

**BEFORE PROPOSED TIMARU DISTRICT PLAN HEARINGS
PANEL**

In the matter of

the Resource Management Act 1991

And

**the hearing of submissions made on
the Proposed Timaru District Plan:
Hearing A (Overarching Matters, Part 1
- Introduction, General Provisions,
General Definitions and High-Level
Strategic Directions)**

**Statement of Evidence of Ainsley Jean McLeod on
behalf of Transpower New Zealand Limited
(submitter reference 159)
dated 22 April 2024**

SUMMARY OF EVIDENCE

1. The submission made by Transpower New Zealand Limited (“Transpower”) on the Proposed Timaru District Plan (“Proposed District Plan”) is concerned with how the Proposed District Plan recognises and provides for the nationally significant National Grid, and particularly the extent to which the provisions of the Proposed District Plan:
 - a. give effect to the National Policy Statement on Electricity Transmission 2008 (“NPSET”);
 - b. give effect to the operative Canterbury Regional Policy Statement (republished in October 2020 (“CRPS”), where the CRPS is relevant to the National Grid and activities undertaken by Transpower in respect of the National Grid, and
 - c. appropriately reflects the relationship of the Proposed District Plan with the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (“NESETA”).
2. The NPSET provides policy direction in relation to:
 - a. recognising the benefits of the National Grid;
 - b. managing the adverse effects on the environment of the National Grid;
 - c. managing the adverse effects of land use and development on the National Grid; and
 - d. long-term strategic planning for transmission assets.
3. The CRPS, amongst other relevant provisions, includes Policy 16.3.4 that sets out how a reliable and resilient National Grid is to be achieved in Canterbury.
4. In respect of the matters that are the subject of Hearing A, Transpower’s submission, and further submissions, are generally supportive of the Proposed District Plan as notified. In particular, Transpower seeks the retention of the non-hierarchical approach to the Strategic Direction objectives and also supports the retention of Objective SD-O8 Infrastructure. Many of Transpower’s submission points seek minor refinements or clarifications in respect of the notified provisions and subsequent recommendations.
5. My evidence considers the relief sought by Transpower and addresses, as relevant to this relief, the recommendations made in the following (together referred to as “the Officer’s Report” or “the Officers’ Reports”):
 - a. Officer’s Report: Part 1 and Overarching Matters dated 5 April 2024; and
 - b. Officer’s Report: Strategic Directions & Urban Form and Development dated 5 April 2024.
6. I support a number of recommendations made in the Officers’ Reports for the reasons given in Transpower’s submissions and the Officers’ Reports. These recommendations are briefly listed in my evidence and including my support for Objective SD-O8 Infrastructure as

recommended for amendment in the Officer's Report (Strategic Directions & Urban Form and Development).

7. In my evidence I express a preference for the provisions of the Proposed District Plan to use the term 'National Grid' as opposed to 'electricity transmission network'. This is primarily because 'National Grid' is more clearly and accurately understood to mean the assets owned and/or operated by Transpower. I conclude that applying this term uniformly achieves consistency within the Proposed District Plan.
8. In the context of Objective SD-O2 The Natural and Historic Environment, my evidence confirms that the provisions of the NPSIB do not apply to the National Grid and on this basis conclude that amendments to the Objective that are recommended to give effect to the NPSIB should not, by virtue of broad application, describe outcomes in respect of the National Grid. I support amendments to the Objective to achieve this.
9. My evidence also considers the outcomes described in Urban Form and Development Objective UFD-O1 Settlement Patterns in respect of the managing of incompatible activities. I support amendments to this Objective to provide greater clarity, while also acknowledging that the detailed approaches to achieving this Objective and managing incompatible activities are more appropriately set out in the more detailed provisions in the Proposed District Plan.
10. The amendments suggested in and supported by my evidence are set out in the body of my evidence. It is my conclusion that these amendments are necessary and the most appropriate (in terms of the requirements of section 32 of the RMA) to:
 - a. achieve consistency with, and give effect to the relevant higher order provisions;
 - b. improve the efficiency, clarity and usability of the Proposed District Plan; and
 - c. therefore achieve the purpose of the RMA.

