

In the Environment Court
At Christchurch

ENV-2024-CHC-

I te Kōti Taiao o Aotearoa
Ki Ōtautahi

Under the Resource Management Act 1991 (**Act**)

In the matter of an appeal under clause 14(1) of Schedule 1 of the Act

Between **TRANSPower NEW ZEALAND LIMITED**
Appellant

And **OTAGO REGIONAL COUNCIL**
Respondent

NOTICE OF APPEAL BY TRANSPower NEW ZEALAND LIMITED

Dated: 16 May 2024

**SIMPSON
GRIERSON**

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To: The Registrar
Environment Court
Christchurch

- 1.** Transpower New Zealand Limited (**Transpower**) appeals against part of the decisions of the Otago Regional Council (**Council**) on the Proposed Otago Regional Policy Statement (non-freshwater parts) (**PORPS**).
- 2.** Transpower made a submission and further submission on the PORPS.
- 3.** Transpower is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).
- 4.** The Hearings Panel recorded its decisions, and the reasoning, in its report and appendices to that report (**Decisions**). Notice of the Decisions was served on all parties on 3 April 2024.

Background

- 5.** Transpower is the State-Owned Enterprise that plans, builds, maintains and operates New Zealand's high voltage transmission network (**National Grid**) that links generators to distribution companies and major industrial users. The National Grid, which extends from Kaikohe in the North Island down to Tiwai in the South Island, transports electricity throughout New Zealand.
- 6.** Transpower's assets within or traversing the Otago Region form part of the National Grid. They include high voltage transmission lines, and towers and poles, which connect substations and switching stations across and outside of the region. Transpower's assets are shown in the Submission attached to this Appeal in **Attachment 3**.
- 7.** Transpower's role and function is constrained by the State-Owned Enterprises Act 1986, the company's Statement of Corporate Intent, and the regulatory framework within which it operates.

8. Transpower's principal objective, as set out in section 4 of the State-Owned Enterprises Act 1986, is to operate as a successful business as profitable and efficient as comparable businesses that are not owned by the Crown. This includes delivering and operating a safe, reliable, cost-efficient transmission grid that meets New Zealand's needs now and into the future. Consequently, one of Transpower's key objectives is to maintain and develop the National Grid.

9. The National Policy Statement on Electricity Transmission 2008 (**NPSET**) was gazetted on 13 March 2008 and confirms the national significance of the National Grid. It also establishes national policy direction to recognise the benefits of transmission, the effects of the National Grid and the need to appropriately manage activities and development close to it. The objective of the NPSET is:

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:

 - a. *Managing the adverse environmental effects of the network; and*
 - b. *Managing the adverse effects of other activities on the network.*

10. The NPSET policies provide for the recognition of the benefits of transmission, as well as the environmental effects of transmission, and the management of adverse effects on the transmission network.

Parts of the Decisions being appealed

11. The specific parts of the Decisions that Transpower are appealing are as follows:
 - (a) Definition - Effects management hierarchy (in relation to indigenous biodiversity);
 - (b) SRMR – Significant resource management issues for the region;
 - (a) IM-P1 Integrated approach to decision-making;
 - (b) IM-P14 – Sustaining resource potential;
 - (c) CE-O5 Activities in the coastal environment;

- (d) CE-P1 Links with other chapters;
- (e) CE-P4 Natural Character;
- (f) CE – P5 Coastal indigenous biodiversity;
- (g) CE-P6 Natural features and landscapes;
- (h) LF-FW-P12 Identifying and managing outstanding water bodies;
- (i) ECO-P4 Provision for new activities;
- (j) ECO-P5 Existing activities in significant natural areas;
- (k) ECO–P6 Maintaining indigenous biodiversity;
- (l) EIT-INF-O5 Integration;
- (m) EIT-INF-O6 Long-term planning for electricity transmission infrastructure;
- (n) EIT-INF-P13 Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment;
- (o) EIT-INF-P13A Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment;
- (p) EIT-INF-P15 Protecting nationally or regionally significant infrastructure;
- (q) EIT-INF-M4 Regional plans;
- (r) EIT-INF-M5 District plans;
- (s) EIT-EN-P16 Providing for the National Grid (notified as EIT-INF-P16);
- (t) HCV – WT – P2 Management of effects on wāhi tupuna;
- (u) HCV – HH – P5 Managing historic heritage;
- (v) NFL-P2 – Protection of outstanding natural features and landscapes; and
- (w) UFD-P3 Urban intensification.

12. Transpower is also seeking a new significant resource management issue for the region, and a new Policy specific to the National Grid for managing effects of the National Grid, EIT-INV-Px.

