kV Overhead



External Disclaimer

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Further Submission by Transpower New Zealand Limited on the Proposed Te Tai o Poutini Plan

July 2023

Keeping the energy flowing



TRANSPOWER



FURTHER SUBMISSION IN SUPPORT OF, OR IN OPPOSITION TO, A SUBMISSION ON THE PROPOSED TE TAI O POUTINI PLAN

Clause 8 of Schedule 1 Resource Management Act 1991

To: Te Tai o Poutini Plan Team
Address: 388 Main South Road, Paroa, Greymouth 7805
Email: info@tppp.nz

Further Submitter Details

Name of further submitter: **Transpower New Zealand Limited**
Contact person (if different from above) **Attn: Rebecca Eng**
Postal address: **PO Box 17215, Greenlane, Auckland**
Email address for service: **Environment.Policy@transpower.co.nz**
Phone number: **09 590 7072**

The TPPP team will serve all formal documents by email. Where there is no email address provided, the documents will be posted to the postal address stated above.

I am: (please tick relevant box)

- a) A person representing a relevant aspect of the public interest. ☐
(In this case, also specify the grounds for saying that you come within this category);
--
- b) A person who has an interest in the proposal that is greater than the interest of the general public. ☒
(In this case, also explain the grounds for saying that you come within this category);
or
- c) The local authority for the relevant area. ☐

Please state the grounds as to why you come within the category selected above:

Transpower NZ Ltd is the owner and operator of the National Grid. The need to operate, maintain, develop and upgrade the National Grid is identified as a matter of national significance under the National Policy Statement on Electricity Transmission 2008. Transpower also has an interest as a landowner and occupier.

TPPP Hearing (please tick relevant box)

Do you wish to be heard in support of your further submission? Yes ☒ No ☐

If others make a similar submission would you consider presenting a joint case with them at a hearing? Yes ☐ No ☒

Submission

The submission points, support or opposition, reasons and decisions sought are set out in the attached document.

13 July 2023

Signature of the person making further submission
or the person authorised to sign on behalf of the
person making further submission.

Date

Transpower New Zealand Limited: Further submission in support of, or in opposition to, a submission on the Proposed Te Tai O Poutini Plan

The following table sets out the decisions sought by Transpower in respect of submissions made on the Proposed Te Tai O Poutini Plan, including the reasons for Transpower's support or opposition in respect of the original submission.

Submitter name, number and point	Plan Provision	Submission Summary (Reasoning) of Original Submitter	Relief Sought (by original submitter)	Support/ Oppose	The reasons Transpower's support / opposition are:	Decision sought
Pan Sections: [General], Whole Plan, Introduction, How The Plan Works, Interpretation, Glossary, Abbreviations						
Frida Inta (S553) S553.188	How The Plan Works Statutory Context	Consistent with Buller District Plan and RMA	Amend: <u>General Duty to Comply No person may use any land in a manner which contravenes a rule in this Plan unless the activity is expressly allowed by a resource consent, or is an existing use allowed by Section 10 of the Act. Any activity which is not specifically referred to in the Plan or does not fall within the limits of permitted, controlled or discretionary activities is deemed to be a noncomplying activity and will require a resource consent.</u>	Oppose	Transpower opposes the sought default 'non-complying' clause within the introductory text of the Proposed Te Tai O Poutini Plan. The statement does not reflect S87B of the RMA and will add unnecessary confusion.	Disallow
Westpower Limited (S547) S547.005	How The Plan Works Step 2 - Locate the relevant zone rules	"Energy Chapter" operates slightly differently to Zone Chapters	(1) Amend second paragraph of Step 2 commentary by adding a sentence,... <u>will refer you to other chapters, as required. The Area Specific Provisions (Zone Chapters) do not apply to the Energy Activities and Infrastructure Chapters, and the provisions of the Infrastructure Chapter do not apply to Energy Activities</u>	Support	Transpower supports the sought amendment to clarify the relationship between the various Proposed Te Tai O Poutini Plan chapters, and what provisions apply. Such clarification will assist with plan interpretation and application.	Allow
Te Mana Ora (Community and	Interpretation	We recommend that Te Tai o Poutini Plan also refers to the effects management hierarchy and explains this within the	Amend the interpretation section by including the following: <u>Effects Management Hierarchy:</u>	Oppose	While Transpower is not opposed to a definition for 'effects management hierarchy', it notes the term is not currently used within the Proposed Te Tai O Poutini Plan as notified.	Disallow

Public Health) of the NPHS/ Te Whatu Ora (S190) S190.002		interpretation. The effects management hierarchy is included in the National Policy Statement on Freshwater Management (NPS-FM), as well as the Draft National Policy Statement on Indigenous Biodiversity (NPS-IB). It is a helpful and structured approach to managing any potential adverse effects on the health of the environment and therefore the health and wellbeing of the population.	<u>The effects management hierarchy is an approach to managing the adverse effects of an activity. It is required that:</u> <u>(a) adverse effects are avoided where practicable; and</u> <u>(b) where adverse effects cannot be demonstrably avoided, they are minimised where practicable; and</u> <u>(c) where adverse effects cannot be demonstrably minimised, they are remedied where practicable; and</u> <u>(d) where more than minor residual adverse effects cannot be demonstrably avoided, minimised, or remedied, biodiversity offsetting is provided where possible; and</u> <u>(e) where biodiversity offsetting of more than minor residual adverse effects is not demonstrably possible, biodiversity compensation is provided; and</u> <u>(f) if biodiversity compensation is not appropriate, the activity itself is avoided.</u>		The provision of any definition needs to ensure it is used within the correct context. It is noted the proposed definition references biodiversity offsetting but it is not clear how the sought definition (and effects management hierarchy) would be applied in relation to landscape and natural character, as well within various zones, as sought by the submitter. Transpower notes the NPS-IB has not been gazetted and therefore it currently has no weight as a higher order instrument.	
Straterra (S536) S536.025	Interpretation	Throughout the proposed plan there are numerous mentions of the word 'avoid'. Because of case law ¹ which deems 'avoid' to mean avoid in a prohibitive sense, we request that care be taken in using the word and it be avoided wherever possible. 'Avoid' is, of course, an important part of the effects management hierarchy and so we support it being used in this context, i.e. if	Remove the word "avoid" from the plan where it is not used within the wider effects management hierarchy	Oppose	Transpower opposes the submission point in so far as it applies to provisions relating to the effect of activities on the National Grid. The NPSET uses 'avoid' in its policies and Transpower would oppose any amendments to remove the word 'avoid' in context of the National Grid and which do not give effect to the NPSET.	Disallow

		you can't avoid it then you have to remedy, mitigate, offset and compensate in that order. Where the word is used by itself without the rest of the hierarchy there is a risk it is interpreted as prohibited and so it should be avoided.				
Manawa Energy Limited (S438) S438.024	Interpretation Definitions	The pTTPP contains a number of varying definitions applicable to Renewable Electricity Generation activities. To ensure consistency with the RPS and to avoid variations in Manawa seeks that Add a new definition of the term 'regionally significant infrastructure' based on the West Coast Regional Policy Statement.	Add a new definition of the term 'regionally significant infrastructure' based on the West Coast Regional Policy Statement as follows: <u>Regionally significant infrastructure means:</u> <u>a) The National Grid (as defined by the the term 'regionally significant infrastructure' is included within the Plan. Industry Act 2010);</u> <u>b) Other electricity distribution and transmission networks defined as the system of transmission lines, sub transmission and distribution feeders and all associated substations and other works to convey electricity;</u>	Support	Transpower supports the provision of a definition for 'Regionally significant infrastructure', and its use within the Proposed Te Tai O Poutini Plan. Such an approach would reflect the RPS.	Allow
Birchfield Ross Mining Limited (S604) S604.005	Interpretation Definitions EARTHWORKS	The definition of earthworks would currently capture minerals extraction, exploration and prospecting.	Amend the definition of earthworks to exclude minerals extraction prospecting and exploration, as follows: " <i>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.</i> "	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.	Disallow
Radio New Zealand (S476) S476.004	Interpretation INFRASTRUCTURE		Retain definition of "infrastructure" as notified.	Support	Transpower supports the retention of the definition. Given the definition is frequently used within the Proposed Te Tai O Poutini Plan, its provision assists with plan interpretation and application.	Allow

Plan Sections: National Direction Instruments, PART 2 – District Wide Matters, Strategic Direction

Westpower Limited (S547) S547.047	STRATEGIC DIRECTION Strategic Directions Overview	Item 5 overlooks that construction and upgrading may also be required.	Amend 6: <u>Construction, operation, maintenance and upgrade of Energy Activities and Infrastructure, including Critical Infrastructure</u> ; ...	Support	Transpower supports the insertion of reference to construction and upgrading within Item 5 as it recognises that such activities may be required and needed in the life of the district plan. As such its inclusion in the strategic direction overview is supported.	Allow
Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird) (S560) S560.433	STRATEGIC DIRECTION Strategic Directions Overview	The intent at 4. does not accurately reflect the sustainable management purpose of the Act, of with protection is generally to the natural environment along with use and development. It also ignores Councils' functions under s31.	Amend 4. <i>Fostering the use, ~~and~~ development, and protection of natural and physical resources whilst providing for protection ~~protecting~~ of the natural values that have been elevated to matters of national importance by the Resource Management Act 1991 and those matters of national and regional significance by National and Regional Policy Statements, <u>as well as natural values that are required to be maintained and protected as part of Councils' functions under the RMA</u>;</i>	Oppose	Transpower opposes the sought amended wording noting that in the direction as notified, protection is afforded to those natural values of national importance or recognised in a higher order policy instrument. Transpower does not support protection of all nature and physical resources.	Disallow
Westpower Limited (S547) S547.055	STRATEGIC DIRECTION CR - O1	Reference should be to Energy Activities & Infrastructure, including Critical Infrastructure.	Amend CR-01: <i>To build greater resilience in West Coast communities <u>and Energy Activities and Infrastructure, including Critical Infrastructure</u>, recognising the effects of climate</i> ...	Support	Transpower supports the sought reference to <i>Energy activities</i> and <i>Critical infrastructure</i> on the basis such activities are a critical component of building resilience within West Coast communities.	Allow
Waka Kotahi NZ Transport Agency (S450) S450.014	STRATEGIC DIRECTION CR - O2	The objective is supported at is provides for the continued function and resilience of critical infrastructure, such as the state highway, to facilitate in the quick recovery from adverse events.	Retain as proposed.	Support	Transpower supports the strategic objective as it recognises the need to enable and protect the continuing functioning of critical infrastructure and connections.	Allow

Manawa Energy Limited (S438) S438.028	STRATEGIC DIRECTION NENV - O1	Manawa supports the intent of this policy, however seeks that the wording used is consistent with that used in the Resource Management Act 1991.	Amend NENV - O1 as follows: <i>To recognise and protect the <u>outstanding</u> natural character, landscapes and features, <u>significant</u> ecosystems and indigenous biodiversity that contribute to the West Coast's character and identify and Poutini Ngāi Tahu's cultural and spiritual values</i>	Support	Transpower supports the sought amendment on the basis they are consistent with the RMA.	Allow
Manawa Energy Limited (S438) S438.029	STRATEGIC DIRECTION NENV - O3	Manawa supports the explicit recognition that there is a need sometimes for regionally significant infrastructure to be located in significant natural areas.	Retain NENV - O3 as notified.	Support	Transpower supports the objective as notified as while not explicitly referenced, it recognises the functional and operational needs of infrastructure.	Allow
Westpower Limited (S547) S547.061	STRATEGIC DIRECTION NENV - O4	That potentially activities may occur where effects are appropriately managed.	Amend NENV-O4: <i>To clearly identify: a. ~~Unique and important~~ <u>Significant and/or outstanding</u> natural environment areas ... which must be protected <u>from inappropriate subdivision, use or development</u>; and ...</i>	Support	Transpower supports identification of areas but supports the sought amendments as they are consistent with the RMA. The words 'important and unique' introduce a new concept that will not assist with plan interpretation and application.	Allow
Plan Sections: Energy, Infrastructure & Transport; Energy, Infrastructure, Transport						
Horticulture New Zealand (S486) S486.013	Energy Overview	The Overview states that regionally significant infrastructure requires recognition and protection. HortNZ agrees it is important to the community and needs to be recognised and provided for. But applying a 'protection' elevates that infrastructure above other activities. HortNZ considers that an approach of recognise and provide for and not being compromised by incompatible activities ensures that other activities can occur	Amend ENG-Overview Para 1 and 2: <u><i>Energy activities, including renewable electricity generation, transmission, distribution and operation are recognised as regionally significant infrastructure in the West Coast Regional Policy Statement. As such they need to be recognised and provided for as they are critical to the social, cultural and economic wellbeing of people and communities.</i></u> <u><i>The National Policy Statement for Electricity Transmission requires that the National Grid is recognised and provided for, with renewable electricity recognised in the National Policy</i></u>	Oppose	Transpower opposes the relief sought. Transpower concurs that Policy 1 of the NPSET requires the National Grid be recognised and provided for. However, Policies 10 and 11 of the NPSET also require policy direction for managing the adverse effects of third parties on the transmission network, including that reverse sensitivity effects are avoided, and the transmission network is not compromised. As such the generic statement within the introductory text to the chapter is supported noting the reference to the 'recognition and protection' is specific to the National Grid as	Disallow

		alongside regionally significant infrastructure. The NPS-ET does not require 'protection' of the National Grid - it seeks that it is 'recognised and provided for'.	<u>Statement on Renewable Energy Generation.</u>		opposed to all infrastructure or regionally significant infrastructure.	
Buller Electricity Limited (S451) S451.024	Energy ENG - O4		Amend objective to read as follows: <i>To recognise and provide for the national, regional and local significance and benefits of the National Grid, by ensuring the safety, efficiency, operation, maintenance, repair, upgrade and development is not adversely affected by <u>incompatible</u> subdivision, use and development</i>	Oppose	While Transpower acknowledges Objective ENG-O3 relates to 'incompatible', Transpower does not support the inclusion of the word within the National Grid specific objective ENG-O4 given the clear policy directive within the NPSET. The amendments sought by Transpower to Policy ENG-P9 provides the policy directive on what are incompatible land uses.	Disallow
Royal Forest and Bird Protection Society of New Zealand Inc. (S560) S560.112	Energy ENG - P1	Agree that it is appropriate to provide for these activities, however, there needs to be clear direction as to how to address adverse effects.	Add to the policy: <u>while addressing adverse effects of these activities in accordance with the Natural Environment and District Wide chapters of this Plan.</u>	Oppose	Transpower opposes the sought wording on the basis it is not required. All the chapters of the plan are to be read together (where relevant and applicable) and therefore cross reference within the policy is not required and it not an approach adopted throughout the plan.	Disallow
Royal Forest and Bird Protection Society of New Zealand Inc. (S560) S560.451	Energy ENG - P2		Add development to ENG - P8 a. if it is relevant to existing	Oppose	Policy 6 of the NPSET requires that substantial upgrades of the transmission network should be used as an opportunity to reduce existing adverse effects. This policy directive does not extend to 'development' and therefore Transpower opposes the sought insertion.	Disallow
Department of	Energy ENG - P8	Amend Policy ENG-P8 so that it aligns with the functional need definition of the Plan, applies the	Amend Policy ENG-P8: <i>Manage the adverse effects of the National Grid by:</i>	Oppose in part	In its submission Transpower sought amendment to ENG-P8. Transpower opposes the relief sought	Disallow in part

Conservation (S602) S602.034		effects management hierarchy where adverse effects on scheduled or overlay items cannot be avoided, protects values identified in schedules in addition to areas, and removes duplication.	<i>a. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;</i> <i>b. Seeking to avoid adverse effects on areas <u>and values identified in Schedules SNAs, and Overlay Areas and applying the effects management hierarchy where adverse effects cannot be avoided</u>;</i> <i>c. Where the National Grid has a functional <u>need</u> or operational need to locate within the Coastal Environment, manage adverse effects by:</i> ~~<i>d. Seeking to avoid adverse effects on Overlay Chapter areas and where it is not practicable to avoid, to remedy or mitigate;</i>~~ <i>e. Seeking to avoid significant adverse effects on other areas of natural character, natural attributes and character of natural features and landscapes and indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010; and</i> <i>f. recognise that there may be some areas within the sites and areas identified in Schedules where avoidance of adverse effects is required to protect the identified values and characteristics.</i>		where it is inconsistent with that sought in the Transpower submission. It is noted the sought amendment to clause b. references 'overlay areas'. This term is not defined in the proposed plan (Overlay Chapter is defined but not Overlay Area) and therefore it is not clear what areas and features which the effects management hierarchy would be applied to. This does then pose issues in term of how the effects management hierarchy (in relation to natural character and landscape values) is applied to natural character.	
Horticulture New Zealand (S486) 486.018	Energy ENG - P9	The NPS-ET Policy 10 seeks that reverse sensitivity effects are avoided to the extent reasonably possible. The policy in the plan should be consistent with the NPSET.	Amend ENG-P9 e) <u>Avoid, to the extent reasonably possible,</u> <i>potential for reverse sensitivity effects on the National Grid</i>	Oppose	Specific to policy 10 of the NPSET and reverse sensitivity effects, NPSET policy 10 recognises that new activities alongside nationally significant infrastructure can create conflicts and compromise the ability of the infrastructure to be operated, maintained and upgraded for the benefit of the district, region and country as a whole. Transpower considers the management required by NPSET Policy 10 "to the extent reasonably possible" sets a high bar and reduces the discretion that might appear to be available to a	Disallow

					decision-maker - the test is not whether the Council would like to manage activities or even whether it is reasonably practicable. The Council is required to manage activities to the extent reasonably possible. Within the Proposed Te Tai O Poutini Plan, it is “reasonably possible” for the Council to manage activities (buildings, subdivision, earthworks and sensitive activities) using district plan rules. The permitted National Grid Yard rules within the Proposed Te Tai O Poutini Plan provide a range of activities (including buildings and structures) that are not inappropriate. This rule framework gives effect to the “extent reasonably possible” component of Policy 10 and therefore makes it appropriate for all other activities which trigger resource consent to have the ‘avoid’ directive. Given the uncompromised nature of the existing National Grid Yard within the West Coast and the rule framework which provides for a range of permitted activities, Transpower does not envisage circumstance in which it is not possible to manage the activities. As such, the sought additional wording is superfluous within the West Coast context. Furthermore, the NPSET is to be read as a whole. Given the national significance of the National Grid (NPSET Objective 1) and the clear directive within the NPS to recognise and provide for the benefits of the Grid (Policy 1), and ensure its effective operation, maintenance, upgrading and development (Policy 2), a strong ‘avoid’ directive within the above proposed National Grid policy is appropriate.	
Federated Farmers	Energy ENG - P9	The NPS-ET Policy 10 seeks that reverse sensitivity effects are	Amend ENG-P9 e) <i>Avoid, to the extent reasonably possible.</i>	Oppose	Specific to policy 10 of the NPSET and reverse sensitivity effects, NPSET policy 10 recognises that new activities alongside nationally significant	Disallow

of New Zealand (S524)		avoided to the extent reasonably possible	<i>potential for reverse sensitivity effects on the National Grid</i>		infrastructure can create conflicts and compromise the ability of the infrastructure to be operated, maintained and upgraded for the benefit of the district, region and country as a whole. Transpower considers the management required by NPSET Policy 10 “to the extent reasonably possible” sets a high bar and reduces the discretion that might appear to be available to a decision-maker - the test is not whether the Council would like to manage activities or even whether it is reasonably practicable. The Council is required to manage activities to the extent reasonably possible. Within the Proposed Te Tai O Poutini Plan, it is “reasonably possible” for the Council to manage activities (buildings, subdivision, earthworks and sensitive activities) using district plan rules. The permitted National Grid Yard rules within the Proposed Te Tai O Poutini Plan provide a range of activities (including buildings and structures) that are not inappropriate. This rule framework gives effect to the “extent reasonably possible” component of Policy 10 and therefore makes it appropriate for all other activities which trigger resource consent to have the ‘avoid’ directive. Given the uncompromised nature of the existing National Grid Yard within the West Coast and the rule framework which provides for a range of permitted activities, Transpower does not envisage circumstance in which it is not possible to manage the activities. As such, the sought additional wording is superfluous within the West Coast context. Furthermore, the NPSET is to be read as a whole. Given the national significance of the National Grid (NPSET Objective 1) and the clear directive	
S524.036						

					within the NPS to recognise and provide for the benefits of the Grid (Policy 1), and ensure its effective operation, maintenance, upgrading and development (Policy 2), a strong 'avoid' directive within the above proposed National Grid policy is appropriate.	
Horticulture New Zealand (S486) S486.020	Energy ENG - R7	The rule seeks that certain activities are limited in the National Grid Yard including produce packing facilities, which is not defined and could be quite small scale. It is considered that if a non-habitable horticultural building is used for sorting and packing produce complies with NZECP34:2001 then it should not be a non-complying activity. Provision for artificial crop protection structures is supported.	Amend ENG-R7 (1) iv) by deleting ' <u>produce packing facilities</u> '. Retain ENG-R7 2) iii) c) and d)	Oppose	Rule ENG-R7 provides a range of permitted activities, with activities not permitted being a non-complying rule under ENG-R17. In its original submission Transpower supported rule EMNG-R7 as notified, with one amendment to clarify sensitive activities are not permitted. Transpower opposes the relief sought to delete reference to 'produce packing facilities' on the basis of the potential adverse effect of, and on the National Grid. Transpower takes a risk-based approach to determining whether a particular type of building may be able to be safely located underneath high voltage conductors. Such an approach includes a consideration of not just scale of the building, but also the intensity of the activity; the type of structure/typical construction material and the extent of human occupation or use of the building. When the building is used for longer durations; is more frequently accessed; is used by more people; and/or includes more sophisticated services (water, fibre, power supply); the effects in respect of disruption to the activities within the building (where Transpower needs to undertake maintenance or repair works) and risks associated with electrical hazards such as step and touch voltages and earth potential rise are more significant. In this way, the characteristics of a produce packing facility can be distinguished from a (complying) hay barn or implement storage shed.	Disallow

					The risks and potential adverse effects associated with produce packing facilities are such that is not considered appropriate for any scale of produce packing facility to be permitted in the National Grid Yard. The resource consent process allows consideration of the particular circumstances, including appropriate mitigations or remedies in respect of the on-going operation and maintenance of the National Grid and risks to health and safety can be addressed.	
Martin & Lisa Kennedy (S545) S545.011	Energy ENG - R7	While we understand the need for rules, we do not understand why the existing rules have not just been reinstated.	Replace the rules with those developed in the operative Grey District Plan with regard to National Grid matters.	Oppose	In its submission Transpower sought amendment to ENG-R7. While Transpower understands the intent behind submission point S545.011 to replace the rules with those in the operative Grey District Plan, there are discrete differences in the rules sought in the Transpower submission and those in the Grey Plan (including how sensitive activities are managed). The wording sought in amended ENG-R7 reflects and is consistent with the approach sought across New Zealand.	Disallow
Buller Electricity Limited (S451) S451.003	Energy ENG - R7	There is a significant risk to those using the TTPP in that the provisions contained in the Energy chapter will be missed.	Include this rule within the zone provisions where significant distribution lines exist.	Oppose	Rule ENG-R7 relates to transmission and distribution and its location within the Energy chapter is supported as it negates the need to duplicate the rule across various zones. The National Grid is clearly identified on the Proposed Te Tai O Poutini Plan planning maps and Transpower would support amendment in the form of cross referencing if that would address usability concerns.	Disallow
Federated Farmers of New Zealand (S524) S524.038	Energy ENG - R19	Activities in and around SETL should not be non-complying if the PA standards are not met. These should be Restricted Discretionary where the standards in NZECP34:2001 are not met.	Amend ENG-R19 by deleting significant Electricity Distribution Lines and include as a Restricted Discretionary activity.	Oppose in part	In its submission Transpower sought amendment to Rule ENG-R19 to only apply to the National Grid Yard, with the retention of the non-complying activity status. The relief sought by the submitter is opposed in so far as it is inconsistent with the relief sought in the Transpower submission. A non-complying activity is supported on the basis it recognises the national	Disallow in part

					significance of the National Grid and directive wording within the NPSET.	
Horticulture New Zealand (S486)	Energy ENG - R19	Activities in and around SEDL should not be non-complying if the PA standards are not met. These should be Restricted Discretionary where the standards in NZECP34:2001 are not met.	Restricted Discretionary activity.	Oppose in part	In its submission Transpower sought amendment to Rule ENG-R19 to only apply to the National Grid Yard, with the retention of the non-complying activity status. The relief sought by the submitter is opposed in so far as it is inconsistent with the relief sought in the Transpower submission. A non-complying activity is supported on the basis it recognises the national significance of the National Grid and directive wording within the NPSET.	Disallow in part
S486.021						

Plan Sections Volume 5: HAZ – Hazards and Risks, Contaminated Land, Hazardous Substances, Natural Hazards

Manawa Energy Limited (S438)	Natural Hazards NH - O3	Manawa considers that the objective could be more appropriately worded to better recognise that some renewable electricity generation activities are functionally and operationally required to be within or adjacent to water. As a consequential change of other submission points, Manawa also seek that the term 'critical infrastructure' is replaced with 'regionally significant infrastructure'.	Amend NH - O3 as follows: <i>To encourage: ~~Only~~1. ~~The locate location of critical-regionally significant infrastructure within~~ <u>outside areas of significant natural hazard risk, except where there is no reasonable alternative, or where there is a functional or operational need to locate in these areas;</u> and ~~2. The design of regionally significant infrastructure is resilient to hazard events so as and will not to exacerbate~~ <u>natural hazard risk to people and property.</u></i>	Support	Transpower supports recognition with the objective of <i>functional or operational need</i> .	Allow
S438.060						
Manawa Energy Limited (S438)	Natural Hazards NH – P12	Manawa supports the recognition given in the policy to the functional and operational needs of activities.	Retain NH - P12(g) as notified.	Support	Transpower supports recognition with the policy of <i>functional or operational need</i> .	Allow
S438.061						

Plan Sections Volume 6: HCV - Historical and Cultural Values - Historic Heritage, Notable Trees, Sites & Areas of Significance to Māori, Natural Environment Values, Ecosystems & Indigenous Biodiversity, Natural Features & Landscapes, etc

Silver Fern Farms Limited (S441)	Ecosystems and Indigenous Biodiversity	Silver Fern Farm broadly supports this policy but suggest that sub-clause (d) be amended to include reference to "operational need" in addition to "functional need to be located in the area" so as to not overly restrict activities which are already limited to the areas in which they can take place i.e. Industrial areas.	Amend as follows: <i>ECO - P2 Allow activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where:</i> [...] <i>d. The activity has a functional need <u>or an operational need</u> to be located in the area</i>	Support	Transpower supports the recognition of operational need within the policy. The National Grid is an existing linear network which has an operational need (including for existing assets) to locate within significant indigenous vegetation areas.	Allow
Manawa Energy Limited (S438)	Natural Features And Landscapes	Manawa supports this policy in part, specifically the reference to the identification of specific values of ONFL in Schedules Five and Six of the Plan. However, it is noted that the specific values upon which the identification of outstanding natural features and landscapes has been based are not included within the Plan or schedules. Manawa considers that this omission, coupled with the lack of recognition of existing modifications within ONFL, makes it difficult for both Councils and Plan users to implement the provisions of the Plan. This is a significant omission and fundamental to the ability to accurately protect ONFL and to implement the policy approach.	Amend NFL - P2 as follows: <i>Where ~~possible~~ <u>practicable</u>, avoid significant adverse effects on the values that contribute to outstanding natural landscapes described in Schedule Five and outstanding natural features described in Schedule Six. Where significant adverse effects cannot <u>practicably</u> be avoided, ensure that <u>such</u> ~~the~~ adverse effects are remedied <u>or</u>, mitigated, or <u>offset-compensated if appropriate</u>.</i> Insert descriptions of the values of all outstanding natural features and landscapes within Schedules Five and Six to enable impacts on the values to be assessed. Include accurate descriptions of the existing modifications within all outstanding natural features and landscapes within schedules five and six to provide a baseline for assessment. Review the use of the effects management hierarchy throughout the pTTPP and ensure that it is accurately applied.	Support	For the reasons provided in the submission, Transpower supports the amendments sought on the basis they would assist with plan interpretation and application. Transpower also supports a review of the use of the effects management hierarchy throughout the pTTPP to ensure that it is accurately applied.	Allow
Grey District Council (S608)	Natural Character and Margins of	Re-worded to give better effect to Objective 7A(2) and Policy 7A(4) of the West Coast RPS.	Amend Objective 1 to now read: <i>To preserve the natural character of lakes, rivers and wetlands and their margins while providing for appropriate subdivision, use and</i>	Support	Transpower supports the submission on the basis the relief gives effect to the West Coast RPS.	Allow

S608.064	Waterbodies NC- O1		~~development where adverse effects can be avoided or mitigated.~~			
Manawa Energy Limited (S438) S438.105	Natural Character and Margins of Waterbodies NC - O3	Manawa opposes the use of the term 'minimise' as this is not a commonly used or understood term. It also seeks that the objective is simplified as the effects of activities are dealt with in other policy provisions	Amend NC - O3 as follows: ~~To provide for a~~ Activities which have a functional or operational need to locate in the margins of lakes, rivers and wetlands <u>are provided for in such a way that the impacts on natural character are minimised.</u>	Support	Transpower supports the submission on the basis it appropriately recognises operational need.	Allow
Plan Sections Volume 7: Financial Contributions						
Manawa Energy Limited (S438) S438.115	Financial Contributions FC - O2	As per earlier comments Manawa do not consider that financial contributions should be used as the sole mechanism to ensure that subdivision, land use and development does not adversely affect natural and physical resources.	Delete FC - O2 OR Amend FC - O2 as follows <i>To ensure that new activities and development contributes fairly and equitably towards the costs of ~~avoiding, remedying, mitigating or offsetting~~ managing adverse effects on the environment and infrastructure resources of the West Coast/Te Tai o Poutini.</i>	Support	As noted in its original submission, Transpower has concerns with the approach within the chapter to address adverse effects through financial contributions.	Allow
Plan Sections Volume 8: Subdivision						
Te Tai o Poutini Plan Committee (S171) S171.014	Subdivision SUB - R8	The rule incorrectly refers to the Electricity Transmission Corridor and Transmission Yard and should refer to the National Grid	Replace references to the Electricity Transmission Corridor and Electricity Transmission Yard with references to the National Grid Subdivision Corridor and National Grid Yard.	Support	Transpower supports the replacement terms. The relief sought reflects that sought in the Transpower submission and will assist with plan interpretation and application.	Allow
Martin & Lisa	Subdivision SUB - R8	While we understand the need for rules we do not understand why	Replace the rules with those developed in the operative Grey District Plan with regard to	Oppose	In its submission Transpower opposed SUB-R8 and sought a new specific rule for subdivision within the National Grid Subdivision Corridor.	Disallow

Kennedy (S545) S545.012		the existing rules have not just been reinstated	National Grid matters.		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). Transpower submits the wording in its sought rule is clearer and more certain. It also reflects and is consistent with the approach sought across New Zealand. Transpower notes the 14m width of the National Grid Subdivision Corridor (for single poles) reflects the width in the Grey Plan. The width for pi poles at 16m is slightly wider.	
Nick Pupich Sandy Jefferies (S546) S546.012	Subdivision SUB - R8	While we understand the need for rules we do not understand why the existing rules have not just been reinstated.	Replace the rules with those developed in the operative Grey District Plan with regard to National Grid matters	Oppose	In its submission Transpower opposed SUB-R8 and sought a new specific rule for subdivision within the National Grid Subdivision Corridor. 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). Transpower submits the wording in its sought rule is clearer and more certain. It also reflects and is consistent with the approach sought across New Zealand. Transpower notes the 14m width of the National Grid Subdivision Corridor (for single poles) reflects the width in the Grey Plan. The width for pi poles at 16m is slightly wider.	Disallow
Transpower New Zealand Limited (S299) S299.055	Subdivision SUB - R8	Transpower supports the provision of a rule relating to subdivision within proximity of the National Grid. However, amendments are sought to the rule as follows:	<i>SUB - R8 - Subdivision to create allotment(s) of Land that ~~contains or is within the~~ <u>National Grid Subdivision Corridor Electricity Transmission and Distribution Yard Activity Status Restricted discretionary Controlled</u> Where:</i> 	Support in part	Transpower supports the relief sought in its original submission point but seeks a further refinement to delete the advice note such that subdivision for network utilities is also addressed within the sought rule framework. SUB-R2 and SUB-R4 provide a permitted and controlled activity framework (with no standards or matter of control specific to the National Grid) which is	Allow in part

			<i>Advice Note:</i> <i>This rule does not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB - R4</i>		not appropriate for other network utilities and critical infrastructure within the National Grid Subdivision Corridor.	
Plan Sections Volume 9: General District Wide Matters - Activities on the Surface of Water, Coastal Environment						
Royal Forest and Bird Protection Society of New Zealand Inc. (S560) S560.282	Coastal Environment CE - P3	The policy does give effect to Policies 13 and 15 of the NZCPS. The policy is specific to overlays for outstanding and high areas but also seems to provide direction for managing adverse effects on natural character, landscapes, and features beyond those overlays.	Amend CE - P3: <i>"Only <u>consider</u> allowing new subdivision, use and development within <u>the Coastal Environment</u> ~~areas of outstanding and high coastal natural character, outstanding coastal natural landscapes, and outstanding coastal natural features~~ where:</i> <i>a. The elements, patterns, processes, and qualities that contribute to the outstanding or high natural character or landscape are maintained; ~~Significant adverse effects on natural character, natural landscapes and natural features;~~ and adverse effects on areas of significant indigenous biodiversity, areas of outstanding natural character and outstanding natural landscapes and features are avoided; nd bb. outside the areas in</i> <i>b., significant adverse effects on natural character, natural landscapes and natural features are avoided; and bbb. Other adverse effects on the <u>matters in bb. are avoided, remedied, or mitigated; and</u></i> <i>c. The development is of a size, scale and nature that is appropriate to the environment.;</i> <i>~~d. It is for a Poutini Ngāi Tahu cultural purpose; or~~</i> <i>~~e. It is National Grid infrastructure that has a functional and operational need to locate in these~~</i>	Oppose	Transpower agrees the policy is somewhat confusing in that it is specific to overlays for outstanding and high areas but also seems to provide direction for managing adverse effects on natural character, landscapes, and features beyond those overlays. This requires amendment. However, Transpower opposes the deletion of Clause e) on the basis it does not give effect to the NPSET. Transpower does acknowledge its stance on this submission point will be informed and dependent on the recommendation and decision on ENG-P7, ENG-P8 and CE-P8.	Disallow

			~~areas."~~			
Royal Forest and Bird Protection Society of New Zealand Inc. (S560) S560.288	Coastal Environment CE - P8	The policy duplicates policy already set out in the ENG chapter specific to the National Grid. The consideration of adverse effects does not clearly relate to effects on the coastal environment which may extend beyond overlay areas. The mapping of the coastal environment area is incomplete and inconsistent. Also, the reference to "Overlay Chapter areas" appears to extend the provision beyond the CE.	Delete	Oppose	Transpower agrees the policy duplicates other specific National Grid within the Proposed Te Tai O Poutini Plan. The reference to overlays is also confusing. Transpower opposes the deletion of the policy. However, its stance ENG-P8 will be informed and dependent on the recommendation and decision on ENG-P5, ENG-P7, ENG-P8 and CE-P3.	Disallow
Department of Conservation (S602) S602.149	Coastal Environment CE - P8	Amend Policy CE - P8 to apply the effects management hierarchy to ensure that there is an appropriate cascade of effects management approaches, starting with avoidance, and ending with offsetting or compensation of residual adverse effects on coastal environmental overlay values.	Amend: <i>Enable the maintenance, repair and operation of the National Grid. Where new development and upgrades of the National Grid are required, ~~seek to avoid and otherwise remedy or mitigate~~ apply the effects management hierarchy to manage adverse effects on Overlay Chapter areas.</i>	Oppose	Transpower opposes the relief sought on the basis it does not give effect to Policy 8 of the NPSET which specifically provides a 'seek to avoid' approach within certain environments. However, its stance on this submission point will be informed and dependent on the recommendation and decision on ENG-P5, ENG-P7, ENG-P8 and CE-P3. It is also not clear how the effects management hierarchy would be applied to all Overlay Chapter areas.	Disallow
Frida Inta (S553) S553.130	Coastal Environment CE - P8	Amend. Isn't P8 repeating P3?	<i>Where new development and upgrades of the National Grid are required in areas indicated in Overlay Chapter areas, seek to avoid ~~and~~ or otherwise remedy or mitigate adverse effects. ~~on Overlay Chapter areas.~~</i>	Oppose	Overlay Chapters in the Proposed Te Tai O Poutini Plan means the Coastal Environment Chapters and chapters for Hazards and Risks, Historical and Cultural Values, and Natural Environment Values. These differ from the areas identified in Policy ENG-P3. Transpower's stance on CE-P8 will be informed and dependent on the recommendation and decision on ENG-P5, ENG-P7, ENG-P8 and CE-P3.	Disallow

Plan Sections Volume 10: General District Wide Matters Earthworks, Light, Noise, Signs, Temporary Activities

Horticulture New Zealand (S486) S486.048	Earthworks EW - R2	Provision for cultivation in the National Grid Yard is supported.	Retain EW-R2 2) i)	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.	Disallow
Martin & Lisa Kennedy (S545) S545.010	Energy EW - R2 <i>Transpower notes this point was incorrectly assigned to ENG-R2. The submission refers to EW-R2 and not ENG-R2.</i>	While we understand the need for rules we do not understand why the existing rules have not just been reinstated.	Replace the rules with those developed in the operative Grey District Plan with regard to National Grid matters	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). The wording sought reflects and is consistent with the approach sought across New Zealand.	Disallow
Horticulture New Zealand (S486) S486.050	Earthworks EW - R7	HortNZ supports a restricted discretionary activity rule for earthworks in the National Grid Yard that do not meet EW-R2.	Retain EW-R7 as notified.	Oppose	In its submission, Transpower sought a new permitted earthworks rule. Where compliance is not achieved, consent is required for a non-complying activity. For the reasons outlined in its original submission, Transpower seeks a non-complying activity status. A non-complying activity status is considered 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, a non-complying activity status:	Disallow

					(a) Most appropriately recognises and provides for the effective operation, maintenance, upgrading and development of the network, as required by NPSET Policy 2; (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. 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.	
Westpower Limited (S547) S547.476	Earthworks EW - R7	To consider the benefits arising from the proposed activity.	Add i. <u>The benefits arising from the proposed new activity.</u>	Oppose	While Transpower understands the intent of the relief sought, Transpower has sought a new rule for earthworks within the National Grid Yard. The relief sought by the submitter would not fit within the context of the Transpower sought rule.	Disallow
Westpower Limited (S547) S547.475	Earthworks EW - R7	To provide for consideration of the needs, constraints or requirement of the activity.	Add h. <u>Any technical, locational, functional or operational constraints or requirements of the proposed activity.</u>	Oppose	While Transpower understands the intent of the relief sought, it does not consider the sought wording and matter fits within the context of the matters of discretion relating to effects on the National Grid.	Disallow
Royal Forest and Bird Protection Society of New Zealand Inc. (S560) S560.325	Earthworks EW - R7	Make it clear in these rules that any vegetation clearance associated with the earthworks must comply with the ECO chapter.	Make it clear in these two rules, by way of a condition, that: <u>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.</u>	Oppose	While Transpower does not oppose the intent of the relief sought, it is not considered necessary given the Overview to the Earthworks Chapter which provides "Other relevant Te Tai o Poutini Plan provisions <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> - <i>Overlay Chapters - the Overlay Chapters have provisions in relation to Historic Heritage; Notable Trees; Sites and Areas</i>	Disallow

					<i>of Significance to Māori; Ecosystems and Indigenous Biodiversity; Natural Features and Landscapes; Natural Character and Margins of Waterbodies; Natural Hazards; and the Coastal Environment. Where earthworks are located within an overlay area (as identified in the planning maps) then the relevant overlay chapter provisions apply.</i> - “	
Plan Sections Volume 14: Rural Zones, General Rural Zone, Rural Lifestyle Zone, Settlement Zone						
Manawa Energy Limited (S438) S438.141	General Rural Zone	Manawa seeks that the notes section of this chapter is amended to clarify that the provisions of this chapter do not apply to ENG activities. This amendment is consistent with the structure of other chapters of the pTTPP	Amend General Rural Zone Rules: Note by adding the following sentence: <u><i>The ENG chapter contains rules applying to energy activities and renewable electricity generation activities throughout the district, and accordingly the rules in this chapter do not apply to these activities.</i></u>	Support	Transpower supports the relief sought on the basis it would provide clarity as to the relationship between the various PDP chapters, specifically the relationship of the Energy chapter to other chapters.	Allow
Manawa Energy Limited (S438) S438.137	Rural Zones RURZ - P6	Manawa supports the recognition of non rural activities within the rural zone and seeks explicit recognition of regionally significant infrastructure as important within the zone.	Amend RURZ - P6 as follows: <i>Recognise that the rural areas may be the most appropriate location for some utility, <u>regionally significant infrastructure</u>, industrial or commercial uses to establish, where these have a functional relationship with rural areas <u>or a functional or operational need to locate in that area</u>, provided the character and amenity of the rural areas i</i>	Support	Notwithstanding the standalone nature of the Energy chapter (as is demonstrated through the introductory statement in the Energy chapter that “ <i>the Energy Chapter contains the objectives, policies, rules for managing energy activities - the Infrastructure Chapter rules and the Area Specific Provisions (Zone chapters) do not apply to energy activities, however the Overlay chapters and other District Wide rules also apply where relevant.</i> ”) Transpower supports the recognition for regionally significant infrastructure within the rural zone.	Allow
Manawa Energy Limited (S438)	Rural Zones RURZ - P15	Manawa supports the recognition of the potential for reverse sensitivity effects on consented	Retain RURZ - P15 as notified.	Support	Notwithstanding the specific National Grid ENG-P9 relating to activities within the National Grid Yard and Subdivision Corridor, Transpower supports the retention of RURZ-P15.	Allow

S438.138		activities and existing rural uses within the rural zone.				
Manawa Energy Limited (S438)	Rural Zones	Manawa supports the recognition of the potential for reverse sensitivity effects within the rural zone, and the establishment of buffers around such infrastructure activities to protect them from such uses. It requests that renewable electricity generation activities/ regionally significant infrastructure is specifically included as an activity for which a buffer will be provided.	Amend RURZ - P16 as follows: <i>There should be sufficient buffers provided from infrastructure such as wastewater treatment plants and land disposal areas, <u>renewable electricity generation activities</u>, transmission and <u>other regionally significant infrastructure</u> and water supply catchments to avoid reverse sensitivity effects on the infrastructure.</i>	Support	Notwithstanding the specific National Grid ENG-P9 relating to activities within the National Grid Yard and Subdivision Corridor, Transpower supports recognition of regionally significant infrastructure within the policy.	Allow
S438.139	RURZ - P16					

Plan Sections Volume 19: Planning Maps and Overlays

John Walsh (S527)	Planning Maps and Overlays	The submitter is concerned that the planning maps show two National Grid electricity lines running through their property. Transpower have indicated to the submitter that one or both of the lines would be removed as they may no longer be used as they once fed power to the decommissioned cement works at Cape Foulwind. The National Grid lines appearing on the planning maps for the property will limit future development of the site, and the submitter seeks that the lines be removed from the planning maps if the electricity lines are to be removed.	For the National Grid Lines to be removed from the Planning Maps at 169 Alma Road as they appear to be no longer part of the National Grid	Support	The Waimangaroa - Westport (WMG-WPT-A) 110kV line (a section between the decommissioned Westport substation and Orowaiti) will be divested and is no longer owned or operated by Transpower. A section of the Inangahua - Westport B (IGH-WPT-B) 110kV line (between the decommissioned Westport substation and Orowaiti) will be decommissioned and dismantled. The Waimangaroa Substation is in the process of being dismantled and the Westport substation has been dismantled. Both designations will be relinquished. An update will be provided at the hearing.	Allow
S527.001						

APPENDIX C – COPY OF THE RELEVANT PARTS OF THE DECISION

TAI POUTINI PLAN COMMITTEE

Hearing of Submissions on the Proposed Te Tai O Poutini Plan

Recommendation Report of Hearing Panel

Recommendation Report: Topic

Strategic Directions – Te Pai Tawhiti

Hearing Dates: 30 October – 3 November 2023

HEARING PANEL

Dean Chrystal (Chair)

Sharon McGarry

Paul Rogers

Maria Bartlett

Anton Becker

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APPENDICES

applications and notices of requirement): a) the strategic objectives may provide guidance on what the related objectives and policies in other chapters of the District Plan are seeking to achieve; and b) the relevant objectives and policies of the District Plan (including strategic objectives in this chapter) are to be considered together and no fixed hierarchy exists between them.

74. While the Panel considers the above wording somewhat cumbersome, there are elements that we find would be useful in a revised version of the statement that help provide clarity of the issue. For these reasons, we recommended the following amended wording:

*For the purposes of preparing, changing, interpreting, and implementing Te Tai o Poutini Plan, **the relevant objectives and policies of the District Plan (including strategic objectives in this chapter) are to be considered together and no hierarchy exists between them.** ~~all other objectives and policies in all other chapters of this Plan are to be read and achieved in a manner consistent with these Strategic Directions~~*

75. Furthermore, the primacy statement (as notified) be deleted from the end of each of the SD objectives, which addressed in each recommendation box below.

Recommendation

76. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the that relevant submission points identified in the footnotes below are accepted in part and that changes are made to the Strategic Direction Overview as follows:

*For the purposes of preparing, changing, interpreting, and implementing Te Tai o Poutini Plan, **the relevant objectives and policies of the District Plan (including strategic objectives in this chapter) are to be considered together and no hierarchy exists between them.** ~~all other objectives and policies in all other chapters of this Plan are to be read and achieved in a manner consistent with these Strategic Directions~~¹⁴*

1.11. Strategic Directions Overview

Submissions and Further Submissions

77. Eighteen submission points were received in support of the SD Overview; and 17 submission points and 16 further submissions were received seeking amendments to the SD Overview. The Panel adopts the summary of the submissions and further submissions provided in the s42A Report.

Section 42A Report

78. Ms Easton recommended minor changes to the SD Overview in response to submissions, including changes to clause (2) (West Coast Penguin Trust (\$275.008) and Suzanne Hills (\$443.007)), clause (4) (Director General (\$602.024)), clause (5) (Te Mana Ora (\$190.003)), and removal of reference to 'zone and overlay objectives and policies' and replacing it with 'other objectives and policies' (noting that not all objectives and policies are tied to zones and overlays) (Forest and Bird (\$560.085)).

¹⁴ Royal Forest and Bird Protection Society of New Zealand Inc. (\$560.090, \$560.086, \$560.088, \$560.097, \$560.102, \$560.103, \$560.105, \$560.435)

Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Strategic Directions – Te Pae Tawhiti

79. Ms Easton recommended that the Director General's submission (S602.023) to amend the Title Page be rejected as listing resource management issues is no longer a standard practice in second-generation plans.
80. Ms Easton recommended that submissions seeking reference to resource management issues (Director General (S602.023)), sustainable development (Inger Perkins (S462.003)) or the aggregate industry (Aggregate and Quarry Association (S521.015)) be rejected. Further, she recommended that the submission seeking to include reference to *'biodiversity and natural heritage'* (in lieu of *'natural environment'*) (Director General (S602.023)) be rejected.
81. Ms Easton recommended rejecting submissions seeking to broaden or narrow the clauses within the Overview (Te Mana Ora (S190.004), Buller Conservation Group (S552.035), Frida Inta (S553.035) and Forest and Bird (S560.433)).
82. Ms Easton recommended that Westpower's (S547.046) amendments to clause (4) should be rejected as it considered this would dilute the RMA's purpose.
83. Ms Easton did not support the submission by Westpower (S547.045 and S547.047 and further submission by Transpower (FS110.008)) to include *'construction...and upgrade'* and *'energy activities and infrastructure'* in clause (6). Ms Easton considered *'operation and maintenance'* to be sufficient.
84. Finally, Ms Easton considered the additional clause sought by Development West Coast (S484.003) associated with enabling thriving communities through a resilient, sustainable and diverse economy and the use and development of resources was covered adequately in clauses (4) and (5).

Hearing and Submitter Evidence

85. The evidence summaries below refer only to areas of disagreement (i.e. where a submitter disagrees with the recommendation of the Reporting Officer).

Heading

86. Ms Young (for the Director General) clarified that the Director General's submission merely seeks that the SD Title Page list the actual SD headings.

Paragraph 1

87. Forest and Bird noted that the Reporting Officer's recommendation to support the removal of *'zone or overlay'* (in front of objectives and policies) had not been picked up in the amendments set out in Appendix 1 to the s42A Report.

Clause (4)

88. Forest and Bird opposed the amendment to clause (4) (promoted by the Director General and supported by the Reporting Officer) to replace *'fostering'* with *'enabling'*. They noted: *While "enabling" may be clearer, as considered by the officer, its use in this context is not consistent with how it is used in s5 of the RMA. Section 5(2) refers to "managing" use, development, and protection of natural and physical resources*". They considered that *'fostering'* should be retained and reference to *'protection'* should be included as a resource management outcome to foster. Forest and Bird had also sought several amendments to the clause.

89. Ms Inta, who had sought some changes to the clause, opposed the recommendation to reject the inclusion of *‘including those’* (as recommended in her submission). She considered that *‘without my amendment this clause could allow unfettered exploitation of any natural value not deemed significant within the district/ region’*. She also opposed the amendment from *‘fostering’* to *‘enabling’* on the grounds that *‘foster’* is more neutral or objective than *‘enable’*.
90. With respect to the wording *‘protecting the natural values’*, Mr Kennedy (for Westpower) noted that *‘in many instances the plan proposes a management rather than prohibition or absolute protection approach in all instances. I note that in at least the cases of s6(a), (b) and (f) such areas are to be protected from inappropriate use and development and not all development’*. Accordingly, Mr Kennedy supported a *‘management’* rather than *‘protection’* approach.

Clause (6)

91. Mr Kennedy considered that the clause (6) should be amended to refer to *‘regionally significant infrastructure’* being a term used and defined in the WCRPS and suitably encompassing key infrastructure (including electricity generation and distribution infrastructure). He also considered that *‘construction’* and *‘upgrading’* should be added to the clause as the WCRPS¹⁵ enables *‘development, operation, maintenance, and upgrading’* of regionally and nationally significant infrastructure.
92. Ms Whitney, for Transpower, also considered that *‘construction...and upgrading’* is a critical addition to the clause because these activities are distinct from *‘operation and maintenance’* and the NPSET provides for *‘construction...and upgrading’* (in respect of the National Grid).

New Clauses

93. Mr Kennedy reiterated support for a new clause (originally requested by Development West Coast), which states *‘enabling thriving communities through a resilient, sustainable and diverse economy and the use and development of resources’*. He considered that clause (4) and (5) do not provide sufficient coverage of the issue raised and that the clause better reflects the WCRPS¹⁶.

Responses and Reporting Officer Reply Evidence

94. The amendments proposed by the Director General to the Title Page were further clarified in a post hearing response from the Director General’s counsel¹⁷.

Evaluation

95. For improved clarity and consistency, the Panel agrees with the Director General that the Title Page should be amended to list the actual SD headings (both English and Te Reo Māori). The amendment includes the updated heading because of other recommendations further below. We also agree that the reference to *‘zone or overlay’* should be deleted and replaced with *‘other’* in the opening paragraph of the SD Overview given that there are district wide matters that are neither overlay nor zone.

¹⁵ Chapter 6, Objective 1

¹⁶ Chapter 4, Objective 1

¹⁷ Response to questions from the Panel, dated 10 November 2023

96. The Panel agrees with Ms Easton's recommended amendment to clause (2) to include *'enhancing'* environmental quality.
97. The Panel agrees with the amendments to clause (4) to replace *'fostering'* with *'enabling'* and introducing *'cultural and heritage'* as part of the values. In terms of the former, while we acknowledge the concerns expressed by submitters regarding the word *'enabling'*, we consider it better understood in resource management terms than *'fostering'* and note that it is being used in conjunction with *'whilst protecting'* in this context. Finally, on this clause, we agree with Ms Easton that the word *'protecting'*, rather than *'management'* as sought by Mr Kennedy, is more appropriate in the context of this clause given the reference to matters of national importance in the RMA.
98. Regarding clause (5), the Panel agrees with submitters and Ms Easton that introducing a *'sustainable economy'* is appropriate and counterbalances the *'prosperous economy'* component of the clause. In terms of Ms Easton's introducing *'including agriculture'*, we are concerned that this might be seen as picking a winner by singling one industry out. However, on review of the submission in detail and the relief sought, Te Mana Ora (\$190,003) are requesting the inclusion of Agriculture in the SD cover page, as they refer to it not included under a heading rather than in clause (5). This is similar to the submission sought by the Director General above. For these reasons, we do not recommend the inclusion of *'including agriculture'* in clause (5) but accept that it should be included on the Strategic Directions cover page.
99. Regarding all other submissions, the Panel agree with Ms Easton's conclusions on each submission and further submission point.
100. There are three consequential amendments to the SD Overview that arise because of other recommendations. The first relates to the reference in clause (6) to *'critical infrastructure'* which because of recommendations in the Energy, Infrastructure and Transport Chapters has been replaced with *'regionally significant infrastructure'*.
101. The second comes because of our recommendations in section 1.13 below, where the Panel considers an additional clause on climate change and natural hazards is appropriate as a consequence in the overview wording. This is appropriate to give effect to s7(h) and s7(i) RMA matters and set strategic direction for two important resource management matters in the Plan.
102. The third amendment stems from the recommendation below to introduce policies into SD other than those within the Poutini Ngāi Tahu section and as a result, the following amendments is recommended to the Strategic Directions Overview:

There is no hierarchy between the stated Objectives, i.e., no one Strategic Objective has primacy over another, and the Strategic Objectives should be read as a whole. ~~It should be noted that with the exception of the Poutini Ngāi Tahu strategic directions, these are objectives only. In the case of Poutini Ngāi Tahu, there are also strategic policies that sit across the Plan.~~
103. Finally, the Panel note that because of our recommendation above regarding the removal of the wording which purportedly gave primacy to strategic objectives, we have included that amendment within the recommendation below for consistency.

Recommendations

104. For the reasons outlined above, the Panel recommends that the relevant submission identified in the footnote below is accepted and that changes are made to amend and reorder the Strategic Directions Title Page to list the actual SD headings and their Māori names as follows:

Strategic Direction – Te Pae Tawhiti

This section of the plan will outline the significant resource management issues for the three districts. It will set the strategic direction for the plan in relation to:

Climate Change **and Resilience**

Mineral Extraction - **Te Tango Kohuke**

~~Biodiversity and natural heritage management~~ **Natural Environment - Te Taiao**

~~Natural hazards~~

Poutini Ngāi Tahu

Land Based Primary Production - Te Whakanao Mātāmua i te Whenua

Tourism - **Te Tāpoi**

Urban form and development - **Te āhua me te whanaketanga o te tāone**¹⁸

105. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submissions identified in the footnotes below are accepted or accepted in part and that changes are made to the Strategic Direction Overview as follows:

Strategic Direction Overview

Te Tirohanga Whānui ki ngā Ahunga Rautaki

This chapter sets out the overarching direction for Te Tai o Poutini Plan as expressed through Strategic Directions. Strategic Objectives and Policies form an important part of the resource consent framework and should be considered alongside the relevant ~~zone or overlay~~ **other**¹⁹ objectives and policies when assessing resource consents.

These directions reflect those factors which are considered to be key to achieving the overall vision for the pattern and integration of land use within the Westland, Grey and Buller Districts.

The Strategic Directions are intended to demonstrate:

1. Commitment to, and articulation of the Councils' partnership with Poutini Ngāi Tahu;
2. Alignment with the communities' aspirations for development while maintaining **and enhancing**²⁰ environmental quality across the West Coast/Te Tai o Poutini;

¹⁸ Director General of Conservation (S602.023)

¹⁹ Forest and Bird (S560.085)

²⁰ West Coast Penguin Trust (S275.008) and Suzanne Hills (S5443.007)

3. Integrated management through the grouping of environmental considerations which combine to achieve strategic outcomes; and avoiding strategic objectives becoming isolated within various chapters of Te Tai o Poutini Plan;
4. ~~Fostering~~ **Enabling**²¹ the use and development of natural and physical resources whilst protecting the natural, **cultural and heritage**²² values that have been elevated to matters of national importance by the Resource Management Act 1991 and those matters of national and regional significance by National and Regional Policy Statements;
5. A prosperous, **and sustainable**²³ economy through enabling a wide range of appropriate business activities.
6. Operation and maintenance of ~~critical infrastructure~~ **regionally significant infrastructure**²⁴;
7. The management of urban growth integrating existing and future infrastructure, providing sufficient land, or opportunity to meet growth demands for housing and business.
- 8. Resilience to climate change and natural hazards.**²⁵

For the purposes of preparing, changing, interpreting, and implementing Te Tai o Poutini Plan, **the relevant objectives and policies of the District Plan (including strategic objectives and policies in this chapter) are to be considered together and no hierarchy exists between them.** ~~all other objectives and policies in all other chapters of this Plan are to be read and achieved in a manner consistent with these Strategic Directions~~²⁶

For the avoidance of doubt, for resource consent applications, the Strategic Objectives **and Policies** may require specific consideration and application to proposals, as a relevant consideration under section 104(1)(b)(vi) of the RMA.

There is no hierarchy between the stated Objectives i.e., no one Strategic Objective has primacy over another Strategic Objective and the Strategic Objectives should be read as a whole. ~~It should be noted that with the exception of the Poutini Ngāi Tahu strategic directions, these are objectives only. In the case of Poutini Ngāi Tahu there are also strategic policies that sit across the Plan.~~²⁷

Activity and location specific objectives and policies are located in the relevant chapter of Te Tai o Poutini Plan. The planning standards require that 'like' matters are grouped together in a chapter with the relevant objectives.

1.12. Agriculture – Te Ahuwhenua

Submissions and Further Submissions

106. Six submission points were received in support of the Agriculture SD (as a whole), while two were received seeking amendments to the Agriculture SD.

²¹ Director General (S602.024)

²² Director General (S602.024)

²³ West Coast Penguin Trust (S275.008)

²⁴ Consequential plan wide amendment

²⁵ Consequential amendment from Director General (S602.025)

²⁶ Forest and Bird (S560.090, S560.086, S560.088, S560.097, S560.102, S560.103, S560.105, S560.435)

²⁷ Consequential amendment, Clause 16

TRM-P1 Support:⁶³

1. ~~Supporting~~ the development of visitor facilities and accommodation within and near existing settlements and communities and on public conservation land where appropriate;
2. ~~Supporting~~ the development of cycling and walking connections between tourism sites;
3. ~~Supporting~~ Ngāti Waewae and Ngāti Māhaki ~~o~~ ~~Makaawhio~~⁶⁴ to exercise kaitiakitanga, and provide education about the cultural importance of maunga, other landforms, taonga and wāhi tapu to Poutini Ngāi Tahu and how to treat these areas with respect; ~~and~~
4. ~~Supporting~~ Poutini Ngāi Tahu in expansion of their tourism and visitor activities to deliver better economic outcomes for the hapū; **and**
5. **the strategic importance of Weheka/Fox Glacier, Waiau/Franz Josef and Punakaiki Townships.**⁶⁵

TRM-P2 ~~Provide ing~~ for the development, maintenance and upgrading of supporting infrastructure and ~~Ensuring~~ **ensure** that visitor facilities are connected to existing services and infrastructure.

TRM-P3 ~~Manage ing~~ the development and expansion of visitor activities and services so that the natural and **Poutini Ngāi Tahu cultural values,**⁶⁶ amenity and character of the West Coast/Te Tai o Poutini and its communities are maintained.

TRM-P4 ~~Promoting~~ **Ensure** a sustainable approach to tourism and minimising the adverse effects, and in particular cumulative adverse effects, of visitor activities and services on Poutini Ngāi Tahu values and wāhi tapu, natural values, amenity and landscape.

~~For the purposes of preparing, changing, interpreting and implementing Te Tai o Poutini Plan all other objectives and policies in all other chapters of Te Tai o Poutini Plan are to be read and achieved in a manner consistent with these strategic objectives.~~⁶⁷

1.18. Urban form and development - Te āhua me te whanaketanga o te tāone

Submissions and Further Submissions

348. Eleven submission points were received in support of the UFD-O1, while 12 submission points were received seeking amendments to the UFD-O1. Ten further submission points were received.
349. The Panel adopts the summary of the submissions and further submission points provided in the s42A Report.

Section 42A Report

⁶³ Karen Lippiatt (S439.011) – in relation to the introduction of policies

⁶⁴ Ngāi Tahu (S620.082)

⁶⁵ Jane Whyte & Jeff Page (S467.001)

⁶⁶ Ngāi Tahu (S620.082)

⁶⁷ Forest and Bird (S560.090, S560.086, S560.088, S560.097, S560.102, S560.103, S560.105, S560.435)

350. In response to submissions, Ms Easton supported amendments to the UFD SD to provide for heritage resources (Pouhere Taonga (\$140.009)), Poutini Ngāi Tahu values (Ngāi Tahu (\$620.083)) and reverse sensitivity effects on critical infrastructure (KiwiRail Holdings Limited (\$442.019)); to specify that new urban development is location away from identified hazards and to promote low impact environment practices (Forest and Bird (\$560.106)).
351. Ms Easton did not consider that further amendments are required to the UFD SD to provide for the health and wellbeing of communities and people (Te Mana Ora (\$190.036)); to specify additional transport modes (Karen Lippiatt (\$439.012)); to promote integrated management of land and water resources (Westpower Limited (\$547.065)); to address reverse sensitivity effects on business and industrial land (Silver Fern Farms (\$441.010)); to specifically recognise education facilities (Ministry of Education (\$456.005)); and to remove reference to special character and amenity values (HortNZ (\$486.012))
352. Ms Easton noted that the definitions for *'infrastructure'*, *'critical infrastructure'* and *'regionally significant infrastructure'* are outstanding issues and, once resolved, it may be appropriate to amend the UFD SD further to ensure alignment (Westpower Limited (\$547.064) and Manawa Energy (\$438.030)).

Hearing and Submitter Evidence

353. The evidence summaries below refer only to areas of disagreement (i.e. where a submitter disagrees with the recommendation of the Reporting Officer).
354. Ms Styles (for Manawa) noted that, for consistency with the WCRPS, the term *'critical infrastructure'* should be replaced with *'regionally significant infrastructure'*. Ms Styles recommended that any decisions on the UFD SD be delayed until decisions are made on the Energy, Infrastructure and Transport Chapters.
355. Similar to Ms Styles, Mr Kennedy (for Westpower) considered that the terminology used in the UFD SD should reflect the decisions made on key definitions as part of the Energy, Infrastructure and Transport Chapters.
356. Mr Tuck (for Silver Fern Farms) did not consider that the UFD SD sufficiently addressed the potential conflicts between zones, which he considered is a key function of district plans, particularly when considering rezoning proposals. Mr Tuck considered that a new subclause was needed, specifically: *...Avoids or manages potential conflict (including reverse sensitivity effects) between incompatible activities and zones.*

Responses and Reporting Officer Reply Evidence

357. As part of her "review report" Ms Easton proposed an objective and policy for the Urban Form and Development SD.
358. Ms Inta concurred with the change to the objective and policy but considered that there should be protection from reverse sensitivity to the urban environment.
359. Transpower supported the revised objective but noted it did not appear to reflect the notified objective. They expressed concerns with the policy in that clause (1) of the notified objective which refers to *'environments and built form that are attractive'* now forms the chapeau for the suggested policy and forms the basis for the other policy considerations. Confining the policy consideration to *'attractiveness'* Transpower considers is inappropriate given it is the sole policy for Urban Form and Development, and the very confined nature of

the overriding policy directive. They also said it was open to interpretation what is meant by *'attractive'*.

360. Transpower also expressed concern with clause (g), which is specific to infrastructure, stating that the chapeau means the clause is very limiting in achieving safe, efficient and effective infrastructure. They also had concerns that the reference to reverse sensitivity effects did not recognise there may be other effects which can compromise regionally significant infrastructure. Transpower continued to support the provision of a specific National Grid specific strategic objective.
361. Silver Fern Farms had considered there was a policy gap at the strategic level of the pTTPP, which was potentially inconsistent with the RMA s75(3)(c) requirement to give effect to the WCRPS, which includes clear directions about reverse sensitivity issues at Chapter 5, Objective 2 and Policy 2. They considered that this gap appeared to be recognised in paragraphs 13-14 of Ms Easton's review, but that this had not been addressed in proposed UFD-P1 apart from in relation to significant infrastructure. Silver Fern Farms considered critical need within SD to manage reverse sensitivity effects on other important economic activities in addition to mineral extraction.

Evaluation

362. The hearing Panel again consider the objective as currently framed it is somewhat of a confusing mixture of statements, objective and policies. We note that HortNZ has sought that point 4-10 of UFD-O1 be amended to policies and that the objective itself be revised. Others have also sought the objective be revised. Therefore, we consider there is scope for a change to include objectives and policies to provide greater clarity and direction.
363. The Panel notes submitters (Manawa, Radio NZ and Westpower) seek changes to the term critical infrastructure and/or reference energy activities. We acknowledge this has primarily been addressed in the Energy, Infrastructure and Transport Chapters and that it is appropriate to reflect that outcome in these provisions.
364. The Panel agrees with Pouhere Taonga that heritage resources should be referenced under the Urban Form and Development SD. We consider that a reference to the health and well-being of residents, workers, and visitors in the objective, as sought by Te Mana Ora, is not necessary and note that this would not be confined to urban form and development in any event.
365. Toka Tū Ake EQC and Forest and Bird seek to avoid intensification in higher hazard areas, and to identify that urban development should be located away from identified hazardous locations respectively. The Panel notes that clause (4) requires recognition of the risk of natural hazards and requires new development is located in less hazardous locations. In our view, this necessitates consideration of the issue of natural hazards in relation to all development and is sufficient to appropriately address the issues raised by Toka Tū Ake EQC in different ways without requiring avoidance. The Panel recommend including the amendments sought by Forest and Bird.
366. KiwiRail and Silver Fern Farms raise the need for reverse sensitivity effects to be addressed within the Urban Form and Development SD. Ms Easton considers that this is already addressed within the zone provisions and it is therefore unnecessary to include this in the strategic direction for urban form. While noting that the protection of critical infrastructure is referenced in the objective, the Panel has some sympathy for the submitter's concerns.

We note that reverse sensitivity has been specifically included in the Mineral Extraction SD provisions, and we consider the Urban Form and Development SD is the other obvious area, at a strategic level, where reverse sensitivity effects could be recognised in relation to subdivision, use and development. We therefore agree that reverse sensitivity effects should be addressed in these provisions.

367. The Panel agrees with Ms Easton that the NPSFM specifically requires district plans to include provisions to promote positive effects and address adverse effects on the health and well-being of waterbodies, freshwater ecosystems, and receiving environments (in relation to Westpower's submission to restrict the consideration of the well-being of waterbodies and freshwater ecosystems to plan changes).
368. The Panel generally agrees with Silver Fern Farms that reference business and industrial activity is appropriate within the urban form and development SD, given that they are predominantly within and form a major part of urban environments and support their economic viability. We are not, however, convinced that reference to operational or functional needs to be in a particular location is necessary at this level.
369. The Panel agrees with Ms Easton, in response to the Ministry of Education's submission that, while educational facilities are very important, they are not a significant driver for urban form and development. In many respects, their location and function are already set. Nevertheless, we do consider reference to educational facilities, in terms of access, is necessary and recommend amending the provisions accordingly.
370. Ms Easton supports reference to guidelines around low impact design in response to Forest and Birds submission; and the Panel agrees with that inclusion.
371. Finally, the Panel agrees with the inclusion of recognising Poutini Ngāi Tahu values as part of the urban environment as sought by Ngāi Tahu.
372. Turning to the revision of the Objective, we agree with Transpower that Ms Easton's review report change to UFD-O1 does not entirely reflect the previous version and may therefore create a scope issue. As a result, we have amended the Objective in line with submissions and the original version. The Panel also agrees with Transpower that the use of the wording '*attractive*' at the front of the proposed policy in the review paper is problematic and would essentially requires all subsequent provisions to address the attractive requirement, which seems unnecessary and in places unachievable.
373. For the reasons outlined above UFD-O1 have been amended as follows:

UFD-O1 ~~To have a~~ Urban environments and built form **are attractive to residents, businesses and visitors and support economic viability and function** on the West Coast Te Tai o Poutini.

UFD-P1 Promote urban environments and built form through:

- ~~1. Are attractive to residents, business and visitors;~~
- a. **identifying and maintaining the values of areas of special character and amenity in urban areas and settlements;**
- ~~2. Have areas of special character and amenity value identified and their values maintained;~~

- b. supporting the economic viability and function of **commercial, including town centres, and industrial areas and protect them from potential reverse sensitivity effects between incompatible activities;**
- c. supporting inclusivity and housing choice for diversity in the community now and into the future;
- d. **supporting low environmental impact practices, materials and design during urban development;**
- e. improving overall accessibility and connectivity for people, transport (including walking and cycling), **education facilities** and services;
- f. **the identification, recognition and protection of heritage resources which are significant to the character and identity of Te Tai o Poutini/the West Coast; and**
- g. maintaining the health and wellbeing of waterbodies, freshwater ecosystems and receiving environments.

UFD-P2 Recognise the risk of natural hazards ~~whereby to~~ new development **and where possible located away from identified** hazardous locations.

UFD-P3 Promote the re-use and re-development of buildings and land, including private and public land.

UFD-P4 Promoting the safe, efficient and effective provision and use of infrastructure, including the optimisation of the use of existing infrastructure and protection of critical infrastructure **regionally significant infrastructure from reverse sensitivity effects.**

UFD-P5 **Recognising Poutini Ngāi Tahu values as part of the urban environment.**

Recommendation

374. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that relevant submissions identified in the footnotes below are accepted or accepted in part and that changes are made to the Urban Form and Development SD as follows:

UFD-O1 ~~To have a~~ Urban environments and built form **are attractive to residents, businesses and visitors and support economic viability and function** on the West Coast Te Tai o Poutini.⁶⁸

Urban Form and Development Strategic Policies

UFD-P1 **Promote urban environments and built form through:**⁶⁹

~~1. Are attractive to residents, business and visitors;~~

a. **identifying and maintaining the values of areas of special character and amenity in urban areas and settlements.**⁷⁰

⁶⁸ HortNZ (S486.012)

⁶⁹ HortNZ (S486.012)

⁷⁰ HortNZ (S486.012)

	~~2. Have areas of special character and amenity value identified and their values maintained;~~ b. supporting the economic viability and function of commercial, including town centres, and industrial areas and protect them from potential reverse sensitivity effects between incompatible activities;⁷¹ c. supporting inclusivity and housing choice for diversity in the community now and into the future; <u>d. supporting low environmental impact practices, materials and design during urban development;</u>⁷² e. improving overall accessibility and connectivity for people, transport (including walking and cycling), education facilities⁷³ and services; <u>f. the identification, recognition and protection of heritage resources which are significant to the character and identity of the West Coast/Te Tai o Poutini; and</u>⁷⁴ g. maintaining the health and wellbeing of waterbodies, freshwater ecosystems and receiving environments.
UFD-P2	Recognise the risk of natural hazards ~~whereby to~~ new development and where possible located <u>it away from identified</u> hazardous locations. ⁷⁵
UFD-P3	Promote the re-use and re-development of buildings and land, including private and public land.
UFD-P4	Promoting the safe, efficient and effective provision and use of infrastructure, including the optimisation of the use of existing infrastructure and protection of critical infrastructure <u>regionally significant infrastructure from reverse sensitivity effects.</u> ⁷⁶
UFD-P5	<u>Recognising Poutini Ngāi Tahu values as part of the urban environment.</u> ⁷⁷
	For the purposes of preparing, changing, interpreting and implementing Te Tai o Poutini Plan all other objectives and policies in all other chapters of Te Tai o Poutini Plan are to be read and achieved in a manner consistent with these strategic objectives. ⁷⁸

1.19. Miscellaneous

375. Development West Coast (S484.004) sought the addition of a new Strategic Direction chapter around “Sustainable Communities and Use and Development of Resources”. The

⁷¹ Silver Fern Farms (S441.010)

⁷² Forest and Bird (S560.106)

⁷³ Ministry of Education (S456.005)

⁷⁴ Pouhere Taonga (S140.009)

⁷⁵ KiwiRail Holdings Limited (S442.019), Westpower (S547.064)

⁷⁶ Forest & Bird (S560.106)

⁷⁷ Ngāi Tahu (S620.083)

⁷⁸ Forest and Bird (S560.090, S560.086, S560.088, S560.097, S560.102, S560.103, S560.105, S560.435)

proposed objective and policies echoed the Sustainable and Resilient Communities Chapter of the WCRPS, and the wording of the policies proposed is similar.

376. Ms Easton commented that, while the objective and policies proposed are laudable sentiments, she did not consider it necessary to repeat direction that is already covered in the RMA and WCRPS. The Panel agrees with Ms Easton's assessment.
377. Suzanne Hills (S443.014) sought an objective on the development and implementation of a regional renewable energy strategy. Ms Easton did not consider it to be a matter that should be addressed in a district plan. She said a regional renewable energy strategy should be set at the regional level and driven by the West Coast Regional Council or Development West Coast. The Panel agrees that waste management planning is generally undertaken at a regional level and that it is not necessary to include it in SD.
378. Finally, the Panel notes that in order to align with the requirements of the NPS, the strategic direction matters must be included alphabetically under the Strategic Direction heading⁷⁹. As a result of the changes to the titles recommended above the strategic direction matters will need to be reordered alphabetically.

