
**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

ENV-2024-CHC-XXX

IN THE MATTER OF **of the Resource Management Act 1991**
AND IN THE MATTER OF **PROPOSED PLAN CHANGES 23-27 TO THE**
MACKENZIE DISTRICT PLAN
BETWEEN **MINISTER OF DEFENCE**
Appellant
AND **MACKENZIE DISTRICT COUNCIL**
Respondent

**MINISTER OF DEFENCE NOTICE OF APPEAL REGARDING DECISIONS ON
PROPOSED PLAN CHANGES 23-27 TO THE DISTRICT PLAN FOR THE MACKENZIE
DISTRICT COUNCIL**

16 September 2024

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TO: The Registrar
Environment Court
Christchurch

INTRODUCTION

1. The Minister of Defence (the **Minister**) appeals against parts of the decision by the Mackenzie District Council in respect of Proposed Plan Changes 23 to 27 (the **Proposed Plan Changes**). The Proposed Plan Changes include the addition of an Infrastructure chapter.
2. The Minister, through the New Zealand Defence Force (the **NZDF**), made a submission on 30 January 2024 seeking appropriate recognition of the Tekapo Military Training Area and defence facilities as “infrastructure” for the purposes of the Mackenzie District Plan.
3. A copy of that submission is included at **Appendix A**.
4. The Minister made a further submission on 1 March 2024. A copy of that further submission is included at **Appendix A**.
5. The Hearings Panel appointed by the Council to hear and make recommendations on submissions on the Proposed Plan Changes recommended that NZDF’s submissions seeking changes regarding infrastructure be declined. The Panel’s recommendations were accepted by the Council (the **Decision**).
6. A copy of the Decision is included as **Appendix B**.
7. The Minister is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).
8. The Minister received notice of the decisions on the Proposed Plan Changes on 5 August 2024.

REASONS FOR THE APPEAL

9. The reasons for the appeal are that the Decision does not promote the sustainable management of resources in accordance with section 5 of the RMA in that it:

- 9.1 does not manage the use, development, and protection of natural and physical resources which enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety, as required by section 5 of the RMA;
- 9.2 does not sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, as required by section 5 of the RMA;
- 9.3 does not promote the efficient use and development of natural and physical resources; and
- 9.4 does not represent the most appropriate way to achieve the objectives of the District Plan as required by section 32 of the RMA.

10. Without limiting the generality of paragraph 9, the Minister's specific reasons for appealing are that:

- 10.1 NZDF sought that the definition of "infrastructure" be amended to add "defence facilities". It also sought that the definition of "regionally significant infrastructure" be amended to add "defence facilities" or "the Tekapo Military Training Camp".
- 10.2 The Panel hearing considered NZDF's submissions regarding the definition of infrastructure as out of scope of the Proposed Plan Changes.¹ NZDF's submissions on the definition of infrastructure are not out of scope of plan changes 23 – 27. A determination as to scope (whether a submission is "on" the plan) is context dependent and must be analysed in a way that is not unduly narrow. The Proposed Plan Changes were adding a chapter specifically addressing infrastructure. Inevitably the definition of infrastructure is relevant to that chapter. Therefore, it was within scope that the definition of infrastructure applicable to the

¹ Decision Report Plan Change 26 at 3.2 (page 2) and 16.1 (page 9).

content of that chapter might need revision, including addition. Otherwise, there is a potential mismatch between the definition and the new chapter.

