

Before the Hearing Panel – Proposed Waikato District Plan

Under The Resource Management Act 1991 (the Act)

In the matter of Proposed Waikato District Plan
- Hearing 21a: Significant Natural Areas

Between Waikato District Council

Local Authority

And Transpower New Zealand Limited

Submitter S576 and Further Submitter FS1350

Statement of evidence of Pauline Mary Whitney

Dated 28 October 2020

Qualifications and Experience

- 1 My qualifications and experience are set out in my Infrastructure Chapter Primary Evidence (Hearing 22) and I do not repeat these in my Hearing 21a: Significant Natural Area (“**SNA**”) evidence.
- 2 I have been engaged by Transpower New Zealand Ltd (“Transpower”) to prepare this planning evidence, having assisted Transpower in its original and further submission to the proposed Waikato District Plan (“**PWDP**”) and appearing at Hearing 22: Infrastructure.

Code of Conduct

- 3 While this is a council hearing, I have read the Environment Court’s Code of Conduct for Expert Witnesses, and I agree to comply with it. My qualifications as an expert are set out in my Hearing 22: Infrastructure Chapter Primary Evidence. I confirm that the issues addressed in my brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

- 4 My evidence will address key submission points for Hearing 21a being:
 - 4.1 The relationship of Chapter 3 Natural Environment to Chapter 6 Infrastructure;
 - 4.2 Acceptance of the definition of *Significant Natural Areas*;
 - 4.3 Amendment to Objective 3.2.1 to delete reference to ‘*enhanced*’;
 - 4.4 Amendment to Policy 3.2.3 to apply the policy hierarchy to ‘more than minor’ as opposed to all and any adverse effects, and clarification that offsetting is a consideration consistent with Policy 3.2.4;
 - 4.5 Acceptance of the S42A recommended amendments to Policy 3.2.4 and 3.2.6; and
 - 4.6 While out of scope of the Transpower submission, some suggested refinements to Policy 3.1.2A to provide clarity to the policy.

The National Grid and Transpower’s Assets in the Waikato District

- 5 As outlined in my Hearing 22: Infrastructure Primary Evidence, Transpower owns and

operates the National Grid, which transmits electricity throughout New Zealand from energy generation sources to distribution networks and direct-connect customers. Within the Waikato Region, Transpower's assets include a number of transmission lines and associated infrastructure such as substations.

- 6 The need to operate, maintain, upgrade and develop the electricity transmission network is recognised as a matter of national significance through the National Policy Statement on Electricity Transmission 2008 ("NPSET"). This significance applies universally across the country regardless of the nature of the specific National Grid asset.

Key Submission Points for Hearing 21a

- 7 Transpower lodged 3 original and 5 further submission points to PWDP Chapter 3: *Section 3.2 Significant Natural Areas*.

Relationship of Chapter 3 to Chapter 6 Infrastructure

- 8 Given Chapter 3 applies in addition to Chapter 6 Infrastructure, the provisions within Chapter 3 are of relevance to Transpower. By way of background, the Infrastructure objectives and policies within Chapter 6 Infrastructure – Section 6.2, and in particular policy 6.2.5¹, provide a specific policy framework for the (upgrade and development) of the National Grid within SNAs in rural areas. The Section 42A Report to Chapter 6 clarified the relationship between Chapters 3 and 6 with recommended text to the introduction to Chapter 14 to state that Chapter 3 will apply to infrastructure activities. As an aside, I suggest the placement of the reference within Chapter 14 would be better placed in Chapter 6 (as the reference relates to the policy framework and not the rules),

¹ (Changes recommended by the s42A Officer are identified in red, and outstanding changes sought in my Hearing 22 evidence identified in green):
6.2.5 Policy – Environmental effects
(a) Manage the environmental effects of the development or upgrades (other than minor upgrades) of the National Grid, by:
(i) Recognising and providing for the national, regional and local benefits of sustainable, secure and efficient electricity transmission;
(ii) Considering the extent to which any Avoiding, remedying or mitigating adverse effects through consideration of have been avoided, remedied or mitigated by the route, site and method selection;
(iii) Seeking to rReduce the existing adverse effects as part of any substantial upgrade;
(iv) Considering the effects on urban amenity (including town centres), areas of high recreational or amenity value and existing sensitive land uses; and
(v) Within urban environments, aAddressing the adverse effects on any heritage values, cultural values, outstanding-natural-landscapes, areas-of-high-natural-character, town centres, areas of high recreation value and existing sensitive activities including the avoidance of adverse effects where practicable.
(vi) Within rural environments, seeking to avoid adverse effects on identified heritage values, cultural values, outstanding natural landscapes, outstanding natural features, significant natural areas, significant amenity landscapes, areas of outstanding or high natural character, areas of high recreation value and existing sensitive activities.
In the event of any conflict with any other objectives and policies in the plan relating to the values, features and areas listed above, Policy 6.2.5 takes precedence.

however that is a drafting matter best addressed by Council.