Dean Chrystal

Hearings Panel Chair

Maria Bartlett

Hearings Panel Member

Paul Rogers

Hearings Panel Member

Sharon McGarry

Hearings Panel Member

Anton Becker

Hearings Panel Member

Date: 5 September 2025

⁷⁹ Chapter 7, Mandatory directions, National Planning Standards

TAI POUTINI PLAN COMMITTEE

Hearing of Submissions on the Proposed Te Tai O Poutini Plan

Recommendation Report of Hearing Panel

Recommendation Report

Coastal Environment - Te Taiao o te Takutai

Hearing Dates:

22 and 23 October 2024 (Westport)

30 and 31 October 2024 (Hokitika)

HEARING PANEL

Dean Chrystal (Chair)

Anton Becker

Maria Bartlett

Paul Rogers

Sharon McGarry

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APPENDICES

Appendix 1 - Recommendations

landscape, natural features, **coastal processes**, access, **ecosystems** and biodiversity values are ~~minimised~~ **avoided, remedied or mitigated**.⁴⁴

3.4. CE Policies

Submissions and Further Submissions

146. Six submission points and five further submission points were received on the policies as a whole and summarised in a table on pages 38-39 of the s42A Report. Two submission points were in support and the remainder sought amendments. The further submission points opposed amendments.
147. Thirty-one submission points and five further submission points were received on Policy **CE-P1** and were summarised in a table on pages 41-43 of the s42A Report. Twenty-four submission points were in support and seven sought amendments. The further submission points supported or supported in part requested amendments.
148. Seven submission points and two further submission points were received on Policy **CE-P2** and were summarised in a table on page 45 of the s42A report. Four submission points were in support and three sought amendments.
149. Twenty submission points and six further submission points were received on Policy **CE-P3** and were summarised in a table on pages 47-50. Six submission points were in support and the fourteen sought amendments.
150. Twenty-seven submission points were received in Policy **CE-P4** and were summarised in a table on pages 52-54. Four were in support, one was in opposition and 23 sought amendments.
151. Fifty-six submission points and six further submission points were received on Policy **CE-P5** and were summarised in a table on pages 56-59 of the s42A Report. Twenty-one submission points were in support of the policy and 35 sought amendments.
152. Forty-five submission points and seven further submission points were received on Policy **CE-P6** and were summarised in a table on pages 61-65 of the s42A Report. Thirty-two submission points were in support of the policy and 13 sought amendments.
153. Twelve submission points and one further submission point were received on Policy **CE-P7** and were summarised in a table on page 68 of the s42A Report. Ten submission points were in support and two sought amendments.
154. Nine submission points and six further submission points were received on Policy **CE-P8** and are summarised in a table on pages 69-70 of the s42A Report. Three were in support, one was in opposition and five sought amendments.
155. The Panel has considered the submissions and further submissions received and adopts the summaries in the s42A Report.

⁴⁴ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.279, S560.002,

Section 42A Report

Policies as a whole

156. Ms Easton acknowledged the submissions⁴⁵ in support of the policies.
157. Ms Easton supported in part a submission from Westpower (S547.411) that sought a new policy providing for new and existing renewable electricity generation activities in the coastal environment. She considered this matter could be addressed via an amendment to CE-P5, which provided for lawfully established activities and those with a functional or operational need to establish in the coastal environment. She recommended an additional clause be added '*are new renewable electricity generation activities where the coastal environment is where the renewable electricity resource is available*'. She also supported the request for the policies to give effect to the matters in Policy 3, Chapter 9 of the WCRPS, noting that the provisions need to give effect to all parts of the WCRPS, not just one policy. She did not recommend any specific amendment as a result of this part of the submission and noted consistency with the WCRPS was discussed in relation to specific policies.
158. Ms Easton did not support a submission point from Forest and Bird (S560.283) (opposed by three further submissions points) that sought to add a new policy as follows:
- Manage adverse effects of activities outside of outstanding coastal natural character, outstanding coastal natural landscapes and outstanding coastal natural features by avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects of activities on natural character, natural landscapes and features in the coastal environment in accordance with Policy 13 and 15 NZCPS.*
159. Ms Easton considered Policy CE-P3 addressed these matters in a more tangible level of detail that would assist Plan interpretation and resource consent assessment in a way that this proposed policy would not.
160. Ms Easton did not support a submission from Forest and Bird (S560.287) that sought an additional policy restricting vehicles access onto beaches in accordance with NZCPS Policy 20 because she was unsure whether a district Plan could regulate vehicle access to beaches, particularly when many may be paper roads. She noted that a report prepared by Forest and Bird stated '*The jurisdiction of who has control and/or enforcement over beaches, specifically vehicles on beaches, is not a clearly defined and it is difficult to distinguish who hold responsibility. It is unsurprising that the general public are often referred between different agencies.*'
161. Ms Easton considered that the Land Transport Act and Bylaws should be used to regulate vehicle access to beaches and not district plans, noting that the NZCPS Policy 10 guidance document cites Reserve Management Plans, Bylaws and the Northland Regional Coastal Plan as examples of how vehicles on beaches were restricted. She invited the submitter to provide more information on what a policy could contain and how this would provide a framework to address this issue within the Plan.
162. Forest and Bird (S560.418) also sought to amend the policy direction providing that Coastal Environment areas outside of Outstanding Coastal Natural Character/Natural Landscape and High Coastal Natural Character overlays could be determined as beyond the coastal environment through a consent process and would not be subject to Coastal Environment

⁴⁵ Buller District Council S538.286, Westland District Council S181.025

Chapter provisions. Ms Easton understood this was a consequential amendment from a submission that sought a much wider application of the coastal environment. She did not support this submission point because she considered the Coastal Environment mapping was appropriate.

Policy CE - P1

163. Ms Easton acknowledged the submissions⁴⁶ in support of Policy CE-P1 as notified.
164. Ms Easton did not support a submission point from Snodgrass Road submitters (S619.040) that sought to delete the policy or to remove the Coastal Environment overlay from their properties. She noted the policy wording paraphrased the clear criteria for identifying the coastal environment that was set out in Policy 1 of the NZCPS.
165. Westpower (S547.412) sought to amend clause (f) to add *‘including energy activities and critical infrastructure.’* Ms Easton did not support this because she considered energy infrastructure and critical infrastructure were subsets of infrastructure and therefore the qualifier was unnecessary. She supported the second part of the submission point that sought for existing energy activities and infrastructure to be clearly identified within values assessments and identified on the relevant maps. She considered there was significant merit in showing the extent of the Westpower network on the Planning Maps as an information layer, and noted there was an extensive electricity distribution network in the coastal environment, particularly in the settlements and townships.
166. Ms Easton supported a submission from Federated Farmers (S524.087) that sought for the overlay to be identified and mapped because this was already included in the Plan.
167. Ms Easton supported the submission point from the Director General (S602.143) that sought to amend the policy to add in matters in NZCPS Policy 1(2) that were not included, specifically *‘coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these, islands, inter-related coastal marine and terrestrial systems, including the intertidal zone and habitats of migratory birds’*. She also supported deleting the reference to accelerated sea level rise in relation to coastal hazards to give effect to the NZCPS, and considered this would remove a degree of ambiguity around what matters must be considered for inclusion in an assessment of the extent of the coastal environment.
168. Ms Easton considered the recommended changes in response to the Director General’s submission point discussed above also address the Forest and Bird submission point (S560.280) that sought amendments to the policy to accurately reflect NZCPS Policy 1.
169. Ms Easton supported a submission from Poutini Ngāi Tahu (S620.202) that sought to replace *‘cultural areas of features’* with *‘values’*. She considered this change was consistent with terminology she had recommended for use throughout the Plan.
170. Ms Easton supported in part a submission from Forest and Bird (S560.0530) that sought that terminology used in the Plan provide clarity about whether the Coastal Environment was an overlay or a map layer. Ms Easton noted the coastal overlay and other overlays were mapped, and considered that if there was confusion it must be remedied. However, she was unclear

⁴⁶ John Brazil (S360.029), Avery Brothers (S510.087 and S510.079), Peter Langford (S615.088), Karamea Lime Company (S614.088), Catherine Smart-Simpson (S564.066), William McLaughlin (S567.346), Steve Croasdale (S516.068), Geoff Volckman (S563.060), Leonie Avery (S507.087), Jared Avery (S508.087), Kyle Avery (S509.087), Bradshaw Farms (S511.087), Paul Avery (S512.087), Brett Avery (S513.087), Chris & Jan Coll (S58.281), Chris J Coll Surveying Limited (S566.281), Laura Coll McLaughlin (S574.281), and Neil Mouat (S535.037), NZTA Waka Kotahi (S450.132), Te Mana Ora (S190.471), Craig Schwitzer (S96.017), Grey District Council (S608.648)

what aspect of confusion Forest and Bird were concerned with and invited them to provide additional information on this, and the amendments sought, at the hearing.

Policy CE - P2

171. Ms Easton acknowledged the submissions⁴⁷ in support of the policy.
172. Ms Easton supported the submission point from Westpower (S547.415) that sought to amend the policy to include reference to inappropriate subdivision use and development, so that it better reflected the WCRPS. She considered the requested wording better reflected the direction in RMA s6, as well as NZCPS Policies 13 and 15, which specifically refer to *'inappropriate subdivision use and development'*.
173. Ms Easton supported a submission point from Forest and Bird (S560.281) that sought to amend the policy to accurately capture NZCPS Policies 13 and 15 and therefore give effect to the NZCPS. She was unclear what amendment to the policy was sought, noting that the criteria in the NZCPS had been part of the consideration in identifying areas of OCNC, and ONFL in the coastal environment (which addressed clause (2) of Policy 13 and clause (c) of Policy 15). She also noted that Policy CE – P3 addressed some of the matters in NZCPS Policies 13 and 15, and she did not see value in simply copying policies from higher order documents into the Plan. She considered the policies needed to provide appropriate direction on how the higher order documents were to be given effect to in the West Coast context. She invited Forest and Bird to provide more information about the changes sought.
174. Ms Easton supported in part a submission from Forest and Bird (S560.532) that sought amendments to address adverse effects of vegetation clearance. She considered this should have been addressed within the ECO Chapter s42A Report. She shared the concern of Forest and Bird that Rule ECO – R5 did not adequately address the coastal environment, and supported the addition of a matter of discretion in ECO – R5 for consideration of adverse effects on natural character, and natural landscapes and features in the coastal environment.
175. Forest and Bird also sought substantive amendments to ECO-R2, some of which Ms Easton recommended were accepted. She considered this rule adequately manages the risk to outstanding coastal natural character of vegetation clearance within these identified areas of OCNC, which would have little or no infrastructure or any other type of development within them. However, she was uncertain as to whether there was scope within this submission point (which relates to areas beyond the overlays), or another submission point, to address that matter, and invited Forest and Bird to provide their view on scope.

Policy CE - P3

176. Ms Easton acknowledged the submissions⁴⁸ in support of the policy.
177. WMS Group (S599.076), TiGa Minerals and Metals Limited (S493.072), Birchfield Coal Mines Ltd (S601.056) and Birchfield Ross Mining Ltd (S604.051) sought to amend clause (e) to delete the words *'national grid infrastructure'* and replace it with *'an activity'*. Westpower (S547.416) sought to amend clause (e) to add *'or other energy activity including energy aspects of infrastructure and critical infrastructure that due to technical, locational, functional or operation constraints and requirements needs to be undertaken within or through these*

⁴⁷ Te Mana Ora (S190.472), Craig Schwitzer (S96.018), Transpower New Zealand Limited (S299.064), Director General of Conservation (S602.144)

⁴⁸ Te Mana Ora (S190.473), Craig Schwitzer (S96.019), Chris & Jan Coll (S58.282), Chris J Coll Surveying Limited (S566.282), Laura Coll McLaughlin (S574.282), William McLaughlin (S567.347), Snodgrass Road submitters (S619.041)

areas. KiwiRail (S442.074) and Waka Kotahi NZTA (S450.133) sought to add the words '*or critical infrastructure*'; and GDC (S608.649) sought for the policy to provide for regionally significant infrastructure (**RSI**).

178. Ms Easton did not support these submissions and considered that only the exemption for the National Grid should be provided for in the policy. In forming this view, she relied on the NZCPS and WCRPS, noting that Policy CE-P3 specifically related to scheduled areas of outstanding and high coastal natural character, areas of outstanding coastal natural landscapes and coastal natural features. She noted WCRPS Chapter 9 (Coastal Environment) Policy 1 sought to avoid adverse effects on outstanding areas; and avoid significant adverse effects on other areas of coastal natural character, landscape, natural features and indigenous biodiversity. She noted that WCRPS Chapter 9 Policy 2 provided an exclusion for the National Grid in relation to these outstanding areas, but no other activities were provided for in these areas. She noted that Chapter 9 Policy 2 and 3 provided for activities in the wider coastal environment.
179. Ms Easton supported the submission point from Minerals West Coast (S569.016) that sought to ensure care was taken in identifying outstanding natural features and landscapes. She noted these areas had been assessed and reassessed with significant care to ensure only areas meeting the criteria were included. She therefore did not recommend any changes in response to this submission point.
180. Ms Easton supported the submission from Transpower (S299.065) that sought amendments to the wording to refer to areas of "*high coastal natural character*", "*outstanding coastal natural landscapes*" and "*outstanding coastal natural features*" because she considered these would clarify the policy in relation to the coastal nature of the overlays. Transpower also sought that '*functional and operational*' be amended to '*functional or operational*' and Ms Easton supported this change because she considered the WCRPS supported a direction of providing for the operational need of the National Grid.
181. Ms Easton did not support the submission point from the Director General (S602.145) that sought to include reference to the effects management hierarchy because it was not referenced in NZCPS, which had a strong focus on avoiding adverse effects in the identified outstanding areas. She also noted that the NPSIB stated that where there was conflict between it and the NZCPS, the NZCPS must take precedence.
182. Ms Easton did not support the submission point from Forest and Bird (S560.282) that sought to amend the policy to apply more widely to the coastal environment because the policy was focused on the management of identified and scheduled areas. Forest and Bird also sought to delete clause (d) and Ms Easton considered there was merit in better defining what purposes were 'appropriate' and referring to the defined terms used in the corresponding rule. She considered that activities other than cultural harvest should be included within an Iwi/Papatipū Rūnanga Management Plan.
183. Ms Easton supported the submission point from Poutini Ngāi Tahu (S620.203) that sought to amend clause (d) to refer '*Poutini Ngāi Tahu Activities*' or '*Māori Purpose Activities*' rather than '*cultural purpose*', noting this policy links directly to Rule CE – R3, which provided for '*Māori Purpose Activities*' and '*Poutini Ngāi Tahu Activities*'.

184. Ms Easton acknowledged the submissions⁴⁹ in support of the policy.
185. Ms Easton did not support a submission point from Craig Schwitzer (S96.016) that sought to remove the policy so that there was no provision for industrial primary production or mineral extraction within the coastal environment. The submitter sought that the Plan only allow for small scale primary production or mineral extraction in the coastal environment that was sustainable and environmentally complementary to the specific area. Ms Easton noted there were existing activities located in areas of HCNC and ONL within the Coastal Environment. She noted that she has recommended changes to the policy in response to other submissions but did not support its deletion.
186. Several submissions⁵⁰ sought an additional clause providing for activities with a functional, technical or operational need to locate in the coastal environment. Ms Easton did not support these submission points, noting that this policy related to areas of the highest value within the coastal environment. She considered Policy CE-P3 already addressed activities with a functional or operational need to locate in these areas and that there was no need for an amendment to CE-P4.
187. The Director General (S602.146) sought an amendment to clauses (b) to add the phrase “*and any associated buildings and structures*” and to delete “*outstanding or*” so that it only applied to areas of high values. The Director General also sought to add a new clause (c) “*adverse effects on outstanding natural character, outstanding natural landscapes and outstanding natural features areas are avoided*”. Ms Easton supported the addition of reference to associated buildings and structures and the addition of new clause (c) because she considered this better reflected the NZCPS and WCRPS. She did not support the policy only applying to the high coastal natural character areas, on the basis that it is a ‘*provide for*’ policy rather than an ‘*allow*’ policy and it was therefore appropriate to include the outstanding areas.
188. Ms Easton supported the submission from Forest and Bird (S560.284) that sought to replace ‘*does not degrade*’ with ‘*protects*’ because she considered it was more consistent with the RMA s6 direction, NZCPS and WCRPS.

Policy CE - P5

189. Ms Easton acknowledged the submissions⁵¹ in support of the policy.
190. Several submissions⁵² sought to amend clause (d) by replacing ‘*functional or operational need*’ with ‘*functional, technical, locational or operational need*’. Ms Easton noted that although the WCRPS included the wording ‘*functional, technical, locational or operational*’, the Planning Standards had come into effect since the WCRPS was produced. She explained that the

⁴⁹ Te Mana Ora (S190.474), Horticulture New Zealand (S486.044), WMS Group (S599.077)

⁵⁰ John Brazil (S360.030), Avery Brothers (S510.088 and S510.080), Peter Langford (S615.089), Karamea Lime Company (S614.089), Catherine Smart-Simpson (S564.067), William McLaughlin (S567.348), Steve Croasdale (S516.069), Geoff Volckman (S563.061), Leonie Avery (S507.088), Jared Avery (S508.088), Kyle Avery (S509.088), Bradshaw Farms (S511.088), Paul Avery (S512.088), Brett Avery (S513.088), Chris & Jan Coll (S558.283), Chris J Coll Surveying Limited (S566.283), Laura Coll McLaughlin (S574.283), and Neil Mouat (S535.038)

⁵¹ Te Mana Ora (S190.475), Craig Schwitzer (S96.020), Transpower New Zealand Limited (S299.066), Silver Fern Farms Limited (S441.023), KiwiRail Holdings Limited (S442.075), NZTA Waka Kotahi (S450.134), Ministry of Education (S456.020), TiGa Minerals and Metals Limited (S493.073), Avery Brothers (S510.063), Avery Bros (S690.055), Leonie Avery (S507.063), Jared Avery (S508.063), Kyle Avery (S509.063), Bradshaw Farms (S511.063), Paul Avery (S512.063), Brett Avery (S513.063), Westland Farms Services (S550.005), Snodgrass Road submitters (S619.041) WMS Group (S599.078), Birchfield Coal Mines Ltd (S601.057) and Birchfield Ross Mining Ltd (S604.052)

⁵² John Brazil (S360.031), Avery Brothers (S609.081), Peter Langford (S615.090), Karamea Lime Company (S614.090), Catherine Smart-Simpson (S564.068), William McLaughlin (S567.349), Steve Croasdale (S516.070), Geoff Volckman (S563.062), Leonie Avery (S507.089), Jared Avery (S508.089), Kyle Avery (S509.089), Avery Bros (S510.089), Bradshaw Farms (S511.089), Paul Avery (S512.089), Brett Avery (S513.089), Chris & Jan Coll (S558.284), Chris J Coll Surveying Limited, (S566.284), Laura Coll McLaughlin (S574.284), Neil Mouat (S535.039) and Westpower Limited (S547.421)

Planning Standards definitions were required to be used and covered technical and operational aspects in the WCRPS policy. She considered the additional words were unnecessary given the definitions for *‘Operational Need’* and *‘Functional Need’*.

191. Ms Easton did not support submission points⁵³ that sought to add *‘or sites’* to the end of clause (a), which referred to lawfully established structures, to recognise that lawfully established sites were able to be built upon. She considered the addition was unnecessary, noting that provided the size and scale requirements were met then the development of buildings or structures were already supported by the policy.
192. Ms Easton did not support submission points from Bert Hofmans (S504.010) and Lindy Millar (S505.010) that sought to delete reference to *‘functional need’*, noting that this policy applied to areas outside of outstanding and high natural character areas of the coastal environment. She noted that the NZCPS and WCRPS both provided for activities with a functional need to locate within the coastal environment.
193. The Director General (S602.147) sought to restructure the policy to shift clause (b) to the end; and to add two additional clauses that *‘adverse effects on amenity, natural character, historic and cultural values, and biodiversity are appropriately managed’* and that activities are *‘consistent with the NZCPS’*. Ms Easton supported this submission point in part. She supported the addition of a clause around management of adverse effects, but did not support the clause requiring activities be consistent with NZCPS. She considered this was vague, uncertain, and unlikely to assist in assessing whether activities were appropriate.
194. Buller Conservation Group (S552.128) and Frida Inta (S553.128) sought an additional clause *‘adverse effects on natural character, natural landscapes and natural features are avoided’*. Ms Easton supported these submission points in part, noting that the NZCPS and WCRPS direct that significant adverse effects must be avoided. She noted that the intent of the policy was to provide clarity about what might be appropriate development that fits within this direction. She considered that the recommended change made in response to the Director General’s submission partly addressed this submission point.
195. Ms Easton did not support a submission point from Westpower (S547.418) that sought to replace *‘provide for’* with *‘allow’* because she noted this policy supported permitted activity rules and CE-R13 and CE-R14, which were restricted discretionary activities.
196. Ms Easton supported a submission point from Westpower (S547.419) that sought to add *‘buildings’* to clause (a), noting that the omission of the word was a drafting error.
197. Ms Easton supported in part a submission from Westpower (S547.420) that sought to add *‘energy activities and infrastructure (including critical infrastructure)’* to clause (c). She considered reference to infrastructure was appropriate, but considered that the full phrase sought was unnecessary.
198. Ms Easton did not support a submission point from Forest and Bird (S560.285) that sought to replace *‘provide for’* with *‘consider’*. She noted that the TTPP planning team considered *‘provide for’* to support both permitted activities and those requiring resource consent. She considered the wording was appropriate because the policy supported permitted activity rules and the escalation rules where permitted activity standards were not met.

⁵³ Tim and Phaedra Robins (S579.018), Tim Macfarlane (S482.011), Russell and Joanne Smith (S477.011), Claire & John West (S506.011), Lauren Nyhan & Anthony Phillips (S533.011) and Stewart & Catherine Nimmo (S559.011).

Policy CE - P6

199. Ms Easton provided the following clarification as to where this policy was intended to apply:

This policy relates to areas of the coastal environment that are already substantially modified and where the major population centres of the West Coast are located. While, as I recommend in response to the mapping submissions, the removal of the towns of Westport, Greymouth and Hokitika from within the coastal environment, this policy will still apply to other modified areas including most of the small settlements on the West Coast (eg Karamea, Granity, Gladstone, Camerons, Arahura, Ruatapu, Ōkarito), a wide range of areas where primary production activities occur (including both mineral extraction and dairy farming), as well as scattered residential development. In many locations the extent of the coastal environment extends several kilometres inland. While there remain elements of natural character in these modified areas, they principally relate to areas close to the coastline, around stream and river mouths, wetlands and native vegetation.

200. Ms Easton acknowledged the submissions⁵⁴ in support of the policy.
201. Ms Easton supported submission points from Frida Inta (\$553.129) and Buller Conservation Group (\$552.129) that sought to delete clause (b) because she considered the reference to unmodified areas was not appropriate in this policy which was addressing areas where there was existing built development.
202. Ms Easton supported the submission from Poutini Ngāi Tahu (\$620.204) that sought to replace 'cultural uses' with 'Poutini Ngāi Tahu Activities' or 'Māori Purpose Activities' because she considered this change also addressed a submission point from Te Tumu Paeroa (\$440.040) that sought a definition for 'cultural uses' and supported this submission point in part.
203. Ms Easton supported in part the submission point from Westpower (\$547.422) that sought to replace 'buildings and structures' with 'use and development (including buildings and structures)'. She considered replacing 'buildings and structures' with 'use and development' to be appropriate and considered 'including buildings and structures' was unnecessary.
204. Ms Easton did not support the submission point from Ministry of Education (\$456.021) that sought the addition of a clause referring to sufficient infrastructure capacity to service growth, including educational facilities. She considered infrastructure capacity was dealt with in other parts of the Plan and it was not appropriate to include in this policy, which focusses on the management of effects on the natural and cultural values of the coastal environment.
205. Ms Easton supported in part the submission from the Director General (\$602.148) that sought several amendments to the policy. She supported deleting the reference to outstanding natural character areas because the focus of the policy was on developed areas in the modified parts of the coast. She did not support the other changes requested, including:

- (a) Deleting the reference to continuance of lawfully established activities;

⁵⁴ Te Mana Ora (\$190.476), Craig Schwitzer (\$96.021), Transpower New Zealand Limited (\$299.067), Silver Fern Farms Limited (\$441.024), Avery Brothers (\$510.064 and \$510.090), Avery Bros (\$690.056 and \$609.082), Leonie Avery (\$507.064 and \$507.090), Jared Avery (\$508.064 and \$508.090), Kyle Avery (\$509.064 and \$509.090), Bradshaw Farms (\$511.064 and \$511.090), Paul Avery (\$512.064 and \$512.090), Brett Avery (\$513.064 and \$513.090), Westland Farms Services (\$550.006), Snodgrass Road submitters (\$619.043), Tim and Phaedra Robins (\$579.019), Chris & Jan Coll (\$558.286), Chris J Coll Surveying Limited, (\$566.286), Laura Coll McLaughlin (\$574.286), Neil Mouat (\$535.040 and \$535.069), Catherine Smart-Simpson (\$564.069), William McLaughlin (\$567.350), Steve Croasdale (\$516.071), Geoff Volckman (\$563.063), Lauren Nyhan & Anthony Phillips (\$533.012), Stewart & Catherine Nimmo (\$559.012), Joel & Jennifer Watkins (\$565.022), Silver Fern Farms Limited (\$441.024).

- (b) Adding the adverse effects of activities with a functional need to locate in the coastal environment are managed in accordance with the effects management hierarchy; and
 - (c) Adding significant adverse effects on natural character are avoided and that adverse effects on natural character in areas of outstanding natural character are avoided.
206. Ms Easton considered other amendments she had recommended made some of these changes unnecessary. She also noted that the focus of the policy was to support permitted activities in the coastal environment and as there was no ability to place consent conditions on these, she did not support reference to the effects management hierarchy being included.
207. Ms Easton did not support a submission point from Westpower (S547.423) that sought to add *‘outstanding natural landscapes and/or’* to clause (c) because the policy supported permitted activities outside of outstanding areas. She supported in part the submission (S547.424) the request to add *‘technical, locational, functional or operational constraints and requirements’* because she considered *‘functional need or operational need’* was the appropriate phrase in this context (relating to areas outside those with outstanding values) and the Plan definition included technical and locational aspects. Ms Easton supported submission point (S547.426) to replace *‘minimise’* with *‘avoid, remedy or mitigate’* in clause (c)(v) because she noted that this policy applied outside of identified high and outstanding areas and the wording was therefore appropriate.
208. Forest and Bird (S560.286) sought several amendments to the policy, including:
- (a) Qualifying the policy by adding *“where it may be appropriate to”*;
 - (b) Deleting the reference to modifications in clause (a) arising due to primary production activities;
 - (c) Adding that the areas not be subject to a natural hazard overlay in clause (a);
 - (d) Reordering clause (c) and revising a range of points within it, which relate to outstanding and high natural character, including referring to a new CE-PX [new policy giving effect to Policy 13 (a) and (b) of the NZCPS] and protection of significant natural areas;
 - (e) Deleting clause (c)(i), (ii) and (iii), replacing this with *“‘avoiding encroachment into unmodified areas’ to ‘managing encroachment to enable appropriate subdivision, use or development to occur’”*;
 - (f) Replacing *“provide for”* with *“make provision for”* and adding *“that manage adverse effects in accordance with provisions of this Plan”* in clause (c)(i); and
 - (g) Adding *“where the area is subject to a natural hazard overlay the activity is consistent with achieving NH objectives”* to clause (c).
209. Ms Easton supported the addition of *‘activities’* in clause (a); and replacing *‘minimises’* with *‘avoided, remedied or mitigated’* in clause (c)(v). She did not support add *‘avoiding encroachment into unmodified areas’* to *‘managing encroachment to enable appropriate subdivision, use or development to occur’* to clause (c)(iv) because of the direction of NZCPS Policies 11, 13 and 15 to avoid adverse effects on identified outstanding and significant areas, and significant adverse effects on natural character, landscape, natural features and biodiversity values. She noted these values were most likely to be found in unmodified areas and therefore considered *‘avoid’* was consistent with this national direction.
210. Ms Easton did not support the other requested changes, noting that a number of these matters were dealt with in other chapters of the Plan, including natural hazards and significant

natural areas. She considered the proposed changes would make the policy more restrictive and included reference to a new policy that she did not recommend was added to the Plan. She considered her recommendation in response to the Director General's submission point, to delete the reference to 'outstanding' may partially address the concerns of this submitter.

211. GDC (S608.650) sought to replace 'minimise' with 'mitigate'. Ms Easton supported this submission point in part because she recommended 'avoided, remedied or mitigated'.

Policy CE - P7

212. Ms Easton acknowledged the submissions⁵⁵ received in support of the policy.
213. Ms Easton supported a submission from Westpower (S547.427) that sought to amend the policy to allow a reduction in public access where there was a health and safety reason. Ms Easton considered that the dynamic nature of the coastal environment, including erosion and land stability, could create risks for public access that may warrant a reduction in public access. She also noted that in locations such as ports, industrial areas or other land uses in townships, there may be a reasonable need to restrict public access.
214. Ms Easton did not support a submission point from GDC (S608.651) opposing the word 'minimise' on the basis that priority should be placed on natural hazard management because maintaining public access would increase the cost of natural hazard protection works. She considered the policy recognised that at times there may be an impact on public access where there was a significant hazard that needed to be addressed. She considered it was important to recognise that maintaining public access was a matter of national importance under the RMA and this policy provided guidance on how to manage this matter.

Policy CE - P8

215. Ms Easton acknowledged the submissions⁵⁶ received in support of the policy.
216. Ms Easton supported submission points from Buller Conservation Group (S552.130) and Frida Inta (S553.130) that sought amendments to amend CE-P8 or combine it with policy CE-P3 because it was a repeat. She noted that CE-P3 applied to areas of outstanding and high coastal natural character and outstanding coastal natural features, but that the reference to 'overlay chapter areas' included other overlays not addressed in CE-P3. She considered the reference to 'overlay chapter areas' was of limited utility because these matters were addressed in other chapters.
217. Ms Easton noted that Policy CE-P3 was intended to give effect to WCRPS Chapter 9, Policy 2 in relation to the National Grid, which stated:

(1) In the case of the National Grid, operation, maintenance or minor upgrading of existing National Grid infrastructure shall be enabled.

(2) In the case of the National Grid, following a route, site and method selection process and having regard to the technical and operational constraints of the network, new development or major upgrades of the National Grid shall seek to avoid adverse effects, and otherwise remedy or mitigate adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna, outstanding natural features

⁵⁵ Te Mana Ora (S190.477), Craig Schwitzer (S96.022), Tim and Phaedra Robins (S579.020), Tim Macfarlane (S482.013), Russell and Joanne Smith (S477.013), Claire & John West (S506.013), Lauren Nyhan & Anthony Phillips (S533.013) Stewart & Catherine Nimmo (S559.013), Joel & Jennifer Watkins (S565.023), Snodgrass Road submitters (S619.044)

⁵⁶ Te Mana Ora (S190.478), Craig Schwitzer (S96.023), Transpower New Zealand Limited (S299.068)

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and landscapes, and areas of high and outstanding natural character located within the coastal environment. In some circumstances, adverse effects on the values of those areas must be avoided.

218. Ms Easton considered that WCRPS Policy 2(2) was addressed in CE-P3 and therefore policy CE-P8 should be reworded to address the general direction in WCRPS Policy 2(1). She recommended CE-P8 be reworded as follows:

Enable the maintenance, repair, operation and minor upgrade of the National Grid.

219. Ms Easton did not support the submission point from the Director General (S602.149) that sought to amend the policy to replace 'seek to avoid, and otherwise remedy or mitigate' adverse effects' with 'apply the effects management hierarchy to manage' because her recommended amendment was to delete the reference to the overlay chapters.
220. Ms Easton did not support a submission point from Forest and Bird (S560.288) that sought to delete the policy because she considered it was appropriate to give effect to WCRPS Chapter 9 Policy 2.
221. Ms Easton did not support submission points from GDC (S608.652) and KiwiRail (S442.076) that sought the policy be expanded to critical/regionally significant infrastructure. She noted that the WCRPS policies specifically enable and support the National Grid and renewable electricity generation energy activities, but not other regionally significant or critical infrastructure.

Reporting Officer Supplementary Statement

222. Following the first day of the hearing, Ms Easton issued a supplementary statement amending her recommendations in relation to excluding the urban areas of Westport, Hokitika and Greymouth from the Coastal Environment due to the direction of the NZCPS. She noted that, as drafted, the rules would not apply, but the coastal objectives and policies would be relevant to any assessment of resource consent applications for activities in these areas. Ms Easton advised she had reviewed eight recent district plans and noted that all but one of these identified urban areas within the Coastal Environment.
223. Ms Easton noted the s42A Report had made a consequential amendment to CE-P6, which she also withdrew as a result of this change. This was to amend the text from 'including areas on the edges of Westport, Greymouth and Hokitika,' to 'including parts of Westport, Greymouth and Hokitika'.

Hearing and Submitter Evidence/Statements

224. Mr Brass, for the Director General of Conservation, advised he was neutral on the s42A Report recommendation to amend CE-P2, although he considered it superfluous as subdivision, use and development were implicit in the activities the policy could apply to. However, he noted the proposed wording would inadvertently mean that clauses (a)-(e) would apply to the activity, not the area, and therefore recommended the following change:

Preserve from inappropriate subdivision, use and development the natural character, natural features and landscape qualities and values of areas within the coastal environment ~~from inappropriate subdivision, use and development~~ that have...

225. Mr Brass continued to seek the change to CE-P3 to add a new clause 'adverse effects on areas of significant indigenous biodiversity, areas of outstanding natural character and outstanding

natural landscapes and features are avoided' and noted that this was not addressed in the s42a Report. He stated the Reporting Officer may have considered the matter was addressed in CE-P2, but noted that it only applied in scheduled areas, whereas NZCPS Policies 11, 13 and 15 apply to the values in the coastal environment more generally. He also suggested that alternative relief could be provided in the form of an amendment to CE-P3 clauses (a)-(e) to state: '[value], including as described in Schedule [X]', although he preferred the amendment requested in the submission for clarity and completeness. He considered the proposed changes to CE-P3 provided clear policy to give effect to the NZCPS when such values are identified in a resource consent process.

226. Mr Brass did not pursue the submission point that sought reference to the effects management hierarchy and acknowledged the practical difficulties in applying this to natural character, natural features and landscape. He accepted the s42A Report recommendation to not support applying an effects management hierarchy in CE-P8. He noted the WCRPS directed that minor upgrades be enabled; and major upgrades avoid, remedy or mitigate adverse effects. He identified that the s42A Report recommended adding the term '*minor upgrade*', but that the amendments to the policy did not include '*minor*' and would enable any upgrade. Mr Brass considered this was an unintended error and recommended it was corrected to '*minor upgrade*.' He did not oppose the other changes recommended in the s42A Report to CE-P8.

227. Ms Inta considered an additional policy should be included as follows:

Encourage restoration and rehabilitation of natural character, indigenous vegetation and habitats, cultural landscape features, dunes and other natural coastal features or processes.

228. Ms Inta noted that the ECO Chapter and NC Chapter had similar policies; and that NZCPS Objective 2 encourages restoration of the coastal environment. She noted the recommended addition of the word '*minor*' to CE-P8 had been omitted.
229. The letter from Poutini Ngāi Tahu supported the s42A Report recommended changes to CE-P1 and CE-P6. It noted a disconnection between CE-P3, which applied to all the coastal environment, and rule CE-R3, which only allowed Poutini Ngāi Tahu Activities and Māori Purpose Activities outside the outstanding coastal environment area.
230. The letter from KiwiRail considered that Ms Easton's recommendations to provide for the National Grid in policies CE-P3 and CE-P8 would have significant implications for the railway network, which is partly located in outstanding areas across the region. KiwiRail considered the railway network to be a lifeline utility, noting it fell within the Plan definition of regionally significant infrastructure. They considered it was critical for the Plan to recognise and provide for activities that were necessary to ensure the safe and efficient operation of the railway network (including maintenance, repair and upgrade), including in circumstances where there was a functional or operational need for those activities to be undertaken in the coastal environment. KiwiRail continued to seek reference to critical infrastructure in CE-P3 and CE-P8. KiwiRail generally accepted the recommendations on their other submission points, as set out in the s42A Report.
231. The letter from NZTA continued to seek that CE-P3 more broadly captured critical infrastructure and regionally significant infrastructure where it had an operational and/or functional need within the Coastal Environment. NZTA considered that the WCRPS recognised that it may be appropriate for new infrastructure to be located within a sensitive environment to achieve a net benefit or to lower adverse effects; and consider this policy anticipated some

effects could occur within the Coastal Environment. In relation to other submission points, NZTA accepted the recommended amendments in the s42A Report.

232. Silver Fern Farms supported Ms Easton's recommendations relating to CE-P5(c) and in relation to their submissions on policies CE-P1, P5 and P6 and did not provide further comment.
233. The letter from Transpower accepted the s42A Report recommendations on policies CE-P1, CE-P2, CE-P3, CE-P5 and CE-P6. In relation to the s42A Report recommendations on CE-P8, Transpower supported the concept of the text, but considered the wording was confusing. They sought additional changes as follows:

*Energy, Infrastructure and Transport – These chapters contain the objectives, policies, **and** rules for managing energy activities, infrastructure and transport. These apply alongside the ~~District Wide rules including the~~ Coastal Environment provisions within this chapter*

234. Transpower considered the insertion of 'and' was a minor grammatical error. It considered reference to 'district wide rules' was confusing because the objectives and policies would also apply, noting that the Energy Chapter overview referred to 'Coastal Environment Overlay provisions and District Wide provisions'.
235. Mr Kennedy, for Westpower, sought a further amendment to CE-P1(h) to refer to 'regionally significant infrastructure', noting that there were variations in the definitions of 'infrastructure' and 'regionally significant infrastructure'. In relation to CE-P2, Mr Kennedy noted a recommended change to ECO-R5 in the ECO Chapter and considered this illustrated the issues with separating matters. He expressed concern that the provision of evidence for ECO Chapter was closed, so submitters on that chapter would not have an opportunity to respond to this change.
236. Mr Kennedy continued to seek that CE-P3 provide for regionally significant infrastructure via an amendment to subclause (e). He noted that the WCRPS recognises that electricity activities are required to be located in these areas, and considered that the TTPP did not adequately recognise this or achieve the WCRPS objectives and policies. In the absence of alignment with the WCRPS, he considered there was no policy for RSI in these areas other than the National Grid. He requested that CE-P3 be reworded in either of the following ways:

~~Only a~~ Allow new subdivision ...

*(e) It is National Grid infrastructure **or other regionally significant electricity distribution and renewable electricity generation infrastructure, activities and networks** that ~~has~~ **be undertaken** a functional or operational need to ~~locate~~ **be undertaken** in these areas.*

or

~~Only a~~ Allow new subdivision ...

*(e) It is National Grid infrastructure **or other regionally significant infrastructure** that has a functional or operational need to ~~locate~~ **be undertaken** in these areas.*

237. Mr Kennedy supported the s42A Report recommended amendments to CE-P5 and CE-P7. He generally agreed with the recommendations on CE-P6, but noted that the NZCPS required the avoidance of significant adverse effects in high natural character areas. He considered clause (c)(iv) should therefore either be deleted or reworded to focus on the avoidance of significant adverse effects, which was consistent with the NZCPS and Policy 1 of Chapter 9 of the WCRPS.

Reporting Officer Reply Evidence

238. In her Right of Reply Ms Easton confirmed that Te Tumu Paeroa had not withdrawn any submissions that would affect recommendations on the Coastal Environment Chapter.
239. In response to a Panel question asking whether she considered ‘*minimise*’ as defined equated to a more than minor effect in relation to the NZCPS policies, Ms Easton considered ‘*minimise*’ was less stringent than ‘*avoid*,’ but implied a greater degree of reduction in effect than ‘*remedy or mitigate*.’ She considered the level of adverse effects that might arise from minimised effects would often be less than minor, but noted that this would not always be the case; and that ‘*where practicable*’ introduced an economic element in decision making.
240. In response to a Panel question asking whether there was a need for policy amendments to address cumulative effects, Ms Easton noted there were no provisions to manage these. She considered this omission did not give effect to the NZCPS. She considered the Forest and Bird submission provided scope to address this matter and recommended amendments to CE-P3, CE-P4, CE-P5 and CE-P6 to add ‘*including adverse cumulative effects*.’
241. Ms Easton confirmed that the recommended wording of Policy CE-P2 had omitted the words ‘*and protect these*’ as highlighted by Mr Brass. She considered this was an error of omission and recommended it was corrected as follows:

*Preserve the natural character, natural features and landscape qualities and values of areas within the coastal environment **and protect these from inappropriate subdivision, use and development** that have: ...*

242. The Panel queried whether Policy CE-P3 should refer to ‘*Poutini Ngāi Tahu Activities*’ or ‘*Cultural purposes*.’ Ms Easton noted that the definition for ‘*Poutini Ngāi Tahu Activities*’ was narrower than ‘*Māori Purpose Activities*’ and were provided for in the policy, where located in a Māori Purpose Zone and in accordance with an Iwi Management Plan. She therefore considered ‘*Poutini Ngāi Tahu Activities*’ was appropriate in this policy.
243. The Panel requested that Policy CE-P3 be amended to clarify the difference between where significant adverse effects versus adverse effects must be avoided. To achieve this, Ms Easton recommended splitting clause (b) into two parts and including reference to ecosystems, biodiversity and coastal processes as follows:

*b. i. Significant adverse effects, **including cumulative adverse effects** on natural character, **ecosystems, biodiversity, coastal processes**, natural landscapes and natural features, and*

*ii. adverse effects on areas of significant indigenous biodiversity, areas of outstanding **and high** natural character and outstanding **coastal** natural landscapes and **outstanding coastal natural** features are avoided;*

244. The Panel queried how minor or transitory effects referenced in the policies in the WCRPS were addressed. In response, Ms Easton confirmed that the TTPP did not specifically address these in the Coastal Environment policies, but considered it gave effect to these policies by identifying the types of activities that were appropriate and met the tests in CE-P3. However, she acknowledged the ‘*avoid*’ component in CE-P3(b) could be interpreted as not providing for minor or transitory effects that may not be adverse effects and that the addition of cumulative effects could strengthen this interpretation.

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245. Ms Easton considered that the Westpower submission provided scope to address this matter because it sought consistency with the WCRPS Chapter 9, Policy 3. She recommended an additional clause (f) was added to CE-P3 as follows:

f. it has a minor or transitory effect that does not have an adverse effect on the area of significant indigenous biodiversity, area of outstanding or high natural character, outstanding natural landscape or outstanding natural feature.

246. The Panel requested that Ms Easton respond to the written evidence of KiwiRail and NZTA in relation to using critical infrastructure versus RSI in relation to Policy CE-P3. Ms Easton reiterated her view expressed in the s42A Report that there was no policy direction in the NZCPS or WCRPS providing for critical infrastructure/regionally significant infrastructure within identified outstanding areas of the coastal environment. She noted that while NZTA submitted evidence that WCRPS Chapter 9, Policy 5 created a framework that means RSI should be included in the policies, she highlighted Policy 5 was in relation to sites of significance to Poutini Ngāi Tahu.

247. The Panel requested Ms Easton provide an updated recommendation on Policy CE-P5 to address drafting issues and cumulative effects. Ms Easton recommended amendments as follows:

e. Are renewable electricity generation activities ~~where the coastal environment is where the renewable electricity resource is available;~~

g Ensure that significant adverse effects, including cumulative adverse effects, on amenity, natural character, historic and cultural values, and biodiversity are appropriately managed

248. The Panel queried whether the readability of CE-P6 would be improved if the different types of areas were split into two policies. Ms Easton agreed it would and recommended amending the policy as follows:

CE – P6

Recognise that there are existing settlements and urban areas located within the coastal environment of the West Coast/Te Tai o Poutini including ~~parts areas on the edges of~~ Westport, Greymouth and Hokitika and in these areas enable ~~new~~ subdivision, ~~buildings and structures~~ use and development ~~within~~ and expansion of towns and settlements where these activities are located in areas already modified by built development or primary production activities.

CE – P6A

In areas of ~~outstanding~~ or high natural character:

- i. Provide for lawfully established land uses and activities to continue;*
- ii. Allow for other uses with a functional need or operational need to locate in the coastal environment;*
- iii. Allow for Poutini Ngāi Tahu ~~cultural~~ uses Activities and Māori Purpose Activities;*
- iv. Avoid encroachment into unmodified areas of the coastal environment; and*
- v. Ensure subdivision and development is of a scale and design where adverse effects, including cumulative adverse effects, on the elements, patterns and processes that contribute to natural character are ~~minimised~~ avoided, remedied or mitigated*

249. The Panel queried whether Policy CE-P7 should be in the Public Access Chapter, and Ms Easton agreed it should because the Planning Standards regulation 22 directed that all public access provisions must be located in this chapter. She considered there was no scope to amend Policy CE-P7 to better address NZCPS Policy 19. She noted that none of the submissions from Inger Perkins, West Coast Penguin Trust or Herenga ā Nuku Aotearoa Outdoor Access Commission sought consistency with the NZCPS or amendments to reflect Policy 19.
250. The Panel requested that Ms Easton responded to Transpower's evidence on Policy CE-P8 and provide information on the extent to which the Transpower network traversed the coastal environment. Ms Easton reviewed the Transpower designation and advised that it included areas within the coastal environment around Westport and Greymouth, but did not pass through any area of Outstanding Natural Landscape, Outstanding Natural Character, High Natural Character or Site of Significance to Māori within the coastal environment.
251. Ms Easton noted that Transpower sought the notified version of CE-P8 was retained with minor modifications. She highlighted her s42A Report recommended an amendment in response to Frida Inta's submission, which considered there was duplication in the policies. She confirmed she was comfortable with retaining the "seek to avoid" limb of the policy as sought by Transpower.
252. Ms Easton noted that the evidence of Mr Brass raised issues with the term "upgrade" rather than "minor upgrade" being included in the first limb of the policy. She agreed with the evidence of Mr Brass that the WCRPS referred to "minor upgrade" and agreed it was a drafting error that the word "minor" was omitted. She therefore recommended amendment to CE-P8 as follows:

*Enable the maintenance, repair, ~~and~~ operation and **minor upgrade** of the National Grid.
Where new development and upgrades of the National Grid are required, seek to avoid and otherwise remedy or mitigate adverse effects on Overlay Chapter areas.*

253. In response to a Panel query on whether there was scope for a new policy on restoration of the coastal environment and whether she would support such a policy, Ms Easton considered such a policy could be useful, but advised that she had not found scope in any submission. She advised that Frida Inta sought expansion of the existing restoration policy in the ECO Chapter, but had not sought any provisions around restoration in the coastal environment. She considered there was no scope provided in the submission from the West Coast Penguin Trust.

Hearing Panel's Evaluation

Policies as Whole

254. NZCPS Policy 13 uses 'preserve' in the context of natural character of the coastal environment only and specifically recognises this is not the same as natural features and landscapes. Policy 13 provides guidance on the thresholds of adverse effects for 'appropriate' subdivision, use and development, which is to:
- (1) Avoid adverse effects on natural character in the coastal environment with outstanding natural character; and
 - (2) Avoid significant adverse effects and avoid, remedy and mitigate other adverse effects on natural character in all other areas of the coastal environment.

255. The Panel disagree with Ms Easton's response to the submission point of Forest and Bird (S560.283) that sought a further policy to apply outside of areas of outstanding and high coastal natural character, outstanding coastal natural landscapes and outstanding coastal natural features. The Panel do not consider that it is appropriate to rely on the wording of CE-P3 because that policy is specific to activities within outstanding areas, rather than outside them, and CE-P5 is limited to buildings and structures outside them, so management of other activities in accordance with the NZCPS and WCRPS is necessary. However, we do not consider there is a need for a new policy because CE-P2 and CE-P3, as notified, both relate to outstanding and high natural character and significant indigenous biodiversity. Both policies also elevated high natural character areas to the same level as outstanding natural character. This was recognised by the planners at the hearing and Ms Easton's recommendation addressed this in CE -P3 by deleting 'High' but did not address this in CE-P2 in terms of the reference to Schedule Seven. Similar to CE-O1, CE-P2 inappropriately uses 'preserve' in relation to natural features and landscapes instead of just natural character as directed by the NZCPS and WCRPS.
256. To address this, and to be consistent with the higher order statutory direction, the Panel prefer to amend CE-P2 to avoid significant adverse effects on indigenous biodiversity, natural character, and natural features and landscapes outside of outstanding coastal environment areas, including high coastal natural character areas and the coastal environment generally. This addresses the significant gap identified by Forest and Bird and other submitters in relation to consistency with NZCPS Policy 11, 13 and 15.

Policy CE – P1

257. The Panel accepts Ms Easton's reasoning and recommended amendments to Policy CE-P1, as shown in Appendix 1 of the s42A Report. We agree that these amendments are important elements of the coastal environment and give effect to the NZCPS and WCRPS. We have made a minor amendment to the recommended addition in clause (a) to replace '*...saltmarshes, coastal wetlands, and the margins of these*' with '*saltmarshes and coastal wetlands and their margins*'.

Policy CE – P2

258. The Panel note that CE-P2, as notified, has similar problems with CE -O1. In line with our discussion above, we recommended amendments to focus this policy on values and areas in the coastal environment outside of outstanding coastal environment areas and areas of significant indigenous biodiversity.
259. We consider wording of the recommended address the concerns raised by Mr Brass (for the Director General) and is appropriate given the direction of the NZCPS and WCRPS.
260. In response to Forest and Bird's (S560.532) concerns about vegetation clearance in the coastal environment that may adversely affect natural character, Ms Easton acknowledged that Rule ECO-R5 did not adequately address this and therefore recommended adding a new matter of discretion '*Effects on natural character, natural landscapes, and natural features in the coastal environment*'. We agree this is a gap given the potential for adverse effects on natural character from indigenous vegetation clearance, but recommend the new matter of discretion added is '*Effects on the natural character of the coastal environment*'. We note Mr Kennedy's concerns that the date for the provision of expert evidence for the ECO Chapter was before the CE Chapter hearing. However, we consider any submitter could have spoken at the ECO

Chapter hearing in relation to Ms Easton's recommendation and therefore no party was prejudiced.

Policy CE – P3

261. The Panel generally accepts Ms Easton's reasoning and recommended amendments to Policy CE-P3, as shown in Appendix 1 of the Right of Reply. However, as discussed above, we have deleted clause (b) related to significant adverse effects, which is now included in CE-P2. We have also made amendments to use the defined term '*Outstanding Coastal Environment areas*'.
262. The Panel agree with the recommended wording changes to clause (d) (renumbered clause (e)). However, we consider the addition of subclause (ii) should be '*Māori Purpose Activities within the Māori Purpose Zone ~~Iwi/Papatipū Rūnanga Management Plan~~*' in recognition the Māori Purpose Zone provisions apply.
263. The Panel agree with Ms Easton that it is not appropriate to widen clause (e) (renumbered clause (f)) to include other activities given the direction of the NZCPS and WCRPS. We agree with Ms Easton that the exemption in the WCRPS Chapter 9, Policy 2 for activities within outstanding and significant areas in the coastal environment is specific to the National Grid only. We also agree WCRPS Chapter 9, Policy 4 in relation to renewable electricity generation is within the coastal environment and not significant and outstanding areas. We therefore reject these submission points.
264. The Panel accepts Ms Easton's recommendation to add a new clause in relation to minor and transitory adverse effects to give effect to WCRPS Chapter 9, Policy 3(d). We also acknowledge this threshold of minor or transitory adverse effects in relation to the '*avoid*' direction is consistent with case law. We consider submission points seeking consistency with the WCRPS provide scope for this change. However, we consider this should be simplified to '*It has a minor or transitory effect*'.

Policy CE – P4

265. The Panel accepts Ms Easton's reasoning and recommended amendments to Policy CE-P4, as shown in Appendix 1 of the s42A Report. We agree that these amendments give effect to the NZCPS and WCRPS. We recommend a minor amendment to add '*within areas of*' to reflect the identification of these areas in the Plan. We consider '*including cumulative effects*' is not necessary given the RMA definition for '*cumulative*' included cumulative effects. This also relates to CE-P5 as recommended.
266. The Panel considers it is also appropriate to use the defined term '*Outstanding Coastal Environment areas*' in new clause (f).

Policy CE – P5

267. The Panel accepts Ms Easton's reasoning and recommended amendments to Policy CE-P5, as shown in Appendix 1 of the s42A Report. We agree that these amendments give effect to the NZCPS and WCRPS.

Policy CE – P6

268. The Panel accepts Ms Easton's reasoning and recommended amendments to Policy CE-P6, as shown in Appendix 1 of the s42A Report, with two minor amendments discussed below. We

agree that separating the policy into two parts, addressing subdivision, use and development located in areas already modified by activities separately from activities located within areas of high natural character, is appropriate. We are satisfied that these amendments give effect to the NZCPS and WCRPS.

269. The Panel has considered Forest and Bird's submission (S560.286) to replace 'Allow for' with 'Consider' in clause (c)(ii) (now renumbered clause (b) in new ECO-P7). We agree that 'allow' is not appropriate in the areas of high natural character given the rule framework. We accept this submission point in part and recommend 'Allow for' is replaced with 'Provide for'. We also recommend adding 'uses' clause (c)(v) (now renumbered clause (b) in new ECO-P7) for consistency.

Policy CE – P7

270. The Panel accepts Ms Easton's reasoning and recommended amendments to Policy CE-P7, as shown in Appendix 1 of the s42A Report. We agree this policy should be relocated to the Public Access Chapter and renumber Policy PA-P2.

Policy CE – P8

271. The Panel accepts Ms Easton's reasoning and recommended amendments to Policy CE-P8 (renumbered CE-P9), as shown in Appendix 1 of the s42A Report. We agree it not appropriate to include regionally significant infrastructure given the direction of the WCRPS. We agree it is appropriate to add '*minor upgrade*' as requested by Mr Brass to give effect to the WCRPS and accept Ms Easton's view that this is a drafting error.

New Policies

272. The Panel has considered submitter requests for new policies. We accept Ms Easton's reasoning and recommendations to not add any new policies. We consider our recommendations give effect to NZCPS Policy 11, 13 and 15; and provide appropriate policy direction for the coastal environment outside of areas of outstanding natural character and high natural character. We do not consider it is necessary to have a new policy for renewable electricity generation. We consider more investigation is required to restrict vehicle access to the coastal marine area and agree with Ms Easton that this is best addressed through the Regional Coastal Environment Plan or bylaws.

Hearing Panel's Recommendation

273. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following changes to the **Coastal Environment Policies** as follows:

CE - P1	Identify and map a Coastal Environment overlay that recognises and provides for the extent of the coastal environment and different areas, elements or characteristics within it, including:

	a. Areas where coastal processes, influences or qualities are significant <u>including coastal lakes, lagoons, tidal estuaries, saltmarshes and coastal wetlands and their margins;</u>⁵⁷ b. Elements and features that contribute to the natural character, landscape, visual qualities or amenity values; c. Areas along the coast and river mouths where coastal erosion and coastal inundation is likely, and within the wider coastal environment where there is a potential hazard risk ~~should accelerated sea level rise occur;~~⁵⁸ d. Historic heritage and Poutini Ngāi Tahu ~~cultural areas or features~~ <u>values;</u>⁵⁹ e. <u>Islands;</u>⁶⁰ f. <u>Inter-related coastal marine and terrestrial systems, including the intertidal zone;</u>⁶¹ ~~e.g.~~ Areas of significant coastal vegetation and habitat of indigenous coastal flora and fauna species, <u>including migratory birds;</u>⁶² and ~~f.h.~~ The built environment and infrastructure which have modified the coastal environment.
CE - P2	Preserve the natural character; <u>and protect indigenous biodiversity and</u> natural features and landscapes <u>by avoiding significant adverse effects, and avoiding, remedying and mitigating other adverse effects on areas outside of Outstanding Coastal Environment areas, including within areas of high coastal natural character.</u>⁶³ ~~qualities and values of areas within the coastal environment that have:~~ ~~a. Significant indigenous biodiversity including Significant Natural Areas as described in Schedule Four~~ ~~b. Outstanding natural landscapes as described in Schedule Five;~~ ~~c. Outstanding natural features as described in Schedule Six;~~ ~~d. High coastal natural character as described in Schedule Seven; and~~ ~~e. Outstanding coastal natural character as described in Schedule Eight.~~

⁵⁷ Director General of Conservation S602.143

⁵⁸ Director General of Conservation S602.143

⁵⁹ Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.202

⁶⁰ Director General of Conservation S602.143

⁶¹ Director General of Conservation S602.143

⁶² Director General of Conservation S602.143

⁶³ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.281 and S560.002, John Caygill S290.006, Riarnne Klempel S296.006

CE - P3	Only allow new subdivision, use and development within areas of outstanding and high⁶⁴ coastal natural character, outstanding coastal natural landscapes and outstanding coastal natural features where: a. The elements, patterns, processes and qualities that contribute to the outstanding or high natural character or landscape are maintained; b. ~~Significant adverse effects on natural character, natural landscapes and natural features, and~~⁶⁵ c. ~~Adverse effects on areas of significant indigenous biodiversity, areas of outstanding natural character and~~ <u>Outstanding Coastal Environment areas</u> natural landscapes and features are avoided;⁶⁶ ~~c.d.~~ <u>The development is of a size, scale and nature that is appropriate to the environment;</u> ~~d.e.~~ <u>It is for:</u> a i. Poutini Ngāi Tahu <u>activities; or</u> ii. <u>Māori Purpose Activities within the Māori Purpose Zone; or</u> iii. Cultural <u>harvest</u> purpose; or⁶⁷ ~~e.f.~~ <u>It is National Grid infrastructure that has a functional and</u> <u>or</u> operational need to locate in these areas. c. <u>It has a minor or transitory effect.</u>⁶⁸
CE - P4	Provide for primary production activities within <u>areas of the</u>⁶⁹ outstanding and high natural character, outstanding natural landscapes and outstanding natural features within the coastal environment where: a. These are existing lawfully established activities <u>and associated lawfully established buildings and structures; and</u> ~~or~~⁷⁰ b. The use ~~does not degrade~~ <u>protects</u> the elements, patterns or processes that contribute to the outstanding or high <u>natural character</u> values; <u>and</u>⁷¹ c. <u>Adverse effects on outstanding natural character, outstanding natural landscapes and outstanding natural features are avoided.</u>⁷²

⁶⁴ Consequential amendment Royal Forest and Bird Protection Society of New Zealand Incorporated S560.281 and S560.002, John Caygill S290.006, Riarnne Klempel S296.006

⁶⁵ Consequential amendment Royal Forest and Bird Protection Society of New Zealand Incorporated S560.281 and S560.002, John Caygill S290.006, Riarnne Klempel S296.006

⁶⁶ Director General of Conservation S602.145, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.282, Transpower New Zealand Limited S299.065

⁶⁷ Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.203, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.282

⁶⁸ John Caygill S290.006

⁶⁹ RMA First Schedule, Clause 16

⁷⁰ Director General of Conservation S602.146

⁷¹ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.284

⁷² Director General of Conservation S602.146

- CE - P5** Provide for buildings and structures within the coastal environment outside of areas of outstanding coastal natural character, outstanding natural landscape and outstanding natural features where these:
- a. Are existing lawfully established buildings or⁷³ structures; or
 - ~~b. Are of a size, scale and nature that is appropriate to the area; or~~⁷⁴
 - c. Are in the parts of the coastal environment that have been historically modified by built development, infrastructure⁷⁵ and primary production activities; or
 - d. Have a functional need⁷⁶ or operational need to locate within the coastal environment; or
 - e. Are new renewable electricity generation activities where the coastal environment is where the renewable electricity resource is available;⁷⁷
 - f. Are of a size, scale and nature that is appropriate to the area; and⁷⁸
 - g. Ensure that significant adverse effects on amenity, natural character, historic and cultural values, and indigenous biodiversity are appropriately managed.⁷⁹
- CE - P6** Recognise that there are existing settlements and urban areas located within the coastal environment of the West Coast/Te Tai o Poutini including parts ~~areas on the edges~~⁸⁰ of Westport, Greymouth and Hokitika and enable ~~new~~ subdivision, ~~buildings and structures~~ use and development ~~within~~⁸¹ and expansion of towns and settlements where: a. These activities are located in areas already modified by built development or primary production activities.⁸²
- CE - P7**
- ~~b. Where located in unmodified areas, any adverse impact on natural character can be mitigated;~~⁸³
 - e. In areas of ~~outstanding or~~⁸⁴ high natural character:

⁷³ Westpower Limited S547.419

⁷⁴ Director General of Conservation S602.147

⁷⁵ Westpower Limited S547.420

⁷⁶ RMA First Schedule, Clause 16

⁷⁷ Westpower Limited S547.411

⁷⁸ Director General of Conservation S602.147

⁷⁹ Director General of Conservation S602.147, Buller Conservation Group S552.128, Frida Inta S553.128

⁸⁰ RMA First Schedule, Clause 16

⁸¹ Westpower Limited S547.422

⁸² Consequential amendment from separating CE-P6 into two policies.

⁸³ Consequential amendment from separating CE-P6 into two policies. Buller Conservation Group S552.129, Frida Inta S553.129

⁸⁴ Director General of Conservation S602.148

	i. ~~a.~~ Provide for lawfully established land uses and activities to continue; ii. ~~b.~~ ~~Allow~~⁸⁵Provide for other uses with a functional need ~~or operational need~~⁸⁶ to locate in the coastal environment; iii. ~~c.~~ Allow for Poutini Ngāi Tahu Activities and Māori Purpose Activities~~cultural uses~~;⁸⁷ iv. ~~d.~~ Avoid encroachment into unmodified areas of the coastal environment; and v. ~~e.~~ Ensure subdivision, use⁸⁸ and development is of a scale and design where adverse effects on the elements, patterns and processes that contribute to natural character are ~~minimised~~avoided, remedied or mitigated.⁸⁹
~~CE – P7~~	
<u>PA – P2</u>	Reduction in public access to the coastal environment can be considered when coastal hazard mitigation works are required to protect communities from a significant natural hazard threat <u>or for health and safety reasons</u>. When assessing proposals for ~~natural hazard structures~~ <u>a reduction in public access, measures to minimise</u> effects on public access ~~should~~ <u>will</u> be considered ~~and ways to minimise them found~~, including: a. Provision of alternate certain and enduring access; and b. Provision of public amenity or opportunity for environmental benefit <u>including</u> along the <u>any natural hazard mitigation structure</u>, provided that the physical integrity and function of the structure is maintained.⁹⁰
CE - P8	Enable the maintenance, repair, ~~and~~ operation <u>and minor upgrade</u>⁹¹ of the National Grid. Where new development and upgrades of the National Grid are required, seek to avoid and otherwise remedy or mitigate adverse effects on Overlay Chapter areas.

3.5. CE Rules that affect the whole coastal environment

Submissions and Further Submissions

274. Seventeen submission points and eight further submission points relating to the rules as a whole were summarised in a Table on pages 72-74 of the s42A Report. One submission point

⁸⁵ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.286

⁸⁶ Westpower Limited S547.424

⁸⁷ Consequential amendment Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.203, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.282

⁸⁸ RMA First Schedule, Clause 16

⁸⁹ Westpower Limited S547.426

⁹⁰ Westpower Limited S547.427

⁹¹ Director General of Conservation S602.149

TAI POUTINI PLAN COMMITTEE

Hearing of Submissions on the Proposed Te Tai O Poutini Plan

Recommendation Report of Hearing Panel

Recommendation Report: General District Wide Matters - Ngā Kaupapa ā-Rohe Whānui

Earthworks - Ngā Rama, Light - Te Huke Whenua and Temporary Activities - Ngā Mahi Taupua

Hearing Date: 14 November 2023

HEARING PANEL

Sharon McGarry (Chair)

Paul Rogers

Maria Bartlett

Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

General District-Wide Matters - Ngā Kaupapa ā-Rohe Whānui: Earthworks -Ngā Rama, Light – Te Huke Whenua and Temporary Activities – Ngā Mahi Taupua

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APPENDICES

Appendix 1 – Recommendations

PART C – SUBMISSIONS, EVIDENCE, EVALUATION AND RECCOMENDATIONS

2. EARTHWORKS

2.1. EW General/Whole Chapter

Submissions and Further Submissions

35. Twenty submissions points and three further submission points relating to general matters or the whole EW chapter were summarised in a Table on pages 17-18 of the s42A Report. The Panel has considered the relevant submissions and further submissions received and adopts the summaries in the s42A Report.
36. In addition to these specific submission and further submission points, the Panel considers the implications of making Plan wide changes for consistency to replace the use of '*critical infrastructure*' with '*regionally significant infrastructure*' within the context of the EW Chapter.

Section 42A Report

37. Ms Belgrave did not support removing references to Overlay Chapters. She considered cross referencing could provide clarity to plan users and noted there was no guidance on this in the National Planning Standards. She did not support amendments to the definition of 'earthworks' to exclude mineral extraction activities given the definition used is from the National Planning Standards.
38. Ms Belgrave supported amending '*critical infrastructure*' to '*regionally significant infrastructure*' (**RSI**) on the basis the new term is consistent with the West Coast Regional Policy statement (**RPS**). She acknowledged this matter related to other topic hearings and that any decision in terms of the General District Wide Matters provisions would need to align with the decisions made on other topics.
39. Ms Belgrave did not support Transpower's request to provide all relevant earthwork rules in the EW Chapter given the Plan had been structured so all the overlay provisions are located in their respective District-Wide chapters and the generic district wide matters are contained within the General District-Wide Matters section. She supported using cross referencing for clarity.
40. Ms Belgrave supported minor amendments to the Overview to address submissions and improve clarity. These are set out below in the EW Overview section.

Hearing and Submitter Evidence/Statements

41. Mr Leckie's legal submissions for Bathurst highlighted the need to ensure the EW chapter provisions do not unintentionally undermine the objectives and policies in the Mineral Extraction Zone (**MINZ**) and the Buller Coalfield Zone (**BCZ**). He requested further amendments to explicitly make it clear which rules take precedence to avoid conflict and interpretation issues.

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42. Ms McKenzie for Birchfield Coal Mines Limited *et al.*⁹ highlighted the intent of RPS Objective 4.1 and Policy 4.1 were to enable resource use and development, while managing adverse effects. She noted the Earthwork provisions had been drafted to not capture mineral extraction and associated activities. She sought additional amendments to the Overview to make it clear the Earthwork provisions do not apply to mineral extraction.
43. Ms Whitney's evidence for Transpower confirmed it no longer sought the relocation of all earthwork provisions to the EW chapter based on the National Grid specific Rule EW-R7.
44. Mr Kennedy, for Westpower, noted the s42A Report had recommended accepting further submission (FS222.0312) regarding submission S560.314, however, it appeared the recommendation would reject the further submission in part. He clarified the intent of the further submission was to ensure the outcome did not extend regulatory controls beyond the intent of the Plan.
45. Mr and Mrs Coates for themselves and Nikau Deer Farm Limited considered the s32 Report evaluation was poor in terms of section 6 RMA matters. They requested removal of all section 6 matters and overlays from the Plan because this made it more restrictive to do earthworks and prune vegetation. They considered this was an erosion of their private property rights and the rules were impractical.

Reporting Officer Reply Evidence

46. Ms Belgrave agreed the additional amendments sought in planning evidence provided by Ms McKenzie improved clarity.
47. Ms Belgrave considered the use the term '*minimise*' as compared to using the RMA language '*avoid, remedy and mitigate*'. Overall, she considered use of '*avoid, remedy and mitigate*' in the policies and rules would provide increased flexibility and scope to ensure that appropriate action is considered and carried out when managing effects. However, in the context of the Overview, she considered replacing '*minimise*' with '*avoid remedy and mitigate*' would cause unnecessary complexity.
48. Ms Belgrave did not support use of '*effects management hierarchy*' (as requested by Ms Inta) given this would enable adverse effects to be offset and compensated and this is not appropriate with this context.
49. Ms Belgrave supported amending '*critical infrastructure*' to '*regionally significant infrastructure*' on the basis the new term is consistent with the West Coast Regional Policy statement (RPS). She acknowledged this matter related to other topic hearings and that any decision in terms of the General District Wide Matters provisions would need to align with the recommendations made on other topics.

Hearing Panel's Evaluation

⁹ Birchfield Coal Mines Limited, Papahaua Resource Limited, Rocky Mining Limited, TiGa Minerals and Metals Limited, and WMS Group (HQ) Limited and WMS Land Company Limited

Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

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50. The Panel agree with Ms Belgrave that it is not appropriate to remove references to overlays or to remove all references to Sites and Areas of Significance to Māori (**SASM**) in the Earthworks chapter.
51. The Panel has considered the concerns raised by Mr and Mrs Coates regarding their loss of property rights and additional restrictions imposed by use of the Overlays to protect RMA section 6 matters of national importance. The Panel finds the identification and protection of areas of significant environmental value through use of the Overlays is appropriate to give effect to Part 2 of the RMA. The Panel are satisfied the EW provisions sufficiently enable the continuation of current land use activities, without unnecessary restrictions.
52. The Panel considers the section 32 evaluation provides sufficient analysis of existing regulation under the three operative district plans as compared to the proposed TTPP provisions to enable assessment of the scope of change. We have also considered the regulatory effect of the Regional Land and Water Plan with a view to being consistent and compatible with, while not to duplicating, regional rules.
53. The Panel considers use of the National Planning Standard definition for 'earthworks' is appropriate and recognise this includes mineral extraction. The Panel agrees with Ms Belgrave that it is not appropriate to amend the definition to exclude mineral extraction.
54. The Panel accepts Ms Belgrave's recommendation to make further minor amendments to the Overview to make it clear the earthwork provisions do not apply to mineral extraction activities that are specifically provided for in the BCZ and MINZ zones.
55. The Panel notes while Bathurst was not included in the summary of submission points allocated to the EW Chapter in General Matters or the Overview section, we accept it did make general submission points to ensure consistency across the wider plan provisions to not restrict anticipated activities in the MINZ and BCZ.
56. The Panel notes Forest and Bird's concern that the mapped overlay chapters relied on in the permitted activity rules do not include all areas of significant indigenous biodiversity, high natural character and margins of waterbodies; and therefore, these environmental values which require protection would not be considered relevant if not identified in the overlay chapters.
57. Ms Belgrave considered Forest & Bird's concerns would be addressed by improving the clarity of the Overview wording. However, the Panel considers this is a valid concern given the rule wording relies on the identification of significant environmental values in overlays. This is considered further by the Panel in relation to the EW rules in the section below, and in other relevant Recommendation Reports.
58. The Panel is satisfied the recommended changes do not extend the regulatory controls beyond what was intended in the proposed Plan, which addresses the further submission point highlighted by Mr Kennedy for Westpower.
59. The Panel accepts the Plan wide recommendation to replace '*critical infrastructure*' with '*regionally significant infrastructure*' and this is considered on a case by case basis where it is used in the provisions below.

Hearing Panel's Recommendation

Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

General District-Wide Matters - Ngā Kaupapa ā-Rohe Whānui: Earthworks -Ngā Rama, Light – Te Huke Whenua and Temporary Activities – Ngā Mahi Taupua

60. No changes to the provisions are required in relation to issues raised in submissions and further submission made on general matters or the whole EW Chapter.
61. The Panel's recommended changes to the EW Overview wording are set out in the below section.

2.2. EW Overview

Submissions and Further Submissions

62. Twelve submissions points and one further submission point relating to the Overview were summarised in a Table on pages 21-22 of the s42A Report. The Panel adopts these summaries and has considered the relevant submissions and further submissions.
63. All submission points sought amendments to include additional wording in the Overview, except one submission which supported the wording be retained as notified.

Section 42A Report

64. Ms Belgrave made recommendations on the individual submission and further submission points in Appendix 1 of the s42A Report. She supported minor amendments to the Overview wording to improve clarity and make it clear that the rules that apply to mineral extraction activities are located in the zone chapters of the Plan. She recommended the following amendments in paragraph 76 of the s42A Report:

Overview

Earthworks are usually an essential prerequisite for development. Earthworks are the physical works that modify land so that it can be used for living, business, and recreation purposes, farming and forestry and the construction and maintenance of infrastructure. The scope and scale of earthworks range from large bulk earthworks, which can alter the landform and its topography, to small and discrete areas of works most often associated with minor development.

*Earthworks can adversely affect amenity values (visual, dust nuisance, noise and traffic, **natural environment values (such as indigenous biodiversity, habitat, environmental quality and landscape)**) and result in changes to natural landforms. Earthworks can cause changes to the appearance and character of the neighbourhoods they are located in and can impact on people's experience of their environment.*

Other relevant Te Tai o Poutini Plan provisions

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:

- **District Wide Chapters – Energy, Infrastructure, and Natural Hazards Chapters have provisions relating to earthworks**
- **Overlay Chapters** - the Overlay Chapters have **earthworks** provisions in relation to Historic Heritage; Notable Trees; Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Natural Features and Landscapes; Natural Character and Margins of Waterbodies; Natural Hazards; and the Coastal Environment. ~~Where earthworks are located within an overlay area (as identified in the planning maps) then the relevant overlay chapter provisions apply.~~

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- ***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.~~***

65. Ms Belgrave also recommended similar changes to Rules EW-R1 and EW-R2 and an Advice Note to EW-R6, which are addressed below in the EW Rules section.
66. In response to our questions regarding Heritage New Zealand Pouhere Taonga (S140.042), Ms Belgrave agreed the additional sentence requested provided further clarity to plan users.

