

Before the proposed Waimakariri
Proposed District Plan Hearings Panel

Under the Resource Management Act 1991

In the matter of submissions lodged on the Waimakariri Proposed District Plan
(Hearing Stream 5: Energy and Infrastructure)

**LEGAL SUBMISSIONS ON BEHALF OF TRANSPOWER NEW ZEALAND LIMITED (314
and FS00314)**

Hearing Stream 5: Energy and Infrastructure

11 August 2023



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MAY IT PLEASE THE PANEL

1. INTRODUCTION

1.1 Transpower New Zealand Limited (**Transpower**) is the state-owned enterprise that plans, builds, maintains, owns and operates New Zealand's high voltage electricity transmission network, known as the **National Grid**. Transpower, whose main role is to ensure the delivery of a reliable and secure supply of electricity to New Zealand, has a fundamental role in the industry and in New Zealand's economy.

1.2 While Transpower's role is already of fundamental importance, a reliable and secure supply of electricity is vital to the transition to a zero-carbon economy. Demand for electricity will increase. New renewable electricity generation will require new connections, and demand for electricity may also require direct connection to the National Grid. There will be a substantive increase in total load across the National Grid. These factors pose significant challenges and uncertainties, but will necessitate substantial development and upgrade of the National Grid. Transpower will also need to maintain and upgrade existing (aging) assets.

1.3 In order to keep pace with these externally driven changes, and therefore to provide for current and future generations, it is essential that:

- (a) Transpower can enhance the existing grid and build new assets;
- (b) the operation, maintenance and minor upgrading of the National Grid can be undertaken without undue constraint; and
- (c) activities that have a direct effect or reverse sensitivity effect on the National Grid are avoided.

1.4 These outcomes are expressly provided for in the National Policy Statement on Electricity Transmission 2008 (**NPSET**) which the Waimakariri Proposed District Plan (**WPDP**) must give effect to.

1.5 Transpower acknowledges that the WPDP must also recognise and provide for other matters of national importance. The relief sought balances these considerations to

provide that, where practicable, adverse effects of the National Grid are avoided. The reality, however, is that:

- (a) it will not always be practicable for Transpower to avoid adverse environmental effects; and
- (b) third party activities in proximity to the National Grid will often need to be restricted or prohibited.

1.6 If the WPDP provides clear policy direction on both of these matters to avoid any doubt on what is required to provide for the National Grid, that will help ensure the WPDP gives effect to the relevant higher order direction.

1.7 At the outset Transpower acknowledges that the recommendations in the section 42A Officers' Reports for this hearing stream are highly supportive of Transpower's submission points. The table provided as Attachment A to **Ms Ainsley McLeod's** planning evidence, filed on behalf of Transpower, shows the Officers' recommendations that are supported by Transpower.

1.8 These submissions are structured to provide an overview of the "higher order" documents that are of relevance to the Panel's decision making in relation to the relief Transpower is seeking in Hearing Stream 5, before commenting on the relief that Transpower seeks.

2. OVERVIEW OF NPSET

2.1 The NPSET directs the management of the National Grid under the RMA. It recognises, as a matter of national significance, the need to operate, maintain, develop and upgrade the National Grid. 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.

2.2 This Objective is supported by 14 policies that the WPDP must give effect to. These policies broadly impose obligations in relation to the following categories (relevantly):¹

- (a) recognising and providing for the national benefits of the National Grid;
- (b) managing the environmental effects of the National Grid;
- (c) managing the adverse effects of third parties on the National Grid; and
- (d) long-term strategic planning for the National Grid.

2.3 These policies vary in how prescriptive they are. Some policies prescribe, in strong terms, how this panel should undertake its role. Such policies include:

- (a) Policy 1 (decision-makers must recognise and provide for the benefits of sustainable, secure and efficient electricity transmission);
- (b) Policy 2 (decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the National Grid);
- (c) Policy 5 (decision-makers must enable reasonable operational, maintenance and minor upgrade requirements); and
- (d) Policy 10 (to the extent reasonably possible, decision-makers must avoid reverse sensitivity effects on the National Grid and to ensure that operation, maintenance, upgrading, and development of the National Grid is not compromised).