INTRODUCTION

11. My full name is Ainsley Jean McLeod. I hold the qualifications of a Bachelor of Arts (Geography and Anthropology) and a Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute.
12. I am a planner and director of Ainsley McLeod Consulting Limited. I have over 20 years' experience in planning practice, primarily as a consultant planner based in Wellington, Christchurch and Otago, during which time I have undertaken consenting, designation and policy planning work. I have provided professional planning advice to a range of clients including central and local government, and the private sector.
13. I have particular expertise in respect of infrastructure and network utilities, having provided planning advice in relation to power transmission, distribution and generation, water and waste, rail and roading, airport and telecommunications projects. I have acted as an expert

witness on a number of occasions before hearings panels, boards of inquiry and the Environment Court.

14. I have provided expert planning advice to Transpower since 2001 in relation to new and upgraded National Grid transmission lines and substations, along with the relevant planning instruments including the NPSET and the NESETA. I am familiar with the ways in which plans and policy documents respond to these planning instruments, having advised Transpower in respect of a number of regional policy statement, regional plan and district plan reviews.
15. I assisted with the preparation of Transpower's submission and further submissions on the Proposed District Plan and am now engaged to provide expert planning evidence in relation the matters that have been raised in Transpower's submission and further submissions.

CODE OF CONDUCT

16. Although this matter is not before the Environment Court, I acknowledge the Hearings Panel direction in Minute 6 (paragraph 36) and confirm that I have read the Code of Conduct for expert witnesses as contained in section 9 of the Environment Court Practice Note 2023. I further confirm that I have complied with this Code of Conduct when preparing my written statement of evidence and will do so, when giving evidence or otherwise participating in the hearing process.

SCOPE OF EVIDENCE

17. My evidence:
 - a. acknowledges the statutory requirements for the Proposed District Plan relevant to Hearing A;
 - b. describes Transpower's submission and further submissions on the Proposed District Plan that are the subject of Hearing A; and
 - c. addresses (as relevant to the relief sought by Transpower) the recommendations made in the Officers' Reports.
18. In addition to the documents referred to above, in preparing this evidence I have also reviewed the following documents insofar as they relate to Transpower's submissions:
 - a. the relevant primary submissions and further submissions;
 - b. the National Planning Standards 2019;
 - c. the National Policy Statement for Indigenous Biodiversity 2023 ("NPSIB");
 - d. the National Policy Statement on Urban Development 2020; and
 - e. the various reports prepared under section 32 of the RMA insofar as they are relevant to Transpower's submission and further submission on the matters considered as part of

Hearing A, being the 'Overview Section 32' dated July 2022 and the 'Section 32 Report Strategic Directions Chapter' dated May 2022 ("Section 32 Reports").

19. For the purpose of my evidence, I rely on the evidence of Ms Sarah Shand. Her evidence outlines:
 - a. Transpower and the National Grid;
 - b. Transpower's assets and projects within Timaru District; and
 - c. Transpower's role in Aotearoa New Zealand's energy future.

RELEVANT STATUTORY FRAMEWORK

20. The statutory and policy considerations and directions for the Proposed District Plan, insofar as is relevant to Transpower's submission and further submissions, are set out in detail in:
 - a. the Section 32 Reports;
 - b. Transpower's submission; and
 - c. the Officer's Reports.
21. I consider that together these documents provide a comprehensive description of the relevant statutory matters. I therefore rely on the summary in these documents and do not repeat the relevant provisions here except to emphasise that the Proposed District Plan must give effect to the NPSET and the CRPS and that "give effect to" is a strong statutory directive in the RMA that was interpreted in the *EDS v New Zealand King Salmon* Supreme Court case as meaning "to implement".¹
22. My analysis and consideration of the relief sought by Transpower is informed by the statutory framework for decisions on the Proposed District Plan set out in the Section 32 Reports, the RMA, and the on-going guidance provided by the modified Long Bay test.²
23. The remainder of my evidence describes Transpower's submission and further submission, and considers these submissions alongside the recommendations made in the Officers' Reports.
24. Where amendments to the provisions of the Proposed District Plan are suggested in, and supported by, my evidence these are shown as follows:
 - a. Officers' Report recommendation text: black underline and ~~black strikethrough~~;

¹ *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited*, NZSC 38, 17 April 2014.