Reasons for the Appeal

13. The reasons for this appeal are that, in the absence of the relief sought, the PORPS:

- (a) has not been prepared in accordance with the NPSET as required by section 61(1)(da) of the Act;
- (b) will not give effect to the NPSET as required by section 62(3) of the Act;
- (c) does not represent the most appropriate way of achieving its objectives, or the objective of the NPSET, having regard to the efficiency and effectiveness of other reasonably practicable options, and are therefore not appropriate in terms of section 32 and other provisions of the RMA;
- (d) is not consistent with the purpose and principles of the RMA under Part 2, as it:
 - (i) does not manage the use of resources in a way that enables communities to provide for their social, economic and cultural wellbeing;
 - (ii) does not enable people and communities to provide for their health and safety;
 - (iii) does not sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations;
 - (iv) does not ensure that the effects of third party activities on the National Grid are appropriately managed;
 - (v) does not facilitate the efficient use and development of natural and physical resources.

14. Without limiting the generality of those reasons, in relation to the NPSET the PORPS:

- (a) Does not reflect the NPSET's approach to enabling the National Grid and managing effects of the National Grid. The NPSET

includes a comprehensive higher order policy direction for the National Grid. Giving effect to the NPSET will ensure that:

- (i) the National Grid is able to be safely, effectively and efficiently operated, maintained, upgraded and developed to provide a reliable, safe and secure supply of electricity to Otago and beyond; and
- (ii) the adverse effects of development in proximity to the National Grid are appropriately managed and are reduced, minimised or avoided depending on the context in which the development occurs.

The PORPS does not currently provide for either of these outcomes.

- (b) does not recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission (Policy 1);
- (c) does not recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network (Policy 2);
- (d) does not consider the constraints imposed on achieving measures to avoid, remedy or mitigate effects of the National Grid by the technical and operational requirements of the network (Policy 3);
- (e) does not have regard to the extent to which any adverse effects are avoided, remedied or mitigated by the route, site and method selection when considering the environmental effects of new transmission infrastructure or major upgrades of existing infrastructure (Policy 4);
- (f) does not enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets (Policy 5);
- (g) does not fully require the planning and development of the National Grid in rural environments to seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity, as well as existing sensitive activities (Policy 8); and

(h) does not (to the extent reasonably possible) manage activities to avoid reverse sensitivity effects on the electricity transmission network and ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised (Policy 10).

15. The Decision fails to consider (indeed to mention – except arguably for within a comment “This prioritisation issue of protection objectives and policies as a rigid concept was the major issue in all of the submissions and presentations we read and heard over nearly twelve months” at paragraph 65), submissions that were directed by the Panel to be provided during the course of the hearings process, including but not limited to:

(a) Submissions¹ filed on behalf of Transpower about the Environment Court’s determination in *Transpower New Zealand Limited v Queenstown Lakes District Council* [2023] NZEnvC 69. These submissions identified that the Court had identified that there was a need to modify the Queenstown Lakes PDP to give better effect to the NPSET, and ultimately confirmed a bespoke approach to managing the adverse effects of the National Grid, by providing a consent pathway for the operation, maintenance, upgrade and development of the National Grid where it is impracticable to avoid adverse effects.

(b) Submissions² filed on behalf of Transpower about the implications of *Port Otago Limited v Environmental Defence Society Incorporated* [2023] NZSC 112. ORC’s Decision has failed to give any thought to the submissions advanced.

16. While the Decision states that “the message to be taken from the Supreme Court’s decisions is that every attempt is to be made to reconcile provisions”, the Decision does not attempt to reconcile the NPSET with Part 2 of the RMA (or the NPSFM and NZCPS). Transpower argues that ORC’s

¹ Dated 5 May 2023.

² Dated 15 September 2023.

approach at [69] of the Decision is incorrect in law – where it states: *“the death-knell sounded by the Supreme Court’s guidance to general provisions of Part 2 matters in our view cuts both ways. In the absence of express statutory prioritisation of enabling provisions ahead of protection provisions so-called ‘bespoke’ priority provision for REG or electricity transmission infrastructure, or for any other activities, similarly is not appropriate”*.

17. The Decision has not attempted to reconcile the explicit ‘recognise’ and ‘provide’ for policy direction in the NPSET. It has also failed to consider that the NPSET has explicitly addressed effects by either using:

- (a) Avoid, remedy or mitigate adverse effects (in Policy 3);
- (b) Minimise adverse effects for urban amenity and avoid adverse effects on town centres and areas of high recreational value or amenity, and existing sensitive activities (in Policy 7);
- (c) In rural environments, seek to avoid adverse effects on ONLs, areas of high natural character and areas of high recreation value and amenity, and existing sensitive activities (in Policy 8).

18. Policies 7 and 8 are ‘resource specific’. If a resource isn’t mentioned, then it falls to the effects hierarchy in Policy 3. The NPSET must be read as a whole. In these policies (including in Policy 3) ORC will find the “express statutory prioritisation” that the Decision fails to identify.

