



Mackenzie
DISTRICT PLAN REVIEW

TOMORROW'S MACKENZIE
KA AWATEA HŌU

Plan Change 26

Renewable Electricity Generation and Infrastructure Decision Report

31 July 2024

Table of Contents

1.	Purpose of Report	1
2.	Hearing and Submitters Heard	1
3.	Our Approach	2
3.1	Statutory Framework	2
3.2	Out of Scope Submissions	2
3.3	Section 32AA Assessments	3
4.	Uncontested Provisions	3
4.1	Assessment.....	3
5.	Relationship Between INF / REG Chapters and Other Chapters	4
5.1	Assessment.....	4
5.2	Decision.....	5
6.	Infrastructure (INF) Chapter - Introduction and General Submissions	5
6.1	Assessment.....	5
6.2	Decision	5
7.	INF Objectives	5
7.1	Assessment.....	5
7.2	Decision	5
8.	Policies INF-P2, INF-P3 and INF-P4	5
8.1	Assessment.....	5
8.2	Decision.....	5
9.	Policies INF-P5, INF-P6 and INF-P7	5
9.1	Assessment.....	5
9.2	Decision	6
10.	INF Rules	6
10.1	Assessment.....	6
10.2	Decision	6
11.	INF Standards and Matters of Discretion	6
11.1	Assessment.....	6
11.2	Decision	7
12.	REG Chapter – Introduction, Objectives and Policies.....	7
12.1	Assessment.....	7
12.2	Decision	7
13.	REG - New Policies.....	7
13.1	Assessment.....	7
13.2	Decisions	8
14.	All REG Rules.....	8
14.1	Assessment.....	8
14.2	Decision	9
15.	REG – Matters of Control or Discretion.....	9
15.1	Assessment.....	9
15.2	Decisions	9
16.	Definitions	9
16.1	Assessment.....	9
16.2	Decision	9
17.	Mapping	9
17.1	Assessment.....	9
17.2	Decision	10

Appendix 1: Amended Provisions (INF chapter; REG chapter; and EIB chapter)

Appendix 2: Amended Planning Maps

Appendix 3: Appearances and Tabled Evidence

List of submitters and further submitters addressed in this report:

Submitter Ref	Further Submitter Ref	Submitter Name	Abbreviation
1		Fire and Emergency New Zealand	FENZ
2		Chorus New Zealand Limited, Connexa Limited, Aotearoa Tower Group, One New Zealand Group Limited and Spark New Zealand Trading Limited	The Telcos
3		Department of Conservation	DOC
4		Helios Energy	Helios
5		Tekapo Landco Ltd & Godwit Leisure Ld	TLGL
6	FS9	Nova Energy	Nova
7	FS3	Transpower New Zealand Limited	Transpower
8	FS1	NZ Transport Agency NZTA	NZTA
9		Simpson Family Holdings Ltd	Simpson Family
10		Environmental Defence Society	EDS
12	FS11	Te Rūnanga o Ngāi Tahu	TRoNT
13		Forest and Bird	F&B
14		Ministry of Education	MoE
15	FS4	Genesis Energy Ltd	Genesis
16	FS10	Opuha Water Ltd	OWL
17		Alpine Energy Ltd	Alpine
18	FS2	Meridian Energy Ltd	Meridian
19	FS6	Canterbury Regional Council	CRC
21		Grampians Station Ltd	Grampians Station
22	FS7	New Zealand Defence Force	NZDF
23		Ant Frith	A. Frith
	FS5	Mackenzie Guardians Inc	
	FS8	Milward Finlay Lobb	MFL

Abbreviations used in this report:

Abbreviation	Full Text
CRPS	Canterbury Regional Policy Statement 2013
District Plan	Mackenzie District Plan
EIB chapter	Section 19 - Ecosystems and Indigenous Biodiversity
INF chapter	Infrastructure chapter
JWS	Joint Witness Statement
MDC	Mackenzie District Council
MDPR	Mackenzie District Plan Review
NESTF	National Environmental Standards for Telecommunication Facilities
NPSET	National Policy Statement on Electricity Transmission
NPSIB	National Policy Statement for Indigenous Biodiversity
NPSREG	National Policy Statement for Renewable Electricity Generation
NP Standards	National Planning Standards
PC	Plan Change
PC13	Plan Change 13 – Rural Zone – Mackenzie Basin
PC23	Plan Change 23 - General Rural Zone, Natural Features and Landscapes, Natural Character
PC24	Plan Change 24 - Sites and Areas of Significance to Māori
PC26	Plan Change 26 - Renewable Electricity Generation and Infrastructure
PC27	Plan Change 27 - Subdivision, Earthworks, Public Access and Transport
REG activities	Renewable electricity generation activities

Abbreviation	Full Text
REG chapter	Renewable Electricity Generation chapter
RMA	Resource Management Act 1991

1. Purpose of Report

1. Pursuant to section 43(1) of the Resource Management Act 1991 (RMA), the Mackenzie District Council (MDC) has appointed a combined Hearings Panel of four independent commissioners¹ to hear and decide the submissions and further submissions on “Plan Change 26 - Renewable Electricity Generation and Infrastructure” which forms part of the Mackenzie District Plan Review (MDPR).
2. The content of Plan Change 26 was set out in the MDC’s Overview Report², which was three pages long. We do not repeat that information here for the sake of brevity but note that the Overview Report is available on the MDC webpage.
3. This Decision Report sets out the Hearings Panel’s decisions on the submissions and further submissions received on Plan Change 26.
4. The initial Section 42A Report and the end of Hearing Section 42A Report (Reply Report) for PC26 were:
 - Section 42A Report: Plan Change 26 – Renewable Electricity Generation and Infrastructure, Report on submissions and further submissions, Author: Liz White, Date: 19 April 2024.
 - Section 42A Report: Plan Change 23 – Renewable Electricity Generation and Infrastructure, Reply Report, Author: Liz White, Date: 12 June 2024.
5. In our Minute 11 dated 6 May 2024 we posed a number of questions to Ms White. We received written answers to those questions³.
6. In addition, expert conferencing was undertaken between:
 - a. Liz White (consultant planner for MDC);
 - b. Sue Ruston (consultant planner for Meridian Energy Limited); and
 - c. Richard Matthews (consultant planner for Genesis Energy Limited).
7. The output of this conferencing was a Joint Witness Statement (JWS) on the provisions of PC26 (dated 30 May 2024).
8. The Hearing Panel’s amendments to the notified provisions of PC26 are set out in Appendix 1. The amended Decisions chapter is set out in Appendix 1 to the PC23 Decision. Amendments recommended by Ms White that have been adopted by the Hearing Panel are shown in ~~strike-out~~ and underlining. Further or different amendments made by the Hearing Panel are shown in **red font** as ~~strike-out~~ and underlining.

2. Hearing and Submitters Heard

9. There were 20 primary submissions and 11 further submissions on PC26. Further submissions are generally not discussed in this Decision because they are either accepted or rejected in conformance with our decisions on the original submissions to which they relate.
10. The Hearing for PC26 was held in Fairlie over the period Wednesday 22 to Friday 24 May 2024. The individuals we heard from are listed in Appendix 3. Three submitters tabled evidence but did not appear at the hearing and they are also listed in Appendix 3.
11. Copies of all legal submissions and evidence (either pre-circulated or tabled at the Hearing) are held by the MDC. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Decision. We record that we considered all submissions and further submissions, regardless of whether the submitter or further submitter appeared at the Hearing.
12. We received opening legal submissions from MDC’s legal counsel Michael Garbett who addressed the statutory framework, moving provisions from the operative PC13 into the proposed PC format; the scope of changes to definitions; the relationships between District Plan chapters; DOC’s submission relating to the

¹ Andrew Willis, Megen McKay, Rob van Voorthuysen and Ros Day-Cleavin.

² Mackenzie District Plan, Plan Change 26 – Renewable Electricity Generation and Infrastructure, Final for Notification, 4 November 2023.

³ PC26 Section 42A Report Author’s Response to Hearings Panel Questions.

status of Section 19 of the District Plan (the post-mediation version of the EIB chapter); and minor changes made under Clause 16 of Schedule 1 of the RMA.