² *Long Bay – Okura Great Park Society v North Shore City Council* NZEnvC A078/2008, 16 July 2008, at [34], *High Country Rosehip Orchards Ltd v Mackenzie District Council* [2011] NZEnvC 387 and *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC55.

- b. Transpower submission and further submission text: blue underline and ~~blue strikethrough~~; and
- c. evidence text: red double underline and ~~red double strikethrough~~.

OFFICERS' REPORT RECOMMENDATIONS

- 25. As a preliminary matter, I acknowledge that there are a number of recommendations in the Officers' Reports relating to the relief sought by Transpower that are consistent with my opinion and conclusions in respect of that relief. In the interest of brevity, Table 1 lists these recommendations and I confirm that the reasons for my support of these recommendations are those included in Transpower's submission and the Officers' Reports. I do not address these matters further in my evidence.
- 26. Those submission points that remain outstanding relate to:
 - a. Introduction: Description of the District - Infrastructure;
 - b. How the Plan Works: General Approach;
 - c. Interpretation: Definitions – 'Land Disturbance';
 - d. Strategic Direction: Objective SD-O2 The Natural and Historic Environment; and
 - e. Urban Form and Development: Objective UFD-O1 Settlement Patterns.

Table 1: Supported Officers' Report Recommendations

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
Part 1 – Introduction and General Provisions			
How the Plan Works Relationships between Spatial Layers	159.73FS (further submission on 143.1 Waka Kotahi NZ Transport Agency)	Amend the text under Figure 4 follows: <i>"When there is a conflict between the provisions of different spatial layers, the following principles apply:</i> "... 2. <i>When there is a conflict between area-specific spatial layers, layers with a higher ranking in the below figure <u>alters have precedent over the</u> relevant provisions in the layers underneath it."</i> Prefers the term 'prevails' to 'have precedent' or 'precedence'.	Accept in part. The recommendation in the Officer's Report is supported.
Interpretation Definition – 'Repair'	159.17	Retain the definition of 'Repair' as notified.	Accept.
Interpretation Definition – 'Replacement'	159.18 (supported by the	Amend the definition of 'Replacement' as follows:	Accept in part. The recommendation in the Officer's Report is

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
	further submission made by Radio New Zealand 152.7FS)	<i>"Means replacing an object or its parts with another of the same or similar location, height, size, capacity, footprint and scale and for the same or similar purpose, <u>but excludes repair and upgrading.</u>"</i>	supported and in particular the recommendation that the use the terms 'repair' and 'replacement' in provisions of the Proposed District Plan is considered.
Interpretation Definition – 'Reverse Sensitivity'	159.19	Amend the definition of 'Reverse Sensitivity' as follows: <i>" ... means the potential for the operation of an existing lawfully established activity to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity <u>which-that</u> may be sensitive to the actual, potential or perceived adverse environmental effects generated by <u>the an-existing activity.</u>"</i>	Reject. While the minor grammatical error remains. The amendments to the substance of the definition that are recommended in the Officer's Report are supported.
Interpretation Definition – 'Sensitive Activity'	159.20 (opposed by the further submission made by HortNZ 245.35FS)	Amend the definition of 'Sensitive Activity' as follows: <i>"means:</i> <ol style="list-style-type: none"> 1. Residential activities; 2. Education facilities and preschools; 3. Guest &<u>and</u> visitor accommodation; 4. Health care facilities which include accommodation for overnight care; 5. Hospitals; 6. Marae (building only); or 7. Place of assembly. <i>except that:</i> <ol style="list-style-type: none"> a. <u>subclause f. above is not applicable in relation to electronic transmission.</u> b.<u>subclause g. above is not applicable in relation to noise-or electronic transmission.</u>" 	Accept in part. The recommendation in the Officer's Report is supported.
	Further submission on 187.14 KiwiRail Holdings Limited	Does not oppose the relief seeking the addition of further terms to the definition.	Reject. The recommendation in the Officer's Report is supported.
	159.29FS (Further submission on 172.11 Silver Fern Farms)	Opposes the relief sought that seeks that seasonal workers accommodation and caretaker dwellings are excluded from the definition.	Reject. The recommendation in the Officer's Report is supported.
	159.30FS (Further submission on 173.10		