19. This approach resolves apparent and actual conflicts between directive policies in other NPSs, while giving effect to the NPSET.

20. Additional reasons for the relief sought are set out in **Attachment 1**.

Relief

21. Transpower seeks the detailed relief as set out in **Attachment 1**. Transpower also seeks any consequential relief to those or other related

provisions necessary to give effect to the detailed relief set out in **Attachment 1**.

22. Transpower **attaches** the following documents to this notice of appeal:

- (a) a copy of the amendments it seeks to the PORPS (**Attachment 1**);
- (b) a copy of the Decision (**Attachment 2**);
- (c) a copy of Transpower's submission (**Attachment 3**) and further submission (**Attachment 4**); and
- (d) a list of names and addresses of persons to be served with a copy of this notice (**Attachment 5**).

DATED this 16th day of May 2024



S J Scott / S B Hart
Counsel for Transpower New Zealand
Limited

This notice of appeal is filed by SARAH JANE SCOTT solicitor for the Appellant of the firm of Simpson Grierson.

The address for service of the Appellant is at the offices of Simpson Grierson, Level 1, 151 Cambridge Terrace, Christchurch. 8013,

Documents for service on the Appellant may be left at that address for service or may be -

- (a) posted to the solicitor at PO Box 874, Christchurch 8140; or
- (c) emailed to the solicitor at sarah.scott@simpsongrierson.com.

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).

Advice

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

Attachment 1: Amendments sought to PORPS

PROVISION	RELIEF	REASONS (IN ADDITION TO BODY OF APPEAL)
Interpretation		
Definition - Effects management hierarchy (in relation to indigenous biodiversity)	Amend the definition to provide that for National Grid activities, this effects management hierarchy does not apply and instead effects of the National Grid are to be managed in accordance with a new bespoke EIT – INF – Px.	<p>The provision does not give effect to the NPSET or the NPSIB.</p> <p>Clause 1.3(3) of the NPSIB states that nothing in the NPSIB applies to the development, operation, maintenance or upgrade of electricity transmission network assets and activities. Such activities are not “specified infrastructure” for the purposes of the NPSIB.</p> <p>This sets a clear expectation that electricity transmission activities are to be managed in accordance with the NPSET.</p> <p>The PORPS appears to recognise this exclusion only at the compensation step of the effects hierarchy for indigenous biodiversity. Activities relating to the National Grid should be excluded from the entire effects hierarchy.</p> <p>In addition, the tests imposed under (g) are not provided for in the NPSET.</p>
SRMR – Significant resource management issues for the region		
SRMR – Significant resource management issues for the region	<p>Include a new infrastructure-related issue in the SRMR chapter that addresses need to operate, maintain, develop and upgrade the National Grid as regionally important.</p> <p>The new issue does not necessarily have to be exclusive to the National Grid, but may also relate to other important infrastructure.</p> <p>This could be based on ‘Rautaki Hanganga o Aotearoa New Zealand Infrastructure Strategy 2022- 2052’, and at a minimum should cover:</p> <ul style="list-style-type: none"> - The ability of infrastructure to provide for the health, safety, social and economic wellbeing of Otago communities is challenged by population growth, changes in our economy, climate change and natural hazards - That climate change will have significant impacts on many parts of our infrastructure system - New Zealand’s (and Otago’s) population is increasing and changing, and this will affect the quantity and quality of the infrastructure we need. - Construction costs have been increasing, placing pressure on infrastructure budgets. We have an opportunity to overcome these challenges by taking a new approach to planning, delivering, maintaining, funding and financing infrastructure. - The efficient transmission of electricity on the National Grid plays a vital role in the well-being of New Zealand, its people and the environment. - Technical, operational and security requirements associated with the transmission network can limit the extent to which it is feasible to avoid or mitigate all adverse environmental effects. - The operation, maintenance and future development of the transmission network can be significantly constrained by the adverse environmental impact of third party activities and development. <p>Alternatively amend “SRMR – Significant resource management issues for the region” to provide greater recognition of the benefits of infrastructure.</p>	<p>The lack of recognition of benefits from infrastructure in the SRMR Chapter is not the most appropriate way to achieve the purpose of the RMA, or appropriately recognise the national direction in the NPSET.</p>