13. We also received 'overview' evidence from Rachael Willox regarding the current stage of the MDPR, the PCs notified as part of Stage 3 of the MDPR and their integration with existing operative District Plan provisions. Michael McMillan spoke on behalf of Kati Huirapa (mana whenua) and AECL as the mandated regional entity on kaitiakitanga planning matters.
14. We note the tabled evidence from Hemi Bedggood (TRoNT Senior Environmental Advisor – Planning) dated 2 May 2024, which accepted the recommendations in the Section 42A Report relating to PC26, and did not consider it was pertinent to provide further evidence.

3. Our Approach

15. We have decided to structure this Decision in the following manner.
16. Ms White's initial Section 42A Report sequentially addressed the provisions in the MDP's proposed Infrastructure and Renewable Electricity Generation chapters. For the ease of readers of this Decision, we have adopted the same approach here and generally mimic the headings used in the initial Section 42A Report. However, given the significant changes recommended as a result of the expert conferencing and JWS (as set out in the Section 42A Reply Report), we have combined some sections for the REG chapter.
17. The submissions received on the provisions covered by each of these headings were summarised in the initial Section 42A Report. We adopt those summaries, but do not repeat them here for the sake of brevity.
18. Where, having considered the submissions and the submitter's evidence and legal submissions, we nevertheless accept Ms White's final recommendations, we state that we adopt her analysis and recommendations as our reasons and decisions. Where we disagree with Ms White's final recommendations, we set out our own reasons based on the evidence received and state our decisions on the relevant submissions.
19. The consequence of our approach is that readers of this Decision should also avail themselves of the Section 42A Reports listed in paragraph 4 above.

3.1 Statutory Framework

20. We adopt the statutory framework assessment set out in section 6 of the Section 42A Report. We note that assessment to be consistent with the framework described by Mr Garbett in paragraphs 4 to 14 of his opening legal submissions.

3.2 Out of Scope Submissions

21. We note, as set out in the initial Section 42A Report,⁴ that some provisions (REG-O3, REG-P2 and REG-P3) are from the Operative District Plan and were introduced by PC13 and that these provisions are to be carried over into the REG chapter but are not within the scope of PC26. We accept that any submission points received on these provisions are outside the scope of PC26. Consequently, we decline to consider these submission points.⁵
22. Similarly, with respect to submissions seeking changes to the definition of 'infrastructure', this definition was added through PC20 and is operative and it was not proposed to be amended through PC26, meaning that changes to it are outside the scope of PC26.⁶ Consequently, we decline to consider these submission points.⁷

⁴ PC26 Section 42A Report, paragraph 35

⁵ TRoNT (12.09)

⁶ PC26 Section 42A Report, paragraph 344

⁷ TLGL (5.01); Genesis (15.04); Meridian (18.04); NZDF (22.01); Nova (6.04); CRC (19.02); NZTA (8.01)

3.3 Section 32AA Assessments

23. Where we adopt Ms White's recommendations, we also adopt her s32AA assessments. For those submissions we are satisfied that Ms White's recommendations are the most appropriate option for achieving the purpose of the RMA, the relevant objectives of the District Plan and for giving effect to other relevant statutory instruments.
24. Where we differ from Ms White's recommendations, we are required to undertake our own s32AA assessment at a level of detail that corresponds to the scale and significance of any changes we recommend to the notified District Plan provisions. In that regard we are satisfied that any such amendments are a more efficient and effective means of giving effect to the purpose and principles of the RMA and the higher order statutory instruments, for the reasons we set out in this Decision.

4. Uncontested Provisions

4.1 Assessment

25. The table set out in paragraph 30 of Ms White's initial Section 42A Report listed provisions within PC26 which were either not submitted on, or any submissions received sought their retention. The table also listed the relevant submissions. We have decided to accept the submissions listed in this table and we do not discuss them further in this Decision. Consequently, the provisions listed in this table of the initial Section 42A Report are retained as notified (unless a clause 10(2)(b) or clause 16(2) change has been made to them).
26. Submissions on the following definitions were considered in the Decisions on either PC23, PC24, PC25, or PC27. We have considered those decisions on these definitions when assessing submissions on the District Plan provisions addressed in PC26.