2.4 The NPSET also contains a preamble that is fairly extensive. The preamble relevantly outlines characteristics of the National Grid that create challenges for its management under the RMA:

- Transporting electricity efficiently over long distances requires support structures (towers or poles), conductors, wires and cables, and sub-stations and switching stations.
- These facilities can create environmental effects of a local, regional and national scale. Some of these effects can be significant.
- The transmission network is an extensive and linear system which makes it important that there are consistent policy and regulatory approaches by local authorities.

¹ The fifth category being the requirement to map the National Grid on plan maps.

- 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.
- The adverse environmental effects of the transmission network are often local – while the benefits may be in a different locality and/or extend beyond the local to the regional and national – making it important that those exercising powers and functions under the Act balance local, regional and national environmental effects (positive and negative).
- Ongoing investment in the transmission network and significant upgrades are expected to be required to meet the demand for electricity and to meet the Government’s objective for a renewable energy future, therefore strategic planning to provide for transmission infrastructure is required.

2.5 The preamble then goes on to provide guidance on how the NPSET is to be applied:

The national policy statement is to be applied by decision-makers under the Act. The objective and policies are intended to guide decision-makers in drafting plan rules, in making decisions on the notification of the resource consents and in the determination of resource consent applications, and in considering notices of requirement for designations for transmission activities.

However, the national policy statement is not meant to be a substitute for, or prevail over, the Act’s statutory purpose or the statutory tests already in existence. Further, the national policy statement is subject to Part 2 of the Act.

For decision-makers under the Act, the national policy statement is intended to be a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act.

This preamble may assist the interpretation of the national policy statement, where this is needed to resolve uncertainty.

3. HOW TO GIVE EFFECT TO THE NPSET

3.1 Under section 75(3)(a) of the RMA, a District Plan “must give effect to any national policy statement”, including the NPSET. The term ‘give effect’ is a strong statutory directive. It places a firm obligation on Waimakariri District Council (**WDC**) in respect of the WPDP’s content.

3.2 In relation to the requirement to “give effect to” an NPS, the Supreme Court in *King Salmon* stated:²

The implementation of such a directive will be affected by what it relates to, that is, what must be given effect to. A requirement to give effect to a policy which is framed in a specific and unqualified way may, in a practical sense, be more prescriptive than a requirement to give effect to a policy which is worded at a higher level of abstraction.

3.3 This means that the wording of each policy is key to determining what the WPDP must include to give effect to the NPSET.

3.4 The Supreme Court in *King Salmon* stated that, when giving effect to a different national policy statement, the New Zealand Coastal Policy Statement (**NZCPS**), decision-makers should only have recourse back to Part 2 matters in limited situations, these being:³

- (a) where the NZCPS is invalid;
- (b) where the NZCPS does not “cover the field”, and a decision-maker must consider whether Part 2 provides assistance in dealing with the matter(s) not covered; and
- (c) where there is uncertainty as to the meaning of particular policies in the NZCPS.

2 *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] NZSC 38 at [80].

3 At [88].

3.5 In *Transpower v Auckland Council*⁴ the High Court, hearing appeals on the proposed Auckland Unitary Plan, provided commentary on what is required to give effect to the NPSET. We summarise the key points made in that case.

3.6 The High Court determined that the Supreme Court's direction in *King Salmon* on how to give effect to the NZCPS should not strictly apply in relation to the NPSET for the following reasons:⁵

(a) First, the Court noted that the Supreme Court included a caveat to its comments on the strength of the directive "give effect to":⁶

There was a caveat noted by the Court. The implementation of any directive is affected by what it relates to. A requirement to give effect to a policy which is framed in a specific and unqualified way may be more prescriptive than a requirement to give effect to a policy which is worded at a higher level of abstraction.

(b) Secondly, the Court was persuaded that the preamble to the NPSET provides direction regarding how to give effect to the NPSET. The Court relevantly stated:⁷

the Supreme Court in *King Salmon* recorded that a national policy statement can provide that its policies are simply matters decision-makers must consider in the appropriate context, and give such weight as they consider necessary. The [preamble of the] NPSET so provides and the Minister has not sought to amend the preamble since the *King Salmon* [decision] was released.

(c) Thirdly, the NPSET and the NZCPS derive from different sections of the RMA, being sections 45 and 56, respectively. The Court stated that the different wording in these sections suggests that that "the [NZCPS] is intended to give effect to the Part 2 provisions in relation to the coastal environment],

4 [2017] NZHC 281.