PROVISION	RELIEF	REASONS (IN ADDITION TO BODY OF APPEAL)
IM – Integrated management		
IM – P1 Integrated approach to decision-making	Delete IM – P1. Alternatively:	Transpower submitted on IM – P1 and IM – P2 which have been combined into one policy in the decision. The DV policy does not comply with the RMA’s requirements that the RPS be prepared in accordance with a national policy statement (s 66) and give effect to a national policy statement (s 67) (of most relevance to this appeal, the NPSET).
IM – P2 Decision priorities	Amend IM – P1 so that it does not apply to irreconcilable conflicts between provisions of the RPS and provisions of an NPS.	The DV policy will apply where there are irreconcilable conflicts between not only provisions of the RPS, but also between provisions of the RPS and statutory documents. This is a key difference to <i>Port Otago</i> , where the Supreme Court determined how to reconcile conflicts between policies <i>in</i> the NZCPS. The policy is attempting to put the RPS on the same ‘level’ as national policy.
IM – P14 – Sustaining resource potential	Delete Policy IM – P14	The Policy does not give effect to the NPSET. The DV Policy requires plans to include ‘limits’ within which activities must occur “where necessary to achieve the objectives of this RPS”. However, without any evidence base on the consequences of imposing such limits, there is a possibility that such limits will be inconsistent with the activities that an NPS requires to be enabled or provided for.
CE – Coastal environment		
CE – O5 Activities in the coastal environment	Amend clause (3) to state: CE–O5 – Activities in the coastal environment Activities in the coastal environment: (1) make efficient use of space occupied in the coastal marine area, (2) are of a scale, density and design compatible with their location, (3) are only provided for within appropriate locations and limits acknowledging that some activities have a functional need <u>or operational need</u> to be located in the coastal environment, and (4) maintain or enhance public access to and along the coastal marine area, including for customary uses, such as mahika kai, except where public access needs to be restricted for reasons of health and safety or ecological or cultural sensitivity.	Amendment necessary to ensure that both terms, which the PORPS provides separate definitions for, are included in the objective. This will ensure consistency with other provisions that refer to both functional and operational need. The NPSET also gives explicit recognition of the operational requirements of the National Grid.
CE – P1 Links with other chapters	Amend CE – P1 as follows: CE–P1 – Links with other chapters (1) the provisions of the ECO, EIT, and HAZ chapters apply within the coastal environment, except for the following provisions: (a) ECO-P3 to ECO-P6 and associated methods, (b) EIT-INF-P13 and associated methods, (c) HAZ-NH-P1 to HAZ-NH- P4 and associated methods, and (2) the provisions within the following chapters of this RPS apply in addition to the provisions within this chapter: (a) MW – Mana whenua, (b) IM – Integrated management, (c) AIR – Air, (d) LF – Land and freshwater, (e) HCV – Heritage and historical values, and (f) UFD – Urban form and development, and (3) the provisions of the NFL – Natural features and landscapes chapter do not apply in the coastal environment. <u>(4) The National Grid in the coastal environment must be managed in accordance with EIT – INF – Px.</u>	As currently drafted, P1 states that P13 does not apply in the coastal environment. However EIT – EN – P16 would apply, which in turn requires that EIT – INF – P13 apply where applicable. This would be contrary to what CE – P1 itself requires. Transpower’s relief seeks that the National Grid is excluded from the application of P13. The amendment sought by Transpower makes it clear that the new bespoke EIT – INF – Px covers the management of effects of the National Grid, within the coastal environment. This is necessary in order to give effect to the NPSET. The best approach to give effect to the NPSET is to provide a bespoke policy for National Grid activities that provides for how effects (including in the coastal environment) shall be managed.

