

BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER:

of the Resource Management Act
1991

AND

IN THE MATTER

of the Proposed Plan Change 4 to the
Canterbury Land and Water Regional
Plan

**STATEMENT OF EVIDENCE OF JESSICA LUCY BOULD FOR
TRANSPower NEW ZEALAND LIMITED**

29 January 2016

Executive Summary

1. Transpower New Zealand Limited (“**Transpower**”), as the owner and operator of the National Grid, has significant infrastructure assets across New Zealand, including in the Canterbury Region.
2. The national significance of the National Grid¹ is recognised, in the context of the Resource Management Act 1991 (“**RMA**”), by the National Policy Statement on Electricity Transmission 2008 (“**NPSET**”) and the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (“**NESETA**”).
3. The Canterbury Land and Water Regional Plan (“**LWRP**”) must give effect to the Canterbury Regional Policy Statement (“**RPS**”), which in turn must give effect to the NPSET. “Giving effect” is a strong statutory directive compared to other directives in the RMA and was interpreted in the *EDS v New Zealand King Salmon* Supreme Court case as meaning “to implement”.
4. Transpower’s submission and further submissions are primarily concerned with ensuring that Plan Change 4 (“**PC4**”) to the Canterbury Land and Water Regional Plan (“**CLWRP**”) appropriately gives effect to the NPSET by:
 - a Recognising the benefits of reliable and secure electricity supply provided by the National Grid that underpins the concept of “wellbeing” in section 5 of the RMA;
 - b Providing for the use, development and protection of the National Grid (as a physical resource in terms of section 5 of the RMA);
 - c Protecting the National Grid from the adverse effects, including reverse sensitivity effects, of other activities and land uses; and
 - d Appropriately managing the adverse effects of the National Grid.
5. This evidence provides the planning background for Transpower’s submissions in relation to the national importance of the National Grid and describes the NPSET before addressing in detail the content of Transpower’s submission and relief sought in relation to PC4 of the CLWRP.

¹ The NPSET refers to the “electricity transmission network, electricity transmission and transmission activities/assets/infrastructure/resources/system” as all meaning part of the National Grid. The National Grid is defined as meaning the assets used or owned by Transpower NZ Ltd.

6. Transpower's submission is generally supportive of the approach taken to providing for nationally and regionally significant infrastructure, such as the National Grid, in PC4 of the CLWRP. However, I consider that some additional specific amendments are required in order to appropriately give effect to the NPSET.
7. I conclude that the amendments as set out in this evidence, enable PC4 of the Canterbury LWRP to appropriately give effect to the NPSET and as such achieve the purpose of the RMA by:
 - a) Recognising the benefits of the National Grid;
 - b) Providing for the use, development and protection of the National Grid;

Qualifications and Experience

8. My full name is Jessica Lucy Bould. I am employed by Beca Limited ('**Beca**') as a Planner based in Christchurch. I hold the qualification of a Bachelor of Environmental Management and Planning and a Postgraduate Diploma in Resource Studies from Lincoln University, Lincoln. I am an Intermediate member of the New Zealand Planning Institute.
9. I have three years' experience in planning practice in New Zealand, primarily as a consultant planner, during which time I have undertaken both consenting and policy planning work. My recent experience includes providing advice to a range of infrastructure clients in relation to consenting requirements and the preparation of policy documents. I was previously employed as a consent planner at Environment Canterbury. In this role, and in my current role, I have processed applications for, and on behalf of, Environment Canterbury. These applications were specific to works in waterways which included activities such as gravel extraction and flood protection measures, including the removal of vegetation and installation of structures.
10. For the past 11 months, I have been on part-time secondment to the Stronger Christchurch Infrastructure Rebuild Team ('**SCIRT**') as a planning advisor. In this role, I have provided advice on resource consenting requirements, policy changes and plan changes. I have also prepared and submitted resource consent applications for specific infrastructure projects.
11. I am generally familiar with the CLWRP and the CRPS and the approaches to providing for infrastructure across Canterbury.

12. I have been engaged by Transpower to assist in its review of PC4 to the CLWRP. In this capacity I have assisted in the preparation of Transpower's submission and further submissions.