Hearing and Submitter Evidence/Statements

67. Ms McKenzie supported the recommended amendments in the s42A Report but sought the following additional amendments to the Overview:

- ***Earthworks Associated with Mineral Extraction – the Zone and Overlay Chapters have provisions ~~in relation to~~ which manage mineral extraction and its ancillary activities. The Earthworks rules within this section do not apply to mineral extraction, mineral prospecting or mineral exploration. ~~Including earthworks.~~***

68. Mr Leckie was supportive of the recommended amendments in the s42A Report but considered these amendments did not go far enough to clarify which plan provisions take precedence. He supported the wording proposed by Ms McKenzie.
69. Mr Kennedy, for Westpower, noted that submission point S547.456 was accepted in the s42A Report but that the recommendation changed the outcome sought in the submission. He clarified the intent was to ensure it was clear that there were earthworks provisions for activities in the vicinity of energy activities and infrastructure in the energy activities chapter. He remained of the view the wording sought by Westpower should be included in the amendment accepted by the s42A Reporting Officer.
70. Mr Kennedy also noted that the s42A Report did not include a recommendation on submission point S547.458, which sought to include a reference in the Overview section to the Strategic Objectives and Policies section.

Reporting Officer Reply Evidence

71. In the Addendum s42A Report, Ms Belgrave agreed with the additional amendments suggested by Ms McKenzie.
72. In response to questions, Ms Belgrave considered the recommended wording addressed the concerns of Mr Kennedy and made it clear that earthworks associated with energy activities are addressed in the Energy, Infrastructure and Transport (EIT) Chapter.

Hearing Panel's Evaluation

73. The Panel accepts that Ms Belgrave's recommended amendments to the Overview provide important clarifications for plan users.
74. The Panel is satisfied the recommended wording clarifies that the EIT Chapter addressed earthworks associated with energy activities and rejects submission point S547.456. The Panel also considers the Plan is clear that the Strategic Objectives and Policies are to be

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considered alongside the other relevant zone or overlay objectives and policies when assessing resource consents. The Panel rejects submission point S547.458.

75. The Panel accepts the additional sentence requested by Heritage New Zealand Pouhere Taonga (S140.042) which provides clarity that the Plan does not include identification of all archaeological sites.
76. The Panel also agrees with Ms McKenzie that some further wording is required to direct plan users to the zone provisions that apply to earthworks associated with mining, quarrying and gravel extraction. While terminology in the Planning Standards mandatory direction 7.31 describes these activities as '*mining, quarrying and gravel extraction*', the Panel adopt the description '*mineral extraction, mineral prospecting or mineral exploration*' as proposed by Ms McKenzie, which is terminology derived from the Crown Minerals Act 1991 and considered acceptable for the purposes of the Plan.

Hearing Panel's Recommendation

77. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submissions identified in the footnotes below are accepted or accepted in part, and recommends the following changes to the **Earthworks – Te Huke Whenua Overview**:

Earthworks can adversely affect amenity values (visual, dust nuisance, noise and traffic), **natural environment values (such as indigenous biodiversity, habitat, environmental quality and landscape)**¹⁰ and result in changes to natural landforms. Earthworks can cause changes to the appearance and character of the neighbourhoods they are located in and can impact on people's experience of their environment.

Other relevant Te Tai o Poutini Plan provisions

In addition to the provisions in this chapter, earthworks and land disturbance¹¹ are also subject to additional provisions in some zone chapters and a number of Part 2: District-Wide Matters chapters, including:

- **District Wide Chapters – Energy, Infrastructure, and Natural Hazards Chapters have provisions relating to earthworks.**¹²
- **Overlay Chapters** - the Overlay Chapters have **earthworks**¹³ provisions in relation to Historic Heritage; Notable Trees; Sites and Areas of Significance to Māori; Ecosystems and Indigenous Biodiversity; Natural Features and Landscapes; Natural Character and Margins of Waterbodies; Natural Hazards; and the Coastal Environment. ~~Where earthworks are located within an overlay area (as identified in the planning maps) then the relevant overlay chapter provisions apply.~~¹⁴
- **Earthworks Associated with Mineral Extraction** - the Zone **and Overlay** Chapters have provisions **which manage** mineral extraction and its ancillary activities. ~~including earthworks.~~ **The earthwork rules within this chapter do not apply to mineral extraction, mineral prospecting or mineral exploration.**¹⁵

¹⁰ Director General of Conservation S602.162

¹¹ Clause 16(2) of First Schedule of RMA.

¹² Westpower Limited S547.456

¹³ Clause 16(2) of First Schedule of RMA

¹⁴ Papahaua Resource Limited S500.032 and Rocky Mining Limited S474.048

¹⁵ Papahaua Resource Limited S500.032, Rocky Mining Limited S474.048 Birchfield Coal Mines Limited S601.005, William McLaughlin S567.005, BRM Developments Limited S603.005, Birchfield Ross Mining Limited S604.005, TiGa Minerals and Metals Limited S493.006, Phoenix Minerals Limited S606.005, New Zealand Carbon & Coal Limited S472.004 and Whyte Gold Limited S607.005

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Other relevant regulations

A number of other regulatory and non-regulatory methods also manage the effects of earthworks. For instance, certain earthworks carried out as part of building work are subject to the New Zealand Building Code and may require a building consent under the Building Act 2004 **and earthworks in the vicinity of electrical infrastructures are regulated under the New Zealand Code of Practice for Electrical Safe Distances (NZCEP 34:2001).**¹⁶

Earthworks and land disturbance¹⁷ affecting archaeological sites may also require authorisation under the Heritage New Zealand Pouhere Taonga Act 2014. The Heritage New Zealand Pouhere Taonga Act 2014 makes it unlawful for any person to modify or destroy, or cause to be modified or destroyed, the whole or any part of an archaeological site without the prior authority of Heritage New Zealand. **This is regardless of whether the site is scheduled in Tai o Poutini Plan or not, and is in addition to any resource consent obtained.**¹⁸ If you wish to do any work that may affect an archaeological site you must obtain an authority from Heritage New Zealand before you begin.

Earthworks may need additional resource consents from the West Coast Regional Council under the Regional Land and Water or Coastal Plans for the West Coast/Te Tai o Poutini, or under the National Environmental Standard for Freshwater 2020 including earthworks that may result in silt or sediment contamination of water or those which will affect wetlands.

Where earthworks associated with the removal of contaminated land and soil are undertaken, the provisions of the National Environmental Standard (NES) for Assessing and Managing Contaminants in Soil for Human Health will also apply.

The National Environmental Standard for ~~Commercial Plantation Forestry 2017~~ **Commercial Forestry Regulations 2023**¹⁹ regulates earthworks for plantation forestry and these rules do not apply to those works.

2.3. Earthworks Objective

Submissions and Further Submissions

78. Thirty-three submissions points and four further submission point relating to EW-O1 were summarised in a Table on pages 24-26 of the s42A Report. The Panel adopts these summaries and has considered the relevant submissions and further submissions.
79. Most submissions supported the retention of the objective as notified. Two opposed the objective and requested it be split into two objectives for protective and exploitative purposes. Four submissions sought amendments to wording.

Section 42A Report

¹⁶ Westpower Limited S547.457

¹⁷ Clause 16(2) of First Schedule of RMA.

¹⁸ Heritage New Zealand Pouhere Taonga S140.042

¹⁹ First Schedule Clause 16(2) amendment to reflect the enactment of the Resource Management (National Environmental Standard for Commercial Forestry) Regulations 2023, which replaces the NES-PF.

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80. Ms Belgrave supported the addition of '*remedied*' but considered deletion of the word '*surrounding*' altered the intent of the objective.
81. Ms Belgrave highlighted the RMA definition of '*environment*' and noted this included '*natural and physical resources*'.
82. Ms Belgrave did not support splitting the enabling and protecting parts of the objective into two objectives.

Hearing and Submitter Evidence/Statements

83. Ms Young for the Director General of Conservation reiterated the need to delete the word '*surrounding*' from EW-O1 to ensure the management of adverse effects on the environment includes effects on the environment at the works site itself. She considered this was necessary given the policies that follow on from the objective.
84. Mr Kennedy, for Westpower supported the addition of '*remedied*'.
85. Ms Inta for herself and Buller Conservation Group sought to replace '*avoided and mitigated*' with reference to '*follow the adverse effects hierarchy*'. However, in response to questions, she agreed that offsetting and compensation was not appropriate in all cases.

Reporting Officer Reply Evidence

86. Having considered the evidence of Ms Young and the policies under EW-O1, Ms Belgrave agreed that deleting '*surrounding*' from EW-O1 was appropriate as it would achieve improved consistency with the EW policies. She noted the policies intended to manage adverse effects at a site as well as the surrounding area.
87. In considering Ms McKenzie's requested changes to EW-P1 (addressed below), Ms Belgrave considered a consequential amendment to EW-O1 was required to align the provisions to enable earthworks generally and manage all adverse effects, not just significant effects.
88. In response to our questions, Ms Belgrave also supported deleting '*that their*' as a minor correction to improve the language used. This was shown in the updated Appendix 1 of Part 2 of the Right of Reply.

Hearing Panel's Evaluation

89. The Panel accepts the reasoning set out in the s42A Report and agree that the definition of RMA '*environment*' is broad and includes natural and physical resources. The Panel agrees the changes recommended are appropriate and are consistent with the wording of the RMA.
90. The Panel agree the word '*surrounding*' is unclear and should be deleted, as requested by the Director General of Conservation and recommended in Appendix 1 of Part 2 of the Right of Reply.

Hearing Panel's Recommendation

91. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submissions identified in the footnotes below are

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accepted or accepted in part, and recommend the following changes to the **Earthworks Objectives**:

EW – O1	To provide for earthworks to facilitate subdivision, use and development of the West Coast/Te Tai o Poutini's land resource, while ensuring that their ²⁰ adverse effects on the surrounding ²¹ environment are avoided, remedied ²² or mitigated.

2.4. Earthworks Policies

Submissions and Further Submissions

92. Twenty-nine submissions points and one further submission point relating to **EW-P1** were summarised in a Table on pages 27-28 of the s42A Report. Nineteen submissions supported retention of the policy as notified. Eleven submissions requested wording amendments.
93. Twenty-three submissions points and one further submission point relating to **EW-P2** were summarised in a Table on pages 29-30 of the s42A Report. Fifteen submissions supported the policy be retained as notified. Seven submissions sought wording amendments.
94. Twenty-one submissions points relating to **EW-P3** were summarised in a Table on page 31 of the s42A Report. All the submissions supported the policy as notified, except for two submissions that sought the same correction to wording.
95. Twenty-three submissions points and one further submission point relating to **EW-P4** were summarised in a Table on pages 32-33 of the s42A Report. Twenty submissions supported retention of the policy as notified. Three submissions sought wording amendments.
96. The Panel has considered the relevant submissions and further submissions and adopts the summaries in the s42A Report.

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97. In relation to EW-P1, Ms Belgrave did not support the requested deletion of '*temporary and small scale*' because she considered it sought to enable earthworks that would have only limited adverse effects on the environment.
98. Ms Belgrave supported replacing the term '*utilities*' with '*infrastructure*' in response to Westpower Limited's request to add '*including energy activities and critical infrastructure*'. She noted '*utilities*' was not defined in the pTTPP or RMA, but that '*infrastructure*' was defined and includes electricity infrastructure.
99. Ms Belgrave did not support the request to change the order of EW-P1 and EW-P2 given there was no hierarchy, and all policies must be considered.
100. Ms Belgrave considered replacing '*significant*' with '*no more than minor*' was not necessary and was more appropriate within the policy framework.

²⁰ Clause 16(2) of First Schedule of RMA

²¹ Director General of Conservation S602.168

²² Silver Fern Farm S441.026, Westpower Limited S547.459 and Director General of Conservation S602.168

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101. In her Addendum, Ms Belgrave considered the use the term '*minimise*' instead of '*avoid, remedy or mitigate*' in the context of EW policies. She recommended EW-P2 be amended to replace '*minimise*' with '*avoid remedy and mitigate*'. However, we note this was not reflected in updated Appendix 1 of the Addendum to the s42A Report.
102. In relation to EW-P2, Ms Belgrave agreed with the request to delete '*water quality*' to avoid duplication with Regional Council functions.

Hearing and Submitter Evidence/Statements

103. Ms McKenzie sought amendments to EW-P1 to ensure that all forms of earthworks are enabled, not just temporary and small scale earthworks, to be consistent with the EW-O1 to enable earthworks generally and with the RPS. She considered the policy only provided 'narrow scope' and did not enable a range of earthworks, as envisioned by EW-O1.
104. Mr Kennedy, for Westpower, highlighted the importance of ensuring energy activities are included in the reference to '*infrastructure*' in EW-P1; and supported replacing '*minimise*' with '*avoid, remedy and mitigate*' in EW-P2 to be consistent with EW-O1.
105. At the hearing, Mr Kennedy questioned whether there was scope for deleting '*significant*' from EW-P1 and considered this changed the scope of the policy. However, he noted he supported deletion of '*temporary and small scale*' from EW-P1.
106. Ms Inta, on behalf of herself and the Buller Conservation Group, highlighted the requirement to avoid adverse effects on significant biodiversity. She supported replacing '*avoid, remedy and mitigate*' with '*the effects hierarchy*'. However, in response to questions, she preferred '*avoid, remedy and mitigate*' to use of '*minimise*', which she considered was meaningless.

Reporting Officer Reply Evidence

107. Having heard the evidence and undertaking further analysis, Ms Belgrave agreed that deleting '*temporary and small scale*' from policy EW-P1 was appropriate to enable earthworks more generally and to be consistent with EW-O1. She considered the deletion of '*significant*' was appropriate to require the management of all adverse effects.
108. Revised Appendix 1 of Part 2 of the Right of Reply recommended the following amendments to the EW policies:

EW – P1 Enable ~~temporary and small scale~~ earthworks for the subdivision, use and development of land, the provision of infrastructure ~~utilities~~, and hazard mitigation, while managing those with the potential to create ~~significant~~ adverse effects.

EW – P2 Manage the effects of earthworks to ~~minimise~~ avoid, remedy and mitigate impacts on landscape character, amenity, natural features, ~~water quality~~, biodiversity, cultural and heritage sites and the quality of the environment.

EW – P3 Require the use of accidental discovery protocols to mitigate the potential risk ~~to~~ of earthworks to archaeological sites and sites of significance to Māori and archaeological sites that are not scheduled in the Plan.

109. No changes to EW-P4 were shown in the updated Appendix 1 of Part 2 of the Right of Reply.

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Hearing Panel's Evaluation

110. The Panel agrees with Ms Belgrave to delete '*temporary and small scale*' from EW-P1 to enable earthworks more generally and to be consistent with EW-O1.
111. The Panel also agree with Ms Belgrave that '*significant*' should be deleted from EW-P1 because the intent of the policy wording is to enable earthworks with minor adverse effects, as permitted activities. The Panel also agree with Forest and Bird that this should be replaced with '*more than minor*' to enable activities that have only minor or less than minor adverse effects on the environment. Without adding '*more than minor*', it would be all '*adverse effects*' without qualification.
112. In response to Mr Kennedy's view at the hearing regarding the scope to delete '*significant*', the Panel considers Forest & Bird's submission (S560.316) specifically requests this and its replacement with '*no more than minor*'.
113. The Panel considers replacement of '*utilities*' with '*infrastructure*' is appropriate and that this addresses the concerns raised by Westpower Limited regarding the inclusion of energy activities and critical infrastructure.
114. The Panel accepts there is no hierarchy in the policies and that all relevant policies must be considered. For this reason, there is no need to re-order the policies.
115. The Panel agrees with Ms Belgrave that EW-P2 should be amended to replace '*minimise*' with '*avoid remedy or mitigate*' given there are circumstances where adverse effects must be avoided to protect significant environmental values and to give effect to Part 2 of the Act. Similarly, it does not recognise the national direction to '*avoid, remedy or mitigate*' significant effects on other environmental values.
116. The Panel notes the submission from Forest & Bird seeks to ensure adverse effects on biodiversity are managed in accordance with the ECO Chapter and the NFL Chapter, and not to a 'lesser standard'. We agree this consistency across the chapters is critical to give effect to section 6, 7 and 8 matters. The Forest & Bird submission gives the Panel scope to insert words '*natural*', '*values*' and '*indigenous*' to make the wording consistent with the ECO and NFL Chapters.
117. The Panel also consider the wording would be clearer and consistent with the statutory requirements if '*impacts*' is replaced with '*adverse effects*'. The Panel is satisfied this more precise language does not change the intent of the policy and clarifies that only adverse impacts must be managed and not all impacts.
118. The Panel notes the language used in EW-P2 is not consistent with the language used in the RMA and the higher order documents by using '*landscape character*'. The Panel considers this should be corrected to '*landscape, natural character*' to align with Part 2 of the RMA. The Panel is satisfied this does not change the intent of EW-P2.
119. The Panel notes that EW-P4 uses '*critical infrastructure*' but that this was not addressed by Ms Belgrave. In the context of its use in EW-P4, we consider this should be amended to '*regionally significant infrastructure*' as a consequential amendment to ensure consistency across the wider plan provisions.

Hearing Panel's Recommendation

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120. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submissions identified in the footnotes below are accepted or accepted in part, and recommends the following changes to the **Earthworks Policies**:

EW - P1	Enable ~~temporary and small scale~~ ²³ earthworks for the subdivision, use and development of land, the provision of infrastructure ~~utilities~~ ²⁴ , and hazard mitigation, while managing those with the potential to create ~~significant~~ more than minor ²⁵ adverse effects.
EW – P2	Manage the adverse ²⁶ effects of earthworks ~~to minimise impacts~~ ²⁷ on natural ²⁸ landscape values, natural ²⁹ character, amenity values , ³⁰ natural features, ~~water quality~~ , ³¹ indigenous ³² biodiversity, cultural and heritage sites items and areas ³³ , and the quality of the environment to avoid, remedy or mitigate adverse effects, as appropriate . ³⁴
EW – P3	Require the use of accidental discovery protocols to mitigate the potential risk ~~to~~ of ³⁵ earthworks to archaeological sites and sites of significance to Māori and archaeological sites that are not scheduled in the Plan.
EW – P4	Protect ~~critical infrastructure~~ regionally significant infrastructure ³⁶ and natural hazard defences from the adverse effects of earthworks.

2.5. Earthworks Rules

Submissions and Further Submissions

121. Thirty-nine submissions points and four further submission points relating to **EW-R1** were summarised in a Table on pages 37-40 of the s42A Report. Ten submissions supported the rule as notified. Twenty submissions sought changes to the rule, standards and advice note wording.
122. Forty-one submissions points and nine further submission points relating to **EW-R2** were summarised in a Table on pages 42-45 of the s42A Report. Five submissions supported the rule as notified. Most submissions sought amendments to provide more clarity and to be more enabling of development. Two submission sought deletion of the rule.

²³ Birchfield Coal Mines Limited S601.062, BRM Developments Limited S603.040, Birchfield Ross Mining Limited S604.055 Papahaua Resource Limited, Rocky Mining Limited, TiGa Minerals and Metals Limited S493.076, WMS Group (HQ) Limited and WMS Land Company Limited S599.081, Phoenix Minerals Limited S606.041 and Whyte Gold Limited S607.039

²⁴ Westpower Limited S547.460

²⁵ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.316

²⁶ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.588

²⁷ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.317

²⁸ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.588

²⁹ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.588

³⁰ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.588

³¹ Westpower Limited S547.461

³² Royal Forest and Bird Protection Society of New Zealand Incorporated S560.588

³³ Consequential amendment arising from recommendations on the Historic Heritage Chapter

³⁴ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.317

³⁵ Silver Fern Farms S441.027 and Director General of Conservation S602.169

³⁶ Consequential amendment under Clause 16(2) of First Schedule of RMA

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123. Thirty-nine submissions points and four further submission points relating to **EW-R3** were summarised in a Table on pages 49-51 of the s42A Report. Seven submissions supported the rule as notified. Most submissions sought amendments to provide more clarity and to be more enabling of development.
124. Eighteen submissions points and three further submission points relating to **EW-R4** were summarised in a Table on pages 53-54 of the s42A Report. Four submissions supported the rule as notified. Majority of submissions sought wording amendments.
125. Six submissions points and one further submission point relating to **EW-R5** were summarised in a Table on pages 54-55 of the s42A Report. Three submissions supported the rule as notified. Three sought wording changes.
126. Twenty-four submissions points relating to **EW-R6** were summarised in a Table on pages 55-56 of the s42A Report. Fifteen submissions supported the rule as notified. Eight submissions sought deletion of the rule.
127. Twenty-five submissions points and seven further submission points relating to **EW-R7** were summarised in a Table on pages 57-59 of the s42A Report. Sixteen submissions supported the rule as notified. The remaining submissions sought wording amendments.
128. Twenty-eight submissions points and five further submission points relating to **EW-R8** were summarised in a Table on pages 62-64 of the s42A Report. Fourteen submissions supported the rule as notified. Nine submissions sought wording amendments.
129. Twenty-eight submissions points and five further submission points relating to **EW-R8** were summarised in a Table on pages 62-64 of the s42A Report. Fourteen submissions supported the rule as notified. Nine submissions sought wording amendments.
130. The Panel adopts these summaries and has considered the relevant submissions and further submissions.

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131. In relation to **EW-R1**, Ms Belgrave did not support providing an exemption for piles, or the removal or reduction of the 1.5 m cut height without further justification. She did not support an additional advice note stating that the rule did not apply to mineral activities given other amendments addressed this. She noted the pTTPP definition for 'clean fill' did not include vegetative matter and therefore she did not support any exemption for vegetative matter, as requested.
132. Ms Belgrave supported additional clauses (d) and (e) sought by Westpower in EW-R1 but not the deletion of clauses (3) and (4) given these did not duplicate the West Coast Regional Land and Water Plan (RLWP) and gave effect to the NPS-FM.
133. Ms Belgrave did not support the request to add a standard to EW-R1 to ensure that any vegetation clearance complied with the rules in the Ecosystems and Indigenous Biodiversity Chapter given the cross referencing in the EW Overview.
134. Ms Belgrave supported a number of amendments requested by the Fuel Companies to improve clarity but did not support inclusion of an exemption for maintenance, removal or replacement of underground petroleum storage tanks. She noted the Resource

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Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (**NESCS**) applies to such activities and provides for excavation of up to 30m³ of each as a permitted activity.

135. In relation to **EW-R2**, Ms Belgrave did not support deleting the rule or its replacement with the operative rule from the Grey District Plan. She also did not support removal of the requirement in EW-R2(2)(g) for hazard mitigation structures to be constructed by a statutory agency or authorised contractors.
136. Transpower's original submission sought to amend EW-R2 and EW-R7 to exclude earthworks within the National Grid Yard and to provide a standalone rule for earthworks and vertical holes. Ms Belgrave recommended deleting notified EW-R7 and inserting new permitted activity rule EW-RX based on the new rule wording proposed by Transpower but with a restricted discretionary activity status where compliance is not achieved rather than the non-complying default status proposed by Transpower.
137. However, in her Addendum to the s42A Report in response to Ms Whitney's planning evidence for Transpower, Ms Belgrave agreed that a change from a restricted discretionary to non-complying activity status, where compliance is not achieved, was appropriate for new rule EW-RX. She considered this would be consistent with the direction of EW-P4 to 'protect' critical infrastructure. She also agreed with Ms Whitney's requested amendments to EW-RX to improve consistency and to widen the scope of exemptions include 'vertical holes' and the repair and resealing of 'footpaths and driveways'.
138. In her Addendum, Ms Belgrave agreed with Ms Styles' request to reinstate 'earthworks' to the rules and remove her recommended change to 'land disturbance' given new EW-RX now addressed cultivation. She noted this also result in a consequential change to the Overview by removing reference to 'land disturbance'.
139. Further minor amendments were recommended in her Addendum Report to reflect her revised recommendation and were recorded in updated Appendix 1 as follows:

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. 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;*
- d. Compromise the stability of any National Grid support structures; and e. Result in the loss of vehicular access to a National Grid support structure.*
- e. Result in the loss of vehicular access to a National Grid support structure.*

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

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- 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: ~~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.
140. In relation to **EW-R3**, Ms Belgrave did not support the changes sought by Manawa given the pTTPP definition of ‘Energy Activity’ includes renewable energy generation and ‘regionally significant infrastructure’ was included in EW-R2(2)(d). She considered a limit of 500m² was appropriate given it did not include cultivation and in recognition of the stated role of the RLZ. She did not support inclusion of the earthworks associated with a lawfully established activity given these may have adverse effects that need to be managed.
141. Ms Belgrave recommended an additional clause RW-R3(2)(ii), as sought by Forest and Bird (S560.320), to include limits in the NOSZ and considered this was consistent with EW-R4. She noted this was opposed in further submissions by Westpower on the basis it would impose additional regulation on energy activities. However, she considered the potential for adverse effects from earthworks in the NOSZ should be managed through an appropriate limit and noted the limit proposed by the submitter was consistent with EW-R4.
142. In relation to **EW-R4**, Ms Belgrave did not support any increases to the maximum volumes and considered the limit of 250m² per site was appropriate for Residential, Neighbourhood Centre and Settlement Zones and their minimum lot size. She recommended EW-R4 be retained as notified.
143. Similarly, in relation to **EW-R5**, Ms Belgrave did not support any increases to the maximum volumes or reference to ‘Infrastructure Activity’. She recommended EW-R5 be retained as notified.
144. In relation to **EW-R6**, Ms Belgrave noted the BCZ and MINZ rules do not include provisions for earthworks and therefore rejected submissions to delete the rule. She recommended the rule be retained as notified.
145. As noted above, Ms Belgrave recommended **EW-R7** be deleted and replaced with EW-RX for earthworks within the National Grid Yard.
146. In relation to **EW-R8**, Ms Belgrave recommended changes to clause (a) and (b) in response to Manawa and the Buller Conservation Group. She did not support the relief sought by Westpower regarding including ‘energy activities and infrastructure’ in clause (g), or Forest

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and Bird's request to include a new clause for vegetation clearance. She did not support inclusion of 'Poutini Ngāi Tahu values' in clause (e) without further evidence providing clarity on what this would require.

147. In her Addendum, Ms Belgrave acknowledged Ms Styles' evidence regarding removing any duplication in clauses (a) and (h) of Rule EW-R8 and the error regarding this relief sought in the Summary of Submissions Requested. She recommended 'visual' be deleted from clause (a) to refer to 'amenity' broadly.

Hearing and Submitter Evidence/Statements

148. Poutini Ngāi Tahu sought inclusion of a matter of discretion for consideration of 'Poutini Ngāi Tahu values' for the restricted discretionary and controlled activity rules in the EW chapter. Ms Lynch's evidence highlighted the distinctive cultural context, the way Poutini Ngāi Tahu think about and respond to resource management issues in their takiwā. She noted this cultural context reflected the holistic nature of how Poutini Ngāi Tahu considered resource management and why individual values cannot be considered in isolation of each other in their world view given their interconnectedness.

149. Ms Lynch considered inclusion of 'Poutini Ngāi Tahu values' as a matter of discretion gives effect to sections 6(e), 7(a) and 8 of the RMA and the relevant objectives and policies of the RPS. She noted that not including this would mean that Poutini Ngāi Tahu values could not be taken into account when making decisions on restricted discretionary activities.

150. Mr Leckie for Bathurst requested the following advice note be added to EW-R1(2) to clarify that if a Mineral Extraction Plan has been prepared, EW-R1(2) would not apply to mining activities:

Clause 2 does not apply to mining activities in the BCZ, MINZ, General Rural Zones or Open Space Zone where a Mineral Extraction Plan is prepared in accordance with Appendix Seven.

151. Mr Leckie considered the recommended amendments in the s42A Report partially addressed Bathurst's concerns (i.e. by inserting 'importing' fill) but that cross referencing without explicitly excluding earthworks for mineral extraction activities would not avoid ambiguity,
152. Ms McKenzie for Birchfield Coal Mines Limited *et al.* sought amendments to rules EW-R1, EW-R2, EW-R4 and EW-R8 to include wording specifically excluding mineral extraction, exploration and prospecting.
153. In her Addendum, Ms Whitney confirmed Transpower's support for the recommended amendments to the rules EW-R2, EW-R7 and provision of new Rule EW-RX. However, she requested EW-RX(2) be amended from '(a) to (d)' to '(a) to (e)'
154. Ms Styles, for Manawa, requested amendments to EW-R3 to remove overlaps with EW-R2. She noted the summary of Manawa's submission on EW-R8 did not cover the entire submission point and the changes sought.
155. Ms Leveson, for Horticulture New Zealand ('Hort NZ'), sought amendments to EW-RX(2)(b) to replace 'agricultural or domestic cultivation' with 'ancillary earthworks' to include horticulture activities. She also sought to change the reference to 'Transpower New Zealand' to the consideration of adverse effects on the National Grid.

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156. Mr Kennedy, for Westpower, requested an increase in the permitted depth or height of earthworks to 2m in RW-R1 to enable earth bunds for landscaping and screening in relation to energy activities, which is consistent with the permitted height for a fence or wall. He noted that 2m was consistent with other permitted activities. He supported replacing 'minimise' with 'avoid, remedy and mitigate' in EW-R8.
157. Mr Kennedy sought to replace 'Network Utility Operation' with 'Infrastructure Activity' in rules EW-R3, EW-R4 and EW-R5 to be consistent with sections in the EIT Chapters of the Plan. He emphasised the importance of consistency and connections of the provisions with other chapters of the Plan.
158. The Fuel Companies tabled hearing statement sought clarification from the Reporting Officer whether the general earthworks provisions would apply in addition to the NESCS. It stated the earthworks rules would duplicate and add stricter controls. It noted the following amendment sought to Advice Note 2 of EW-R1 and EW-R2 had not been addressed in the s42A Report:
 2. *Earthworks undertaken in areas of contaminated land are subject to the Rules in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health **and not to this rule.***
159. In its original submission, the Fuel Companies sought the replacement of 'avoid' in EW-R1(3) with 'minimise', which was rejected in the s42A Report. The Fuel Companies responded to this seeking 'avoid where practicable, otherwise minimise'.
160. The Fuel Companies also sought a definition for 'land disturbance' that was consistent with the National Planning Standards definition to assist in providing a permitted pathway for temporary land disturbance activities that do not change the contour of the land.
161. Ms Nyhan sought simplification of EW-R1 to remove duplication with the requirements of the Greymouth Earthworks Control Area under the RLWP to establish or extend a residential dwelling and maintain access roads on land subdivided for that intention, such as at Port Elizabeth Heights. She also sought clarification whether EW-R1 would be required to be complied with where the contiguous land parcels were owned by the same people. She considered the 500m² limit for land clearance in EW-R2 was unduly prohibitive and considered it should be increase to 1,000m² or 10% of the total useable land. She noted another option would be to exempt subdivision in the Rural Lifestyle Zone (RLZ), which existed before notification of the TTPP.
162. Mr Kennedy, on behalf of himself, requested the addition of 'land drainage' to EW-RX(2)(b).
163. Ms Inta, for herself and the Buller Conservation Group, highlighted use of the term 'site' in the rules and the need to define this and to be more specific as to what was intended and questioned whether 'site' meant a land title parcel. She highlighted the use of the term 'site' in EW-R3 and EW-R4 and requested the words 'or 10% whichever is the greater' be added to both rules. She noted that in terms of EW-R3(2)(i) that 500m² could be a large proportion of a small site.

Reporting Officer Reply Evidence

164. Ms Belgrave agreed with Mr Leckie and Ms McKenzie that further amendments could be made to clarify the provisions did not apply to mineral extraction, exploration and

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- prospecting. She recommended the addition of an additional clause to EW-R1, EW-R2, EW-R3 and EW-R4.
165. Ms Belgrave recommended including a maximum threshold for earthworks within the Natural Open Space Zone (**NOSZ**) and an amended new rule EW-RX to manage earthworks in the National Grid Yard. She highlighted the outstanding issues related to the appropriate permitted quantity and depth of earthworks and replacement of *‘critical infrastructure’* with *‘regionally significant infrastructure’*.
166. The legal opinion from Wynn Williams³⁷ considered whether including the proposed amended wording was lawful in the context of the legal requirements for permitted activity rules. It concluded such a requirement would provide discretion to the Rūnanga to determine whether the activity is permitted, thereby reserving discretion to a third party.
167. Wynn Williams considered it could be possible to devise a rule that meets the requirements of a permitted activity rule by including a *‘certification element’* but that this would be novel and relatively untested, with some risk of challenge.
168. Having heard the evidence of Ms Lynch and considered the legal submissions for Poutini Ngāi Tahu³⁸, Ms Belgrave retained concerns that the wording sought would increase the complexity and cost of resource consents for restricted discretionary and controlled activities. She considered the additional costs would not be commensurate to the potential effects of activities relating to earthworks, light or temporary activities where no other resource consents are required due to the inherent scale and nature of these activities and potential environmental effects.
169. Ms Belgrave noted the inclusion of *‘Poutini Ngāi Tahu values’* was relatively broad and as a matter of control or discretion would reduce certainty to plan users otherwise afforded by a controlled or restricted discretionary activity status. She did not consider the inclusion of *‘significant adverse effects’* as suggested in Poutini Ngāi Tahu’s legal submissions would limit its application given input from Poutini Ngāi Tahu would be needed to determine the scale of adverse effect for all consent applications.
170. In response to our questions regarding the potential to reference particular Māori values, Ms Belgrave was supportive of the inclusion of *‘mahinga kai species’* under matters of control which refer to indigenous flora and fauna in EW-R8(h). She had reservations about including *‘taonga’* and *‘mauri’* given a lack of accurate assessment on these values from Poutini Ngāi Tahu.
171. In response to Hort NZ, Ms Belgrave noted the wording used in new EW-RX(2)(b) was relocated from notified wording in rule EW-R2(2)(i)(B). She noted Hort NZ had supported the provision for cultivation in the National Grid Yard under EW-R2(2)(i) and had sought this be retained. On this basis, she considered Ms Leveson’s request to amend the wording was out of scope of the original submission. However, she did not support the wording replacement sought as it would enable larger scale and frequency earthworks at could potentially affect the functioning and safety of the National Grid. She also did not support removing reference

³⁷ Memorandum from Ms Lucy de Latour, Wynn Williams dated 23 November 2023 (Attachment 4, s42A Author Right of Reply Part 1 dated 29 November 2023).

³⁸ Legal Submissions on behalf of Te Rūnanga O Ngāti Waewae, Te Rūnanga O Makaawhio and Te Rūnanga O Ngāi Tahu (Submitter 620 and Further Submission FS41) 13 November 2023 by Sarah Scott and Katherine Viskovic

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to *‘Transpower New Zealand Limited’* in the Notification part of EW-RX given the relevant s95E consideration was the ability of Transpower to operate and maintain the National Grid.

172. In response to Manawa, Ms Belgrave considered both EW-R2 and EW-R3 were necessary given EW-R3 contains additional standards for earthworks within more sensitive environments. She reconsidered the addition of *‘on surrounding land use’* to EW-R8(b) and recommended this was not included given it needed to include the site itself.
173. Ms Belgrave clarified the National Planning Standards definition for *‘earthworks’* and *‘land disturbance’* and concluded based on this that land disturbance was a subset of earthworks. She recommended using earthworks in the instances where *‘earthworks and land disturbance’* was used in the Plan.
174. Ms Belgrave clarified EW-R1 would be applicable at contiguous boundaries under the same ownership and was necessary to manage land stability effects at site boundaries given the steep topography. She considered the 1.5m depth or height limit was an appropriate threshold to require an assessment of land stability effects as a restricted discretionary activity under EW-R8. She noted the RLWP was to manage the discharge of contaminants in sediment laden water associated with earth work activities, whereas the pTTPP manages land stability effects more generally and visual amenity.
175. Similarly, Ms Belgrave did not support increasing the 1.5m depth or height limit to 2m to allow for earth bunds given the potential for additional adverse effects from their bulk and width compared to a fence or wall.
176. Ms Belgrave agreed with the amendments to EW-R1(3) sought by the Fuel Companies to delete *‘put in place’* and to add *‘designed, installed and maintained for the duration of earthworks’* but did not support inserting *‘avoid where practicable, otherwise minimise’*. She considered use of *‘designed, installed and maintained until earthworks are completed’* was clearer.
177. In response to Westpower, Ms Belgrave reviewed the relevant rule for earthworks under the operative Grey District Plan. She considered the exclusions under Rule 16.7 4A, 17.7 4A and 18.7 4A were similar to those proposed under EW-RX.
178. Ms Belgrave considered the wording change sought by Westpower to EW-R3 should be considered within the wider context of the Plan and should be consistent. She recommended using *‘regionally significant infrastructure’* if this was adopted throughout the Plan and considered this would include *‘infrastructure activity’* as requested.
179. Ms Belgrave did not support replacing *‘minimise’* with *‘avoid, remedy and mitigate’* in EW-R8(d) given it refers to *‘management or mitigation measures’*.

Hearing Panel’s Evaluation

180. The Panel generally agree with Ms Belgrave’s analysis of submissions and recommended changes to the rules.
181. The Panel agree with Ms Belgrave that *‘land disturbance’* is a subset of *‘earthworks’* given the National Planning Standards definitions and there is no need to reference both given the rule framework provides a permitted activity pathway for earthworks, including where the land contour is not changed.

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182. The Panel accept the recommended addition of clause EW-R1(1)(f) but have replaced '*critical infrastructure*' with '*regionally significant infrastructure*' for consistency with the wider Plan provisions. A similar change was requested by Manawa to EW-R2(2)(d) and was accepted by Ms Belgrave but was not included in the Appendix 1 of Part 2 of the Right of Reply. The Panel considers the replacements are appropriate for Plan-wide consistency.
183. The Panel agrees that Ms Belgrave's recommendation to replace '*Network Utility Operation*' with '*Regionally Significant Infrastructure*' in EW-R3, EW-R4 and EW-R6 is also appropriate and consistent with the wider Plan provisions; and meets the concerns raised by Westpower to use '*infrastructure activity*'.
184. The Panel considers minor amendments to the wording of EW-R2 are appropriate to remove '*These are*' from sub clauses (a) to (e) as notified to remove repetition with clause (2) '*These earthworks are*'. This is a minor reword from Ms Belgrave's Appendix 1 of Part 1 of the Right of Reply.
185. The Panel accepts Ms Belgrave's recommendation to not remove the requirement in EW-R2(2)(g) for hazard mitigation structures to be constructed by a statutory agency or authorised contractors. The Panel agrees that this provides for appropriate design and engineering, and oversight to ensure hazard risks are not exacerbated elsewhere. The Panel considers the meaning of '*statutory agency or their authorised contractors*' is sufficiently clear in this context but recommend '*statutory agency or authorised contractor acting on its behalf*' clarifies the statutory agency is in control and is used elsewhere in the Plan.
186. The Panel agrees with Ms Belgrave that there is insufficient information on the potential nature and scale of environmental effects from maintenance, removal or replacement of underground petroleum storage tanks to provide for an exemption. The Panel notes the NESCS standards have limited overlap with the permitted activity standards in EW-R1 and EW-R2.
187. The Panel considers the amendment sought by the Fuel Companies to EW-R1(3) would introduce uncertainty and is inappropriate given sediment runoff discharges to stormwater systems and waterbodies should be avoided during earthworks.
188. The Panel agrees with Ms Belgrave that the EW rules do not duplicate the RLWP requirements and are appropriately focussed on land stability issues. The Panel considers a threshold of 500m² per site in any 12-month period within the RLZ (under EW-R3) is sufficiently enabling to establish and maintain building platforms and access roads. The Panel also agree that the construction of 2m high earth bunds may have greater adverse effects than a fence and are not the option to achieve screening without an assessment of environmental effects.
189. The Panel accepts Ms Belgrave's recommended new clause EW-R3(2)(ii) but consider this should be included as new clause with a consequential amendment to include reference to the new standard where compliance is not achieved.
190. The Panel generally accepts Ms Belgrave's recommended wording of new EW-RX in her reply evidence. However, we note Ms Whitney requested EW-RX(2) be amended from '*(a) to (d)*' to '*(a) to (e)*' and that this was not reflected in Appendix 1 of the reply evidence. We recommend this change below. The Panel does not agree with Mr Kennedy's request to add '*land drainage*' to EW-RX(2)(b) given the intent is to enable cultivation.

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191. The Panel agree with Ms Belgrave that the request by Ms Leveson for the Hort NZ to replace *'agriculture'* with *'ancillary rural earthworks'* is out of scope given it supported retention of the wording of EW-R2 in its original submission. However, given that part of EW-R2 has been relocated into new rule EW-RX, we have considered the submitter's view on the appropriate wording of the new rule. The Panel finds replacing *'agriculture'* with *'ancillary rural earthworks'* would increase uncertainty and the scope beyond cultivation, which is defined in the National Planning Standards. However, the Panel agree with Ms Leveson that it would be appropriate to replace *'Transpower New Zealand'* with *'the operator of the National Grid'* to avoid the need for a plan change process if there was a name change to Transpower or change in operator. The Panel notes this language is consistent with Policy 11 of the NPSET.
192. The Panel is satisfied EW-RX gives effect to the NPSET by managing activities within the National Grid Yard to avoid reverse sensitivity effects on the electricity transmission network and ensure it is not compromised (NPSET Policy 10). The notification clause gives effect to Policy 11 by requiring consultation with the network operator; and the default non-complying activity status is appropriate to avoid more than minor adverse effects on the electricity transmission network.
193. The Panel has considered the addition of *'Poutini Ngāi Tahu values'* as a matter of discretion for the remaining discretionary activity rule EW-R8. The Panel notes that clause (h) includes *'cultural and heritage sites'* and agrees with Ms Belgrave that adding *'including mahinga kai species'* is appropriate. The Panel notes this matter is considered further in other recommendations including the EIT Chapter and the s32AA provided there by Ms Pull on behalf Poutini Ngāi Tahu is accepted.
194. Buller Conservation Group and Frida Inta sought *'per site or 10% whichever is the greater'* be added to EW- R3. The submitters also sought the addition of *'or lower'* to EW-R8(e), which was not specifically considered in the s42A Report. The Panel accepts the addition of *'or lower'* is appropriate as any change in the water table should be assessed. Given the 500m² limit only applies to the Rural Lifestyle Zone, the Panel considers restricting earthworks to 10% of a site is probably unnecessary given the minimum lot size is 1 ha. The Panel is satisfied that the term *'site'* is clearly defined in the Plan.
195. The Panel notes Forest and Bird sought replacement of the reference to *'overlay'* in Rules EW-R3 and EW-R4 based on concerns that significant environmental values have not been identified in overlays. Westpower opposed this in further submissions and noted this issue had not been analysed in the s42A Report. The Panel note this issue was considered in the ECO Chapter hearing and is satisfied this issue has been adequately addressed.
196. The Panel notes that EW-R4(4)(a) allows up to 250m² of land disturbance in any 12-month period and clause (c) up to a maximum change in the existing ground level of 1m (c)). However, the maximum amount of material to be transported offsite is 200m³ in any 12-month period (clause (b)). The Panel considers this is an error and that EW-R4 should allow a maximum of 250m³ in clause (b) taking into account the limits in clauses (a) and (c). The Panel notes this also applies to EW-R3(2)(ii) and the same correction is recommended.
197. The Panel agrees with Mr Kennedy, for Westpower, that replacing *'minimise'* with *'avoid, remedy and mitigate'* in EW-R8(d) is appropriate given it refers to *'the effectiveness of proposed management or mitigation measures'* and the RMA section 17 duty to avoid, remedy or mitigate adverse effects.

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198. The Panel notes the evidence of Ms Styles that Manawa also requested deletion of *'landscape, amenity'* in EW-R8(h) to remove duplication with clause (a), which was not addressed in the s42A Report. However, Ms Belgrave addressed this in the Addendum and again in Part 1 of her Right of Reply.
199. The Panel accepts with Ms Belgrave recommendations in Appendix 1 of Part 1 of the Right of Reply, with the minor amendments outlined above, with the exception that the Panel does not agree that EW-R6 is required in the BCZ or MINZ given the suite of rules recommended for those zones. In particular, the Panel does not agree with Ms Belgrave that the rules in those zones do not manage earthworks, as they have a central purpose of managing large scale earthworks associated with mineral extraction activities. We also recommend adding new non-complying activity Rule EW-R9 for earthworks and vertical holes within the National Grid Yard not complying with the new permitted activity Rule EW-7, as a consequential amendment.

Hearing Panel's Recommendation

200. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submissions identified in the footnotes below are accepted or accepted in part, and recommend the following changes to the **Earthworks Rules**:

Earthworks Rules	
Note: There may be a number of Plan provisions that apply to an activity, building, structure and site. In some cases, consent may be required under rules in this Chapter as well as rules in other Chapters in the Plan. In those cases, unless otherwise specifically stated in a rule, consent is required under each of those identified rules. Details of the steps Plan users should take to determine the status of an activity are provided in General Approach.	
Permitted Activities	
EW - R1	Earthworks General Standards
All Permitted activities must comply with the following relevant standards:	
1. Earthworks must not exceed a maximum depth or height above ground level of 1.5m measured vertically within 1.5m of a boundary except where these are undertaken by a network utility operator for the purpose of:	
a. Pole foundations;	
b. Backfilled trenches; or	
c. Installation of services by trenchless methods such as directional drilling;	
d. <u>Installation of underground equipment as part of the electricity supply or distribution network;</u> ³⁹	
e. <u>Achieving safe separation between conductors and the ground; or</u> ⁴⁰	

³⁹ Westpower Limited S547.466

⁴⁰ Westpower Limited S547.467

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- f. **Stockpiles required for network utility or regionally significant infrastructure maintenance, operation, repair, upgrade, or installation of new network utilities.**⁴¹
2. All **imported**⁴² fill must consist of cleanfill material;
3. Erosion and sediment control measures must be ~~put in place~~ **designed, installed and maintained until earthworks are completed**⁴³ to avoid sediment run-off from earthworks activities entering a Council reticulated network or into waterbodies.
4. No diversion of stormwater and overland flow shall occur beyond the site boundary and water must not be diverted to adjacent properties or the road;
5. Any earthworks within the vicinity of overhead electric lines must comply with the New Zealand Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001);
6. No earthworks are to be undertaken on or within 10m of any public natural hazard mitigation structure unless ~~under~~⁴⁴ the written approval has been obtained from the relevant local government agency; ~~and~~⁴⁵
7. In the event of discovery of any sensitive or archaeological material that the Accidental Discovery Protocol outlined in Appendix Four must be followed; ~~and~~⁴⁶
8. **Rule EW-R1 does not apply to earthworks associated with mineral extraction, mineral exploration, or mineral prospecting.**⁴⁷

Advice Notes:

1. Earthworks are also regulated by the West Coast Regional Land and Water Plan and the NES - Freshwater 2020 administered by the West Coast Regional Council.
2. Earthworks undertaken in areas of contaminated land are subject to the Rules in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

Activity Status where compliance not achieved: Restricted Discretionary

EW - R2 Earthworks – All Zones

Activity Status Permitted

Where:

1. All standards in Rule EW - R1 are complied with; and
2. These earthworks are:
 - a. Associated with the construction of an approved building platform and access; or

⁴¹ Grey District Council S608.667

⁴² Fuel Companies S613.010

⁴³ Fuel Companies S613.010

⁴⁴ Clause 16(2) of First Schedule of RMA

⁴⁵ Clause 16(2) of First Schedule of RMA

⁴⁶ Clause 16(2) of First Schedule of RMA

⁴⁷ Birchfield Ross Mining Limited S604.005, William McLaughlin SS567.005, TiGa Minerals and Metals Limited S493.006, Birchfield Coal Mines Limited S601.005, BRM Developments Limited S603.005, Whyte Gold Limited S607.005, New Zealand Coal & Carbon Limited S472.004, Straterra S536.039 and Phoenix Minerals Limited S606.005

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- b. ~~These are earthworks~~ Associated⁴⁸ with an approved subdivision consent; or
 - c. ~~These are earthworks~~ Associated⁴⁹ with an approved well or bore; or
 - d. ~~These are earthworks, including stockpiles~~ Are required for **repair, maintenance, operation, upgrading and establishment of a** network utility or critical **regionally significant** infrastructure, maintenance, operation, repair, upgrade, or installation of new network utilities including public roads⁵⁰ and may include stockpiles;⁵¹ or
 - e. ~~These are earthworks~~⁵² associated with installation of swimming pools; or
 - f. ~~The earthworks are for~~⁵³ interments in a cemetery or urupā;
 - g. ~~The earthworks are for~~⁵⁴ natural hazard mitigation structures constructed by a statutory agency or their authorised contractor acting on its behalf;⁵⁵ or
 - h. ~~The earthworks are test~~⁵⁶ pits for geotechnical or contaminated land assessment where the land is reinstated within 48 hours; ~~or~~
 - i. ~~They are earthworks within the National Grid Yard where:~~
 - i. ~~Any earthworks must not exceed a depth or fill from original ground level of 300mm, except for:~~
 - A. ~~Earthworks for a network utility or as part of a renewable electricity generation activity; and~~
 - B. ~~Earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track.~~⁵⁷
3. **Rule EW-R2 does not apply to earthworks associated with mineral extraction, mineral exploration, or mineral prospecting.**⁵⁸

Advice Notes:

1. Rules in relation to earthworks in overlay areas can be found in the Overlay Chapters of this Plan.
2. Earthworks undertaken in areas of contaminated land are subject to the Rules in the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

Activity Status where compliance not achieved: Restricted Discretionary

Refer Overlay Chapters for Earthworks Rules in relation to these overlay areas.

⁴⁸ Director General of Conservation S602.170

⁴⁹ Director General of Conservation S602.170

⁵⁰ Manawa Energy Limited S438.121

⁵¹ Westpower Limited FS222.0106

⁵² Director General of Conservation S602.170

⁵³ Director General of Conservation S602.170

⁵⁴ Director General of Conservation S602.170

⁵⁵ Clause 16(2) of First Schedule of RMA

⁵⁶ Director General of Conservation S602.170

⁵⁷ Transpower New Zealand Limited S299.059

⁵⁸ Birchfield Ross Mining Limited S604.005, William McLaughlin SS567.005, TiGa Minerals and Metals Limited S493.006, Birchfield Coal Mines Limited S601.005, BRM Developments Limited S603.005, Whyte Gold Limited S607.005, New Zealand Coal & Carbon Limited S472.004, Straterra S536.039 and Phoenix Minerals Limited S606.005

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EW – R3	Earthworks in the GRUZ - General Rural Zone, RLZ - Rural Lifestyle Zone, any INZ - Industrial Zone, FUZ - Future Urban Zone, AIRPZ - Airport Zone, any OSRZ - Open Space and Recreation Zone and the MPZ - Māori Purpose Zone
Activity Status Permitted	
Where:	
1. All standards in Rule EW - R1 are complied with; and 2. These are ancillary earthworks for: i. A Permitted Activity, except that in the Rural Lifestyle Zone a maximum of 500m² per site of land is disturbed in any 12 month period; or ii. An Energy Activity, <u>Regionally Significant Infrastructure Network – Utility Operation</u>⁵⁹ or Transport Activity; 3. Where the earthworks are undertaken within an Overlay Chapter area these earthworks meet the Permitted Activity standards for the relevant Overlay Chapter; 4. <u>In the Natural Open Space Zone, a maximum of 250m² per site of land is disturbed in any 12 month period and a maximum of 250m³ of material is transported off site in any 12 month period, and there is a maximum 1m change of existing ground level; and</u>⁶⁰ 5. <u>Rule EW-R3 does not apply to earthworks associated with mineral extraction, mineral exploration, or mineral prospecting.</u>⁶¹	
Activity Status where compliance not achieved: Restricted Discretionary where standard 1, ~~and 2~~ and 4 ⁶² are not complied with.	
Refer to relevant Overlay Chapter where standard 3 is not complied with.	
EW – R4	Earthworks in any RESZ - Residential Zone, the NCZ - Neighbourhood Centre Zone or SETZ - Settlement Zone
Activity Status Permitted	
Where:	
1. All standards in Rule EW - R1 are complied with; and 2. Where ~~the~~⁶³ earthworks are undertaken within an Overlay Chapter area these earthworks meet the Permitted Activity standards for the relevant Overlay area; and⁶⁴	

⁵⁹ Westpower Limited S547.470

⁶⁰ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.320

⁶¹ Birchfield Ross Mining Limited S604.005, William McLaughlin S5567.005, TiGa Minerals and Metals Limited S493.006, Birchfield Coal Mines Limited S601.005, BRM Developments Limited S603.005, Whyte Gold Limited S607.005, New Zealand Coal & Carbon Limited S472.004, Straterra S536.039 and Phoenix Minerals Limited S606.005

⁶² Consequential amendment Royal Forest and Bird Protection Society of New Zealand Incorporated S560.320

⁶³ Clause 16(2) of First Schedule of RMA

⁶⁴ Clause 16(2) of First Schedule of RMA

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3. These are ancillary earthworks for an Energy Activity, Regionally Significant Infrastructure Network Utility Operation⁶⁵ or Transport Activity; and
4. Where earthworks are undertaken for any other activity:
 - a. A maximum of 250m² per site of land is disturbed in any 12 month period;
 - b. A maximum of ~~250~~⁶⁶200m³ of material is transported off site in any 12 month period; and
 - c. There is a maximum 1m change of existing ground level.
5. Rule EW-R4 does not apply to earthworks associated with mineral extraction, mineral exploration, or mineral prospecting.⁶⁷

Advice Note:

Rules in relation to earthworks in overlay areas can be found in the Overlay Chapters.

Activity Status where compliance not achieved: Restricted Discretionary

Refer to relevant Overlay Chapter where standard 2 is not complied with.

EW - R5 Earthworks in any COMZ - Commercial and Mixed Use Zone, SVZ - Scenic Visitor Zone, HOSPZ - Hospital Zone or STADZ - Stadium Zone

Activity Status Permitted

Where:

1. All standards in Rule EW - R1 are complied with; and
2. Where ~~the~~⁶⁸ earthworks are undertaken within an⁶⁹ Overlay Chapter area these meet the Permitted Activity standards for the relevant overlay area; and
3. These are ancillary earthworks for an Energy Activity, Regionally Significant Infrastructure Network Utility Operation⁷⁰ or Transport Activity; and
4. Where earthworks are undertaken for any other activity a maximum of 1000m² per site or land is disturbed in any 12 month period.

Advice Note:

Rules in relation to earthworks in overlay areas can be found in the Overlay Chapters.

Activity Status where compliance not achieved: Restricted Discretionary

Refer to relevant Overlay Chapter where standard 2 is not complied with.

~~EW - R6 Earthworks in the BCZ - Buller Coalfield Zone and MINZ - Mineral Extraction Zone~~

⁶⁵ Westpower Limited S547.471

⁶⁶ Clause 16(2) of First Schedule of RMA correction given 1m depth change and 250m² limits.

⁶⁷ Birchfield Ross Mining Limited S604.005, William McLaughlin SS567.005, TiGa Minerals and Metals Limited S493.006, Birchfield Coal Mines Limited S601.005, BRM Developments Limited S603.005, Whyte Gold Limited S607.005, New Zealand Coal & Carbon Limited S472.004, Straterra S536.039 and Phoenix Minerals Limited S606.005

⁶⁸ Clause 16(2) of First Schedule of RMA

⁶⁹ Clause 16(2) of First Schedule of RMA

⁷⁰ Westpower Limited S547.472

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Activity Status Permitted

Where:

1. All standards in Rule EW – R1 are complied with; and
2. Where the earthworks are undertaken within a Overlay Chapter area these need to meet the Permitted Activity standards for the relevant overlay area.

Advice Note:

1. Rules in relation to mineral extraction and ancillary activities can be found in the relevant zone rules.
2. Rules in relation to earthworks in overlay areas can be found in the Overlay Chapters.

Activity Status where compliance not achieved: Controlled Activity under the relevant zone rule – Rule BCZ – R5 or MINZ – R6

Refer to relevant Overlay Chapter where standard 2 is not complied with.⁷¹

EW – R7 Earthworks and vertical holes within the National Grid Yard⁷²

Activity Status Permitted

Where:

1. All standards in Rule EW - R1 are complied with; and
2. 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. 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;
 - d. Compromise the stability of any National Grid support structures; and
 - e. Result in the loss of vehicular access to a National Grid support structure.
3. Earthworks and vertical holes for the following activities are exempt from compliance with EW-R7(1)(a) to (e):
 - 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;

⁷¹ WMS Group (HQ) Limited and WMS Land Co. Limited S599.085, TiGa Minerals and Metals Limited S493.080, Birchfield Coal Mines Limited S601.066, BRM Developments Limited S603.044, Birchfield Ross Mining Limited S604.059, Phoenix Minerals Limited S606.045, Whyte Gold Limited S607.043, Royal Forest & Bird Protection Society of New Zealand Inc S560.324

⁷² Transpower New Zealand Limited S299.059

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- c. The repair, sealing or resealing of a vehicle access, 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. Earthworks and vertical holes subject to a dispensation from Transpower under New Zealand NZECP 34:2001.**

Activity status where compliance not achieved: Non-complying

Restricted Discretionary Activities

~~EW – R7~~ Earthworks within the National Grid Yard Not Meeting Rule ~~EW – R2~~

~~Activity Status Restricted Discretionary~~

Discretion is restricted to:

- ~~a. Effects on the operation, maintenance, upgrading and development of the National Grid;~~
- ~~b. The risk to the structural integrity of the National Grid support structure (s);~~
- ~~c. Any impact on the ability to access the National Grid; d. Management of stormwater and overland flow;~~
- ~~e. Any adverse effects on landscape, amenity, natural features, water quality, cultural and heritage sites, biodiversity and habitat of indigenous flora and fauna, and the quality of the environment;~~
- ~~f. The risk of electrical hazards affecting public or individual safety and the risk of property damage; and~~
- ~~g. The outcome of any consultation with the owner and operator of the National Grid.~~

~~Activity status where compliance not achieved: N/A⁷³~~

EW – R8 Earthworks in any Zone not meeting Permitted Activity standards

Activity Status Restricted Discretionary

Discretion is restricted to:

- a. The impact **of earthworks**⁷⁴ on ~~visual~~⁷⁵ amenity, ~~landscape character~~⁷⁶, outlook and privacy;
- b. Potential dust nuisance, sedimentation, land instability, contamination and erosion effects.
- c. Effects that result from the stockpiling in terms of ~~visual~~⁷⁷ amenity, landscape context and character, views, outlook, overlooking and privacy;

⁷³ Transpower New Zealand Limited S299.059

⁷⁴ Manawa Energy Limited S438.123

⁷⁵ Manawa Energy Limited S438.123

⁷⁶ Manawa Energy Limited S438.123

⁷⁷ Consequential amendment to Manawa Energy Limited S438.123

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- d. The effectiveness of proposed management or mitigation measures to ~~minimise~~ **avoid, remedy or mitigate**⁷⁸ any ~~potential~~⁷⁹ adverse effects beyond the property boundary of the activity;
- e. Any changes to the patterns of surface drainage or subsoil drains that could result in a higher risk of drainage problems, inundation run-off, flooding, or raise **or lower**⁸⁰ the water table;
- f. The impact of earthworks on ~~critical~~ **regionally significant**⁸¹ infrastructure;
- g. The impact on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks;
- h. Any adverse effects on landscape **and natural character**,⁸² ~~amenity~~,⁸³ natural features, ~~water quality~~,⁸⁴ cultural and heritage sites **items and areas and archaeological sites**⁸⁵, biodiversity and habitat of indigenous flora and fauna, **including mahinga kai species**,⁸⁶ and the quality of the environment;
- i. The impact on stormwater infrastructure and any overland flow paths; and
- j. The impact on any natural hazards infrastructure and the effectiveness of its operation.

Activity status where compliance not achieved: N/A

Advice Note:

Rules in relation to earthworks in overlay areas can be found in the Overlay Chapters.

Non-complying Activities

EW – R9	Earthworks and vertical holes within the National Grid Yard not meeting Permitted

<u>Activity standards</u> ⁸⁷

Activity Status Non-complying

3. LIGHT

3.1. General/Whole Chapter

Submissions and Further Submissions

201. Ten submissions points and five further submission point relating to general matters were summarised in a Table on pages 67-68 of the s42A Report. One submission point sought to retain the provisions as notified, one supported in part and eight submission points sought amendments to the wording of the provisions.

⁷⁸ Westpower Limited S547.477

⁷⁹ Buller Conservation Group S552.142 and Frida Inta S553.142

⁸⁰ Buller Conservation Group S552.142 Frida Inta S553.142

⁸¹ Manawa Energy Limited S438.123

⁸² Buller Conservation Group S552.142 Frida Inta S553.142

⁸³ Manawa Energy Limited S438.123

⁸⁴ Consequential amendment to Westpower Limited S547.461

⁸⁵ Consequential amendment arising from recommendations on the Historic Heritage Chapter

⁸⁶ Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu S620.210

⁸⁷ Consequential amendment Transpower New Zealand Limited S299.059

TAI POUTINI PLAN COMMITTEE

Hearing of Submissions on the Proposed Te Tai O Poutini Plan

Recommendation Report of Hearing Panel

Recommendations Report

Part 2- District Wide Matters - Ngā Kaupapa ā-Rohe Whānui

Energy - Te Pūngao

Infrastructure - Te Tūāhanga

Transport - Te Tūnuku

Hearing Dates: 27, 28 November 2023 and 15 February 2024 (via Internet)

HEARING PANEL

Dean Chrystal (Chair)

Sharon McGarry

Maria Bartlett

Paul Rogers

Anton Becker

Recommendations Report of the Proposed Te Tai O Poutini Plan Hearings Panel

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	the location and design of renewable electricity generation, investigation, and distribution and transmission energy ⁵⁹ activities, and to ~~minimise~~ manage ⁶⁰ adverse effects of these activities on communities and the environment.
ENG – 03	To provide for development and enable the ~~development~~ , operation, maintenance and upgrade of renewable electricity generation and investigation, and electricity distribution and transmission energy ⁶¹ activities and to protect them from the adverse effects of incompatible subdivision, use ⁶² and development.
ENG – 04	To recognise and provide for the national, regional and local significance and benefits of the National Grid, by ensuring the safety, efficiency, operation, maintenance, repair, upgrade and development is not adversely affected by incompatible ⁶³ subdivision, use and development.
ENG-05	To ensure the efficient provision and use of electricity distribution and transmission activities by co-ordinating with subdivision, use and development. ⁶⁴

4.5. Energy Policies

Submissions and Further Submissions

ENG-P1

302. The s42A Report, at paragraphs 188 to 192, identifies seven submission and five further submission points⁶⁵ and summarised the relief sought in relation to Policy ENG-P1. Te Mana Ora (S190.042) and Transpower (S299.033) sought to retain the policy as notified. BEL (S451.025), supported by NZEL (FS127.013), and Frank and Jo Dooley (S478.082) sought to include 'Provide for and enable' to give effect to the NPSET.
303. Westpower (S547.084), supported by NZEL (FS127.060), requested amendments to include all Energy Activities, including related Infrastructure and Critical Infrastructure aspects.
304. Manawa (S438.00144) sought to replace 'Provide for' with 'Enable'; add 'electricity' and delete 'and assets'; and add 'while recognising the positive, social, economic, cultural and environmental benefits of renewable electricity generation and transmission'. This was opposed by Poutini Ngāi Tahu (FS34.054) and Forest & Bird (FS34.054).

⁵⁹ Manawa Energy Limited S438.037

⁶⁰ Manawa Energy Limited S438.037, Royal Forest and Bird Protection Society S560.446

⁶¹ Manawa Energy Limited S438.038

⁶² Manawa Energy Limited S438.038

⁶³ Buller Electricity Limited S451.024, Frank and Jo Dooley S478.081

⁶⁴ Westpower Limited S547.073

⁶⁵ S438.045, S451.034, S478.091, S538.018, S547.080, S547.081, S547.082, S547.083, S547.439, S558.439, S560.440, S566.439, S567.049, FS58.021, FS127.056, FS127.057, FS127.058, FS127.059

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305. Forest & Bird (S560.112) requested adding *‘while addressing adverse effects in accordance with the Natural Environment and District Wide chapters of this Plan’*. This was opposed by Transpower (FS110.017) and Westpower (FS222.0234).

ENG-P2

306. The s42A Report, at paragraphs 193 to 200, identifies 19 submission and further submission points relating to Policy ENG-P2 and summarised relief sought. Transpower (S299.034) and Toke Tū Ake/EQC (S612.009) sought to retain the Policy as notified. Te Mana Ora (190.043) sought to provide a weighting to the benefits where there is conflict. Manawa (S438.039), supported by NZEL (FS127.042), sought to replace *‘energy’* with *‘renewable energy generation, electricity transmission and distribution’*; and to add *‘renewable’* in clause (a).
307. Suzanne Hills (S443.015) sought to amend the policy to reflect the cumulative effect of multiple hydro schemes on waterways. NZEL (FS127.047) opposed this because developments should be assessed on a case-by-case basis. Inger Perkins (S462.028) sought to amend the policy to support micro-renewables and distributed energy generation.
308. BEL (S451.026) and Frank and Jo Dooley (S478.) sought to add *‘infrastructure and assets provide for’*; and *‘or’* after each clause. This was supported by NZEL (FS127.014) and opposed by Poutini Ngāi Tahu (SFS41.106).
309. Westpower (S547.085) sought to amend the wording and to split clause (a) into two, as follows:

When managing the development and operation of new and existing energy activities have particular regard to the benefits to be obtained from the proposal including:

(a) Maintaining and/or increasing security of renewable electricity supply;

(aa) Providing for a diversity of the type and location of renewable electricity generation;

310. Westpower (S547.085) also sought to add *‘including to consumer’* to clause (e).
311. Forest & Bird sought to delete *‘particular’* (S560.448); include *‘maintain, upgrade’* (S560.449); add a new clause *‘opportunities to reduce environmental impacts’* (S560.450); and add *‘development’* to clause (a) (S560.451). Transpower (FS11018) opposed the last submission point.

ENG-P3

312. The s42A Report identified eight submissions and nine further submission points and summarised the relief sought in relation to Policy **ENG-P3** in paragraphs 201-206. One submission sought to retain ENG-P3 as notified. Manawa (S438.040), supported by NZEL (FS127.030) and Kainga Ora (FS58.022), sought to replace *‘Minimise’* with *‘Avoid’*; add *‘incompatible’*; replace *‘energy’* with *‘renewable energy generation, electricity transmission and distribution’*; and delete *‘and protect energy activities from adverse effects to ensure their ongoing operation, maintenance, upgrade or development’*.

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313. BEL (S451.027), opposed by Kāinga Ora (FS58.023), and Frank and Jo Dooley (S478.084) sought to reword the policy as follows:

Avoid reverse sensitivity effects from subdivision, use and development on electricity distribution and transmission assets, existing renewable electricity generation activities and associated infrastructure, and protect such infrastructure from adverse effects of activities on the operation, maintenance, upgrading or development of that infrastructure.

314. Westpower (S547.088), supported by NZEL (FS127.061) and opposed and supported in part by Kāinga Ora (FS58.026 and FS58.077), sought to amend the ENG-P3 as follows:

Protect energy activities, including energy aspects of infrastructure and critical infrastructure, 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 energy activities and associated infrastructure.

315. Federated Farmers (S524.035) supported by Kāinga Ora (FS58.025), and Hort NZ (S486.017) supported by Kāinga Ora (FS58.024) and Forest and Bird (FS34.061), sought to delete 'protect energy activities from adverse effects to' and to add 'is not compromised' at the end of ENG-P3.

316. Transpower (S299.035) sought a definition for 'minimise' in the context ENG-P3.

ENG-P4

317. The s42A Report identifies and summarises 11 submission and 11 further submission points relating to Policy ENG-P4 in paragraphs 207-212. Three submissions supported Policy ENG-P4 as notified because they considered it would minimise any actual or potential adverse effects between sensitive adjacent land uses.

318. Forest & Bird (S560.114), supported by Kāinga Ora (FS58.32 and FS58.083), sought ENG-P4 be deleted because adverse effects are insufficiently dealt with, and effects must be managed in accordance with the RPS.

319. BEL (S451.028), opposed by Kāinga Ora (FS58.029), and Frank and Jo Dooley (S478.085), sought to amend 'Minimise' with 'Manage' in ENG-P4.

320. Westpower (S547.089) sought to amend ENG-P4, as follows.

~~Minimise~~Manage adverse effects on the environment from energy activities by:

(a) *Having regard to the values associated with areas identified as having significant environmental values, ~~urban amenity, areas of high recreation value~~ outstanding and high natural character areas outstanding landscapes and features, Poutini Ngai Tahu and heritage sites, and significant natural areas;*

(b) []

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*(c) Maintaining ongoing access to grid and distribution ~~elements and structures~~
infrastructure and assets for operation, maintenance and upgrading works;*

321. Manawa (S438.042), supported by NZEL (FS127.031) and opposed by Kāinga Ora (FS58.028), sought to replace 'Minimise' with 'Avoid, remedy or mitigate'; and to replace 'energy' with 'renewable energy generation, electricity transmission and distribution'.
322. Poutini Ngāi Tahu (S620.084) sought to include the words 'sites and areas of cultural landscapes' in the policy.
323. Transpower (S299.036) sought a definition for 'minimise' in the context of ENG-P4.

ENG-P5

324. Eleven submission points and six further submission points⁶⁶ were identified in the s42A Report relating to Policy ENG-P5 and the relief sought was summarised in paragraphs 213-218. One submission (S190.046) supported the policy as notified.
325. Forest & Bird (S560.454), opposed by Westpower (FS222.0236), sought to amend the policy to remove conflicts and improve integration with overlay provisions for s6 matters; and to amend clause (a) (S560.453), opposed by Westpower (FS222.0235), as follows:

~~*Recognise their functional constraints and operational requirements*~~ *Recognise that natural character, outstanding and significant natural values are to be protected and that adverse effects on the environment are to be avoided, remedies or mitigated in accordance with the Natural Environment and District Wide chapters of this Plan.*

326. Forest & Bird (S560.115) also sought to limit the definition of energy activities in the context of ENG-P5.
327. Transpower (S299.036) sought to replace 'transmission infrastructure' with 'significant electricity distribution lines' in ENG-P5.
328. Manawa (S438.043) sought to replace 'energy' with 'renewable energy generation'; and 'constraints' and 'requirements' with 'needs', which was supported by NZEL (FS127.043)
329. Westpower (S547.092 and S547.093) sought to amend ENG-P5, as follows:

When managing the development, operation, maintenance and upgrading of new and existing energy activities:

a. Have particular regard to function, location, technical and operation constraints and requirements of the related activities and infrastructure;

⁶⁶ S190.046, S299.037, S438.043, S451.029, S478.086, S547.092, S547.093, S560.115, S560.453, S560.454, S560.455, FS127.043, FS127.065, FS222.0235, FS222.0236, FS222.0237, FS222.0237

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330. BEL (S451.029) and Frank and Jo Dooley (S478.087) sought to replace *‘energy’* with *‘renewable energy’*; *‘Recognise’* with *‘Have regard to the constraints imposed by’*; and *‘minimised’* with *‘managed’*.

ENG-P6

331. Eight submission points and three further submission points⁶⁷ were identified in relation to Policy ENG-P6, and the relief sought was summarised in the s42A Report in paragraphs 219-221. Six submissions and one further submission point supported the Policy as notified.
332. Manawa (S438.044) sought to delete *‘small, community and large scale’*, which was supported by NZEL (FS127.032).
333. Forest & Bird (S560.443), opposed by Transpower (FS110.009), sought to amend the policy by adding *‘where the adverse effects are avoided, remedied, or mitigated in accordance with the Natural Environment and District Wide chapters of this Plan’* to the end of clause (b).

ENG-P7

334. The s42A Report identified six submission points and one further submission point⁶⁸ The s42A Report, paragraphs 222-224, summarises the submissions received on Policy ENG-P7. Three submission points supported the Policy as notified.
335. Transpower (S299.039), opposed by Forest & Bird (FS34.028), sought to add *‘for new National Grid infrastructure or major upgrades to existing National Grid infrastructure’* to clause (c)(ii).
336. Forest & Bird (S560.117) sought ENG-P7 be deleted or amended (S560.452) to include *‘avoid, remedy and mitigate in accordance with the Natural Environment and District Wide chapters of this Plan’*

ENG-P8

337. The s42A Report identified 12 submission points and seven further submission points⁶⁹ received on Policy ENG-P8 and summarised the relief sought in paragraphs 225-228. Three submission points supported the Policy as notified.
338. Transpower (S299.035), opposed by Forest & Bird (FS34.029 and FS34.030) and Poutini Ngāi Tahu (FS41.040), sought ENG-P8 be amended as follows:

(b) *Seeking to avoid adverse effects on areas identified in Schedules 1-8;*

(c) *Where the National Grid has a functional or operational need to locate within the Coastal Environment, manage adverse effects by:*

⁶⁷ S190.047, S299.038, S438.044, S451.030, S478.087, S547.094, S560.166, S560.443, FS110.009, FS127.032, FS127.066

⁶⁸ S190.048, S299.039, S451.031, S478.088, S560.117, S560.452, FS34.028

⁶⁹ S190.049, S299.040, S451.032, S478.089, S560.118, S560.456, S560.457, S560.458, S560.459, S560.460, S620.085, FS34.029, FS34.030, S602.034, FS110.019, FS122.013, FS41.40, FS149.097, FS230.069

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- (a) *Seeking to avoid adverse effects on Overlay Chapter areas identified in Schedules 1-8 and where it is not practicable to avoid, to remedy or mitigate;*
- (b) *Where it is not practicable to avoid adverse effects on the values of the areas identified in Schedules 1-8 because of the functional needs or operational needs of the National Grid, remedy or mitigate adverse effects on those values.*
- (c) *Seeking to avoid significant adverse effects on: other areas of natural character natural attributes and character of other natural features and natural landscapes indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010; and*
- (d) *Recognise that there may be some areas within the sites and areas identified in Schedules 1-8 where avoidance of adverse effects is required to protect the identified values and characteristics; and*
- (e) *Remedy or mitigate any adverse effects from the operation, maintenance, upgrade, major upgrade or development of the National Grid which cannot be avoided, to the extent practicable. In the event of any conflict with any other objectives and policies within the Plan, Policy ENG-P8 takes precedence.*

339. Forest & Bird (S560.456), supported by Susan Hall (FS35.7), sought amendments to make it clear that it is not only scheduled areas that are considered, as the majority of SNAs are not identified on a schedule. They also sought to replace 'Seeking to avoid' with 'Avoid' (S560.457), supported by DOC (FS122.013); and to amend clause (d) to give effect to NZCPS Policy 11 and NPSET (S560.458), as follows:

Recognise that there may be some attributes, character and biodiversity values ~~areas within the sites and areas identified in Schedules~~ where avoidance of adverse effects is required to protect the ~~identified attributes, values and characteristics~~ or values.