PROVISION	RELIEF	REASONS (IN ADDITION TO BODY OF APPEAL)
CE – P4 Natural Character	<p>Insert an exemption to CE – P4 for the National Grid and refer instead to EIT – INF – Px.</p> <p>Otherwise amend P4 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p>	The Policy does not give effect to Policies 1, 2, 3, 4, 5 and 8 of the NPSET. It would preclude National Grid activities that have an adverse effect in areas identified as having outstanding natural character, and activities that have significant adverse effects in other areas.
CE – P5 Coastal indigenous biodiversity	<p>Insert an exemption to CE – P5 for the National Grid and refer instead to EIT – INF – Px.</p> <p>Otherwise amend P5 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p>	The Policy does not give effect to Policies 1, 2, 3, 4, 5 and 8 of the NPSET. It applies equally to National Grid activities as any other activity despite the NPSIB expressly excluding the National Grid.
CE – P6 Natural features and landscapes	<p>Insert an exemption to CE – P6 for the National Grid and refer instead to EIT – INF – Px.</p> <p>Otherwise amend P6 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p>	The Policy does not give effect to Policies 1, 2, 3, 4, 5 and 8 of the NPSET. It would preclude National Grid activities that have adverse effects on outstanding natural features and landscapes (including seascapes).
LF – Land and Freshwater		
LF – FW – P12 Identifying and managing outstanding water bodies	<p>Insert an exemption to LF – FW – P12 for the National Grid and refer instead to EIT – INF – Px.</p> <p>Otherwise amend P12 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p>	The Policy does not give effect to Policies 1, 2, 3, 4, 5 and 8 of the NPSET. The blanket “protect” requirement could result in National Grid activities being prevented, even where there is an operational need or functional need for those activities to occur.
ECO – Ecosystems and biodiversity		
ECO – P4 Provision for new activities	<p>Insert an exemption to ECO – P4 for the National Grid and refer instead to EIT – INF – Px.</p> <p>Alternatively amend Policy ECO – P4 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does (including so that the effects management hierarchy in relation to indigenous biodiversity does not apply to the National Grid).</p>	<p>The provision does not give effect to the NPSET or the NPSIB.</p> <p>This approach is contrary to the NPSIB. Clause 1.3(3) of the NPSIB states that nothing in the NPSIB applies to the development, operation, maintenance or upgrade of electricity transmission network assets and activities. Such activities are not “specified infrastructure” for the purposes of the NPSIB.</p> <p>This sets a clear expectation that electricity transmission activities are to be managed in accordance with the NPSET.</p> <p>The PORPS appears to recognise this exclusion only at the compensation step of the effects management hierarchy for indigenous biodiversity. Activities relating to the National Grid should be excluded from the entire effects management hierarchy, and consequently from this Policy which requires that the effects management hierarchy be applied.</p> <p>In addition, the tests imposed under (g) are not provided for under the NPSET.</p>
ECO – P5 Existing activities in significant natural areas	Amend Policy ECO – P5 to provide that in the case of National Grid activities, Policy EIT – EN – P16 applies instead of this policy.	The DV Policy does not give effect to Policy 5 of the NPSET. Policy 5 requires that decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets. Policy ECO – P5 could prevent this from happening, if the operational, maintenance or minor upgrade activities do not meet the criteria in clause (2).
ECO–P6 Maintaining indigenous biodiversity	<p>Insert an exemption to ECO – P6 for the National Grid and refer instead to EIT – INF – Px.</p> <p>Otherwise amend P6 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p> <p>Further, remove any confusion from ECO – P6 created by the use of the <i>effects management hierarchy (in relation to indigenous biodiversity)</i> definition, which doesn’t adequately deal with the National Grid exclusion from the NPSIB.</p>	A bespoke policy that manages all effects of the National Grid would better give effect to the NPSET, and would be the most appropriate way of achieving its objectives, as well as the PORPS’ objectives.

PROVISION	RELIEF	REASONS (IN ADDITION TO BODY OF APPEAL)
	EIT – Energy, Infrastructure and Transport	
Insert new policy EIT – INF – Px	<p>Insert new bespoke policy “EIT – INF – Px Managing the effects of the development of the National Grid” into the RPS, that applies to the management of effects <u>of</u> the National Grid:</p> <p>EIT – INF – Px Managing the effects of the development of the National Grid</p> <p>Manage the adverse effects of the operation, maintenance, upgrade and development of the National Grid by:</p> <ol style="list-style-type: none"> 1. enabling the operation, maintenance and minor upgrading of the National Grid; 2. in urban environments, avoiding material adverse effects on the values and characteristics of town centres, areas of high recreation value and existing sensitive activities, including through mitigation or other measures to reduce effects; 3. managing effects on the values or extent of wetlands in accordance with LF–FW–P10A – Managing wetlands; 4. in the coastal environment, recognising that there will be areas of the coastal environment where avoidance of material adverse effects on the values and characteristics of those areas is required, including by use of mitigation or other measures to reduce the level of effects; 5. where (1), (2), (3) or (4) do not apply (and including in the coastal environment), seeking to avoid adverse effects on the values or characteristics of the following: <ol style="list-style-type: none"> a. outstanding water bodies; b. areas of high or outstanding natural character; c. outstanding natural features, outstanding natural landscapes or outstanding natural seascapes; d. significant natural areas; e. areas or places of significant or outstanding historic heritage; f. areas of significance to mana whenua including wāhi tūpuna, wāhi tapu, wāhi taoka, and areas with protected customary rights; 6. where adverse effects on the values or characteristics of the areas or places listed in (5) above cannot be avoided, remedying or mitigating adverse effects, having regard to: <ol style="list-style-type: none"> a. the operational needs and functional needs of the National Grid and the extent those requirements constrain measures to avoid, remedy or mitigate adverse effects; b. the extent to which significant adverse effects are avoided; c. the extent to which any adverse effects have been avoided, remedied or mitigated by route, site and method selection for new infrastructure or major upgrades; d. the extent to which existing adverse effects have been reduced as part of any substantial upgrade; and e. the extent to which adverse effects on urban amenity have been minimised; and f. and where there are residual adverse effects on indigenous biodiversity values following the implementation of (a) to (e) above, the appropriateness of offsetting of, or compensated for, any residual adverse effects, where offered; 7. avoiding, remedying, or mitigating other adverse effects, having regard to the matters in 6(a) to (f); and 	<p>The bespoke policy framework for the National Grid is necessary to give effect to the NPSET Policies 2, 3, 4, 5, 7 and 8.</p> <p>The Decisions Version of EIT – INF – P13 and EIT – INF – P16, and the associated topic-specific ‘effects hierarchies’ referred to in P13, do not directly reflect the effects management framework set out in the NPSET, including for the following:</p> <ul style="list-style-type: none"> - significant natural areas, - outstanding natural features and landscapes, - wetlands, - outstanding water bodies, - areas or places of significant or outstanding historic heritage, and wāhi tupuna. <p>The same applies in relation to the coastal environment (eg Policies P13 and P13A).</p> <p>The approach taken in the PORPS does not give effect to the NPSET as it fails to give effect to the directions in the NPSET for the management of effects of the National Grid. The Panel failed to properly consider what is required to give effect to the NPSET.</p> <p>The Panel’s conclusion that provision for managing the effects of National Grid is not appropriate “in the absence of express statutory prioritisation of enabling provisions ahead of protection provisions” is an error. It fails to have proper regard to the NPSET, and ignores Transpower’s evidence on the need for electricity security, and the threats to that security in the Region.</p> <p>Provision of a bespoke effects management regime for the National Grid is the most appropriate way to achieve the PORPS’ objectives, in a manner that gives effect to Part 2 and the national policy included in the NPSET, NZCPS, NPSFM and the NPSIB (which expressly does not apply to electricity transmission activities).</p> <p>Transpower seeks that the new policy includes clear direction that the Policy prevails over others that are specific to a particular resource. This is achieved through sub-clause (8).</p>