- 9 As noted above, Policy 6.2.5(v) provides a specific policy framework for the National Grid in SNAs within rural areas. As outlined in my evidence to Chapter 6 Infrastructure: Hearing 22, Transpower is supportive of Policy 6.2.5 (as recommended to be amended through S42A evidence and rebuttal evidence) but I remain supportive of a policy weighting reference to be inserted to Policy 6.2.5 to clarify that while other objectives and policies are to be considered, Policy 6.2.5 takes precedence. The policy guidance would in my opinion give effect to the NPSET.
- 10 Notwithstanding the insertion of the policy weighting reference to Policy 6.2.5, I support amendments to Chapter 3 as outlined below.

Chapter 3

- 11 As noted in paragraph 7, Transpower lodged 3 original² and 5 further submission points³ to Chapter 3. The submission points relate to Objective 3.2.1 and Policies 3.2.3, 3.2.4, 3.2.6, and the definition of *Significant Natural Area*. I comment on each of the PWDP provision in turn.

Definition of Significant Natural Area

- 12 In its submission Transpower supported the definition of *Significant Natural Area* being those areas identified on the planning maps. The S42A Report⁴ recommends the definition be amended such that a SNA is either represented on the Planning Maps or meets one or more of the criteria in Appendix 2. While I understand the reasoning behind the recommendation and alignment with Waikato Regional Policy Statement 2016 (“RPS”) Method 11.2.4, I would like to highlight the challenges of unidentified SNAs for a linear asset such as the National Grid which can involve large scale projects and require assessment across an extensive area for both new development and upgrades, as well as the operation and maintenance of existing assets. In response to the amended definition, in my opinion the ‘seek to avoid’ policy approach and policy weighting reference outlined in paragraph 9 above is of even greater significance in order to ensure the PWDP gives effect to the NPSET.

² 576.5, 576.6, 576.47

³ FS1350.2, FS1350.3, FS1350.4, FS1350.5, FS1350.6

⁴ Section 42A Report, Hearing 21a, Part 2 – Rules, paragraph 690.

Objective 3.2.1 – Significant Natural Areas

- 13 Transpower further submitted⁵ in support of the Meridian Energy Limited point 580.12 to remove the word ‘enhance’ from the objective. The S42A Report recommends the point be rejected.
- 14 I support deletion of the reference within the objective on the basis:
- (i) Section 6(c) of the RMA requires protection, not enhancement.
 - (ii) Policy 11.2.26 of the RPS references ‘protection’ in respect of significant indigenous vegetation (which one presumes would be SNAs) with no requirement for enhancement. The requirement for ‘maintain or enhance’ provided within RPS Policy 11.1 is in relation to indigenous biodiversity generally and not specific to SNAs or vegetation of significance. PWDP Objective 3.1.1 relates to indigenous biodiversity generally, requires maintenance or enhancement, and therefore gives effect to the RPS, unlike PWDP Objective 3.2.1 which relates to SNAs.
- 15 Based on the above, deletion of ‘enhancement’ from Objective 3.2.1 would be consistent with the RMA and RPS. I therefore support the sought deletion as follows: (changes sought in this evidence identified in green):

3.2.1 Objective – Significant Natural Areas

(a) Indigenous biodiversity in Significant Natural Areas is protected ~~and enhanced~~.