340. Forest & Bird (S560.459) sought clarification regarding the terms 'substantial', 'major upgrade', 'substantial upgrade', 'minor upgrade' and 'upgrade' in the context of ENG-P8. They also sought amendments to capture requirements for route, site and method selection process to consider alternatives to locating in important natural areas (S560.460).

341. DOC (S602.034), supported by BDC (FS149.097) and opposed by Transpower (FS110.019), sought to delete clause (d) and amend clause (b) as follows:

- (b) *Seeking to avoid adverse effects on areas and values identified in Schedules SNAs, and Overlay Areas and applying the effects management hierarchy where adverse effects cannot be avoided*

ENG-P9

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342. The s42A Report identified six submission points and three further submission points⁷⁰ received on Policy ENG-P9 and summarised the relief sought in paragraphs 229-231. Three submission points and one further submission point supported the Policy as notified.
343. Hort NZ (S486.018) opposed by Transpower (FS110.020), and Federated Farmers (S524.036) opposed by Transpower (FS110.021), sought to add 'Avoid to the extent reasonably practicable' to clause (e) to be consistent with Policy 10 of the NPSET.
344. Transpower (S299.041) sought to amend ENG-P9 as follows:
- (b) Avoid incompatible land use, buildings and structures that may directly affect or otherwise compromise the National Grid or result in reverse sensitivity effects on the National Grid;
 - (c) Manage subdivision within the National Grid Subdivision Corridor to avoid subsequent land use activities from compromising the operation, maintenance, upgrading and development of the National Grid;
 - []
 - (d) Maintain ongoing access for maintenance and upgrading works on the National Grid; and Avoid potential for reverse sensitivity effects on the National Grid.

New Policies

345. The s42A Report identified five submission points and two further seeking to include new policy direction.
346. Manawa Energy (S438.033), sought a new policy that addresses and discourages establishing non-renewable energy activities. It considered the current wording encompassed non-renewable energy activities within the definition of '*energy activity*,' which does not align with international and national directives to discourage non renewables. It suggested the following wording:
- Avoid developing non-renewable electricity generation activities on the West Coast and facilitate the replacement of non-renewable energy sources, including fossil fuels.*
347. Westpower (FS222.0181) supported this submission in part, to enable renewable electricity generation but considered the scope of the amendment was fundamental to the purpose of the pTTPP. NZEL (FS127.026) opposed this submission because it considered non-renewable energy sources will always be needed.
348. BEL (S451.034), supported by NZEL (FS127.012), sought an additional policy to be included as follows:
- Avoid, radio, electric and magnetic fields that do not meet the applicable New Zealand or international standards or guidelines, or National Environmental Standards.*

⁷⁰ S190.050, S299.040, S451.033, S478.090, S486.018, S524.036, FS55.17, FS110.020, FS110.021

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349. Westpower (S547.081, S547.082 and S547.083), supported NZEL (FS127.057, FS127.058, and FS127.059) and opposed by Kāinga Ora (FS58.021 in relation to S547.081), sought three new additional policies to be included as follows:

Manage activities in and around Significant Electricity Distribution Lines to:

- (a) Ensure the safe and efficient operation, maintenance, repair, upgrading and development of the lines are not compromised by subdivision, use and/or development;
- (b) Avoid incompatible land use;
- (c) Achieve compliance with the NZECP34:2001 and avoid health and safety risks from distribution lines; and
- (d) Avoid potential reverse sensitivity effects on distribution lines.

Ensure that subdivision and development is adequately serviced including:

- (a) Supply of electricity using a method that is appropriate to the type of subdivision and/or development, including consideration of alternative methods on a case-by-case basis, and
- (b) Where new energy infrastructure is developed and/or installed, adequate provision is made for ongoing access, operation, and maintenance, including granting and reserving easements.

Provide flexibility for energy activities, including energy aspects of infrastructure and critical infrastructure, to adopt new technologies that:

- (a) Improve access to, and efficient use of, networks and services;
- (b) Allow for the re-use of redundant services and structures where they are safe and operating to required standards;
- (c) Increase resilience, safety or reliability of networks and services;
- (d) Result in environmental benefits and/or enhancements; or
- (e) Promote environmentally sustainable outcomes including green infrastructure and the increased utilisation of renewable resources.

350. Westpower sought to include these new policies to ensure the provision of significant electricity distribution lines, including relevant policies, and to adopt new technologies.

Section 42A Reports

ENG-P1

351. The s42A Report considered that 'provide for' is a comparable policy directive to 'enable' and directs the same outcome; and concluded it was unnecessary to provide further wording. It noted that the words 'provide for' are consistent with ENG-01. However, after considering

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evidence and statements from submitters at the hearing, the Addendum s42A Report changed this view and recommended including *‘and enable’*.

352. The s42A Report considered it unnecessary to differentiate the specific energy activities within the Policy because the definition of ‘Energy Activity’ encompassed all relevant energy activities, and differentiation could create ambiguity.
353. The Reporting Officers rejected submission points seeking to address adverse effects in accordance with the natural environment and district-wide Chapters of the plan because, in their view, specifying chapters of the Plan limits and restricts any assessment, when the evaluation should be undertaken plan-wide.
354. The s42A Report did not support submission points to recognise the positive social, economic, cultural, and environmental benefits of renewable electricity generation and transmission. To do so, it considered, would be inconsistent with section 7 of the RMA, which requires particular regard to the benefits of using and developing renewable energy.
355. The s42A Report recommended retaining ENG-P1 as notified, except for including the words *‘and enable’*.

ENG-P2

356. The s42A Report did not support submission points other than those by Westpower, amending ENG-P2 to remove references to the proposal and splitting clause (a) to provide clarity for plan users. It agreed that the Policy intends to manage adverse effects and recommended amendments to the wording to support that intent.
357. In the Addendum Report, in response to Manawa’s evidence, the Reporting Officers accepted the Plan provisions needed to address non-renewable energy activities, including a policy and a rule directing avoidance of non-renewable energy activities.

ENG-P3

358. The s42A Report supported deleting the word *‘minimise’* and replacing it with *‘manage’* because it was more consistent with Policy 10 of the NPSET. It did not support the inclusion of the word *‘incompatible’* before the word subdivision because doing so would limit the scope of the policy solely to incompatible subdivision use and development, where any subdivision use in development should be assessed.
359. The s42a Report accepted the request to delete the last portion of the sentence (following the word activities) because this was more consistent with Policy 10 of the NPSET. It recommended rejecting other submission points seeking amendments because these were inconsistent with Policy 10 of the NPSET. It considered there was no need to define *‘minimise’* given the recommendation to replace it with *‘manage’*.

ENG-P4

360. The s42A Report recommended rejecting the submission seeking to have this policy deleted because it considered that reliance on other district-wide chapters was insufficient. It also

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considered this Policy was necessary to give effect to Policy 1 of the NPSET and Chapter 6 Policy 5 of the RPS.

361. The s42A Report supported the removal of the word '*minimise*' because it was inconsistent with the objectives of the NPSET and the RPS. It preferred '*manage*' because it aligned with the policy wording of the NPSET, including its objective, which seeks to manage adverse environmental effects. However, the s42a Addendum Report amended that recommendation to replace '*minimise*' with '*avoid remedy or mitigate*', as sought by Manawa, to be consistent with the NPSREG.
362. The s42a Report did not consider it necessary to specify renewable electricity generation, transmission, and distribution within the Policy, as it considered this wording captured in the definition of 'Energy Activity' as defined in Part 1 of the pTTPP.
363. The s42A Report did not support removing the word 'communities' because energy activities can potentially adversely impact urban communities, and this should be considered. It noted that clauses (a) – (d) should be read as a whole and provide direction on how the effects of energy activities should be addressed. However, in the Addendum Report, the Reporting Officers accepted the evidence provided that deleting the '*communities*' was appropriate because the definition of environment in the RMA includes people and communities.
364. The s42A Report accepted in part the amendments sought by Westpower to clause (c) by recommending deleting '*elements*' and adding '*infrastructure and structures for operation*'.
365. The s42A Report did not support the inconclusion of '*sites and areas and cultural landscapes*' because it considered the submitter's justification for seeking this amendment insufficient, and no evidence had been provided in the submission to support the relief.

ENG-P5

366. The s42A Report did not support the submission from Forest & Bird, which sought the inclusion of the protection of natural character and outstanding and significant natural values and referencing the natural environment and District-Wide chapters of the plan.
367. The s42A Report agreed that the words 'transmission infrastructure' should be replaced with 'significant electricity distribution lines' because this was consistent with Policy 5 of the NPSET, as sought by Transpower. It also agreed that clause (a) required rewording to give effect to Chapter 6, Policy 3 of the RPS and provide consistency of wording and interpretation. However, the s42A Report did not accept all the amendments proposed by Westpower regarding '*function, location, technical, and operational constraints*'.
368. The s42A Report considered that use of the word '*manage*' was appropriate because it aligned with the policy of the NPSET, including its objective, which seeks to manage adverse environmental effects. It did not consider whether it is necessary, as Manawa sought, to reference renewable electricity rather than energy generally, because renewable electricity generation was captured in the definition of '*Energy Activity*' as defined in Part 1 of the pTTPP.

ENG-P6

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369. The s42A Report recommended deleting the words '*small community and large scale*' because, as Manawa pointed out, no distinction is made between the varying scales.

ENG-P7

370. The s42A Report noted support for the Policy as notified, and recommended it was retained as notified. It did not support the amendments sought by Transpower and Forest & Bird.
371. The Addendum Report focused on the words '*minor upgrading*'. Still, it remained for the view the definition of '*upgrading*' was sufficiently broad enough to provide for all the matters listed by the submitters in support of defining '*minor upgrading*'. However, as a solution, it recommended deleting '*minor*' from clause (a) and making a consequential amendment to clause (b) by deleting '*other upgrades and*'.

ENG-P8

372. The s42A Report noted ENG-P8 deals with developing the National Grid in sensitive areas where upgrading could adversely affect both the areas and values of those areas. It recommended acceptance of the amendment to refer to Schedules 1- 8 rather than referring to the overlay chapters because that provided further clarity.
373. Initially, the s42A Report did not accept the extent of change sought by Transpower. However, after considering Ms Whitney's evidence, the Reporting Officers accepted that the relief sought would afford consistency of language in policy direction while giving effect to NPSET and NZCPS.
374. The Addendum Report recommended deleting references to *minor upgrading* to avoid confusing terms and clarify the rules.

ENG -P9

375. The s42A Report noted ENG-P9 addresses reverse sensitivity effects on the National Grid, manages subdivision within the National Grid subdivision corridor, and maintains access to the National Grid for maintenance and upgrading works. The recommendations in the s42A Report were amended in the Addendum, accepting submission points from Transpower and the evidence of Ms Whitney. It recommended deleting '*incompatible*' in clause (b) and amending the wording to clarify the avoidance of land-use, buildings and structures that may directly affect or otherwise compromise the National Grid is required. Similarly, managing subdivisions within the National Grid subdivision corridor was recommended for an amendment. It noted the relief sought was accepted because it would afford consistency of language and policy direction and give effect to NPSET Policy 10.

New Policies

376. The s42A Report recommendation rejected Manawa's request for a new policy to avoid developing non-renewable electricity generation activities and facilitate the replacement of non-renewable energy sources, including using fossil fuels in electricity generation. However, in the Addendum Report, following consideration of pre-hearing discussions and the pre-circulated evidence, the Reporting Officers accepted that the policy direction promoted by Manawa was necessary to give direction to consent assessments under section 104 of the

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RMA. The Reporting Officers did not support an avoid policy for non-renewable energy sources without clear directions under section 6 of the RMA, and they noted the silence in direction in the NPSREG and RPS.

377. The s42A Report recommended rejecting BEL's request for a new policy focused on radio-electric magnetic fields that do not meet applicable New Zealand or international standards or guidelines, and the submitter had not provided sufficient rationale, and ENG-P4 appropriately managed those effects.
378. The s42A supported Westpower's request for a new policy to provide for significant electricity distribution lines, protection from incompatible land uses, and potential reverse sensitivity effects, given that this was not explicitly provided for. However, the other new policies requested were rejected primarily because the matters they addressed were already the focus of other existing policies.

Hearing and Submitter Evidence, including JWS

ENG-P1

379. Ms Styles highlighted that renewable energy is a matter of national significance; and that the pTTPP is required to have particular regard to the benefits to be derived from the use and development of renewable energy under s7(j) RMA and to give effect to the policy directions in the NPSREG, including to recognise and provide for renewable electricity generation activities. She considered that the notified version recommended to be amended by the Reporting Officers did not adequately give effect to the NPSREG or sufficiently provide for renewable electricity generation activity. She was critical of ENG-P1 because it mixed support for different energy activities with management of effects, and does not include a reference to renewable electricity generation activities. She also sought to replace the words '*provided for*' with the word '*enable*'.
380. Mr Kennedy challenged the s42A Report recommendation that it was not necessary to differentiate specific energy activities within ENG-P1 and other policies by including the words '*energy-related aspects of infrastructure*' and '*critical infrastructure*' because the pTTPP definition of '*Energy Activity*' was sufficient. He stressed the submission points sought to ensure consistency of terms and provisions for the pTTPP.
381. Mr Lile sought to include '*and enable*' within ENG-P1. He considered the word enable to be more consistent with the NPSET and more readily linked to a permitted activity status than '*provide for*'.

ENG-P2

382. Ms Styles considered ENG-P2 was intended to give effect to the NPSREG to enable the development of new REG and the continuation of existing REG. This is clear, she said, from the specific use of REG wording in the sub-clauses and the inclusion of a reference to climate change obligations. By referring to '*energy activities*', she considered that the Policy implies that it applies to non-renewable electricity generation. It was therefore contrary to meeting climate change obligations and irrelevant to other clauses. She considered that it resulted in an internal inconsistency within the Policy and was unsupported by any national direction.

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383. Mr Kennedy sought the inclusion of a new clause (f) referencing consumer supply. He considered that the benefits of an effective electricity supply to the consumer is relevant, and it is appropriate to include them in a new clause. He also sought to amend the opening preamble of ENG-P2 by including the words '*managing the development and operation of*'; and to amend clause (a) by splitting it into two parts.
384. Ms Inta did not support the s42A Report's recommended amendments and suggested some grammatical changes.
385. Ms Snoynik, for Forest & Bird, addressed the Addendum Report and sought deletion of '*particular*' because it was inappropriate to give higher consideration to energy activities than RMA s6 matters or where this regard would conflict with an RMA s7 matter. She noted that considering s7 benefits is restricted to benefits derived from using and developing renewable energy, not energy activity, as defined in the pTTPP. She submitted that both ENG-P2 and P3 have broader applications than just renewable energy and therefore require direction that adverse effects must be avoided, remedied or mitigated. On this basis, she considered the recommendations within both the s42A Report and Addendum Report were inappropriate.

ENG-P3

386. Ms Styles sought to delete '*minimise*' and replace it with '*avoid*'; include '*incompatible*' before subdivision; delete '*energy*' and replace it with '*renewable electricity generation*'. She noted that Policy 3 relates to reverse sensitivity but that the Reporting Officers' assessment relied on the wording of the NPSET, which is not directly relevant to this Policy because Policy 4 deals with the National Grid and includes a reference to reverse sensitivity issues. She was firm in her view that avoiding reverse sensitivity is the appropriate direction for this Policy to give effect to Policy 3 of the NPSREG, which uses the word '*avoid*'. She considered the Policy needed to be clear and directive, and if the outcome sought is avoidance of reverse sensitivity, then the Policy needs to state this. She considered using another term, such as '*minimise*' or '*manage*', would underplay the importance of the requirement to avoid and does not provide sufficient direction.
387. Ms Styles clarified that she sought to include the term '*incompatible*' because this provided additional guidance on understanding the risk of reverse sensitivity effects. She considered its inclusion was intentional as it seeks to provide direction and ensure the policy does not apply to all activities seeking to be located close to REG, transmission, and distribution activities, thus recognising that some activities can appropriately be located near such activities. She considered including this word at a policy-level test for determining what subdivision, use, and development would lead to reverse sensitivity problems and what would not, was appropriate.
388. Ms Inta considered there was no need to include both adverse effects and reverse sensitivity in the Policy because reverse sensitivity means an adverse effect. She favoured the notified version of this Policy.
389. Mr Kennedy continued to seek the amendments sought by Westpower outlined in the s42A Report to ensure ENG-P3 gave effect to the RPS.

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- 390. Mr Lile considered ENG-P3 was inconsistent with Policy 10 of the NPSET and sought to include the words '*activities to avoid*'.
- 391. Ms Whitney supported the s42A Report recommendations to amend to ENG-P3.
- 392. According to the JWS records, the planning experts agreed that ENG-P3 did not require the word '*adverse*' before the words reverse sensitivity.

ENG-P4

- 393. Ms Inta sought the deletion of '*minimise*' to be replaced with '*manage*'; and the words '*urban amenity*' and '*recreational area*' recommended to be deleted by the s42A Report, be reinstated.
- 394. Mr Kennedy also sought deletion of '*minimise*' and its replacement with '*manage*'; deletion of '*communities*'; and amendments to clauses (a) and (c).
- 395. Mr Lile noted that the s42A Report accepted BEL's request on ENG-P4.
- 396. Ms Snoyink highlighted that the Reporting Officers did not support deletions sought by Forest & Bird and considered that relying on the overview wording as an alternative, as suggested by Officers, was inappropriate, given it did not have the force of policy wording. In referencing the Addendum, she considered adding '*avoid, remedy or mitigate*' adverse effects, but thought that problematic because the assessment required consideration of the matters listed in the policy, and further limiting the policy to renewable electricity generation did not make that approach appropriate. She also noted that the matters listed were not the same requirements as those in the ECO Chapter or Chapter 7 of the RPS.
- 397. Ms Pull identified ENG-P4 clause (a) had incomplete wording and recommended adding '*sites of significance to Māori*' to assist implementation.

ENG-P5

- 398. Ms Styles sought deletion of '*energy*' and inclusion of '*renewable electricity generation, energy investigation, distribution, and transmission*' in ENG-P5 to ensure that the pTTPP gave effect to higher order documents which recognised and provided for renewable energy, as distinct from non-renewable energy.
- 399. Mr Kennedy sought several wording changes he considered consistent with other plan provisions and the wording in the RPS. He also considered that, given that significant distribution lines were already mapped within the pTTPP, ENG-P5 should not apply to these.
- 400. Mr Lile accepted the s42A Report's recommended changes.
- 401. Ms Whitney accepted the s42A Report's recommended amendments, as shown in Appendix 1.
- 402. Forest & Bird noted the same issues with ENG-P5 as outlined for ENG-P4.

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403. The JWS records disagreement on wording for ENG-P5 but notes the matter was to be further addressed at the reconvened hearing.

ENG-P6

404. Ms Styles and Mr Kennedy noted the amendments sought in relation to ENG-P6 were supported in the s42A Report.

ENG-P7

405. Mr Lile supported ENG-P7 as notified.
406. Ms Whitney opposed the s42A recommendation of no amendments. She sought additional wording to be included in clause (c)(ii) to clarify the Policy applied to the National Grid and to reflect the policy directive within NPSET Policy 4.

ENG-P8

407. Ms Whitney partly supported the s42A recommendation to amend ENG-P8 and the recommendation not to accept Director General's submission. However, she continued to seek additional wording in clause (c)(ii) to clarify that this only applies to proposals for new National Grid infrastructure and major upgrades to the existing National Grid infrastructure. She considered this reflected Policy 4 of the NPSET.

ENG-P9

408. Ms Whitney supported the s42A recommendations to amend clause (f) but maintained Transpower's submission that further amendments were needed to ensure the effects of other activities on the National Grid were addressed and that ENG-P9 gave effect to NPSET Policies 2, 10, and 11.

New Policies

409. Ms Styles sought a new policy to avoid developing non-renewable electricity generation activities and a new associated rule that made such activities non-complying.
410. Mr Kennedy continued to request the three new policies sought in Westpower's submission, in particular he maintained that proposed policy on Significant Electricity Distribution Lines should include either the term '*avoid*' or '*protect*' in subclauses b and d in order to achieve the outcomes sought by the RPS.
411. The JWS records disagreement between the expert planners in relation to the new policies.

Reporting Officers' Reply Evidence

ENG-P1

412. The Reply noted '*provide for*' indicates that there is provision within the pTTPP via a consenting pathway for developing new renewable electricity generation, energy investigation, distribution and transmission activities and the '*enable*' indicates provision via

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a permitted activity rule, which is more appropriately applied to the operation, maintenance, and upgrading of new renewable electricity generation, energy investigation, distribution, and transmission activities. Since ENG-P1 applies to both new and existing, the Reporting Officers recommended amending the provision as follows:

ENG-P1 Provide for and enable the development, operation, maintenance, and upgrading of existing and new electricity transmission, distribution, and renewable generation infrastructure and assets.

ENG-P2

413. The Reply noted the Panel's query regarding the use of 'manage' or 'avoid, remedy, or mitigate' and which would be more appropriate and provide more flexibility. The Reporting Officers consider policies to be the course of action to achieve an objective, and they can be flexible or inflexible, broad or narrow. They noted that including 'avoid', 'remedy', or 'mitigate' in policies provided for a wide range of options to achieve the objectives. They cautioned that the scope and intent of the policies should be carefully considered when determining appropriate policy language.
414. The Reply recommendation for ENG-P2 was to delete 'considering' and replace it with 'manage', reflecting the breadth of this policy. It considered that 'manage' provided a better link with the related objective ENG-02, which partly concerned managing the adverse effects of energy activities. The Reply also supported Mr Kennedy's evidence to divide clause (a) into two parts, creating a new clause (b). Attachment 1 showed the following recommended amendments:

ENG-P2 ~~When considering proposals to develop and operate new and existing~~ When managing adverse effects from the or development of new energy activities or the operation, maintenance or upgrading of existing energy activities, have particular regard to the benefits to be obtained from the proposal, including;

- (a) ~~Maintaining or increasing security of renewable electricity supply by diversifying the type and/or location of electricity generation;~~*
- (b) Providing for diversity of the type and location of electricity generation;*
- (c) Maintaining or increasing renewable electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;*
- (d) Economic, social, environmental or cultural wellbeing;*
- (e) The contribution the proposal will have towards New Zealand meeting its renewable electricity generation targets;*
- (f) Effective transmission and distribution of electricity supply;*
- (g) Facilitation and use of renewable energy;*
- (h) Security of electricity supply; and*
- (i) Meeting New Zealand/Aotearoa me Te Waipounamu's climate change obligations.*

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ENG-P3

415. In Reply, the Reporting Officers considered that changing the policy to strictly ‘*avoid reverse sensitivity effects*’ would be inconsistent with Policy 10 of the NPSET, which seeks ‘*to the extent reasonably possible, manage activities to avoid reverse sensitivity effects*’. They considered ‘*manage*’ was consistent with higher-order policy documents (e.g. Policy D, NPSREG).
416. The Reply, Attachment 1, recommended the following amendments:

ENG-P3 ~~Minimise reverse sensitivity effects from~~ Manage activities to avoid adverse reverse sensitivity effects from subdivision, use and development on renewable electricity generation energy activities and protect energy activities from adverse effects to ensure their ongoing operation, maintenance, upgrade or development.

ENG-P4

417. The Reply noted that Poutini Ngāi Tahu sought amendments to ENG-P4 to include references to ‘*Poutini Ngāi Tahu values, sites, areas and cultural landscapes*’. It noted that based on EWC and further discussions with Ms Pull, agreement had been reached on an alternative solution of adding ‘*Sites and Areas of Significance Māori*’, which would ensure consistency with the matters (essentially RMA s6 matters) listed in Policy 4.
418. In response to the Panel's questions about why ENG-P4(a) did not refer to Schedules 1 – 8 and whether ‘*urban amenity*’ could be a stand-alone clause, the Reporting Officers noted that submitters had not requested this specific relief. However, they considered that such a refinement was supportable because it did not change the scope of the policy and refined the language to ensure consistency across the pTTPP.
419. The Reply noted that clauses (a) to (d) of ENG-P4, incorporate a wide range of actions, ranging in significance from RMA s6 matters to implementing industry best practices. The Reporting Officers did not support the replacement of ‘*minimise*’ with ‘*manage*’ as ‘*avoid, remedy, mitigate*’ affords the ability to apply a course of action appropriate to the matter being considered. Furthermore, the Reporting Officers noted that ‘*avoid, remedy, mitigate*’ was consistent with NPSREG.
420. The Reply, Attachment 1, recommended the following wording for ENG-P4:

ENG-P4 Minimise, Avoid, remedy, mitigate adverse effects on ~~communities and~~ the environment from renewable electricity generation, energy investigation, distribution, and transmission ~~energy~~ activities by:

(a) Having regard to the effect on urban amenity;

~~(b) Having regard to the effect on areas and values associated with identified in Schedules 1 – 8; areas identified as having significant environmental values, urban amenity, areas of high recreational value, outstanding and high natural character areas, outstanding landscapes and features, Poutini Ngāi Tahu and heritage sites, and SNA;~~

(c) Implementing industry best management practices around electrical safe distances;

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(d) *Maintaining ongoing access to grid and distribution ~~elements~~ infrastructure and structures for operation, maintenance and upgrading works; and*

(e) *Avoiding exposure to health and safety risks.*

ENG-P5

421. The Reply noted that ENG-P5 incorporates a wide range of courses of action, which range in significance scale. The Reporting Officers did not support the replacement of ‘*minimise*’ with ‘*manage*’ but considered that ‘*avoid, remedy, mitigate*’ affords the ability to apply a course of action appropriate to the matter being considered and is consistent with NPSREG.

422. The Reporting Officers disagreed with Mr Kennedy’s view that, because significant distribution lines are mapped, ENG-P5 did not apply to these, and noted ENG-P5 is an assessment policy which directs the consideration of resource consent for new significant electricity distribution lines.

423. The Reply, Attachment 1, recommended the following wording amendments:

ENG-P5 When ~~considering proposals to develop, operate, maintain and upgrade new and~~ avoid, remedy or mitigate adverse effects from the development of new or ~~development~~, the operation, maintenance or upgrading of existing renewable electricity generation, energy investigation, distribution and transmission ~~energy~~ activities by:

(a) *Recognising their functional constraints, needs and operational ~~requirements~~; and*

(b) *Where new transmission infrastructure and major upgrades to transmission infrastructure are proposed, the extent to which any adverse effects have been minimised in the route, site, and method selection will be considered.*

ENG-P6

424. The Reply, Attachment 1, recommended the following amendments:

ENG-P6 Provide for the development, upgrading, maintenance and operation of:

(a) *A range of ~~small, community and large-scale~~ renewable electricity generation activities; and*

(b) *Activities that seek to investigate, identify and/or assess potential sites and energy sources for renewable electricity generation.*

ENG-P7

425. The Reply, Attachment 1, recommended the following minor amendments to address the request from Manawa for a definition of ‘*minor upgrade*’ and the evidence of Ms Whitney:

ENG-P7 Recognise and provide for the national, regional, and local benefits of the National Grid, including by:

(a) *Enabling the operation, maintenance, and ~~minor~~ upgrading requirements of existing National Grid assets;*

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- (b) *Providing for ~~other upgrades~~ and the effective development of new National Grid assets; and*
- (c) *When considering measures to avoid, remedy and mitigate adverse effects of National Grid activities, have regard to:*
 - i. *The technical and operational constraints of the National Grid; and*
 - ii. *The extent to which proposals have avoided, remedied and mitigated effects through the route, site and method selection.*

ENG-P8

426. The Reply largely accepted the Transpower's amendments, which sought to provide for the National Grid's development by recognising functional and operational needs. The Reporting Officers recommend the wording was simplified by referencing Schedules 1-8; and amended to recognise that there will be circumstances when adverse effects cannot be avoided, and that where this occurs effects must be remedied or mitigated to the extent practicable. The Reply, Attachment 1 recommended the following amendments:

ENG-P8 Manage the adverse effects of the development of the National Grid by:

- (a) *Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects.*
- (b) *Seeking to avoid adverse effects on areas and values identified in Schedules 1 – 8;*
- (c) *Where the National Grid has a functional need or operational need to locate within the Coastal Environment, manage adverse effects by:*
 - i. *Seeking to avoid adverse effects on areas and values identified in ~~Schedules 1 – 8~~ Overlay Chapter areas and where it is not practicable to avoid because of functional needs or operational needs of the National Grid, to remedy or mitigate;*
 - ii. *Seeking to avoid significant adverse effects on other areas of natural character, natural attributes and character of NFL and indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010; and*
 - iii. *Recognise that there may be some areas within the sites and areas identified in Schedules 1 – 8 where avoidance of adverse effects is required to protect the identified values and characteristics.*
 - iv. *Remedy or mitigate any adverse effects from the operation, maintenance, upgrade or development of the National Grid which cannot be avoided, to the extent practicable.*
- (d) *Remedy or mitigate any adverse effects from the operation, maintenance, upgrade or development of the National Grid which cannot be avoided, to the extent practicable.*

ENG-P9

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427. Concerning reverse sensitivity effects on the National Grid, the Reporting Officers reconsidered their earlier recommendation based on the evidence presented at the hearing and further discussions with the expert planners. They now recommended that the word ‘*incompatible*’ should be retained to provide the ability to enable compatible subdivision, use and development in certain circumstances, which the Reporting Officers considered was sufficient to afford protection of the relevant infrastructure and to be consistent with Chapter 6, Policy 4 of the RPS.
428. The Reply also supported the amendments sought by Transpower to better provide for operational circumstances.
429. The Reply, Attachment 1, recommended the following amendments to ENG-P9:

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, buildings and structures that may directly affect or otherwise compromise the National Grid;*
- (c) Manage subdivision within the National Grid Subdivision Corridor to avoid subsequent land use activities from compromising the operation, maintenance, upgrading and development of the National Grid;*
- (d) Achieve compliance with the NZECP34:2001 and avoid exposure to health and safety risks from the National Grid; and*
- (e) Maintain ongoing access for maintenance and upgrading works on the National Grid, and*
- (f) Avoid the potential for reverse sensitivity effects on the National Grid to the extent reasonably possible.*

New Policies PX1, PX2 and PX3

430. In Reply, the Reporting Officers acknowledged the pTTPP was silent on non-renewable electricity generation. They acknowledged that the NPSREG supports and promotes renewable energy only, but that no national direction required the avoidance of non-renewable electricity generation. As Manawa requested, they did not support an outright avoidance policy for non-renewable electricity generation due to a lack of higher-order statutory direction. However, they recommended an alternative new policy ENG-PX2 and an associated rule with a non-complying activity status.
431. The Reply, based on the evidence of Mr Kennedy and Ms Styles, supported the inclusion of three new policies as follows:

ENG-PX-1 Manage activities in and around Significant Electricity Distribution Lines to:

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- (a) Ensure the safe and efficient operation, maintenance, repair, upgrading and development of the lines are not compromised by subdivision, use and/or development;
- (b) Achieve compliance with the NZCEP 34:2001 and avoid health and safety risks from Significant Electricity Distribution Lines; and
- (c) To protect the lines from potential reverse sensitivity effects.

ENG-PX-2 Discourage the development of non-renewable electricity generation activities by first avoiding adverse environmental effects, where avoidance is not practicable, adverse effects shall be remedied or mitigated.

ENG-PX-3 Ensure that subdivision and development is adequately serviced including;

- (a) Infrastructure networks have sufficient capacity to accommodate the additional development, and require any necessary upgrades to be completed at the time of subdivision; and
- (b) Infrastructure is installed at the time of subdivision, except for onsite infrastructure, which cannot be determined until the allotment is developed.

Hearing Panel's Evaluation

432. The Panel agrees that the words 'avoid, remedy or mitigate' in a policy provide broad flexibility to meet the outcome of the related objective. We agree with the Reporting Officers that it is best practice to write an objective to provide a clear target of what policies should achieve, stating what is to be achieved, when, and where. We agree with the Reporting Officers that objectives need not repeat the wording of the Act. Policies should detail the course of action to achieve an objective and can be subject to the outcome of the objective, flexible, inflexible, broad, or narrow.
433. The inclusion of 'avoid, remedy, or mitigate' provides a wide course of action to achieve objectives. The Panel has endeavoured to apply these outcomes throughout the ENG as well as INF and the TRN chapters.

ENG-P1

434. The Panel agrees with the Reporting Officers' reasoning regarding the circumstances in which the words 'provide for' or 'enable' are appropriate. The Panel also agrees that, given the breadth of ENG-P1, which covers existing and new activities, both 'provide for' and 'enable' are appropriate. The Panel recommends the amendments shown in Attachment 1 of the Reply.

ENG-P2

435. As notified, the Panel notes that ENG-P2 was concerned with the benefits of new and existing energy activities when considering proposals. However, the recommended amendments change the focus of the policy from 'When considering proposals' to 'When managing adverse effects'. The Panel considers this suggests that when managing adverse effects from a proposal a decision-maker should have 'particular regard' to the benefits concerning

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offsetting any adverse effects, which is significantly different to having regard to the benefits of a proposal.

436. When considering an application for resource consent for a proposal, section 104 of the RMA requires a decision-maker to consider of the actual and potential environmental effects of the activity (s104(1)(a)), any positive effects of the activity to offset or compensate for any adverse effects (s104(1)(ab)), relevant statutory provisions (s104(1)(b)), and any other matter the consent authority considers relevant (s104(1)(c)). This requires separate considerations and does not allow for adverse effects to be managed or balanced by having regard to the benefits of a proposal when assessing adverse effects.
437. The NPSET (Policy 1) directs that decision-makers must recognise and provide for the national, regional, and local benefits of sustainable, secure, and efficient electricity transmission; environmental effects are managed under separate policies. The RPS is consistent with this direction.
438. The NPSREG directs that decision makers must recognise and provide for the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable energy activities. It also requires decision-makers to provide and recognise the national, regional and local benefits relevant to renewable electricity generation.
439. The Panel considers that the intent of ENG-P2 should remain on the consideration of proposals, as notified, given that it is intended to give effect to the NPSREG and NPSET. The Panel generally agrees with Ms Styles that *'energy'* should be replaced with *'renewable electricity generation, energy investigation, distribution and transmission'* to give effect to national direction and the RPS. It also aligns with the clauses focused on renewable energy generation, transmission, and distribution. However, as discussed above in relation to ENG-O2, the Panel considered this should be changed slightly to *'renewable electricity generation, investigation, and distribution and transmission'* to give effect to the national direction of the NPSREG and NPSET, as well as the RPS.
440. There is no national direction to *'have particular regard to'* the benefits of all *'Energy Activities'*, as defined in the pTTPP. However, now the recommended wording of ENG-P2 is focused on renewable energy generation, the Panel considers the words *'have particular regard to'* align with the wording of RMA s7(j), which requires decision-makers to *'have particular regard'* to the benefits to be derived from the use and development of renewable electricity. We accept this is appropriate and therefore reject Forest & Bird's submission (S560.448) to delete *'particular'*.
441. The Panel notes that the Reporting Officers have recommended the deletion of the words *'to be obtained from the proposal'*, however we have been unable to find any submission that supports that deletion and therefore we have recommended it be retained.
442. The Panel accepts the Reporting Officers' recommendations to split clause (a) into two parts, as requested by Westpower. However, for the reasons outlined regarding the national direction, the Panel considers this should be *'renewable'* electricity generation.

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- 443. The Panel agrees with the Reporting Officers that adding '*to the consumer*' to clause (e) is unnecessary.
- 444. The Panel also agrees with the Reporting Officer that it is not necessary to amend the policy to address cumulative effects on waterways, given that this would require assessment on a case-by-case basis. The Panel is also satisfied that the policy is sufficient to support micro-renewables and distributed energy generation.
- 445. The Panel notes that Mr Lile accepted 'and' and not 'or' as appropriate in the context of ENG-P2.

ENG-P3

- 446. Discussion at the hearing and questions from the Panel focused on whether it was necessary to include '*adverse*' reverse sensitivity effects. The Reporting Officers recommended deleting '*adverse*' and replacing '*Minimise reverse sensitivity effects from*' with '*Manage activities to avoid reverse sensitivity*' to give effect to Policy D of the NPS-REG and Chapter 6, Policy 4 of the RPS.
- 447. The Panel questioned the Reporting Officers at the hearing as to whether relying on the strategic directions in the plan would be possible if reverse sensitivity policies were added to the overarching chapter. The Reporting Officers acknowledged that reverse sensitivity is an important issue for the West Coast and supported including a policy in the Strategic Direction Chapter. However, the Reporting Officers considered that the ENG and INF Chapters should retain reverse sensitivity policies because a higher-order policy direction is more nuanced than what might be expected from a policy within the Strategic Direction Chapter. Furthermore, the Reporting Officers considered that resource consent applications should assess policies in a comprehensive manner.
- 448. The Panel agrees with the Reporting Officers' reasoning in the Reply that '*Managing activities to avoid reverse sensitivity*' is preferable to the notified ENG-P3 which sought to '*minimise*' reverse sensitivity effects. The Panel considers the Reply version provides more scope; and gives effect to Policy D of the NPS-REG and Chapter 6, Policy 4 of the RPS.
- 449. The Panel accepts the evidence of Mr Lile that to give effect to Policy 10 of the NPSET the Policy should also include '*and electricity transmission and distribution activities*'.
- 450. The Panel considers it appropriate to include 'incompatible' in relation to reverse sensitivity for the reasons outlined by Ms Styles and accepted by the Reporting Officer concerning ENG-P9.

ENG-P4

- 451. The Panel acknowledges that clauses (a) to (d) of ENG-P4 incorporate a wide range of courses of action, ranging in significance from RMA s6 matters to implementing industry best practices. The Panel agrees with the Reporting Officers that it is inappropriate to delete these, as requested by Forest & Bird, and considers that the Plan must be read as a whole in terms of managing adverse effects on RMA s6 matters.

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452. The Reporting Officers did not support the replacement of '*minimise*' with '*manage*'. They recommended the use of '*avoid, remedy, mitigate*' because this affords the ability to apply a course of action appropriate to the matter being considered. The Panel agrees; however, we recommend that '*avoid, remedy or mitigate*' is appropriate.
453. The Panel accept that including the reference to Schedules One to Eight appropriately responds to Ms Pull's evidence seeking inclusion of SASM and we note that as a consequence of other recommendations relating to Ngāi Tahu submissions on the rules we have included Appendix 10 into this and other policies.
454. The Panel also note that as a consequence of submissions from Forest and Bird and the Director General our recommendations expand the consideration of areas not included in Schedules One to Eight and Appendix 10 so as to give effect to the WCRPS and the NPSIB and we have amended the policy (and ENG-P8) to enable consideration of those areas.

ENG-P5

455. Given the broad coverage of ENG-P5, the Panel agrees with the Reporting Officers that '*avoid, remedy, mitigate*' affords the ability to apply a course of action appropriate to the matter(s) being considered. We agree that '*manage*' is more constraining. Furthermore, the Reply noted that '*avoid, remedy, mitigate*' is consistent with NPS-REG, which we accept.
456. The Panel agrees with the Reporting Officers that the amendments requested by Forest & Bird are not necessary given the Plan provisions must be read as a whole when considering a proposal.
457. The Panel accepts the recommended amendments by the Reporting Officers, in response to Manawa, are appropriate given the direction of the NPSREG, NPSET and the RPS. Chapter 6, Policy 3 of the RPS relates to regionally and nationally significant electricity transmission, distribution and renewable electricity generation. We consider '*Energy Activities*' is wider than this direction.
458. The Panel also agrees that Westpower's requested additional wording, while consistent with the wording of the RPS, is not necessary given the pTTPP definitions of '*functional need*' and '*operational need*'. The Panel recommends '*functional need or operational need*'.

ENG-P6

459. The Panel accepts the Reporting Officer's recommendation to accept Manawa's request to delete '*small, community and large scale*' from ENG-P6, given that the words relating to size and scale are unnecessary in this context.

ENG-P7

460. The Panel agree with deleting '*minor*' as alternative relief to Manawa's request for a definition of '*minor upgrade*'; and deletion of '*other upgrades*' because this is unnecessary in the context.

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- 461. The Panel considers that the evidence from Ms Whitney gives sufficient justification for the amendment to clause (c)(ii) sought by Transpower. We accept that this is consistent with Policy 4 of the NPSET and clarifies that it does not apply to existing transmission infrastructure.
- 462. For the reasons outlined above concerning ENG-P4 and ENG-P5, the Panel accepts the Reporting Officers' recommendation to reject the amendment requested by Forest & Bird.

ENG-P8

- 463. The Panel agrees with the amendments to ENG-P8 requested by Transpower, as accepted by the Reporting Officers. The amendments also recognise that there will be circumstances when adverse effects cannot be avoided. Hence, the policy seeks to remedy or mitigate them to the extent practicable, which we consider appropriate.
- 464. The Panel notes that the recommended amendments shown in Attachment 1 of the Reply differ slightly from the wording requested in the evidence of Ms Whitney. The Panel accepts Ms Whitney's evidence, including '*development and major upgrade*', which is consistent with the wording of the NPSET.
- 465. As referred to above, the Panel acknowledges the Forest & Bird's concern regarding significant natural values not identified in SNA and that this needs to be addressed in INF-P8. We consider this needs to be addressed on a plan-wide basis with subsequent consequential amendments made accordingly.

ENG-P9

- 466. The Panel agrees with the Reporting Officers that the word '*incompatible*' in clause (b) of ENG-P9 should be retained because it provides clarity and is consistent with RPS Chapter 6, Policy 4. However, the Panel noted that this change in recommendation was not reflected in Attachment 1 of the Reply. We accept this is an oversight given the Reporting Officers' evaluation.
- 467. The Panel also accepts Ms Whitney's evidence and the Reporting Officers' recommended amendments, which were recorded in the Reply.

New Policies

- 468. The Panel accepts the evidence and Reporting Officers recommendation supporting the inclusion of three new policies, as recommended in Attachment 1 of the Reply. The Panel recommends that these become new policies ENG-10, ENG-P11 and ENG-P12. We consider the amendments made to proposed ENG-10 to include '*protect*' in subclause c. addresses the concerns of Mr Kennedy.
- 469. The Panel adopts the Reporting Officers' RMA section 32AA evaluation of the new Policies at page 103 of the s42A Report. The Panel is satisfied that the section 32AA evaluation corresponds to the scale and significance of the recommended changes. We accept that, having considered the new policies' efficiency and effectiveness, the amendments are the most appropriate for implementing the objectives and are in line with the purpose of the objectives.

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470. The Panel considers ENG-P11 is appropriate but does not consider reference to how adverse effects are addressed is required within the policy. The Panel therefore recommends the following wording:

Discourage the development of non-renewable electricity generation activities.

471. The Panel has considered the other new policies requested by BEL and Westpower and agrees with the Reporting Officers that these additional policies are not necessary to give effect to the RMA and higher-order statutory direction.

Hearing Panel's Recommendations

472. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends that the relevant submission points identified in footnotes below are accepted or accepted in part, and recommends the following changes to the **Energy Policies**:

Energy Policies	
ENG – P1	Provide for and enable ⁷¹ the development, operation, maintenance and upgrading of existing and new electricity transmission, distribution and renewable generation infrastructure ~~and assets~~ . ⁷²
ENG – P2	When considering proposals to develop and operate new and existing <u>renewable electricity generation, investigation, and distribution and transmission</u>⁷³ activities have particular regard to the benefits to be obtained from the proposal, including; a. Maintaining or increasing security of renewable electricity supply ~~by diversifying the type and/or location of electricity generation~~;⁷⁴ b. <u>Providing for diversity of the type and location of renewable electricity generation</u>;⁷⁵ c. Maintaining or increasing renewable electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions; d. Economic, social, environmental or cultural wellbeing; e. The contribution the proposal will have towards New Zealand meeting its renewable electricity generation targets; f. Effective transmission and distribution of electricity supply; g. Facilitation and use of renewable energy; h. Security of electricity supply; and i. Meeting New Zealand/Aotearoa me Te Waipounamu's climate change obligations.

⁷¹ Buller Electricity Limited S451.025, Frank and Jo Dooley S478.082

⁷² Manawa Energy Limited S438.00144

⁷³ Manawa Energy Limited S438.039

⁷⁴ Westpower S547.085

⁷⁵ Westpower S547.085

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ENG – P3	~~Minimise reverse sensitivity effects from~~ Manage activities to avoid adverse reverse sensitivity effects from incompatible ⁷⁶ subdivision, use and development on renewable electricity generation and electricity distribution and transmission energy ⁷⁷ activities. ~~and protect energy activities from adverse effects to ensure their ongoing operation, maintenance, upgrade or development~~ ⁷⁸
ENG – P4	Minimise Avoid, remedy or mitigate ⁷⁹ adverse effects on communities and the environment from renewable electricity generation, investigation, distribution and transmission energy ⁸⁰ activities by: a. Having regard to effects on urban amenity;⁸¹ b. Having regard to the effect on areas of significant environmental values⁸² and values associated with identified in Schedules One – Eight⁸³ and Appendix Ten;⁸⁴ areas identified as having significant environmental values, urban amenity, areas of high recreational value, outstanding and high natural character areas, outstanding landscapes and features, Poutini Ngāi Tahu and heritage sites, and significant natural areas; c. Implementing industry best management practices around electrical safe distances; d. Maintaining ongoing access to grid and distribution elements infrastructure⁸⁵ and structures for operation;⁸⁶ maintenance and upgrading works; and e. Avoiding exposure to health and safety risks.
ENG – P5	~~When considering proposals to develop, operate, maintain and upgrade new and~~ Avoid, remedy or mitigate adverse effects from the development of new or the development, operation, maintenance or upgrading of existing renewable electricity generation, investigation, distribution and transmission energy ⁸⁷ activities by : a. ~~Recognising~~ their functional constraints need⁸⁸ ~~and~~ operational requirements need;⁸⁹ and b. ~~Where new transmission infrastructure and major upgrades to transmission infrastructure are proposed have regard to the extent to which any adverse effects~~ Having regard to the extent to which

⁷⁶ Manawa Energy Limited S438.040

⁷⁷ Manawa Energy Limited S438.040

⁷⁸ Manawa Energy Limited S438.040

⁷⁹ Manawa Energy Limited S438.042

⁸⁰ Manawa Energy Limited S438.042,

⁸¹ Clause 16(2) First Schedule of the RMA

⁸² Consequential amendment from Forest and Bird S560.0558, S560.458

⁸³ Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu S620.084

⁸⁴ Consequential amendment from Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu S620.087, S620.088, S620.089, S620.090

⁸⁵ Westpower S547.091

⁸⁶ Westpower S547.091

⁸⁷ Manawa Energy Limited S438.043, Buller Electricity S451.029, Frank and Jo Dooley S478.087

⁸⁸ Manawa Energy Limited S438.043

⁸⁹ Manawa Energy Limited S438.043

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	<u>any adverse effects of new significant electricity distribution lines</u> ⁹⁰ have been minimised in the route, site and method selection.
ENG – P6	Provide for the development, upgrading, maintenance and operation of: a. A range of ~~small, community and large scale~~⁹¹ renewable electricity generation activities; and b. Activities that seek to investigate, identify and/or assess potential sites and energy sources for renewable electricity generation.
ENG – P7	Recognise and provide for the national, regional and local benefits of the National Grid, including by: a. Enabling the operation, maintenance and ~~minor~~⁹² upgrading requirements of existing National Grid assets; b. Providing for ~~other upgrades and~~⁹³ the effective development of new National Grid assets; and c. When considering measures to avoid, remedy and mitigate adverse effects of National Grid activities, have regard to: i. The technical and operational constraints of the National Grid; and ii. The extent to which proposals <u>for new National Grid infrastructure or major upgrades to existing National Grid infrastructure</u>⁹⁴ have avoided, remedied and mitigated effects through the route, site and method selection.
ENG – P8	Manage the adverse effects of the <u>development and major upgrade of the</u> ⁹⁵ National Grid by: a. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects; b. Seeking to avoid adverse effects on areas <u>of significant environmental values and the values</u>⁹⁶ identified in Schedules <u>One – Eight</u>⁹⁷ <u>and Appendix Ten</u>; ⁹⁸ c. Where the National Grid has a functional <u>need</u> or operational need to locate within the Coastal Environment, manage adverse effects by: i. Seeking to avoid adverse effects on ~~Overlay Chapter~~ areas <u>and values</u>⁹⁹ <u>identified in Schedules One – Eight</u>¹⁰⁰ <u>and Appendix Ten</u>¹⁰¹ and where it is not practicable to avoid <u>because of</u>

⁹⁰ Westpower S547.037

⁹¹ Manawa Energy Limited S438.041

⁹² Alternative relief Manawa Energy Limited S438.022

⁹³ Clause 16(2) First Schedule of the RMA

⁹⁴ Transpower Limited S299.039

⁹⁵ Transpower Limited S299.040

⁹⁶ Alternative relief Royal Forest and Bird Protection Society S560.458

⁹⁷ Transpower Limited S299.040

⁹⁸ Consequential amendment from Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu S620.087, S620.088, S620.089, S620.090

⁹⁹ Transpower Limited S299.040 and alternative relief Royal Forest and Bird Protection Society S560.458

¹⁰⁰ Transpower Limited S299.040

¹⁰¹ Consequential amendment from Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu S620.087, S620.088, S620.089, S620.090

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	<u>functional needs or operational needs of the National Grid,</u>¹⁰² to remedy or mitigate; <u>and</u> ii. Seeking to avoid significant adverse effects on other areas of natural character, natural attributes and character of natural features and landscapes and indigenous biodiversity values that meet the criteria in Policy 11(b) of the NZCPS 2010; and d. Recognise that there may be some areas within the sites and areas identified in Schedules <u>One – Eight</u>¹⁰³ <u>and Appendix Ten</u>¹⁰⁴ where avoidance of adverse effects is required to protect the identified values and characteristics; <u>and</u> e. <u>Remedying or mitigating any adverse effects from the operation, maintenance, upgrade or development of the National Grid which cannot be avoided, to the extent practicable.</u>¹⁰⁵
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, <u>buildings and structures that may directly affect or otherwise compromise the National Grid,</u>¹⁰⁶ c. Manage subdivision <u>within the National Grid Subdivision Corridor</u>¹⁰⁷ 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 (NZCEP 34: 2001) and avoid exposure to health and safety risks from the National Grid; ~~and~~ e. <u>Maintain ongoing access for maintenance and upgrading works on the National Grid; and</u>¹⁰⁸ f. Avoid, <u>to the extent reasonably possible, the</u>¹⁰⁹ potential for reverse sensitivity effects on the National Grid.
ENG– P0	<u>Manage activities in and around Significant Electricity Distribution Lines to:</u> a. <u>Ensure the safe and efficient operation, maintenance, repair, upgrading and development of the lines are not compromised by subdivision, use and/or development;</u> b. <u>Achieve compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZCEP 34:2001) and avoid health and safety</u>

¹⁰² Transpower Limited S299.040

¹⁰³ Transpower Limited S299.040

¹⁰⁴ Consequential amendment from Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu S620.087, S620.088, S620.089, S620.090

¹⁰⁵ Transpower Limited S299.040

¹⁰⁶ Transpower Limited S299.041

¹⁰⁷ Transpower Limited S299.041

¹⁰⁸ Transpower Limited S299.041

¹⁰⁹ Horticulture New Zealand S486.018

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	<u>risks from Significant Electricity Distribution Lines; and</u> c. <u>Protect the lines from potential reverse sensitivity effects.</u> ¹¹⁰
ENG-P11	<u>Discourage the development of non-renewable electricity generation activities.</u> ¹¹¹
ENG-P12	<u>Ensure that subdivision and development is adequately serviced including:</u> a. <u>Infrastructure networks have sufficient capacity to accommodate the additional development, and requiring any necessary upgrades to be completed at the time of subdivision; and</u> b. <u>Infrastructure is installed at the time of subdivision, except for on- site infrastructure that cannot be determined until the allotment is developed.</u> ¹¹²

4.6. Energy Rules

Submissions and Further Submissions

473. The s42A Report identified 18 submission points and seven further submission points¹¹³ in relation to the Energy Standards and the relief sought, it was summarised on pages 83-84 of the s42A Report. All submission points sought changes to the rules, standards and or advice note wording.
474. The s42A Report identified six submission points and one further submission point¹¹⁴ relating to **ENG-R1** and summarised the relief sought on page 85 of the s42A Report. Three supported the provisions and three sought changes to the rules, standards and advice note wording.
475. The s42A Report identified nine submission points and four further submission points¹¹⁵ relating to **ENG-R2** and summarised the relief sought on pages 85-86. Five supported the provisions as notified and four sought changes supported by the further submissions.
476. The s42A Report identified six submission points and two further submission points¹¹⁶ relating to **ENG-R3** and noted that all supported the provisions as notified. The Panel notes this is incorrect, as it excludes Forest & Bird's submission point (S560.119) opposed in part, which was opposed by Westpower (F222.0238)

¹¹⁰ Westpower Limited S547.081

¹¹¹ Manawa Energy S438.033

¹¹² Westpower Limited S547.082

¹¹³ S299.042, S229.051, S408.001, S438.046, S438.057, S451.035, S462.030, S538.023, S538.024, S547.095, S547.096, S547.097, S547.098, S547.450, S558.040, S558.450, S566.450, S567.050, FS127.033, FS127.034, FS127.045, FS127.067, FS127.068, FS127.088 FS222.049

¹¹⁴ S190.051, S299.043, S438.048, S451.036, S478.093, S538.019, FS127

¹¹⁵ S190.052, S299.044, S451.037, S478.094, S538.020, S547.099, S547.100, S547.101, S547.102, FSS190.054, S299.045, S451.039, S478.096, S538.022, S547.104, S547.105, S547.106, S560.120, S560.461, S560.462, FS127.003, FS127.016, FS127.074, FS127.075, FS127.089 127.069, FS127.070, FS127.071, FS127.072

¹¹⁶ S190.053, S451.038, S478.095, S538.021, S547.103, S560.119, FS222.0238, FS127.073

TAI POUTINI PLAN COMMITTEE

Hearing of Submissions on the Proposed Te Tai O Poutini Plan

Recommendation Report of Hearing Panel

Recommendation Report **Ecosystems and Indigenous Biodiversity –** **Ngā Pūnaha Rauropi me te Kanorau Koiora**

Hearing Dates:

18 and 19 November 2024 (Westport)

21 and 22 November 2024 (Hokitika)

HEARING PANEL

Dean Chrystal (Chair)

Sharon McGarry

Anton Becker

Maria Bartlett

Paul Rogers

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To provide for tino rangatiratanga in relation to management of areas of significant indigenous vegetation and significant habitats of indigenous fauna where these are located on Poutini Ngāi Tahu and Te Rūnanga o Ngāi Tahu⁹⁰ land.

ECO – 041⁹¹

To maintain the range and **indigenous biodiversity** of ecosystems and indigenous species found on the ~~across~~ West Coast/Te Tai o Poutini **so there is at least no overall loss in indigenous biodiversity, while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.**

Maintaining indigenous biodiversity requires:

- 1. the maintenance and at least no overall reduction of all the following:**
 - a. the size of populations of indigenous species:**
 - b. indigenous species occupancy across their natural range:**
 - c. the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity:**
 - d. the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity:**
 - e. connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity:**
 - f. the resilience and adaptability of ecosystems; and**
- 2. where necessary, the restoration and enhancement of ecosystems and habitats.⁹²**

4.4. ECO - Ecosystems and Indigenous Biodiversity Policies

Submissions and Further Submissions

361. Eleven submissions points and 13 further submissions relating to the ECO policies (as a whole) were summarised in a Table on pages 76-78 of the s42A Report. Twelve submission points sought to retain the objectives as notified and nine sought to add additional objectives. Ten further submissions opposed submissions that sought a new objective, and 73 further submissions supported submissions that sought to add a new objective.
362. Forty-eight submission points and 20 further submission points relating to **ECO-P1** were summarised in a Table on page 79-85 of the s42A Report. Four submissions supported the retention of the policy as notified, one sought its deletion and 43 sought amendments. Twelve further submissions opposed submissions that sought amendments, and eight further submissions supported submissions.

⁹⁰ Consequential amendment to reflect new definition of 'Poutini Ngāi Tahu land' Te Tumu Paeroa Office of the Māori Trustee S440.003

⁹¹ Director General of Conservation S602.064

⁹² John Caygill S290.008, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.025, Inger Perkins S462.009, Lynley Hargreaves S481.026

363. Forty-six submission points and 22 further submission points relating to **ECO-P2** were summarised in a Table on page 88-93 of the s42A Report. Twelve submissions supported the retention of the policy as notified and 36 sought amendments. Fifteen further submissions opposed submissions that sought amendments, and seven further submissions supported submissions.
364. Forty-two submission points and nine further submission points relating to **ECO-P3** were summarised in a Table on page 98-101 of the s42A Report. Thirty-four submissions supported the retention of the policy as notified and eight sought amendments. Five further submissions opposed submissions that sought amendments, and four further submissions supported submissions.
365. Twenty-four submission points relating to **ECO-P4** were summarised in a Table on page 103 – 104 of the s42A Report. Nineteen submissions supported the retention of the policy as notified, two sought it be deleted, and three sought amendments.
366. Twelve submission points and one further submission point relating to **ECO-P5** were summarised in a Table on page 105 – 106 of the s42A Report. Eight submissions supported the retention of the policy as notified, and four sought amendments. The further submission opposed a submission seeking amendment.
367. Twenty-seven submission points and 16 further submission points relating to **ECO-P6** were summarised in a Table on page 107 – 113 of the s42A Report. Three submissions supported the retention of the policy as notified, 22 sought amendments and two sought clarifications. Nine further submissions opposed submissions that sought amendments, and seven further submissions supported submissions.
368. Fifty-three submission points and 85 further submission points relating to **ECO-P7** were summarised in a Table on page 115 – 125 of the s42A Report. Twenty-three submissions supported the retention of the policy as notified and 30 sought amendments. Eight further submissions opposed submissions that sought amendments, and 27 further submissions supported submissions.
369. Thirty-three submission points and eight further submission points relating to **ECO-P8** were summarised in a Table on page 127 – 131 of the s42A Report. Seventeen submissions supported the retention of the policy as notified and 16 sought amendments. Five further submissions opposed submissions that sought amendments, and three further submissions supported submissions.
370. Forty-three submission points and 15 further submission points relating to **ECO-P9** were summarised in a Table on page 133 – 137 of the s42A Report. Thirty-two submissions supported the retention of the policy as notified and 11 sought amendments. Seven further submissions opposed submissions that sought amendments, and eight further submissions supported submissions.
371. Twenty-three submission points and seven further submission points relating to **ECO-P10** were summarised in a Table on page 139 – 142 of the s42A Report. Fourteen submissions supported the retention of the policy as notified, eight sought amendments and one sought it be deleted. Three further submissions opposed submissions that sought amendments, and four further submissions supported submissions.

372. Eleven submission points and one further submission point relating to **MINZ-P5** were summarised in a Table on page 144 - 145 of the s42A Report. Seven submissions supported the retention of the policy as notified, one sought it be deleted and three sought amendments. The further submission supported a submission.

Section 42A Report

Policies (General)

373. In relation to the policies (as a group), Ms Easton acknowledged the support from the submitters⁹³ that sought to retain the policies as notified. She also acknowledged those submitters⁹⁴ that supported specific policies. However, she noted her recommended amendments in response to other submissions on specific objectives.
374. Ms Easton did not support the relief sought in two submission points⁹⁵ made by Forest and Bird to replace the policies with those from the RPS Chapter 7. She did not agree that replicating these policies would cover all matters to the level of detail required in a district plan. She considered 'give effect to' did not mean 'to copy exactly'. She noted the RPS was developed prior to the NPSIB and other national policy documents being prepared.
375. In response to other submissions made by Forest and Bird (S560.211 and S560.482) that sought to add two new policies, Ms Easton did not support the relief sought. She considered that both were complex and better suited to an RPS or amendments to notified policies in the pTTPP.
376. Ms Easton did not support the relief sought by Forest and Bird (S560.415) in another submission which sought to include direction requiring SNA be identified and mapped as part of the regulation of mining activities. She considered the RPS and the NPSIB set the framework for the identification of SNA.
377. In response to the submission point made by Suzanne Hills (443.02) that sought the policies be amended to give effect to the RPS, Ms Easton considered this was already the case and no amendments were required to specifically achieve this outcome.
378. The s42A Report recommended no amendments as a result of these submission points.

ECO – P1

379. Ms Easton responded to the submissions received on this policy based on the key themes. She also identified that as the policy specifically related to the identification of SNA it should (to the extent there was scope) give effect to the NPSIB.
380. Ms Easton acknowledged the submission points⁹⁶ that supported ECO-P1 as notified. However, she noted her recommended amendments in response to other submissions.

⁹³ Westland District Council (S181.015), Grey District Council (S608.044) and David Ellerm (S581.025)

⁹⁴ Lindy Mason (S355.001) and Dean Mason (S356.002)

⁹⁵ S560.008 and S560.206

⁹⁶ Avery Brothers (S609.003), Te Mana Ora (Community and Public Health) of the NPHS/Te Whata Ora (S190.316), Grey District Council (S608.045), Karen Lippiatt (S439.027), Leonie Avery (S507.034), Jared Avery (S508.034), Kyle Avery (S509.034), Avery Bros (S510.034), Bradshaw Farms (S511.034), Paul Avery (S512.034), Brett Avery (S513.034), Buller District Council (S538.197)

381. In response to the submission points⁹⁷ that sought a deferral of the proposed June 2027 date, by when the Buller and Westland Councils were to have identified the SNA in their districts, Ms Easton did not support the relief sought. This was because the Plan did not currently give effect to the RPS in this respect and the matter was one of national importance. She noted that other submission points⁹⁸ sought that this date be brought forward.
382. Given the NPSIB was now in place and there was a requirement to give effect to it as soon as practicable (to the extent that there is scope within submissions), Ms Easton recommended that ECO-P1 be amended to reflect the direction of the NPSIB. She noted some submissions⁹⁹ sought that reference be given to the RPS. She identified the following points from the NPSIB that were relevant in making her recommendation:
- (a) SNA must be identified and included with a plan change by August 2028 (clause 3.9 (1));
 - (b) SNA must be identified through a district wide assessment (clause 3.8.(1));
 - (c) The assessment must be done using the criteria in Appendix 1 of the NPSIB, therefore replacing the RPS criteria which are largely consistent;
 - (d) The assessment must be done in accordance with the principles set out in clause 3.8 (2), being partnership, transparency, quality, access, consistency and boundaries;
 - (e) If the values or extent of an SNA are disputed by the landowner, a physical inspection must be undertaken. (Clause 3.8 (3));
 - (f) There is provision to confirm the SNA status of sites already identified as SNA (Clause 3.8 (5)) (i.e. in Grey District); and
 - (g) Department of Conservation administered land may not be required to be physically assessed and can be identified as an SNA where certain other criteria are met (clause 3.8 (8))
383. Ms Easton updated the s42A Report comments about the Amendment Bill/Act and noted the RMAA now deferred some of these requirements. However, she noted the fundamental requirement to identify SNA, as set out in the RPS, remained regardless of the NPSIB and therefore the identification of the SNA must proceed, just not under the NPSIB.
384. Ms Easton recognised the issues raised in submission points¹⁰⁰ and supported these in part in relation to the following matters:
- (a) The need to give certainty to landowners with existing Schedule Four SNA.

⁹⁷ Peter Langford (S615.041, S615.227), Karamea Lime Company (S614.041, S614.227), Catherine Smart-Simpson (S564.025), Geoff Volckmann (S563.021), William McLaughlin (S567.169, S567.731), Chris & Jan Coll (S558.086, S558.705), Chris J Coll Surveying Limited (S566.086, S566.705), Laura Coll McLaughlin (S574.086, S574.705), John Brazil (S360.093), Steve Croasdale (S516.032), Koiterangi Lime Co Limited (S577.028, S577.032)

⁹⁸ Forest and Bird (S560.200), Pual Elwell-Sutton (S144.002), Michael Orchard (S583.005)

⁹⁹ Transpower (S299.073), Clare Backes (S444.005), Director General (S602.067), Forest and Bird (S560.200), Manawa Energy Limited (S438.076), Frida Inta (S553.065), Buller Conservation Group (S552.065)

¹⁰⁰ Jacobus Wiskerke (S95.003), Michael Snowden (S492.011), Transpower (S299.073), Westpower (S547.252), Horticulture NZ (S486.029), Federated Farmers of New Zealand (S524.058, S524.060), Suzanne Hills (S443.021, S443.022), Clare Backes (S444.005), Waka Kotahi NZ Transport Agency (S450.082), Frida Inta (S553.065), Buller Conservation Group (S552.065)

- (b) To clarify if other areas in the Grey District may be SNA.
- (c) The cost associated with identifying SNA.
- (d) The risk that delayed identification of SNA could lead to the deliberate removal of them before they are formally protected

385. Ms Easton recommended amendments **ECO-P1** to address the concerns as follows:

ECO-P1

*Identify areas of significant indigenous vegetation and fauna habitat **and include these in Schedule Four through a Plan Change which will be introduced no later than August 2028. The Significant Natural Area identification process will be undertaken as follows:***

- 1. The criteria and process set out in the National Policy Statement for Indigenous Biodiversity Appendix 1 will be used to identify and map Significant Natural Area;***
- 2. In the Grey District ~~these areas~~ **that** are **already** identified in Schedule Four **will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025;*****
- 3. Region – wide, Regionally Significant Wetlands will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025;***
- 4. In the **Grey**, Buller and Westland Districts **the assessment and identification of other Significant Natural Area will be undertaken by June 2027.*****
- 5. **Until a site has been assessed as to whether it contains a Significant Natural Area a general indigenous vegetation clearance rule will apply to that site.*****
- 6. **Once a site has been assessed a less restrictive general vegetation clearance rule will apply to other indigenous vegetation on that site that is outside of the Significant Natural Area.*****
 - ~~i. The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will be used to assess significance;~~*
 - ~~ii. Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as district wide identification and mapping of significant natural areas is undertaken;~~*
 - ~~iii. Buller and Westland district wide assessment, identification and mapping of significant natural areas will be undertaken and completed by June 2027; and~~*
 - ~~iv. Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through a Plan Change.~~*

386. Ms Easton made minor amendments to the recommended wording in her supplementary statement relating to the timeframe for completing the SNA identification process, extending it to June 2027 (reflecting the requirements of the RMAA), as follows:

...

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2. In the Grey District ~~these~~ areas that are already identified in Schedule Four will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of June 2027;
3. Region – wide, Regionally Significant Wetlands will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of June 2027;

...

ECO – P2

387. Before considering the submissions relating to this policy, Ms Easton made some general comments about this policy and in particular the relevant NPSIB provisions that were not in effect when the pTTPP was notified. She noted the direction in the NPSIB had guided her recommendations related to the submissions.
388. Ms Easton acknowledges the submission points¹⁰¹ that support ECO-P2 as notified. However, she noted her recommended amendments in response to other submissions.
389. Ms Easton did not support the relief sought in the submission point made by Minerals West Coast (\$569.006) to delete ECO-P2 in its entirety because there was clear direction in both the RPS and the NPSIB for district plans to include protection for SNA.
390. Similarly, Ms Easton did not support the submission point made by Forest and Bird (\$560.201) that sought to delete ECO-P2 and replace it with RPS Chapter 7 policies 2 and 6 because she considered the policies were not appropriate at a district level and were drafted before the NPSIB came into effect.
391. Ms Easton supported the relief sought by Poutini Ngāi Tahu (\$620.139) to replace “cultural purpose” with “activities” because this aligned with the definition for “Poutini Ngāi Tahu Activities”, which ensured consistency through the Plan.
392. In response to the submission point made by Te Tumu Paeroa (\$440.024) that sought to widen the scope of clause (b) to include “Māori landowner cultural purposes”, Ms Easton did not support the relief sought. She considered the provisions to support tino rangatiratanga of Poutini Ngāi Tahu should be specific to Poutini Ngāi Tahu, not wider Māori landowners.
393. In response to the numerous submission points¹⁰² that sought amendment of clause (d) of the policy to provide for “operational need” as well as functional need, Ms Easton supported the relief sought in part, where it was consistent with the NPSIB. She noted the NPSIB made provision for subdivision, use or development within an SNA if it met certain exemptions¹⁰³ set out in clause 3.11 and had a functional or operational need to be in that location. Ms Easton did not support addition of the words “technical” and “locational” because the terms

¹⁰¹ Roger Ewer (\$316.003), Grey District Council (\$608.046), Trevor Hayes (\$377.001) and Katherine Crick (\$101.011)

¹⁰² WMS Group (\$599.052), TiGa Minerals and Metals Limited (\$493.048), Birchfield Coal Mines Ltd (\$601.035), BRM Developments Limited (\$603.024), Birchfield Ross Mining Limited (\$604.029), Phoenix Minerals Limited (\$606.025), Whyte Gold Limited (\$607.024), Peter Langford (\$615.042), Karamea Lime Company (\$614.042), Koiterangi Lime Co LTD (\$577.029, \$577.033), Catherine Smart-Simpson (\$564.026), KiwiRail Holdings Limited (\$442.049), Grey District Council (\$608.628), William McLaughlin (\$567.170), Steve Croasdale (\$516.033), Westpower Limited (\$547.253), Geoff Volckman (\$563.022), Chris & Jan Coll (\$558.088), Chris J Coll Surveying Limited (\$566.088), Laura Coll McLaughlin (\$574.088), Waka Kotahi NZ Transport Agency (\$450.083), Silver Fern Farms (\$441.016), Bathurst Resources (\$491.015), Terra Firma Mining Limited (\$537.012), Manawa Energy (\$438.077) and Straterra (\$536.047)

¹⁰³ Specified infrastructure, mineral extraction that provides significant national public benefit, aggregate extraction with a regional or national benefit

were only in RPS policy in relation to regionally significant infrastructure and were not used in the NPSIB, which supersedes the RPS direction.

394. In response to submission points¹⁰⁴ that sought similar relief to make the policy more stringent, Ms Easton supported the submission points in part. She notes amendments sought included the replacement of “no more than minor” with “less than minor”, the addition of a reference to “cumulative effects”, reordering of the clauses, the replacement of “allow” with “make provision for”, replacement of “significant indigenous vegetation or significant habitats of indigenous fauna” with “Significant Natural Areas”, replacement of “activities” with “structures”, qualification of “lawfully established activities” and adding reference to the effects management hierarchy.
395. Ms Easton preferred the wording from the Director General submission because it would best give effect to the NPSIB and the intent of the RPS. Notwithstanding, she also recommended other amendments to reflect the other submission points she supported.
396. In response to submission points¹⁰⁵ that sought either the addition of “and” or “or” after clause (d) in the policy, Ms Easton preferred “and” to align with the direction in the NPSIB and RPS. Notwithstanding this, she considered the drafting of the policy would be improved by relocating clause (e) to the preliminary statement.
397. In response to submission points¹⁰⁶ that sought to widen the activities provided for in the policy, Ms Easton did not support the relief sought by Federated Farmers or Manawa Energy because she considered it was either covered by the reference to “lawfully established activities” or was vague or too wide reaching. Ms Easton considered the submission made by Bathurst to add a reference to the activities anticipated in the MINZ or BCZ in depth. She considered the requested inclusion on the basis that the draft NPSIB made reference to mineral and aggregate extraction, and coal mining. She noted at the hearing that since the s42A Report had been written the reference to coal mining had been removed from the NPSIB. Ultimately, Ms Easton did not support the relief sought by Bathurst.
398. In response to the submission points¹⁰⁷ that sought to amend clause (d) to allow for mitigation, or management using the effects management hierarchy, Ms Easton noted that by accepting the amendments sought by the Director General the relief sought in these submissions was also addressed.
399. The s42A Report recommended amending **ECO-P2** as follows:

ECO-P2

~~Allow~~ **Provide for** activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna **where the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat and:**

- a. **This is for a lawfully established activity and adverse effects are no greater in intensity, scale, or character over time than at the operative date and do not result in the loss of ecosystem representation or degradation of ecological integrity; or**

¹⁰⁴ Buller Conservation Group (S552.066), Frida Inta (S553.066), Suzanne Hills (S443.023), Clare Backes (S444.006), Forest and Bird (S560.476), Director General of Conservation (S602.068)

¹⁰⁵ Buller District Council (S538.198), Manawa Energy (S438.077) and Federated Farmers (S524.061), Director General of Conservation (S602.068)

¹⁰⁶ Federated Farmers (S524.061), Manawa Energy (S438.077), Bathurst Resources (S491.014)

¹⁰⁷ Aggregate and Quarry Association (S521.005), New Zealand Coal & Carbon Limited (S472.014) and Te Mana Ora (S190.317)

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- b. *It is for a Poutini Ngāi Tahu Activities ~~cultural purpose~~; or*
- c. *This is undertaken on Poutini Ngāi Tahu ~~or Te Rūnanga o Ngāi Tahu~~ land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*
- d. *The adverse effects of the activity on the significant indigenous vegetation or fauna habitat are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:*
 - i. Construction or upgrade of regionally significant infrastructure; or
 - ii. Mineral extraction that provides significant national benefit; or
 - iii. Aggregate extraction that provides significant national or regional benefit; or
 - iv. The operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal
- e. ~~*The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.*~~

400. Ms Easton made minor amendments to the recommended wording in her supplementary statement to reflect the RMAA that removed restrictions relating to coal mining. The recommended wording deleted clause (d)(iv).