PROVISION	RELIEF	REASONS (IN ADDITION TO BODY OF APPEAL)
	8. in the event of any conflict between EIT – INF – Px and other policies in this regional policy statement, EIT – INF – Px prevails over those policies.	
EIT – INF – O5 Integration	<p>Amend EIT – INF – O5 as follows, so as to make it clear that ‘Development infrastructure’ and land use change is to occur in a co-ordinated manner that minimises adverse effects.</p> <p>EIT-INF-O5 – Integration <i>Development of infrastructure, as well as land use change, occurs in a co-ordinated manner to minimise adverse effects on the environment and increase efficiency in the delivery, operation and use of the infrastructure.</i></p> <p>[italicise the word Development, so the definition of Development infrastructure is triggered]</p> <p>Alternatively:</p> <p>Amend objective EIT-INF-O5 to require that adverse effects be “managed” rather than “minimised”.</p>	<p>While it is understood the objective is intended to address and require an integrated approach to development infrastructure and minimising adverse effects – as drafted (and when there is no specific objective for the National Grid) there remains a risk that the minimise adverse effects is to be applied to the National Grid.</p> <p>The Objective therefore does not give effect to Policy 2 of the NPSET, which requires decision-makers provide for the National Grid. A “minimise” requirement would impose a higher standard for managing adverse effects than the “seek to avoid” direction in Policy 8 of the NPSET.</p> <p>As primary relief, Transpower has proposed a simple solution to make it clear that the objective is not intended to cover the National Grid.</p>
EIT – INF – O6 Long-term planning for electricity transmission infrastructure	<p>Reintroduce EIT – EN – O6 (which was deleted in the decision) and replace with the following wording:</p> <p>Objective EIT – EN – O6 – Electricity transmission</p> <p><u>The national, regional and local benefits of electricity transmission are realised by the facilitation of the operation, maintenance, upgrade and development of the National Grid.</u></p>	<p>The DV Objective does not give effect to Policy 2 of the NPSET, which requires that decision-makers recognise and provide for the National Grid. The decision does not include any objective (outcome) that is specific to the National Grid.</p>
EIT – INF – P13 Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment	<p>Insert an exemption to EIT – INF – P13 for the National Grid by amending P13 as follows:</p> <p>EIT-INF-P13 – Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment</p> <p>When providing for new infrastructure, nationally significant infrastructure and regionally significant infrastructure <u>other than the National Grid</u> outside the coastal environment:</p> <p>....</p> <p>New EIT – INF – Px will instead apply to the management of effects of the National Grid.</p> <p>Otherwise amend P13 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p>	<p>Transpower’s submission on this provision was not allocated a reference number.</p> <p>Refer to the reasons in support of a bespoke Policy EIT – INF – Px for managing effects of the National Grid.</p>
EIT – INF – P13A Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment	<p>Insert an exemption to EIT – INF – P13A for the National Grid by amending P13A as follows:</p> <p>EIT – INF – P13A – Managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure within the coastal environment</p> <p>When managing the effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure <u>other than the National Grid</u> within the coastal environment the provisions of the CE – Coastal environment chapter apply.</p> <p>Otherwise amend P13A to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p>	<p>The most appropriate and efficient way to give effect to the NPSET is to provide a bespoke EIT – INF Policy for managing the adverse effects of the National Grid.</p> <p>This policy would require management of effects in accordance with EIT – INF – P13. Transpower’s specific objections to that Policy are set out above.</p>