Definition	Supporting Submissions
earthworks	Genesis (15.02), Meridian (18.02), OWL (16.01)
functional need	Genesis (15.03), Meridian (18.03), OWL (16.01)
National Grid yard	Transpower (7.04)
network utility operator	OWL (16.01)

27. We accept Ms White's recommendation that the definition of 'operational need' is applied throughout the Plan. We also accept Ms White's recommendation to make consequential amendments (largely deletions) to Section 3, Section 7 and Section 9, and to delete Section 16 (Utilities) in full because these existing rules are effectively superseded by the new REG Chapter and to retain them would result in confusion.

5. Relationship Between INF / REG Chapters and Other Chapters

5.1 Assessment

28. The Introduction to each of the INF and REG chapters sets out the relationship between the provisions in the INF / REG chapters, and those contained in other parts of the District Plan. We note that the relationship between the INF / REG chapters and other chapters was the topic of a number of submissions and that Ms White reconsidered her initial Section 42A Report recommendations as a result of the joint witness conferencing undertaken on the REG chapter.
29. Having considered the submissions received, evidence presented at the Hearing and the JWS, we accept Ms White's analysis and recommendations in her Reply Report, which includes:
 - a. amendments to both the REG and INF introductions;
 - b. shifting the rules relating to indigenous vegetation clearance into the INF chapter (as proposed standard INF-SX) and REG chapter (as activity standards in REG-R5 and REG-R6);
 - c. the proposed deletion of EIB Rule 1.2.4 (which covers the clearance of indigenous vegetation associated with new infrastructure); and
 - d. the proposed deletion of EIB Rule 1.2.5 (which covers the clearance of indigenous vegetation associated with investigation activities, Small-scale Renewable Electricity Generation Activities and the construction and operation of any new Renewable Electricity Generation Activities).
30. In Ms White's Reply Report, she explained that as a result of conferencing, the effect of Rule 1.2.5 (applying to REG activities) was changed, and limited to managing only significant indigenous vegetation and significant habitats of indigenous fauna, with clauses relating to this added to the relevant permitted activities in the REG chapter. However, Ms White did not consider there to be the same scope to change the effect of the infrastructure-related clearance rule (i.e. proposed Rule 1.2.4), and she noted that all infrastructure is not subject to a national policy statement in the same way that all REG activities are. Therefore, Ms White did not recommend limiting the rule to be shifted into the INF chapter to significant indigenous vegetation and significant habitats of indigenous fauna only.
31. We agree with Ms White that the effect of Rule 1.2.5 (applying to REG activities) should be limited to managing only significant indigenous vegetation and significant habitats of indigenous fauna for the reasons she provided. However, we note that for the INF chapter, the proposed approach could require most new non-REG infrastructure to obtain a resource consent as there is no threshold applying to indigenous vegetation clearance. In practice, this could mean that the clearance or destruction of a single plant could trigger a resource consent requirement. We consider this to be onerous, especially as the indigenous vegetation affected may be relatively common and not rare or threatened or significant. We note that INF-O2 seeks that the adverse effects of infrastructure on the surrounding environment are managed according to the sensitivity of the environment and that both INF-P5 and INF-P6 refer to significant indigenous vegetation and significant habitats of indigenous fauna, and that therefore there is no specific objective or policy support in the INF chapter for an approach addressing all indigenous biodiversity clearance regardless of scale and significance.
32. Whilst we consider the application of Rule 1.2.4 in the INF chapter (with the INF rules applying to all indigenous vegetation and all habitats of indigenous fauna) is likely to be unworkable, after careful consideration we do not believe we have the scope to amend the INF chapter under the lodged submissions (including under Schedule 1, clause 10(2)(b)) and therefore recommend the Council consider this matter in Stage 4 of the MDPR.
33. We record our finding that the approach taken to the MDPR is consistent with the NP Standards; namely the INF and REG chapters are standalone, with provisions across the remainder of the District Plan not applying to the activities addressed therein unless explicitly stated. We note that Ms White helpfully recommended the insertion of a Table into the Introduction sections of the INF and REG chapters that lists the provisions in other chapters that apply to infrastructure and renewable energy activities in addition to the INF and REG chapter provisions themselves.