Code of Conduct

13. Whilst this matter is not before the Environment Court, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court's 2014 Practice Note. I have complied with the Practice Note when preparing my written statement of evidence and will do so when I give oral evidence before the hearings panel.
14. My qualifications are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise.
15. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

16. In my evidence I provide the planning background for Transpower's submissions in relation to the national importance of the National Grid, particularly in the context of the national planning instruments, being the National Policy Statement on Electricity Transmission 2008 ('**NPSET**') and the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 ('**NESETA**').
17. My evidence then addresses Transpower's submissions on PC4 (including further submissions received on Transpower's submission) with specific reference to the relief sought in relation to the following:
- Activities in Beds of Lakes and Rivers;
 - Construction-phase stormwater;
 - Structures;
 - Gravel from Lakes and Riverbeds;
 - Vegetation clearance and earthworks; and

- Definitions
18. In preparing this evidence I have reviewed the following:
- the RMA
 - the NPSET;
 - the NESETA;
 - the CRPS;
 - the CLWRP;
 - the Section 32 report and proposed plan changes; and
 - the Planner's report.
19. The planners' report includes a comprehensive summary of the statutory framework for assessing PC4, including the role of national policy statements and national environmental standards such as the NPSET and NESETA. In addressing the relief sought in Transpower's submission, my consideration is made in the context of this statutory framework and I will not repeat it here, except to note that that the planners' report at paragraph 1.109 incorrectly states, in reference to the NPSET, that:
- “No submissions or further submissions on Plan Change 4 have sought changes to better give effect to either policy statement...”*
20. Transpower's submission and further submission state the relief requested is for the purpose of giving better effect to the NPSET, particularly Policies 2, 5 and 10.

The National Policy Statement on Electricity Transmission 2008

21. The national significance of the National Grid is recognised, in the context of the RMA, by the NPSET and the NESETA. Both instruments apply only to the National Grid, and do not apply to assets owned and operated by electricity distributors or generators. A regional plan must give effect to a national policy statement under section 67(3) of the RMA.
22. There is no alternative to this requirement. The requirement to “give effect to” is a strong statutory directive compared to other directives in the RMA and was

interpreted in the *EDS v New Zealand King Salmon* Supreme Court case as meaning “to implement”.

23. The Preamble to the NPSET includes useful background, or rationale, for the NPSET. It states that “*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*”. The Preamble notes that the National Grid has particular physical characteristics and operational/security requirements that have been challenging to manage under the RMA. It also acknowledges the potential significance of some effects of transmission lines (including the inability for these to be avoided or mitigated), along with the significant constraints that third party activities and development can place on the network. It notes that adverse effects are experienced at the local level, while benefits are regional or national, requiring a balanced consideration of effects.

24. The NPSET has a single Objective as follows:

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

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

25. The NPSET imposes positive obligations on both decision-makers and Transpower through 14 policies that implement this Objective.

23 In relation to PC4, and the relief sought by Transpower, the following Policies are of particular relevance (emphasis added):

- a) *“decision-makers **must recognise and provide for** the national, regional and local benefits of sustainable, secure and efficient electricity transmission” (Policy 1);*
- b) *“decision-makers **must recognise and provide for** the effective operation, maintenance, upgrading and development of the electricity transmission network” (Policy 2);*

*“decision-makers **must enable** the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission*

assets” when considering environmental effects associated with transmission activities (Policy 5);

26. In a general sense, the CLWRP and PC4, in giving effect to the NPSET, should achieve the following:
- a) Recognition of the benefits of reliable and secure electricity supply provided by the National Grid that underpins the concept of “wellbeing” in section 5 of the RMA. The provision of infrastructure to enable a secure and reliable supply of electricity is critical to sustaining and growing the Region and has potential positive effects in terms of enabling people and communities to provide for their social, economic and cultural wellbeing and for their health and safety;
 - b) Provision for the use, development and protection of the National Grid (as a physical resource in terms of section 5 of the RMA) by enabling the operation, maintenance and upgrading of the existing network and the establishment and development of new transmission resources;
 - c) Appropriate management of adverse effects of the National Grid by establishing a consistent framework that takes into account:
 - The connected linear nature of the National Grid;
 - The technical, practical and risk issues associated with operating, maintaining and upgrading National Grid infrastructure; and
 - The inherent and unavoidable visual and other impacts of overhead National Grid lines.
27. The CRPS gives effect to the NPSET in a specific sense through Policy 16.3.4. This policy states the particular regard to be had to the local, regional and national benefits of the electricity transmission network and aims to enable the operational, maintenance, upgrade and development of the electricity transmission network.
28. Transpower’s submission is generally supportive of the amendments to the CLWRP insofar as they relate to the National Grid. I agree with this general support, subject to some specific amendments to better give effect to the NPSET.