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
	Alliance Group Limited)		
Interpretation Definition – 'Sensitive Environments'	159.21	Retain the definition of 'Sensitive Environments', subject to care being taken to ensure that the use of the term does not have any unintended consequences.	Accept in part. The Officer's Report does not address this submission, but the recommendation in respect of the definition is supported.
Interpretation New Definition	159.53FS (Further submission on 245.35 Horticulture New Zealand)	Disallow the submission seeking the inclusion of a definition for 'activities sensitive to transmission lines'.	Reject. The recommendation in the Officer's Report is supported.
Part 2 – District-wide Matters			
SD – Strategic Direction Interpretation	159.25	Amend the 'interpretation' direction as follows: <i>"For plan development, including plan changes, the objectives in the Strategic Directions and Urban Form and Development chapters provide direction for the development of the more detailed provisions contained elsewhere in the District Plan in relation to strategic issues. For plan implementation (including the determination of resource consent applications and the consideration of notices of requirement for designations):</i> ... <i>2. the relevant objectives and policies of the plan (including strategic objectives in these chapters) are to be considered together. No fixed hierarchy exists between the strategic objectives or between the strategic objectives and the objectives and policies in other chapters of the Plan."</i>	Accept. The recommendation in the Officer's Report is supported.
SD – Strategic Direction Objective SD-O3 Climate Change	159.27	Amend Objective SD-O3 to include the following additional clause: <i>"iv. recognising the important role renewable electricity play in achieving New Zealand's net carbon zero target by providing for renewable electricity generation, electricity transmission and electricity distribution."</i>	Accept in part.
	159.17FS (Further submission on 156.39 Royal Forest	Agrees that Objective SD-O3 could be strengthened by setting out how the Plan will have regard to the emissions reduction plan and the national adaptation plan.	Reject. As set out above, the recommendation in the Officer's Report is supported.

Provision	Submission reference	Relief sought by Transpower	Officers' Report recommendation
	and Bird Protection Society of New Zealand Inc.)		
SD – Strategic Direction Objective SD-O4 Natural Hazards	159.28 (supported by the further submission made by Fonterra Limited 165.9FS)	Amend Objective SD-O3 as follows: <i>“Significant nNatural hazards risks are addressed so that: ...”</i>	Reject. Having reviewed the Officer's Report and CRPS, and noting section 31 of the RMA, the recommendation in the Officer's Report is supported.
SD – Strategic Direction Objective SD-O8 Infrastructure	159.29	Support, retain Objective SD-O8 as notified.	Accept in part. The recommendation in the Officer's Report is supported.
	159.26FS (Further submission on 162.5 EnviroWaste Services Limited)	Allow the submission subject to the following further amendments to Objective SD-O8: <i>“iv. the benefits of regionally significant infrastructure and lifeline utilities are recognised and their safe, efficient and effective establishment, operation, maintenance, renewal and upgrading and development is enabled while <u>appropriately managing adverse effects of, and on, appropriately and protecting regionally significant infrastructure from reverse sensitivity.</u> Development is serviced by an appropriate level of infrastructure <u>and waste facilities</u> that effectively meets the needs of that development.”</i>	Reject. As set out above, the recommendation in the Officer's Report is supported.

PART 1 – INTRODUCTION AND GENERAL PROVISIONS

Introduction: Description of District

Infrastructure

27. Transpower's submission³ seeks that the introductory text that relates to infrastructure, and lists regionally significant infrastructure, is amended to replace 'electricity transmission network' with 'National Grid'.
28. The Officer's Report (Part 1 and Overarching Matters) recommends that Transpower's submission be rejected and comments as follows:

³ Submission reference 159.2.