5.2 Decision

34. We adopt Ms White's analysis and recommendations as our reasons and decisions on the relationship between the INF / REG chapters and other chapters. The amended INF and REG introductory text that covers the relationship between these chapters and other chapters is set out in Appendix 1 to this Decision.

6. Infrastructure (INF) Chapter - Introduction and General Submissions**6.1 Assessment**

35. Having considered the submissions received, evidence presented at the Hearing and noting our decision on the relationship between the REG / INF and other chapters considered above, we accept Ms White's analysis and recommendations on the INF introduction. We note that in our Decision on PC24 we accepted the PC24 Section 42A report author's recommendation to amend the definition of 'sensitive area' by removing the reference to Māori Rock Art Protection Areas.⁸ We confirm this remains appropriate in light of our Decision on the INF chapter.

6.2 Decision

36. We adopt Ms White's analysis and recommendations as our reasons and decisions on the introduction and general submissions. The amended introductory text is set out in Appendix 1 to this Decision.

7. INF Objectives**7.1 Assessment**

37. Having considered the submissions received and evidence presented at the Hearing, we concur with Ms White's analysis and recommendations on the INF objectives.

7.2 Decision

38. We adopt Ms White's analysis and recommendations on the INF objectives as our reasons and decisions. The amended INF Objectives are set out in Appendix 1 to this Decision.

8. Policies INF-P2, INF-P3 and INF-P4**8.1 Assessment**

39. Having considered the submissions received and evidence presented at the Hearing, we concur with Ms White's analysis and recommendations on these INF policies. We agree that retaining the word 'minor' in INF-P2 is appropriate given the way the rules are intended to apply to upgrades and the potential environmental effects that could occur from large upgrades. We agree with Ms White's proposed amendments to INF-P4 in her Reply Report in response to alternate wording for this policy provided in Ms McLeod's evidence.⁹

8.2 Decision

40. We adopt Ms White's analysis and recommendation on INF-P2, INF-P3 and INF-P4. The amended INF policies are set out in Appendix 1 to this Decision.

9. Policies INF-P5, INF-P6 and INF-P7**9.1 Assessment**

41. Having considered the submissions received and evidence presented at the Hearing, we concur with Ms White's analysis and recommendations on these INF policies. In our view it is appropriate to retain the references to "mitigating adverse effects" (in INF-P5(2) and (3)) and "significant adverse effects" (in INF-P5(4)) for the reasons Ms White provides. We also consider it appropriate that the exclusions in

⁸ Section 42A Report, PC24, paragraphs 47 and 65

⁹ Evidence of Ms McLeod for Transpower (13.04), dated 3 May 2024, paragraph 39

INF-P5 and INF-P7 for the National Grid are not extended to the State Highway network or to energy storage facilities¹⁰ given the specific requirements of the NPSET.

9.2 Decision

42. We adopt Ms White's analysis and recommendation as our reasons and decision for INF-P5, INF-P6 and INF-P7. The amended INF polices are set out in Appendix 1 to this Decision.

10. INF Rules

10.1 Assessment

43. Having considered the submissions received and the evidence presented at the Hearing, we accept Ms White's analysis and recommendations on the INF rules. We note the evidence of Julia Crossman for Opuha Water Ltd (OWL) (16.16) seeking further activity standards for new buildings and structures being included in INF-R3,¹¹ however we agree with Ms White that new buildings and structures are covered by INF-R6 which already contains these standards.¹²

44. With regard to Alpine's (17.17) request that INF-R8 is amended so that undergrounding of lines is not required in Rural Lifestyle or Industrial zones, Ms White revisited this matter in her Reply Report.¹³ We accept Ms White's assessment and conclusions that the proposed requirement is a continuation of the Operative District Plan's approach, that undergrounding electricity lines in the RLZ will not have unreasonable costs, and that requiring undergrounding in industrial zones is appropriate as they are urban areas, and in Takapō and Twizel they sit alongside an ONL.