PROVISION	RELIEF	REASONS (IN ADDITION TO BODY OF APPEAL)
EIT – INF – P15 – Protecting nationally or regionally significant infrastructure	<p>Amend Policy EIT – INF – P15 to require avoidance of activities that may result in adverse effects, including reverse sensitivity effects, on nationally significant infrastructure or regionally significant infrastructure.</p> <p>EIT–INF–P15 – Protecting nationally significant infrastructure and regionally significant infrastructure</p> <p>Protect the efficient and effective operation, <u>maintenance, upgrading and development</u> of nationally significant infrastructure and regionally significant infrastructure by:</p> <p>(1) avoiding managing activities, to ensure that the extent reasonably practicable, that may give rise to an adverse effect on the functional needs or operational needs of the operation, maintenance, upgrading and development of nationally significant infrastructure or regionally significant infrastructure is not compromised,</p> <p>(2) avoiding activities, to the extent reasonably practicable possible, <u>manage activities to avoid that may result in</u> reverse sensitivity effects on nationally significant infrastructure or regionally significant infrastructure, <u>and identify areas where sensitive activities are avoided and</u></p> <p>(3) avoid or minimise the effects of activities and development so that the opportunity to adapt, upgrade or extend existing nationally significant infrastructure or regionally significant infrastructure to meet future demand is not compromised.</p>	<p>Transpower supports the inclusion of a policy that seeks to protect nationally and regionally significant infrastructure but considers that:</p> <p>The DV text does not give effect to Policy 10 of the NPSET, which requires that decision-makers “to the extent reasonable <i>possible</i>” rather than “practicable” “ensure” that national grid activities “are not compromised”.</p> <p>Further, clause 3 through the words “adapt, upgrade and extent” does not properly give effect to the NPSET wording of “operation, maintenance, upgrading, and development”.</p> <p>The decision itself appears to accept that P15 only “better gives effect” to the NPSET, but does not fully give effect to it, given the policy applies to other infrastructure as well as the National Grid. For example:</p> <p><i>Having said that, we note that current Policy 10 of the NPSET only uses the phrase “avoiding activities to the extent reasonably possible” in relation to reverse sensitivity. We prefer the use of the word ‘practicable’ in clause (2) given it applies to all such infrastructure.</i></p>
EIT – INF – M4 Regional plans	<p>Insert a new clause that requires ORC to prepare or amend and maintain its regional plans to recognise and provide for the National Grid, as follows:</p> <p>Otago Regional Council must prepare or amend and maintain its regional plans to:</p> <p>(1) manage the adverse effects of infrastructure activities, including, where appropriate, identifying activities that qualify as minor upgrades, that:</p> <p>(a) are in the beds of lakes and rivers, or</p> <p>(b) are in the coastal marine area, or</p> <p>(c) involve the taking, use, damming or diversion of water or,</p> <p>(d) involve the discharge of water or contaminants, and</p> <p><u>(2) recognise and provide for the operation, maintenance, upgrade and development of the National Grid.</u></p> <p>All methods relating to the National Grid should be located in the Infrastructure section of the RPS, not the Energy section.</p>	<p>There needs to be a clear method directing ORC to recognise the National Grid, in order to give effect to the NPSET.</p>
EIT – INF – M5 District plans	<p>Insert the following into EIT – INF – M5 (some content taken from EIT – EN – M2 – District Plans):</p> <p><u>(5) In relation to the National Grid:</u></p> <p><u>(a) enable planning for the National Grid,</u></p> <p><u>(b) map the National Grid, and identify a buffer corridor within which sensitive activities shall generally not be allowed,</u></p> <p><u>(c) where necessary, establishing controls for subdivision, buildings, structures and other activities adjacent to the National Grid, to ensure the National Grid is not compromised.</u></p>	<p>Transpower seeks that its methods are located in the Infrastructure section of the ORPS.</p> <p>What is currently in EIT – EN – M2 is insufficient as it fails to reference direct effects (in addition to prevention of sensitive activities), does not appropriately address the NG Yard and subdivision corridor, and there is no direction for the district plans to include provisions for the development of the National Grid.</p>
EIT – EN – P16 Providing for the National Grid (notified as EIT – INF – P16)	<p>Relocate EIT – EN – P16 into the EIT section of the ORPS.</p> <p>Amend P16 as follows:</p> <p>EIT – EN – P16 – Providing for the National Grid</p> <p><u>Recognise and provide for the local, regional and national benefits of the National Grid, including the maintenance and improvement of</u> Maintain a secure and sustainable electricity supply in Otago by:</p>	<p>Transpower supports the inclusion of a specific provision in the PORPS to recognise and provide for the National Grid. It is considered that including such a provision is the most efficient way to give effect to the NPSET, and particularly Policies 1, 2 and 5.</p> <p>That said, further amendments are required to fully give effect to the NPSET in full.</p> <p>By requiring EIT – INF – P13 to apply where relevant (clause (7)), the Policy does not give effect to the NPSET. Refer to our reasons above which relate specifically to EIT – INF – P13.</p>