10.3 NZDF's submission also sought that the definition of "regionally significant infrastructure" be amended. The Decision rejected NZDF's submission regarding inclusion of "defence facilities" or "the Tekapo Military Training Camp" in the definition of "regionally significant infrastructure" but without specific mention or discussion.² The Decision adopts the s 42A report reasoning generally regarding definitions.³ Ms White's reasoning was that the defence facilities in the district are more akin to "activities" such as community facilities or education facilities than infrastructure activities.⁴

10.4 Defence facilities are not such activities. They are nationally and regionally significant infrastructure and are critical to enabling NZDF to meet Defence purposes set out in section 5 of the Defence Act 1990. Defence infrastructure is designated in relevant district plans and the Minister of Defence is a Requiring Authority. The Tekapo Military Training Area, which comprises a training area, the Camp and accommodation and utility buildings, is designated in the Mackenzie District Plan for defence purposes and is an integral part of the collective national infrastructure enabling NZDF to fulfil its statutory purpose. The Urban Development Act 2020 includes a definition of "nationally significant infrastructure" that includes land and airspace designated for defence purposes under the RMA. That is, the Tekapo Military Training Area is recognised as nationally significant in that legislation.

² Decision Report Plan Change 26 at 16.1, paragraph 71 (page 9).

³ Decision Report Plan Change 26 at 16.1 and 16.2, paragraphs 71 and 75, (page 9).

⁴ S 42A report at paragraph 344 c (page 66).

10.5 Throughout New Zealand, defence facilities are listed in planning documents as “critical infrastructure” (Christchurch DP) “important infrastructure” (Selwyn DP) “regionally significant” (Otago RPS), “physical resources of regional and national importance” (Manawatū-Whanganui RP). In particular, the Canterbury Regional Policy Statement (CRPS) includes defence facilities as strategic infrastructure⁵ and regionally significant infrastructure.⁶ Section 75 of the RMA requires the Mackenzie District Plan to give effect to the CRPS.

10.6 The Minister seeks similar recognition in the Mackenzie District Plan both to ensure the defence facilities are recognised as important infrastructure.

RELIEF SOUGHT

11. The Minister seeks the following relief:

11.1 To section 3 definitions, “infrastructure”, the addition of “defence facilities”.

11.2 To section 3 definitions, “regionally significant infrastructure”, the addition of:

i. Defence facilities including the Tekapo Military Training Camp.

12. Any such alternative or consequential amendments required to give effect to this relief.

13. The following documents are **attached** to this notice:

13.1 **Appendix A** - The submission and further submission on the Proposed Plan Changes

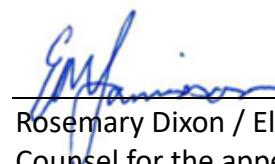
⁵ Canterbury Regional Policy Statement 2013 at page 251

⁶ At page 243 to 244

13.2 **Appendix B** – Mackenzie District Council Plan Change 26: Renewable Electricity Generation and Infrastructure Decision Report (2024)

13.3 **Appendix C** - names and addresses of persons served with this notice

16 September 2024



Rosemary Dixon / Eleanor Jamieson
Counsel for the appellant

This notice of appeal is filed by Eleanor Jamieson and Rosemary Dixon, solicitors for the appellant, of Crown Law.

The address for service of the appellant is Crown Law, Level 2, Justice Centre, 19 Aitken Street, Wellington 6011. Documents for service on the appellant may be left at this address for service or may be

- (a) posted to the solicitor at PO Box 2858, Wellington 6140; or
- (b) left for the solicitor at a document exchange for direction to DX SP20208, Wellington Central; or
- (c) emailed to the solicitors at Rosemary.Dixon@crownlaw.govt.nz and Eleanor.Jamieson@crownlaw.govt.nz



Submission on Mackenzie District Plan Changes 23-27 (Stage 3)

To: Mackenzie District Council
Attention: District Plan Review – Team Leader

Feedback provided by: New Zealand Defence Force
Contact Person: Rebecca Davies, Principal Statutory Planner, Defence Estate and Infrastructure

Address for Service: New Zealand Defence Force
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Attention: Mikayla Woods

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This is a submission on Mackenzie District Council's (MDC) notified Stage 3 District Plan review comprising Plan Changes 23 – 27. The proposed changes comprise:

- Plan Change 23 General Rural Zone, Natural Features and Landscapes, and Natural Character.
- Plan Change 24 Sites and Areas of Significance to Māori.
- Plan Change 25 Rural Lifestyle Zone.
- Plan Change 26 Renewable Electricity Generation and Infrastructure.
- Plan Change 27 Earthworks, Subdivision, Public Access and Transport.

