

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-00139

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: **Te Tai O Poutini Plan Committee**
Respondent

Memorandum of counsel for Transpower New Zealand Limited –
further particulars

Dated: 8 May 2026

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**MEMORANDUM OF COUNSEL FOR TRANSPOWER NEW ZEALAND LIMITED
– FURTHER PARTICULARS**

May it please the Court

- 1 Transpower New Zealand Limited (*Transpower*) is an appellant and section 274 party to various appeals against parts of the decision of the Te Tai o Poutini Plan Committee in respect of the Proposed Te Tai o Poutini Plan (*TTPP*).
- 2 The Court directed Transpower to file and serve by 8 May 2026 further particulars specifying the relief Transpower seeks in relation to the Ecosystem and Biodiversity Rules.
- 3 Further details of Transpower’s position and changes sought to the Ecosystem and Indigenous Biodiversity Rules, specifically Rules R1, R2, R7, R9, R10, R11 and R12, are provided in **Appendix A**. Transpower seeks these changes and/or other or consequential relief as may be necessary to address the matters raised in Transpower’s submissions and appeal.
- 4 Transpower notes that:
 - 4.1 other changes to the rules may be needed to give effect to provisions of the National Environmental Standards for Electricity Network Activities (NES-ENA) if and when these come into force; and
 - 4.2 Transpower is willing to engage with other parties through discussions and mediation on the Ecosystem and Indigenous Biodiversity Rules and will support alternative drafting that achieves clarity and the outcomes set out in Transpower’s appeal.



Luke Hinchey / Hadleigh Pedler
Partner / Senior Associate
8 May 2025

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APPENDIX A - FURTHER PARTICULARS OF RELIEF SOUGHT

<p align="center">Ecosystems and Indigenous Biodiversity Rules</p> <p>Changes sought by Transpower are shown as red strikethrough and underline text. Transpower also supports alternative drafting that achieves the intent of the relief sought.</p>		<p align="center">Relief sought</p>	
<p>Permitted Activities</p>			
<p>ECO - R1</p>	<p>General Standards</p>		
<p>Permitted activities standards outside Significant Natural Areas:</p> <ol style="list-style-type: none"> 1. Within the coastal environment: <ol style="list-style-type: none"> i. 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; ii. The indigenous vegetation clearance will not disturb, damage or destroy nesting areas of habitat or protected threatened or at risk species; and iii. 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: <ol style="list-style-type: none"> i. It is a maximum of 25m² per linear 200 metre length of riparian margin; and 3. In all other locations: <ol style="list-style-type: none"> i. 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 ii. 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 		<p>Activity status where compliance not achieved: Restricted Discretionary where this is in the Grey District and Discretionary where this is in the Buller and Westland Districts</p>	<ol style="list-style-type: none"> 1. Include reference to 'upgrade' of the National Grid in exemption clause i. for consistency with the wording in ECO-R2 clause 1 and to recognize the existing nature of assets. 2. Use 'or' in exemption clause i. for consistency with ECO-R2 and to clarify that not all the activities need to be met for the exemption to apply.

<p>iii. Is a maximum of 20m² on any individual infrastructure work site, or 20m² per linear 100 metre length for linear infrastructure; and</p> <p>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.</p> <p>Except that the maximum vegetation clearance provisions in these general standards do not apply where:</p> <p>i. Specific to clause 3 in this rule, it is necessary to provide for the ongoing safe and efficient operation, maintenance and repair <u>or upgrade</u> of the National Grid, electricity distribution and telecommunication lines; or</p> <p>ii. 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;</p> <p>iii. For all clauses in this rule, the indigenous vegetation clearance is of vegetation planted and managed:</p> <p>a. As part of a domestic or public garden for amenity purposes; or</p> <p>b. As a shelterbelt; or</p> <p>c. For the purpose of harvesting plantation forestry.</p>			
<p>ECO - R2</p>	<p>Indigenous Vegetation Clearance for Network Utility Operations, Renewable Electricity Generation Activities and the National Grid outside of Significant Natural Areas.</p>		
<p>Activity Status Permitted</p> <p><u>Notwithstanding ECO-R1, w</u>here:</p> <ol style="list-style-type: none"> 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 	<p>Activity status where compliance not achieved: Restricted Discretionary where this is</p>	<ol style="list-style-type: none"> 1. Clarification is needed on the relationship between ECO-R1 which provides exemptions for works associated with the National Grid, and ECO-R2 which applies to works for the National Grid. Transpower seeks wording changes to make it clear ECO-R2 applies independently, without reference to ECO-R1 	