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

29. The national significance of the National Grid is also recognised by the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA) that establishes a national regulatory framework for activities related to existing National Grid transmission lines². Many Transpower activities are expressly permitted or controlled by the NESETA.
30. The planners' report acknowledges the role of the NESETA and states at paragraph 1.24

“Section 43B(3) of the RMA provides that a rule may not be more lenient than a national environmental standard (NES).

31. I turn now to addressing the relief sought by Transpower specifically.

Activities in Beds of Lakes and Rivers: Policy 4.85A

32. Transpower's submission seeks the following amendment to Policy 4.85A (clause b) to recognise the technical, locational and operational requirements of the National Grid and to better align with Policy 4.81 of the LWRP:

Indigenous biodiversity, habitats of indigenous fauna and flora, and the natural character of Canterbury's braided river systems is preserved through:

...

limiting vegetation clearance within the bed, banks and margins of lakes, rivers, wetlands or coastal lagoons unless the vegetation clearance is for the purpose of pest management, habitat restoration, flood control purposes, the operation, maintenance or repair of structures ~~or network utilities~~, or maintenance of public access and except where the activity is part of installing, or maintaining, operating or upgrading infrastructure that is in that location.

33. It is relevant to note that Transpower is compelled to undertake vegetation clearance in the vicinity of the National Grid under the Electricity (Hazards from Trees) Regulations 2003.

² Sections 4 of the NESETA states the regulations apply to existing transmission lines. Existing transmission lines are defined as transmission lines operational at the time the NESETA regulations commenced 14 December 2009.

34. The planners' report does not directly address the relief sought by Transpower in regards to Policy 4.85A, although it does acknowledge that amendments ought to be made for the purpose of clarification, particularly in relation to "*minor and transitory activities*"³. A limited amendment is recommended to clause b of Policy 4.85A as follows:

Indigenous biodiversity, habitats of indigenous fauna and flora, and the natural character of Canterbury's braided river systems is preserved through:

*(a) preventing **further**⁴ encroachment of activities into the beds and margins of lakes and rivers; and*

(b) limiting vegetation clearance within the bed, banks and margins of lakes, rivers, wetlands or coastal lagoons

*unless the vegetation clearance is for the purpose of pest management, habitat restoration, flood control purposes, the operation, maintenance or repair of structures or **infrastructure network utilities**⁵, or maintenance of public access."*

35. In my opinion, this recommended amendment does not achieve the relief sought by Transpower on the basis that it does not address vegetation clearance for the development of the National Grid, and as such:

- a does not fully give effect to Policy 2 of the NPSET;
- b does not fully give effect to Policy 16.3.4 of the CRPS;
- c is not consistent with the approach take to vegetation clearance for utilities across the CLWRP through the definition of 'vegetation clearance' that includes "clearance for the **establishment** or maintenance of utilities"; and
- d is not consistent with the approach to infrastructure in the context of Policy 4.81 that provides for "**installing**, maintaining, operating or **upgrading** infrastructure" [my emphasis]

36. In order to achieve a consistent approach to vegetation clearance for utilities across the CLWRP, and in order to better give effect to the NPSET and Policy 16.3.4 of the CRPS I support the following further amendment to Policy 4.85A (clause b) (shown in **red**):

³ Planners' s.42A report, Page 101

⁴ Planners' s.42A report, Page 112

⁵ Planners' s.42A report, Page 112

“b. limiting vegetation clearance within the bed, banks and margins of lakes, rivers, wetlands or coastal lagoons

Unless the vegetation clearance is for the purpose of pest management, habitat restoration, flood control purposes, the **installation**, operation, maintenance or repair of structures or **infrastructure network utilities**, or maintenance of public access.”