“88. Transpower [159.2] and Enviro NZ [162.1] seek changes to the wording in the Infrastructure section as they relate to the definition of Regionally Significant Infrastructure, which is referred to in this section. This section simply refers to the definition, and amending this part of the Description of the District chapter would result in inconsistencies with this definition. As such, I recommend to reject the submissions by Transpower [159.2] and Enviro NZ [162.1].

89. I do note that both submitters are also seeking amendments to the definition of ‘Regionally Significant Infrastructure’. These submissions will be addressed in a later hearing, and it is important to note that my recommendation is interim in light of consideration of the ‘Regionally Significant Infrastructure’ definition as notified in the Proposed Plan.”

29. I acknowledge and support the Officer’s Report to the extent that I agree that the Proposed District Plan should be consistent in the way in which the National Grid is referred to across the definitions and provisions. I also accept that the starting point for this more naturally falls to the consideration of submissions on the definition of ‘Regionally Significant Infrastructure’, with the potential for subsequent consequential amendments.

30. That said, I have a strong preference for the use of ‘National Grid’, as opposed to electricity transmission network for the following reasons:

a. While the electricity transmission network and the National Grid are the same thing, it is my experience that the term ‘electricity transmission network’ is commonly misunderstood to also include assets that are not part of the National Grid. By way of explanation, the definitions in the NPSIB make this clear as follows:

“electricity transmission network means the electricity transmission network that:

(a) comprises the network of transmission lines, cables, stations, substations and works used to connect grid injection points and grid exit points used to convey electricity in New Zealand; and

(b) is owned by Transpower New Zealand Limited; and

(c) is commonly known as the National Grid.”

b. The use of ‘National Grid’ better aligns with provisions elsewhere in the Proposed District Plan, and particularly the rule framework for the protection of the National Grid (being rules that apply within the ‘National Grid Yard’ and ‘National Grid Subdivision Corridor’). Further, ‘National Grid’ is also the terminology used in the National Planning Standards and in Policy 11 of the NPSET.

31. I am able to address this element of Transpower’s submission further, as necessary, in the context of the Hearings Panel’s consideration of the definition of ‘Regionally Significant Infrastructure’.

How the Plan Works: General Approach

32. Transpower's submission⁴ seeks that Figure 1, Step 2 is amended to refer to 'the National Grid' rather than 'National grids'.
33. The Officer's Report (Part 1 and Overarching Matters) recommends that Transpower's submission be accepted in part and comments as follows:

"141. 'The National Grid Yard', is a defined term meaning the area beneath and immediately next to transmission lines and associated poles and foundations. However, there is no overlay in the Proposed Plan named the National Grid Yard, to which the text Transpower [159.3] wishes to amend relates. The national grid related overlay is called the National Grid Line in the Proposed Plan, as prescribed within the NPS. I recommend amending Figure 1, Step 2 to match the name of the overlay 'National Grid Line', and thereby accepting this submission in part."

34. I agree with the Officer's Report to the extent that there is no 'National Grid Yard' illustrated on the planning map as an overlay or otherwise. Rather, the National Grid Yard is embedded in the Proposed District Plan provisions.
35. That said, in my view the National Planning Standards, in providing mandatory directions for mapping in plans and policy statements, directs that the National Grid lines are mapped in accordance with Table 20 but does not refer the 'National Grid lines' as an overlay. Rather, the Mapping Standard mandatory direction makes reference to Table 20 of the National Planning Standards as follows, with Table 20 including features that are 'overlays' and others that are not:

"2. A policy statement or plan must use the symbols in table 20 wherever maps display the features listed in that table ..."

36. For this reason, and to better reflect the elements shown on the planning map, I support amending Figure 1, Step 2 to refer to 'features' and read:

"Locate relevant District-wide matters chapters (e.g. Infrastructure and Energy) features and overlays (e.g. National Grid Transmission Lines, grids)"

Interpretation

Definition of 'land disturbance'

37. Transpower's submission⁵ seeks that the definition of 'land disturbance' is amended to show the definition as shaded on that basis that the definition is a mandatory National Planning Standards definition.

⁴ Submission reference 159.3.

⁵ Submission reference 159.7.