NZDF has military interests throughout New Zealand. Within the Mackenzie District, NZDF operates the Tekapo Military Training Area (Tekapo Training Area) in the Mackenzie Basin. The Training Area is designated in the Mackenzie District Plan for defence purposes (designation reference 14). In its entirety, the Training Area is comprised of a training area and the Tekapo Military Camp (Camp) which contains various accommodation and utility buildings. Both the training area and the camp together comprise an important training facility which enables NZDF to meet its obligations under the Defence Act 1990.

Additionally, as discussed in the feedback provided for Stage Four of the District Plan review, NZDF undertakes temporary military training activities (TMTA) in the Mackenzie District. These training activities play a critical role in military training and in civil/national defence operations including providing for the wellbeing, health and safety of communities (including, but not limited to, search and rescue operations, disaster response and recovery and during storm and flood events).

NZDF has reviewed the proposed plan changes (23-27) in relation to its interests and activities as set out below. This builds on feedback previously provided by NZDF to Mackenzie District Council in respect of its activities.

NZDF **could not gain** an advantage in trade competition through this submission. NZDF wishes to be heard in support of this submission.

If others make a similar submission, **we will consider** presenting a joint case with them at the hearing.

p.p



Date 30 January 2024

Person authorised to sign
on behalf of New Zealand Defence Force

Attachment A: Detailed submission-

Deletions are marked with ~~strikethrough~~ and additions with underline.

Point	Provision	Support/Oppose/ Amend	Reasons	Relief sought
<i>Plan Change 23 - General Rural Zone, Natural Features and Landscapes, and Natural Character</i>				
1.	Inclusion of reverse sensitivity in Definitions	Support	NZDF support the inclusion of reverse sensitivity in the definitions.	Retain definition as notified
2.	NFL-R5 ONF ONL	Support	This rule appropriately provides for small-scale earthworks within ONF and ONL.	Retain rule as notified.
3.	GRUZ-P3	Support	NZDF supports the inclusion of a policy directly related to avoiding reverse sensitivity effects on the Tekapo Military Training Area.	Retain as notified. Suggestion to bullet list for clearer interpretation.
4.	GRUZ-P8	Amend	GRUZ-P8 seeks to enable aircraft and helicopter movements within the rural area for listed reasons. NZDF seek to amend GRUZ-P8 to include military uses. It is noted that the relevant rule (GRUZ-R15) identifies activities of the New Zealand Defence Force as being permitted. As such, NZDF considers that the supporting policy should reflect this intent also.	Amend GRUZ-P8 as follows: Enable aircraft and helicopter movements within the rural area when ancillary to rural production, or for personal, emergency, conservation, <u>military</u> and non-commercial recreational use. Manage the location and scale of airfields and helicopter landing areas to maintain the anticipated character and amenity values of the receiving rural environment.
5.	GRUZ-P9	Amend	NZDF suggests that there needs to be a link or acknowledgement to GRUZ-SCHED1-Airport Height Restrictions within this policy. As it is currently worded, the policy seeks to manage the location and height of any structures in the vicinity of a Special Purpose Airport Zone whereas the corresponding standard GRUZ-S10 requires that no building, structure or trees shall intrude the surfaces identified in GRUZ-SCHED1	Amend GRUZ-P9 as follows (or similar): Manage the location and height of any structure and vegetation in the vicinity of a Special Purpose Airport Zone <u>as per GRUZ-SCHED1</u> to ensure the safety of aircraft take-off/ landing approaches and wider public safety.