Policy 3.2.3 – Management Hierarchy

- 16 Transpower submitted⁷ in support of Policy 3.2.3. In particular Transpower supported the reference to ‘*unless specific activities need to be enabled*’. In its further submission Transpower supported the sought reference to compensation.
- 17 The Section 42A Report recommends significant amendments to Policy 3.2.3⁸. Of

⁵ FS1350.3

⁶ Policy 11.2 Protect significant indigenous vegetation and significant habitats of indigenous fauna

⁷ 576.5 and FS1350.4

⁸ Policy 3.2.3 Management hierarchy (relates to SNA) (Changes recommended by the s42A Officer are identified in red.):
(a) Recognise and protect indigenous biodiversity within Significant Natural Areas by:
(i) avoiding the ~~significant~~ adverse effects of vegetation clearance and the disturbance of habitats ~~unless specific activities need to be enabled~~
(ii) remedying any effects that cannot be avoided; then
(iii) mitigating any effects that cannot be remedied; and
(iv) after remediation or mitigation has been undertaken, offset any significant residual adverse effects in accordance with Policy 3.2.4.
(v) If offsetting of any significant residual adverse effects in accordance with Policy 3.2.4. are not feasible then economic

particular relevance to Transpower are the recommended amendments to clause (i). My response to the recommended amendments is as follows:

- On the basis the National Grid policy framework within Section 6.2 of the WPDP, and in particular Policy 6.2.5 (as amended through hearing evidence⁹) and the recommended clause (iv) to Policy 3.2.6 (discussed below in paragraph 19), are retained, I am not opposed to recommended Policy 3.2.3. Section 6.2 gives effect to the NPSET and as outlined in my Hearing 22: Infrastructure hearing evidence, in my opinion it is an appropriate policy framework. However, should further changes be made to Section 6.2, I would seek amendment to Policy 3.2.3 to give effect to the NPSET.
- Notwithstanding my neutrality on recommended policy 3.2.3, I would support the following amendments to clarify the interpretation and application of the policy:

17.1 Acknowledging the S42A Report recommended deletion of the word 'significant' (which I agree reflects the policy framework within the RPS), I am of the opinion the policy would benefit from some context around the nature of effects to be avoided. As recommended, the policy would capture all effects in a SNA. I would support an approach as recommended in Greater Wellington Proposed Natural Resources Plan (decision version)¹⁰ which features the wording "more than minor adverse effects" to provide some context to the policy. The insertion of such a reference would also give effect to Policy 11.2 of the RPS as outlined

compensation may be considered.

⁹ (Changes recommended by the s42A Officer are identified in red, and outstanding changes sought in my Hearing 22 evidence identified in green):
6.2.5 Policy – Environmental effects
(a) Manage the environmental effects of the development or upgrades (other than minor upgrades) of the National Grid, by:
(i) Recognising and providing for the national, regional and local benefits of sustainable, secure and efficient electricity transmission;
(ii) Considering the extent to which any Avoiding, remedying or mitigating adverse effects through consideration of have been avoided, remedied or mitigated by the route, site and method selection;
(iii) Seeking to rReduce the existing adverse effects as part of any substantial upgrade;
(iv) Considering the effects on urban amenity (including town centres), areas of high recreational or amenity value and existing sensitive land uses; and
(v) Within urban environments. aAddressing the adverse effects on any heritage values, cultural values, outstanding natural landscapes, areas of high natural character, town centres, areas of high recreation value and existing sensitive activities including the avoidance of adverse effects where practicable.
(vi) Within rural environments, seeking to avoid adverse effects on identified heritage values, cultural values, outstanding natural landscapes, outstanding natural features, significant natural areas, significant amenity landscapes, areas of outstanding or high natural character, areas of high recreation value and existing sensitive activities.
In the event of any conflict with any other objectives and policies in the plan relating to the values, features and areas listed above, Policy 6.2.5 takes precedence.

¹⁰ <http://pnrp.gw.govt.nz/assets/Uploads/Chapter-4-Policies-Appeal-version-2019-3-updated-for-consent-order-8-October-2020.pdf>, Policy 41.

in the accompanying explanation¹¹.

17.2 As a point of clarification, I note the S42A Report amended text retains the word 'significant' within clause (iv) and (v). I am not clear if this is the intent given the commentary in paragraphs 214-215 and 222 of the Section 42A Report. While I support in the first retention of 'significant', if it is to be deleted, I would support insertion of "more than minor" to reflect RPS Policy 11.2.2(d).

17.3 Amendment to clause (iv) to make it clear that offsetting is not mandatory. While I acknowledge Policy 3.2.4 applies, the inference within clause (iv) of Policy 3.2.3 is that offsetting is a requirement as opposed to an option able to be put forward by an applicant in accordance with s104(1)(ab) of the RMA.