38. Appendix B to the Officer's Report (Part 1 and Overarching Matters) recommends that the submission be rejected. No explanation for this recommendation is given.
39. I support the relief sought by Transpower on the understanding that the Proposed District Plan identifies definitions that are National Planning Standards definitions by the use of shading and because the definition of 'land disturbance' is a National Planning Standards definition.

PART 2 –DISTRICT WIDE MATTERS

Strategic Direction

Objective SD-O2 The Natural and Historic Environment

40. Transpower's submission⁶ supports Objective SD-O2 on the basis that the Objective reflects matters in section 6 of the RMA. The submission seeks that the Objective is retained as notified.
41. The Officer's Report (Strategic Directions & Urban Form and Development) recommends that Transpower's submission be accepted in part. The Officer's Report recommends a number of amendments to Objective SD-O2 as follows:

"The District's natural and historic environment is managed so that:

...

5. *indigenous biodiversity is maintained and enhanced and restored where necessary so that there is at least no overall loss;*
6. *significant indigenous vegetation and significant habitats of indigenous fauna are identified and their values recognised, protected and where appropriate, enhanced, and where ecological integrity is degraded, restored;*
- 67 *the life-supporting capacity of ecosystems and resources is safeguarded for future generations; and*
- 78 *the important contribution of historic heritage to the District's character and identity is recognised, and ~~significant~~ historic heritage and its values are protected from inappropriate subdivision, use, and development."*

42. I understand that recommended new clause (5) and the amendments to renumbered clause (6) are in response to the submission made by the Director General of Conservation and made in order to give effect to the NPSIB.
43. While I generally accept the rationale for the Officer's Report recommendation, it is my opinion that the recommended amendments do not correctly give effect to the NPSIB. This is because nothing in the NPSIB applies to the development, operation, maintenance or upgrade of

⁶ Submission reference 159.26.

National Grid assets and activities⁷. However, the broad application of the recommended amendments means that the requirements of the NPSIB are consequently and inappropriately applied to National Grid assets and activities.

44. In circumstances such as this, where effort is made to give effect to the NPSIB through the consideration of submissions on the Proposed District Plan, I am of the view that care must be taken to avoid extending the direction given by the NPSIB to apply to the assets and activities that are explicitly excluded (such as National Grid assets and activities). This is not to say that there is a void in respect of the management of indigenous biodiversity in respect of National Grid assets and activities, rather I consider that the approach is directed as if the NPSIB was not in force, that is, to take direction from section 6 of the RMA, along with the NPSET and CRPS. To achieve this, it is my view that Objective SD-O2 must provide specific direction in respect of the National Grid, and potentially also renewable electricity generation that is similarly excluded from the NPSIB. In turn, I anticipate that Objective SD-O2 will be implemented through specific provisions, including those that are specific to the National Grid, so that the NPSET and CRPS are given effect to in respect of the potential effects of the National Grid on indigenous biodiversity.
45. On this basis, I support the following amendment to Objective SD-O2:

“The District’s natural and historic environment is managed so that:

...

5. indigenous biodiversity is maintained and enhanced and restored where necessary so that there is at least no overall loss;

6. significant indigenous vegetation and significant habitats of indigenous fauna are identified and their values recognised, protected and where appropriate, enhanced, and where ecological integrity is degraded, restored;

x. notwithstanding clauses (5) and (6), significant indigenous vegetation and significant habitats of indigenous fauna are identified, and their values recognised and protected, by the appropriate management of the adverse effects of the development, operation, maintenance or upgrade of National Grid assets and activities on the recognised values;

67 the life-supporting capacity of ecosystems and resources is safeguarded for future generations; and

78 the important contribution of historic heritage to the District’s character and identity is recognised, and ~~significant historic heritage~~ and its values are protected from inappropriate subdivision, use, and development.”

⁷ Clause 1.3(3) of the NPSIB.

Urban Form and Development

Objective UFD-O1 Settlement Patterns

46. Transpower's submission seeks that clause (iii) and clause (x) are amended to reflect the fact that it is not always possible for a settlement pattern to reduce adverse effects on the environment (clause (iii)) and to ensure that there is no inconsistency in the management of conflict between incompatible activities between provisions of the Proposed District Plan (clause (x)) as follows:

"A consolidated and integrated settlement pattern that:

...