Point	Provision	Support/Oppose/ Amend	Reasons	Relief sought
6.	GRUZ-R5	Support in part	NZDF supports the inclusion of a permitted activity for 'Buildings and Structures Not Otherwise Listed' but considers that temporary buildings and structures should not be subject to the same standards as permanent buildings and structures. .	Retain permitted activity but provide an exception from the standards for temporary buildings and structures.
7.	GRUZ-R15	Support	NZDF supports the inclusion of 'activities of the New Zealand Defence Force' as a permitted activity criteria within this rule.	Retain as notified.
Plan Change 24 Sites and Areas of Significance to Māori				
8.	SASM-P4	Neutral	PC 24 identifies a new SASM within NZDF's designation for the Tekapo Military Training Area as well as the adjacent waterbodies. It is unclear at the time of writing which references and schedules apply to these specific SASM. NZDF wishes to acknowledge the SASM within and adjacent to its landholding at the Tekapo Military Training Area and the intention of this provision but wishes to raise concerns that access will not be able to be provided to NZDF sites due to the operation of a working military site.	Retain or amend as required to address NZDF's submission point
Plan Change 25 Rural Lifestyle Zone				
9.	RLZ-P5	Amend	NZDF seeks to include inclusion of reverse sensitivity effects on lawfully established activities when managing development within the policy provision of the RLZ. NZDF note that the areas subject to PC 25 are located at Fairlie and Twizel however, it is noted that as the District grows, there is the potential that plan changes to rezone to RLZ could occur on the outskirts of Tekapo (near the Training Area) and cause reverse sensitivity effects.	Amend RLZ-P5 as follows: Manage development within the Rural Lifestyle Zone to ensure: <ol style="list-style-type: none"> 1. built form is of a scale and design that is compatible with the character, amenity values and purpose of the zone; 2. larger lot sizes are retained in areas subject to servicing constraints, until such time as appropriate services are in place; and 3. a predominance of open space over built form is maintained; and

Point	Provision	Support/Oppose/ Amend	Reasons	Relief sought
				4. <u>reverse sensitivity effects on lawfully established activities are avoided or minimised.</u>
10.	While not relevant to NZDF, we note that inclusion of the Airport Height Restrictions set out in the General Rural Zone (subject of PC 23) may also be useful to include in the Rural Lifestyle Zone given the overlap of this proposed zone and the Flight Protection Area Pukaki Existing. Such inclusion would direct any user of the plan to be aware of these restrictions for any future plan changes sought to rezone to RLZ and to protect these existing airport height restrictions.			
Plan Change 26 Renewable Electricity Generation and Infrastructure				
11.	Definition of infrastructure	Amend	Defence facilities such as the Tekapo Military Training Camp are regionally and nationally significant infrastructure and NZDF requests that they are recognised as such in the definition of infrastructure in PC26. While the RMA definition is currently relied on, this does not preclude additions to that definition where it is appropriate for that particular district or region.	Add 'defence facilities' to the definition of infrastructure.
12.	Definition of regionally significant infrastructure	Amend	As noted above, defence facilities such as the Tekapo Military Training Camp are regionally (and nationally) significant infrastructure. NZDF requests that they are recognised as such in the definition of infrastructure in PC26.	Add 'defence facilities' or 'the Tekapo Military Training Camp' to the definition of regionally significant infrastructure.
13.	Temporary infrastructure definition.	Support	NZDF supports the inclusion of a definition of temporary infrastructure and considers that this is a helpful and pragmatic approach.	Retain as notified.
14.	Infrastructure Introduction	Support in part	This chapter is intended to address infrastructure as defined by Section 2 of the RMA, and presumably regionally significant infrastructure as defined through PC 26. This should be confirmed through the introduction. The exceptions set out in the introduction, i.e. that other than the chapters identified the other chapters in the District Plan do not apply, is supported.	Amend introduction to clarify that this chapter applies to infrastructure, including regionally significant infrastructure. Retain the exceptions set out in the introduction which clarify the application of other chapters to infrastructure.
15.	INF-O1; INF-O2; INF-O3; INF-P1; INF-P2; INF-P4; INF-P5; INF-P6; INF-P7	Support	NZDF support the policy framework which includes provision of infrastructure and managing adverse effects on infrastructure.	Retain as notified.