5 As summarised at [83].

6 At [78].

7 At [82].

whereas any other NPS contains provisions relevant to achieving the [RMA's] purpose".⁸

3.7 On this basis, the Court reached an overall conclusion as follows:⁹

the NPSET is not as all embracing of the Resource Management Act's purpose set out in s 5 as is the New Zealand Coastal Policy Statement. In my judgment, a decision-maker can properly consider the Resource Management Act's statutory purpose, and other Part 2 matters, as well as the NPSET, when exercising functions and powers under the Resource Management Act. They are not however entitled to ignore the NPSET; rather they must consider it and give it such weight as they think necessary.

3.8 As an example of how such wording can be interpreted, the Court specifically commented that Policy 10 is "relatively prescriptive".¹⁰ This is because, despite the proviso "to the extent reasonably possible", the policy uses the word "must". The Court concluded that "a mandatory requirement to ensure that an asset of national significance is not compromised is, in my judgment, a relatively strong directive".

3.9 In the context of appeals on the Proposed Queenstown District Plan that triggered consideration of the NPSET, the Environment Court issued a minute on 18 October 2021 commenting on proposed plan provisions that selectively adopted particular wording from the relevant RPS and NPSET provisions. The Court note that giving effect to higher order documents is not the same as simply using the same words, and also indicated that favourable provision for infrastructure can be justifiable in terms of section 32 of the RMA:

[28] Parties will be aware that giving effect to a Higher Order Instrument is not equated with simply using the same words. My observation of selectivity does not imply favourable provision for infrastructure is not justifiable. However, it must be justified, including in terms of s32, RMA, at least insofar as appeals seek change to the status quo PDP. ...

8 At [83].

9 At [84].

10 At [85].

4. THE PANEL SHOULD GIVE SIGNIFICANT WEIGHT TO THE NPSET

4.1 For the following reasons, it is submitted that the Panel should accord the NPSET significant weight and ensure that there is clear strategic direction in the Waimakariri District on providing for the National Grid.

4.2 Firstly, the NPSET provides for the National Grid as a matter of national significance. This is a weighty factor that cannot be ignored. Even if the Panel concludes that the NPSET's directiveness must be weighed against other matters under Part 2, it still requires a strong level of protection of the National Grid.

4.3 Secondly, setting aside its elevated status under the RMA, the National Grid is essential infrastructure. New Zealand is reliant on electricity, and given New Zealand's dependence on electricity as a source of energy, the only alternative to a National Grid is for communities to generate their own electricity locally.

4.4 To put the matter into section 5 terms, managing the use, development and protection of the National Grid in a manner that ensures the sustainable, secure and efficient transmission of electricity will enable people and communities to provide for their wellbeing.

4.5 Thirdly, the NPSET is comprehensive in setting out a regime for environmental effects of the National Grid. It has clearly grappled with the way in which the Grid might affect other activities, as is apparent from the bullet points in the preamble. The operative provisions expressly provide guidance about how to approach the assessment of the National Grid's effects on other activities.¹¹ It should therefore be taken as the NPSET's direction about how those matters are to be addressed.

4.6 Fourthly, the case law cited above provides that the Panel must give consideration to how prescriptive each of the NPSET's policies are. Some of the policies are very directive and prescriptive, specifically policies 1, 2, 5 and 10. Where a policy is worded in a less prescriptive manner, it is submitted that it is entirely appropriate to accord that policy significant weight, so that the WPDP includes appropriate provisions to ensure the sustainable, secure, and efficient transmission of electricity.

11 See for example policies 3, 4, 5 and 6.

5. EFFECTS OF THIRD PARTY ACTIVITIES ON THE NATIONAL GRID

5.1 Policies 10 and 11 of the NPSET set out policies to avoid adverse effects on the National Grid. In particular these policies are as follows:

POLICY 10

In achieving the purpose of the Act, decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.

POLICY 11

Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its medium to long-term plans for the alteration or upgrading of each affected section of the national grid (so as to facilitate the long-term strategic planning of the grid).