~~*iii. reduces adverse effects on the environment, including energy consumption, carbon emissions and water use;*~~

...

x. controls the location of activities, primarily by zoning, to manage minimise conflicts between incompatible activities ~~and avoid these where there may be significant adverse effects.~~"

47. The Officer's Report (Strategic Directions & Urban Form and Development) recommends that Transpower's submission be accepted in part and comments as follows in respect of clause (x):

*"288. Regarding the submission by Transpower [159.30], I agree that changing the word 'minimise' to 'manage' is acceptable as this enables the detail to be covered in the topic specific chapters. I do not agree with deleting the clause 'and avoid these where there may be significant adverse effects' as I consider this is the appropriate outcome for the objective. I therefore consider that this submission is accepted in part and that UFD-O1 is amended as set out below and in **Appendix A.**"*

48. The Officer's Report does not address Transpower's relief in respect of clause (iii) but recommends amendments to the clause as follows:

"283. Regarding submission point [156.47] seeking to also manage adverse effects on the environment (clause (iii)), in response to Kāinga Ora's [229.13] submission (see below) I have recommended that 'reduce' is changed to 'minimise' as it is not always possible to 'reduce' adverse effects on the environment when changing land uses from rural to urban. I consider 'minimise' also responds to the submitters request to manage effects as it manages these by minimising them."

49. The recommended amendments that are relevant to Transpower's submission are:

"A consolidated and integrated settlement pattern that:

...

3. ~~reduces~~ minimises adverse effects on the environment, including energy consumption, carbon emissions and water use;

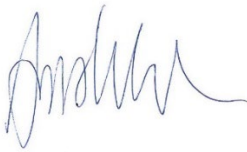
...

10. controls the location of activities, primarily by zoning, to ~~minimise~~ manage conflicts between incompatible activities, including reverse sensitivity effects and avoid these where there may be significant adverse effects.”

50. In respect of clause (iii), I agree with the conclusion in the Officer's Report that it is not always possible (or even probable) for the adverse effects of urban development to be reduced, rather it is likely that, even where adverse effects are appropriately managed, urban development would have residual effects. For this reason, and in the context of setting the outcome for the settlement pattern for Timaru District, I support the replacement of 'reduces' with 'minimises'.
51. I also agree with the Officer's Report recommendation to replace 'minimise' with 'manage' in clause (x) for the same reasons. That is, 'manage' better reflects the range of responses to the management of incompatible activities embedded in the provisions of the Proposed District Plan.
52. That said, I am of the view that the outcome described in clause (x) remains ambiguous in respect of the expression 'avoid these where there may be significant adverse effects' because:
 - a. it is not clear what is being 'avoided', the zoning, conflicts or incompatible activities;
 - b. if incompatible activities are to be avoided, it is not clear whether all or only one incompatible activity is avoided;
 - c. directing avoidance has the effect of limiting the range of responses made available by the use of 'manage' and therefore:
 - i. dilutes the effectiveness, and associated rationale, for this recommended amendment;
 - ii. is potentially inconsistent with the range of management approaches to incompatible activities set out in objectives, policies and rules elsewhere in the Proposed District Plan;
 - d. in terms of drafting, the expression reads more as a policy through setting out a response/action, as opposed to describing an intended outcome;
 - e. there is no clear direction in higher order planning instruments, including the NPSUD, for such an outcome; and
 - f. the expression appears to direct the avoidance of an activity or zoning, as opposed to avoiding significant adverse effects.

53. In my opinion, the way in which the management of incompatible activities is achieved is more appropriately left for the more specific objectives elsewhere in the Proposed District Plan, along with their implementing policies and rules. For this reason, and the reasons set out above, I support further amendments to clause (x) as follows:

“x. manages conflicts between incompatible activities, including reverse sensitivity effects, by controlling ~~controls~~ the location of activities, primarily by zoning, ~~to~~ minimise ~~manage~~ conflicts between incompatible activities, including reverse sensitivity effects and avoid these where there may be significant adverse effects.”



Ainsley Jean McLeod

22 April 2024