Point	Provision	Support/Oppose/ Amend	Reasons	Relief sought
16.	INF-R1; INF-R2; INF-R4; INF-R6	Support	NZDF supports the inclusion of a permitted activity for temporary infrastructure. As part of NZDF's training activities (TMTA), temporary infrastructure is sometimes required.	Retain as notified.
<i>Plan Change 27 Earthworks, Subdivision, Public Access and Transport</i>				
17.	SUB-P10	Amend	NZDF requests that SUB-P10 be amended to broaden its applicability beyond renewable electricity generation assets by including reference to avoiding reverse sensitivity effects of subdivision on other existing lawfully established activities (such as the Tekapo Military Training Area). It is important that reverse sensitivity effects on NZDF facilities is provided in relevant policy frameworks.	Amend SUB-P10 as follows (or similar wording): Avoid reverse sensitivity effects of subdivision on existing renewable electricity generation assets and activities <u>as well as regionally significant infrastructure and any other lawfully established activities</u> .
18.	EW-O1, EW-P1 and P2	Support	NZDF supports the policy framework which includes provision for small-scale earthworks and ensures effects are appropriately managed.	Retain as notified.
19.	EW-R1 and EW-R4	Support	NZDF supports permitted activity rules for maintenance and repair of existing activities as well as other small-scale earthworks.	Retain as notified.



Further Submission on Mackenzie District Plan Changes 23-27 (Stage 3)

To: Mackenzie District Council
Email: districtplan@mackenzie.govt.nz
Submitter: New Zealand Defence Force
Contact Person: Rebecca Davies, Principal Statutory Planner

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 Attention: Karen Baverstock

Phone: +64 21 445 482
Email: rebecca.davies@nzdf.mil.nz / kbaverstock@tonkintaylor.co.nz

This is a further submission on Mackenzie District Council's (MDC) notified Stage 3 District Plan review comprising Plan Changes 23 – 27. A detailed further submission is attached.

The New Zealand Defence Force (NZDF) represents a relevant aspect of the public interest. Under Section 5 of the Defence Act 1990, NZDF responsibilities include the defence of New Zealand, the protection of the interests of New Zealand, the provision of assistance to the civil power either in New Zealand or elsewhere in time of emergency, and the provision of any public service. NZDF therefore has an interest in the Mackenzie District Plan that is greater than the interest the general public has.

NZDF **does** wish to be heard in support of its further submission.

If others make a similar further submission, NZDF will consider presenting a joint case with them at the hearing.

A copy of this further submission has been sent to each person who made the original submission.

Date: 01/03/2024

Person authorised to sign
 on behalf of New Zealand Defence Force

Further submission points

Deletions are marked with ~~strikethrough~~ and additions with underline

Submitter	Plan provision	NZDF position	Summary of submission	NZDF comment
Plan Change 23 - General Rural Zone, Natural Features and Landscapes, and Natural Character				
Aviation New Zealand on behalf of the New Zealand Helicopter Association 19.06 19.07	New Definitions – Temporary Helicopter Landing Area (19.06) Helicopter Movements (19.07)	Neutral	<p>Seeks a new definition for temporary helicopter landing areas</p> <p>Seeks to have a helicopter movement defined to ensure clarity. Definition sought is from the Proposed Selwyn District Plan Partially Operative Selwyn District Plan (Appeals Version).</p>	NZDF does not consider additional definitions are required for these terms. However if definitions are included within the proposed plan, NZDF requests that they do not inadvertently limit helicopter movements associated with TMTA.
Helios Energy Limited 8.06	Standard NATC-S1 - Activity setbacks from surface water bodies	Support	The proposed setback distance of 50m to a wetland is far more restrictive than the National Environmental Standard for Freshwater Management (NES-FM) provisions. The NES-FM provides for construction of specified infrastructure in clause 45, with earthwork setback provisions of 10m to 'natural inland wetlands'. This may result in earthwork setbacks to a wetland under the District Plan being triggered, but not under the NES-FM. This should be amended for consistency with the NES-FM.	NZDF supports a setback from wetlands that is consistent with the NES-FM, noting that small scale earthworks are sometimes required for TMTA activities and requiring a resource consent within 50m would be overly onerous.
Transpower 13.01	NATC – Natural character Introduction	Support	<p>Transpower understands, with reference to the Introduction to the Infrastructure Chapter, that the provisions of the NATC Chapter do not apply to infrastructure activities.</p> <p>Transpower considers that the Introduction to the NATC Chapter should include a reciprocal direction for the avoidance of any ambiguity.</p> <p>Amend the 'Introduction' to include explicit direction that the provisions of the NATC Chapter do not apply to</p>	Accept submitters relief and amend the introduction chapter to include explicit direction that the provisions of the NATC Chapter do not apply to Infrastructure.