45. We have already addressed the proposed inclusion of standard INF-SX for indigenous vegetation clearance associated with new infrastructure in our assessment of the relationship of the INF chapter to other chapters. In her Section 42A Reply Report version of the INF chapter, Ms White has proposed including INF-SX as a standard in rules that cover new or upgraded infrastructure that could involve indigenous vegetation clearance, but not those related to the National Grid. We accept this approach.

46. We considered whether INF-R2 (minor upgrading of above ground infrastructure) should also require assessment against INF-SX. INF-R2(1) covers the realignment, reconfiguration, relocation or replacement of infrastructure components while INF-R2(5) covers footprints of replacement towers. Both could result in indigenous vegetation clearance and neither requires an assessment of adverse effects on indigenous vegetation (under INF-MD1 Scale, Location and Design of Infrastructure). However, we note that INF-R2 is consistent with the operative EIB chapter as it excluded Rule 16.1.1J (utilities) from application of the EIB chapter, and therefore we have continued this approach.

47. We have however made Clause 16(2) amendments to include omitted references for non-compliance with the standards (in INF-R3 and INF-R4).

10.2 Decision

48. We adopt Ms White's analysis and recommendations on the INF Rules as our reasons and decisions. The amended INF rules are set out in Appendix 1 to this Decision.

11. INF Standards and Matters of Discretion

11.1 Assessment

49. Having considered the submissions received and the evidence presented we accept Ms White's analysis and recommendation on the INF standards and matters of discretion.

50. Regarding INF-S3 specifically, we note that in her Section 42A Reply Report Ms White assesses the evidence of Tom Anderson (for the Telcos (2.29))¹⁴ and agrees with amending the height limits in the GRUZ (outside an ONF/ONL) and for the LFRZ and TCZ zones, but not within the RLZ. In her view, these are smaller areas located adjoining urban areas, and the difference in the height limit between the urban zones

¹⁰ We also cover energy storage facilities in our decision on amending the definition of "infrastructure"

¹¹ Evidence of Ms Crossman for OWL (16.16), dated 3 May 2024, paragraph 5.39

¹² Section 42A Report, paragraph 144 and Section 42A Reply Report, paragraph 11

¹³ Section 42A Reply Report, paragraphs 12 to 17

¹⁴ Evidence of Mr Anderson for the Telcos (2.29), dated 3 May 2024, paragraphs 9 to 33

and the RLZ would be more pronounced (and where large trees are less likely to create an issue). Ms White also agrees with Mr Anderson's drafting changes to better manage antennas, as these changes do not result in an increase in height for them and instead are required to meet the height limit otherwise applying in the standard. This approach also aligns the size requirements with those set out in the NESTF. We accept Ms White's analysis and conclusions on INF-S3.

51. For completeness, as covered earlier under our assessment on the relationship between the INF / REG chapters and other chapters, we agree with the inclusion of new standard INF-SX for the management of indigenous vegetation clearance. We have also made clause 16(2) amendments to INF-S3 for greater clarity.

11.2 Decision

52. We adopt Ms White's analysis and recommendation as our reasons and decisions for the INF standards and matters of discretion. The amended INF Standards are set out in Appendix 1 to this Decision.

12. REG Chapter – Introduction, Objectives and Policies

12.1 Assessment

53. The REG chapter was the subject of expert conferencing, with a JWS produced on the provisions of PC26 (dated 30 May 2024). This JWS included a track changes version of the REG chapter, together with the consequential deletion of Rule 1.2.5 in the EIB chapter. The JWS has greatly assisted us in our deliberations and we thank the parties for their efforts with this.
54. In her Section 42A Reply Report, Ms White stated the JWS resolved all matters between those parties who provided planning evidence in relation to the provisions that Genesis and Meridian made submissions on. We accept the analysis and recommendations provided in the JWS.
55. In her Section 42A Reply Report, Ms White assessed those matters that EDS and F&B submitted on and whether these are addressed or not in the JWS version of the REG chapter. As set out in the Reply Report, these submissions relate to including environmental limits for indigenous biodiversity and applying all of the EIB section to both REG and the INF chapters. We agree with Ms White's analysis and recommendations that applying the proposed approach in the JWS version to significant indigenous vegetation and significant habitats of indigenous fauna is appropriate given the requirements in s6(c), s31(1)(b)(iii) and the direction in the NPSREG.
56. We have made a Clause 16(2) amendment to provide greater clarity by referring to the relevant EIB rules directly. We have also amended REG-PX to introduce subclauses for greater clarity.