ECO – P3

- 401. Ms Easton acknowledged the 34 submission points that supported ECO-P3 (or specific parts of it) as notified. However, she noted her recommended amendments in response to other submissions.
- 402. In response to the submission point made by Te Tumu Paeroa (S440.025) that sought to have clause (d) of the policy also apply to Māori landowners, Ms Easton did not support the relief sought. She noted that a Māori landowner may not whakapapa to Poutini Ngāi Tahu and therefore would not have mana whenua status. She noted that similar responses had been provided in other hearing streams regarding similar submission points.
- 403. In response to the submission point made by Federated Farmers (S524.062) that sought to amend the policy to provide detail on what additional subdivision rights will be provided for, Ms Easton did not support the relief sought. She did not consider it appropriate to detail the rule provisions in the policy. Notwithstanding this, she noted that more specificity would be useful. She recommended amendments to clause (a) to provide the policy context for the creation of additional allotments where the legal protection of an SNA took place as part of a subdivision.
- 404. In response to the submission point made by the Director General (602.069) that sought the addition of two new clauses, Ms Easton supported the relief sought.
- 405. In relation to Forest and Bird's (S560.202) requested amendments, the s42A Report recorded the following:

- (a) Ms Easton did not support deleting “*enhancement*” because of its association with offsetting and compensation and the NPSIB directs use of the effects management hierarchy.
 - (b) Ms Easton did not support the replacement of “*allowing*” with “*considering*” in relation to additional subdivision rights because the intent of the policy was to provide support for the subdivision provisions. However, she agreed that “*allowing*” may imply permitted activities and recommended replacing this with “*providing for*”.
 - (c) Ms Easton did not support adding a new clause “*considering subdivision proposal of land that includes or lies adjacent to a Significant Natural Area*” because it was a more generalised consideration and was not related to intent of the policy to incentivise the legal protection of indigenous biodiversity.
 - (d) Ms Easton did not support the replacement of “*Areas of Significant Indigenous Biodiversity*” with “*Significant Natural Areas*” because the definition of “*Areas of Significant Indigenous Biodiversity*” was broader and reflected the intention of the TTPP Committee to support the protection of significant indigenous vegetation and significant habitats of indigenous fauna regardless of whether it is an SNA.
406. In response to the West Coast Penguin Trust’s (S275.003) request to also refer to “*the protection of indigenous fauna habitat*”, Ms Easton supported the relief sought in part. She supported the reference to “*indigenous fauna habitat*” but not the relief that sought to regulate exotic vegetation.
407. Ms Easton did not support Frida Inta (S553.067) and Buller Conservation Group (S552.067) requests to add reference to “*natural indigenous character*” because she considered the policy was specifically about supporting ecological values and not natural character. She also did not support the requests to reword clause (a) because the suggested wording would unintentionally imply that only areas where legal protection already existed were provided with additional subdivision rights. She considered this was not the intention of the policy, which was to incentivise the legal protection of indigenous vegetation and biodiversity.
408. The s42A Report recommended amending **ECO-P3** as follows:

ECO-P3

*Encourage the protection, enhancement and restoration of significant indigenous biodiversity **and the protection of significant indigenous fauna habitat** by:*

- a. ~~*Allowing*~~ ***Providing for up to 3 additional*** ~~*subdivision rights*~~ ***bonus allotments and reducing minimum allotment sizes when subdividing*** *if an area of significant indigenous vegetation or significant habitat of indigenous fauna within the same property is legally protected as part of the subdivision,*
- b. *Promoting the creation of connections and ecological corridors between areas of significant indigenous biodiversity;*
- c. *Promoting the use of eco-sourced species from the relevant ecological district;*
- d. *Supporting opportunities for Poutini Ngāi Tahu to exercise their cultural rights and responsibilities as mana whenua and kaitiaki in restoring, protecting and enhancing areas of significant indigenous biodiversity; ~~and~~*

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- e. *Supporting initiatives by landowners, community groups and others to protect, restore and maintain areas of significant indigenous biodiversity;*
- f. **Promoting site and landscape scale biosecurity programmes to manage plant and animal pests; and**
- g. **Supporting any other measures to protect, enhance and restore biodiversity.**

ECO – P4

- 409. Ms Easton acknowledged and supported the 19 submission points that sought to retain ECO-P4 as notified.
- 410. Ms Easton did not support Frida Inta (\$553.068) and the Buller Conservation Group (\$552.068) requests to delete this policy because they do not consider ecotourism can enhance values.
- 411. In response to the submission point made by Forest and Bird (\$560.203) that sought to amend the wording of the policy to lessen the support of ecotourism, Ms Easton did not support the relief sought. She considered ecotourism activities could enhance the values of SNA. Additionally, she noted the policy responded to a strategic objective that recognised the significance of tourism to the West Coast.
- 412. In response to the submission point made by Katherine Crick (\$101.031) that supported the policy and sought that it be applied to mining ventures proposed for Barrytown, Ms Easton clarified that the policy could be applied throughout all districts covered by the Plan.
- 413. Ms Easton supported in part Laura Garber’s (\$278.005) request to amend the policy to make specific reference to requiring ecotourism activities to complement and enhance the native flora and fauna of significance. However, she considered it was inappropriate to specify what ecotourism activities the policy would apply to, and considered that this judgment was best applied as part of the assessment of a resource consent application.
- 414. The s42A Report recommended no amendments to ECO-P4.

ECO – P5

- 415. Ms Easton acknowledged and supported the eight submission points that sought to retain ECO-P5 as notified.
- 416. In response to the submission points made by Poutini Ngāi Tahu (\$620.421) that sought to have this policy include “*Sites of Significance to Māori if they are owned by Poutini Ngāi Tahu*”, Ms Easton did not support the relief sought. She considered that if there was land to which this policy should apply, it would be more appropriate that the land be identified as Māori Purpose Zone, instead of being subject to another overlay.
- 417. In response to the similar submission points made by Forest and Bird (\$560.204) to require adverse effects to be managed in accordance with the RPS and Frida Inta (\$553.069) and Buller Conservation Group (\$552.069) requests to replace “*minimises*” with “*ensures less than minor*”, Ms Easton did not support the relief sought. She noted the submissions need to be considered in light of the NPSIB provisions that relate to specified Māori Land and how SNA on specified Māori land are to be managed. While she noted there were currently no

SNA on this land, she considered it remained a possibility and therefore the notified version of the policy gives effect to the NPSIB.

418. The s42A Report recommend no amendments to ECO-P5.

ECO – P6

419. Ms Easton acknowledged the submission points from Te Mana Ora (\$190.321), David Moore (\$65.013) and GDC (\$608.050) that sought to retain ECO-P6 as notified. However, she noted her recommended amendments in response to other submissions.
420. Ms Easton did not support the submission points made by New Zealand Coal and Carbon Limited (\$472.015) and Straterra (\$536.024 and \$536.048) that sought to remove the word “avoid” from the policy because she considered the policy gives effect to the RPS, which provided strong direction to avoid the adverse effects set out in ECO-P6.
421. In response to the submission points¹⁰⁸ that sought to make provision for biodiversity offsetting or compensation, Ms Easton did not support the relief sought. This was because biodiversity offsetting and compensation were provided for in very limited circumstances in both the RPS and the NPSIB and she considered there was other policy addressing these circumstances.
422. In response to the submission points from Westpower (\$547.255) and Forest and Bird (\$560.205) that sought to replace this policy with RPS Chapter 7 Policy 2, Ms Easton did not support the relief sought. She noted this would duplicate a technical policy from the RPS to the TTPP and she considered ECO-P6 gives effect to the policy from the RPS.
423. In response to the submission points¹⁰⁹ that sought to add the words “*with the exception of manuka and kanuka*” to clause (b) of the policy, Ms Easton did not support the relief sought. She noted the policy was implementing the requirements of the RPS and it referenced the Threatened Environments Classification system. She noted manuka and kanuka present in a category one or two Threatened Environment Classification may be associated with fauna habitat or plants that only occur in that land environment. She explained that this part of the policy did not mean that all vegetation in all locations should be protected, rather it focussed very carefully on the types of land environments (ecosystem types) that are threatened in the ecological districts on the West Coast.
424. Ms Easton did not support Westpower’s (\$547.254) request to replace “*assessing consents*” with “*providing for*” because she considered the policy was an assessment criteria policy to assist with the resource consent process.
425. In response to the similar submission points made by the AQA (\$521.006) and Bathurst (\$491.016) that sought to enable the effects management hierarchy rather than avoiding effects, Ms Easton did not support the relief sought. This was because it did not reflect the direction of the RPS. While she acknowledged the NPSIB made provision for the use of the effects management hierarchy for a range of specified activities, she considered that this was best addressed in a separate policy.

¹⁰⁸ William McLaughlin (\$567.175), Chris J Coll Surveying Limited (\$566.093), Chris & Jan Coll (\$558.093) and Laura Coll McLaughlin (\$574.93)

¹⁰⁹ WMS Group (\$599.054), TiGa Minerals and Metals Limited (\$493.050), Birchfield Coal Mines Ltd (\$601.037), BRM Developments Limited (\$603.026), Birchfield Ross Mining Limited (\$604.031), Phoenix Minerals Limited (\$606.027), Whyte Gold Limited (\$607.026), Birchfield Ross Mining Limited (\$604.112)

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426. In response to Transpower's (S299.074) request to clarify the relationship between activities set out in the Energy Chapter and the ECO Chapter, Ms Easton acknowledged that the matter was not easily dealt with in this policy. She considered there could be merit in including a specific policy relating to the National Grid in the ECO Chapter and she invited Transpower to provide appropriate wording at the hearing.
427. Ms Easton did not support Manawa's (S438.078) request to have the policy only apply to areas of significant indigenous vegetation and significant habitats of indigenous fauna because she considered the policy would then not give effect to the RPS, which has a focus on the protection of threatened species. She also did not support the request to amend clause (b) to refer to species rather than environments because the Threatened Environments Classification used is based on environments not species. To address any confusion or unfamiliarity with the classification system referred to in the policy, she recommended the inclusion of a definition.
428. In response to the submission point made by Federated Farmers (S524.063) that sought more explanation for ECO-P6(c), Ms Easton supported the relief sought. She recommended the inclusion of an advice note referring plan users to the NZ Threat Classification website where the current threat status of a species can be identified.
429. Ms Easton supported the relief sought by the Director General (S602.070) to simplify clause (c) of the policy. She agreed that the amended wording better supported the direction of the NPSIB and eliminated the difficulty of how to determine "*a reasonably measurable reduction*".
430. In response to the submission point made by the West Coast Penguin Trust (S275.004) that sought amendments to clause (c) to extend the level of species referred to, Ms Easton supported the relief sought in part. She acknowledged that the relief sought is similar to the Director General's submission and that the recommendation responding to that submission also addresses the Penguin Trust submission.
431. The s42A Report recommended amending **ECO-P6** as follows:

ECO-P6

*When ~~assessing consents~~ **providing** for subdivision, use and development, avoid activities which will:*

- a. Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;*
- b. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level; and*
- c. Result in a ~~reasonably measurable~~ reduction in the ~~local~~ population **size or occupancy of Threatened or At Risk (Declining) species** ~~of threatened taxa in the Department of Conservation Threat Categories 1–3a—nationally critical, nationally endangered and nationally vulnerable~~ **or in the population size or occupancy of locally endemic species.***

Advice Note:

Information on the Threat Classification status of individual species can be found on the New Zealand Threat Classification System data base at <https://nztcs.org.nz>

ECO – P7

432. Ms Easton acknowledged the submission points that sought to retain ECO-P7 as notified or specifically supported clause (h) of the policy. However, she noted her recommended amendments in response to other submissions.
433. In response to the submission point made by Poutini Ngāi Tahu (S620.143) that sought for this policy to apply to all areas of indigenous vegetation and habitat fauna, not just those areas identified as ‘significant’, Ms Easton supported the relief sought in part. She commented that as the identification of significant indigenous biodiversity had not been undertaken on the West Coast, that was the practical effect of this policy. To clarify this, Ms Easton recommended that the policy refer to “*areas of significant indigenous biodiversity*” (which is a defined term), rather than “*areas of indigenous vegetation and habitat fauna*”.
434. Ms Easton did not support Forest and Bird’s (S560.207) request to apply to SNA and the land adjacent to them because she considered this was consistent with previous recommendations. However, she noted that the recommendation to refer to a defined term (as set out in response to the Poutini Ngāi Tahu submission above) would partly address the submission point.
435. In response to the various submission points¹¹⁰ that sought an addition relating to the “*functional and operational needs*” of an activity, Ms Easton supported the relief in part. She considered that with some amendment there was an appropriate link to the NPSIB and RPS in relation to regionally significant infrastructure (RSI), and mineral and aggregate extraction with significant national benefit.
436. In response to the submission points¹¹¹ that sought additions related to the temporary or permanent nature of effects, Ms Easton supported the relief in part. She acknowledged that the RPS included policy that supported the provision for minor and transitory adverse effects, and as such recommended adding a clause relating to this.
437. Ms Easton supported the relief sought by New Zealand Coal and Carbon Limited (S472.016) and Straterra (S536.049) to add “/or” in clause (b) after “*protection and*”, as there were scenarios where vegetation may already be formally protected.
438. Ms Easton supported the addition of a reference to the effects management hierarchy in clause (g) as sought by Te Mana Ora (S190.322) because she considered this was consistent with the NPSIB.
439. In response to the submission point made by the Director General (S602.071) that sought multiple matters of relief, s42A Report records the following:

¹¹⁰ Forest and Bird (S560.477), TiGa Minerals and Metals Limited (S493.051), Whyte Gold Limited (S607.027), WMS Group (S599.055), Birchfield Coal Mines Ltd (S601.038), Phoenix Minerals Limited (S606.094), Birchfield Ross Mining Limited (S604.113), BRM Developments Limited (S603.027), Manawa Energy (S438.079) and Buller District Council (S538.203)

¹¹¹ Buller District Council (S538.203), Peter Langford (S615.046), Karamea Lime Company (S614.046), Koiterangi Lime Co LTD (S577.037), Catherine Smart-Simpson (S564.030), William McLaughlin (S567.177), Steve Croasdale (S516.036), Geoff Volckman (S563.025), Chris & Jan Coll (S558.095), Chris J Coll Surveying Limited (S566.095) and Laura Coll McLaughlin (S574.095)

- (a) Ms Easton's recommendation responding to the submissions about functional and operational need also addressed the request to reference locational constraints in relation to RSI and renewable electricity generation.
 - (b) Ms Easton did not support including reference to whether an assessment of alternatives had been provided because she considered this type of assessment was only necessary under the RMA when there were significant adverse effects on significant indigenous biodiversity. She noted that the same matter was considered in a previous hearing stream and that an advice note was recommended to be added to ECO-R5.
 - (c) Ms Easton did not support adding "*minimising*" to clause (h), as she did not agree it improved clarity.
 - (d) Ms Easton supported adding a new clause – "*the extent of net gain achieved by biodiversity offsetting or compensation*" because this was consistent with the direction of the NPSIB.
440. In response to the submission point made by Manawa (S438.079) that sought multiple matters of relief, the s42A Report records:
- (a) Ms Easton supported replacing "*critical infrastructure*" with "*regionally significant infrastructure*" because this was consistent with Plan-wide recommendations.
 - (b) Ms Easton supported deleting "*or adjacent to*" from clause (c) because this was consistent with the RPS.
 - (c) Ms Easton supported in part adding "*significant*" in relation to residual adverse effects to be offset or compensated for but recommended "*more than minor*" to be consistent with NPSIB terminology.
441. Ms Easton supported in part Forest and Bird's (S560.478) request to replace the term '*active management*' in clause (b) with "*measures to restore or improve all or part*" to make it clear what active management is. She did not support adding a new clause relating to the adequacy of the assessment applying to the significance criteria in the RPS because she considered the NPSIB criteria superseded the RPS and the process for identifying SNA is set out in ECO-P1.
442. Ms Easton did not support Westpower's (S547.0502 and S547.0505) request to add "*managing the adverse effects of activities*" because she considered assessment applied to resource consents. She did not support expanding clause (a) to include all energy activities and infrastructure because in the context of SNA, only RSI should be considered as specified infrastructure as provided for in the NPSIB. She also did not support amending the wording of clause (h) because she considered other recommended changes provided better clarity and consistency with the NPSIB.
443. Ms Easton did not support the Frida Inta (S553.070) and the Buller Conservation Group (S552.070) request to replace "*subdivision, use and development*" with "*resource consent process*" because it was the activity being assessed not the process. She also did not support including "*cumulative effects within the catchment/district*" or placing priority on avoiding effects before considering the effects management hierarchy. She considered cumulative effects were already addressed in the policy and other amendments recommended in terms of the effects management hierarchy were more appropriate and consistent with the NPSIB

and RPS. Ms Easton supported making a reference to adverse effects on biodiversity in clause (d) to make the intent clearer.

444. The s42A Report recommended amending **ECO-P7** as follows:

ECO-P7

*When assessing resource consents in areas of significant indigenous **biodiversity** ~~vegetation and significant habitats of indigenous fauna~~, consider the following matters:*

- a. The necessity for the activity to provide for ~~critical~~ **regionally significant** infrastructure or renewable electricity generation;*
- b. **The functional needs or operational needs of regionally significant infrastructure, or and aggregate extraction of significant national public benefit;***
- c. **Whether the adverse effects are minor or transitory;***
- d. Whether formal protection and ~~/or active management of~~ **measures to restore or improve** all or part of any area of significant indigenous vegetation or habitat will occur as part of the subdivision, use or development;*
- e. The extent to which the proposed activity recognises and provides for Poutini Ngāi Tahu cultural and spiritual values, rights and interests;*
- f. The cumulative **adverse** effects of activities **on biodiversity** within ~~or adjacent to~~ any area of significant indigenous vegetation or habitat;*
- g. The effects the activity may have on the introduction or spread of exotic weed species and pest animals both terrestrial and aquatic;*
- h. The impacts on mahinga kai;*
- i. The impact of the activity on the values of any area of significant indigenous vegetation or habitat, or threatened species and how any potential impact could be avoided, remedied or mitigated **by applying the effects management hierarchy;** and*
- j. The appropriateness of any biodiversity offsetting or compensation in accordance with Policy 9 to offset any **more than minor** residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied; and*
- k. **The extent of net gain achieved by biodiversity offsetting or compensation.***

445. The Panel notes the recommended wording in the s42A Report Appendix 1 differed as follows:

- b. **The functional needs or operational needs of regionally significant infrastructure, mineral extraction of significant national public benefit or aggregate extraction of significant regional or national public benefit;***
- c. **Whether this is for the operation or expansion of a coal mine that meets the requirements of Clause 3.11(1) of the National Policy Statement for Indigenous Biodiversity;***

ECO-P8

446. Ms Easton acknowledged the submission points that sought to retain ECO-P8 as notified. However, she noted her recommended amendments in response to other submissions.
447. Ms Easton did not support Forest and Bird's (S560.208) request to replicate the wording from Policy 8 of the RPS because the RPS policy did not cover all matters set out in ECO-P8 and the direction of the NPSIB.
448. In response to the submission points made by West Coast Penguin Trust (S275.005) and Clare Backs (S444.007) that sought to replace "*maintain*" with "*protect, maintain and support the enhancement of*", Ms Easton did not support the relief sought. She noted the policy related to the wider indigenous ecosystems beyond SNA and in this context she considered the appropriate terminology was "*maintain*" to reflect the difference in weight.
449. In response to the submission points made by Frida Inta (S553.071) and Buller Conservation Group (S552.071) that sought the rearrangement and addition of words, the most significant being a reference to "*ecosystem services*", Ms Easton supported the relief in part.
450. In response to the submission points made by WMS Group (S599.056), TiGa Minerals and Metals Limited (S493.052) that sought to amend the wording of clause (b) of the policy to change the phrasing to refer to "*managing*" instead of "*minimising*", Ms Easton supported the relief in part.
451. In response to the submission point made by Bathurst (S491.017) that sought to replace the reference to protected wildlife with "*significant habitats of indigenous fauna*", Ms Easton supports the relief in part.
452. In response to the various submission points¹¹² that sought to amend the wording of clause (d) to replace "*preserving*" with "*managing adverse effects*" on protected wildlife, Ms Easton supported the relief sought.
453. Ms Easton did not support the submission point made by Forest and Bird (S560.479) that sought to amend the wording of clause (b) to change "*minimising*" to "*avoid, remedy or mitigate*".
454. In making her recommendations on the above submission points, Ms Easton referred to the direction and wording of the RPS, the NPSIB and the NZCPS in relation to areas outside of SNA.
455. In relation to the submission point made by Te Tumu Paeroa (S440.026) that sought to replace "*providing*" with "*improving where appropriate*" in relation to clause (b) and for the policy to refer to all Māori landowners, Ms Easton supported the relief sought in part. She considered "*improving where appropriate*" was better terminology as there may be circumstances where providing access was inappropriate. She did not support the reference to all Māori landowners.
456. Ms Easton supported the Director General's (S602.072) request to amend clause (e) and to add an additional clause "*encourage and enable site and landscape scale biodiversity programmes to manage plant and animal pests*" because this was consistent with the strategic direction of the chapter. She also acknowledged that the amendments sought to

¹¹² TiGa Minerals and Metals Limited (S493.051), Whyte Gold Limited (S607.027), WMS Group (S599.055), Birchfield Coal Mines Ltd (S601.038) and Phoenix Minerals Limited (S606.094)

clause (e) to replace “*recognising the benefits of*” to “*encourage and enabling active conservation*” was also more consistent with the strategic direction.

457. In response to NZAAA’s (S166.014) request to add a new clause relating to providing for the clearance of weeds and pests, Ms Easton supported the relief in part. She considered that the recommendation to accept the Director General submission on this policy better addressed this submission.
458. Ms Easton did not support Westpower’s (S547.256) request to add a new clause – “*providing for the sustainable use of indigenous habitats and ecosystems for the benefit of the community*” because she considered this did not fit with the intent of the policy.
459. Ms Easton supported Frida Inta (S553.073) and Buller Conservation Group (S552.073) requests to delete elements of duplication with ECO-P10 by deleting ECO-P8(c) and combining it with ECO-P10(b).
460. The s42A Report recommended amending **ECO-P8** as follows:

ECO-P8

Maintain indigenous habitats and ecosystems across the West Coast/Te Tai o Poutini by:

- ~~a.~~ *Maintaining, and where appropriate enhancing or restoring the functioning of ecological corridors, linkages, dunes and indigenous coastal vegetation and wetlands;*
- ~~b.~~ *Minimising adverse effects on, and providing improving access, where appropriate, to areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu;*
- ~~c.~~ ~~*Restricting the modification or disturbance of coastal indigenous vegetation, dunes, estuaries and wetlands;*~~
- ~~d.~~ *c. Preserving Managing adverse effects on protected wildlife threatened and at-risk species; and*
- ~~e.~~ *d. Encouraging and enabling site and landscape scale biosecurity programmes to manage plant and animal pests*
- ~~f.~~ *e. Recognising the benefits of Encouraging and enabling active conservation management of indigenous biodiversity, including voluntary animal and plant pest and stock control and/or formal legal protection*

ECO-P9

461. Ms Easton acknowledged the submission points that sought to retain ECO-P9 as notified. However, she noted her recommended amendments in response to other submissions.
462. In response to various submission points¹¹³ that sought similar relief related to amending the wording of this policy, Ms Easton supported the relief in part.

¹¹³ Forest and Bird (S560.209), Suzanne Hills (S443.025, S443.026), Westpower Limited (S547.257), Inger Perkins (S462.016), Buller Conservation Group (S552.072), Frida Inta (S553.072), Karen Lippiatt (S439.028), Federated Farmers of New Zealand (S524.064), Director General of Conservation (S602.073) and Manawa Energy (S438.080)

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463. Ms Easton acknowledged that the direction of the RPS had largely been superseded by the NPSIB with regard to biodiversity offsetting and compensation and the effects management hierarchy. She also confirmed that she had given greater weight to the NPSIB with regard to this policy, and where there was scope in the submissions to do so.

464. On this basis, Ms Easton recommended amending ECO-P9 as follows:

ECO - P9

~~*Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where:*~~

~~*a. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity;*~~

~~*b. The conservation outcomes are measurable and positive; and*~~

~~*c. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting.*~~

Provide for biodiversity offsetting and biodiversity compensation as part of the effects management hierarchy in accordance with the principles set out in Appendix 3 and Appendix 4 in the National Policy Statement for Indigenous Biodiversity.

ECO-P10

465. Ms Easton acknowledged the submission points that sought to retain ECO-P10 as notified. However, she noted her recommended amendments in response to other submissions.

466. In response to the submission point made by Westpower (S547.258) that sought to delete the policy and relocate it to the Coastal Chapter, Ms Easton did not support the relief sought. She noted all indigenous vegetation clearance was dealt with in the ECO Chapter, including within the coastal environment.

467. Ms Easton did not support the relief sought by the West Coast Penguin Trust (S275.014) to reference Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy in the policy because she considered the document principally drives the Department of Conservation and its Conservation Boards in the management of their land and responsibilities.

468. In response to the submission point made by Laura Garber (S278.006) that sought to protect indigenous biodiversity in the coastal environment from subdivision, use and development, Ms Easton supported the relief sought. However, she did not support negating resource consents for mineral extraction on coastal low-lying land because a district plan could do this.

469. In response to the similar submission points made by TiGa Minerals and Metals Limited (S493.053), WMS Group (S599.057) and Waka Kotahi NZTA (S540.086) that sought that clause (b) of the policy only applies to “significant” adverse effects on “other” indigenous vegetation, Ms Easton did not support the relief sought. She considered this was inconsistent with RPS Chapter 9 Policy 1.

470. In response to the submission point made by the Director General (S602.074) that sought various amendments to the policy, the s42A Report records:

- (a) Ms Easton supported the request to add a clause referencing Policy 11 (a) of the NZCPS because it was consistent with the NPSIB, particularly in relation to threatened and at-risk taxa.
 - (b) Ms Easton did not support deleting “*significant*” from clause (a) in relation to indigenous biodiversity because she considered the submitter had misquoted the notified policy which did not include “*significant*” in front of adverse effects.
 - (c) Ms Easton supported adding reference to Policy 11(b) of the NZCPS over a reference to the effects management hierarchy as set out in the NPSIB because the NZCPS prevails over the NPSIB.
471. In response to the submission point made by Forest and Bird (S560.481) that sought similar amendments to the Director General, Ms Easton considered her recommendations in response to the Director General’s submission also addressed the relief sought.
472. The s42A Report recommended amending **ECO-P10** as follows:

ECO – P10

Protect indigenous biodiversity in the coastal environment from inappropriate subdivision, use and development by:

- a. ***Avoiding adverse effects on indigenous biodiversity set out in Policy 11(a) of the NZCPS, and***
- b. *Avoiding adverse effects on significant indigenous biodiversity; and*
- c. *Avoiding, remedying or mitigating ~~other~~ adverse effects on **coastal** indigenous vegetation, **dunes, estuaries, wetlands,** habitats and species within the coastal environment **in accordance with the effects management hierarchy and Policy 11(b) of the NZCPS.***

MINZ-P5

473. Ms Easton acknowledged that this policy was considered as part of the Mineral Extraction hearing, where it was recommended to be deleted. However, she noted the submissions were also reallocated to the ECO Chapter hearing Stream so that they could be considered in the context of the NPSIB and the wider ECO Chapter provisions.
474. Ms Easton noted that the policy relates to the relationship between mineral extraction and SNA and that the NPSIB now provides a framework and direction relating to this. She noted the exceptions provided in the NPSIB to enable mineral extraction in an SNA was limited to activity providing a significant national benefit, and where it could be demonstrated that there was a functional or operational need to be located in the SNA, and that there was no practicable alternative location. Ms Easton’s view was that few of the mineral extraction activities on the West Coast would meet these tests.
475. Ms Easton considered that the recommendations she has made to ECO-P2 and ECO-P9 sufficiently provide for these matters, and she supported the recommendation from the Mineral Extraction Chapter hearing to delete MINZ-P5.

Hearing and Submitter Evidence/Statements

Policies (General)

476. Mr Brass, for Director General, addressed the policies generally. He considered that the suite of policies in the ECO Chapter failed to give full effect to clause 3.10(2) of the NPSIB, in particular subclauses (b)-(d). It was his opinion that there were significant gaps relating to avoiding effects on disruption, fragmentation and loss of function. He analysed the difference between the policies in the NPSIB and the RPS and concluded there were gaps in terms of the “avoid” requirements in RPS Chapter 7 Policy 2, which the TTPP must give effect to. Mr Brass noted that only one ECO objective required protection of RMA s6(c) matters and none of the policies required protection, except for ECO-P6.

ECO – P1

477. Ms Snoyink, for Forest and Bird, confirmed general support for the s42A Report recommendations that set out an approach and timeline for the assessment, identification and mapping of SNA across the three districts. However, she considered that the approach relating to indigenous vegetation clearance prior to a site assessment being undertaken should be clearer. She noted the reworded policy provided no direction for case-by-case assessment when a landowner sought resource consent before the process set out in the policy took place. Her statement set out the following amendments to ECO-P1 (based on s42A Report recommendation):

A. Identify areas of significant indigenous vegetation and fauna habitat....

1. *The criteria*
2. *In the Grey ...*
3. *Region – wide ...*
5. *Until a **Plan Change has been notified for identified Significant Natural Areas to be included in Schedule Four** ~~site has been assessed as to whether it contains a Significant Natural Area~~ a **general-restrictive** indigenous vegetation clearance rule will apply to that site.*
6. *Once a site has been assessed **and a Plan Change notified to identify Significant Natural areas on that site or for the District,** a less restrictive general vegetation clearance rule will apply to other indigenous vegetation on that site that is outside of **any identified** ~~the~~ Significant Natural Area.*

B. Prior to a Plan Change being notified to identify Significant Natural Areas under A above, protect significant natural areas meeting the criteria in Appendix 1 of the RPS by:

1. **enabling indigenous vegetation clearance necessary for the operation and maintenance of lawfully established buildings, structures and infrastructure where adverse effects are no more than minor; and**
2. **for other indigenous vegetation clearance requiring an assessment in accordance with Appendix 1 of the RPS or the NPSIB to ensure that adverse effects can be appropriately avoided, remedied or mitigated to protect significant values and otherwise maintain indigenous biodiversity.**

478. Mr Kennedy, for Westpower, acknowledged the recommended wording contained dates relating to when the processes would be met, but still had concern about the recommended amendments. He considered that the addition relating to wetlands was not a matter for a

district plan and would be addressed through regional plan processes; and did not support the addition of clause (3) to the policy. He questioned whether the recommended timeframes for assessing and identifying SNA in clause (4) would allow time for consultation with landowners. He considered clauses (5) and (6) required amendments to clarify that affected parties would have opportunity to participate in the identification process, as follows:

*Until a site has been ~~assessed as to whether it contains a Significant Natural Area~~ **identified in the plan** a general indigenous vegetation clearance rule will apply to that site.*

479. Mr Brass acknowledged the significant amendments recommended to align it with the NPSIB and was generally comfortable with the policy. and in particular the timeframes and the reference to the NPSIB criteria. However, he had reservations about the SNA already identified in the Grey District and was unclear if they would require reassessment to be consistent with the NPSIB criteria. He relied on the evidence of Dr Marshall and Ms Mealey and concluded that it is possible not all SNA in the Grey District had been included in Schedule Four.

480. Ms Styles, for Manawa, agreed it was appropriate to align the policy with the NPSIB but considered it was overly complex and that some of the clauses read as methods rather than policy. She had reservations about the ability to meet the timeframes. She suggested the policy be reworded as follows, and that the additional detailed procedural matters be described in a schedule:

To identify and map areas of significant indigenous vegetation and fauna habitat, using the criteria and process set out in Appendix 1 of the National Policy Statement for Indigenous Biodiversity 2023, and include these in Schedule Four through a Plan Change.

481. Ms Linscott, for Federated Farmers, agreed with Ms Easton that the process for identifying SNA will attract opposition from landowners. She also considered that the cost associated with identifying the SNA will vastly exceed the \$500,000 figure suggested in the s42A Report. She sought to remove the reference to Appendix 1 in the policy and to delete recommended clauses (5) and (6).

482. Ms Sannazzaro, for Federated Farmers, sought to ensure that the onus and cost of assessing and identifying SNA did not fall to the property owner. She generally agreed with the recommended amendments in the s42A Report, but requested removal of the dates, reference to Appendix 1 and deleting new clauses (5) and (6).

483. Ms Inta supported the recommendation but identified a minor typo in ECO-P1.

484. Ms Whitney, for Transpower, confirmed that she had no general concerns about ECO-P1, but suggested deleting clause (6) because of practical implementation difficulties.

485. Ms Hills supported the inclusion of the process for identifying SNA, but she did not support the approach to vegetation clearance and requested the suggested amendments by Forest and Bird.

ECO – P2

486. Ms Snoyink supported the recommended amendment to change “allow” to “provide for”, but outlined concerns that only selected parts of the NPSIB had been included. She

highlighted the adverse effects required to be avoided by clause 3.10(2) and the effects identified in RPS Chapter 7 Policy 2 that were not included. She noted it was not clear how effects would be managed in accordance with the effects management hierarchy and that this only applied to clause (d) of the policy. She considered relying on the definition of effects management hierarchy was inadequate to ensure applicants demonstrate how each step is applied.

487. Ms Pull, for Poutini Ngāi Tahu considered the definition for “Poutini Ngāi Tahu land” recommended in the s42A Report would narrow its application from what she understood it to mean. She considered the provisions in the pTTPP should apply to land owned or managed by Poutini Ngāi Tahu and requested alternative wording for ECO-P2 as follows:

ECO-P2

~~Allow~~ **Provide for** activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna **where the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat and:**

...

- c. This is undertaken on **land managed or owned by** Poutini Ngāi Tahu ~~or Te Rūnanga o Ngāi Tahu land~~ in accordance with an Iwi/Papatipu Rūnanga Management Plan; or

488. The joint position of Poutini Ngāi Tahu and Te Tumu Paeroa dated 14 August 2024 recorded an agreed position on ECO-P2 that read as follows:

ECO-P2

...; or

- d. This is undertaken on **Māori land in accordance with a resolution of owners of a trust constituted under Te Ture Whenua Māori Act 1993, or where no such trust has been constituted, in accordance with a resolution of assembled owners made in accordance with the Māori Assembled Owners Regulations 1995.**

489. Ms Sheard’s legal submissions on behalf of Bathurst sought amendments to ECO-P2 to ensure the following:

- (a) That the intent of the MINZ and BCZ were recognised and provided for;
- (b) That established and operating mineral extraction activities were recognised and provided for;
- (c) That the ability to apply the full effects management hierarchy was provided for;
- (d) That recognition was given to both operational and functional need for activities located within areas of significant indigenous vegetation or significant habitats of indigenous fauna; and
- (e) Consistency with the NPSIB by referencing the test of no overall net loss and that ECO-P2 applied only to scheduled SNA and not all areas of indigenous biodiversity.

490. Ms Hunter, for Bathurst, supported the s42A Report recommended amendments to refer to the functional and operational need of activities to be located within SNA and to reference the effects management hierarchy. Her evidence also referenced her evidence for the Mineral Extraction hearing related to the definition of “*lawfully established activity*”. She considered ECO-P2 should be revised to appropriately acknowledge that activities already approved to take place may permit biodiversity loss and that those effects had been considered acceptable. Ms Hunter proposed amendments to the s42A Report version of ECO-P2 as follows:

ECO – P2

*Provide for activities within areas of **significant natural areas as defined in Schedule 4:***

- a. This is for a lawfully established activity and adverse effects are no greater in intensity, scale, or character ~~over time~~ **than what has already been authorised to occur** ~~than at the operative date~~ and do not result in the loss of ecosystem representation or degradation of ecological integrity; or*
 - b. It is for Poutini Ngāi Tahu Activities; or*
 - c. This is undertaken on Poutini Ngāi Tahu land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*
 - d. The adverse effects of the activity on the significant indigenous vegetation or fauna habitat **within the SNA** are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:*
 - i. Construction or upgrade of regionally significant infrastructure; or*
 - ii. Mineral extraction that provides significant national benefit; or*
 - iii. Aggregate extraction that provides significant national or regional benefit; or*
 - iv. The operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal.*
491. Dr Bramley, for Bathurst, did not support the proposed addition of “*where the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna*”. He considered that both offsetting and compensation were intended to address more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise and remedy adverse effects were sequentially exhausted. He noted the policy enabled effects to be managed in accordance with the effects management hierarchy, but that this did not seem to be supported by the wording of ECO-O2. Dr Bramley did not support the s42A Report recommendation to add the words “*and adverse effects are no greater in intensity, scale, or character over time than at the operative date, and do not result in the loss of extent or degradation of ecological integrity*”. He considered the amended wording could effectively make extensions to existing lawful activities a prohibited activity because an extension was by definition greater in scale.
492. Ms Styles supported the addition of “*operational need*” in the policy. She also reiterated the need to include recognition in the policy for activities that contribute to wellbeing and climate change mitigation or adaption measures. She noted clause (d) requiring application of effects hierarchy to all activities was not appropriate for renewable electricity generation and suggested amendments to the s42A recommendation version, as follows:

ECO-P2

*Provide for activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat and, **other than for renewable electricity generation activities:***

...

493. Mr Kennedy supported adding “operational need” in the policy. However, he was concerned that the recommended amendments had changed the intention of the policy from one that ‘allows’ for uses, to one that more broadly ‘provides’ for them. He considered that if the recommended wording remained, additional amendments were necessary to allow for lawfully established activities and those having a functional need. He suggested two policies as follows:

ECO-P2A

Allow activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where;

- a. This is for a lawfully established activity **and adverse effects are no greater in intensity, scale, or character over time than at the operative date and do not result in the loss of ecosystem representation or degradation of ecological integrity;** or*
- b. **The adverse effects of the activity on the significant indigenous vegetation or fauna habitat are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:***
 - i. **Construction or upgrade of regionally significant infrastructure;** or*
 - ii. **Mineral extraction that provides significant national benefit;** or*
 - iii. **Aggregate extraction that provides significant national or regional benefit;***

or

- iv. **The operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal.***

ECO-P2B

Provide for activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where:

- a. It is for a Poutini Ngāi Tahu **Activities** cultural purpose; or*
- b. This is undertaken on Poutini Ngāi Tahu or Te Rūnanga o Ngāi Tahu land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*
- c. The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.*

494. Ms Whitney acknowledged the recommended amendments to ECO-P2 were significant in order to give effect to the NPSIB. However, she expressed concern that there was no recognition that the NPSIB provisions did not apply to electricity transmission activities or assets. She considered the policy did not give effect to the NPSETA and did not reconcile

with ENG-P8. She suggested amending the policy so that it did not apply to the National Grid.

495. Ms Linscott did not support the s42A Report recommended amendment to ECO-P2 and considered the notified policy was clearer and more succinct. She did not agree that clause (a) would provide for farm and pasture maintenance because it could result in the loss of ecosystem representation or the degradation of ecological integrity. She considered onus would be on landowners to prove this and that would potentially establish a litigious relationship.
496. Ms Sannazzaro considered the policy should be more specific about providing for the maintenance of improved pasture in order to give effect to clause 3.17 of the NPSIB.
497. Mr Brass acknowledged the s42A Report recommendation had incorporated some of the submission points made by the Director General and sought to give effect to the NPSIB. However, he recommended rewording clause (a) "*loss of ecosystem representation*" to "*loss of extent*" to align with the wording of the NPSIB.
498. Ms Smith for Terra Firma, raised concern about how new mineral extraction opportunities might be treated given the reference to '*significant national benefit*' in the recommended wording for ECO-P2. She suggested the policy was reworded to apply to any mining operation without the '*significant national benefit*' qualifier.
499. Ms Inta noted minor syntax amendments to clause (d) "*functional ~~need~~ or operational need*". She also considered the full NPSIB statement concerning mineral, aggregate and coal extraction should be incorporated into clause (d).
500. Ms Michelle Grinlinton-Hancock's tabled letter on behalf of KiwiRail Holdings Limited supported adding "*operational need*" in the policy. However, she considered other changes had significantly restricted the policy so that only activities that have no more than minor effects on significant indigenous vegetation or fauna habitat were provided for. She considered this extended beyond what the policy as notified intended, which was to enable specific activities. She noted confusion between the introductory statement of the policy and the separate clauses which would result in conflicting interpretation. She suggested retaining clause (d) and deleting the recommended additions from clause (a) and the introductory statement.
501. Ms Hills supported the change in wording from "*allow*" to "*provide for*". However, she considered the policy only partially incorporated clause 3.11(1)(a)(ii) of the NPSIB leaving out a critical part of the clause - "*that could not otherwise be achieved using resources within New Zealand*". She also had a concern that the application of the effects management hierarchy was not available for all activities.

ECO – P3

502. Ms Snoyink accepts the s42A Report amendment to change "*allowing*" to "*providing for*", as well as the addition of the two new clauses. However, she reiterated the submission point that the term '*enhancement*' was inappropriate and requested the additional clause sought in the submission.

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- 503. Ms Pull accepted the s42A recommendation to not add “*Māori landowners*” to the policy. Te Tumu Paeroa formally withdrew their submission point on ECO-P3 on 22 August 2024, after reaching agreement with Poutini Ngāi Tahu.
- 504. Mr Brass supported the s42A Report recommended changes.
- 505. Ms Perkins for the West Coast Penguin Trust, supported adding “*indigenous fauna habitat*”.
- 506. Ms Inta acknowledged the recommended changes were an improvement. However, she still supported inclusion of a separate policy to maintain, restore and enhance indigenous biodiversity that was not considered significant. Furthermore, she had reservations whether SNA would need protection or restoration given the nature of their significance.
- 507. Mr Kennedy supported the wording of the additional clauses as set out in the s42A Report.
- 508. Ms Hills supported the change to the wording from “*allow*” to “*provide for*”.

ECO – P4

- 509. Ms Inta expressed concern about the cycle trails and their location within SNA because they increase weed and pests in these areas and create edge effects. She sought that more scrutiny (than afforded by ECO-P4) be given to establishing cycle trails within SNA.
- 510. Ms Snoyink reiterated the concerns set out in Forest and Bird’s submission. She acknowledged that if other relief was made to reference the policies from the RPS, the concerns with this policy would be resolved.

ECO – P5

- 511. Ms Snoyink reiterated the concerns set out in Forest and Bird’s submission. Like ECO-P4, she acknowledged that if other relief was made to reference the policies from the RPS, the concerns with this policy would be resolved.
- 512. Ms Pull explained the Poutini Ngāi Tahu submission sought to provide for indigenous vegetation clearance on sites and areas of significance to Māori to enable rangatiratanga. The table attached to her evidence records that she accepted the s42A Report recommendation to not make any changes to the policy.

ECO-P6

- 513. Mr Kennedy acknowledged that replication of the RPS policy was not necessary to give effect to the policy. However, considered in the context of an ‘avoid’ policy, there should be some reference to the NPSIB. He also raised concern that there was potential conflict between both ECO-P1 and ECO-P6 and the NPSIB, and that it needed to make it clear that the NPSIB included exceptions to the strict avoidance. He noted Westpower’s submission that sought to replace “*assessing consents*” with “*providing for*” was not supported by Ms Easton in the commentary of the S42A report. However, the recommended wording for the policy (at paragraph 300) made the requested change and he therefore sought clarification.
- 514. Ms Snoyink reiterated the concern set out in Forest and Bird’s submission that the policy did not accurately give effect to RPS Chapter 7 Policy 2.

515. Ms Whitney reiterated concern that this policy had a strong 'avoid' directive that was not clearly confined to significant indigenous vegetation or SNA. In response to the s42A Report invitation for Transpower to provide alternative wording for this policy, Ms Whitney suggested that ECO-P6 not apply to the National Grid, and that ENG-P8 be relied on instead.

516. Ms Styles reiterated that this policy could be better aligned with higher order documents and clarify whether the policy applied to all indigenous biodiversity or only SNA. She also sought clarification as to what document was referred to in clause (b) of the policy. She considered the recommended changes to clause (c) made the policy extremely restrictive and she suggested that a qualifier be added to the wording. She suggested amendments as follows:

*When providing for subdivision, use and development **within areas of significant indigenous biodiversity**, avoid activities which will:*

- a. Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;*
- b. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level **as at [date of plan being operative]**; and*
- c. Result in a **significant** reduction in the population size or occupancy of Threatened or At Risk (Declining) species or in the population size or occupancy of locally endemic species.*

517. Ms Linscott supported the addition of the recommended advice note.

518. Mr Brass supported the s42A Report recommendation but questioned any unintended consequences of the recommended wording relating to the addition of "*locally endemic species*". He suggested that the focus of the policy would be shifted from being on local populations of species (that may also be found elsewhere) to only those species that are not found elsewhere, which was not appropriate. He suggested retaining the word "*local population*" in clause (c). He was also concerned that ECO-P6 did not give effect to clauses 3.10(2)(b)-(d) of the NPSIB and that this would create a gap in the Plan because there would not be a policy to assess activities that do not comply with ECO-R7. He therefore suggested adding a new clause as follows:

- e. **within a Significant Natural Area, result in: disruption to sequences, mosaics or ecosystem function; fragmentation or the loss of buffers or connections; or reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems.***

519. Mr Brass also observed there was an error in the recommendation relating to the submission point to replace "*assessing consents*" with "*providing for*".

520. Ms Hunter sought clarification regarding the application of ECO-P6 and whether it related to activities within scheduled SNA or if it more broadly applied to any areas of indigenous biodiversity. If it was the latter, she was concerned about the broader applicability and suggested applying the scope of clause 3.16 from the NPSIB, which enabled the application of the effects management hierarchy.

521. Dr Bramley supported Ms Hunter's evidence to apply the effects management hierarchy.

522. Ms Perkins acknowledged the amendments recommended in the s42A Report and was generally supportive of them. However, she would like the '*declining*' At Risk classification sub-category to be removed.

523. Ms Hills supported the change to the wording for clause (c).

ECO-P7

524. Ms Pull accepted the s42A Report recommendation in relation to the areas of vegetation the policy relates to.

525. Ms Snoyink reiterated Forest and Bird's concern that the policy did not give effect to RPS Chapter 7 Policy 2. She considered it was necessary for the RPS Appendix 1 criteria to be referenced in this policy, as the policy will be relevant before the identification process as set out in ECO-P1 has taken place. She accepted the references to the biodiversity offsetting and compensation requirements of the NPSIB, but had concerns about clause (k). This was because ECO-P9 did not set any direction as to the appropriateness of these measures, and therefore she considered that the new clause (l), relating to net gain, would fit better with ECO-P9. She considered the addition of a clause in ECO-P7 would be beneficial, recognising that there were limits to offsetting. Ms Snoyink considered the policy was unclear in terms of how to apply the effects management hierarchy; and that there was little direction for how adverse effects were to be addressed outside of SNA.

526. Ms Styles considered the policy could be better aligned with higher order documents and that clauses (j), (k) and (l) not apply to renewable electricity generation activities. She suggested the policy could either exempt renewable electricity generation from the policy in its entirety, or include a subset as follows:

i. The impacts on mahinga kai;

and, other than for renewable electricity generation activities;

527. Mr Brass acknowledged the recommended changes in the s42A Report to align with the NPSIB. However, he reiterated the submission point that locational restraints should be referred to in the policy because he didn't agree that the "*functional and operational need*" addition satisfactorily addressed locational restraints. He offered alternative wording as follows:

*b. The functional needs or operational needs of regionally significant infrastructure, or mineral and aggregate extraction of significant national public benefit, **and whether there are any practicable alternative locations for those activities;***

528. Mr Kennedy accepted the recommended amendments in the s42A Report.

529. Ms Whitney acknowledged Transpower had not made a submission on this policy but considered the general submission point provided scope. She noted the s42A Report recommendation had amended this policy to make it relevant to the National Grid and that clauses (j), (k) and (i) required the application of the effects management hierarchy based on the provisions of the NPSIB. However, she advised the NPSIB did not apply to electricity transmission and that there was no higher order policy directive to offset or compensate for effects of electricity transmission on indigenous biodiversity. To address this, she sought that ECO-P7 not apply to the National Grid and ENG-P8 be relied on.

530. Ms Hunter supported the general intent of the recommended amendments to ECO-P7. However, she commented that the policy related to "*significant indigenous biodiversity*"

which, the definition indicates was only applicable to the subdivision rules. She considered it would be appropriate to align the terminology in ECO-P7.

531. Ms Smith, for Terra Firma, was concerned how new mineral extraction opportunities might be treated given the reference to ‘*significant national public benefit*’ in the recommended wording for ECO-P7. She suggested in her statement that the policy should be rephrased to apply to any mining operation without the ‘*significant national benefit*’ qualifier.
532. Ms Inta considered the policy was relevant to activities both around and within SNA, and given this, suggested amendments to the opening statement of the policy as follows:

*When assessing resource consents in areas of ~~where~~ significant indigenous ~~vegetation~~ and significant habitats of indigenous fauna **biodiversity, may be impacted** consider the following matters:*

533. Ms Inta noted clauses (a) and (b) were essentially the same, and that the retention of clause (b), with the addition of renewable electricity generation would be adequate, as follows:

*a. The functional needs or operational needs of regionally significant infrastructure, mineral extraction of significant national public benefit, **renewable electricity generation**, or aggregate extraction of significant regional or national benefit.*

534. Ms Inta reiterated her submission point regarding cumulative effects and disagreed with Ms Easton that they were already addressed. She considered cumulative effects in any SNA was not the same as cumulative effects across the region and she suggests an amendment. She also did not support the recommendation to delete “*or adjacent to*” from the policy. She suggested the following amendment to ECO-P7(g):

*f. The cumulative **adverse effects of activities on the biodiversity** ~~within or adjacent to~~ **of any area of significant indigenous vegetation or habitat, of activities within or adjacent to those areas; and the cumulative effects within the catchment/district;***

535. Ms Hills considered the policy should include a reference to using the RPS Appendix 1 criteria given the identification of SNA may not be immediate. She noted the amendment to clause (a) which deletes “*critical*” replacing it with “*regionally significant*”, which was not defined. She reiterated her comments from ECO-P2 relating to including the complete NPSIB wording in relation to mineral extraction. She also considered that clause (f) was weakened with the removal of the words “*or adjacent to*” and referenced adjacent airspace as an example.

ECO-P8

536. Ms Pull’s evidence noted that the further submission from Poutini Ngāi Tahu sought to disallow the amendments sought by Te Tumu Paeroa in relation to the addition of “*where appropriate*” to clause (b). She considered the term was very broad and could relate to a number of matters such as health and safety, the threat to species during nesting times or the amount of mahinga kai in the area. Te Tumu Paeroa formally withdrew their submission point on ECO-P8 on 22 August 2024, after reaching agreement with Poutini Ngāi Tahu. Ms Pull identified that Policy 19 in the NZCPS provided a detailed list of when a restriction on public access was necessary and suggested that clause (b) of the policy be amended based on the NZCPS as follows:

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~~b. Minimising adverse effects on, and improving access, where appropriate to areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu;~~

Minimising adverse effects on, and enhancing access to areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu except when restrictions are necessary for:

- i. Protecting an identified feature or species of a SNA;**
- ii. To protect sites and activities of cultural value to Poutini Ngāi Tahu;**
- ii. To protect public health or safety; and**
- iii. Alternative access routes are considered**

537. Mr Brass supported the s42A Report recommendations to encourage and enable active management and biosecurity programmes. He also sought clarification about the recommendation to delete clause (c).

538. Ms Hunter supported the s42A Report recommendation for the wording of this policy.

539. Dr Bramley considered that an explicit reference to the effects management hierarchy in ECO-P8(c) would be beneficial from an ecological point of view.

540. Mr Kennedy reiterated Westpower's submission point and considered there was value in recognising that sustainable use can play a role in maintaining these values. He sought to add a new clause as follows:

f. Providing for the sustainable use of indigenous habitats and ecosystems for the benefit of the community.

541. Ms Whitney confirmed she was generally comfortable with this policy, although she had some concern with clause (a) and how it might apply to the National Grid. Her preference was that ENG-P8 apply instead.

542. Ms Inta noted that the s42A Report had not considered the proposed rewording for clause (a) of the policy, to add "indigenous biodiversity, including". She considered the word "voluntary" was superfluous in clause (e), and that "and" should be deleted from the end of the clause. She also sought to reinforce that this policy related to indigenous biodiversity that was not within an SNA. She suggested an addition to the opening statement of the policy as follows:

Maintain indigenous habitats and ecosystems across the West Coast/Te Tai o Poutini including those not identified as significant natural areas by

543. Ms Hills questioned why clause (c) had been removed from the policy.

ECO-P9

544. Ms Snoyink supported relying on the NPSIB policy in relation to biodiversity compensation and offsetting. However, she considered that unless there was a direct conflict between the NPSIB and the RPS, the requirements of RPS Chapter 7 Policy 2 must still be met.

545. Mr Kennedy acknowledged that the NPSIB was the most recent document relating to biodiversity compensation and offsetting. However, he noted it did not exist at the time of notification and submissions, and therefore maintained his view that the direction in the RPS still had relevance and should be the basis for the wording of the policy.

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546. Ms Whitney reiterated her previous points that the effects management hierarchy did not apply to the National Grid; and her request that ECO-P9 not apply to the National Grid and instead ENG-P8 be relied on.
547. Mr Brass supported rewording the policy based on the direction and provisions of the NPSIB.
548. Ms Styles reiterated that biodiversity compensation and offsetting did not apply to renewable electricity generation and requested the addition of an advice note to clarify that the policy did not apply in those circumstances.
549. Ms Hunter and Dr Bramley confirmed general agreement with the recommended amendments for this policy.
550. Ms Inta, Ms Hills and Ms Smith all noted support for the changes to this policy.
551. Ms Linscott supported the changes to this policy. However, she suggested removing the references to Appendix 3 and 4 in case the NPSIB should be amended, making these references incorrect.

ECO-P10

552. Mr Brass supported the recommended amendments in the s42A Report.
553. Ms Snoyink acknowledged that some of the changes sought in the submission have been accepted. However, she noted that the amendment to include “*avoiding significant adverse effects*” in clause (b) had not been accepted. She considered that the recommended wording relating to Policy 11(b) needs further clarification, and suggested the following:

*c. Avoiding, remedying or mitigating other adverse effects on coastal indigenous vegetation, dunes, estuaries, wetlands, habitats and species within the coastal environment in accordance with the effects management hierarchy and **by avoiding significant adverse effects, avoiding, remedying and mitigating other adverse effects on indigenous biodiversity in accordance with Policy 11(b) of the NZCPS.***

554. Mr Kennedy reiterated Westpower’s submission point to relocate this policy to the Coastal Environment Chapter. He explained the rationale for the submission reflected the RPS that specifically included all matters related to the coast in the same chapter. He also commented on the recommended amendments to the policy and noted the RPS directed that matters in Policy 11(a) of the NZCPS must be identified in the plan. To make this clear he suggested additional wording to the clause in ECO-P10 as follows:

Areas and values in Policy 11(a) of the NZCPS will be identified in the plan.

555. Mr Kennedy also requested amendments to clause (c) be clarified to ensure that the provisions of the NZCPS are being given priority.
556. Ms Whitney considered the reworded policy did not reconcile the NPSETA and the NZCPS. However, she considered ENG-P8 reconciled the national direction and therefore ECO-P10 was not appropriate to be applied to the National Grid.

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557. Ms Perkins reiterated the request to include a reference to Te Mana o te Taiao – Aotearoa, the New Zealand Biodiversity Strategy into the policy. She did not agree with Ms Easton that the purpose of this document was principally to guide the Department of Conservation in the management of their land. She considered it was designed to drive conservation action at local, regional and national levels and was therefore relevant in the context of this policy. She also acknowledged the amendments to incorporate references to Policy 11 of the NZCPS and she supported this.

558. Ms Hills supported the Forest and Bird submission in relation to this policy.

MINZ-P5

559. Mr Brass supported the recommendation in the S42A report to delete this policy.

Reporting Officer Reply Evidence (including JWS)

ECO – P1

560. Following the hearing, the Panel issued Minute 54 (3 December 2024) requesting that the planning witnesses caucus on a range of matters, including how SNA should be identified. The planners were asked to consider whether provisions could be simplified and made easier to read, understand and interpret. A Joint Witness Statement (**JWS**) dated 17 February 2025 records the outcome of caucusing between the planners¹¹⁴.

561. The JWS records the planners agreed to make the following changes to ECO-P1:

- (a) Removing clauses (5) and (6) from the s42A Report Appendix 1 version;
- (b) To simplify clauses (1) to (4) and refer to a schedule; and
- (c) Incorporate a schedule that outlines the process for SNA identification and reconfirmation.

562. The JWS recorded Mr Kennedy had questions about the ability to meet the timeframes set out in the reworded policy.

563. Ms Easton's Right of Reply addressed questions from the Panel, the evidence presented and the JWS. Appendix 1 of the Right of Reply recommended amendments as follows:

ECO - P1

Identify areas of significant indigenous vegetation and fauna habitat **significant natural areas and include these in Schedule Four through a Plan Change which will be introduced no later than August 2028. The Significant Natural Area identification process will be undertaken as follows in accordance with the criteria and process set out in the National Policy Statement for Indigenous Biodiversity Indigenous Biodiversity and as outlined in Schedule xxx and will include:**
1. The criteria and process set out in the National Policy Statement for Indigenous Biodiversity Appendix 1 will be used to identify and map Significant Natural Area;

¹¹⁴ Ms Lois Easton, Mr Martin Kennedy, Ms Stephanie Styles, Ms Rachael Pull, Mr Chris Horne, Ms Pauline Whitney, Ms Kate Sannazzaro, Ms Claire Hunter and Mr Murray Brass

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- ~~2. In the Grey District these areas that are already identified in Schedule Four will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025;~~
- ~~3. Region — wide, Regionally Significant Wetlands will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025;~~
- ~~4. i. In the Grey, Buller and Westland Districts - wide the assessment, and identification and mapping of other additional Significant Natural Areas which will be undertaken and completed by June 2027; and~~
 - ~~ii. Confirming that areas already identified in Schedule Four, as well as Regionally Significant Wetlands identified in Schedule 1 of the West Coast Regional Land and Water Plan meet the National Policy Statement for Indigenous Biodiversity criteria~~
- ~~5. Until a site has been assessed as to whether it contains a Significant Natural Area a general indigenous vegetation clearance rule will apply to that site.~~
- ~~6. Once a site has been assessed a less restrictive general vegetation clearance rule will apply to other indigenous vegetation on that site that is outside of the Significant Natural Area.~~
 - ~~i. The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will be used to assess significance;~~
 - ~~ii. Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as district wide identification and mapping of significant natural areas is undertaken;~~
 - ~~iii. Buller and Westland district wide assessment, identification and mapping of significant natural areas will be undertaken and completed by June 2027; and~~
 - ~~iv. Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through a Plan Change.~~

Schedule XXX – Principles and Process for Significant Natural Area identification.

Existing Significant Natural Areas in Schedule Four

In the Grey District, some Significant Natural Areas (SNAs) have already been identified, mapped and scheduled in Te Tai o Poutini Plan. The NPSIB provides for these to be confirmed as SNAs meeting the NPSIB criteria without requiring a full new assessment. This will be undertaken primarily as a desk top exercise using existing ecological reports. Landowners will be advised, and if they would like a field re-assessment to confirm the boundaries and/or significance of their site, then this will be undertaken.

This process is restricted to existing sites scheduled in the plan. No new SNAs can be added through this process.

Existing Regionally Significant Wetlands

Regionally significant wetlands are also known as SNAs and identified in the West Coast Regional Land and Water Plan, Schedule 1. These are found across the West Coast and will be confirmed as meeting the NPSIB criteria through a desk top exercise using existing ecological reports. Landowners will be advised, and if they would like a field re-assessment to confirm the boundaries and/or significance of their site, then this will be undertaken.

This process is restricted to existing wetlands included in Schedule 1 of the West Coast Regional Land and Water Plan. No new SNAs or regionally significant wetlands can be added through this process.

Identifying New Significant Natural Areas

- [1] New SNAs will be identified through a district wide assessment for each of the three districts. While the Grey District has previously undertaken an SNA identification exercise, it was with different criteria than are now required, and it is expected that some more SNAs could be identified.
- [2] In the Buller and Westland Districts, there has been no previous SNA identification process and it is expected that a range of new SNAs will be identified.
- [3] The process which will be followed is that in the first instance a desk top study will be undertaken to identify potential SNAs. Landowners will then be contacted to ask permission to undertake a field assessment to identify if the area, or part of the area, is an SNA, and what the boundaries are.
- [4] If the landowner refuses permission for a field assessment then the Councils will use the best information available to determine the values of the potential SNA and map it accurately.
- [5] Both the desk top and field assessment will be undertaken using the criteria set out in Appendix 1 of the NPSIB and in accordance with the principles detailed below.
- [6] All landowners will be notified in writing– including with maps and information on the ecological values of the sites, if the district wide assessment identifies an SNA on their property.
- [7] The Councils will keep landowners informed as to the timeframe and Plan Change process to introduce the identified SNAs into Te Tai o Poutini Plan. Through this process the principles required by Section 3.8 of NPSIB and set out below will be followed:
 - a. partnership: territorial authorities engage early with tangata whenua and landowners and share information about indigenous biodiversity, potential management options, and any support and incentives that may be available;
 - b. transparency: territorial authorities clearly inform tangata whenua and landowners about how any information gathered will be used and make existing information, draft assessments and other relevant information available to tangata whenua and relevant landowners for review;
 - c. quality: wherever practicable, the values and extent of natural areas are verified by physical inspection; but if a physical inspection is not practicable (because, for instance, the area is inaccessible, or a landowner does not give access) the local authority uses the best information available to it at the time;
 - d. access: if a physical inspection is required, permission of the landowner is first sought and the powers of entry under section 333 of the Act are used only as a last resort;
 - e. consistency: the criteria in Appendix 1 are applied consistently, regardless of who owns the land;
 - f. boundaries: the boundaries of areas of significant indigenous vegetation or significant habitat of indigenous fauna are determined without regard to artificial margins (such as property boundaries) that would affect the extent or ecological integrity of the area identified.

What Rules Apply Until the Plan Change

Until a site has been assessed as to whether it contains a Significant Natural Area and a Plan Change introduced with the new SNAs, the general indigenous vegetation clearance rules will apply across the three districts. Once all SNAs have been identified the chapter will also be reviewed as part of the Plan Change. This will implement the NPS-IB and is expected to introduce a new set of indigenous vegetation clearance rules and will also address whether regulation is still required for indigenous vegetation clearance outside of an SNA.

564. The JWS records that the planners did not reach agreement on all changes to the policy, with evidence still standing. Notwithstanding this, the planners agreed the policy should be redrafted to become two policies - one relating to mapped SNA and the other to the wider Areas of Significant Indigenous Biodiversity. Annexure 1 of the JWS records agreed amendments.
565. In Reply, Ms Easton addressed questions from the Panel, evidence presented at the hearing and the JWS, and confirmed her recommendation that ECO-P2 be split into two, separating renewable electricity generation and electricity transmission from the rest of the policy. She also confirmed her recommendation that the defined term of “*area of significant indigenous biodiversity*” be used instead of “*area of significant indigenous vegetation and significant indigenous fauna habitat*”.
566. In response to the Bathurst’s legal submissions, Ms Easton advised that the separation of the policy into two largely addressed these matters. She acknowledged Bathurst’s request to include regional benefit but did not support this because of the clear direction of the NPSIB that mineral extraction must be of national benefit.
567. Ms Easton responded to the tabled evidence made by KiwiRail. She agreed that the recommended amendments to the policy resulted in it becoming excessively onerous and therefore revised her recommendation to remove the references to adverse effects from clause (a) as follows:

a. This is for a lawfully established activity ~~and adverse effects are no greater in intensity, scale, or character over time than at the operative date~~ and do not result in the loss of ecosystem representation or degradation of ecological integrity; or

568. Additional to the planners JWS, another JWS between Ms Pull (Poutini Ngāi Tahu), Ms Huirama (Te Tumu Paeroa) and Ms Easton was prepared dated 28 February 2025. The JWS records the parties agreed to an additional clause in ECO-P2 as follows:

This is clearance of kanuka, manuka or bracken on Specified Māori land.

569. In Reply, Ms Easton recommended adding this new clause to ECO-P2 to reflect the agreement.
570. Ms Easton also responded to Mr Brass’s evidence for the Director General in relation to “*loss of ecosystem representation*” versus “*extent*”. She noted clause 3.10 of the NPSIB required that both loss of ecosystem representation and extent were to be avoided. On this basis she agreed with DOC that “*and extent*” should be added to clause (a) of ECO-P2, as follows:

*a. This is for a lawfully established activity ~~and adverse effects are no greater in intensity, scale, or character over time than at the operative date~~ and do not result in the loss of ecosystem representation **and extent** or degradation of ecological integrity; or*

571. Appendix 1 of the Right of Reply shows recommended amendments as follows:

ECO-P2

~~Allow~~ **Provide for** activities within areas of significant indigenous ~~vegetation or significant habitats of indigenous fauna~~ **biodiversity where the activity has no more than minor**

adverse effects on the values of the areas of significant indigenous vegetation or fauna habitat biodiversity and:

- a. ~~This is for a lawfully established activity and adverse effects are no greater in intensity, scale, or character over time than at the operative date and do not result in the loss of ecosystem representation and extent or degradation of ecological integrity;~~ or
- b. **This is for the maintenance of improved pasture as part of a regular cycle of periodic maintenance;** or
- c. It is for a Poutini Ngāi Tahu **Activities** cultural purpose; or
- d. This is undertaken on Poutini Ngāi Tahu ~~or Te Rūnanga o Ngāi Tahu~~ land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or
- ~~d. The adverse effects of the activity on the significant indigenous vegetation or fauna habitat are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:~~
 - ~~i. Construction or upgrade of regionally significant infrastructure; or~~
 - ~~ii. Mineral extraction that provides significant national benefit; or~~
 - ~~iii. Aggregate extraction that provides significant national or regional benefit; or~~
 - ~~iv. The operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal~~
- e. **This is for the construction or upgrade of regionally significant infrastructure.**
- ~~e. The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.~~

ECO – P2A

Provide for activities within Significant Natural Areas identified within Schedule Four where the adverse effects of the activity on the significant natural area are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:

- i. **Construction or upgrade of regionally significant infrastructure; or**
- ii. **Mineral extraction that provides significant national public benefit;**
- iii. **Aggregate extraction that provides significant national or regional public benefit.**

ECO - P3

572. In Reply, Ms Easton responded to the requested changes Ms Inta sought. She remained of the view that ECO – P3 appropriately addressed both matters raised and noted that the maintenance, enhancement and restoration of overall indigenous biodiversity was addressed in ECO – P8. She also considered that an SNA could benefit from protection and restoration such as fencing, weed and pest management and through the control of edge effects. She recommended no further amendments.

573. Ms Easton acknowledged Te Tumu Paeroa had withdrawn submission S440.025 on ECO – P3.

ECO – P4

574. Ms Easton responded to the concerns about cycleways raised by Ms Inta and clarified the use of words “*provide for*”, rather than “*allow*” in ECO – P4 indicated that resource consent would be generally required. She considered the policy did not support a permitted activity. She noted the permitted activity rule for indigenous vegetation clearance in SNA was very restrictive.

575. Ms Easton recommended retaining ECO-P4 as notified.

ECO - P5

576. Ms Easton recommended retaining ECO-P5 as notified.

ECO - P6

577. The JWS records the planners considered this policy during their caucusing and did not reach an agreed position as to the policy as a whole. However, they agreed to amend the opening wording of the policy as shown in Annexure 1 is as follows:

***In relation to all indigenous biodiversity** ~~When~~ assessing consents for subdivision, use and development, avoid activities which will:*

578. In Reply, Ms Easton reconsidered her recommendation for ECO-P6 in light of the evidence presented at the hearing by various submitters as set out below:
- (a) In response to Mr Brass’ evidence, Ms Easton confirmed that the word “*local*” had been mistakenly deleted from the recommended amendments in clause (c) and she recommended that it be reinstated.
 - (b) In response to Mr Brass’ evidence that suggested the inclusion of an additional clause to give effect to clauses 3.10(2)(b)-(d) of the NPSIB and to address the policy gap created in the plan for non-complying activities that do not comply with ECO-R7, Ms Easton agreed and supported the proposed addition. She considered that there was scope for the amendment due to her recommendation to accept a submission point from Forest and Bird in relation to ECO-R8A (where a non-complying activity was recommended).
 - (c) In response to Mr Kennedy’s view that the policy was not consistent with the RPS, Ms Easton maintained her view that it did, and that it was not necessary to repeat the policy.
 - (d) Ms Easton clarified her recommendation regarding replacing “*assessing consents*” with “*providing for*” and confirmed that she supported the Westpower submission to make the replacement.
 - (e) In response to Ms Perkins’ request for the protection of additional species in the coastal environment, Ms Easton reviewed the NZCPS and considered the recommended wording for ECO-P6 adequately dealt with threatened and at-risk species.

579. Appendix 1 of the Right of Reply showed the recommended amendments to ECO-P6 as follows:

ECO - P6

In relation to all indigenous biodiversity, ~~When assessing consents~~ providing for subdivision, use and development, avoid activities which will:

- a. *Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;*
- b. *Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level; and*
- c. *Result in a ~~reasonably measurable~~ reduction in the local population size or occupancy of Threatened or At Risk (Declining) species ~~of threatened taxa in the Department of Conservation Threat Categories 1—3a—nationally critical, nationally endangered and nationally vulnerable~~ or in the population size or occupancy of locally endemic species; and*
- d. **Within a Significant Natural Area, result in: disruption to sequences, mosaics or ecosystem function; fragmentation or the loss of buffers or connections; or reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems.**

ECO-P7

580. The JWS records the planners considered this policy during their caucusing and did not reach an agreed position as to the policy as a whole. However, they agreed on minor amendments as follows:
- (a) To remove the reference to “net gain” in recognition that it was not a requirement for compensation;
 - (b) To delete clause (c) and the reference to coal mining; and
 - (c) To delete references to renewable electricity generation.
581. The JWS records the planners recognised that due to SNA not yet being identified, simplification of the policy may not be possible. Annexure 1 of the JWS records the agreed changes.
582. In Reply, Ms Easton reconsidered her recommendation for ECO-P7 in light of the evidence presented at the hearing, the JWS and questions from the Panel. In response to the drafting concerns raised by Ms Inta, Ms Easton noted that some had been addressed in the JWS. However, in response to how cumulative effects are addressed in the policy, Ms Easton did not consider it appropriate for an applicant to have to consider the effects of an activity on the entire region. She considered that ECO-P8 specifically addressed the maintenance and enhancement of biodiversity across the districts.
583. In response to whether there was scope to incorporate matters from Section 3.10 of the NPSIB into this policy, Ms Easton considers that this was limited, and accordingly she did not recommend any changes.

584. Appendix 1 of the Right of Reply shows recommended amendments to ECO-P7 as follows:

ECO-P7

*When assessing resource consents in areas of significant indigenous ~~vegetation and significant habitats of indigenous fauna~~ **biodiversity**, consider the following matters:*

- a. The necessity for the activity to provide for ~~critical~~ **regionally significant** infrastructure ~~or renewable electricity generation~~;*
- b. **The functional needs or operational needs of regionally significant infrastructure, mineral extraction of significant national public benefit or aggregate extraction of significant regional or national public benefit;***
- c. ~~Whether this is for the operation or expansion of a coal mine that meets the requirements of Clause 3.11(1) of the National Policy Statement for Indigenous Biodiversity;~~*
- d. **Whether the adverse effects are minor or transitory;***
- e. Whether formal protection and ~~/or active management of~~ **measures to restore or improve** all or part of any area of significant indigenous vegetation or habitat will occur as part of the subdivision, use or development;*
- f. The extent to which the proposed activity recognises and provides for Poutini Ngāi Tahu cultural and spiritual values, rights and interests;*
- g. The cumulative **adverse** effects of activities **on biodiversity** within ~~or adjacent to~~ any area of significant indigenous vegetation or habitat;*
- h. The effects the activity may have on the introduction or spread of exotic weed species and pest animals both terrestrial and aquatic;*
- i. The impacts on mahinga kai;*
- j. The impact of the activity on the values of any area of significant indigenous vegetation or habitat, or threatened species and how any potential impact could be avoided, remedied or mitigated **by applying the effects management hierarchy;** ~~and~~*
- k. The appropriateness of any biodiversity offsetting or compensation in accordance with Policy 9 to offset any **more than minor** residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied; **and***
- l. **The extent of ~~net gain~~ benefit achieved by biodiversity offsetting or compensation.***

ECO-P8

585. The JWS records the planners considered this policy during their caucusing and agreed that the policy should be renamed as ECO-P1A and moved up in position within the set of policies. Additionally, it was agreed that it is a general policy and not one to be applied at an individual consent level. Annexure 1 of the JWS shows the agreed amendments, with the exception of Mr Kennedy.