Submitter	Plan provision	NZDF position	Summary of submission	NZDF comment
			Infrastructure, with the effects of Infrastructure on natural character values being managed in the INF Chapter.	
New Zealand Transport Agency (NZTA) 15.04 15.05 15.06 15.07	Policy NATC-P2 NATC-R1 NATC-R2 NATC-R3	Support in part	<p>NZTA generally supports the policy, but it is considered that NZTA-P2.2 does not appropriately consider earthworks and other activities in close proximity to and within wetlands, lakes, and rivers that are required to maintain and operate the state highway network. It is recommended that the policy be amended to recognise that there are functional and operational needs associated with regionally significant infrastructure where it is required to undertake these activities within and adjacent to wetlands, lakes and rivers.</p> <p><i>Preserve and protect the natural character values of wetlands, lakes and rivers and their margins from inappropriate use and development by:</i></p> <p><i>2. requiring setbacks for activities from wetlands, and lakes and rivers <u>unless there is a functional and/or operational need associated with regionally significant infrastructure</u>, including buildings, earthworks, woodlots and quarrying activities;</i></p>	<p>NZDF generally supports the relief sought in Waka Kotahi's submission (but notes that subject to explicit recognition that the provisions of the NATC Chapter do not apply to infrastructure activities, then this relief sought could potentially lead to ambiguity).</p> <p>This also broadly applies to the other NZTA submission points identified in this FS.</p>
NZTA 15.08	Standard NATC-S1 - Activity setbacks from surface water bodies	Support in part	<p>Standards NATC-S1 does not recognise the operational and/or functional needs of the state highway network as regionally significant infrastructure. The setbacks proposed would require onerous consenting requirements for the state highway network across the district. The proposed standard should be amended to exclude regionally significant infrastructure.</p> <p>Amend NATC-S1 as follows:</p> <p>1. Activities shall be located outside the setback distance specified in Table NATC-1, <u>unless it is for the purpose of</u></p>	<p>NZDF supports the relief sought in Waka Kotahi's submission (but notes that subject to explicit recognition that the provisions of the NATC Chapter do not apply to infrastructure activities, then this relief sought could potentially lead to ambiguity).</p>