12.2 Decision

57. We adopt Mr White's analysis and recommendations in her Section 42A Report and Section 42A Reply Report. The amended introduction, objectives and policies are set out in Appendix 1 to this Decision.

13. REG - New Policies

13.1 Assessment

58. F&B (13.05) seek that two new policies are added to the chapter which would limit solar generation and wind turbines. Genesis (15.20) and Meridian (18.38) seek that a new policy is added directing that the operation, maintenance and upgrade of the Waitaki Power Scheme is enabled, stating that REG activities within the existing footprint and core sites should be specifically enabled.
59. With regard to the F&B submission and their evidence presented at the Hearing, we accept Ms White's analysis of the NPSREG and CRPS and her reasoning that the new policies sought are not consistent with direction in these higher order documents, nor REG-O1.
60. With regard to the Genesis and Meridian requested new policy, we note that a corresponding new policy REG-PX is proposed in the JWS. We accept the reasoning provided in the JWS for this new policy and agree it is appropriate.

13.2 Decisions

61. We adopt Ms White's recommended amendments, and the reasons for those amendments. These amendments are set out in Appendix 1 to this Decision.

14. All REG Rules

14.1 Assessment

62. The expert conferencing and JWS also covered the rules in the REG chapter. In her Reply Report Ms White considered the matters that F&B and OWL submitted on and whether these are addressed or not in the JWS version of the REG chapter. We agree with Ms White's analysis and recommendations that applying the proposed JWS approach in the rules for significant indigenous vegetation and significant habitats of indigenous fauna is appropriate given the requirements in s6(c), s31(1)(b)(iii) and the NPSREG.

63. However, we do not agree with Ms White's analysis in response to OWL's (16.30) submission on REG-R2. As we understand it, OWL (16.03) sought that the definition of "upgrade" is extended to include new buildings and structures that may be required as part of an upgrade for the Opuha Dam. Alternatively, OWL (16.16) sought to enable new buildings to be constructed under INF-R3 by including a standard that any new building or structure shall comply with the height limit for the zone in which the activity is located. We note that in the INF chapter, minor upgrades in relation to the Opuha Dam are covered by INF-R3, while INF-R6 covers any infrastructure buildings or structures or accessory buildings not otherwise listed. We understand from Ms White's Section 42A Report that upgrades are works to existing buildings or structures and are covered under INF-R3,¹⁵ while wholly new buildings would be captured under INF-R6 which provides a permitted pathway for these, subject to standards. Turning to the REG provisions, similarly we understand that REG-R2 applies to upgrades of an existing hydroelectric power station and structures associated with the Opuha Scheme and does not anticipate new structures.¹⁶ However, there is no equivalent to INF-R6 in the REG chapter so we are unclear which rule would apply to wholly new buildings associated with the Opuha Scheme. It appears to us that if REG-R2 was limited to upgrading of existing structures then wholly new buildings would be restricted discretionary activities under REG-R7, unless they were captured under INF-R6 when not associated with renewable electricity generation activities.

64. In her analysis of OWL's (16.30) submission, Ms White considered that the addition of a condition to REG-R2 relating to new buildings or structures would conflict with the rule itself, which is limited to existing structures. We agree with her. Ms White goes on to say that should the Hearing Panel consider that REG-R2 should allow for new buildings and structures, that the limitations applying to these should align with INF-R6, and not simply the height limit of the zone.¹⁷ In response to Panel questions Ms Crossman clarified that OWL would accept applying all the standards of INF-R6 to new buildings and structures in the REG chapter, rather than just the height limit of the zone as requested in OWL's submission.