18 Based on the above I would support amendment to Policy 3.2.3 as follows: (changes recommended by the s42A Report are identified in red, and those sought in this evidence identified in green), noting it is not clear if the word 'significant' within clause (iv) and (v) is intended to be retained by the s42A Reporting officer:

Policy 3.2.3 Management hierarchy

(a) Recognise and protect indigenous biodiversity within Significant Natural Areas by:

(i) avoiding ~~the significant~~ more than minor adverse effects of vegetation clearance and the disturbance of habitats ~~unless specific activities need to be enabled~~

(ii) remedying any more than minor effects that cannot be avoided; then

(iii) mitigating any more than minor effects that cannot be remedied; and

(iv) after remediation or mitigation has been undertaken, consider offsetting any significant (more than minor) residual adverse effects in accordance with Policy 3.2.4.

(v) If offsetting of any significant (more than minor) residual adverse effects in accordance with Policy 3.2.4. are not feasible then economic compensation may be considered.

¹¹ <https://www.waikatoregion.govt.nz/assets/WRC/Council/Policy-and-Plans/RPS-Regional-Policy-Statement/RPSv2018-PartB.pdf>

Page 11-6 Explanation Policy 11.2 addresses the requirements of s6(c) of the Resource Management Act to protect areas of significant indigenous vegetation and significant habitat of indigenous fauna in terrestrial, freshwater, coastal and marine environments. The policy and methods recognise that protection of these areas requires that the areas and the characteristics that deem them to be significant are identified, that identification should be carried out in a consistent manner across the region, and that protection will be achieved through both regulatory and non-regulatory methods. Protection of significant sites need not prevent their use where activities will not materially compromise the characteristics or values which deemed the site significant. The enhancement of ecosystem types as identified in Policy 11.1 also applies to significant indigenous vegetation and significant habitats of indigenous fauna in Policy 11.2.

Policy 3.2.4 – Biodiversity Offsetting

- 19 Transpower further submitted¹² supporting reference to compensation within Policy 3.2.4. I support the s42A Report recommendation.

Policy 3.2.6 – Providing for Vegetation Clearance

- 20 Transpower submitted¹³ seeking reference within Policy 3.2.6 to vegetation clearance associated with the operation maintenance and upgrading of infrastructure. The S42A Report recommendation to include the reference as clause (iv) is supported.

Additional Comments – Outside SNAs

Policy 3.1.2A – Management Hierarchy

- 21 New recommended Policy 3.1.2A applies to indigenous biodiversity outside SNAs. While Transpower did not submit on point 81.94 seeking a new policy on which Policy 3.1.2A is based and therefore technically Transpower does not have scope on the recommended policy, I would offer the following comments on the Section 42A Report recommended new policy 3.1.2A.
- Amend (a) to replace ‘recognise and protect’ with ‘enhance and protect’, thereby giving effect to RPS Policy 11.1 “Maintain or enhance indigenous biodiversity”.
 - Amend Clause (ii) and (iii) to preface the word ‘effects’ with ‘significant’, the purpose being to provide consistency with Clause (i) and (iv) and clarify the policy relates to significant, not all effects.
 - Amend clause (iv) to make it clear offsetting is not a requirement, rather can be offered by the applicant. While this is clarified within Policy 3.1.2.B, the inference in Policy 3.1.2A Clause (iv) is not clear. Insertion of the word ‘consider’ prefacing the works ‘offset’ may provide clarity.

Conclusion

- 22 Given Chapter 3 applies in addition to Chapter 6 Infrastructure the provisions within Chapter 3 are of relevance to Transpower. The Section 42A Report to Chapter 6 clarified the relationship between Chapter 6 and 3 with recommended text to the introduction to

¹² FS1350.5

¹³ 576.6 and FS1350.6

Chapter 14 to state that Chapter 3 will apply to infrastructure activities.

- 23 Policy 6.2.5(v) provides a specific policy framework for the National Grid in SNAs within rural areas. As outlined in my evidence to Chapter 6 Infrastructure: Hearing 22, Transpower is supportive of Policy 6.2.5 (as recommended to be amended through S42A evidence and rebuttal evidence) but I remain supportive of a policy weighting reference to be inserted to Policy 6.2.5 to clarify that while other objectives and policies to be considered, Policy 6.2.5 takes precedence.
- 24 Notwithstanding the insertion of the policy weighting reference to Policy 6.2.5, in my evidence I have suggested policy refinements to Chapter 3 provisions to largely clarify the intent and application of the provisions and give effect to the NPSET and the RPS.