Submitter	Plan provision	NZDF position	Summary of submission	NZDF comment
			<u>maintain, repairing, and/or protecting regionally significant infrastructure.</u>	
NZTA 15.10 15.12 15.13 15.14 15.15 15.16	NFL – Natural Features and Landscapes Policies NFL-R1 NFL-R4 NFL-R5 NFL-R9 NFL-R12	Support in part.	<p>Considers that the policies do not appropriately provide recognition for the functional needs or operational needs of regionally significant infrastructure, including the state highway network, within the Natural Features and Landscapes chapter. The state highway sits within many of these areas identified as Outstanding Natural Feature and Landscapes and it is important that this infrastructure can be maintained and operated to ensure the safe and efficient use of the state highway to meet the needs of road users. It is recommended that a new policy be introduced to recognise the needs of regionally significant infrastructure.</p> <p>Add new Policy:</p> <p><u>NFL-PX - Regionally Significant Infrastructure</u></p> <p><u>To recognise the need of regionally significant infrastructure within an Outstanding Natural Features and Landscapes where it has a functional need or operational need and there are no practical alternatives.</u></p>	<p>NZDF generally supports the relief sought in Waka Kotahi's submission (but notes that subject to explicit recognition that the provisions of the NTF Chapter do not apply to infrastructure activities, then this relief sought could potentially lead to ambiguity).</p> <p>This also broadly applies to the other NZTA submission points identified in this FS</p>
Transpower 13.02	NFL – Natural Features and Landscapes Introduction	Support	<p>Transpower understands, with reference to the Introduction to the Infrastructure Chapter, that the provisions of the NFL Chapter do not apply to infrastructure activities. Transpower considers that the Introduction to the NFL Chapter should include a reciprocal direction for the avoidance of any ambiguity.</p> <p>Amend the 'Introduction' to include explicit direction that the provisions of the NFL Chapter do not apply to Infrastructure, with the effects of Infrastructure on natural features and landscape values being managed in the INF Chapter</p>	Accept submitters relief and amend the introduction chapter to include explicit direction that the provisions of the NFL Chapter do not apply to Infrastructure.

Submitter	Plan provision	NZDF position	Summary of submission	NZDF comment
NZTA 15.27	Standard GRUZ-S2	Oppose	<p>NZTA generally supports the setbacks proposed from any arterial road or state highway. However, the standard does not recognise that structures and buildings associated with regionally significant infrastructure outside of a designation cannot meet these setback requirements. It is recommended that an exclusion be provided within the standard when the building or structure is associated with regionally significant infrastructure that has an operational need or functional need.</p> <p>Amend as follows:</p> <p>Boundary Setbacks</p> <p><i>1. Any building or structure, excluding ancillary structures, shall comply with the minimum setbacks listed in GRUZ-Table 1, unless it is ancillary to regionally significant infrastructure that has an operational need and/or functional need within the setback area.</i></p>	<p>For the same reason as outlined above, the provisions of the General Rural Zone do not apply to infrastructure activities. Accordingly, this relief sought would lead to ambiguity and therefore should be rejected.</p>
Opua Water Limited (OPL) 43.05	GRUZ-P3 – Reverse Sensitivity	Support	<p>OPL considers the policy should refer to infrastructure activities more generally, or in the alternative “regionally significant infrastructure”</p> <p>Amend GRUZ-P3 Reverse Sensitivity as follows:</p> <p><i>Avoid reverse sensitivity effects of non-farm development and residential activity on lawfully established primary production activities, activities that have a direct relationship with or are dependent on primary production, existing renewable electricity generation and infrastructure [or regionally significant infrastructure] activities and the Tekapo Military Training Area</i></p>	<p>Accept the submitters relief to apply to ‘regionally significant infrastructure activities’ such as the Tekapo Military Training Area specified.</p>

Submitter	Plan provision	NZDF position	Summary of submission	NZDF comment
Plan Change 24 Sites and Areas of Significance to Māori				
Transpower 13.05	SASM – Sites and Areas of Significance to Māori Introduction	Support in part	<p>Transpower opposes the Introduction to the extent that the direction given in the Introduction could be understood to contradict the unambiguous direction in the Infrastructure Chapter. That is, the Infrastructure Chapter clearly directs the chapters and provisions that apply to infrastructure activities. In the case of the SASM provisions, the Infrastructure Chapter directs (by omission) that the SASM provisions do not apply, and instead infrastructure located in SASM is addressed through the INF provisions (and the definition of 'sensitive area'). Conversely, the SASM Introduction implies that the SASM provisions might apply to an activity requiring resource consent under the INF Rules. Transpower supports the approach taken to the standalone INF chapter and therefore considers that the SASM Introduction be amended to confirm this.</p> <p>Amend the Introduction as follows: "This chapter is not the only chapter in the District Plan that which manages activities that are located within SASM and should be read alongside other sections of the District Plan which also consider the effects on SASM. <u>In the case of infrastructure, all provisions that relate to infrastructure are contained in the Infrastructure Chapter (unless explicitly stated otherwise) and the SASM provisions do not apply...</u>"</p>	<p>NZDF considers that this clarifies the relationship between the Infrastructure chapter and other chapters of the plan, but requests that reference is made to 'regionally significant infrastructure'.</p>
Plan Change 25 Rural Lifestyle Zone				
Meridian Energy 44.05	New definition – reverse sensitivity	Support	The term is used the PC25 provisions, however it is not defined. The definition that is included in PC23 should be included in PC25.	Accept submitters relief sought.
Plan Change 26 Renewable Electricity Generation and Infrastructure				