65. For clarity, we consider that a new rule (REG-R6A) is required in the REG chapter that replicates INF-R6 for wholly new buildings and structures. We consider that matter of discretion REG-MD1 (Existing Hydroelectric power) is sufficient for this new rule. We note that EIB Rules 2.1.1 and 2.2.1 (relating to the Waitaki Power Scheme and Opuha Scheme) will apply. Accordingly, the submission of OWL (16.30) is accepted.

66. We have also made some other changes to the REG rules (under clause 16(2)) for consistency of capitalisations. We have also corrected minor numbering errors in the additional provisions recommended by Ms White for REG-R5 and REG-R6.

Section 32AA

67. We adopt Ms White's s32AA assessment in her Section 42A Reply Report.¹⁸ However we consider the addition of REG-R6A provides clarity on how new buildings and structures are considered and gives effect to REG-O1 and REG-O2, and REG-P2 and REG-P3 and is a more efficient and effective means of giving

¹⁵ Section 42A Report, paragraph 361

¹⁶ Section 42A Report, paragraph 262

¹⁷ Section 42A Report, paragraph 262

¹⁸ Section 42A Reply Report, paragraphs 42 to 46

effect to the purpose and principles of the RMA and the higher order statutory instruments for the reasons we set out in this Decision.

14.2 Decision

68. We adopt Ms White's analysis and recommendations as our reasoning and decision, except where outlined above for new rule REG-R6A. The amended REG rules are set out in Appendix 1 of this Decision.

15. REG – Matters of Control or Discretion

15.1 Assessment

69. We adopt Ms White's analysis and recommendations as our reasoning and decision for submissions on the REG chapter's matters of control or discretion. In particular, we note and agree that as a result of the JWS a new matter of discretion (REG-MD5 Significant Vegetation and Habitats) is required. We also agree that REG-MD1.b should be deleted because this matter continues to be addressed in the rules in the EIB chapter. We also agree that with extending REG-MD3.d and REG-MD4.b to refer to "significant" residual adverse effects that cannot be avoided, remedied or mitigated.

15.2 Decisions

70. We adopt Ms White's recommended amendments, and the reasons for those amendments. These amendments are set out in Appendix 1 to this Decision.

16. Definitions

16.1 Assessment

71. Having considered the submissions received and evidence presented at the Hearing, we accept Ms White's analysis and recommendations regarding definitions. In particular, we note that the definition of "infrastructure" was added through PC20 and is operative and therefore agree it is out of scope and that submissions to include energy storage facilities within the infrastructure definition can be considered in Stage 4 of the MDPR.

72. We also agree that the definition of "Small-scale Renewable Electricity Generation" is generally consistent with that used in the NPSREG, and agree with the additional limits and greater clarity provided in the proposed definition. We agree that the electricity generation should be ancillary to the principal use of the site, and agree with a limit of 20 other sites that can be supplied with the electricity generated. We agree that these limits in the definition better manage potential adverse effects.

73. We also agree that the definition of "upgrade" need not include new buildings (OWL (16.03) given the approach to upgrades versus new buildings in the rules and our decision to include a new rule to cover new buildings and structures (in response to OWL (16.30)).

74. Regarding new definitions covering: "customer connections"; "minimise"; "Opuha Dam"; and "core sites" for the Waitaki Power Scheme, having considered the submissions received and the evidence presented at the Hearing, we accept Ms White's analysis and recommendations regarding these definitions.

16.2 Decision

75. We adopt Ms White's analysis and recommendations as our reasoning and decision.

17. Mapping

17.1 Assessment

76. Having considered the submissions received, we accept Ms White's analysis and recommendations regarding mapping. In particular, we note that PC26 does not propose any zoning and as such the zoning of roads sits outside the scope of PC26. We agree that the National Grid substations should be included on the planning maps to fully give effect to the NPSET. The amended planning maps are attached in Appendix 2.

17.2 Decision

77. We adopt Ms White's recommendations in her Section 42A Report as our reasons and decisions.¹⁹



Rob van Voorthuysen (Chair)



Megen McKay



Andrew Willis



Ros Day- Cleavin

¹⁹ Section 42A Report, paragraphs 389 and 390