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586. In Reply, Ms Easton reconsidered her recommendation for ECO-P8 in light of questions from the Panel, evidence presented at the hearing and the JWS.
587. In response to the concerns raised by Ms Inta, Ms Easton acknowledged that her submission point was not discussed in the s42A Report, and she agreed to include the additional phrase “*indigenous biodiversity, including*” in the policy at clause (a) because it improved clarity and was consistent with the direction of the NPSIB.
588. Ms Easton confirmed that there was no scope for the inclusion of the amendments suggested in Ms Pull’s evidence given that Te Tumu Paeroa had withdrawn the submission that Poutini Ngāi Tahu made a further submission on. Ms Easton also returned wording to the notified version in clause (b), for the same reason.
589. In response to questions from the Panel as to whether ECO-P8 should better reflect the NPSIB and RPS Chapter 7 Policy 2 more comprehensively, Ms Easton advised that she had reviewed the higher order documents and made no additional recommendations.
590. The Right of Reply recommended amendment to ECO-P8, as follows:

ECO-P81A

*Maintain indigenous habitats and ecosystems across the West Coast/Te Tai o Poutini **at a district scale** by:*

- a. Maintaining, and where appropriate enhancing or restoring **indigenous biodiversity including** the functioning of ecological corridors, linkages, dunes and indigenous coastal vegetation and wetlands;*
- b. Minimising adverse effects on, and providing access to areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu;*
- c. Restricting the modification or disturbance of coastal indigenous vegetation, dunes, estuaries and wetlands;*
- ~~c.d. Preserving~~ **Managing adverse effects on protected wildlife threatened and at-risk species; and***
- d.e. **Encouraging and enabling site and landscape scale biosecurity programmes to manage plant and animal pests;***
- e. ~~f. Recognising the benefits of~~ **Encouraging and enabling** active **conservation** management of indigenous biodiversity, including voluntary animal and plant pest and stock control and/or formal legal protection; **and***
- f. **Except in relation to the National Grid and Renewable Electricity Generation Activities, provide for biodiversity offsetting and biodiversity compensation as part of the effects management hierarchy in accordance with the principles set out in Appendix 3 and Appendix 4 in the National Policy Statement for Indigenous Biodiversity.***

ECO-P9

591. The JWS records the planners agreed that recommended new policy (acknowledging the s42A Report recommended deleting the first part and clause (a) – (c) and replacing it with a new paragraph) should be incorporated into ECO-P8 and relocated to the beginning of the

policy set in ECO-P1A. Additionally, they agreed to amend the wording to exclude the National Grid and renewable electricity generation activities.

592. In Reply, Ms Easton agreed and recommended amendments as follows:

ECO – P9

~~Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where:~~

- ~~a. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity;~~
- ~~b. The conservation outcomes are measurable and positive; and~~
- ~~c. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting.~~

ECO-P1A

Except in relation to the National Grid and Renewable Electricity Generation Activities provide for biodiversity offsetting and biodiversity compensation as part of the effects management hierarchy in accordance with the principles set out in Appendix 3 and Appendix 4 in the National Policy Statement for Indigenous Biodiversity.

ECO-P10

593. The JWS records the planners agreed (with the exception of Mr Kennedy) on some changes to reflect amendments to definitions. They also agreed to relocate the policy to the beginning of the policy set as ECO-P1B. The agreed changes are shown in Annexure 1 of the JWS.

594. In Reply, Ms Easton reconsidered her recommendation for ECO-P10 in light of the evidence presented at the hearing, the JWS and questions from the Panel. She confirmed that she reviewed the TiGa Minerals submission point and that she agreed clause (c) of the policy should refer to “significant” adverse effects, as this is the direction provided from the NZCPS.

- c. Avoiding, remedying or mitigating ~~other~~ **significant** adverse effects on **coastal** indigenous vegetation, **dunes, estuaries, wetlands,** habitats and species within the coastal environment **in accordance with the effects management hierarchy and Policy 11(b) of the NZCPS.**

595. In response to the Panel’s observations that clauses (a) and (b) were a duplication of each other, Ms Easton did not agree. She explained that Policy 11(a) of the NZCPS lists a range of ecosystem types and locations where adverse effects must be avoided and that those areas may be identified as SNA. However, she confirmed this identification had not yet been undertaken.

596. Appendix 1 of the Right of Reply recommended amendments as follows:

ECO – P101B

Protect indigenous biodiversity in the coastal environment from inappropriate subdivision, use and development by:

- a. **Avoiding adverse effects on indigenous biodiversity set out in Policy 11(a) of the NZCPS, and**

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- b. *Avoiding adverse effects on significant indigenous biodiversity; and*
- c. *Avoiding, remedying or mitigating ~~other~~ **significant** adverse effects on **coastal** indigenous vegetation, **dunes, estuaries, wetlands**, habitats and species within the coastal environment **in accordance with the effects management hierarchy and Policy 11(b) of the NZCPS.***

Hearing Panel's Evaluation

ECO – P1

- 597. The Panel accepts Ms Easton's recommendation to amend ECO-P1 to reflect the wording agreed in the JWS and to add a new appendix (new Appendix Thirteen) to guide the SNA process. We accept that although the driver to complete this work is the RPS, the criteria to be used should be the NPSIB criteria to reflect the higher order direction. We accept the evidence that the RPS criteria and the NPSIB criteria are equivalent, but that the NPSIB criteria provides more clarity as to how one criterion is applied.
- 598. The Panel considers the recommended ECO-P1 partly addresses the relief sought in many of the submissions received; however, we consider the Director General's submission requests use of nationally consistent criteria, which we accept is now provided by the NPSIB. We also note that no submitters specifically sought to delete the policy.
- 599. The Panel has carefully considered the timeframe for completing the district-wide assessments, which was subject of a number of submissions, and agree the timeframe agreed and recommended is achievable. Importantly, we accept that ECO-P1, as recommended in the JWS gives effect to the RPS and the NPSIB. We have made minor changes to the wording of the new appendix to ensure the references to the existing regional significant wetlands is for information only to plan users and not to inappropriately direct regional council processes.

ECO – P2

- 600. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P2 as shown in Appendix 1 of the Right of Reply. We agree that separating the policy into two policies enables clearer drafting to reflect the direction of the NPSIB regarding management of adverse effects on SNA from new subdivision, use and development; and managing the effects of established activities on SNA. We have had regard to the JWS and the submission points that remained outstanding following this process.
- 601. The Panel agrees with the Director General that clause (a) in relation to lawfully established activities should also include '*and the adverse effects are no greater in intensity, scale or character over time than at 4 August 2023 and do not result in the loss of ecosystem representation and extent or degradation of ecological integrity*'. We consider this is consistent with clause 3.15 of the NPSIB. It is important that both parts of the clause are included to ensure the adverse effects of existing activities are no greater than when the NPSIB commenced. We acknowledge Ms Hunter's evidence that there are activities that are already approved that may permit biodiversity loss and that those effects had been considered acceptable, but consider this is addressed through existing resource consents. We also acknowledge Dr Bramley's concern that this could prevent the extension of existing activities but consider the NPSIB direction is appropriate to prevent cumulative effects. The NPSIB is clear that activities that have adverse effects greater in intensity, scale or character than at the commencement date of the NPSIB must be considered as a new use or

development. Existing lawful uses are able to continue as authorised by resource consents or through existing use rights under the RMA.

602. The Panel have considered the position agreed between Poutini Ngāi Tahu and Te Tumu Paeroa on 14 August 2024 and recommend that the term "*Specified Māori land*" is used to respond to the submission point S440.024 instead of the lengthy option put forward. The Panel are of the view that Poutini Ngāi Tahu land is a subset of "*Specified Māori land*", and that land within the jurisdiction of the Māori Trustee needs to be included in the policy in accordance with the NPSIB definition and clause 3.18 of the NPSIB in order to give effect to the national direction. We note Te Tumu Paeroa sought to add '*or Māori land*' to clause (b) (as notified but renumbered as (c) below) but consider reference to '*Specified Māori land*' should be added to clause (d) instead, as alternative relief.
603. The Panel consider there is no scope to add a new clause '*This is the clearance of kanuka, manuka or bracken on Specified Māori land*', as shown in Appendix 1 of the Right of Reply.
604. The Panel accepts Ms Easton's recommended wording for ECO-P2A (renumbered ECO-P3), which effectively removes clause (d) from ECO-P1 (as notified) to create ECO-P2A, which was agreed to by all planners at expert caucusing. We note the exception to this was Ms Hunter, for Bathurst, who continued to seek the addition of '*regional*' benefits to clause (ii). We agree with Ms Easton that this is inconsistent with the direction of the NPSIB under clauses 3.11, which is specifically limited to '*mineral extraction that provides significant national public benefit that could otherwise not be achieved using resources within New Zealand*'. We consider there is scope to do this within the submission points that seek the provisions give effect to RMA s6(c) and the higher order statutory direction.
605. The Panel also considers it is not appropriate to include only certain parts of clause 3.11 of the NPSIB and consider that ECO-P2A should include the requirement that '*there are no practicable alternative locations*' because this is an important component in determining functional need or operational need. We also consider that clauses (ii) and (iii) should include the last part of the clause as used in the NPSIB '*could not otherwise be achieved using resources within New Zealand*'. We consider there is scope to do this within the submission points that seek the provisions give effect to RMA s6(c) and the higher order statutory direction.
606. The Panel considers '*functional need and operational need*' is the appropriate terminology given both these terms are defined in the Plan.
607. The Panel acknowledges the evidence of Ms Styles in relation to renewable electricity generation activities and that the NPSIB effects management hierarchy does not apply to these activities. However, we note the JWS records that all the planning experts agreed on the wording of ECO-P2A, with the exception of Ms Hunter. We therefore accept Ms Styles no longer considered the exception for renewable electricity generation activities outlined in her evidence (summarised above) was required. We also note that the RPS sets out a step by step process that is similar to the effects management hierarchy that applies to renewable electricity generation activities.

ECO - P3

608. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P3 (renumbered ECO-P4) as shown in Appendix 1 of the Right of Reply. However, we consider it is appropriate that the '*protection, enhancement and restoration*' part of the sentence

also applies to this by slightly amending the wording. We also recommend adding '*indigenous biodiversity*' to new clause (g).

609. The Panel acknowledges Ms Inta's concern that there is a policy gap in terms of the overall requirement to maintain indigenous biodiversity and not just significant biodiversity values. The Panel consider this is addressed under ECO-P8 (ECO-P1A in Appendix 1 of the Right of reply).

ECO – P4

610. The Panel accepts Ms Easton's reasoning and recommendation to retain ECO-P4 (renumbered ECO-P5) as notified. We disagree with Ms Inta that the policy is too permissive because only ecotourism activities that complement the protection and enhancement of significant values are provided for in this policy. We also acknowledge Forest and Bird's request to include reference to SNA and RPS Chapter 7 Policies 2 to 6. However, we consider the wording of this policy is more limiting because it only provides for ecotourism activities that complement the protection and enhancement of significant values.

ECO – P5

611. The Panel accepts Ms Easton's reasoning and recommendation to retain ECO-P5 as notified (renumbered ECO-P6). We acknowledge Forest and Bird's request to include reference to SNA and RPS Chapter 7 Policies 2 to 6; and Ms Inta and the Buller Conservation Group's request to replace '*minimises*' with '*ensures less than minor*'. However, we consider '*minimises*' should be replaced with '*manages*' because this is consistent with the NPSIB and our approach taken Plan-wide.

ECO – P6

612. The Panel has had regard to the JWS and the submission points that remain outstanding following this process.
613. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P6 (renumbered ECO-P7) as shown in Appendix 1 of the Right of Reply. We accept that this policy is intended to apply to all indigenous biodiversity and gives effect to environmental bottom lines in the RPS and NPSIB. We consider the amended wording clarifies this and gives effect to the RPS and NPSIB in response to the evidence of Mr Brass.
614. The Panel agrees with Ms Easton that use of '*Threatened and At Risk (Declining)*' is consistent with the direction of the NPSIB. We also agree that it would be inappropriate to exclude mānuka and kānuka on category one or category two land in the Threatened Environment Classification. We consider the inclusion of an advice note in relation to the New Zealand Threat Classification system is helpful.
615. The Panel agrees with Ms Easton that it is not appropriate to provide for biodiversity offsetting and compensation in this policy given the very limited circumstances where this is appropriate under the direction of the NPSIB and the RPS. We agree this is best dealt with in a separate policy. Similarly, we consider renewable electricity generation is best dealt with in a separate policy.

ECO – P7

616. The Panel has had regard to the JWS and the submission points that remain outstanding following this process. We accept that renewable electricity generation is best dealt with in a separate policy.
617. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P7 (renumbered as ECO-P8) as shown in Appendix 1 of the Right of Reply, with the exceptions discussed below.
618. The Panel agrees that '*functional need and operational need*' should be added to give effect to the RPS and NPSIB, as it applies to: regionally significant infrastructure that is '*specified infrastructure*'; mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand; and aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand. However, we also consider this must also include the NPSIB qualifiers that there is a functional need or operational need for the new subdivision, use or development to be in that particular location; and there are no practicable alternative locations for the new subdivision, use or development. This reflects clause 3.11 of the NPSIB and not just select parts.
619. The Panel accepts the recommendation to delete '*or adjacent to*' from clause (d) (now clause (f) below) is appropriate given the direction of the NPSIB.
620. The Panel recommends replacing the reference to '*Policy 9*' in clause (h) (now clause (j) below) as a consequential amendment to reflect the recommended deletion of ECO-P9. We consider this should be replaced with reference to two new appendices reflecting the principles in Appendix 3 and Appendix 4 of the NPSIB as these outline when biodiversity offsetting and biodiversity compensation is not appropriate. We consider that adding these principles will assist Plan users because they will not need to refer to another document.
621. The recommended new clause (k) was focussed on '*the extent of benefit*', which the Panel considers is not consistent with the RPS or NPSIB, and could include benefits that are not related to biodiversity values. We note the JWS records the planners agreed to replace '*net gain*' with '*benefit*' because this was not a requirement of compensation. However, we note the NPSIB uses this term in relation to both the principles of biodiversity offsetting (Appendix 3) and the principles of biodiversity compensation (Appendix 4). The Panel accepts the recommendation to add new clause (k) but consider the wording should be '*extent of net gain in indigenous biodiversity values*'. We note that earlier in this Report, we recommend adding a definition for '*net gain*' using the NPSIB definition to clarify this term and support its use in the policies.

ECO – P8

622. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P8 (renumbered as ECO-P9) as shown in her Right of Reply, which the exceptions outlined below. We note this policy was not included in Appendix 1. We accept the recommendation to renumber this to be the second policy in the Chapter.
623. The Panel does not consider there is scope to add '*at a district scale*' as suggested by the planners in Annexure 1 of the JWS. We note Ms Easton did not provide a footnote to a submission point requesting this change.

624. The Panel consider using *'maintaining'* as recommended in clause (a) is incorrect given *'maintain'* is in the lead sentence and recommend *'protecting'* in this context, which is consistent with the objective in the NPSIB, where maintaining indigenous biodiversity is to be achieved by protecting and restoring indigenous biodiversity.
625. In relation to clause (c) (now renumbered (d)), the Panel agrees with the use of *'Protecting significant habitats of indigenous fauna'*, as requested by Bathurst, because this is more aligned with the RPS and NPSIB than the recommended amendment to *'Managing adverse effects'*, as requested by WMS Group and TiGa Minerals. It also avoids replacing *'protected wildlife'* with *'threatened and at risk species'*, which, although appropriate, was not requested in submissions.
626. The Panel accepts adding the new clause (g) (shown as new clause (f) in the Right of Reply) but consider the second part of the sentence should not be included because the NPSIB does not apply to the National Grid and Renewable Electricity Generation Activities. However, we agree that highlighting the exclusion from this policy is helpful given these activities are now specifically addressed in new ECO-P1C.

ECO -P9

627. The Panel accepts Ms Easton's reasoning and recommendation to delete ECO-P9 and relocate part of this to ECO-P8 (renumbered ECO-1A below). We consider this addresses the submission points that seek to use the RPS or national direction for biodiversity offsetting and compensation. We accept it is appropriate to use the direction of the NPSIB in this regard.

ECO – P10

628. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P10, as shown in Appendix 1 of the Right of Reply. However, we consider this policy should reflect the general wording of NZCPS Policy 11(a) instead of referring to it for the ease of plan interpretation and use given this is an "avoid" direction.
629. The Panel accepts in part Forest and Birds submission point (S560.480) to delete *'from inappropriate subdivision, use and development'* because it does not reflect the clear wording of NZCPS Policy 11. We also recommend reordering the wording of clause (c) to *'Using the effects management hierarchy to avoid'* to improve interpretation. We are satisfied the wording of clause (c) encapsulates the key matters in NZCPS Policy 11.
630. The Panel agree with Ms Perkins that Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy includes relevant guidance for local authorities. However, we agree with Ms Easton that reference to it in ECO-P10 is not appropriate. We consider it is appropriate to reference this document in the ECO Chapter Overview and this is addressed earlier in this Report.

ECO-P1C

631. The Panel generally accepts Ms Easton's recommendation to add new ECO-P11, as shown as ECO-P1C in Appendix 1 of the Right of Reply, to address the National Grid and renewable electricity generation activities. We acknowledge this came out of the planning caucusing with Ms Styles and Ms Whitney. We accept this new policy is needed because the NPSIB

does not apply to these activities. We are satisfied the new policy is consistent with the RPS provisions.

New Policy

632. The Panel accepts the submission point of Lynley Hargreaves (S481.026), in relation to the whole chapter, requesting recognition of climate change and the values that ecosystems play in mitigating climate change and its effects. We consider there should be a new policy giving effect to clause 3.6 of the NPSIB. We consider this also partly addresses the Manawa submission point S438.077 (in relation to ECO-P2) and Forest and Bird submission point S560.192. Importantly, it aligns with Strategic Direction CCR-P7.

633. The Panel consider this should reflect the wording of the NPSIB as follows:

ECO – P12

To promote the resilience of indigenous biodiversity to climate change and recognise its role in mitigating the effects of climate change.

Hearing Panel's Recommendation

634. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following changes to the **Ecosystems and Indigenous Biodiversity Policies**:

ECO – P1	Identify areas of significant indigenous vegetation and fauna habitat <u>significant natural areas and include these in Schedule Four through a Plan Change introduced no later than August 2028. The Significant Natural Area identification process will be undertaken in accordance with the criteria and process set out in the National Policy Statement for Indigenous Biodiversity and as outlined in Appendix Thirteen and will include:</u> 1. In the Grey District these areas are identified in Schedule Four; 1. <u>In the Grey, Buller and Westland Districts-wide assessment, identification and mapping of Significant Natural Areas, which will be undertaken and completed by June 2027; and</u> 2. <u>Confirming that areas already identified in Schedule Four, as well as Regionally Significant Wetlands identified in Schedule 1 of the West Coast Regional Land and Water Plan meet the National Policy Statement for Indigenous Biodiversity criteria.</u>¹¹⁵ i. ~~The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will be used to assess significance;~~ ii. ~~Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as district~~

¹¹⁵ Director General of Conservation S602.067

~~wide identification and mapping of significant natural areas is undertaken;~~

- ~~iii. Buller and Westland district wide assessment, identification and mapping of significant natural areas will be undertaken and completed by June 2027; and~~
- ~~iv. Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through a Plan Change.~~

Appendix Thirteen – Principles and Process for Significant Natural Area identification.

Existing Significant Natural Areas in Schedule Four

In the Grey District, some Significant Natural Areas (SNA) have already been identified, mapped and scheduled in Te Tai o Poutini Plan. The NPSIB provides for these to be confirmed as SNA meeting the NPSIB criteria without requiring a full new assessment. This will be undertaken primarily as a desk top exercise using existing ecological reports. Landowners will be advised, and if they would like a field re-assessment to confirm the boundaries and/or significance of their site, then this will be undertaken.

This process is restricted to existing sites scheduled in the Plan. No new SNA can be added through this process.

Existing Regionally Significant Wetlands

Regionally significant wetlands identified in the West Coast Regional Land and Water Plan, Schedule 1 are SNA under the NPSIB definition. No new regionally significant wetlands can be added through this process.

Identifying New Significant Natural Areas

- [1] New SNA will be identified through a district-wide assessment for each of the three districts. While the Grey District has previously undertaken an SNA identification exercise, it was with different criteria than the RPS Appendix 1 or NPSIB Appendix 1, and it is expected that some more SNA could be identified.**
- [2] In the Buller and Westland Districts, there has been no previous SNA identification process and it is expected that a range of new SNA will be identified.**
- [3] The process that will be followed is that in the first instance a desk top study will be undertaken to identify potential SNA. Landowners will then be contacted to ask permission to undertake a field assessment to identify if the area, or part of the area, is an SNA, and what the boundaries are.**

- [4] If the landowner refuses permission for a field assessment, then the Councils will use the best information available to determine the values of the potential SNA and map it accurately.
- [5] Both the desk top and field assessment will be undertaken using the criteria set out in Appendix 1 of the NPSIB and in accordance with the principles detailed below.
- [6] All landowners will be notified in writing – including with maps and information on the ecological values of the sites, if the district-wide assessment identifies an SNA on their property.
- [7] The Councils will keep landowners informed as to the timeframe and Plan Change process to introduce the identified SNA into Te Tai o Poutini Plan.

Through this process the principles required by Section 3.8 of the NPSIB and set out below will be followed:

- a. partnership: Councils engage early with tangata whenua and landowners and share information about indigenous biodiversity, potential management options, and any support and incentives that may be available;
- b. transparency: Councils clearly inform tangata whenua and landowners about how any information gathered will be used and make existing information, draft assessments and other relevant information available to tangata whenua and relevant landowners for review;
- c. quality: wherever practicable, the values and extent of natural areas are verified by physical inspection; but if a physical inspection is not practicable (because, for instance, the area is inaccessible, or a landowner did not give access) the local authority uses the best information available to it at the time;
- d. access: if a physical inspection is required, permission of the landowner is first sought and the powers of entry under section 333 of the Act are used only as a last resort;
- e. consistency: the criteria in NPSIB Appendix 1 are applied consistently, regardless of who owns the land; and
- f. boundaries: the boundaries of areas of significant indigenous vegetation or significant habitat of indigenous fauna are determined without regard to artificial margins (such as property boundaries) that would affect the extent or ecological integrity of the area identified.

What Rules Apply Until the Plan Change

Until a site has been assessed as to whether it contains a Significant Natural Area and a Plan Change introduced with the new SNA, the general indigenous vegetation clearance rules will apply across the three districts.

	<u>Once all SNA have been identified, the Ecosystems and Indigenous Biodiversity Chapter will also be reviewed as part of the Plan Change. This will implement the NPS-IB and is expected to introduce a new set of indigenous vegetation clearance rules, and will also address whether regulation is still required for indigenous vegetation clearance outside of an SNA.</u>¹¹⁶
ECO – P2	~~Allow~~ Provide for activities within areas of significant indigenous vegetation or ~~significant habitats of indigenous fauna~~ biodiversity¹¹⁷ where: a. This is for a lawfully established activity <u>and the adverse effects are no greater in intensity, scale or character over time than at 4 August 2023, and do not result in the loss of ecosystem representation and extent or degradation of ecological integrity;</u>¹¹⁸ or b. <u>This is for maintenance of improved pasture as part of a regular cycle of periodic maintenance; or</u>¹¹⁹ c. It is for a Poutini Ngāi Tahu Activities ~~cultural purpose;~~¹²⁰ or d. This is undertaken on Poutini Ngāi Tahu ~~or Te Rūnanga o Ngāi Tahu~~¹²¹ land in accordance with an Iwi/Papatipu Rūnanga Management Plan <u>or on specified Māori land;</u> or¹²² e. <u>This is for the construction or upgrade of regionally significant infrastructure.</u> f. ~~The activity has a functional need to be located in the area;~~ g. ~~The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.~~¹²³
ECO – P3	Provide for activities within Significant Natural Areas within Schedule Four where the adverse effects of the activity on the significant natural area are managed in accordance with the effects management hierarchy, the activity has a functional need or operational need to be located within the area and there is no practicable alternative location, and it is for the purpose of: a. <u>Construction or upgrade or regionally significant infrastructure; or</u> b. <u>Mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand; or</u> c. <u>Aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.</u>

¹¹⁶ Director General of Conservation S602.068

¹¹⁷ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.476

¹¹⁸ Director General of Conservation S602.067

¹¹⁹ Federated Farmers of New Zealand S524.061

¹²⁰ Te Rūnanga o Ngāi Tahu, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio S620.139

¹²¹ Consequential amendment to reflect new definition of 'Poutini Ngāi Tahu land' Te Tumu Paeroa Office of the Māori Trustee S440.003

¹²² Te Tumu Paeroa the Office of the Māori Trustee S440.024

¹²³ Clare Backes S444.006

ECO – P34	Encourage the protection, enhancement and restoration of significant indigenous biodiversity <u>and the protection of significant habitat for indigenous fauna</u>¹²⁴ by: ~~Allowing~~ <u>Providing for</u>¹²⁵ <u>up to three</u> additional ~~subdivision rights~~ <u>bonus allotments and reduced minimum allotment sizes when subdividing</u>¹²⁶ if ~~an~~ areas of significant indigenous vegetation or significant habitat of indigenous fauna within the same property is <u>are</u> legally protected as part of the subdivision; - Promoting the creation of connections and ecological corridors between areas of significant indigenous biodiversity; - Promoting the use of eco-sourced species from the relevant ecological district; - Supporting opportunities for Poutini Ngāi Tahu to exercise their cultural rights and responsibilities as mana whenua and kaitiaki in restoring, protecting and enhancing areas of significant indigenous biodiversity; ~~and~~ - Supporting initiatives by landowners, community groups and others to protect, restore and maintain areas of significant indigenous biodiversity; <u>Promoting site and landscape scale biodiversity programmes to manage plant and animal pests; and</u>¹²⁷ <u>Supporting any other measures to protect, enhance and restore indigenous biodiversity.</u>¹²⁸
ECO – P45	Provide for eco-tourism activities that complement the protection and/or enhancement of areas of significant indigenous vegetation or significant habitats of indigenous fauna and contribute to the vitality and resilience of the economy and wellbeing of the community.
ECO – P56	Enable the use of Māori Purpose Zoned land with areas of indigenous vegetation and indigenous fauna habitat, where land use and subdivision is consistent with tikanga and mātauranga Māori and ~~minimises~~ <u>manages</u>¹²⁹ adverse effects on any significant values of the vegetation or fauna habitat.

¹²⁴ West Coast Penguin Trust S275.003

¹²⁵ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.202

¹²⁶ Federated Farmers of New Zealand S524.062

¹²⁷ Director General of Conservation S602.069

¹²⁸ Director General of Conservation S602.069

¹²⁹ Frida Inta S553.069 and Buller Conservation Group S552.069, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.204

ECO – P67 In relation to all indigenous biodiversity,¹³⁰ ~~When assessing consents providing~~¹³¹ for subdivision, use and development, avoid activities ~~which that~~¹³² will:

- a. Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;
- b. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level; ~~and~~
- c. Result in a ~~reasonably measurable~~ reduction in the local population size or occupancy of Threatened or At Risk (Declining) species of threatened taxa in the Department of Conservation Threat Categories 1 – 3a nationally critical, nationally endangered and nationally vulnerable or in the population or occupancy of locally endemic species; and¹³³
- d. Within a Significant Natural Area, result in:
 - i. disruption to sequences, mosaics or ecosystem function;
 - ii. fragmentation or the loss of buffers or connections; or
 - iii. reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems.¹³⁴

Advice Note:

Information on the Threat Classification status of individual species can be found on the New Zealand Threat Classification System database at <https://nztc.org.nz>.¹³⁵

ECO – P78 When assessing resource consents in areas of significant indigenous ~~biodiversity~~ vegetation and significant habitats of indigenous fauna,¹³⁶ consider the following matters:

- a. The necessity for the activity to provide for ~~critical~~ regionally significant¹³⁷ infrastructure ~~or renewable electricity generation;~~¹³⁸
- b. The functional need or operational need of regionally significant infrastructure, mineral extraction of significant national public benefit, or aggregate extraction of significant regional or national public benefit

¹³⁰ Manawa Energy Limited S438.078

¹³¹ Westpower Limited S547.254

¹³² RMA First Schedule, Clause 16

¹³³ Director General of Conservation S602.070

¹³⁴ Director General of Conservation S602.070

¹³⁵ Federated Farmers of New Zealand S524.063

¹³⁶ Consequential amendment to the new definition for 'Areas of Significant Indigenous Biodiversity'

¹³⁷ Manawa Energy Limited S438.079

¹³⁸ Consequential amendment to the new ECO-P1C

to locate in that area,¹³⁹ and whether there are any practicable alternative locations for those activities;¹⁴⁰

c. Whether the adverse effects are minor or transitory;¹⁴¹

b.d. Whether formal protection and/or¹⁴² active management of **measures to restore or improve¹⁴³** all or part of any area of significant indigenous vegetation or habitat will occur as part of the subdivision, use or development;

e.e. The extent to which the proposed activity recognises and provides for Poutini Ngāi Tahu cultural and spiritual values, rights and interests;

d.f. The cumulative **adverse¹⁴⁴** effects of activities **on biodiversity¹⁴⁵** within or adjacent to¹⁴⁶ any area of significant indigenous vegetation or habitat;

e.g. The effects the activity may have on the introduction or spread of exotic weed species and pest animals,¹⁴⁷ both terrestrial and aquatic;

f.h. The impacts on mahinga kai;

g.i. The impact of the activity on the values of any area of significant indigenous vegetation or habitat, or threatened species,¹⁴⁸ and how any potential impact could be avoided, remedied or mitigated, **including by applying the effects management hierarchy,¹⁴⁹ and**

h.j. The appropriateness of any biodiversity offsetting or compensation in accordance with **the principles in Appendix Fourteen and Appendix Fifteen from the NPSIB Policy 9** to offset **address¹⁵⁰** any **more than minor¹⁵¹** residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied; **and**

k. The extent of net gain in indigenous biodiversity values achieved by biodiversity offsetting or compensation.¹⁵²

ECO -P89

Maintain indigenous habitats and ecosystems across the West Coast/Te Tai o Poutini by:

¹³⁹ Manawa Energy Limited S438.079, Director General of Conservation S602.071

¹⁴⁰ Director General of Conservation S602.071

¹⁴¹ Buller District Council S538.203, Peter Langford S615.046, Karamea Lime Company S614.046, Koiterangi Lime Co Ltd S577.037, Catherine Smart-Simpson S564.030, William McLaughlin S567.177, Steve Croasdale S516.036, Geoff Volckman S563.025, Chris & Jan Coll S558.095, Chris J Coll Surveying Limited S566.095 and Laura Coll McLaughlin S574.095

¹⁴² New Zealand Coal & Carbon Limited S472.016 and Straterra S536.049

¹⁴³ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.478

¹⁴⁴ Frida Inta S553.070 and Buller Conservation Group S552.070

¹⁴⁵ Frida Inta S553.070 and Buller Conservation Group S552.070

¹⁴⁶ Manawa Energy Limited S438.079, Westpower Limited S547.0502

¹⁴⁷ RMA First Schedule, Clause 16

¹⁴⁸ RMA First Schedule, Clause 16

¹⁴⁹ Te Man Ora S190.322, Frida Inta S553.070, Buller Conservation Group S552.070, Director General of Conservation S602.071

¹⁵⁰ Consequential amendments to deleting ECO-P9 to give effect to the NPSIB

¹⁵¹ Manawa Energy Limited S438.079

¹⁵² Director General of Conservation S602.071

	a. ~~Maintaining~~, Protecting,¹⁵³ and where appropriate enhancing or restoring,¹⁵⁴ <u>indigenous biodiversity, including</u>¹⁵⁵ the functioning of ecological corridors, linkages, dunes and indigenous coastal vegetation and wetlands; b. Minimising adverse effects on, and providing access to, areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu; c. Restricting the modification or disturbance of coastal indigenous vegetation, dunes, estuaries and wetlands; d. ~~Preserving~~Protecting the significant habitats of indigenous fauna, protected wildlife including threatened and at-risk species;¹⁵⁶ and <u>e. Encouraging and enabling site and landscape scale biosecurity programmes to manage plant and animal pests; and</u>¹⁵⁷ ~~e.f.~~ Recognising the benefits of <u>Encouraging and enabling</u> active <u>conservation</u> management of indigenous biodiversity, including voluntary animal and plant pest and stock control and/or formal legal protection: <u>Except in relation to the National Grid and Renewable Electricity Generation Activities.</u>¹⁵⁸
ECO – P9	~~Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where:~~ a. ~~The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity;~~ b. ~~The conservation outcomes are measurable and positive; and~~ c. ~~The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting.~~¹⁵⁹
ECO - P10	Protect indigenous biodiversity in the coastal environment ~~from inappropriate subdivision, use and development~~¹⁶⁰ by: a. <u>Avoiding adverse effects on:</u> i. <u>indigenous species that are listed as threatened or at risk in the New Zealand Threat Classification System lists;</u>

¹⁵³ West Coast Penguin Trust S275.005, Clare Backes S444.007 and RMA First Schedule, Clause 16

¹⁵⁴ RMA First Schedule, Clause 16

¹⁵⁵ Frida Inta S553.071 and Buller Conservation Group S552.071

¹⁵⁶ Bathurst Resources Limited and BT Mining Limited S491.017 and RMA First Schedule, Clause 16

¹⁵⁷ Director General of Conservation S602.072, New Zealand Agricultural Aviation Association S166.014

¹⁵⁸ Transpower New Zealand Limited S299.072, Manawa Energy Limited S438.074

¹⁵⁹ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.209, Suzanne Hills S443.026, Westpower S547.257, Director General of Conservation S602.073

¹⁶⁰ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.480 and S560.481

	ii. <u>species that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;</u> iii. <u>indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;</u> iv. <u>habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;</u> v. <u>areas containing nationally significant examples of indigenous community types;</u> vi. <u>areas set aside for full or partial protection of indigenous biological diversity under other legislation; and</u>¹⁶¹ b. Avoiding adverse effects on significant indigenous biodiversity; and c. <u>Using the effects management hierarchy to avoid</u>¹⁶²~~ing, remedying or mitigating other~~ <u>significant</u>¹⁶³ adverse effects on indigenous vegetation, <u>dunes, estuaries, coastal wetlands,</u> habitats and species within the coastal environment.¹⁶⁴
ECO – P11	<u>In relation to the National Grid and renewable electricity generation activities, the adverse effects on indigenous biodiversity will be managed:</u> a. <u>In relation to the National Grid by:</u> i. <u>Recognising and providing for the operation, maintenance and upgrade of existing National Grid assets, and in areas of significant indigenous biodiversity and SNA identified in Schedule Four, avoiding, remedying or mitigating adverse effects to the extent practicable;</u> ii. <u>Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;</u> iii. <u>For new activities, seeking to avoid adverse effects on areas of significant indigenous biodiversity and SNA identified in Schedule Four and where, having regard to the route, site and method selection and functional need or operational need, it is not practicable to avoid all adverse effects, to remedy or mitigate any residual adverse effects to the extent practicable;</u> iv. <u>For new activities within the coastal environment seeking to avoid significant adverse effects on indigenous biodiversity values that meet the criteria in Policy 11 (b) of the NZCPS 2010, and where</u>

¹⁶¹ Director General of Conservation S602.074, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.480 and S560.481

¹⁶² Director General of Conservation S602.074

¹⁶³ WMS Group (HQ) Limited and WMS Land Co. Limited S599.053, TiGa Minerals and Metals Limited S493.057

¹⁶⁴ Director General of Conservation S602.074, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.480 and S560.481

	<u>adverse effects cannot be avoided, remedy or mitigate any residual adverse effects to the extent practicable;</u> <u>b. In relation to renewable electricity generation activities by:</u> <u>i. Recognising and providing for the operation, maintenance, repair and upgrade of existing renewable electricity generation activities, and in areas of significant indigenous biodiversity and SNA identified in Schedule Four, avoiding, remedying or mitigating adverse effects to the extent practicable;</u> <u>ii. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;</u> <u>iii. Seeking to avoid adverse effects on areas of significant indigenous biodiversity and SNA identified in Schedule Four and where it is not practicable to avoid because of functional need or operational need, remedy or mitigate any residual adverse effects to the extent practicable;</u> <u>iv. Within the coastal environment, seeking to avoid significant adverse effects on indigenous biodiversity values that meet the criteria in Policy 11 (b) of the NZCPS 2010, and where adverse effects cannot be avoided, remedy or mitigate any residual adverse effects to the extent practicable;</u> <u>c. By considering the net gain for biodiversity values of biodiversity offsetting or compensation where this is offered.</u>
<u>ECO- 12</u>	<u>To promote the resilience of indigenous biodiversity to climate change and recognise its role in mitigating the effects of climate change.</u>¹⁶⁵

4.5. ECO - Ecosystems and Indigenous Biodiversity Rules

Submissions and Further Submissions

635. Fourteen submission points and 16 further submissions relating to the ECO rules (as a whole) were summarised in a Table on pages 147 - 150 of the s42A Report. Fourteen submission points sought amendments, with nine further submissions opposing amendments and seven further submissions supporting amendments.
636. Seven submission points and seven further submissions relating to the ECO permitted activities rules (as a whole) were summarised in a Table on pages 153 - 154 of the s42A Report. One submission point sought to delete the permitted rules and six submissions sought amendments. Five further submissions supported submissions that sought amendments, and two further submissions opposed submissions that sought amendments.
637. Eighty-eight submission points and 61 further submissions relating to **ECO-R1** were summarised in a Table on pages 155 - 169 of the s42A Report. Twelve submission points

¹⁶⁵ Lynley Hargreaves S481.026

sought to retain the rule as notified and 26 submissions sought amendments or clarification. Fourteen further submissions supported submissions, 45 further submissions opposed submissions, and one was neutral.

638. Sixty-one submission points and 28 further submissions relating to **ECO-R2** were summarised in a Table on pages 177 - 184 of the s42A Report. Five submission points sought to retain the rule as notified, 10 submission points sought to delete the rule, and 46 submissions sought amendments or clarification. Sixteen further submissions supported submissions, and 12 further submissions opposed submissions.
639. Seventeen submission points and one further submission relating to **ECO-R3** were summarised in a Table on pages 189 - 190 of the s42A Report. Two submission points sought to retain the rule as notified, two submission points sought to delete the rule, and 13 submissions sought amendments. The further submission supported a submission to amend the rule.
640. Seventy submission points and six further submissions relating to **ECO-R4** and **SUB-R7** were summarised in a Table on pages 192 - 199 of the s42A Report. Three submission points sought to retain the rule as notified, one submission point sought to delete the rule, and 66 submission points sought amendments. Five further submissions supported a submission to amend the rule, and one further submission supported the submission to delete the rule (ECO-R4).
641. Thirty-four submission points and eight further submissions relating to **ECO-R6** and **SUB-R9** were summarised in a Table on pages 203 - 208 of the s42A Report. One submission point sought to retain the rule as notified, one submission point sought to delete the rule, and 32 submission points sought amendments. Four further submissions supported a submission to amend the rule, and three further submissions supported submissions to amend the rule. One further submission supported deleting Rule ECO-R6.
642. Thirty-six submission points and two further submissions relating to **ECO-R8** and **SUB-R15** were summarised in a Table on pages 210 - 213 of the s42A Report. One submission point sought to retain the rule as notified, one submission point sought to delete the rule, and 34 submission points sought amendments. One further submission opposed a submission to amend the rule and one further submission supported deleting Rule ECO-R8.
643. Twenty-five submission points and one further submission relating to **ECO-R9** and **SUB-R27** were summarised in a Table on pages 215 - 216 of the s42A Report. One submission point sought to retain the rule as notified, 23 submission points sought to delete the rule, and one submission point sought amendments. One further submission supported deleting Rule ECO-R9.
644. Forty-four submission points and 10 further submissions relating to **ECO-R5** were summarised in a Table on pages 216 - 221 of the s42A Report. Six submission points sought to retain the rule as notified, 38 submission points sought amendments. Three further submissions supported a submission to amend the rule, and seven further submissions opposed amendments to the rule.
645. Thirty-one submission points and 19 further submissions relating to **ECO-R7** were summarised in a Table on pages 221 - 225 of the s42A Report. Thirteen submission points sought to retain the rule as notified, 18 submission points sought amendments. All the further submissions opposed amendments to the rule.

646. Thirteen submission points relating to **ECO-R10** were summarised in a Table on pages 230 - 231 of the s42A Report. Twelve submission points sought to retain the rule as notified, and one sought amendment.
647. Thirteen submission points relating to **ECO-R11** were summarised in a Table on page 231 of the s42A Report. Twelve submission points sought to retain the rule as notified, and one sought amendment.

Section 42A Report

Rules (General)

648. In response to the submission points made by the AQA (S521.001) and Straterra (S536.020) that both sought the rules be amended to reflect various aspects of the RPS, Ms Easton did not support the relief sought. This was consistent with her previous recommendations and the legal advice that the NPSIB overrules the RPS where there is any conflict.
649. Ms Easton did not support the submission point made by Forest and Bird (S560.010) that sought for an ecological assessment to be included with all consent applications for all indigenous vegetation clearance. She noted that there was very low capacity to undertake these assessments on the West Coast and she did not consider it to be necessary in instances where vegetation clearance would be minimal.
650. In response to the submission point made by Margaret Montgomery (S446.003) that sought for all natural environment rules to be restricted discretionary activities, Ms Easton did not support the relief sought. This was because the higher order documents set out a clear protective direction for indigenous biodiversity. She considered that when activities had a risk of significant adverse effects on indigenous biodiversity it was appropriate to apply a discretionary or non-complying activity status so that the full range of issues could be addressed.
651. In response to the submission point made by Hadley Mills (S543.003) that sought the addition of a series of permitted activity rules to allow for bush clearing, earthworks, waterway culverts, bridges and any other activity associated with multi-use recreation trails, Ms Easton did not support the relief sought. She acknowledged the rationale for the submission, but did not consider that rules should be drafted specifically for this purpose.
652. In response to submission points made by Forest and Bird (S560.483, S560.493, S560.024) that sought the inclusion of additional rules, Ms Easton responded as follows:
- (a) She did not support the need for additional rules in other chapters to protect significant habitats. She noted that while this may be necessary in the future, the first priority was to identify significant habitats;
 - (b) She did not support the inclusion of a controlled activity rule in the residential zones to clear indigenous vegetation for the purpose of establishing a building platform and access on sites where a building did not yet exist. This was because it assumed that all indigenous vegetation clearance would require a resource consent, and Ms Easton considered that in some scenarios it could be permitted; and

- (c) She did not support making all vegetation clearance necessary for mineral extraction a non-complying activity. This is because she did not consider it to be consistent with either the RPS or the NPSIB.
653. In response to the submission points from Papahaua Resources Limited (\$500.029) and Rocky Mining Limited (\$474.005) that sought a specific restricted discretionary activity for mining, Ms Easton did not support the relief sought. This was because she did not consider it was appropriate to have a blanket approach, and the NPSIB directed a more nuanced approach.
654. Ms Easton supported GDC's (\$608.055) request for a new rule for permitted activities within an SNA because both the RPS and the NPSIB anticipate limited permitted activities within an SNA. However, she considered the rule drafted by GDC was too permissive given the direction of clause 3.15 of the NPSIB in relation to established activities. She considered a permitted rule relating to established activities and a maximum area of vegetation clearance would be appropriate, and recommended the addition of a new rule.
655. In response to the similar submission points made by BDC (\$538.208) and Rebecca Inwood (422.001) that sought permitted activity provisions following the identification and scheduling of SNA in the Buller District, Ms Easton supported the relief sought. She considered the rule recommended in response to the GDC submission would also address these submission points.
656. The s42A Report recommended a new rule in response to the submissions as follows:

ECO – R1B Indigenous Vegetation Clearance within a Significant Natural Area

Activity Status Permitted

Where this is:

- 1. For the maintenance, operation and repair of established activities including but not limited to: tracks, fences, drains, structures, infrastructure and renewable electricity generation activities where the removal is within 3m of the established activity and is limited to a maximum area of 50m² per individual SNA;**
- 2. Necessary to remove vegetation that endangers human life or existing buildings or structures where this is certified by a Council Approved Arboricultural Contractor;**
- 3. For the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access where the removal is within 3m of the formed width of the road, rail corridor or access where this is undertaken by a Road or Rail Controlling Authority ;**
- 4. To comply with section 43 of the Fire and Emergency Act 2017;**
- 5. To enable removal of unwanted organisms declared under the Biosecurity Act 2015.**

Permitted Rules

657. Ms Easton did not support Brian Anderson's (\$576.009) request to delete the permitted activity rules because she considered there were some circumstances where it was

appropriate to provide for vegetation clearance as a permitted activity, and that national direction expected this.

658. In response to the four submission points¹⁶⁶ that sought for the permitted activity rules to be more enabling, Ms Easton did not support the relief sought. She reiterated that any permitted activity should be within the scope of national and regional direction.
659. Ms Easton did not support Greg Maitland's (S571.013) request to change the rule so that land clearance and disturbance was based on a percentage of land area because she considered this was not effects based and could lead to significant adverse effects.
660. In response to Forest and Bird's (S560.0215) request, that the absence of the comprehensive identification of SNA, all indigenous vegetation clearance be treated as if it were in an SNA, Ms Easton did not support the relief sought. Nevertheless, she acknowledged the concern that SNA may be cleared before being identified and noted that this issue had been addressed in relation to ECO-P1, ECO-R1 and ECO-R2.
661. Ms Easton supported in part Katherine Gilbert's (473.003) request to amend the rule framework to ensure it protects the biodiversity of SNA prior to their identification. Similar to the Forest and Bird submission above, Ms Easton acknowledged the concern that SNA may be cleared before being identified and noted she had addressed this issue in relation to ECO-P1, ECO-R1 and ECO-R2.
662. The s42A Report recommended no amendments to the permitted activity rules generally, as a result of these submissions.

ECO – R1

663. Ms Easton acknowledged the submission points that sought to retain ECO-R1 as notified. However, she noted her recommended amendments in response to other submissions.
664. Ms Easton supported Lynne Lever and Greg Tinney's (S320.003) request for clarification regarding the permitted areas and clearance areas and agreed the notified rule was unclear.
665. In response to Poutini Ngāi Tahu's (S620.145) request to delete '*cultural harvest*' in clause (3)(x) and to refer to '*Poutini Ngāi Tahu Activities*', Ms Easton did not support the relief sought. This was because she considered the rule provided for Poutini Ngāi Tahu Activities on Māori Purpose land and the rule should not be widened to all land.
666. In response to GDC's (S608.493) request to change the wording of clause (3) to refer to '*in the margins of waterbodies*', Ms Easton noted that the submission had incorrectly referred to Rule NC-R1 rather than ECO-R1. Notwithstanding this, she did not consider the amendment was necessary.
667. In response to Westpower's (S547.259) and BDC (S538.208) requests that sought to split ECO-R1 into two rules so that there was a rule for activities in the Grey District and another rule for Buller and Westland Districts, Ms Easton supported the relief sought. She considered this would improve clarity of the rule and its implementation within different parts of the region.

¹⁶⁶ Geoff Voickman (S563.029), Steve Croasdale (S516.040), William McLaughlin (S567.181 and S567.183)

668. Ms Easton did not support BDC's (S538.209) request to remove the reference to the '*coastal environment*' in the heading of the rule because she considered it would result in vegetation clearance in the coastal environment being treated the same as the rest of the West Coast, which was not consistent with the NZCPS or the RPS, where coastal indigenous biodiversity must receive a higher degree of protection.
669. In response to Forest and Bird's (S560.216) request to include an advice note to explain where information can be found regarding the Threatened Environment Classification and protected species, Ms Easton supported the relief sought in part. She noted her recommendation to include a definition for '*Threatened Environment Classification*' and a link to where the information is found. She recommended deleting the reference to "*protected species*" as there was no need to define that term.
670. In response to the numerous submission points¹⁶⁷ that sought changes to the stringency of the rule, Ms Easton summarised the various relief sought in the s42A Report. She noted her recommendation considered the NPSIB direction, which sets the framework for which rules of the ECO Chapter should apply.
671. Ms Easton identified that the submission points raised some fundamental issues, the first being whether there should be a separate rule for the Grey District where SNA were already identified. Ms Easton supported the relief sought by Westpower and BDC to separate the rule to address this issue.
672. Ms Easton identified that the second fundamental issue raised in submissions was how best to manage indigenous vegetation clearance in Buller and Westland Districts until the SNA identification process was undertaken. For the same reasons as her recommendation for ECO-P1, Ms Easton gave priority to the NPSIB over the RPS.
673. Ms Easton recognised that there was a need for an interim approach that allowed for some appropriate permitted activities, but did not threaten the viability of yet to be identified SNA. She noted that her recommendation for ECO-P1 provided the basis for this approach. Taking account of the submission points, Ms Easton considered that the rule should provide for the following:
- (a) "Established activities" and their maintenance, operation, repair and upgrade.
 - (b) Poutini Ngāi Tahu Activities on Poutini Ngāi Tahu land and Māori Purpose Zoned land.
 - (c) Cultural harvest.

¹⁶⁷ Forest & Bird (S560.216, S560.484, S560.485, S560.490, S560.491, S560.487, S560.488), Frida Inta (S553.213, S553.214, S553.075, S553.076), Director General (S602.075, S602.010), Buller Conservation Group (S552.211, S552.209, S552.075, S552.210, S552.076), Suzanne Hills (S443.028, S443.027), Clare Backes (S444.008, S444.009, S444.010), Brian Anderson (S576.013), Inger Perkins (S462.008), Katherine Gilbert (S473.016), Lynley Hargreaves (S481.020), Scoped Planning and Design Limited (S617.009, S617.008), NZ Agricultural Aviation Association (S166.015, S166.016), Koiterangi Lime Co Limited (S577.041), Catherine Smart-Simpson (S564.034), Geoff Volkerman (S563.171), Peter Langford (S615.050), Karamea Lime Company (S614.050), Leonie Avery (S507.039), Jared Avery (S508.039), Kyle Avery (S509.039), Avery Bros (S510.039), Bradshaw Farms (S511.039), Paul Avery (S512.039), Brett Avery (S513.039), Neil Mouat (S535.014), Avery Brothers (S609.038), Aggregate Quarry Association (S521.007), Emi Schroder (S369.003), Snodgrass Road Submitters (S619.030, S619.031), Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio (S620.398), Grey District Council (S608.056), West Coast Regional Council (S488.003), Tony Schroder (S343.004), Westpower Limited (S547.260, S547.261, S547.262, S547.263, S547.264, S547.265, S547.266, S547.267), Bathurst Resources Limited & BT Mining Limited (S491.018, S491.019), Transpower New Zealand (S299.075), Te Tumu Paeora (S440.027), Buller District Council (S538.207), Horticulture NZ (S486.030), Federated Farmers of NZ (S524.065), Manawa Energy Limited (S438.081), Chorus NZ Ltd, Spark NZ Trading Ltd, Vodafone NZ Ltd (S663.044)

- (d) Maintenance of improved pasture for farming where it is part of a regular cycle of periodic maintenance.
 - (e) The construction of new fences and traplines associated with conservation activities, or to exclude stock or pest animals from indigenous vegetation, margins of waterbodies or the coast.
 - (f) To comply with Section 43 of the Fire and Emergency Act.
 - (g) To enable the removal of unwanted organisms declared under the Biosecurity Act.
 - (h) For the installation of temporary network activities following a state of emergency declaration.
 - (i) To establish a building platform and access for a residential dwelling where there is no dwelling on the allotment.
 - (j) For the construction of an above ground or below ground network utility or the National Grid.
674. Ms Easton recommended that in the circumstance prior to the identification of the SNA in the Buller and Westland Districts, the permitted activity rule should allow a maximum of 2,000m² of indigenous vegetation clearance per site over a three-year period, and 5,000m² for the specific identified purposes in the notified rule. In ONL in the Grey District, she recommended a maximum of 5,000m² for specific purposes.
675. In relation to clause 5(i) regarding kanuka/manuka and bracken, Ms Easton recommended an amendment to restrict the amount of clearance and link it to the maintenance of improved pasture as provided for in the NPSIB.
676. Ms Easton also considered that amendments to the rule were required for Grey District where an SNA assessment and identification had already been undertaken. She considered that in this District the rule should focus on the indigenous vegetation clearance provisions within ONL.
677. The s42A Report recommended amending **ECO-R1** as follows:

ECO - R1 - Indigenous vegetation clearance and disturbance within the Buller and Westland Districts and outside of the coastal environment

Activity Status Permitted

Where:

1. It is **on a site where an SNA assessment has been undertaken by a suitably qualified ecologist in accordance with the criteria in the NPSIB and is outside of:**
 - i. ~~an scheduled~~ **identified** Significant Natural Area ~~as identified~~ **including those** in Schedule Four; **and**
 - ii. **An Outstanding Natural Landscape identified in Schedule 5; and**

2. **Within the Riparian Margin of a River, Lake or Coastal Wetland the ~~it is~~ clearance is permitted by the Natural Character and the Margins of Waterbodies Rule NC-R1ECO - RXXX;** or
3. **It is on a site where no SNA assessment has been undertaken and is a maximum area of 2000m² over any continuous 3 year period;** or
4. **It on a site where no SNA assessment has been undertaken, or is within an Outstanding Natural Landscape and is a maximum area of 5000m² per site over any continuous 3- year period; and** it is necessary for one of the following purposes:
 - i. It is the removal of windthrown timber through:
 - a. Use of helicopter recovery methods; or
 - b. Where ground-based recovery is only undertaken from areas adjacent to existing vehicle tracks; or
 - ii. The maintenance, operation and repair of ~~lawfully~~ established **activities: including but not limited to roads, the rail corridor, accessways,** tracks, fences, structures, buildings, ~~critical~~ **regionally significant** infrastructure, network utilities, renewable electricity generation activities, **shelterbelts and woodlots** or natural hazard mitigation ~~activities~~ **structures;**
 - iii. For the installation of temporary network **or electricity generation** activities following a regional or local state of emergency declaration **or environmental monitoring facilities;**
 - iv. To prevent a serious threat to people, property, structures or services **where this is certified by a Council Approved Arboricultural Contractor**
 - v. ~~To ensure the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access;~~
 - vi. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals **from indigenous vegetation or the margins of waterbodies, or the coast;**
 - vii. To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor;
 - viii. To comply with section 43 of the Fire and Emergency Act 2017;
 - ix. For construction, ~~or~~ operation, **repair or upgrade** of an above ground or below ground network utility or the national grid where:
 - a. The construction corridor did not exceed 3m in width; and
 - b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and
 - c. Rehabilitation of disturbed areas is undertaken following the completion of construction;
 - x. It is cultural harvest undertaken by Poutini Ngāi Tahu; or

- xī. *It is **for Poutini Ngāi Tahu Activities** on MPZ - Māori Purpose Zoned **or Poutini Ngāi Tahu** land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*
 - xii. *It is within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument;*
 - xiii. ***It is for the purpose of maintenance of improved pasture for farming and involves the removal or clearance of manuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old; or***
 - xiv. ***It is for the establishment of a residential building platform and access to the site that did not exceed 500m² in area per allotment; or***
 - xv. ***The clearance is unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, or is removal of unwanted organisms declared under the Biosecurity Act 2015.***
- ~~5. Within the Grey District it is clearance outside of an Outstanding Natural Landscape identified in Schedule Five; or~~
- ~~i. It is the removal or clearance of mānuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old, not exceeding 5ha per site over any continuous three year period, subject to provision of notice to the relevant District Council at least 20 working days prior to the proposed clearance including:~~
 - ~~a. Details of the location of the proposed clearance;~~
 - ~~b. Area of the proposed clearance; and~~
 - ~~c. Verification by documentary, photographic or other means that the vegetation is less than 15 years old and not part of any wetland; or~~
 - ~~ii. It is a maximum area of 5000m² per site, in total, over any continuous three year period.~~

Advice Notes:

- 1. Where clearance of mānuka, kānuka or bracken is proposed under Standard 5 (xiii) of this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.
- ~~2. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the Rules around this clearance.~~
- 3. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
- 4. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.
- 5. This rule also applies to plantation **commercial** forestry activities, where this provision is more stringent than the NES - **PCF** in relation to significant natural areas.

Activity status where compliance not achieved:

Refer Rule ECO – R1B where standard 1 is not achieved. Refer Rule ECO – RXXX where standard 2 is not achieved.

*Discretionary **Controlled** where standard 3 1 or 4 is not achieved.*

~~*Refer Natural Character and Margins of Waterbodies Chapter where standard 2 is not achieved.*~~

~~*Within the Grey District refer standard 4 where standard 3 is not achieved.*~~

~~*Within the Buller and Westland Districts Controlled or Restricted Discretionary (depending on activity type) where standard 5 is not achieved.*~~

678. The s42A Report also recommended adding a new Rule **ECO-R1A**, as follows:

ECO - R1A - Indigenous vegetation clearance and disturbance within the Grey District and outside of the coastal environment

Activity Status Permitted

Where:

- 1. It is outside of an identified Significant Natural Area including those in Schedule Four; and*
- 2. Within the Riparian Margin of a River, Lake or Coastal Wetland the It is clearance is permitted by the Rule ECO - RXXX; and*
- 3. Within an Outstanding Natural Landscape it is a maximum area of 5000m² per site over any continuous 3-year period and is necessary for one of the following purposes:*
 - i. It is the removal of windthrown timber through:*
 - a. Use of helicopter recovery methods; or*
 - b. Where ground based recovery is only undertaken from areas adjacent to existing vehicle tracks; or*
 - ii. The maintenance, operation and repair of lawfully established activities: including but not limited to: roads, the rail corridor, accessways, tracks, fences, structures, buildings, regionally significant infrastructure, network utilities, renewable electricity generation activities, shelterbelts, woodlots, and natural hazard mitigation structures; or*
 - iii. For the installation of temporary network or electricity generation activities following a regional or local state of emergency declaration or environmental monitoring facilities; or*
 - iv. To prevent a serious threat to people, property, structures or services where this is certified by a Council Approved Arboricultural Contractor; or*
 - v. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast; or*

- vi. To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor; or
- vii. To comply with section 43 of the Fire and Emergency Act 2017; or
- viii. For construction, operation, repair or upgrade of an above ground or below ground network utility or the national grid where:
 - a. The construction corridor did not exceed 3m in width; and
 - b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and
 - c. Rehabilitation of disturbed areas is undertaken following the completion of construction; or
- ix. It is cultural harvest undertaken by Poutini Ngāi Tahu; or
- x. It is for Poutini Ngāi Tahu Activities on MPZ - Māori Purpose Zoned land or Poutini Ngāi Tahu Land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or
- xi. It is within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument; or
- xii. It is for the purpose of maintenance of improved pasture for farming and involves the removal or clearance of manuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old; or
- xiii. It is for the establishment of a residential building platform and access to the site that did not exceed 500m² in area per allotment; or
- xiv. The clearance is unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, or is removal of unwanted organisms declared under the Biosecurity Act 2015.

Advice Notes:

- 1. Where clearance of mānuka, kānuka or bracken is proposed under Standard 3 (xii) of this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.
- 2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
- 3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.
- 4. This rule also applies to plantation commercial forestry activities, where this provision is more stringent than the NES - PF in relation to significant natural areas.

Activity status where compliance not achieved:

Refer Rule ECO – R1B where standard 1 is not achieved. Refer Rule ECO – RXXX where standard 2 is not achieved. Discretionary where Standard 3 is not achieved.

ECO – R2

679. Ms Easton acknowledged the submission points that sought to retain ECO-R2 as notified. However, she noted her recommended amendments in response to other submissions.
680. In response to three submission points¹⁶⁸ that sought deletion of the rule, Ms Easton did not support the relief sought. She referred to Policy 11 of the NZCPS and the RPS which both direct that all adverse effects on significant indigenous biodiversity should be avoided. She noted the NZCPS was the primary national direction in relation to this rule.
681. Ms Easton did not support Westpower's (S547.0503) request to relocate this rule to the Coastal Environment Chapter because it specifically related to vegetation clearance in this overlay.
682. Ms Easton analysed the submission points in relation to this rule in two groups: those that sought to make the rule less restrictive; and those that sought to make it more restrictive. Ms Easton considered the submissions generally and in the context of Policy 11 of the NZCPS, the NPSIB and the RPS. She addressed the key matters raised as four questions as follows:

- a. Should the rule apply to urban areas?

Ms Easton noted that given the towns of Hokitika, Greymouth and Westport are all located in the coastal environment, she considered most significant habitats of fauna and areas of indigenous vegetation would be located in public open spaces. Therefore, she did not consider that the restrictions on vegetation clearance as set out in ECO-R2 should apply to urban zoned properties (i.e. Residential, Commercial and Industrial Zones).

- b. Should the rule be different in the Grey District compared to Buller and Westland?

Ms Easton noted that because the Grey District had identified SNA in the coastal environment, and the rule as notified excluded vegetation clearance from these areas, she had considered whether a less restrictive rule for the remaining area of the Grey District coastal environment would be appropriate. She recommended the rule should be the same across all districts because of the direction in the NZCPS and RPS that required significant adverse effects on all indigenous biological diversity in the coastal environment be avoided and that all adverse effects should be avoided, remedied or mitigated.

- c. What is an appropriate permitted activity limit for vegetation clearance outside of urban areas?

Ms Easton considered that the 500m² area as notified was an appropriate permitted area and reflected the sensitivity of the environment.

¹⁶⁸ Birchfield Ross Mining Limited (S604.035), Tim and Phaedra Robins (S579.005) and Forest and Bird (S560.217)

- d. What activities should be provided for within the coastal environment in terms of allowing for indigenous vegetation clearance?

Ms Easton noted that the NZCPS provided direction for environmental outcomes, while the RPS provided a clearer path with specific exclusions for the National Grid. She noted both the RPS and the NZCPS made provision for activities with a functional need to be in the coastal environment, while the RPS also makes provision for activities to continue where they have been legally established.

683. In considering the submission points and her analysis of the key matters above, Ms Easton recommended the rule should allow for the following:

- (a) Indigenous vegetation clearance on RESZ - Residential, COMZ -Commercial and Mixed Use, PORTZ – Port and IND – Industrial zoned land.
- (b) Established activities and structures and their maintenance, operation and repair, where this was at the same or similar scale, character and intensity as at the date of notification of the Plan, including drains and improved pasture, tracks, infrastructure and buildings and other specified activities sought by submitters.
- (c) To prevent a serious threat to human life or existing buildings or structures.
- (d) Maintenance, repair, operation and upgrade of the National Grid, regionally significant infrastructure and environmental monitoring facilities.
- (e) Upgrading of public walking and cycling tracks.
- (f) Fencing.
- (g) Upgrading of network utilities, renewable energy generation or the National Grid.
- (h) Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site.
- (i) Cultural harvest.
- (j) Vegetation clearance on Poutini Ngāi Tahu Land where this was undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan.

684. The s42A Report recommended amending **ECO-R2** as follows:

ECO – R2 - Indigenous vegetation clearance in the Coastal Environment

Activity Status Permitted

Where:

~~1. This is for:~~

~~i. Walking/cycling tracks, roads, farm tracks or fences;~~

~~ii. Operation, maintenance, repair, upgrading and installation of new network utility infrastructure and renewable electricity generation activities; or~~

~~iii. Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site~~

~~4. The indigenous vegetation clearance did not occur in any area identified as a Significant Natural Area in Schedule Four; **and**~~

2. The extent of indigenous vegetation disturbed and/or cleared per site did not exceed an area of 500m² in area per site in any three year period; **and**

3. The indigenous vegetation clearance did not disturb, damage or destroy nesting areas or habitat of ~~protected~~ **threatened or at risk** species; and

4. The indigenous vegetation clearance did not occur in an area of land environment of category one or two of the Threatened Environment Classification; and

5. The indigenous vegetation clearance is for the following purposes:

- i. For the maintenance, operation and repair of established activities and structures including but not limited to: roads, the rail corridor, accessways, tracks, fences, drains, structures, regionally significant infrastructure, network utilities, environmental monitoring facilities, natural hazard mitigation structures and renewable electricity generation activities, where this is at the same or similar scale, character and intensity as at 14 July 2022; or
- ii. To prevent a serious threat to human life or existing buildings or structures where this is certified by a Council Approved Arboricultural Contractor; or
- iii. To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor or
- iv. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast or
- v. For the operation, maintenance, repair or upgrade of network utility infrastructure, renewable energy generation or the national grid; or
- vi. It is cultural harvest undertaken by Poutini Ngāi Tahu; or
- vii. It is for Poutini Ngāi Tahu Activities on MPZ - Māori Purpose Zoned land or Poutini Ngāi Tahu Land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or
- viii. It is for the purpose of maintenance of improved pasture for farming and involves the removal or clearance of manuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old; or
- ix. It is for the establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site; or
- x. The clearance is undertaken on a RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone or IND – Industrial Zone property within the towns of Greymouth, Hokitika or Westport.

Advice Notes:

Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Ecosystems and Indigenous Biodiversity - Ngā Pūnaha Rauropi me te Kanorau Koiora Chapter

- ~~1. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer these sections of the Plan for the Rules around this clearance.~~
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.
4. This rule also applies to ~~plantation~~ **commercial** forestry activities, where this provision is more stringent than the NES - **PCF**.

Activity status where compliance not achieved: Restricted Discretionary

ECO – R3

685. Ms Easton acknowledged the submission points that sought to retain ECO-R3 as notified. However, she noted her recommended amendments in response to other submissions.
686. In response to the submission points made by Forest and Bird (S560.495) that sought to delete the rule because a controlled activity status was insufficient to manage the adverse effects, Ms Easton did not support the relief sought.
687. Ms Easton did not support the submission point made by Michael Orchard (S583.002) that sought to rely on MPI Indigenous Forestry rules to manage indigenous production forestry.
688. Ms Easton's recommendation to not support the submissions made by Forest and Bird and Mr Orchard was based on the direction from clause 3.10(b) of the NPSIB, which specifically excluded the harvesting of indigenous trees from an SNA when it is carried out in accordance with a forest management plan or permit under s3A of the Forests Act. Ms Easton considered that the Forests Act provided a robust mechanism for most matters related to managing the sustainable harvest of indigenous vegetation. She considered this combined with the NPSIB supported her view that a controlled activity status was appropriate.
689. In response to the numerous submission points¹⁶⁹ that sought for the rule to be more enabling of development, Ms Easton supported the relief in part.
690. In response to the submission point from GDC (S608.058) that sought to remove the phrase 'and outside of the coastal environment', Ms Easton did not support the relief sought. This was because the NZCPS and RPS have a strong policy direction to manage indigenous biodiversity in the coastal environment.
691. In response to the submission point made by Poutini Ngāi Tahu (S620.147) that sought to either delete ECO-P7 or add a new matter of control to ECO-R3 referencing Poutini Ngāi Tahu values, rights and interests, Ms Easton supported the relief sought in part. However, she was unclear if the concerns raised in the submission related to Poutini Ngāi Tahu values being affected by others undertaking indigenous forestry, or whether indigenous forestry undertaken by Poutini Ngāi Tahu should be better provided for. Ms Easton recommended

¹⁶⁹ Peter Langford (S615.052), Karamea Lime Company (S614.052), Koiterangi Lime Co LTD (S577.043), Catherine Smart-Simpson (S564.036), William McLaughlin (S567.182), Steve Croasdale (S516.041), Geoff Volckman (S563.030), Chris & Jan Coll (S558.101), Chris J Coll Surveying Limited (S566.101), Laura Coll McLaughlin (S574.101)

including an additional matter of control relating to Poutini Ngāi Tahu values and invited Poutini Ngāi Tahu to comment further at the hearing if necessary.

692. The s42A Report recommended amending **ECO-R3** as follows:

ECO – R3 - Indigenous vegetation clearance or disturbance where this is in accordance with an approved plan or permitted issued under the Forests Act 1949

Activity Status Controlled

Where:

- 1. The indigenous vegetation clearance and disturbance is in accordance with an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949;*
- 2. The indigenous vegetation clearance is outside of ~~any Significant Natural Area identified in Schedule Four and outside of~~ the Coastal Environment; and*
- 3. The indigenous vegetation clearance is not located in an area of land environment of category one or two of the Threatened Environment Classification.*

Matters of control are:

- a. The matters outlined in Policies ECO - P6, ECO - P7 and where relevant NFL - P6;*
- b. The protection of habitats of threatened or at risk species;*
- c. The management of impacts on Poutini Ngāi Tahu values as set out in the Tangata Whenua chapter*
- d. Compliance with the terms of an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949; and*
- e. The measures to avoid, remedy, or mitigate any adverse effects on any significant indigenous vegetation and significant habitats of indigenous fauna.*

Advice Note:

- 1. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the **additional** Rules around this clearance.*
- 2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.*
- 3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.*

Activity status where compliance not achieved: Restricted Discretionary

ECO – R4/SUB – R7

693. Before analysing the submissions received in relation to these rules (which are identical in both chapters), Ms Easton explained that the rule was published in both the ECO and SUB Chapter for the purposes of the notification of the Plan. This was to assist with context and consultation. However, she noted the intention was that the rule would only be included in the SUB Chapter when the Plan became operative. Notwithstanding this, she advised that consideration of the rule had been allocated to this hearing stream.
694. Ms Easton acknowledged the submission points¹⁷⁰ that sought to retain ECO-R4 as notified. However, she noted her recommended amendments in response to other submissions. She also acknowledged and supported the submission point made by the Director General (\$602.077) to delete the duplicate ECO-R4 rule.
695. In response to the numerous submission points¹⁷¹ that sought for the rule to only apply to subdivision within a Scheduled area of significant indigenous biodiversity, that there be no requirement for legal protection of vegetation, and that clearance of significant indigenous vegetation be allowed where the adverse effects could be offset or compensated, Ms Easton did not support the relief sought. This was because the rule was intended as an incentive where some public benefit is obtained in exchange for the creation of lots.
696. In response to the submission points that sought for alternative wording related to the legal protection of significant indigenous biodiversity, Ms Easton supported the relief sought in the submission point made by BDC (\$538.211 and \$538.260) that sought to delete the specific reference to a conservation covenant with an authorised agency. This was because she considered other legal mechanisms such as consent notices were also appropriate. Ms Easton did not support the relief sought in the other submission points¹⁷² which sought the use of private covenants because there would be no organisation administering the covenant.
697. In response to the submission point made by Poutini Ngāi Tahu (\$620.148 and \$620.186) that sought for the matters of control to include “*Poutini Ngāi Tahu values, rights and interests*” and other matters in ECO-P7, Ms Easton supported the relief sought in part. She did not support inclusion of the reference to other matters in ECO-P7 because she considered the rule did not allow for development within an area of significant indigenous biodiversity.
698. Ms Easton supported the relief sought in the submission point from Westpower (\$547.268) to have Advice Note (2) refer to SUB-R2 because it provided clarity to the plan user.
699. In response to the submission points made by Forest and Bird (\$560.219 and \$560.269) that sought to make various amendments to the rule, Ms Easton advised the following:
- (a) She did not support the amendment to refer to “*Significant Natural Areas*” as she did not support the previous submission relating to the definition of this term.