Submitter	Plan provision	NZDF position	Summary of submission	NZDF comment
Meridian Energy 44.20	Objective INF-03	Support	<p>While Meridian generally support INF-03, Meridian considers that it should be extended to address locally, regionally and nationally significant infrastructure. With this, Meridian notes that the notified definition of regionally significant infrastructure does not include nationally significant infrastructure. For this reason Meridian considers that specific reference to nationally significant infrastructure is needed in this objective.</p> <p>Amend Objective INF-03 as follows:</p> <p><i>The efficient operation, maintenance, upgrading and development of <u>locally</u>, regionally <u>and nationally significant</u> infrastructure is not constrained or compromised by other activities.</i></p>	<p>Accept submitters relief sought. Defence facilities such as the Tekapo Military Training Camp are both regionally and nationally significant infrastructure. Accordingly, this submission point is supported.</p>
Plan Change 27 Earthworks, Subdivision, Public Access and Transport				
Meridian Energy 44.60	New definition – reverse sensitivity	Support	The term is used in the PC27 provisions, however it is not defined. The definition that is included in PC23 should be included in PC25.	Accept submitters relief sought.



Mackenzie
DISTRICT PLAN REVIEW
TOMORROW'S MACKENZIE
KA AWATEA HŌU

Plan Change 26

Renewable Electricity Generation and Infrastructure Decision Report

31 July 2024

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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

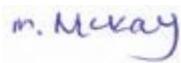
76. Having considered the submissions received, we accept Ms White's analysis and recommendations regarding mapping. In particular, we note that PC26 does not propose any zoning and as such the zoning of roads sits outside the scope of PC26. We agree that the National Grid substations should be included 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

Appendix C: list of names and addresses of those to be served with a copy of this notice

Mackenzie District Council
districtplan@mackenzie.govt.nz

Tekapo Landco Limited and Godwit Leisure Limited
Kim Banks, kim.banks@ppgroup.co.nz

Genesis Energy Limited
Alice Barnett, alice.barnett@genesisenergy.co.nz

Meridian Energy Limited
Andrew Feierabend, andrew.feierabend@meridianenergy.co.nz

Chorus, Connexa, FortySouth, One NZ, Spark
Tom Anderson, tom@incite.co.nz

Director-General of Conservation
Murray Brass, mbrass@doc.govt.nz

Helios Energy Limited
Sarah Brooks, sbrooks@heliosenergy.co.nz

Nova Energy Limited
Chris Pye, cpye@novaenergy.co.nz

Transpower New Zealand Limited
Ainsley McLeod, ainsley@amconsulting.co.nz and
environment.policy@transpower.co.nz

NZ Transport Agency Waka Kotahi
Nick Reuther, nick.reuther@nzta.govt.nz

Canterbury Regional Council
Rachel Tutty, regional.planning@ecan.govt.nz

Grampians Station Limited
Nicola Hornsey, nicola@gressons.co.nz

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in [section 274\(1\)](#) and [Part 11A](#) of the Act.

You may apply to the Environment Court under [section 281](#) of the Act for a waiver of the above timing or service requirements (see [form 38](#)).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.