Construction Phase Stormwater (Rules 5.94A, 5.94B and 5.94C)

37. Transpower’s submission supports the retention of the rules proposed to separate stormwater discharges from construction activities. Transpower considers the approach appropriately provides for discharges associated with construction activities and therefore provides for future development of the National Grid in a manner that is consistent with the intent of the NPSET and Policy 16.3.4 of the CRPS.
38. The planners’ report does not specifically address Transpower’s submission in the discussion, however it is recommended that the notified rules be retained. I support this recommendation on the basis that it is consistent with the relief sought by Transpower.

Structures (Rule 5.135 and 5.139)

39. Transpower’s submission seeks an exemption to allow for maintenance activities required for support structures for pipes, ducts, cables and wires to be allowed year-round. Transpower’s submission considers that the notified amendments do not provide an approach that is consistent with establishment of the same structures. There are no restrictions as to what time of year these structures can be established.
40. The planners’ report identifies that the intent behind the removal of the words ‘use’ and ‘maintenance’ is to allow for these activities to be managed under Rule 5.139. The planners’ report considers that if the terms ‘use’ and ‘maintenance’ were adopted, some activities would no longer be permitted⁶.
41. Transpower’s proposed amendment to Rule 5.139(4) is addressed directly in the planners’ report, where it is noted that the relief requested has been provided for in Part A of the report as the relief requested is aligned with inanga and salmon spawning areas.

⁶ Planner’s s.42a report, Page

42. In paragraph A.73, the planners' report acknowledges Transpower's submission and agrees that obtaining resource consent for maintenance and repair activities during the Inanga and salmon spawning season would not be efficient given the nature of the activities proposed would only have a limited impact on those particular habitats. The planners' report has recommended the acceptance of the relief sought by Transpower regarding Rule 5.139(4) and has included the wording proposed in Transpower's submission in the recommendation.
43. I support the amended version of Rule 5.139(4) because it better gives effect to Policy 2 and Policy 5 of the NPSET and is also consistent with Policy 16.3.4 of the CRPS.

Gravel from Lakes and Riverbeds (Rule 5.148)

44. Transpower's submission seeks that Rule 5.148 be retained, particularly clause (6), as this enables Transpower to continue to protect National Grid assets.
45. The planner's report states the submissions relating to Rule 5.148 are generally supportive, and recommends that Rule 5.148 is retained. I agree that the recommendation is consistent with the relief sought by Transpower.

Vegetation Clearance and Earthworks in Lakes and Riverbeds(Rules 5.163, 5.168 and 5.170)

46. Transpower's submission seeks an amendment to Rule 5.163(10) to extend the exemption provision to include 'upgrading' of network facilities in addition to the establishment, maintenance and repair of network utilities and structures.
47. In my opinion, an exemption should be extended to provide for the associated sediment discharge that occurs in conjunction with vegetation clearance. Vegetation clearance is a necessary component to maintenance, establishment, repair and upgrading works and ensuring the safety and reliability of National Grid structures.
48. Any sediment or sediment-laden water discharge resulting from vegetation clearance is likely to be of short-term duration, and reasonable mixing will assist with dilution.
49. I note provisions for other activities in the CLWRP permit temporary discharges associated with maintenance, repair, upgrading or establishment works.

50. Transpower consider network utilities should be exempt from all clauses included under Rule 5.168. An exemption would appropriately recognise the importance of network utilities and give effect to Policy 2 of the NPSET, and be consistent with other similar activities in the CLWRP.
51. I agree with Transpower's position and consider that the proposed amendment will give better effect to Policies 2 and 5 of the NPSET and to Policy 16.3.4 of the CRPS.
52. Transpower's submission requested Rule 5.170 (j) to be retained as notified as the provision appropriately provides for operational discharges and has the potential to reduce regulation.
53. The planner's report does not specifically address Transpower's requested relief in the discussion, and recommends that Rules 5.163, 5.168 and 5.170 be retained as notified.
54. I consider that the retention of Rules 5.163 and 5.168 does not achieve the relief sought by Transpower.
55. I support Transpower's submission point on Rule 5.163(10) and agree the amendment will give better effect to Policy 5 of the NPSET by recognising and providing for upgrading activities.
56. I have also considered Transpower's submission point in relation to Rule 5.170 and agree with the matters raised in the submission. In my opinion, restriction of maintenance, upgrading, operational and installation activities would cause conflict with the NPSET, particularly Policy 5, as restricting these activities would compromise the electricity network.