PROVISION	RELIEF	REASONS (IN ADDITION TO BODY OF APPEAL)
	<p>(1) providing for the effective operation, maintenance, upgrading and development of the <i>National Grid</i> development of, and upgrades to, the electricity transmission network and requiring, as far as reasonably practicable, its integration with land use,</p> <p>(2) considering the requirements of and constraints associated with the functional and operational needs of the National Grid in its management,</p> <p>(4) enabling the reasonable operation, maintenance and minor upgrade requirements of established <i>National Grid</i> assets, and</p> <p>(5) <u>applying EIT – INF – Px to the management of adverse effects of the operation, maintenance, upgrade and development of the <i>National Grid</i>, and</u></p> <p>(6) <u>applying EIT – INF – P15 to the management of adverse effects of subdivision, use and development on the <i>National Grid</i>.</u></p> <p>-minimising the adverse effects of the <i>National Grid</i> on urban amenity, and avoiding adverse effects on town centres, areas of high amenity or recreational value and existing sensitive activities,</p> <p>(6) in rural areas, seek to avoid adverse effects in areas of high natural character and areas of high recreation value and amenity, and, where this is not practicable, apply EIT – INF – P13(2)(a)(iv), and</p> <p>(7) in addition to clause (6), apply EIT – INF – P13 where relevant.</p>	<p>Instead the drafting solution refers to new EIT – INF – Px (for effects of the National Grid) and EIT – INF – P15 (for effects on the National Grid).</p>
HCV – Historical and cultural values		
HCV – WT – P2 Management of effects on wāhi tupuna	<p>Insert an exemption to HCV – WT – P2 for the National Grid.</p> <p>Otherwise amend HCV – WT – P2 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p>	<p>Policy HCV – WT – P2 does not give effect to the NPSET, because the NPSET does not include a requirement for the development of the National Grid to avoid adverse effects (significant or otherwise) on wāhi tupuna.</p>
HCV – HH – P5 Managing historic heritage	<p>Insert an exemption to HCV – HH – P5 for the National Grid.</p> <p>Otherwise amend HCV – HH – P5 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p>	<p>A bespoke policy for the management of effects of the National Grid is the most appropriate and efficient means to give effect to the NPSET. By requiring that adverse effects be managed in accordance with EIT – INF – P13, the DV Policy does not represent the most appropriate or efficient way to give effect to the NPSET.</p>
NFL – Natural features and landscapes		
NFL – P2 – Protection of outstanding natural features and landscapes	<p>Insert an exemption to NFL – P2 for the National Grid.</p> <p>Otherwise amend NFL – P2 to fully give effect to the NPSET in the way that proposed EIT – INF – Px does.</p>	<p>In order to give effect to the requirement in Policy 2 of the NPSET to provide for the National Grid, there needs to be a pathway for electricity transmission activities in outstanding natural features and landscapes.</p> <p>It is acknowledged that Policy 8 of the NPSET requires that development of the National Grid should seek to avoid adverse effects on ONLs, so this level of protection is accepted to be appropriate for ONLs.</p>
UFD – Urban form and development		
UFD – P3 Urban intensification	<p>Reinsert sub-clause (6) as follows:</p> <p>Manage intensification in urban areas, so that as a minimum,</p> <p>(1) contributes to establishing or maintaining the qualities of a <i>well-functioning urban environment</i>,</p> <p>(2) is well-served by existing or planned <i>development infrastructure</i> and <i>additional infrastructure</i>,</p> <p>(3) enables heights and densities that meets the greater of demonstrated demand for housing and/or business use or the level of accessibility provided for by existing or planned <i>active transport</i> or <i>public transport</i>,</p> <p>(5) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,</p> <p><u>(6) manages adverse effects on values or resources identified by this RPS that require specific management or protection.</u></p>	<p>Policy P4 relating to urban expansion has appropriately acknowledged that urban growth be enabled subject to managing adverse effects on resources identified by the RPS as requiring specific protection (the National Grid being one of those resources).</p> <p>The same recognition should be included in the Urban intensification policy.</p>

Attachment 2: Decisions on PORPS

Attachment 3: Transpower's submission

Attachment 4: Transpower's further submission

Attachment 5: list of names and addresses of persons to be served with a copy of this notice