¹⁷⁰ Te Mana Ora (\$190.329, \$190.422), Waka Kotahi NZ Transport Agency (\$450.089, \$450.126) and Federated Farmers of New Zealand (\$524.067, \$524.084)

¹⁷¹ Neil Mouat (\$535.017, \$535.024), Leonie Avery (\$507.041, \$507.049), Jared Avery (\$508.041, \$508.049), Kyle Avery (\$509.049, \$509.041), Avery Bros (\$510.041, \$510.049), Bradshaw Farms (\$511.049, \$511.041), Paul Avery (\$512.041, \$512.049), Brett Avery (\$513.041, \$513.049), Avery Brothers (\$609.103, \$609.039, \$609.102), Chris & Jan Coll (\$558.226), Chris J Coll Surveying Limited (\$566.226) and Laura Coll McLaughlin (\$574.226)

¹⁷² Laura Coll McLaughlin (\$574.228), Chris J Coll Surveying Limited (\$566.228), William McLaughlin (\$567.298) and Chris & Jan Coll (\$558.228)

- (b) She supported the addition requiring an assessment against the significance criteria where an SNA assessment had not already been undertaken but recommended use of the NPSIB criteria (rather than the RPS) and that it be undertaken by a “*suitably qualified ecologist*”.
- (c) She supported the amendment to clause (3) that referred to a future building site and the requirement for including the location of residential building platforms and access. However, she considered that a consent notice (rather than a covenant) was the appropriate mechanism.
- (d) She supported amending the reference to “*minimise*” to “*avoid, remedy or mitigate*”.
700. Ms Easton supported the submission points¹⁷³ that sought to amend the title of the rule to provide clarity. To make it clear that ECO-R4/SUB-R7 was an incentive and only applied to subdivision that results in an area of significant indigenous biodiversity being protected, Ms Easton recommended amending the rule title to add ‘*where legal protection of an area of significant indigenous biodiversity is proposed*’.
701. In response to the submission points that were concerned that “*Areas of Significant Indigenous Biodiversity*” have not been mapped in the Buller or Westland Districts, Ms Easton considered that the addition of a definition resolved the concerns. Additionally, she considered the reference to the performance standard in the rule, made the requirements clearer.
702. In response to multiple submission points¹⁷⁴ that sought to clarify the term “*parent title*”, Ms Easton explained that it was the title that existed when the plan was notified. She recommended including a definition for the term as follows:
- Parent title means a resource of title in existence on 14 July 2022.**
703. In response to multiple submission points¹⁷⁵ that sought to make the rule less restrictive, Ms Easton did not support the relief sought. This was because the rule was an incentive rule and she considered the level of restriction was reasonable given it has a controlled activity status and offered a bonus lot.
704. In response to the submission point made by Davis Ogilvie & Partners Limited (S465.015) that sought to amend the rule so that the new allotment must contain the area of significant indigenous biodiversity and be for the purpose of legal protection, Ms Easton did not support the relief sought. She considered it was not critical which allotment contained the area of significant indigenous biodiversity given the key matter was that it be protected.
705. In response to another submission point made by Davis Ogilvie & Partners (S465.017) that sought the rule be amended so there be no minimum allotment size, Ms Easton supported the relief sought in part. She considered that in a rural location it was normal for at least 1,000m² to accommodate on-site servicing. She also accepted that there would be occasion where subdivision was intended to create an allotment to contain a small area of significant

¹⁷³ Chris & Jan Coll (S558.224), William McLaughlin (S567.294), Chris J Coll Surveying Limited (S566.224) Laura Coll McLaughlin (S574.224)

¹⁷⁴ William McLaughlin (S567.297), Chris & Jan Coll (S558.227), Chris J Coll Surveying Limited (S566.227) and Laura Coll McLaughlin (S574.227)

¹⁷⁵ Steve Croasdale (S516.051), Karama Lime Company (S614.074), Peter Langford (S615.074), Koiterangi Lime Co LTD (S577.056), Catherine Smart-Simpson (S564.052), Geoff Volckman (S563.046), Laura Coll McLaughlin (S574.223), Chris & Jan Coll (S558.223), Lara Kelly (S421.006), William McLaughlin (S567.293) and Chris J Coll Surveying Limited (S566.223)

indigenous biodiversity. Therefore, she recommended amending the minimum lot size to 1,000m².

706. In response to the multiple submission points¹⁷⁶ that sought to remove the requirement for all the significant indigenous biodiversity to be contained within one allotment, Ms Easton did not support the relief sought. She referred to feedback from the QEII Trust received during the development of the plan that advised when areas had been split across multiple titles, poorer environmental outcomes resulted, at a greater financial cost.
707. Ms Easton supported the relief sought in the submission points made by Frida Inta (S553.117) and the Buller Conservation Group (S552.117) that requested the words “*within the area*” be added to clause (3) to make it clear that no clearance of any part of the area of significant indigenous biodiversity should occur.
708. Ms Easton supported the relief sought in the submission point made by GDC (S608.637) to include a matter of control related to the provision of three waters infrastructure and services.
709. In response to the submission point made by Westpower (S547.367) that sought the addition of new clauses to the matters of control, Ms Easton commented as follows:
- (a) The addition relating to the provision of infrastructure was addressed by her recommendation to accept the relief sought by GDC.
 - (b) The addition relating to the provision of easements was addressed by the requirements of the Subdivision Standards.
 - (c) The addition relating to the management of reverse sensitivity effects was supported.
710. In response to the submission point made by BDC (S538.254 and S538.261) that sought for references to “*natural hazards or geotechnical considerations*” and “*critical infrastructure*” be included, Ms Easton supported the relief sought and agreed that these matters should be added to the matters for control.
711. The s42A Report recommended deleting **ECO-R4**.
712. The s42A Report recommended amending **SUB-R7** as follows:

SUB – R7 – Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed

Activity Status Controlled

Where:

1. *One new allotment with a minimum lot size of 41,000m² is created from the parent title, provided that in the GRUZ - General Rural Zone there is a balance area remaining on the original title of at least 4 ha; and*

¹⁷⁶ Chris & Jan Coll (S558.225), William McLaughlin (S567.295), Chris J Coll Surveying Limited (S566.225) and Laura Coll McLaughlin (S574.225)

2. **An assessment of the site against the significance criteria in the NPSIB is provided with the application and this is undertaken by a suitably qualified ecologist where this has not already been undertaken as part of a district wide SNA assessment;**
3. *The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency or via consent notice on the title and is contained within a single allotment;*
4. *The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance within the area of significant indigenous vegetation to provide for a future building site or future access to any site; and*
5. *Subdivision standards S2-S11 are complied with.*

Matters of control are:

- a. *Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity;*
- b. **The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy;**
- c. **The adequacy of water supply for firefighting;**
- d. **Specification of the location of building sites and access through the use of consent notices;**
- e. **Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;**
- f. **Measures to address any natural hazards or geotechnical constraints;**
- g. *Management of earthworks, including earthworks for the location of building platforms and access ways;*
- h. *The protection of habitats of threatened or at risk species; and*
- i. *The measures to ~~minimise~~ **avoid, remedy or mitigate** any adverse effects on:*
 - i. *The significant indigenous biodiversity;*
 - ii. *~~The cultural significance to Poutini Ngāi Tahu~~ **Values.***

Advice Note: This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to **either of Rules SUB – R2 or SUB – R4.**

Activity status where compliance not achieved: Restricted Discretionary where standard 1 is not complied with. Discretionary where standards 2-45 are not complied with.

ECO – R6/SUB – R9

713. Ms Easton acknowledged that most submission points relating to this rule were the same as those made in reference to ECO-R4/SUB-R7. Therefore, she did not analyse these

submission points in detail, as her recommendations largely aligned with those made for ECO-R4/SUB-R7. In summary, her recommendations were as follows:

- (a) She supported the submission point made by the Director General (S602.079) to delete ECO-R6 (duplicate rule).
- (b) She supported the submission point made by Poutini Ngāi Tahu (S620.150) to refer to Poutini Ngāi Tahu values.
- (c) She did not support multiple submission points¹⁷⁷ that sought for the rule to only apply to scheduled areas of significant indigenous biodiversity, provide for buildings and accessways to be located within SNA if there was alternative mitigation through biodiversity offsetting and environmental compensation.
- (d) She supported the submission point made by BDC (S538.213) that sought the use of a consent notice as a legal protection mechanism.
- (e) She supported the part of the submission point made by Forest and Bird (S560.221 and S560.270) that sought to include an assessment of significance as a performance standard, to include a reference to future building sites or accessways and to replace “*minimise*” with “*avoid, remedy or mitigate*” in relation to adverse effects. She did not support changing the title of the rule to refer to SNA.
- (f) She did not support the submission point made by Davis Ogilvie & Partners (S465.016) that sought for allotments created by the parent title to contain the area of significant indigenous biodiversity.
- (g) She supported in part the submission point made by Davis Ogilvie & Partners (S465.018) that sought no minimum lot size and recommended reducing the minimum lot size to 1,000m².
- (h) She supported the submission points made by Westpower (S547.375) and GDC (S608.639) that sought to include infrastructure and services for drinking water, wastewater and stormwater as well as water supply for firefighting services as matters of discretion.
- (i) She did not support the submission point made by Westpower (S547.376) that sought to add a matter of discretion related to easements.
- (j) She supported the submission point made by Westpower (S547.377) that sought to add a matter of discretion to manage reverse sensitivity effects.
- (k) She supported the submission point made by BDC (S538.256 and S538.261) that sought to include a matter of discretion relating to critical/regionally significant infrastructure, natural hazards and geotechnical considerations.

¹⁷⁷ Avery Brothers (S609.040), Peter Langford (S615.075), Karamea Lime Company (S614.075), Koiterangi Lime Co LTD (S577.058), Catherine Smart-Simpson (S564.053), Steve Croasdale (S516.052), Geoff Volckman (S563.047), Avery Brothers (S609.100), Avery Brothers (S609.040), Leonie Avery (S507.042, S507.051), Jared Avery (S508.042, S508.051), Kyle Avery (S509.042, S509.051), Avery Bros (S510.042, S510.051), Bradshaw Farms (S511.042, S511.051), Paul Avery (S512.042, S512.051), Brett Avery (S513.042, S513.051), Neil Mouat (S535.018, S535.025)

- (l) She partially supported the submission point made by Lara Kelly (S421.007) that sought to amend the rule heading, but not to make the rule less restrictive.
714. In response to the submission points made by Frida Inta (S553.079) and the Buller Conservation Group (S552.079) that sought to add additional matters of discretion, Ms Easton did not support the relief sought. This was because she considered the matters were unnecessary given that the rule was an incentive rule that did not provide for any vegetation clearance to establish the lots or the residential units on them.
715. In response to the submission point made by Margaret Montgomery (S446.055) that sought more clarity when determining the ecological value of the site, Ms Easton supported the relief sought. She considered that the recommendation to change the title of the rule would address the relief sought.
716. The s42A Report recommended deleting **ECO-R6**.
717. The s42A Report recommended amending **SUB-R9** as follows:

SUB – R9 – Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed not meeting Rule SUB-R7

Activity Status Restricted Discretionary

Where:

1. *Up to three allotments with a minimum lot size of **41,000m²** are created from the parent title;*
2. ***An assessment of the site against the significance criteria in the NPSIB is provided with the application and this is undertaken by a suitably qualified ecologist where this has not already been undertaken as part of a district wide SNA assessment;***
3. *The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency **or via consent notice on the title** and is contained within a single allotment;*
4. *The subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four **or the need for clearance of significant indigenous vegetation to provide for a future building site or future access to any site;** and*
5. *Subdivision standards S2-S11 are complied with.*

Discretion is restricted to:

- i. *Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;*
- ii. *The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna;*
- iii. ***The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy***

- iv. **The adequacy of water supply for firefighting**
- v. **Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure rural activities or significant hazardous facilities**
- vi. Management of earthworks including earthworks for the location of building platforms and access ways;
- vii. The protection of habitats of threatened or at risk species.
- viii. The measures to ~~minimise~~ **avoid, remedy or mitigate** any adverse effects on:
 - i. The significant indigenous biodiversity; and
 - ii. ~~The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu Values as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association~~

Activity status where compliance not achieved: Discretionary

ECO – R8/SUB – R15

- 718. Ms Easton acknowledged the submission points from Te Mana Ora that (\$190.333 and \$190.430) that sought to retain ECO-R8/SUB-R15 as notified. However, she noted her recommended amendments in response to other submissions.
- 719. Ms Easton supported the submission point made by the Director General (\$602.081) to delete the duplicate ECO-R8 rule. However, she recommended a consequential amendment to add an advice note to SUB-R15 referring the relevance of the Ecosystem and Biodiversity Chapter.
- 720. In response to submission points¹⁷⁸ that sought to delete the performance standards and the escalation of the activity status to non-complying, Ms Easton supported the relief sought. Ms Easton acknowledged the submitters' concerns that within the Buller District the majority of the indigenous vegetation is likely to meet the NPSIB criteria and be an SNA, and therefore subdivision of these areas would be a non-complying activity. She also acknowledged that clause 3.10 of the NPSIB applied and that the listed effects in 3.10(2) must be avoided, and that all other adverse effects must be managed by applying the effects management hierarchy. Ms Easton concluded that the NPSIB anticipated that there may be appropriate subdivision within SNA. She reviewed how subdivision was managed in relation to other RMA s6 matters and recorded that these were generally restricted discretionary or discretionary activities. She advised she had not found a district plan where subdivision was a non-complying activity in an SNA.

¹⁷⁸ Avery Brothers (\$609.041), Neil Mouat (\$535.019, \$535.026), Leonie Avery (\$507.043, \$507.053), Jared Avery (\$508.043, \$508.053), Kyle Avery (\$509.043, \$509.053), Avery Bros (\$510.043, \$510.053), Bradshaw Farms (\$511.043, \$511.053), Paul Avery (\$512.043, \$512.053), Brett Avery (\$513.043, \$513.053) and the Buller District Council (\$538.215, \$538.267), Peter Langford (\$615.080), Karamea Lime Company (\$614.080), Koiterangi Lime Co LTD (\$577.063), Catherine Smart-Simpson (\$564.058), Lara Kelly (\$421.009), William McLaughlin (\$567.309), Steve Croasdale (\$516.056), Geoff Volckman (\$563.052), Chris & Jan Coll (\$558.240) and Chris J Coll Surveying Limited (\$566.240)

Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

Ecosystems and Indigenous Biodiversity - Ngā Pūnaha Rauropi me te Kanorau Koiora Chapter

721. Ms Easton did not support submission points made by Forest and Bird (S560.223 and S560.271), Buller Conservation Group (S552.121) and Frida Inta (S553.121) that sought further restrictions in relation to activities subject to this rule because of the reasons set out above.
722. The s42A Report recommended deleting **ECO-R8**.
723. The s42A Report recommended amending **SUB-R15** as follows:

SUB – R15 – Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity not meeting Rule SUB-R9

Activity Status Discretionary

Where:

- ~~1. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~2. The subdivision will not result in buildings or accessways being located within any Significant Natural Area identified in Schedule Four; and~~
- ~~3. Subdivision Standards S2 – S11 are complied with.~~

Activity status where compliance not achieved: ~~Non-complying~~ N/A

Advice Note: When assessing resource consent applications under this rule, the policies in the ECO Chapter should also be referred to.

ECO – R9/SUB – R27

724. Ms Easton acknowledged the submission point from Te Mana Ora (S190.334 and S190.442) that sought to retain ECO-R9/SUB-R27 as notified. However, she noted her recommendation to delete the rule in response to other submissions and previous recommendations.
725. Ms Easton supported the submission point made by the Director General (S602.082) to delete the duplicate ECO-R9 rule.
726. Ms Easton did not support the relief sought by Forest and Bird (S560.225 and S560.273) given her previous recommendations in relation to SUB-R15.
727. The s42A Report recommended deleting **ECO-R9** and **SUB-R27**.

ECO – R5 and ECO – R7

728. Ms Easton acknowledged the submission points that sought to retain ECO-R5¹⁷⁹ and ECO-R7¹⁸⁰ as notified. However, she noted her recommended amendments in response to other submissions.
729. Ms Easton did not support the relief sought in the submission points¹⁸¹ that sought that both rules be amended to be more enabling. She noted the submitters had not provided any detail to support the relief sought.

ECO – R5

730. In response to the submission point made by Federated Farmers (S524.068) that sought ECO-R5 be a controlled activity rather than a restricted discretionary activity, Ms Easton did not support the relief sought. She considered that, until a regionwide assessment of the indigenous vegetation had been undertaken in accordance with the NPSIB (or RPS), a restricted discretionary activity rule was necessary to meet the requirements of the higher order documents.
731. Ms Easton supported in part the relief sought by Poutini Ngāi Tahu (S620.149) to have a matter for discretion include Poutini Ngāi Tahu values because this was consistent with her other recommendations.
732. In response to the similar submission points¹⁸² that sought to have a new matter of discretion included in the rule related to the functional or operational need for the activity to locate within the area where indigenous vegetation clearance was proposed, Ms Easton supported the relief sought. This was because the NPSIB specifically provides for activities that have a functional or operation need to be in the location.
733. Ms Easton did not support the submission point made by Westpower (S547.269) that sought for the inclusion of a duplicate rule in the Coastal Environment Chapter for the reasons previously outlined in response to a similar submission point made by Westpower.
734. In response to similar submission points made by Westpower (547.270), Forest and Bird (S560.497) and the Director General (S602.078) that sought amendments or the deletion of clause (1)(i) of the rule, Ms Easton supported the relief sought in part. She noted the submission points acknowledge that in Buller and Westland it can be expected that there would be unidentified areas of SNA that the rule would apply to and the submitters had suggested ways to address the matter. Ms Easton did not recommend deleting the rule, but rather recommended adding a clarification to the rule as follows:

¹⁷⁹ Buller Conservation Group (S552.078), Frida Inta (S553.078), Snodgrass Road submitters (S619.032), Te Mana Ora (S190.330), KiwiRail Holdings Limited (S442.053), Buller District Council (S538.212) and Transpower New Zealand Limited (S299.077)

¹⁸⁰ Director General of Conservation (S602.080), WMS Group (S599.061), TiGa Minerals and Metals Limited (S493.057), Te Mana Ora (S190.332), Birchfield Coal Mines Ltd (S601.043), BRM Developments Limited (S603.032), Birchfield Ross Mining Limited (S604.037), Phoenix Minerals Limited (S606.033), Whyte Gold Limited (S607.031), Transpower New Zealand Limited (S299.078), New Zealand Coal & Carbon Limited (S472.017) and Buller District Council (S538.214), Ngāi Tahu (S620.142)

¹⁸¹ Peter Langford (S615.053, S615.054), Karama Lime Company (S614.053, S614.054), Koiterangi Lime Co LTD (S577.044, S577.045), Catherine Smart-Simpson (S564.037 S564.038), William McLaughlin (S567.185, S567.186), Steve Croasdale (S516.042, S516.043), Geoff Volckman (S563.031, S563.032), Chris & Jan Coll (S558.104, S558.105), Chris J Coll Surveying Limited (S566.103, S566.105), Laura Coll McLaughlin (S574.104, S574.105) and Neil Mouat (S535.067, S535.068)

¹⁸² WMS Group (S599.060), TiGa Minerals and Metals Limited (S493.056), Birchfield Coal Mines Ltd (S601.042), Birchfield Ross Mining Limited (S604.036), Whyte Gold Limited (S607.030), Phoenix Minerals Limited (S606.093), Birchfield Ross Mining Limited (S604.115) and BRM Developments Limited (S603.069)

- i. A Significant Natural Area identified in Schedule Four **or in an area that has been assessed in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area**

735. Ms Easton supported the submission point made by Westpower (S547.271) to add “*at the ecological district level*” to clause 1(ii) of the rule.
736. In response to the similar submission points made by Westpower (S547.272) and the Director General (S602.078) that sought to change the wording of the matter of discretion (b), Ms Easton supported the submissions in part. She recommended amendments to the matter and using guidance from the NPSIB and her previous recommendations to refer to “*regionally significant infrastructure*” instead of “*critical infrastructure*”.
737. Ms Easton did not support the addition of a new matter of discretion referring to the benefits of the proposed activity as sought by Westpower (S547.273).
738. Ms Easton did not support the relief sought by Forest and Bird (S560.497) that sought specific additions relating to the National Grid, which was consistent with her recommendation on their similar submission point relating to ECO-R1. She noted her view was consistent with that for the previous rule.
739. Ms Easton did not support the relief sought by Forest and Bird (S560.220) that sought to change the title of the rule, which was consistent with her recommendation on their similar submission points relating to ECO-R1 to ECO-R3.
740. Ms Easton did not support the relief sought by Forest and Bird (S560.494) that sought a specific provision for indigenous forestry, which was consistent with her recommendation on their similar submission point relating to ECO-R3.
741. In response to Forest and Bird’s (S560.496) request for the performance standards to be amended in relation to cycle and walking tracks, Ms Easton did not support the relief and noted her recommendations to include these matters in the controlled activity rule.
742. In response to similar submission points made by Forest and Bird (S560.498) and the Director General (S602.078) that sought amendment to clause (c) to replace “*protected*” with “*at risk (declining) species*” or “*at risk*”, Ms Easton supported the relief sought in part. She recommended amendment using “*threatened or at risk (declining) species*”, which was consistent with the NPSIB.
743. Ms Easton did not support the submission point made by Forest and Bird (S560.499) that sought to amend clause (h) to replace the reference to ECO-P6 and ECO-P7 because these policies were specific assessment criteria policies that Ms Easton considered appropriate.
744. In response to the submission point by Forest and Bird (S560.500) that sought amendments to the advice notes, Ms Easton supported the relief sought in part. She supported amendments to Advice Note (1) to improve clarity. However, she did not support deleting Advice Note (4) which was consistent with previous recommendations.
745. Ms Easton did not support the submission point made by Forest and Bird (S560.501) that sought to make amendments to direct the plan user to other rules that apply when compliance was not achieved with ECO-R5, including references to the CE Chapter rules.

746. In response to the submission point made by BDC (S538.254) that sought to include a new matter of discretion relating to natural hazards and geotechnical constraints, Ms Easton supported the relief sought. This was because the clearance of vegetation could have impacts on these matters.
747. In response to the submission point made by BDC (S538.261) that sought a reference to critical infrastructure in the matters of discretion, Ms Easton supported the relief sought. She considered that the recommendations responding to Westpower and the Director General addressed this submission point.
748. The s42A Report recommended amending **ECO-R5** as follows:

ECO - R5

Indigenous vegetation clearance not meeting Permitted or Controlled Activity Standards

Activity Status Restricted Discretionary

Where:

1. This is not within:

- i. A Significant Natural Area identified in Schedule Four or in an area that has been assessed in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area;*
- ii. An area of land environment of category one or two of the Threatened Environment Classification at the ecological district level;*
- iii. An Outstanding Natural Landscape identified in Schedule Five;*
- iv. An Outstanding Natural Feature identified in Schedule Six;*
- v. An area of High Coastal Natural Character identified in Schedule Seven; or*
- vi. An area of Outstanding Coastal Natural Character identified in Schedule Eight.*

Discretion is restricted to:

- a. ~~Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;~~*
- b. ~~Constraints imposed by~~ Consideration of the functional need or operational need of network utilities, renewable energy generation and ~~critical~~ regionally significant infrastructure;*
- c. The functional or operational need for the activity to locate within the area where indigenous vegetation clearance is proposed to occur*
- d. Effects on habitats of any threatened or ~~protected~~ at risk (declining) species;*
- e. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification;*
- f. Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems;*

- g. Effects on the intrinsic values of ecosystems;*
- h. Effects on recreational values of public land;*
- i. **Natural hazard management and geotechnical considerations;***
- j. **Poutini Ngāi Tahu values** and*
- k. The matters outlined in Policies ECO - P6 and ECO - P7.*

Advice Note:

- ~~1. Where indigenous vegetation clearance is proposed within the riparian margin of a waterbody refer to this section of the Plan for the Rules around this clearance.~~
- 2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
- 3. Where indigenous vegetation clearance is proposed within a wetland this is also be subject to rules within the NES - Freshwater and Regional Land and Water Plan which are administered by the West Coast Regional Council.
- 4. This rule also applies to ~~plantation~~ **commercial** forestry activities, where this provision is more stringent than the NES – ~~PCF~~ and the indigenous vegetation clearance is within the coastal environment.

ECO – R7

- 749. In response to the submission point made by Forest and Bird (S560.222) that sought amendment to require an assessment to demonstrate that the clearance and disturbance was not within an SNA, and in the case that it was, that the activity status should be non-complying, Ms Easton did not support the relief sought. She has referred to the NPSIB provisions and concluded that only vegetation clearance within an SNA that was not provided for in the exceptions listed in clause 3.11 and would result in adverse effects outlined in clause 3.10(2) should be a non-complying activity.
- 750. In response to the submission point made by Forest and Bird (S560.502) that sought an amendment to the activity status when compliance was not achieved, Ms Easton supported the relief sought where this aligned with her other recommendations.
- 751. In response to the submission point made by Forest and Bird (S560.504) that sought a new ECO discretionary rule, Ms Easton did not support the relief sought, as a consequence of not accepting previous submission points also made by Forest and Bird.
- 752. In response to the submission point made by Forest and Bird (S560.224) that sought to add a new ECO non-complying rule and a new advice note, Ms Easton supported the relief in terms of the non-complying activity status where it aligned with her other recommendations. This was because Ms Easton considered it was appropriate to address clause 3.10(2) of the NPSIB. She did not support the addition of the new advice note.

753. In response to the submission points made by Westpower (\$547.274) and Bathurst (\$491.020) that sought amendments to Advice Note (1), Ms Easton supported the relief sought because the changes were either grammatical or improved clarity for Plan users.

754. The s42A Report recommended amending **ECO-R7** as follows:

ECO - R7

Indigenous vegetation clearance not meeting ECO - R5

Activity Status Discretionary

Where:

1. **An ecological assessment undertaken by a suitably qualified ecologist identifies that the clearance will not result in any of the following:**
 - a. **Loss of ecosystem representation and extent**
 - b. **Disruption to sequences, mosaics or ecosystem function**
 - c. **Fragmentation of Significant Natural Areas or the loss of buffers or connections with a Significant Natural Area**
 - d. **A reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems**
 - e. **A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the Significant Natural Area.**

OR

2. **This is for mineral extraction (other than coal) that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand ; or**
3. **This is for the operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal; or**
4. **This is for a single residential dwelling on an allotment created before 4 August 2023; or**
5. **This is for a commercial forestry activity and is required for the commercial forestry activity to continue.**

Advice Note:

1. ***Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the objectives and policies of ~~both~~ the Ecosystems and Biodiversity Chapter and Natural Features and Landscapes Chapters and the MINZ and BCZ Zone objectives and policies will be required where relevant.***
2. ***This rule also applies to ~~plantation~~ commercial forestry activities, where this provision is more stringent than the NES - PCF.***

Activity status where compliance not achieved: ~~N/A~~ Non-complying

755. The s42A Report recommended adding new Rule **ECO-R8A** to the Plan as follows:

ECO – R8A

Indigenous vegetation clearance not meeting ECO – R7

Activity Status Non – complying.

Activity status where compliance not achieved: N/A

756. Ms Easton made minor amendments to the recommended wording of this rule in her supplementary statement to reflect the RMA Amendment Act relating to coal mining. The recommended wording related to clause (2) as follows:

2. ~~This is for mineral extraction (other than coal)~~ that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand ; or

ECO – R10 and ECO – R11

757. Ms Easton acknowledged the large majority of submission points that sought to retain ECO-R10 and ECO-R11 as notified.

758. In response to the submission points from Forest and Bird (S560.226 and S560.227) that sought to make these rules prohibited activities, Ms Easton did not support the relief sought. This was because she was aware of research involving biological techniques to manage pest species and a prohibited activity status could have unforeseen consequences.

759. The s42A Report recommended no amendments to either ECO-R10 or ECO-R11.

Hearing and Submitter Evidence/Statements

Rules (General) and Permitted activity rules

760. Mr Brass, for the Director General, acknowledged the s42A Report recommendation to include a new rule (ECO-R1B) and accepted that there could be circumstances where an activity could appropriately be permitted in an SNA. He confirmed he was generally comfortable with the new rule. However, he did consider clause (5) was too broad and suggested a minor amendment as follows:

5. ~~Necessary to~~ enable removal of unwanted organisms declared under the Biosecurity Act 2015.

761. Ms Snoyink, on behalf of Forest and Bird, reiterated the submission point that, as a comprehensive survey had not yet been undertaken to map the SNA, it was necessary to require a resource consent for indigenous vegetation clearance (other than for specific purposes and within limits). She also considered that a rule related to general vegetation clearance outside of SNA that would apply after the SNA assessment and mapping was complete could be included in the plan now. She considered there should be limited clearance for specific purposes and with appropriate limits, but not within the coastal environment.

762. Ms Snoyink supported new Rule ECO-R1B, as set out in the s42A Report. She agreed that there were circumstances where some vegetation clearance could be permitted within an SNA. However, she expressed uncertainty for how the rule might apply to ‘*assessed areas*’ that were not identified in the Plan. Nevertheless, she generally accepted clauses (2), (3), (4) and (5) of the rule, although noted some uncertainty about how clause (2) was intended to work. She also supported the amendment to clause (5) as proposed by the Director General.
763. With regard to clause (1), Ms Snoyink had concerns related to what might constitute “*established activities*”. She acknowledged that the NPSIB provided direction for local authorities with respect to established activities but noted this was for “*specified established activities*” only. She did not consider that the necessary requirements of the Council were met as clause (1) of ECO-R1B was currently drafted. She suggested the following amendment:
1. For the maintenance, operation and repair of **lawfully** established ~~activities~~ **buildings** and structures including tracks, fences, drains, ~~structures~~, infrastructure and renewable electricity generation activities where:
 - a. ~~This is at the same or similar scale, character and intensity as at 14 July 2022; and~~
 - b. The clearance is within 3m of the **lawfully** established ~~activity~~ **building or structure** and **clearance** is limited to a maximum area of 50m² ~~per individual SNA~~;
764. Mr Kennedy, for Westpower, acknowledged the reason for the inclusion of new rule ECO-R1B was to provide for the maintenance, operation and repair of infrastructure and renewable electricity generation. However, he considered it was problematic in terms of existing electricity infrastructure because of the electricity operator’s obligations to comply with electrical safety distances around lines. He also identified differences in the wording of clause (1) and the NPSIB in terms of providing for the “*repair*” rather than “*upgrade*” of an established activity. He also identified differences in the wording of clause 1(b), noting that the NPSIB made provision for retaining any existing rights under sections 10 or 20A of the RMA. He accepted the rationale for the rule but considered that it required fine-tuning.
765. Ms Linscott, for Federated Farmers, commented on the recommended addition of new rule ECO-R1B. She noted an SNA on a farmer’s property could impinge on their day to day operations and could result in costly and cumbersome requirements to ensure compliance. She suggested there was an opportunity on the West Coast to strike a balance between protecting ecosystems and landowner property rights. She supported a permitted activity for the maintenance, operation and repair of established farming activities within SNA. However, she opposed the spatial limits recommended in the rule and considered there was no evidence for the limits, which appeared arbitrary. She considered 50m² was unworkable given that there was likely to be large areas of SNA on privately owned rural land. She noted that greater areas may need to be cleared in (for example) emergency situations, such as restoring access after a storm event. Ms Linscott suggested amended wording for clause (1) as follows:
1. For the maintenance, operation and repair of established activities including but not limited to: tracks, fences, drains, structures, infrastructure and renewable electricity generation activities ~~where the removal is within 3m of the established activity and is limited to a maximum area of 50m² per individual SNA~~ **and the removal is limited to the smallest extent practicable to undertake that activity.**

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766. Ms Linscott did not support the requirement in clause (2) that a Council approved contractor must certify that it was necessary to remove vegetation when it endangered human life or buildings. She considered this would add delays and cost that was unacceptable in the circumstances. She suggested amended wording for clause (2) as follows:

2. *Necessary to remove vegetation that endangers human life or existing buildings or structures. ~~where this is certified by a Council Approved Arboricultural Contractor~~*

767. Ms Hills considered that, prior to the identification of SNA, the rules relating to vegetation clearance should apply to all vegetation and any clearance should be only for a specific purpose and within limits. She also commented on new rule ECO-R1B. She was unsure about the application of the 50m² limit and whether this was in relation to an annual area or per activity and considered the rule should apply to all SNA. She supported Forest and Bird's position in regard to this rule.

768. Ms Whitney, for Transpower, commented on the recommended addition of new ECO-R1B. She noted concerns with the rule and the potential for it to capture vegetation clearance related to the National Grid. To address this, she suggested amendments to the rule to recognise the National Grid, as well as the addition of a new controlled activity rule relating to the upgrade, maintenance, operation and repair of the National Grid within an SNA as follows:

ECO - R1C Indigenous Vegetation Disturbance and Clearance within an identified Significant Natural Area associated with the maintenance, operation, repair or upgrade of the National Grid, where not regulated by the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009

Activity Status Controlled

Where this is:

1. **Associated with the maintenance, operation, repair or upgrade of the National Grid**

Matters of control are:

- a. **The measures to avoid, remedy or mitigate any adverse effects on the significant indigenous biodiversity.**
- b. **The operational needs and technical requirements of the National Grid**

Activity Status where compliance not achieved: N/A

ECO-R1

769. Mr Brass supported, in principle, the s42A Report recommendation to separate this rule based on where SNA had already been identified. However, he noted concerns regarding the specific content of the rules as follows:

- (a) In scenarios where an SNA assessment had been undertaken and the site was outside of any SNA, Mr Brass considered that this would allow for a site-specific assessment to be a permitted activity. He noted this relied on a third party to determine a permitted activity status, without Council having the ability to test the assessment. He considered this failed to meet the Council's obligations under RMA s6(c), the NPSIB and the RPS.

- (b) The addition of “and” and “or” between clauses created conflict and confusion about the interpretation of the rule and depending on the interpretation, the area of vegetation clearance could be unrestricted. This was not supported by Mr Brass and he supported a maximum clearance of 5,000m² per site in any three year period for any area outside of an SNA.
- (c) There could be additional areas in the Grey District containing significant indigenous vegetation or significant habitats of indigenous fauna. Therefore, Mr Brass considered that all three districts should be treated the same.
- (d) The reference to ECO-RXXX (relating to riparian margins) was uncertain and the content of this rule was not included in the recommendations. He presumed this came from recommendations in the Natural Character and Margins of Waterbodies s42A Report.
770. Mr Brass suggested that ECO-R1A be deleted and Rule ECO-R1 be revised (a clean version) as follows:

ECO - R1 - Indigenous vegetation clearance and disturbance outside of the coastal environment

Activity Status Permitted

Where:

2. It is outside of:

- i. any identified Significant Natural Area including those in Schedule Four; and**
- ii. any Outstanding Natural Landscape identified in Schedule 5;**

and it meets one of the following criteria:

- 3. Within the Riparian Margin of a River, Lake or Coastal Wetland the clearance is permitted by Rule ECO - RXXX; or**
- 4. Until a District-wide SNA assessment in accordance with Policy ECO-P1 has been undertaken for the District where the site is located and Schedule Four has been updated to include the identified SNA, it is a maximum area of 2000m² over any continuous 3 year period; or**
- 5. After a District-wide SNA assessment in accordance with Policy ECO-P1 has been undertaken for the District where the site is located and Schedule Four has been updated to include the identified SNA, it is a maximum area of 5000m² over any continuous 3 year period; or**
- 6. It on a site where no District-wide SNA assessment in accordance with Policy ECO-P1 has been undertaken and Schedule Four updated to include the identified SNA, or is within an Outstanding Natural Landscape, and is a maximum area of 5000m² per site over any continuous 3-year period; and it is necessary for one of the following purposes:...”**

771. Ms Snoyink reiterated Forest and Bird’s submission point that until a comprehensive assessment to map significant natural areas as been completed, any permitted activity for indigenous vegetation clearance must be relatively stringent. She considered that a consenting requirement should apply, until the plan was updated to include mapped SNA,

to ensure that an appropriate assessment against the SNA criteria was undertaken. In reference to recommended new ECO-R1A, she supported Mr Brass' evidence and considered the rule should be deleted. She considered that until a full assessment was completed to identify SNA across all three districts, any clearance of vegetation should be treated as if it were within an SNA.

772. Mr Kennedy supported the s42A Report recommendation to separate ECO-R1 based on where SNA were already identified. However, he had concerns regarding the specific content of the rules as follows:

- (a) Use of the word 'sites'. He suggested amendments to clarify that it was "*identification in the plan*" that guides the components of the rule.
- (b) A limit of 5,000m² of vegetation clearance limit was problematic for linear infrastructure and the NPSIB has no limit for specified established activities. He suggested that in reference to "*established activities*" that there should be no limit for vegetation removal.
- (c) The rule made provision for the "*repair*" of "*established activities*" but also needed to include "*upgrade*" of established activities (at clause 4(ii) of the rule) to give effect to the NPSIB.
- (d) The submission point that sought to provide for a 10m construction corridor width was not discussed in the s42A Report and was necessary to ensure the rule was achievable and provided for electrical safety distances.
- (e) Similar amendments should also apply to clauses 3(ii) and 3(viii) of new Rule ECO-R1A, including as it relates to ONL, especially as they relate to established activities.

773. Ms Inta on behalf of herself and the Buller Conservation Group commented on the recommended changes to each clause in ECO-R1 as follows:

- (a) Ms Inta considered clause (1) of the rule would enable "*carte blanche*" removal of vegetation not identified as SNA. She also considers that a reference to the RPS should be included in the rule and that the use of the word "*site*" should be reconsidered.
- (b) Ms Inta did not support the word "*and*" at the end of clause (1) or the word "*or*" at the end of clause (2). She considered these words confused the rule and that clause (2) should stand alone.
- (c) Ms Inta supported the addition of clause (3).
- (d) Ms Inta suggests amendments to clarify the wording of clause (4) and did not support the 5,000m² maximum area for vegetation clearance. She suggested amendments:
 - 4. It is on a site where no SNA assessment has been undertaken, ~~or is~~ including within an Outstanding Natural Landscape ...
- (e) Ms Inta noted that the removal of windthrown timber for anything other than firewood would require an MPI sustainable harvest permit (clause 4(i)).

(f) Ms Inta considered it was unnecessary to construct fence lines (especially requiring up to 5,000m² of clearance) within indigenous vegetation as provided in clause 4(vi) and considered this would only be necessary on the forest boundary.

(g) Ms Inta suggested that the 3m width provided in clause 4(vii) was excessive and that it should be reduced to 1.5m. She also recommended additional wording to protect mature trees, as follows:

vii. *To upgrade or create new public walking or cycling tracks up to ~~3m~~ **1.5m** in width undertaken by the Council or its approved contractor **provided mature trees (greater than 30cm diameter) are avoided;***

(h) Ms Inta suggested that the age of the vegetation referred to in clause (4)(xiii) should be reduced to 10 years, as by 15 years moss ecosystems may have begun establishing.

774. Despite the suggested amendments Ms Inta made regarding clause (4) of the rule, she ultimately did not think the clause was necessary because she considered clause (3) was sufficient. She considered the removal of 5,000m² every three years would continue to allow the degradation of the ecosystems. Additionally, she considered ECO-R1A and ECO-R1B both breached policies in the RPS and the NPSIB by providing for up to 5,000m² of vegetation clearance. She noted the reference to ECO-RXXX in ECO-R1 was confusing and was unsure exactly what it referred to.

775. Ms Linscott, for Federated Farmers, commented on the recommended amendments to ECO-R1 as follows:

(a) Clause 4(ii) should include “*drains and waterlines*” as established activities.

(b) “*Council Approved Arboricultural Contractor*” should be deleted from clause 4(iv).

(c) While clause 4(xiii) supported the ability to remove indigenous vegetation for the purposed of maintenance of improved pasture, the restriction of 5,000m² per site over 3 years should be deleted, along with the reference to the vegetation only being manuka, kanuka and bracken. She suggested that clause 4(xiii) be deleted and renumbered to clause (5) and amended as follows:

5. **It is on a site where no SNA assessment has been undertaken or is within an Outstanding Natural Landscape and it is for the purpose of maintenance of improved pasture for farming and involves the removal or clearance of ~~manuka, kanuka and bracken~~ only indigenous vegetation** that is not part of any wetland and which is under 15 years old.

(d) As a consequence of the above request, Advice Note (1) should be deleted.

(e) That the same amendments as set out above also be made to ECO-R1A.

776. Ms Sannazzaro, for Federated Farmers, also considered ECO-R1/ECO-R1A and largely reiterated the submission points and the points made by Ms Linscott. She made the following additional comments:

(a) A reference to “*animals*” should be added to clause 4(iv).

(b) As an alternative to clause 4(xiii), she suggested a separate clause would work better, as follows:

5. *It is on a site where no SNA assessment has been undertaken or is within an Outstanding Natural Landscape and it is for the purpose of maintenance of improved pasture for farming, and*
- v. *It is part of a regular cycle of periodic maintenance and any adverse effects are no greater in intensity, scale, or character than previously;*
- vi. *and involves the removal or clearance of ~~manuka, kānuka and bracken~~ only indigenous vegetation that is not part of any wetland and which is under 15 years old.*

(c) Advice Note (1) should be deleted.

777. Ms Pull, for Poutini Ngāi Tahu, considered the definition for “Poutini Ngāi Tahu land” recommended in the s42A Report would narrow the application of what Ms Pull understood this to mean. She considered the rules should apply to land owned or managed by Poutini Ngāi Tahu, and proposed alternative wording for ECO-R1 clause (4)(xi) and ECO-R1A clause (3)(x) as follows:

ECO-R1

- ii. *It is for Poutini Ngāi Tahu Activities on MPZ - Māori Purpose Zoned or **land managed or owned by** Poutini Ngāi Tahu—~~land~~ and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*

ECO-R1A

- x. *It is for Poutini Ngāi Tahu Activities on MPZ - Māori Purpose Zoned or **land managed or owned by** Poutini Ngāi Tahu—~~land~~ and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*

778. Te Tumu Paeroa and Poutini Ngāi Tahu reached an agreed position on ECO-R1 to resolve the submission point S440.027, in their joint statement dated 14 August 2024, which incorporated an additional clause to say “*it is on Māori Land and clearance is limited to manuka, kanuka and bracken*”, and an additional advice note stating “*some indigenous vegetation may impact Taonga Species identified in the Ngāi Tahu Claims Settlement Act*”.

779. Ms Styles, for Manawa, reiterated that the submission points that sought to ensure the rule was clear and made appropriate provision for renewable electricity generation. She considered rules ECO-R1, ECO-R1A, ECO-R1B, ECO-R2 and ECO-R7 as a group and was of the view the recommended amendments made them very complex. She did not support the permitted limit of 2,000m² for indigenous vegetation clearance outside of SNA and considered this was too restrictive for renewable electricity generation activities, and that it did not adequately enable renewable electricity generation activities as a matter of national importance. She also considers that it was appropriate for the rules to allow for the upgrade and construction of renewable electricity generation activities, in the same way as it did for other activities. Overall, Ms Styles sought a less complex rule and a separate clause allowing for greater indigenous vegetation clearance for renewable electricity generation activities.

780. Ms Hunter, for Bathurst, reiterated that it would be appropriate to maintain a permitted activity status for the clearance of indigenous vegetation in the BCZ and MINZ, particularly where such clearance may already be authorised by an existing approval suite such as a Coal Mining Licence. She noted the redrafted rule had no clear provision for clearing or disturbing indigenous vegetation where it may be associated with an existing mineral extraction operation. She suggested that this could be resolved by retaining a reference to “*lawfully established activities*” and that the associated definition be as proposed in her evidence presented in the Mineral Extraction hearing. Notwithstanding this, she considered a more effective approach to address the submission point would be to have a standalone rule in either the ECO or BCZ Chapters, as follows:

Indigenous vegetation clearance and disturbance in the BCZ.

Activity Status Permitted

Where:

1. **It is associated with either a permitted or controlled activity in accordance with Rule BCZ -X and X.**

Indigenous vegetation clearance and disturbance in the BCZ.

Activity Status Restricted Discretionary

Where:

1. **It is associated with a restricted discretionary activity in accordance with Rule BCZ – X; and**
2. **The effects management hierarchy is applied.**

781. Mr Horne, for the Telecommunications Companies, acknowledged the amendments to ECO-R1 and generally supported these in regard to indigenous vegetation clearance for network utilities as they applied to telecommunication networks. He suggested it would be appropriate to provide a rule allowing for up to 20m² of vegetation clearance for network utilities per site over a rolling three-year period.

782. Ms Hills considered ECO-R1 was difficult to understand and interpret. She was concerned that the confusion would risk misinterpretation and put indigenous biodiversity at risk. She considered the clearance of 2,000m² of indigenous vegetation should not be a permitted activity. She questioned the meaning of “*site*”, vegetation status, the justification for allowing clearance of manuka and kanuka that was less than 15 years old, and the need to clear vegetation to construct a fence. She noted her comments also apply to ECO-R1A.

783. Ms Whitney, for Transpower, considered the recommended rule framework was difficult to navigate and interpret. She attributes this to the following:

- (a) Provision of a default activity status but with no specific default rule reference;
- (b) No rule ECO-RXXX despite it being referenced;
- (c) The duplication and the contradictory nature of the provisions for the operation or repair of the National Grid; and
- (d) The mix of terminology within the ECO Chapter (e.g. “*areas of significant indigenous vegetation and significant habitats of indigenous fauna*”, “*Significant Natural Areas*”, “*Area of Significant Indigenous Biodiversity*”).

784. Ms Whitney noted clause (4)(ix) was the primary part of the rule that was relevant for the National Grid but considered the 3m wide construction corridor was unlikely to be sufficient. She also commented that it was unclear what rule would apply if compliance with clause (4) could not be met, and confusion related to the 5,000m² clearance limit. She considered clause (4)(ii) would be a better clause for enabling vegetation clearance associated with existing National Grid assets. She suggested the following amendments to the rule:

ECO - R1

...

3. *It is on a site where no SNA assessment has been undertaken and is a maximum area of 2000m² over any continuous 3 year period or is associated with the operation, maintenance, repair or upgrade of the National Grid; or*
4. *It is on a site where no SNA assessment has been undertaken, or is within an Outstanding Natural Landscape and is a maximum area of 5000m² per site over any continuous 3- year period; and it is necessary for one of the following purposes:*

...

- ii. *The maintenance, operation and repair of established activities: including but not limited to roads, the rail corridor, accessways, tracks, fences, structures, buildings, regionally significant infrastructure, network utilities, renewable electricity generation activities, shelterbelts and woodlots or natural hazard mitigation structures and the operation, maintenance, repair and upgrade of the National Grid;*

...

- ix. *For construction, or operation, repair or upgrade of an above ground or below ground network utility, or for the development of the national grid where:*

785. Ms Whitney also considered the addition of ECO-R1A and while she acknowledged the similarities with ECO-R1, she noted subtle differences as follows:

- (a) There was no general clause to enable up to 2,000m² of vegetation clearance;
- (b) Clause (3) was confined only to within ONL;
- (c) Clauses (1) and (2) were followed by “and” which was different from ECO-R1 where “or” was used.

786. Ms Whitney’s concerns with ECO-R1A were similar to those set out in relation to ECO-R1, and she suggested amendments as follows:

ECO - R1A

...

- X. *It is a maximum area of 2,000m² over any continuous 3 year period, or is associated with the operation, maintenance, repair, upgrade or development of the National Grid; or*

3. *It is on a site where no SNA assessment has been undertaken, or is Within an Outstanding Natural Landscape and it is a maximum area of 5000m² per site over any continuous 3-year period and is necessary for one of the following purposes:*

...

- ii. *The maintenance, operation and repair of lawfully established activities: including but not limited to: roads, the rail corridor, accessways, tracks, fences, structures, buildings, regionally significant infrastructure, network utilities, renewable electricity generation activities, shelterbelts, woodlots, and natural hazard mitigation structures and the operation, maintenance, repair and upgrade of the National Grid; or*

...

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1. For construction, operation, repair or upgrade of an above ground or below ground network utility, or for the development of the national grid where:
 - a. The construction corridor did not exceed 3m in width; and
 - b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and
 - c. Rehabilitation of disturbed areas is undertaken following the completion of construction; or

...

787. Ms Lynne Lever spoke at the hearing on behalf of herself and Mr Greg Tinney in relation to ECO-R1 and ECO-R2. She sought clarification of the limit for indigenous vegetation clearance within and outside the coastal environment, particularly in relation to small land parcels and those landowners letting gorse regenerate into bush. She considered the 500m² in the coastal environment would force people into getting a resource consent for activities such as relocating water tanks and letting light in for sphagnum moss growth. She considered the 5,000m² for listed activities only was concerning, as was the requirement to use a Council Approved Arboricultural Contractor. She considered they should be able to take the odd Rimu tree to restore their cottage by getting a permit under the Forest Act and not the RMA as well.
788. The statement from WCRC acknowledged and supported the addition of “*environmental monitoring facilities*” to the rule. It noted 20m² of permitted vegetation clearance in riparian margins was appropriate and provided for minimal vegetation trimming around hydrology monitoring equipment. However, it noted that combining “*environmental monitoring facilities*” in the same clause as “*temporary electricity generation activities*” had created uncertainty. To address this, it suggested adding a comma after the reference to “*state of emergency declaration*” or moving “*environmental monitoring facilities*” to the start of clause (iii).
789. The statement from WCRC acknowledged and supported the addition of ECO-R1B subject to two amendments as follows:
- (a) The reference to necessary vegetation removal that “*endangers*” human life or existing buildings was not considered to be appropriate in relation to structures and should be amended to “*interferes with the functioning of*” or similar.
 - (b) The requirement to have vegetation trimming certified by a Council Approved Agricultural Contractor was considered to be unnecessarily onerous.

ECO-R2

790. Mr Brass acknowledges the recommended amendments to this rule were not exactly as sought in the submission. However, he was satisfied that the recommended redrafting largely aligned with the recommended permitted activities outside the coastal environment where an SNA assessment had not been carried out. He confirmed he was therefore comfortable with the recommendation.
791. Ms Snoyink acknowledged the recommended amendments were an improvement but retained concerns regarding the specific content of the rule as follows:
- (a) The references to “*established activities*” in the same line as set out for ECO-R1B.
 - (b) A width should be specified with regard to clauses (5)(i), (iv) and (v).

- (c) Clause (5)(iv) should be clarified to restrict fencing to where indigenous vegetation would be protected and restored.
- (d) Clause (5)(ix) should not apply to subdivision approved after the plan becomes operative.
- (e) Clause (5)(x) could result in the clearance of significant indigenous biodiversity given SNA have not been comprehensively identified.
- (f) The use of the term “*improved pasture*” should not be used until SNA are identified. She suggested the following wording for clause (5)(viii):

It is for the purpose of maintaining lawfully established ~~maintenance of improved pasture for farming and involves~~ and is limited to the removal or clearance of manuka, kānuka and bracken only that is:

a. less than 15 years old ~~not part of any wetland~~ and

b. which is not part of any wetland ~~under 15 years old~~

792. Mr Kennedy for Westpower, maintained his view that ECO-R2 should be relocated to the Coastal Environment Chapter but acknowledged Council staff preferred the current format. With regard to the recommended amendments to the rule, he noted many of his concerns were the same as those relating to ECO-R1, as follows:

- (a) The 500m² vegetation clearance limit was problematic for linear infrastructure and should be increased for infrastructure, with reference to a “work site”, and no limit for vegetation removal for “*established activities*”.
- (b) Threatened Environment Classification areas referred to in clauses (3) and (4) should be mapped to assist plan users.
- (c) Provision for the “*repair*” of “*established activities*” and the “*upgrade*” of established activities (at clause (5)(i) of the rule) to give effect to the NPSIB.
- (d) Clause (5)(v) relates to new activities and limit for vegetation clearance would apply.
- (e) Clause (5)(x) achieves the opposite of the intended outcome and it appears to limit the clearance of vegetation on urban sites rather than it being unrestricted; and should be addressed by removing the coastal environment mapping from urban areas to avoid confusion.

793. Ms Inta considered the 3m width for creating or upgrading a cycle or walking track was overly generous and risked the coastal ecosystems. She reiterated her concerns regarding providing for vegetation clearance for fence lines and the age for permitting manuka, kanuka and bracken clearance. She also noted the Forest and Bird submission did not request for Advice Note 1 to be deleted, rather it requested more explanation.

794. Ms Linscott and Ms Sannazzaro reiterated the same concerns for ECO-R2 as discussed in relation to ECO-R1. They opposed clause (2) restricting vegetation clearance to 500m² over three years because it was unworkable for farmers and would lead to an influx of resource consent applications that Councils were ill equipped to deal with, or non-compliance with the rule.

795. Ms Styles considered the permitted activity rules as a whole, as summarised above.
796. Mr Horne acknowledged the amendments and noted these had removed the provision for the installation of new infrastructure as a permitted activity in the coastal environment. He considered there should be a permitted pathway for the provision of network utility infrastructure in the coastal environment and noted there was a permitted pathway to clear vegetation for new dwellings where there was not one already on a site. He considered clearance of vegetation within a road reserve should be permitted and suggested the amendment to ECO-R2 as follows:

ECO – R2

...

5. *The indigenous vegetation clearance is for the following purposes:*

...

v. *For the operation, maintenance, repair ~~or~~ upgrade or construction of network utility infrastructure, renewable energy generation or the national grid; or*

...

xi. ***The clearance is undertaken in a formed road reserve***

797. Ms Hills noted similar concerns to her concerns with ECO-R1, that ECO-R2 was difficult to understand and interpret. She also questioned the need for a separate rule for Grey District.
798. Ms Whitney noted the rule only applied to the coastal environment and there was only a small area of Transpower assets in this area which were regulated by NESETA. She therefore accepted the recommended wording for ECO-R2.
799. The KiwiRail letter reiterated the submission point that was necessary to provide for vegetation clearance when it was related to activities related to critical infrastructure. It acknowledged the recommended amendments and raised concerns that the original intent of the rule has changed as follows:

- (a) Installation and upgrading were no longer provided for as a permitted activity;
- (b) The maintenance, operation and repair of established activities was limited to where this was the same or similar scale, character and intensity as at 14 July 2022;
- (c) The rule included a permitted pathway for network utility provision where it was for operation, maintenance, repair or upgrade without the same or similar scale, character and intensity caveat, but did not include installation; and
- (d) A new area of protection had been added to the rule (Threatened Environment Classification) and it was uncertain where these areas were.

800. KiwiRail requested amendments to the rule as follows:

- (a) *“Installation”* and *“upgrading”* be reinstated to the rule at clause (5)(i) to be consistent with clause (5)(v);
- (b) Delete the three year period;
- (c) Delete clause (4) (Threatened Environment Classification) or map the areas; and

(d) Clarify clause (5)(ii) did not preclude the application of RMA s330 (Emergency works).

801. Mr Tuck's letter on behalf of Silver Fern Farms confirmed he accepted the s42A Report recommendation regarding the permitted activities under rule ECO-R2(5)(i) and (x).

802. The statement from WCRC acknowledged and supported the addition of "*environmental monitoring facilities*" to the rule, but considered that the requirement to have any clearance certified by a Council Approved Arboricultural Contractor was unnecessarily onerous.

ECO-R3

803. Ms Snoyink noted Forest and Bird retained the position set out in the submission, which was to delete the rule.

804. Ms Pull supported the inclusion of a matter of control related to ensuring that Poutini Ngāi Tahu values are considered when making decisions on relevant resource consents. She considered the matter of control should be consistent with ECO-P7 and use the same terminology as follows:

The extent to which the proposed activity recognises and provides for Poutini Ngāi Tahu cultural and spiritual values, rights and interests (including impact on mahinga kai).

ECO-R4/SUB-R7

805. Ms Linscott and Ms Sannazzaro, for Federated Farmers, did not support the addition of the words "*where legal protection is proposed*" to the title of the rule and were not satisfied with the explanation in the s42A Report. They were unclear what planning provision enabled "*proposed*" legal protection. They also opposed the addition of clause (2) on the basis that the NPSIB placed the responsibility for identifying SNA with district councils and not consent applicants. They noted the s42A Report referred to the public benefit of indigenous vegetation and that clause (2) privatised the cost of the public benefit to private landowners.

806. Ms Inta considered SUB-R7 should include an advice note referencing the ECO Chapter. She also considered that clause (i) should refer to all indigenous biodiversity, not only that which was significant, and that the effects management hierarchy should apply.

807. Mr Kennedy, for Westpower, maintained his view that there should be a matter of control that related to the provision of easements. He did not consider it sufficient to refer to the subdivision standards, including SUB-S10. He suggested adding a new matter of control as follows:

j. **The provision of easements, including for both existing and proposed energy activities and associated infrastructure.**

808. Ms Pull accepted the amendment to refer to Poutini Ngāi Tahu values.

ECO-R6/SUB-R9

809. Ms Linscott and Ms Sannazzaro noted that their comments made in relation to ECO-R4/SUB-R7 also applied to this rule.

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810. Ms Inta accepted the s42A Report recommendation to add additional matters of discretion requested. She also referred to a submission point made in relation to SUB-R9 which related to a buffer distance for development (i.e. building, roads and access) from an SNA. She noted that in the Subdivision Chapter hearing the recommendation was to transfer the submission point to this hearing stream, but that this had not been addressed.
811. Mr Kennedy, for Westpower, noted his comments made in relation to ECO-R4/SUB-R7 also applied to this rule and he maintained his view that there should be a matter of discretion that related to the provision of easements.
812. Ms Pull accepted the amendment to refer to Poutini Ngāi Tahu values.

ECO-R8/SUB-R15

813. Ms Snoyink recorded Forest and Bird was generally supportive of deleting the duplicated subdivision rules from the ECO Chapter. However, she suggested that the recommended advice note for this rule should also be added to all the relevant subdivision rules. She did not support the removal of the clauses from SUB-R15, or the removal of the non-complying default where compliance was not achieved, for the reasons as set out in the submission.
814. Ms Inta considered that an advice note should refer to clause 3.10 and 3.11 of the NPSIB. She also reiterated the matter of a buffer zone and considered an explanation of the term “N/A” was needed.

ECO-R9/SUB-R27

815. Ms Snoyink recorded Forest and Bird was concerned about the recommendation to delete this rule, and the subsequent reliance on SUB-R15 as the “catch-all” rule for any other subdivision. She explained that this was because SUB-R15 was specific to creating lots to contain an SNA, while SUB-R27 was broader and captured any subdivision within an SNA. Therefore, it is Ms Snoyink’s opinion that SUB-R27 should be retained to capture subdivision within SNA where the subdivision is not to “create allotments containing an SNA”. She also remained concerned that the use of the term “*area of significant indigenous biodiversity*” created inconsistency and uncertainty with other terms used in the ECO Chapter. Ms Snoyink maintained her view that any subdivision within an SNA where it was not intended to protect the SNA within an allotment should have a non-complying activity status.

ECO-R5/ECO-R7/ECO-R8A

816. Ms Snoyink noted Forest and Bird was generally supportive of the recommendations but continued to have some minor concerns as follows:
- (a) That the rule could be applied to an area that has not been assessed;
 - (b) It was unclear what benefit the addition of “*at ecological level*” brings to clause (2) of ECO-R5;
 - (c) She questioned whether the matters of discretion were adequate to consider the policies from the RPS and the NPSIB; and
 - (d) ECO-R7 as recommended could be read as the requirements for granting consent, which was not appropriate.

817. Mr Brass, for the Director General, acknowledged the recommended amendments were not exactly as those sought, but noted he was generally supportive of the recommended structure of the redrafted rules. However, he made comment as follows:
- (a) He agreed and was supportive of the recommendations to ECO-R5 that require an assessment in accordance with SNA criteria for sites outside of already identified SNA.
 - (b) He noted some uncertainty as to why some exceptions from the NPSIB 3.11 were reflected in the rule structure and others are not.
 - (c) He had some concern that a non-complying consenting pathway was provided for activities that the NPSIB seek to avoid.
 - (d) He considered there was a policy gap for the assessment of non-complying activities, and without this, he considered that ECO-R8A should be split to create a prohibited activity status for any activity that would breach NPSIB 3.10(2).
818. Mr Kennedy, for Westpower, generally supported the recommendation relating to ECO-R5. However, he maintained his view that ECO-R5 should be relocated to the Coastal Environment Chapter and that a new matter of discretion should be included that would enable the consideration of the benefits of the proposed activity.
819. Mr Kennedy considered the recommended changes to ECO-R7 were significant in the context of the rules and had not been appropriately assessed. He noted that only some of the exceptions from clause 3.11 of the NPSIB had been incorporated into ECO-R7. He did not agree with the amendments to limit the applicability of the rule, including the lack of provision for infrastructure matters, and preferred the rule as notified with a minor amendment to Advice Note (1).
820. Ms Whitney, for Transpower, noted ECO-R5 did not relate to disturbance and therefore considered there was a rule gap relating to disturbance activities within ECO-R1 and ECO-R1A. She advised that, subject to an amendment to the rule to add “*disturbance*”, she supported the amended rule.
821. Ms Whitney also commented that ECO-R7 did not include provision for “*disturbance*” in the rule. She had concerns that a non-complying resource consent application would be necessary for the development or construction of National Grid assets and considered this would not give effect to the NPSET or ENG-P8. She suggested the addition of a new rule, ECO-R7A as follows:

ECO-R7A

Indigenous Vegetation Disturbance and Clearance within an identified Significant Natural Area or not meeting ECO-R5 or ECO-R7, associated with the development of the National Grid

Activity Status Discretionary

Where this is:

1. Associated with the development of the National Grid

Activity Status where compliance not achieved: N/A

822. Ms Styles, for Manawa, noted that changing the recommended default status for ECO-R7 to non-complying could result in renewable electricity generation activities being non-complying while mineral extraction and forestry would remain discretionary activities. She considered that the rule cascade from restricted discretionary to discretionary was unusual.

823. Ms Linscott, for Federated Farmers, considered adding “*by the District Council*” to clause (1)(i) of ECO-R5 would help clarify that the obligation for completing an SNA assessment was the responsibility of the Council and not consent applicants (or landowners).

*A Significant Natural Area identified in Schedule Four or in an area that has been assessed **by the District Council** in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area.*

824. Ms Hunter, for Bathurst, reiterated the submission point to have lawfully established activities acknowledged, and that regard be had to the objectives and policies of the BCZ and MINZ Chapters. She considered the redrafted rule and the amendments to Schedule Four would likely trigger a requirement for a resource consent where indigenous vegetation removal was undertaken as part of existing mining operations. She explained that this was because an area of the zone was identified as a Schedule 2 Regionally Significant Wetland in the West Coast Regional Land and Water Plan. Given this, she did not support the recommended amendments to Schedule Four that elevate the status of all scheduled regional wetlands to SNA.

825. Ms Pull accepted the amendment to refer to Poutini Ngāi Tahu values. Her summary statement highlighted the enablement of Māori land through the permitted activity rule but noted the change in the default activity status to non-complying was a significant change from notified. She noted the need to avoid activities that impact Threatened Environment Classifications, but considered this needed to be balanced against ECO-P6, which seeks to enable use and development of Māori land. She considered that if the Threatened Environment Classification remained in ECO-R2, then ECO-R5 should be consequentially amended to enable Māori land within this category to be considered.

826. Ms Inta considered the matters of discretion in clauses (b) and (c) in ECO-R5 were similar and should be combined. She also suggested that in clause (1) should reference both the NPSIB and RPS and she suggested the following wording:

*An ecological assessment undertaken by a suitably qualified and experience ecologist identifies, **using NPS-IB Appendix 1, supported by WC-RPS Appendix 1**, that the clearance will not result in any of the following:*

827. Ms Hills considered ECO-R5 should include a requirement to assess areas that were yet to be assessed against the SNA criteria. She noted that in ECO-R7 the first two clauses from NPSIB clause 3.11 were referred to, but not clause (c).

828. Mr Tuck’s letter on behalf of Silver Fern Farms confirmed that he accepted the s42A Report recommendation regarding the permitted activities under rule ECO-R5(1)(c).

829. Mr Phil McKinnel tabled a letter on behalf of Birchfield Coal Mines reiterating support for the rules as notified, and outlined concerns with the amended wording for ECO-R7 and the addition of ECO-R8A as follows:

(a) The requirements of the NPSIB clause 3.10(2) were applied more widely than SNA without justification;

- (b) There was no justification to support the default non-complying status for vegetation clearance;
- (c) The non-complying activity status was considered to be prohibitive in the context of the objectives and policies and did not fit with the scheme of the Plan, as non-complying activities were not in other chapters;
- (d) There was no scope for having greater control over indigenous vegetation clearance in category 1 or 2 Threatened Environment Classification, ONL, ONF, high natural character areas and outstanding natural character areas;
- (e) NPSIB provisions have been cherry-picked without any explanation and did not give effect to the NPSIB; and
- (f) Regard must be given to the NPSIB through a s104 assessment in any event.

Reporting Officer Reply Evidence (including JWS)

830. The JWS records the planners agreed to redraft the permitted activity rules focusing on activities. They also agreed to move the clearance limits into standards to apply to the permitted activity rules to improve clarity. While they agreed to change the structure of the rules, the JWS notes the individual submission points on the content, the standards, or the activity status were subject to remaining disagreement.
831. The JWS records areas of disagreement between the planners were as follows:
- (a) Ms Easton retained the view that a different approach was warranted in Grey District where SNA identification had taken place; and
 - (b) Mr Kennedy retained the position set out in his evidence and the Westpower submission.
832. The wording for the permitted activity rules (replacing both ECO-R1 and ECO-R2 as notified, and ECO-R1, ECO-R1A and ECO-R2 from the s42A Report recommendation) in the JWS were shown in Annexure 1 of the JWS.

ECO – R1, ECO – R1A and ECO – R2

833. In her Right of Reply, Ms Easton provided information from her review of other district plans in relation to exclusions from indigenous clearance rules for maintenance and advised these did not make exceptions for trimming. However, she acknowledged the West Coast context was quite unique with electricity distribution and telecommunication lines substantially traversing bush clad areas. She noted two of the plans reviewed had vegetation clearance restrictions within SNA and the coastal environment only and the other plans with more comprehensive rules with specific exclusions for gardens, shelterbelts, plantation forestry and horticulture. She noted that in all cases the exclusions were addressed in the rules and not in the definition of indigenous vegetation clearance.
834. Ms Easton's Right of Reply reconsidered her recommendation for ECO-R1 and ECO-R1A in light of her analysis of other district plans and the evidence presented at the hearing by various submitters. She noted the following points:

- (a) The planner caucusing recommended a significant restructure of the permitted activity rules, resulting in five separate rules, which Ms Easton considered addressed the matters raised in evidence relating to readability and complexity.
 - (b) The new structure of the rules was generally set out as follows:
 - i. ECO – RXX1A – General standards
 - ii. ECO – RXX2 to ECO – RXX4 – Specific circumstances
 - iii. ECO – RXX5 – All other circumstances
 - (c) As recorded in the JWS, the planners generally considered that it was simpler to have the same rules apply across all three districts. However, Ms Easton did not support this view because she considered the rules should recognise that SNA had already been identified in the Grey District. Her recommendation, therefore, included an amendment to clause 3(b) of ECO-RXX1A to reflect this.
 - (d) In response to statements presented by some landowners (e.g. Ms Lynne Lever) that the recommended rules would require resource consent for very small areas of vegetation clearance if it were not linked to a specific activity, Ms Easton recommended an amendment to ECO-RXX1A enabling a small area of vegetation clearance outside of the coastal environment when it was not linked to a specific activity.
 - (e) In response to Mr Brass' evidence which set out the maximum areas of vegetation clearance that would be acceptable to the Director General of Conservation, Ms Easton confirmed she had incorporated this into the relevant rule.
835. Ms Easton also responded to the tabled letter from KiwiRail in relation to this rule. She considered some of the matters raised by KiwiRail had been addressed by the suite of permitted activity rules redrafted as part of the planner caucusing, including:
- (a) Providing for maintenance, operation, repair and upgrade of lawfully established activities and structures;
 - (b) Providing for clearance of 20m² per linear 100m length for linear infrastructure; and
 - (c) Providing for installation of new network utility infrastructure where the construction corridor did not exceed 3m in width.
836. Ms Easton confirmed that it had been recommended to include the Threatened Land Environment maps in the TTPP, which was a point raised by KiwiRail.
837. The JWS between Ms Pull (Poutini Ngāi Tahu), Ms Huirama (Te Tumu Paeroa) and Ms Easton records the parties agreed to further amendments to ECO-RXX4 as follows:

*ECO – R4 Indigenous vegetation clearance **on Māori Purpose Zoned Land, Poutini Ngāi Tahu Land** ~~for Poutini Ngāi Tahu Activities~~ **or on Specified Māori Land** outside of Significant Natural Areas*

Activity Status: Permitted

Where:

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1. *It is cultural harvest undertaken by Poutini Ngāi Tahu; or*
 2. *It is ~~for Poutini Ngāi Tahu Activities~~ on Māori Purpose Zoned land or Poutini Ngāi Tahu land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan;*
or
 3. ***It is clearance of kanuka, manuka or bracken on Specified Māori Land.***
- Activity status where compliance not achieved: Restricted Discretionary*

838. Appendix 1 of the Right of Reply showed Ms Easton's recommended replacement of previously recommended rules ECO-R1, ECO-R1A and ECO-R2 with new rules ECO-RXX1A, ECO-RXX1, ECO – RXX2, ECO-RXX3, ECO-RXX4 and ECO-RXX5, as follows:

ECO – RXX1A General Standards

All Permitted activities outside of a Significant Natural Area must comply with the following relevant standards.

1. Within the coastal environment:
 - a. Any indigenous vegetation clearance is a maximum of 500m² per site over any continuous 3-year period or is a maximum of 20m² on any individual infrastructure work site, or 20m² per linear hundred metre length for linear infrastructure; and
 - b. The indigenous vegetation clearance did not disturb, damage or destroy nesting areas or habitat of threatened or at risk species; and
 - c. The indigenous vegetation clearance did not occur in an area of land environment of category one or two of the Threatened Environment Classification; and
2. Within the riparian margin of a water body:
 - a. It is a maximum of 20m² per linear 200m length of riparian margin; and
3. In all other locations outside of a Significant Natural Area it is:
 - a. A maximum of 2000m² on any site over any continuous 3-year period on a site that has not had an SNA assessment undertaken in accordance with Policy ECO – P1; or
 - b. A maximum of 5000m² on any site over any continuous 3-year period on a site that has had an SNA assessment in accordance with Policy ECO – P1 or within the Grey District, has an SNA included within Schedule 4 that is located on the same property; or
 - c. Is a maximum of 20m² on any individual infrastructure work site, or 20m² per linear 100m length for linear infrastructure; and
4. Unless carried out by a statutory agency or their nominated contractor responsible for natural hazard mitigation, the clearance is not located within areas used and identified for natural hazard mitigation structures that are owned or managed by a statutory agency.

Except that the maximum vegetation clearance provisions in these general standards do not apply where:

- i. Specific to Clause 3, it is necessary to provide for the ongoing safe and efficient operation, maintenance and repair of the National Grid, electricity distribution and telecommunications lines; or

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- ii. For all Clauses, the indigenous vegetation clearance is for network utility operations within any RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Greymouth, Hokitika or Westport;
- iii. For all clauses, the indigenous vegetation clearance is of vegetation planted and managed:
 - I. as part of a domestic or public garden for amenity purposes; or
 - II. as a shelterbelt; or
 - III. for the purpose of harvesting as plantation forestry

Activity status where compliance not achieved: Restricted Discretionary

ECO – RXX1 Indigenous Vegetation Clearance for Network Utility Operations, Renewable Electricity Generation Activities and the National Grid outside of Significant Natural Areas

Activity Status: Permitted

Where:

- 1. It is for the maintenance, operation, repair or upgrade of lawfully established activities and structures ; or
- 2. It is for the installation of temporary network or electricity generation activities following a regional or local state of emergency declaration; or
- 3. It is necessary to remove vegetation that endangers human life or existing buildings or structures; or
- 4. It is for construction of new network utility infrastructure, renewable electricity generation activities or the national grid where:
 - a. The construction corridor for linear infrastructure such as pipes and lines does not exceed 3m in width; and
 - b. All machinery used in construction is cleaned and made free of weed materials and seeds prior to entering the site; and
 - c. Rehabilitation of disturbed areas is undertaken following completion of construction; and
 - d. Within a riparian margin of a waterbody new network utilities and connections are underground or located within a legal road or attached to an existing bridge.

Activity status where compliance not achieved: Restricted Discretionary

ECO – RXX2 Indigenous vegetation clearance for maintenance and repair of lawfully established structures and activities outside of Significant Natural Areas not provided for in Rule ECO – R1

Activity status: Permitted

Where:

- 1. The clearance is for the maintenance and repair of established activities and structures including but not limited to tracks, accessways, fences, pipelines, drains, natural hazard mitigation structures, shelterbelts and woodlots, environmental monitoring facilities and infrastructure; or
- 2. The clearance is for the maintenance of improved pasture for farming, where this is clearance of manuka, kanuka or bracken only that is less than 15 years old and not part of any wetland.

Advice Notes:

- 1. Where clearance of mānuka, kānuka or bracken is proposed under this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.
- 2. In relation to standard 1, the reference to infrastructure applies where the infrastructure is not regulated by Rule ECO – RXX1.

Activity status where compliance not achieved: Restricted Discretionary

ECO – RXX3 Indigenous vegetation clearance in urban areas outside of Significant Natural Areas not provided for in Rule ECO – R1 or ECO – R2

Activity Status: Permitted

Where

1. It is undertaken on a RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Greymouth, Hokitika or Westport;

Activity status where compliance not achieved: Restricted Discretionary

ECO – RXX4 Indigenous vegetation clearance on Māori Purpose Zoned Land, Poutini Ngāi Tahu Land or on Specified Māori Land outside of Significant Natural Areas

Activity Status: Permitted

Where

1. It is cultural harvest undertaken by Poutini Ngāi Tahu; or
2. It is on Māori Purpose Zoned land or Poutini Ngāi Tahu land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan;
3. It is clearance of kanuka, manuka or bracken on Specified Māori Land.

Activity status where compliance not achieved: Restricted Discretionary

ECO – RXX5 Indigenous vegetation clearance outside of a Significant Natural Area not provided for in another Permitted Activity Rule

Activity Status Permitted

Where this is:

1. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast; or
2. Necessary to remove vegetation that endangers human life or existing buildings or structures; or
3. For the construction of parks facilities, parks furniture or public access points within an Open Space and Recreation Zone; or
4. For installation of an environmental monitoring and extreme weather event monitoring facility; or
5. For the establishment of a river crossing point up to 3m wide; or
6. For new natural hazard mitigation structures undertaken by a statutory agency or their nominated contractor; or
7. Unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, or is removal of unwanted organisms declared under the Biosecurity Act 2015; or
8. To comply with section 43 of the Fire and Emergency Act 2017; or
9. To upgrade public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor; or
10. Within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument; or

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11. For the establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site that did not exceed 500m² clearance per allotment and where this is not located within a riparian margin of a waterbody; or
12. For mineral exploration or prospecting activities within the MINZ - Mineral Extraction Zone or BCZ – Buller Coalfield Zone; or
13. Outside of the coastal environment or riparian margins of waterbodies it is removal of windthrow timber through:
 - i. Use of helicopter recovery methods; or
 - ii. Where ground-based recovery is only undertaken from areas adjacent to existing vehicle tracks
14. For any other purpose, where this is not located within a riparian margin of a waterbody or the coastal environment, and did not exceed 2,000m² clearance per property over a 3 year period.