5.2 In *Transpower v Auckland Council* the High Court considered policy 10 and found that it was “relatively prescriptive”:¹²

Policy 10, though subject to the “reasonably possible” proviso, is, in my judgment, relatively prescriptive. It requires that decision-makers “must” manage activities to avoid reverse sensitivity effects on the electricity transmission network, and “must” ensure that the operation, maintenance, upgrading and development of the electricity transmission network is not compromised. What is sought to be protected is the national electricity transmission grid – an asset which the NPSET recognises is of national significance. A mandatory requirement to ensure that an asset of national significance is not compromised is, in my judgment, a relatively strong directive.

¹² *Transpower v Auckland Council* at [85].

5.3 In light of the High Court’s direction that Policy 10 of the NPSET is a relatively strong directive, it is submitted that the Panel should ensure there is an equally strong directive in the WPDP on this matter.

5.4 Policy 11 also includes a mandatory directive which requires the decision maker to consult with Transpower in identifying an appropriate buffer corridor.

6. RELEVANCE OF NESETA

6.1 For completeness, we briefly address the relevance of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (**NESETA**).

6.2 The NESETA sets out a national regulatory framework for activities related to existing¹³ National Grid transmission lines, including the operation, maintenance and upgrading of such lines. The NESETA specifies permitted electricity transmission activities (subject to standards) and establishes resource consent requirements where these activities do not meet the standards.

6.3 The NESETA is relevant to decision making as the WPDP objectives and policies will apply to decision making on consents required under NESETA. As discussed by **Ms McLeod** in her evidence for Hearing Streams 1 and 2, Transpower seeks inclusion of an additional advice note in the ‘General Approach’ section of the WPDP to make it clear to plan users that NESETA contains separate regulations for the operation, maintenance, upgrading, relocation or removal of National Grid transmission lines that were operating, or able to be operated, on or prior to 14 January 2010, and that the WPDP will not apply to those activities.

6.4 Furthermore, section 43B(1) of the RMA states that a rule or resource consent that is more stringent than a national environmental standard will only prevail over the standard if the standard expressly says that a rule or consent may be more

¹³ 'Existing' here relates to transmission lines that were operational, or able to be operated, as at 14 January 2010.

stringent than it. The NESETA does not state that a rule or consent may be more stringent than it.

- 6.5** In the context of the Energy and Infrastructure provisions Transpower:
- (a) Supports the drafting of a number of rules on the basis that they are consistent with the NESETA;
 - (b) Proposes amendments to a number of rules to ensure consistency with NESETA; and
 - (c) Seeks the inclusion of advice notes that refer plan users to NESETA.

7. RELEVANCE OF THE NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY

7.1 In Minute 6 the Hearing Panel requested that the Council provide a memorandum setting out its understanding of the requirements of the National Policy Statement for Indigenous Biodiversity (**NPSIB**), and its implications for the WPDP. For completeness we have briefly discussed the relevance of the NPSIB to the National Grid as part of the Panel’s consideration of the WPDP.

7.2 The NPSIB came into force on 4 August 2023. It ensures there is consistency across local authorities in their approaches to their “policies, plans and strategies to maintain indigenous biodiversity”.¹⁴

7.3 However, the NPSIB explicitly does not apply to the National Grid. Clause 1.3(3) of the NPSIB states:

Nothing in this National Policy Statement applies to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities. For the avoidance of doubt, renewable electricity generation assets and activities, and electricity transmission network assets and activities, are not “specified infrastructure” for the purposes of this National Policy Statement

¹⁴ Ministry for the Environment – Manatū mō te Taiao *National Policy Statement for Indigenous Biodiversity: General Summary* (INFO 1159, July 2023) at 5.

7.4 Instead of applying the NPSIB to National Grid assets, it is intended that this will be addressed by the updates that are being made to to the National Policy Statement for Renewable Electricity Generation, the NPSET, and the NESETA.¹⁵ It is currently unclear when any update to the NPSET or the NESETA will be released.

7.5 The NPSIB is therefore not of direct relevance to the Panel in relation to the WPDP provisions that will apply to the management of indigenous biodiversity and electricity transmission. Transpower understands that its submissions that relate to the “Ecosystems and Indigenous Biodiversity” chapter will be addressed in Hearing Stream 11. However we have signalled the application of the NPSIB to the National Grid as part of this hearing stream as there is a relationship between the “Ecosystems and Indigenous Biodiversity” provisions and the “Energy and Infrastructure” provisions. The relationship between the Energy and Infrastructure provisions and the balance of the WPDP is discussed in **Ms McLeod’s** evidence from paragraph [6.5].