Definitions

Available reticulated stormwater system

57. Transpower's submission supports the notified definition of 'available reticulated stormwater system', particularly clauses (1) to (4) as they provide clear standards around distance, gravity and network acceptability.
58. The planners' report does not recommend any changes to the definition of 'available reticulated stormwater system' and, as such, the recommendation is consistent with the relief sought by Transpower in its submission.

Construction-phase stormwater

59. Transpower has not sought amendments to the definition of 'construction-phase stormwater' in its submission. Transpower supports the new definition insofar as it differentiates between operational and construction discharges.
60. The planners' report identifies that submissions support of the notified definition of 'construction-phase stormwater' and has recommended no further changes to the definition. I consider that this is consistent with the relief sought by Transpower.

Vegetation Clearance

61. Transpower's submission seeks an amendment to clause (b) of 'vegetation clearance', to include the discharge of sediment or sediment laden water associated with vegetation clearance carried out for the purpose of establishing or maintaining utilities. Transpower's amendment is as follows:
- "vegetation clearance means the removal of vegetation by physical, mechanical, chemical or other means but excludes:*
- (a) Cultivation or harvesting of crops or pasture on production land established prior to 5 September 2015;*
- (b) Clearance for the establishment or maintenance of utilities or structures including any associated discharge of sediment or sediment-laden water.*
- (c) ..."*
62. Transpower's proposed amendment is for the purpose of clarity in regards to the allowable associated discharge when vegetation clearance is occurring.
63. I consider that Transpower's proposed amendment will give better effect to Policy 2 of the NPSET by allowing for a complete set of maintenance activities to be carried out.
64. Transpower's further submission opposes the relief sought by Forest and Bird (submitter 52265) to delete clause (b), which permits vegetation clearance for maintenance of utilities and structures.
65. The removal of the exemption would not give effect to Policy 2 of the NPSET and could create potential operational and safety risks such as fire hazard.

66. The planners' report does not provide a discussion on the relief sought by Transpower, and recommends the definition of 'vegetation clearance' be amended. I note that the amendment sought by Transpower has not been included in the revised definition.
67. I agree with the relief sought by Transpower insofar as the relief sought provides certainty regarding sediment or sediment-laden water discharges in conjunction with vegetation clearance activities.
68. It is my opinion there is a conflict between the definition and Rule 5.163(10), which creates uncertainty for the plan user because Rule 5.163(10) specifically exempts utilities from total suspended solid limits but does not specifically exempt discharges. I consider this conflict could be resolved by accepting the relief sought in Transpower's submission.
69. I also consider the amendment proposed by Transpower will give better effect to the NEPSET and the CRPS.
70. In my opinion, the proposed amendment to the definition is more suitable to be located in the definition of vegetation clearance, will provide clarity, will be consistent with other provisions of the Canterbury LWRP and will give better effect to Policy 2 of the NPSET. I also consider that the proposed amendment is consistent with other provisions of the Canterbury LWRP that allow for associated sediment discharge for certain nationally and regionally significant activities.

Conclusion

71. Amendments to the Canterbury LWRP must give effect to the NPSET. Transpower's submission seeks several amendments to better achieve this.
72. In my view, the amendments as set out in Attachment A of this evidence, enable the LWRP to appropriately give effect to the NPSET and better achieve the purpose of the RMA by:
 - a) Recognising the benefits of the National Grid;
 - b) Providing for the use, development and protection of the National Grid;
 - c) Protecting the National Grid from the adverse effects, including reverse sensitivity effects; and
 - d) Appropriately managing the adverse effects of the National Grid.



Jessica Lucy Bould
27 January 2016