<p>electricity generation activities or the National Grid where:</p> <ul style="list-style-type: none"> i. The construction corridor for linear infrastructure such as pipes and lines will not exceed 10 metres in width; and ii. All machinery used in construction is cleaned and made free of weed materials and seeds prior to entering the site; and iii. Rehabilitation of disturbed areas is undertaken following completion of construction; and iv. 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 	<p>in the Grey District and Discretionary where this is in the Buller and Westland Districts</p>	<p>requirements.</p>
<p>ECO - R7 Indigenous Vegetation Clearance within a Significant Natural Area</p>		<ul style="list-style-type: none"> 1. Include reference to 'upgrade' of the National Grid in exemption clause i. for consistency with the wording in ECO-R2 clause 1 and to recognize the existing nature of assets. 2. Use 'or' in exemption clause i. for consistency with ECO-R2 and to clarify that not all the activities need to be met for the exemption to apply. 3. Add specific reference to the National Grid for clarity. 4. Exempt the National Grid from the limits in clause 1.i and 1.ii as these may not allow for routine vegetation removal needed to ensure the operation of the National Grid.
<p>Activity Status Permitted Where this is:</p> <ul style="list-style-type: none"> 1. For the maintenance, operation, and repair <u>or upgrade</u> of lawfully established activities and structures including tracks, fences, drains, structures, infrastructure <u>the National Grid</u>, and renewable electricity generation activities where: <ul style="list-style-type: none"> i. <u>Except in relation to the National Grid, t</u>This is at the same or similar scale, character and intensity as at 14 July 2022; and ii. <u>Except in relation to the National Grid, t</u>Thehis 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. 	<p>Activity status where compliance not achieved: Discretionary</p>	

Restricted Discretionary Activities		
ECO - R9	Indigenous vegetation clearance not meeting Permitted or Controlled Activity Standards outside of a Significant Natural Area in the Grey District	
<p>Activity Status Restricted Discretionary Where:</p> <ol style="list-style-type: none"> 1. This is not within: <ol style="list-style-type: none"> i. An area of land environment of category one or two of the Threatened Environment Classification; or ii. An Outstanding Natural Landscape identified in Schedule Five; or iii. An Outstanding Natural Feature identified in Schedule Six; or iv. An area of High Coastal Natural Character identified in Schedule Seven; or v. An area of Outstanding Coastal Natural Character identified in Schedule Eight. <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. Effects on indigenous biodiversity; b. Consideration of the functional need or operational need of network utilities, renewable electricity generation and regionally significant infrastructure; c. Effects on habitats of any threatened or at risk (declining) 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; h. Natural hazard management and geotechnical considerations; and i. Poutini Ngāi Tahu values. <p>Advice Notes:</p> <ol style="list-style-type: none"> 1. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply. 2. Where indigenous vegetation clearance is proposed within a wetland this is also be subject to additional rules within the NES - Freshwater and Regional Land and Water Plan which are administered by the West Coast Regional Council. 		<p>Activity status where compliance not achieved: Discretionary</p>
		<ol style="list-style-type: none"> 1. Transpower does not seek specific changes to ECO-R9, but retains an interest in this provision as part of the hierarchy of consent categories applying to the National Grid.

<p>3. This rule also applies to commercial forestry activities, where this provision is more stringent than the NES - CF and the indigenous vegetation clearance is within the coastal environment.</p>		
<p>Discretionary Activities</p>		
<p>ECO - R10</p>	<p>Indigenous vegetation clearance not meeting Permitted, Controlled or Restricted Discretionary Rules (<u>except in relation to Network Utility Operations, Renewable Electricity Generation Activities and the National Grid (which are subject to ECO-R11)</u>)</p>	
<p>Activity Status Discretionary Where:</p> <ol style="list-style-type: none"> 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. <p>OR</p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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. <p>OR</p> <ol style="list-style-type: none"> 4. In the case of: <ol style="list-style-type: none"> 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 	<p>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 with</p>	<ol style="list-style-type: none"> 1. Amendment is sought to the rule heading to make it clear ECO-R11 applies to the National Grid and similar activities. ECO-R10 is not appropriate for the National Grid given the default non-complying activity status for non-compliance with clause 3, which does not give effect to the NPS-EN.

<p>in that particular location, and there are no practicable alternative locations; or</p> <ul style="list-style-type: none"> 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 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 on-site infrastructure; or d. This is for a commercial forestry activity and is required for the commercial forestry activity to continue; and <p>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</p> <p>Advice Notes:</p> <ol style="list-style-type: none"> 1. Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the relevant objectives and policies of the Ecosystems and Indigenous Biodiversity Chapter, Coastal Environment Chapter, Natural Features and Landscapes Chapter, the Energy, Infrastructure and Transport Chapters and the MINZ - Mineral Extraction Zone and BCZ Buller Coalfield Zone Chapters may be required. 2. In relation to Significant Natural Areas, this rule also applies to commercial forestry activities, where this provision is more stringent than the NES - CF. 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. 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 Chapter must be taken into account. 		
<p>ECO - R11</p>	<p>Indigenous vegetation clearance for regionally significant infrastructure, the National Grid and renewable electricity generation activities <u>not meeting Permitted or Restricted Discretionary Rules</u></p>	<ol style="list-style-type: none"> 1. Amendment is sought to the rule heading to make it clear how ECO-R11 applies as part

Activity Status Discretionary		Activity status where compliance not achieved: N/A	of the hierarchy of consent categories applying to the National Grid.
Non-complying Activities			
ECO - R12	Indigenous vegetation clearance not meeting ECO - R10		1. Transpower does not seek changes to ECO-R12, provided the amendment made to ECO-R10 is made to ensure this rule does not apply to National Grid activities.
Activity Status Non-complying		Activity status where compliance not achieved: N/A	
Advice Note: This rule also applies to commercial forestry activities, where this provision is more stringent than the NES - CF.			