8. RELEVANCE OF CANTERBURY REGIONAL POLICY STATEMENT 2013

8.1 Under section 75(3)(c) of the RMA, a District Plan “must give effect to any regional policy statement”, including the Canterbury Regional Policy Statement 2013 (CRPS). The term ‘give effect’ is a strong statutory directive. It places a firm obligation on WDC in respect of the WPDP’s content.

8.2 This means that the wording of each policy is key to determining what the WPDP must include to give effect to the NPSET.

8.3 Policy 16.3.4 of the CRPS is specific to the National Grid, and is as follows:

To encourage a reliable and resilient national electricity transmission network within Canterbury by:

¹⁵ At 5.

1. having particular regard to the local, regional and national benefits when considering operation, maintenance, upgrade or development of the electricity transmission network;
2. avoiding subdivision, use and development including urban or semi urban development patterns, which would otherwise limit the ability of the electricity transmission network to be operated, maintained, upgraded and developed;
3. enabling the operational, maintenance, upgrade, and development of the electricity transmission network provided that, as a result of route, site and method selection, where;
 - a) the adverse effects on significant natural and physical resources or cultural values are avoided, or where this is not practicable, remedied or mitigated; and
 - b) other adverse effects on the environment are appropriately controlled.”

9. RELIEF SOUGHT BY TRANSPOWER IN RELATION TO HEARING STREAM 5

- 9.1** Given the high degree of support for Transpower’s relief, these submissions focus on the relief that has not been accepted by the reporting officer, or where other submitters have sought relief that Transpower opposes. **Ms McLeod** has comprehensively addressed the revised relief Transpower is seeking in her evidence, these submissions therefore only discuss the relief Transpower is seeking on an exceptions basis. Transpower continues to seek the remainder of its relief.

Relationship of the Energy and Infrastructure chapter with other chapters in the WPDP

- 9.2** Section 6 of **Ms McLeod’s** evidence deals with Transpower’s submission points which clarify the relationship between the Energy and Infrastructure chapter and other chapters in the WPDP. Transpower supports the amendments proposed by Ms McLeod as it considers that they provide clarity in the application of the WPDP provisions.

9.3 Further to the statement at paragraph 6.5(d) in **Ms McLeod's** evidence, the Court of Appeal has expressed the principle that the objectives and policies in a plan must be read as a whole as follows:

Consent authorities are used to the approach that is required in assessing the merits of an application against the relevant objectives and policies in a plan. What is required is what Tipping J referred to as "a fair appraisal of the objectives and policies read as a whole"¹⁶

9.4 Transpower therefore agrees with the proposed deletion of (2) from the "How to interpret and apply the rules" provision.

Policy EI-P5: Managing adverse effects of energy and infrastructure

9.5 At paragraph [8.1] of her evidence **Ms McLeod** states that Transpower seeks amendments to Policy EI-P5 to give effect to the NPSET, or to ensure consistency with the NESETA. We refer the Panel to the earlier discussion in these submissions as to the relevance of those documents for its decision making.

9.6 The amendments Transpower is seeking have largely been picked up in the proposed drafting set out in the Officer's Report with one exception. As explained by Ms McLeod, Transpower opposes the deletion of the application of subparagraph (3) to "new" regionally significant infrastructure. The amendment Transpower seeks is as follows:¹⁷

3. outside of the coastal environment, **new** regionally significant ~~new energy and~~ infrastructure, or major upgrades to existing regionally significant energy and infrastructure, should, to the extent ~~considered practicable~~, ensure that the route or site is located outside of the following types of sensitive environments to protect such environments from significant adverse effects, taking into account the constraints imposed by the functional need or operational need of the energy and infrastructure:

a. ONF, ONL and SAL;

16 *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 at [73].

17 We note that the deletion of the word "and" was not shown in Ms McLeod's evidence but is an editorial change that appears to be needed.

- b. areas of ONC, VHNC and HNC, and natural character of scheduled freshwater bodies setbacks;*
- c. SNAs;*
- d. buildings, other structures and settings with heritage values, and archaeological sites;*
- e. SASM;*
- f. ~~places adjoining the coastal marine area;~~ ...*

9.7 The Reporting Officer relies on Forest & Bird’s submission (192.39) to delete the reference to “new” from (3). This seems to be on the basis of the following general relief sought “Reduce the scope of infrastructure in this policy to limit the types of infrastructure that can avail themselves of EI-P5(3) & (4) or delete (5).” This relief is non-specific and it is therefore unclear the types of infrastructure that Forest & Bird was seeking to limit the application of Policy EI-P5 to.