Activity status where compliance not achieved: Controlled Activity where this is indigenous vegetation clearance with an approved plan or permit issued under the Forests Act, Otherwise Restricted Discretionary.

ECO – R1B

839. Ms Easton recommended adding ‘lawfully established activities’ to clause (1) and deleting ‘Arboricultural’ from clause (2). Appendix 1 of the Right of Reply showed recommended new rule ECO-R1B, as follows:

ECO -R1B Indigenous Vegetation Clearance within a Significant Natural Area

Activity Status Permitted

Where this is:

1. For the maintenance, operation and repair of lawfully established activities and structures including tracks, fences, drains, structures, infrastructure and renewable electricity generation activities where:
 - a. This is at the same or similar scale, character and intensity as at 14 July 2022; and
 - b. The clearance is within 3m of the established activity and is limited to a maximum area of 50m² per individual SNA;
2. Necessary to remove vegetation that endangers human life or existing buildings or structures where this is certified by a Council Approved Contractor;
3. For the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access where the removal is within 3m of the formed width of the road, rail corridor or access where this is undertaken by a Road or Rail Controlling Authority;
4. To comply with section 43 of the Fire and Emergency Act 2017;
5. To enable removal of unwanted organisms declared under the Biosecurity Act 2015.

ECO – R3

840. Ms Easton’s Right of Reply made no comment regarding this rule.

ECO – R4/SUB – R7

841. Ms Easton’s Right of Reply reconsidered her recommendation for SUB – R7 in light of the evidence presented at the hearing by various submitters and questions from the Panel. She made the following points:

- (a) In response to Ms Inta's request to add reference to the effects management hierarchy to give effect to the NPSIB, Ms Easton noted this was outside of the scope of Ms Inta's submission. However, she acknowledged could be within the scope of Mr Neil Mouat's submission.
 - (b) Ms Easton did not consider that having reference to the effects management hierarchy would be appropriate in the context of this rule because it was an incentive-based rule giving a bonus lot for subdivision. She considered allowing for vegetation clearance if there was an alternative mitigation, such as biodiversity offsetting or compensation, would defeat the purpose of the rule and was inappropriate.
 - (c) In response to questions from the Panel as to whether there was scope to add a timeframe for any assessment, Ms Easton did not find any scope in submissions. However, she noted the RPS became operative in 2020 and she did not believe that many assessments had been carried out with reference to the significance criteria. As such, she considered the concern of an 'old' assessment was only likely to arise towards the end of the life of the Plan.
 - (d) In response to the questions relating to a gap in the rule (and SUB-R9) to avoid significant adverse effects on other biodiversity, Ms Easton noted that she could not find a submission that provided scope to address this.
 - (e) Due to the recommended reference to the RPS significance criteria in the definition of "Area of Significant Indigenous Biodiversity", Ms Easton considered that clause (2) of SUB-R7 should also refer to the RPS rather than the NPSIB.
 - (f) Ms Easton also recommended minor amendments to the drafting of the rule to improve clarity.
842. Appendix 1 of the Right of Reply showed **ECO-R4** deleted (as recommended in the s42A Report) and recommended changes to **SUB-R7** as follows:

SUB - R7

Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed

Activity Status: Controlled

Where:

1. One new allotment with a minimum lot size of 41,000m² is created from the parent title, provided that in the GRUZ - General Rural Zone there is a balance area remaining on the original title of at least 4 ha; and
2. An assessment of the site against the significance criteria in the ~~NPSIB~~ WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified or experienced ecologist unless the site has already been assessed identified as to be an SNA as part of a district – wide SNA assessment process; and
3. The ~~Any~~ areas of significant indigenous biodiversity ~~is~~ are legally protected in perpetuity by way of a conservation covenant with an authorised agency or via consent notice on the title and ~~is~~ are contained within a single allotment; and
4. The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance within

the area of significant indigenous vegetation to provide for a future building site or future access to any site; and

5. Subdivision standards S2-S11 are complied with.

Matters of control are:

- a. Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity;
- b. The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy;
- c. The adequacy of water supply for firefighting;
- d. Specification of the location of building sites and access through the use of consent notices;
- e. Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;
- f. Measures to address any natural hazards or geotechnical constraints;
- g. Management of earthworks, including earthworks for the location of building platforms and access ways;
- h. The protection of habitats of threatened or at-risk species; and
- i. The measures to ~~minimise~~ avoid, remedy or mitigate any adverse effects on:
 - i. The significant indigenous biodiversity;
 - ii. ~~The cultural significance to Poutini Ngāi Tahu Values.~~

Advice Note:

This rule does not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to either of Rules SUB – R2 or SUB – R4.

Activity status where compliance not achieved: Restricted Discretionary where standard 1 is not complied with. Discretionary where standards 2-~~4~~5 are not complied with.

ECO – R6/SUB – R9

843. Ms Easton's Right of Reply reconsidered her recommendation for SUB-R9 in light of the evidence presented at the hearing by various submitters and questions from the Panel. In response Ms Inta's point regarding buffer areas, she noted the relevant submission points (S552.121 and S553.121) had been incorrectly assigned to SUB-R15. She considered that it would be appropriate to amend the matters of discretion to include a reference to buffers in clause (b). Ms Easton also recommended similar minor amendments to SUB-R7.
844. Appendix 1 of the Right of Reply showed **ECO-R6** deleted (as recommended in the s42A Report) and recommended changes to **SUB-R9** as follows:

SUB – R9

Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed not meeting Rule SUB-R7

Activity Status: Restricted Discretionary

Where:

1. Up to three allotments with a minimum lot size of 41,000m², are created from the parent title;

2. **An assessment of the site against the significance criteria in the NPSIB RPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified or experienced ecologist unless the site has already been assessed identified as to be an SNA as part of a district – wide SNA assessment process;**
3. ~~The~~Any areas of significant indigenous biodiversity is are legally protected in perpetuity by way of a conservation covenant with an authorised agency or via consent notice on the title and is are contained within a single allotment;
4. The subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four **or the need for clearance of significant indigenous vegetation to provide for a future building site or future access to any site;** and
5. Subdivision standards S2-S11 are complied with.

Discretion is restricted to:

- a. Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;
- b. The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna **and whether buffering of significant areas is also appropriate;**
- c. **The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy;**
- d. **The adequacy of water supply for firefighting;**
- e. **Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;**
- f. Management of earthworks including earthworks for the location of building platforms and access ways;
- g. The protection of habitats of threatened or at risk species;
- h. The measures to ~~minimise~~ **avoid, remedy or mitigate** any adverse effects on:
 - i. The significant indigenous biodiversity; and
 - ii. ~~The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu Values as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association.~~

Activity status where compliance not achieved: Discretionary

ECO – R8/SUB – R15

845. In Reply, Ms Easton made no further comment regarding this rule.

ECO – R9/SUB – R27

846. In response to questions from the Panel whether it was necessary for there to be a non-complying activity for subdivision in order to give effect to the “avoid” directions in the NPSIB, Ms Easton considered there was not. She reiterated that the “avoid” direction specifically related to identified SNA, and therefore she considered SUB-R27 was inappropriate as it related to bonus lots. She also did not consider that the NPSIB specifically sets a direction that a non-complying activity status for the subdivision on land in an SNA was required. She instead referred to the specific matters in clause 3.10(2) which she

considered were addressed in ECO-P6 and which any discretionary activity would be assessed against.

847. In Reply, Ms Easton made no further amendments to her recommendations for this rule.

ECO – R5 and ECO – R7

848. The JWS records the planners did not agree and that the submissions and evidence relating to ECO-R5 still stood. However, Annexure 1 showed agreed minor amendments to the recommended wording of both ECO-R5 and ECO-R7.

849. The JWS between Ms Pull (Poutini Ngāi Tahu), Ms Huirama (Te Tumu Paeroa) and Ms Easton records the parties agreed to adding a new advice note in ECO-R7 as follows:

1. When assessing resource consents for indigenous vegetation clearance on Specified Māori Land under this rule, the provisions of subclause 3.18(2) of the NPSIB in relation to Specified Māori Land must be taken into account.

850. The JWS also identified that there was insufficient scope within the submissions to make more substantial changes to reflect the direction on Specified Māori Land within the NPSIB. Therefore, they recommend including a new Method to highlight that these additional changes would need to occur when the Plan was updated to reflect the NPSIB requirements, as follows:

Method ECO – M1: The TTPP Committee will

- a. Identify in conjunction with Specified Māori Land owners how best to implement the NPSIB in relation to Specified Māori Land in accordance with the decision making principles in Schedule xxx of the TTPP and the provisions of the NPSIB; and
- b. Identify in partnership with Poutini Ngāi Tahu how best to fully implement the NPSIB in relation to the decision making principles, tanqata whenua provisions and the Ngāi Tahu Claims Settlement Act; and
- c. As part of giving effect to the NPSIB, the TTPP Committee will consider a Plan Change to implement the actions of this method and Policy ECO-P1.

851. Appendix 1 of the Right of Reply recommended amendments to ECO-R5 and ECO-R7 as follows:

ECO - R5 Indigenous vegetation clearance not meeting Permitted or Controlled Activity Standards outside of a Significant Natural Area

Activity Status Restricted Discretionary

Where:

1. This is not within:

- i. A Significant Natural Area identified in Schedule Four ~~or in an area that has been assessed in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area;~~
- ii. An area of land environment of category one or two of the Threatened Environment Classification **at the ecological district level;**
- iii. An Outstanding Natural Landscape identified in Schedule Five;
- iv. An Outstanding Natural Feature identified in Schedule Six;
- v. An area of High Coastal Natural Character identified in Schedule Seven; or

vi. An area of Outstanding Coastal Natural Character identified in Schedule Eight.

Discretion is restricted to:

- a. ~~Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;~~
- b. ~~Constraints imposed by~~ **Consideration of the functional need** or operational need of network utilities, **renewable energy generation** and critical **regionally significant** infrastructure;
- c. **The functional or operational need for the activity to locate within the area where indigenous vegetation clearance is proposed to occur;**
- d. Effects on habitats of any threatened or ~~protected~~ **at risk (declining)** species;
- e. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification;
- f. Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems;
- g. Effects on the intrinsic values of ecosystems;
- h. Effects on recreational values of public land;
- i. **Natural hazard management and geotechnical considerations;**
- j. **Poutini Ngāi Tahu values; and**
- k. ~~The matters outlined in Policies ECO - P6 and ECO - P7.~~ **Effects on any values that would meet the significance criteria in Appendix 1 of the NPSIB.**

Advice Note:

1. ~~Where indigenous vegetation clearance is proposed within the riparian margin of a waterbody refer to this section of the Plan for the Rules around this clearance.~~
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also be subject to rules within the NES - Freshwater and Regional Land and Water Plan which are administered by the West Coast Regional Council.
4. This rule also applies to ~~plantation~~ **commercial** forestry activities, where this provision is more stringent than the NES - PF and the indigenous vegetation clearance is within the coastal environment.

Activity status where compliance not achieved: Discretionary

ECO - R7 Indigenous vegetation clearance not meeting ECO - R5 Permitted, Controlled or Restricted Activity Rules

Activity Status Discretionary

Where:

1. **An ecological assessment undertaken by a suitably qualified and experience ecologist identifies that the clearance will not result in any of the following:**
 - a. **Loss of ecosystem representation and extent**
 - b. **Disruption to sequences, mosaics or ecosystem function**
 - c. **Fragmentation of Significant Natural Areas or the loss of buffers or connections with a Significant Natural Area**

- d. A reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems**
- e. A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the Significant Natural Area.**
- 2. This is for mineral extraction (other than coal) that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand ; or**
- 3. This is for the operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal; or**
- 4. This is for a single residential dwelling on an allotment created before 4 August 2023; or**
- 5. This is for a commercial forestry activity and is required for the commercial forestry activity to continue; or**
- 6. This is for a renewable electricity generation activity, the national grid or regionally significant infrastructure.**

Advice Notes:

1. Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the **relevant objectives and** policies of ~~both~~ the Ecosystems and Biodiversity Chapter, ~~and~~ Natural Features and Landscapes Chapter, **the Coastal Environment Chapter, the Energy, Infrastructure and Transport Chapters** and the **MINZ and BCZ objectives and policies Zone Chapters** will be required.
2. **In relation to Significant Natural Areas,** ~~this rule also applies to plantation-commercial forestry activities, where this provision is more stringent than the NES - PCF.~~
3. **When assessing resource consents for indigenous vegetation clearance on Specified Māori Land under this rule, the provisions of subclause 3.18(2) of the NPSIB in relation to Specified Māori Land must be taken into account.**

Activity status where compliance not achieved: ~~N/A~~ **Non-complying**

ECO – R8A

852. In Reply, Ms Easton made no further recommendations in relation to this new rule.

ECO – R10 and ECO – R11

853. In Reply, Ms Easton made no further recommendations in relation to these rules

Hearing Panel's Evaluation

854. The Panel acknowledges the significant input from submitters and the expert planners into the ECO rules to achieve a clearer and less complex rule framework. This was no simple task given the important nuances of the NZCPS and the NPSIB, and the fact the RPS is yet to give effect to the NPSIB. In making our recommendations, we have had regard to the outcomes of the planners JWS and the JWS between Ms Huirama, Ms Pull and Ms Easton.

855. The Panel has also had regard to the outstanding submission and further submission points. Our evaluation focuses on where the Panel disagrees with Ms Easton's recommendations. Where the Panel accept Ms Easton's recommendations, and this is not discussed, it can be assumed we accept her reasoning as outlined in her s42A Report or Right of Reply.
856. The Panel notes the submission points of the Director General on ECO-R1 and ECO-R2 (as well as other submitters on the whole chapter), which seek to ensure significant indigenous biodiversity values are protected in the interim period until district-wide SNA assessments have been completed, remain outstanding. As noted earlier, the requirements of the NPSIB assume this has occurred and the provisions distinguish between inside and outside SNA.
857. A key issue for the Panel in considering the rule framework is how to protect significant indigenous vegetation and significant habitats of indigenous fauna, while enabling established activities to continue and new subdivision, use and development to occur, before a district-wide SNA assessment has been undertaken and incorporated into the Plan. We are mindful that the plan change required to include identified SNA under ECO-P1, as required under the RPS, will also involve a review of the ECO provisions. In our view, this is when the provisions may be able to be more permissive outside SNA because there will be more certainty that significant values will be protected. It will also be the time to give full effect to the NPSIB, which is drafted on the basis of indigenous vegetation being inside or outside of an SNA. In this regard, we consider the ECO rules are an 'interim' rule framework where activities outside those that are permitted and controlled need to be assessed through a consent process.
858. In recognition of the work done in the Grey District, the Panel accepts that there is sufficient certainty to have a restricted discretionary rule that applies outside SNA. While there is some risk that some significant values have not been identified, we consider the work undertaken justifies a more lenient approach in the interim period. This is also reflected in an increased permitted limit of vegetation clearance in the Grey District in ECO-R1.
859. The Panel must give effect to the RPS, NZCPS and NPSIB, and we consider there is a very high level of alignment in this higher order direction that significant indigenous biodiversity values must be protected and indigenous biodiversity generally must be maintained to give effect to s6(c) of the RMA. We also agree that the environmental bottom lines in the RPS and NPSIB must be reflected in the rule framework, as sought by some submitters.

ECO - R1 and ECO - R2

860. The Panel accepts Ms Easton's recommendation to delete ECO-R1 and ECO-R2 as notified and replace these rules with new rules ECO-RXX1A, ECO-RXX1, ECO – RXX2, ECO-RXX3, ECO-RXX4, ECO-RXX5 and ECO – R1B, as shown in Appendix 1 of the Right of Reply. We agree that these two rules as notified were trying to do too much and as a result were quite complex and difficult to interpret. We acknowledge this new permitted activity rule framework largely reflects the agreements reached in the planners' JWS. However, we also acknowledge that there are a few submission points that remain and have considered these in making our recommendations below. We have largely accepted the permitted activity rules as recommended by Ms Easton.
861. For new rules ECO-RXX1A (new ECO-R1), ECO-RXX1 (new ECO-R2), ECO – RXX2 (new ECO – R3), ECO-RXX3 (new ECO-R4), ECO-RXX4 (new ECO-R5), ECO-RXX5 (new ECO-R6) and ECO-R1B (new ECO-R7), the Panel does not identify specific submission points for the new rules. We consider the scope to make changes to ECO-R1 and ECO-R2 (as notified) is very broad

and we are satisfied that the recommended replacement rules respond to matters raised in submissions.

862. The Panel has made minor amendments to change from past tense to present tense by replacing '*did*' with '*will*'; and replacing '*nominated contractor*' with '*authorised contractor acting on its behalf*', which is a plan-wide amendment for consistency. We consider ECO-R1(4) is very poorly worded. We consider the clause is trying to enable the clearance of vegetation on and around hazard mitigation structures, however, this is not clear as drafted. We consider the wording should be amended to begin the clause with '*Except where*' (instead of '*Unless*') and to delete the word '*not*' to improve clarity.
863. In relation to new rules ECO-R1 and ECO-R6 (recommended ECO-RXX1A and ECO-RXX5), the Panel considers use of the term '*over any continuous 3-year period*' is problematic for three key reasons. First, it is fraught with difficulty in terms of determining compliance because there is no date from which this three year period starts. Second, allowing ongoing indigenous vegetation clearance after each three-year period does not give effect to the NPSIB or RPS because it will not avoid the cumulative loss of indigenous vegetation and will not maintain indigenous biodiversity. Third, the limits in the permitted activity rules will need to be reviewed following completion of the district-wide SNA assessment, which is required to be completed in three years time. It is therefore unnecessary to provide for ongoing vegetation clearance beyond this interim period, particularly given the extent of activities provided for, including lawfully established activities and regionally significant infrastructure, such as network utility infrastructure, the National Grid, renewable electricity generation activities.
864. For these reasons, the Panel recommends deleting the reference to '*over any continuous 3-year period*' and consider activities (excluding those provided for) that require the clearance of indigenous vegetation above the limits agreed should be assessed through a resource consent process to ensure areas of significant biodiversity are protected and indigenous biodiversity is maintained by applying the effects management hierarchy. The Panel records that this recommendation in relation to removing the three year period is not supported by Commissioner Becker as detailed in Appendix 2.
865. The Panel has considered the full range of submissions seeking greater restrictions and reduced restrictions, but accept Ms Easton's view that the limits set in the permitted activity rules are appropriate to give effect to the high order statutory direction, while enabling vegetation clearance until the district-wide SNA assessments are complete.
866. The Panel has considered the evidence of submitters presented at the Natural Character and Margins of Waterbodies Chapter hearing in relation to the ECO rules. We consider the concerns raised by Ms Styles (for Manawa) and Mr Kennedy (for Westpower) in relation to riparian margins are addressed by the permitted activity rules. We acknowledge that Westpower sought integration between the rules for vegetation clearance limits in riparian margins and earthworks to enable network utility operations involving above and below ground linear infrastructure. We have reviewed the relevant rules and consider these have been appropriately provided for. However, the Panel notes that Ms Easton's recommendation at the Natural Character and Margins of Waterbodies Chapter was to increase the extent of allowed vegetation clearance in a riparian margin from 20m² to 25m² per linear 200 m length to align with the Regional Land and Water Plan. She did not support increasing the width of permitted river crossings from 3m to 10m for energy activities, as sought by Westpower, because of the potential for adverse effects on the natural character

of the margins of waterbodies. We accept these recommendations and have amended ECO-R2(a) to 25m².

867. The Panel considers that network utility operations are appropriately provided for in new Rule ECO-R2. However, we agree with Mr Kennedy that 3m in ECO-R2(4)(a) should be increased to 10m given this clause specifically applies to indigenous vegetation clearance for new network utility operations, renewable electricity generation activities and the National Grid outside of SNA.
868. The Panel acknowledges the submissions that sought to enable vegetation clearance for building sites. We consider the permitted activity rules appropriately provide for this while recognising the sensitivity of the coastal environment in terms of indigenous biodiversity values and habitats. We have provided for an exception in ECO-R1(1)(a) for the Hartmount Place and Ross Place subdivision where indigenous vegetation clearance is a maximum of 500m² per site in the, provided that at least an equivalent amount is retained on the site. This reflects the recommendation in the Settlement Zone Chapter Recommendation Report in response to a submission that sought to prevent the clearance of the entire 1,000m² sites given the unique bush covered coastal environment in that location.
869. In relation to new Rule ECO-R2(3), the Panel has deleted '*outside of a SNA it is*' because this is already in the lead sentence before the clause.
870. In new Rule ECO-R4 (recommended ECO-RXX3), the Panel considers it is appropriate to include Reefton.
871. The Panel considers renumbered new Rule ECO-R5 (recommended ECO-RXX4) appropriately enables customary harvest and use of Poutini Ngāi Tahu land outside of an SNA, but as recommended we consider it is too restrictive in relation to specified Māori land. We consider owners of specified Māori land should be able to rely on the vegetation clearance limits in new rule ECO-R1 to the extent that owners of freehold title can. Poutini Ngāi Tahu have the ability to produce iwi management plans in order to provide for application of the rule, which is not a pathway available to other owners of specified Māori land. This would effectively create a new barrier to development of specified Māori land, which would not give effect to clause 3.18 of the NPSIB.
872. While the Panel accepts that more work is required to fully give effect to this aspect of the NPSIB, it would be contrary to national direction to introduce a more restrictive regime on specified Māori land than exists on freehold title. For that reason, the Panel does not recommend incorporating ECO-R5(3) "*it is clearance of kānuka, manuka or bracken on Specified Māori Land*". The Panel note that Te Tumu Paeroa submission point S440.027 originally identified disadvantage to Māori land owners in notified ECO-R1 and sought greater leniency in recognition of the history of Māori land. Rather than greater leniency, the Panel recommendation ensures no disadvantage and compliance with national direction by amending the clause to require owners of specified Māori land to comply with ECO-R1 and ECO-R3, in circumstances where there is no applicable iwi management plan.
873. The Panel acknowledges new rule ECO-R7 (recommended ECO-R1B) gives effect to NPSIB clause 3.15 in relation to managing the effects of established activities on SNA. Clause 3.15(2) requires councils to include objectives, policies and methods to enable specified established activities, or specific types of established activities, to continue where the effects of the activity on an SNA (including cumulative effects):

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(a) *are no greater in intensity, scale, or character over time than at the commencement date; and*

(b) *do not result in the loss of extent, or degradation of ecological integrity, of an SNA.*

874. However, the Panel notes that only clause 3.15(2)(a) has been included in the rule and not clause 3.15(2)(b). We consider it is not an option to only include one of the qualifiers when this is clearly an ‘*and*’ requirement. We consider both clauses provide important limits to enabling established activities to continue having adverse effects on SNA and both must be included in the rule to give effect to the NPSIB and RMA s6(c).
875. The Panel has considered whether clause (b) of the rule as recommended by Ms Easton (and agreed in the planner JWS) - ‘*The clearance is within 3 metres of the lawfully established activity and is limited to a maximum area of 50m² per individual Significant Natural Area*’ - is sufficient to ensure there is no loss of extent, or degradation of ecological integrity of an SNA. We conclude it is, given the activities listed in clause (1) of the rule, combined with the limits in clauses (a) and (b), which are conjunctive.
876. The Panel considers indigenous vegetation clearance for mineral extraction activities in the BCZ and MINZ should not be permitted and should be assessed through a resource consent process.

ECO – R3

877. The Panel accepts Ms Easton’s reasoning and recommended amendments to ECO-R3 (renumbered as ECO-R8), as shown in Appendix 1 of the Right of Reply, with the exception of reference to manuka, kanuka and bracken in clause (2). The Panel did not receive evidence supporting the inclusion of this clause and therefore adhere to the NPSIB clause 3.17 approach of towards ‘*improved pasture*’. We note the recommended inclusion of ‘*additional*’ in Advice Note (1) was not referenced in the s42A Report but accept this is a clarification for plan users under clause 16 of the Schedule 1 of the RMA. We have made consequential changes to the advice notes to reflect the renumbering of the ECO rules. We have also updated the advice note in relation to vegetation clearance within riparian margins to reflect that ECO-R1 or ECO-R10 apply.

ECO-R4/SUB-R7

878. The Panel accepts Ms Easton’s recommendation to delete ECO-R4 and the recommended amendments to SUB-R7, as shown in Appendix 1 of the Right of Reply. Overall, the Panel considers Ms Easton’s recommendations are appropriate given the intention of the rule is to incentivise the protection of significant biodiversity values, while enabling some subdivision and use. We agree that in this context, the use of biodiversity offsetting and compensation is not appropriate. We also agree that cross reference to the ECO Chapter is not appropriate given the intention of the rule.
879. The Panel notes that Appendix 1 of the s42A Report and Appendix 1 of the Right of Reply do not include clause (b) ‘*The design and provisions of access*’ as notified. It seems to have been unintentionally omitted from the matters of control and is not shown with strike through for deletion either. We consider this is a drafting error and have therefore shown this in the recommendation box below.

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880. The Panel agrees with Ms Easton's reasoning in relation to new clause (2) to require use of the RPS Appendix 1 criteria until a district-wide assessment is undertaken using the NPSIB Appendix 1 criteria. However, we consider the wording as recommended could be clearer that the district-wide SNA assessment required under ECO-P1 must use the NPSIB Appendix 1 criteria.
881. The Panel agree with Ms Easton's recommended changes to enable different forms of legal protection to be used to achieve protection of significant indigenous biodiversity. We also agree the additional matters of control are appropriate.
882. The Panel agree that recommended new clause (b) in relation to the provision of infrastructure and services is appropriate, but consider using '*electricity*' rather than '*energy*' is consistent with definitions used in the plan.
883. The Panel accepts Ms Easton's recommendation to add '*and whether buffering of significant areas is also appropriate*' to clause (a), and accept that its omission from Appendix 1 of the Right of Reply was an oversight. We note Ms Easton recommended adding this to SUB-R7 and SUB-R9 in response to Ms Inta.
884. The Panel notes Ms Easton's recommendation to add an advice note to SUB-R15, as a consequence of deleting ECO-R8, that advises '*When assessing resource consent applications under this rule, the policies in the ECO Chapter should also be referred to*'. We consider this advice note is also appropriate for SUB-R7 given the deletion of ECO-R4. However, we consider this advice note should also include reference to the '*objectives*'.

ECO-R5

885. The Panel generally accepts Ms Easton's reasoning and recommended amendments to ECO-R5 (renumbered as ECO-R9), as shown in Appendix 1 of the Right of Reply. However, as discussed above, we consider this restricted discretionary activity is only appropriate in the Grey District in recognition of the work undertaken to identify SNA. We are strongly of the view that a rule such as this '*outside an SNA*' cannot be applied to Buller and Westland at this time. We therefore recommend this adding '*in the Grey District*' to the heading of the rule.
886. The Panel acknowledges Mr Brass for the Director General preferred to have all three districts treated the same until the district-wide assessment is undertaken, but we consider the restricted discretionary rule appropriately recognises that some of the significant ecological values have been protected across the district.
887. The Panel recommends deleting clause (1)(i) referring to outside SNA given the changes to the heading.
888. The Panel considers a matter of discretion must include effects on indigenous biodiversity.
889. The Panel acknowledges Ms Pull's request for a consequential amendment to enable Māori land to be considered because of concern regarding the matter of discretion in relation to Threatened Environment Classifications. However, we consider this is an important environmental bottom line in the RPS to protect and maintain remaining biodiversity in category one and two threatened land environments. We acknowledge that the provisions can only partly give effect to the NPSIB in relation to specified Māori land, and that further processes in accordance with new Method ECO-M1 will address this.

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890. The Panel recommends consideration of functional need or operational need should be limited to the matters set out in clause (b) to give effect to the NPSREG, NESETA and the RPS.
891. The Panel does not consider that it is necessary to reference the ecological district in the matter pertaining to threatened land classifications because any such effects will be considered in the context of each case.
892. The Panel accepts Ms Easton's recommendation from the Coastal Environment Chapter hearing to address a gap in relation to potential adverse effects on the natural character of the coastal environment from indigenous vegetation clearance. We accept her recommendation to add a new matter of discretion "*Effects on natural character, natural landscapes, and natural features in the coastal environment*" in response to a submission point from Forest and Bird S560.32. This is discussed further in our Coastal Environment Chapter Recommendation Report in relation to Policy CE-P2.

ECO-R6/SUB-R9

893. The Panel accepts Ms Easton's recommendation to delete ECO-R6 and the recommended amendments to SUB-R9, as shown in Appendix 1 of the Right of Reply. Like SUB-R7, the Panel considers Ms Easton's recommendations are appropriate given the intention of the rule is to incentivise the protection of significant biodiversity values, while enabling some subdivision and use. We agree that in this context, the use of biodiversity offsetting and compensation is not appropriate. We also agree that cross reference to the ECO Chapter is not appropriate given the intention of the rule.
894. The Panel confirms that it has had regard to the submission points from Frida S553.118 and the Buller Conservation Group S552.118 that sought to include a minimum distance/buffer from SNA to buildings or other development such as access roads, which was not included in the s42A Report. This was addressed at the hearing by Ms Easton and is included as a recommended amendment to SUB-R9(a) as a matter of discretion.
895. The Panel notes that Appendix 1 of the s42A Report and Appendix 1 of the Right of Reply incorrectly showed clause (a) '*Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses*', which was not in the provision as notified. We consider this is a drafting error and therefore have not shown it in the recommendation box below given the tracked changes are shown to the rule as notified.
896. The Panel consider Ms Easton's recommendation to add a new matter of control to SUB-R7 relating to '*Specification of the location of building sites and access through the use of consent notices*' should also be added to SUB-R9. We note Forest and Bird made similar submission points to both rules and accept this is an appropriate matter of discretion given the context of the rule.
897. The Panel accepts Ms Easton's recommendation to add new clause (4) but recommend adding '*within the area*' to be consistent with the recommended wording of equivalent clause (4) in SUB-R9.
898. As noted above in relation to SUB-R7, the Panel notes Ms Easton's recommendation to add an advice note to SUB-R15, as a consequence of deleting ECO-R8, that advises '*When assessing resource consent applications under this rule, the policies in the ECO Chapter should also be referred to*'. We consider this advice note is also appropriate for SUB-R9 given

the deletion of ECO-R6. As with our recommendation of SUB-R7, we consider this advice note should also include reference to the '*objectives*'.

ECO - R7

899. The Panel acknowledges Ms Easton's reasoning and recommended amendments to ECO-R7 (renumbered as ECO-R10), as shown in Appendix 1 of the Right of Reply. We acknowledge the JWS records that agreement was only reached between the planners to not add clause (3) in relation to coal mining and to add a new clause excluding renewable electricity generation activities, the National Grid and regionally significant infrastructure.
900. It is important to note that renumbered ECO-R10 is the default rule for indigenous clearance that does not meet the permitted, controlled and restricted discretionary rules, which provide for a range of existing and new activities. While we generally agree with Ms Easton regarding the general intent of the rule, we agree with Ms Whitney (for Transpower) and Ms Styles (for Manawa) that activities subject to the NPSREG and NESETA should have a separate rule to recognise the NPSIB does not apply to these activities. We also agree that these should not default to a non-complying activity. The Panel considers it is also appropriate to include regionally significant infrastructure in this rule in recognition of the direction of the RPS and the Strategic Directions in the Plan. We recommend new Rule ECO-R11 is added to achieve this.
901. As discussed earlier, the Panel accepts that there is a need to ensure the provisions protect significant biodiversity values until the district-wide assessment under ECO-P1 is completed. We therefore consider it appropriate for all indigenous clearance not meeting the permitted activity, controlled or discretionary activity rules to be assessed as a discretionary activity.
902. The Panel acknowledges that the intention of Ms Easton's recommended wording is to give effect to NPSIB clause 3.10(2), which sets out the matters that must be avoided by applying the effects management hierarchy in relation to managing adverse on SNA. However, we consider it is important to reflect all the requirements of clause 3.10 and the exemptions in clause 3.11, without cherry picking only some of the requirements. We consider clause 3.10(2) are environmental bottom lines that must be avoided, unless the activity meets the exemptions in clause 3.11. We have made amendments to be consistent with clauses 3.11 and 3.10. We consider it is appropriate to apply these in the interim period until a district-wide SNA assessment is complete. We have considered the alternative of applying the environmental bottom lines set out in policy in Chapter 7 of the RPS but consider these are already reflected in ECO-P6.
903. The structure of the recommended rule recognises that, in the absence of any district-wide SNA assessment, any indigenous vegetation to be cleared in excess of permitted activity allowances needs to be assessed through the consent process. The clauses of the rule separate out the following:
- (1) Where an ecological assessment shows the indigenous vegetation to be cleared does not meet the significance criteria under the RPS Appendix 1, the rule requires managing adverse effects on indigenous biodiversity by applying the effects management hierarchy – see ECO-R10 (1) and (2).
 - (2) Where an ecological assessment shows the indigenous vegetation to be cleared meets the significance criteria under the RPS Appendix 1, the rule requires the avoidance of the matters set out in clause 3.10 of the NPSIB - see clause (3).

(3) Activities that are exempt from clause 3.10(2) of the NPSIB under clause 3.11 are required to manage adverse effects by applying the effects management hierarchy, including demonstrating how each step is applied and having regard to the principles of biodiversity offsetting and biodiversity compensation.

904. The Panel acknowledges Ms Easton's recommendation that where compliance is not achieved this defaults to non-complying. We consider this is appropriate for non-compliance with the adverse effects set out in clause 3.10(2), given the "avoidance" direction. We consider activities covered by the other parts of the rule should remain as discretionary activities.
905. The Panel considers the recommended amendments address submission points and are required to give effect to the RPS and NPSIB until the district-wide SNA assessment is completed and the rule framework reviewed as part of the plan change process.
906. The Panel notes that as a consequence of moving the indigenous vegetation clearance from the Natural Character and Margins of Waterbodies Chapter to the ECO Chapter there is a lack of policy guidance in relation to maintaining natural character. We therefore recommend adding new Advice Note (4) cross referencing the objectives and policies in the Natural Character and Margins of Waterbodies Chapter.

ECO-R8/SUB-R15

907. The Panel accepts Ms Easton's recommendation to delete ECO-R8.
908. The Panel disagrees with Ms Easton's recommended amendments to SUB-R15, as shown in Appendix 1 of the Right of Reply. Unlike SUB-R7 and SUB-R9, this rule does not require the legal protection of areas of significant biodiversity by allowing subdivision and the creation of new allotments and is therefore not an incentive rule.
909. The Panel considers Ms Easton's assessment of the submission points is flawed because she has erroneously taken into account that there are likely to be large areas within the Buller district that will meet the RPS and NPSIB significance criteria, where subdivision will become a non-complying activity. The amount of land that will likely meet the significance assessment criteria is not a relevant matter for consideration in giving effect to the RMA, NPSIB and RPS requirements to protect significant indigenous vegetation and the significant habitats of fauna. It is not open to the Panel to provide for new subdivision, use and development that is not provided for in the RPS or NPSIB just because an area has a large amount of land that meets the significance criteria.
910. The Panel agree with Ms Easton that NPSIB clause 3.10(2) will apply to any resource consent application under this rule, and consider this should be included within the rule. We also agree that the adverse effects of any subdivision should be managed by applying the effects management hierarchy and consider this should also be included in the rule, along with the requirements in NPSIB clause 3.10(4)(a) and (b).
911. The NPSIB also includes adverse effects that must be avoided in clause 3.10(2) to achieve the objective of NPSIB and to give effect to RMA s6(c). We consider these are environmental bottom lines that must be included to give effect to the NPSIB.

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912. The Panel notes SUB-R15 as notified did not include clause (3) '*Subdivision Standards S2 – S11 are complied with*', but that this was included on ECO-R8 as notified. We consider this clause should be added because it is appropriate that these general standards are met.
913. The Panel considers the appropriate default activity status for the rule is non-complying as notified. This will ensure that any subdivision within an SNA or area of significant indigenous biodiversity can only be granted under s104D if either the adverse effects are minor or less than minor or the subdivision is not contrary to the relevant objectives and policies of the plan. This is the appropriate threshold given it is a matter of national importance to protect significant indigenous biodiversity.

ECO – 8A

914. The Panel accepts Ms Easton's recommendation to add new rule ECO-8A (renumbered as ECO-R12), as shown in Appendix 1 if the Right of Reply, as the default status non-complying rule for activities not meeting ECO-R10. For the reasons outlined, the Panel considers it is appropriate that any activities not meeting the discretionary activity standards are assessed as non-complying activities given the national direction to maintain indigenous biodiversity and to protect significant indigenous biodiversity values.

ECO-R9/SUB-R27

915. The Panel accepts Ms Easton's recommendation to delete ECO-R9 as notified.
916. The Panel recommends SUB-R27 is retained as notified, for the subdivision of land that does not comply with SUB-R15, except for adding an advice note to SUB-27 to cross reference the ECO objectives and policies, as a consequential change to deleting ECO-R9.

ECO – R10 and ECO – R11

917. The Panel accepts Ms Easton's recommendation to retain ECO-R10 and ECO-R11 (renumbered as ECO-R13 and ECO-R14 respectively), as notified, except for reordering the words to replace '*habitat of significant fauna*' with '*significant habitat of indigenous fauna*' to be consistent with the RMA and RPS wording.

New Method

918. The Panel accepts Ms Easton's recommendation to add new Method ECO-M1, as shown in Appendix 1 of the Right of Reply and as agreed by Ms Pull and Ms Huirama.

Hearing Panel's Recommendation

919. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission points identified in the footnotes below are accepted or accepted in part, and recommend changes to the **Ecosystems and Indigenous Biodiversity Rules** and **Subdivision Rules SUB-R7, SUB-R9, SUB-R15 and SUB-R23**, and adding new **Method ECO-M1**, as follows:

Ecosystems and Indigenous Biodiversity Rules
Permitted Activities

~~ECO—R1— Indigenous vegetation clearance and disturbance outside of the coastal environment~~

- ~~1.— It is outside of a scheduled Significant Natural Area as identified in Schedule Four;~~
- ~~2.— It is clearance permitted by the Natural Character and the Margins of Waterbodies Rule NC-R1; or~~
- ~~3.— It is necessary for one of the following purposes:~~
 - ~~i.— It is the removal of windthrown timber through:~~
 - ~~a.— Use of helicopter recovery methods; or~~
 - ~~b.— Where ground based recovery is only undertaken from areas adjacent to existing vehicle tracks; or~~
 - ~~ii.— The maintenance, operation and repair of lawfully established tracks, fences, structures, buildings, critical infrastructure, network utilities, renewable electricity generation activities or natural hazard mitigation activities;~~
 - ~~iii.— For the installation of temporary network activities following a regional or local state of emergency declaration;~~
 - ~~iv.— To prevent a serious threat to people, property, structures or services;~~
 - ~~v.— To ensure the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access;~~
 - ~~vi.— For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals;~~
 - ~~vii.— To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor;~~
 - ~~viii.— To comply with section 43 of the Fire and Emergency Act 2017;~~
 - ~~ix.— For construction or operation of an above ground or below ground network utility or the national grid where:~~
 - ~~a.— The construction corridor did not exceed 3m in width; and~~
 - ~~b.— All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and~~
 - ~~c.— Rehabilitation of disturbed areas is undertaken following the completion of construction;~~
 - ~~x.— It is cultural harvest undertaken by Poutini Ngāi Tahu; or~~
 - ~~xi.— It is on MPZ— Māori Purpose Zoned land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or~~

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- ~~xii. It is within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument;~~
- ~~4. Within the Grey District it is clearance outside of an Outstanding Natural Landscape identified in Schedule Five; or~~
- ~~5. Within the Buller and Westland Districts:~~
 - ~~i. It is the removal or clearance of mānuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old, not exceeding 5ha per site over any continuous three year period, subject to provision of notice to the relevant District Council at least 20 working days prior to the proposed clearance including:~~
 - ~~a. Details of the location of the proposed clearance;~~
 - ~~b. Area of the proposed clearance; and~~
 - ~~c. Verification by documentary, photographic or other means that the vegetation is less than 15 years old and not part of any wetland; or~~
 - ~~ii. It is a maximum area of 5000m² per site, in total, over any continuous three year period.~~

Advice Notes:

- ~~1. Where clearance of mānuka, kānuka or bracken is proposed under Standard 5 (i) of this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.~~
- ~~2. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the Rules around this clearance.~~
- ~~3. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM R4 will also apply.~~
- ~~4. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES Freshwater which is administered by the West Coast Regional Council.~~
- ~~5. This rule also applies to plantation forestry activities, where this provision is more stringent than the NES PF in relation to significant natural areas.~~

Activity status where compliance not achieved:

~~Discretionary where standard 1 or 4 is not achieved.~~

~~Refer Natural Character and Margins of Waterbodies Chapter where standard 2 is not achieved.~~

~~Within the Grey District refer standard 4 where standard 3 is not achieved.~~

~~Within the Buller and Westland Districts Controlled or Restricted Discretionary (depending on activity type) where standard 5 is not achieved.~~

~~ECO – R2 – Indigenous Vegetation Clearance in the Coastal Environment~~

~~Activity Status Permitted~~

~~Where:~~

- ~~1. This is for:~~
 - ~~i. Walking/cycling tracks, roads, farm tracks or fences;~~
 - ~~ii. Operation, maintenance, repair, upgrading and installation of new network utility infrastructure and renewable electricity generation activities; or~~
 - ~~iii. Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site;~~
- ~~2. The extent of indigenous vegetation disturbed and/or cleared per site did not exceed an area of 500m² in area per site in any three year period;~~
- ~~3. The indigenous vegetation clearance did not disturb, damage or destroy nesting areas or habitat of protected species; and~~
- ~~4. The indigenous vegetation clearance did not occur in any area identified as a Significant Natural Area in Schedule Four.~~

~~Advice Notes:~~

- ~~1. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the Rules around this clearance.~~
- ~~2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM – R4 will also apply.~~
- ~~3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES – Freshwater which is administered by the West Coast Regional Council.~~
- ~~4. This rule also applies to plantation forestry activities, where this provision is more stringent than the NES – PF.~~

~~Activity status where compliance not achieved: Restricted Discretionary~~

ECO – R1 General Standards

Permitted activities standards outside Significant Natural Areas:

- 1. Within the coastal environment:**
 - a. Any indigenous vegetation clearance is a maximum of 500m² per site, or a maximum of 20m² on any individual infrastructure work site, or 20m² per linear 100 metre length for linear infrastructure; except that indigenous vegetation clearance is a maximum of**

500m² per site in the Hartmount Place and Ross Place subdivision, provided that at least an equivalent amount is retained on the site;¹⁸³

- b. The indigenous vegetation clearance will not disturb, damage or destroy nesting areas or habitat of protected threatened or at risk species; and
 - c. The indigenous vegetation clearance will not occur in an area of land within category one or two of the Threatened Environment Classification; and
2. Within the riparian margin of a waterbody:
- a. It is a maximum of 25m² per linear 200 metre length of riparian margin; and
3. In all other locations:
- a. A maximum of 2,000m² on any site that has not had a Significant Natural Area assessment undertaken in accordance with Policy ECO – P1; or
 - b. A maximum of 5,000m² on any site that has had a Significant Natural Area assessment in accordance with Policy ECO – P1 or within the Grey District has a Significant Natural Area included within Schedule Four that is located on the same property; or
 - c. Is a maximum of 20m² on any individual infrastructure work site, or 20m² per linear 100 metre length for linear infrastructure; and
4. Except where carried out by a statutory agency, or authorised contractor acting on its behalf, responsible for natural hazard mitigation, the clearance is located within areas used and identified for natural hazard mitigation structures that are owned or managed by a statutory agency.

Except that the maximum vegetation clearance provisions in these general standards do not apply where:

- a. Specific to clause 3 in this rule, it is necessary to provide for the ongoing safe and efficient operation, maintenance and repair of the National Grid, electricity distribution and telecommunications lines; or
- b. For all clauses in this rule, the indigenous vegetation clearance is for network utility operations within any RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Greymouth, Hokitika or Westport;
- c. For all clauses in this rule, the indigenous vegetation clearance is of vegetation planted and managed:
 - i. As part of a domestic or public garden for amenity purposes; or
 - ii. As a shelterbelt; or
 - iii. For the purpose of harvesting plantation forestry.

¹⁸³ Marie Elder S352.014 from Settlement Zone Chapter Recommendation Report

Activity status where compliance not achieved: Restricted Discretionary

ECO – R2 **Indigenous Vegetation Clearance for Network Utility Operations, Renewable Electricity Generation Activities and the National Grid outside of Significant Natural Areas**

Activity Status Permitted

Where:

1. It is for the maintenance, operation, repair or upgrade of lawfully established activities and structures; or
2. It is for the installation of temporary network or electricity generation activities following a regional or local state of emergency declaration; or
3. It is necessary to remove vegetation that endangers human life or existing buildings or structures; or
4. It is for construction of new network utility infrastructure, renewable electricity generation activities or the National Grid where:
 - a. The construction corridor for linear infrastructure such as pipes and lines will not exceed 10 metres in width; and
 - b. All machinery used in construction is cleaned and made free of weed materials and seeds prior to entering the site; and
 - c. Rehabilitation of disturbed areas is undertaken following completion of construction; and
 - d. Within a riparian margin of a waterbody, new network utilities and connections are underground or located within a legal road or attached to an existing bridge.

Activity status where compliance not achieved: Restricted Discretionary

ECO – R3 **Indigenous vegetation clearance for maintenance and repair of lawfully established structures and activities outside of Significant Natural Areas not provided for in Rule ECO – R1**

Activity Status Permitted

Where:

1. The clearance is for the maintenance and repair of lawfully established activities and structures including tracks, accessways, fences, pipelines, drains, natural hazard mitigation structures, shelterbelts and woodlots, environmental monitoring facilities and infrastructure; or
2. The clearance is for the maintenance of improved pasture for farming.

Advice Note:

1. In relation to standard 1 of this rule, the reference to infrastructure applies where the infrastructure is not regulated by Rule ECO – R2.

Activity status where compliance not achieved: Restricted Discretionary

ECO – R4	<u>Indigenous vegetation clearance in urban areas outside of Significant Natural Areas not provided for in Rule ECO – R1 or ECO – R2</u>

Activity Status Permitted

Where:

1. It is undertaken on a RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Reefton, Greymouth, Hokitika or Westport;

Activity status where compliance not achieved: Restricted Discretionary

ECO – R5	<u>Indigenous vegetation clearance on Māori Purpose Zoned Land, Poutini Ngāi Tahu Land for Poutini Ngāi Tahu Activities or on Specified Māori Land outside of Significant Natural Areas</u>

Activity Status Permitted

Where:

1. It is cultural harvest undertaken by Poutini Ngāi Tahu; or
2. It is on Māori Purpose Zoned land or Poutini Ngāi Tahu land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or
3. It is on Specified Māori Land and complies with ECO-R1 and ECO-R3.

Activity status where compliance not achieved: Restricted Discretionary

ECO – R6	<u>Indigenous vegetation clearance outside of Significant Natural Areas not provided for in another Permitted Activity Rule</u>

Activity Status Permitted

Where this is:

1. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast; or
2. Necessary to remove vegetation that endangers human life or existing buildings or structures; or
3. For the construction of parks facilities, parks furniture or public access points within an Open Space and Recreation Zone; or

4. For installation of an environmental monitoring and extreme weather event monitoring facility; or
5. For the establishment of a river crossing point up to 3 metres wide; or
6. For new natural hazard mitigation structures undertaken by a statutory agency or their authorised contractor acting on its behalf; or
7. Unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, or is removal of unwanted organisms declared under the Biosecurity Act 2015; or
8. To comply with section 43 of the Fire and Emergency Act 2017; or
9. To upgrade public walking or cycling tracks up to 3 metres in width undertaken by the Council or its authorised contractor acting on its behalf; or
10. Within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument; or
11. For the establishment of a building platform and access to a building site in an approved subdivision, or where there is no existing residential building on the site that will not exceed 500m² clearance per allotment, and where this is not located within a riparian margin of a waterbody; or
12. For mineral exploration or prospecting activities within the MINZ - Mineral Extraction Zone or BCZ – Buller Coalfield Zone; or
13. Outside of the coastal environment or riparian margins of waterbodies, it is removal of windthrow timber through:
 - i. Use of helicopter recovery methods; or
 - ii. Ground-based recovery, where this is only undertaken from areas adjacent to existing vehicle tracks; or
14. For any other purpose, where this is not located within a riparian margin of a waterbody or the coastal environment, and will not exceed 2,000m² clearance per property.

Activity status where compliance not achieved: Controlled Activity where this is indigenous vegetation clearance with an approved plan or permit issued under the Forests Act; otherwise, Restricted Discretionary

ECO – R7 Indigenous Vegetation Clearance within a Significant Natural Area

Activity Status Permitted

Where this is:

1. For the maintenance, operation and repair of lawfully established activities and structures including tracks, fences, drains, structures, infrastructure and renewable electricity generation activities where:
 - a. This is at the same or similar scale, character and intensity as at 14 July 2022; and
 - b. The clearance is within 3 metres of the lawfully established activity and is limited to a maximum area of 50m² per individual Significant Natural Area;
2. Necessary to remove vegetation that endangers human life or existing buildings or structures, where this is certified by a Council Approved Contractor;
3. For the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access where the removal is within 3 metres of the formed width of the road, rail corridor or access where this is undertaken by a Road or Rail Controlling Authority;
4. To comply with section 43 of the Fire and Emergency Act 2017;
5. To enable removal of unwanted organisms declared under the Biosecurity Act 2015.

Activity status where compliance not achieved: Discretionary

ECO – R38 Indigenous vegetation clearance or disturbance where this is in accordance with an approved plan or permit issued under the Forests Act 1949

Activity Status Controlled

Where:

1. The indigenous vegetation clearance and disturbance is in accordance with an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949;
2. The indigenous vegetation clearance is outside of ~~any Significant Natural Area identified in Schedule Four and outside of~~^{f184} the Coastal Environment; and
3. The indigenous vegetation clearance is not located in an area of land environment of category one or two of the Threatened Environment Classification.

Matters of control are:

- a. The matters outlined in Policies ~~ECO - P67~~^{ies} ECO - P67, and ECO - P78 and where relevant NFL - P6;
- b. The protection of habitats of threatened or at risk species;
- c. The management of impacts on Poutini Ngāi Tahu values as set out in the Tangata Whenua Chapter;¹⁸⁵

¹⁸⁴ Michael Orchard S583.002, Peter Langford S615.052, Karamea Lime Company S614.052, Koiterangi Lime Co Ltd S577.043, Catherine Smart-Simpson S564.036, William McLaughlin S567.182, Steve Croasdale S516.041, Geoff Volckman S563.030, Chris & Jan Coll S558.101, Chris J Coll Surveying Limited S566.101, Laura Coll McLaughlin S574.101

¹⁸⁵ Te Rūnanga o Ngāi Tahu, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio S620.147

~~e.d.~~ Compliance with the terms of an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949; and

~~d.e.~~ The measures to avoid, remedy, or mitigate any adverse effects on any significant indigenous vegetation and significant habitats of indigenous fauna.

Advice Notes:

1. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody **ECO-R1 or ECO-R10 apply**. ~~refer to these sections of the Plan for the rules around this clearance.~~
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.

Activity status where compliance not achieved: Restricted Discretionary

~~ECO – R4 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity~~

~~Activity Status: Controlled~~

~~Where:~~

- ~~1. One new allotment with a minimum lot size of 4,000m² is created from the parent title, provided that in the GRUZ – General Rural Zone there is a balance area remaining on the original title of at least 4 ha; and~~
- ~~2. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~3. The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance of significant indigenous vegetation to provide for future access to any site; and~~
- ~~4. Subdivision standards S2-S11 are complied with.~~

~~Matters of control are:~~

- ~~a. Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity;~~
- ~~b. Management of earthworks, including earthworks for the location of building platforms and access ways;~~
- ~~c. The protection of habitats of threatened or at risk species; and~~
- ~~d. The measures to minimise any adverse effects on:~~

- i. The significant indigenous biodiversity;
- ii. The cultural significance to Poutini Ngāi Tahu.

Advice Note:

~~This rule does not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB – R4. Activity status where compliance not achieved: Restricted Discretionary where standard 1 is not complied with. Discretionary where standards 2-4 are not complied with.~~¹⁸⁶

SUB – R7 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Biodiversity is Proposed¹⁸⁷

Activity Status: Controlled

Where:

1. One new allotment with a minimum lot size of **41,000**¹⁸⁸ m² is created from the parent title, provided that in the GRUZ - General Rural Zone there is a balance area remaining on the original/parent title of at least 4 ha; and
2. **An assessment of the site against the significance criteria in the WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified ecologist, unless the site has already been identified as a Significant Natural Area as part of a district-wide Significant Natural Area assessment process; and**¹⁸⁹
- 2.3. The **Any** areas¹⁹⁰ of significant indigenous biodiversity is **are**¹⁹¹ legally protected in perpetuity by way of a conservation covenant with an authorised agency **or via consent notice on the title**¹⁹² and is **are**¹⁹³ contained within a single allotment; **and**
- 3.4. The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance **within the area**¹⁹⁴ of significant indigenous vegetation to provide for **a future building site or**¹⁹⁵ future access to any site; and
- 4.5. Subdivision standards S2-S11 are complied with.

Matters of control are:

¹⁸⁶ Director General of Conservation S602.077

¹⁸⁷ William McLaughlin S567.298, Chris & Jan Coll S558.228, Chris J Coll Surveying Limited S566.228, Laura Coll McLaughlin S574.228

¹⁸⁸ Davis Ogilvie & Partners Limited S602.017

¹⁸⁹ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

¹⁹⁰ RMA Schedule 1, clause 16(2)

¹⁹¹ RMA Schedule 1, clause 16(2)

¹⁹² Buller District Council S538.211 and S538.260

¹⁹³ RMA Schedule 1, clause 16(2)

¹⁹⁴ Frida Inta S553.117 and Buller Conservation Group S552.117

¹⁹⁵ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

- a. Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity and whether buffering of significant areas is also appropriate,¹⁹⁶
- b. The design and provision of access;
- c. The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy/electricity,¹⁹⁷
- d. The adequacy of water supply for firefighting,¹⁹⁸
- e. Specification of the location of building sites and access through the use of consent notices,¹⁹⁹
- f. Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities,²⁰⁰
- g. Measures to address any natural hazards or geotechnical constraints,²⁰¹
- e.h. Management of earthworks, including earthworks for the location of building platforms and access ways;
- d.i. The protection of habitats of threatened or at risk species; and
- e.j. The measures to ~~minimise~~ avoid, remedy or mitigate²⁰² any adverse effects on:
 - i. The significant indigenous biodiversity; and
 - ii. ~~The cultural significance to Poutini Ngāi Tahu~~ values.²⁰³

Advice Notes:

1. This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to either of Rules SUB-R2 or²⁰⁴ SUB - R4.
2. When assessing resource consent applications under this rule, reference should also be made to the objectives and policies in the ECO Chapter.²⁰⁵

Activity status where compliance not achieved:

Restricted Discretionary where standard 1 is not complied with.

Discretionary where standards 2-~~45~~²⁰⁶ are not complied with.

¹⁹⁶ Consequential amendment Frida Inta S553.121 and Buller Conservation Group S552.121

¹⁹⁷ Grey District Council S608.637 and Westpower Limited S547.367

¹⁹⁸ Grey District Council S608.637

¹⁹⁹ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

²⁰⁰ Buller District Council S583.261 and Westpower Limited S547.367

²⁰¹ Buller District Council S583.254

²⁰² Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

²⁰³ Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.148

²⁰⁴ Westpower Limited S547.268

²⁰⁵ Consequential amendment Director General of Conservation S602.077

²⁰⁶ Consequential amendment Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

Restricted Discretionary Activities

ECO – R59 Indigenous vegetation clearance not meeting Permitted or Controlled Activity Standards outside of a Significant Natural Area in the Grey District²⁰⁷

Activity Status Restricted Discretionary

Where:

1. This is not within:
 - i. ~~A Significant Natural Area identified in Schedule Four;~~²⁰⁸
 - ii. An area of land environment of category one or two of the Threatened Environment Classification; or
 - iii. An Outstanding Natural Landscape identified in Schedule Five; or
 - iv. An Outstanding Natural Feature identified in Schedule Six; or
 - v. An area of High Coastal Natural Character identified in Schedule Seven; or
 - vi. An area of Outstanding Coastal Natural Character identified in Schedule Eight.

Discretion is restricted to:

~~a. Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;~~²⁰⁹

a. Effects on indigenous biodiversity;²¹⁰

~~b. Constraints imposed by~~ Consideration of the functional need or operational need of network utilities, renewable electricity generation and ~~critical~~ regionally significant infrastructure;²¹¹

c. Effects on habitats of any threatened or ~~protected~~ at risk (declining)²¹² species;

d. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification;

e. Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems;

f. Effects on the intrinsic values of ecosystems;

g. Effects on recreational values of public land; ~~and~~

²⁰⁷ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.010

²⁰⁸ RMA Schedule 1, clause 16(2)

²⁰⁹ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.497

²¹⁰ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.499, Director General of Conservation S602.078

²¹¹ Director General of Conservation S602.078, Buller District Council S583.261 and Westpower Limited S547.272

²¹² Director General of Conservation S602.078

h. Effects on natural character, natural landscapes, and natural features in the coastal environment;²¹³

i. Natural hazard management and geotechnical considerations; and²¹⁴

j. Poutini Ngai Tahi values.²¹⁵

~~h. The matters outlined in Policies ECO—P6 and ECO—P7~~

Advice Note:

- ~~1. Where indigenous vegetation clearance is proposed within the riparian margin of a waterbody refer to this section of the Plan for the Rules around this clearance.~~²¹⁶
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also be subject to **additional**²¹⁷ rules within the NES - Freshwater and Regional Land and Water Plan which are administered by the West Coast Regional Council.
4. This rule also applies to ~~plantation~~ **commercial**²¹⁸ forestry activities, where this provision is more stringent than the NES - **PCF**²¹⁹ and the indigenous vegetation clearance is within the coastal environment.

Activity status where compliance not achieved: Discretionary

~~ECO—R6—Subdivision of Land to create Allotments Containing an Area of Significant Indigenous Biodiversity not meeting Rule ECO—R4~~

~~Activity Status Restricted Discretionary~~

~~Where:~~

- ~~1. Up to three allotments with a minimum lot size of 4,000m² are created from the parent title;~~
- ~~2. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~3. The subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four; and~~
- ~~4. Subdivision standards S2-S11 are complied with. Discretion is restricted to:~~

²¹³ Coastal Environment Chapter Recommendation Report, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.532

²¹⁴ Buller District Council S583.254

²¹⁵ Te Rūnanga o Ngāi Tau, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio S620.149

²¹⁶ Consequential amendment from Natural Character and Margins of Waterbodies Recommendation Report to address this in ECO rules.

²¹⁷ Director General of Conservation S602.078

²¹⁸ RMA Schedule 1, clause 16(2)

²¹⁹ RMA Schedule 1, clause 16(2)

- ~~a. Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;~~
- ~~b. The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna;~~
- ~~c. Management of earthworks including earthworks for the location of building platforms and access ways;~~
- ~~d. The protection of habitats of threatened or at risk species.~~
- ~~e. The measures to minimise any adverse effects on:~~
 - ~~i. The significant indigenous biodiversity; and~~
 - ~~ii. The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association.~~

Activity status where compliance not achieved: Discretionary²²⁰

SUB – R9 Subdivision of Land to create allotment(s) Containing an Area of Significant Indigenous Biodiversity, where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed,²²¹ not meeting Rule SUB-R7

Activity Status Restricted Discretionary

Where:

1. Up to three allotments with a minimum lot size of 41,000²²²m² are created from the parent title;
- 2. An assessment of the site against the significance criteria in the WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified ecologist, unless the site has already been identified as an SNA as part of a district – wide Significant Natural Area assessment process;**²²³
- 2.3. The Any**²²⁴ **areas**²²⁴ of significant indigenous biodiversity **is** are²²⁵ legally protected in perpetuity by way of a conservation covenant with an authorised agency **or via a consent notice on the title**²²⁶ and **is** are²²⁷ contained within a single allotment;
- 3.4. The** subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four **or the need for clearance within the**

²²⁰ Director General of Conservation S602.079

²²¹ Margaret Montgomery S446.055, Lara Kelly S421.007

²²² Davis Ogilvie & Partners Limited S602.018

²²³ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.221 and S560.270

²²⁴ RMA Schedule 1, clause 16(2)

²²⁵ RMA Schedule 1, clause 16(2)

²²⁶ Buller District Council S538.213

²²⁷ RMA Schedule 1, clause 16(2)

area of significant indigenous vegetation to provide for a future building site or future access to any site;²²⁸ and

4.5. Subdivision standards S2-S11 are complied with.

Discretion is restricted to:

a. The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna and whether buffering of significant areas is also appropriate;²²⁹

b. The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy/electricity;²³⁰

c. The adequacy of water supply for firefighting;²³¹

d. Specification of the location of building sites and access through the use of consent notices;²³²

e. Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;²³³

~~b.f.~~ Management of earthworks including earthworks for the location of building platforms and access ways;

~~e.g.~~ The protection of habitats of threatened or at risk species; and

~~d.h.~~ The measures to ~~minimise~~ avoid, remedy or mitigate²³⁴ any adverse effects on:

i. The significant indigenous biodiversity; ~~and~~

ii. ~~The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu~~ values ~~as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association.~~²³⁵

Activity status where compliance not achieved: Discretionary

Advice Note: When assessing resource consent applications under this rule, the objectives and policies in the ECO Chapter should also be referred to.²³⁶

²²⁸ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.221 and S560.270

²²⁹ Frida Inta S553.118 and Buller Conservation Group S552.118

²³⁰ Grey District Council S608.639 and Westpower Limited S547.375

²³¹ Grey District Council S608.639

²³² Royal Forest and Bird Protection Society of New Zealand Incorporated S560.221 and S560.270

²³³ Buller District Council S538.261, Westpower Limited S547.377

²³⁴ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.221 and S560.270

²³⁵ Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.150

²³⁶ Consequential amendment Director General of Conservation S602.079

Discretionary Activities

ECO – R710 Indigenous vegetation clearance not meeting ~~ECO – R5~~ Permitted, Controlled or Restricted Discretionary Rules²³⁷

Activity Status Discretionary

Where:

1. An ecological assessment undertaken by a suitably qualified ecologist identifies that the indigenous vegetation clearance will not adversely affect an area of significant indigenous biodiversity using the WCRPS, Appendix 1; and
2. Adverse effects of the clearance on indigenous biodiversity are managed by applying the effects management hierarchy to achieve Objective ECO-O1.

OR

3. An ecological assessment undertaken by a suitably qualified ecologist identifies that the indigenous vegetation clearance is within an area of significant indigenous biodiversity using the WCRPS, Appendix 1, and avoid any of the following:
 - a. Loss of ecosystem representation and extent; or
 - b. Disruption to sequences, mosaics or ecosystem function; or
 - c. Fragmentation of areas of significant indigenous biodiversity or the loss of buffers or connections with areas of significant indigenous biodiversity; or
 - d. A reduction in the function of the area of significant indigenous biodiversity as a buffer or connection to important habitats or ecosystems; or
 - e. A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the area of significant indigenous biodiversity.

OR

4. In the case of:

- a. Mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand, and it can be demonstrated that there is a functional need or operational need to be in that particular location, and there are no practicable alternative locations; or
- b. Aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand, and it can be demonstrated that there is a functional need or operational need to be in that particular location, and there are no practicable alternative locations; or

²³⁷ Consequential amendment to reflect changes to the rule numbering and structure

- c. A single residential dwelling on an allotment created before 4 August 2023, and there is no practicable alternative location on the allotment for the dwelling and essential associated onsite infrastructure; or
- d. This is for a commercial forestry activity and is required for the commercial forestry activity to continue; and

The adverse effects on areas of significant indigenous biodiversity are managed by applying the effects management hierarchy, including demonstrating how each step is applied, and if biodiversity offsetting and biodiversity compensation is applied, having regard to the principles in Appendix Fourteen and Appendix Fifteen.²³⁸

Advice Notes:

1. Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the relevant objectives and²³⁹ policies of ~~both~~ the Ecosystems and Indigenous Biodiversity Chapter, ~~and~~ Natural Features and Landscapes Chapter, the Coastal Environment Chapter, the Energy, Infrastructure and Transport Chapters and the MINZ and BCZ zone Chapters²⁴⁰ ~~will~~ may be required.
2. In relation to Significant Natural Areas, ~~this rule also applies to plantation commercial~~²⁴¹ forestry activities, where this provision is more stringent than the NES - PCF.²⁴²
3. When assessing resource consents for indigenous vegetation clearance on Specified Māori Land under this rule, the provisions of the NPSIB in relation to Specified Māori Land must be taken into account.²⁴³
4. When assessing resource consents for indigenous vegetation clearance within the riparian margins of waterbodies under this rule, the objectives and policies of the Natural Character and the Margins of Waterbodies must be taken into account.²⁴⁴

Activity status where compliance not achieved:

N/A where standard 1, 2 or 4 is complied with

Non-complying where standard 3 is not complied with²⁴⁵

ECO - R11 Indigenous vegetation clearance for regionally significant infrastructure, the National Grid and renewable electricity generation activities

Activity Status Discretionary

Activity Status where compliance not achieved: N/A²⁴⁶

²³⁸ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.010, Director General of Conservation S602.079

²³⁹ Westpower Limited S547.274

²⁴⁰ Bathurst Resources Limited and BT Mining Limited S491.020

²⁴¹ RMA Schedule 1, clause 16(2)

²⁴² RMA Schedule 1, clause 16(2)

²⁴³ Consequential amendment to adding definition for 'Specified Māori Land'.

²⁴⁴ Consequential amendment from relocating the vegetation clearance rules in riparian margins from the Natural Character and Margins of Waterbodies Chapter.

²⁴⁵ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.010 and S560.504

²⁴⁶ Transpower New Zealand Limited S299.078,

~~ECO – R8 – Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity not meeting Rule ECO – R6~~

Activity Status Discretionary

Where:

- ~~1. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~2. The subdivision will not result in buildings or accessways being located within any Significant Natural Area identified in Schedule Four; and~~
- ~~3. Subdivision Standards S2 – S11 are complied with.~~

Activity status where compliance not achieved: Non-complying²⁴⁷

Non-complying Activities

SUB – R15 Subdivision of Land to Create Allotments containing an Area of Significant Indigenous Biodiversity that does not meet ~~Controlled or Restricted Discretionary Activity Standards~~ SUB-R9²⁴⁸

Activity Status Discretionary

Where:

1. An assessment of the site against the significance criteria in the WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified ecologist, unless the site has already been identified as an Significant Natural Area as part of a district-wide Significant Natural Area assessment process using the NPSIB Appendix 1 criteria; and²⁴⁹
2. Any adverse effects on ~~the area of significant indigenous biodiversity or SNA~~ is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment; are managed by applying the effects management hierarchy, including demonstrating how each step of the effects management hierarchy will be applied, and if biodiversity offsetting or biodiversity compensation is applied, having regard to principles in Appendix 14 and 15; and²⁵⁰
3. The subdivision will not result in buildings or accessways being located within any Significant Natural Area identified in Schedule Four; and any of the following:
 - a. Loss of ecosystem representation and extent; or
 - b. Disruption to sequences, mosaics or ecosystem function; or

²⁴⁷ Director General of Conservation S602.081

²⁴⁸ Consequential amendment to reflect changes to the rule structure

²⁴⁹ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

²⁵⁰ Straterra S536.019, Inger Perkins S462.009, Lynley Hargreaves S481.002, John Caygill S290.008, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.028

- c. Fragmentation of areas of significant indigenous biodiversity or the loss of buffers or connections with areas of significant indigenous biodiversity; or
 - d. A reduction in the function of the area of significant indigenous biodiversity as a buffer or connection to important habitats or ecosystems; or
 - e. A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the area of significant indigenous biodiversity; and²⁵¹
4. Subdivision Standards S2 - S11 are complied with.²⁵²

Activity status where compliance not achieved: Non-complying

Advice Note: When assessing resource consent applications under this rule, the objectives and policies in the ECO Chapter should also be referred to.²⁵³

Non-complying Activities

ECO – R12 **Indigenous vegetation clearance not meeting ECO – R710**

Activity status Non-complying

Activity status where compliance not achieved: N/A

Advice Note:

- 1. This rule also applies to Plantation forestry activities, where this provision is more stringent than the NES - CF.²⁵⁴

~~**ECO – R9** **Subdivision of Land within an Area of Significant Indigenous Biodiversity not meeting Rule ECO – R8**~~

~~Activity Status Non-complying~~

~~Activity status where compliance not achieved: N/A~~²⁵⁵

SUB – R27 **Subdivision of Land within an Area of Significant Indigenous Biodiversity not meeting Discretionary Activity Standards**

Activity Status Non-complying

Activity status where compliance not achieved: N/A

Advice Note: When assessing resource consent applications under this rule, reference should also be made to the objectives and policies in the ECO Chapter.²⁵⁶

²⁵¹ Inger Perkins S462.009, Lynley Hargreaves S481.002, John Caygill S290.008,

²⁵² Consequential amendment Director General of Conservation S602.081

²⁵³ Consequential amendment Director General of Conservation S602.081

²⁵⁴ Royal Forest and Bird Protection Society of New Zealand Incorporated S560.254 and S560.224

²⁵⁵ Director General of Conservation S602.082

²⁵⁶ Consequential amendment Director General of Conservation S602.082

ECO – R103	Planting of Plant Pests identified in a West Coast Regional Pest Management Plan within an area of significant indigenous vegetation or <u>significant</u> habitat of ~~significant~~ <u>indigenous</u> fauna²⁵⁷
Activity Status Non-complying	
Activity status where compliance not achieved: N/A	
ECO – R114	The intentional release or farming of Animal Pests identified in a West Coast Regional Pest Management Plan within an area of significant indigenous vegetation or <u>significant</u> habitat of ~~significant~~ <u>indigenous</u> fauna²⁵⁸
Activity Status Non-complying	
Activity status where compliance not achieved: N/A	
<u>Ecosystems and Indigenous Biodiversity Methods</u>	
<u>ECO – M1</u>	
<u>The TTPP Committee will</u>	
a. <u>Identify in conjunction with Specified Māori Land owners how best to implement the NPSIB in relation to Specified Māori Land in accordance with the decision making principles in Appendix Thirteen of this Plan and the provisions of the NPSIB; and</u> b. <u>Identify, in partnership with Poutini Ngāi Tahu, how best to fully implement the NPSIB in relation to the decision-making principles, tangata whenua provisions and the Ngāi Tahu Claims Settlement Act; and</u> c. <u>As part of giving effect to the NPSIB, the TTPP Committee will consider a Plan Change to implement the actions of this method and Policy ECO-P1.I</u>	

4.6. Ecosystems and Indigenous Biodiversity Schedule Four and Associated Mapping

Submissions and Further Submissions

920. Twenty-seven submission points and 19 further submissions relating to **Schedule Four (as a whole)** were summarised in a Table on pages 232 - 235 of the s42A Report. Eleven submission points sought to retain Schedule Four as notified and 16 submissions sought amendments. Six further submissions opposed submissions that sought amendments, and 13 further submissions supported submissions that sought amendments.
921. Twenty-two submission points and 11 further submissions relating to **specific SNA in Schedule Four** were summarised in a Table on pages 237 - 239 of the s42A Report. Eleven submission points sought to retain specific SNA in Schedule Four as notified and eight submission points opposed specific SNA in Schedule Four. Three submissions sought

²⁵⁷ RMA Schedule 1, clause 16(2)

²⁵⁸ RMA Schedule 1, clause 16(2)

APPENDIX D - LIST OF NAMES AND ADDRESSES OF PERSONS TO BE SERVED WITH A COPY OF THIS NOTICE

Entity	Name	Address for Service	Email
Westpower Limited	Martin Kennedy	6 Dowling Road Greymouth, 7805	martink@xtra.co.nz
N/A	Susan Hall	1099 Courtenay Road RD 1 Darfield Canterbury, 7571	smahall@xtra.co.nz
Royal Forest & Bird Protection Society of NZ Inc. (Forest & Bird)	Nicky Snoyink	PO Box 2516 Christchurch, 8140	n.snoyink@forestandbird.org.nz
Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu	Rachael Pull	15 Show Place Addington Addington or Central City, Christchurch, 8024	rachael.pull@ngaitahu.iwi.nz
Kāinga Ora – Homes and Communities	Development Planning Team	PO Box 74598 Greenlane Auckland	developmentplanning@kaingaora.govt.nz
Transpower NZ Ltd	Rebecca Eng	PO Box 17215 Greenlane Auckland	environment.policy@transpower.co.nz
Radio New Zealand Limited (RNZ)	Annabelle Lee	PO Box 2510 Christchurch, 8140	annabelle.lee@chapmantripp.com
	Luna-May Hart (Current Service Details)	PO Box 2206 Auckland	luna-may.hart@chapmantripp.com

Department of Conservation	Geoff Deavoll	Western South Island Region Hokitika, Private Bag 701 Hokitika 7842	gdeavoll@doc.govt.nz
Horticulture New Zealand	Emily Levenson	PO Box 10-23 Wellington, 6011	emily.levenson@hortnz.co.nz
Manawa Energy Limited (Manawa Energy)	Nicola Foran	Private Bag 12055 Tauranga, 3143	nicola.foran@manawaenergy.co.nz
Buller Electricity Limited	Mark Lile	PO Box 343 Nelson, 7040	mark@landmarklile.co.nz
Federated Farmers of New Zealand	Eleanor Linscott	PO Box 5242 Dunedin, 5242	elinscott@fedfarm.org.nz