9.8 Given the direction in the NPSET, in my submission it would not be appropriate to limit the application of Policy EI-P5 in relation to the National Grid.

9.9 Transpower considers that including reference to “new” better aligns with the NPSET (including Policies 2, 3, and 8). It also better reflects the fact that the route and site selection process is focused on new rather than existing lines. The NPSET essentially acknowledges that the National Grid is linear infrastructure and therefore sometimes needs to be located in sensitive locations. However, the policy direction proposed in Policy EI-P5 requires “*to the extent practicable, ensure that the route or site is located outside of the following types of sensitive environments....*” Transpower submits that this policy appropriately directs consideration of constraints when undertaking route selection for new National Grid assets.

Rule EI-R51: Activities and development (other than earthworks) within a National Grid Yard

9.10 The Officer’s Report supports the relief sought by Transpower in its submission in relation to this rule. Transpower supports that position for the reasons set out in its submission, and in the evidence of **Ms McLeod** (section 11) and **Mr Shortland-Witehira** (sections 7 – 11).

- 9.11** Horticulture New Zealand (295.80), Kāinga Ora (325.45) and Federated Farmers of New Zealand (414.80 and 414.81) all seek amendments to enable, or reduce restrictions on, development within the National Grid Yard.
- 9.12** The National Grid Yard is put in place to manage the potential effects of third parties on the National Grid, and to ensure the safety of third parties in relation to the risks associated with the National Grid. **Mr Shortland-Witehira's** evidence comprehensively explains the evidential need for these restrictions.
- 9.13** In her planning evidence on behalf of Kāinga Ora, Ms Clare Dale has queried whether the provisions in Rule EI-R51 duplicate, or are otherwise required given the application of NZECP 34:2001.¹⁸ In response I note that section 11 of **Mr Shortland-Witehira's** evidence sets out the purpose and limitations of NZECP 34:2001. Of particular relevance NZECP 34:2001 does not seek to protect the integrity of the National Grid from the effects of third parties, nor does it prevent development from occurring under the transmission lines. It is therefore not an adequate regulatory tool to address the effects of third parties on the National Grid.
- 9.14** Ms Dale has queried the restriction on non-sensitive activities such as fences establishing within the National Grid Yard. The effects on Transpower of these activities establishing within the National Grid Yard and the potential risks associated with those activities are discussed by **Mr Shortland-Witehira**.¹⁹
- 9.15** With reference to the discussion in sections 3-5 and 8 of these submissions, Rule EI-R51 gives effect to Policies 10 and 11 of the NPSET, Policy 16.3.4 of the CRPS and Policy EI-P6 of the WPDP (as supported by Transpower). The drafting set out in the Officer's Report should therefore be preferred over that sought by the submitters identified at paragraph 9.11.

10. THE NATIONAL GRID AS AN OPEN ACCESS GRID

- 10.1** We are aware that in previous hearing streams Transpower has been asked about its obligations to connect new generation to the National Grid. As the owner and operator of the National Grid, Transpower has a practical monopoly over electricity

¹⁸ Refer to the discussion beginning at [4.48]

¹⁹ For example refer to [6.66], [8.2], [8.6], [8.9], [8.11], [8.12].

transmission services in New Zealand. In order to ensure that a competitive electricity market is being maintained and nurtured, Transpower operates the National Grid on the principle that “as a regulated monopoly Transpower is required to provide open access connections to New Zealand’s power system” (**open access principle**).²⁰ Taking a different approach may mean that Transpower could be accused of interfering with the electricity industry by determining which generation activities can be developed.

10.2 In practice, this means that Transpower is not always aware of where future electricity generation is being planned as the location is determined, in the first instance, by the generators.

11. WITNESSES

11.1 Transpower has filed evidence from the following witnesses in support of its submission and further submissions in relation to Hearing Stream 5:

- (a) **Mr Jordan Shortland-Witehira**: engineering evidence; and
- (b) **Ms Ainsley McLeod**: planning evidence.

14 August 2023

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²⁰ “Our connection process” Transpower <[Our connection process | Transpower](#)>