

**BEFORE INDEPENDENT HEARING COMMISSIONERS
APPOINTED BY THE MACKENZIE DISTRICT COUNCIL**

UNDER

the Resource Management Act
1991

IN THE MATTER OF

submissions by Opuha Water
Limited on Plan Changes 28 and 29
to the Operative Mackenzie District
Plan

**STATEMENT OF EVIDENCE OF JULIA MARGARET CROSSMAN FOR
OPUHA WATER LIMITED**

**PLAN CHANGE 28: SUBMITTER NO. 64
PLAN CHANGE 29: SUBMITTER NO. 28**

Dated: 16 May 2025

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1 INTRODUCTION

- 1.1 My name is Julia Margaret Crossman.
- 1.2 I hold a Bachelor of Applied Science, majoring in Environmental Management (First Class Honours) from Otago University, and a Master of Resource and Environment Planning (First Class Honours) from Massey University. I also hold a Certificate of Completion (Intermediate) in Sustainable Nutrient Management in New Zealand Agriculture from Massey University.
- 1.3 I have worked at Opuha Water Limited (**OWL**) since January 2014 as the company's Environmental and Regulatory Manager. My role involves consent management for OWL, including the management of new consent applications and compliance monitoring. A significant part of my role is liaising and working with parties external to OWL. Over my time at OWL, this has included facilitating the Upper Opihi-Opuha Catchment Group, assisting with the Opuha Environmental Flow Release Advisory Group, engaging with Te Rūnanga o Arowhenua, Environment Canterbury (**ECan**), District Councils, Central South Island Fish and Game, and Department of Conservation on a range of environmental matters.
- 1.4 I am part of the Irrigation Scheme Environmental Managers Forum, and I regularly engage with other Canterbury irrigation schemes and primary industry partners on matters of common interest.
- 1.5 During my time at OWL, I have coordinated and led the roll-out of Farm Environment Plans (**FEPs**) to our affiliated irrigators, a programme which has extended to facilitating independent FEP audits and providing education and upskilling opportunities to our shareholders in the environmental and good management practice space.
- 1.6 Prior to my work at OWL, I held various roles at ECan for a period of 9 years, including Resource Care Co-ordinator (Land Management Section), Community Facilitator for the Planning Section where I was involved in the Orari and Selwyn-Waihora Sub-Regional Planning Processes, and Project Manager and Lead Planner for the Waitaki Sub-Regional Planning Process.

1.7 OWL made a primary submission on the following plan changes comprising Stage 4 of the Mackenzie District Council's (MDC's) review of the Operative Mackenzie District Plan:

- (a) Plan Change 28 – Hazards and Risks, Historic Heritage and Notable Trees, Variation 1 to Plan Change 26, and Variation 1 to Plan Change 27 (**PC28**); and
- (b) Plan Change 29 – Open Space and Recreation Zones, Noise, Signs and Temporary Activities, Variation 1 to Plan Change 23, Variation 2 to Plan Change 26, and Variation 2 to Plan Change 27 (**PC29**).

(together the **Plan Changes**).

1.8 I am authorised to give this evidence on behalf of OWL in relation to those submissions. In preparing this evidence, I reviewed:

- (a) Section 42A Report Part A: Plan Change 28 – Contaminated Land, Hazardous Substances, Natural Hazards and Hydro Inundation, Variation 1 to Plan Change 26, Variation 1 to Plan Change 27 - Report on submissions and further submissions authored by Meg Justice (dated 24 April 2025) (**PC28 Section 42A Report**).
- (b) Section 42A Report: Plan Change 29 (and Variation 1 to Plan Change 23, Variation 2 to Plan Change 26, and Variation 2 to Plan Change 27) Open Space and Recreation Zones, Noise, Signs and Temporary Activities - Report on submissions and further submissions authored by Liz Whyte (dated 24 April 2025) (**PC29 Section 42A Report**).

1.9 My evidence provides an overview of OWL, the Opuha Dam and Opuha Scheme, and OWL's summary position on the matters addressed in its submissions on the Plan Changes.

1.10 My evidence is structured as follows:

- (a) Reasons for OWL's involvement in the Plan Change process;
- (b) OWL's summary position on the Section 42A Reports;

- (c) OWL's remaining concern and decision sought;
- (d) Conclusion.

2 SUMMARY OF EVIDENCE

- 2.1 Most of OWL's submission points on the Plan Changes:
- (a) Are recommended by the Reporting Officers as being accepted in whole or part; or
 - (a) Have been responded to by the Reporting Officers in a manner that has satisfactorily addressed OWL's original concerns as set out in its submissions, including through their recommendations in response to other submissions.
- 2.2 However, the reporting officer's recommendation in relation to the following remaining submission point on Plan Change 28 does not fully respond to the matters raised by OWL:
- (a) 64.10 (PC28): relating to NH-R5 Natural Hazard Mitigation Works.
- 2.3 In relation to that submission point, OWL requests the revised amendments to NH-R5 (shown in red) in addition to those recommended by the reporting officer as follows:

NH-R5 Natural Hazard Mitigation Works

All Zones

Activity Status: PER

Where:

The works are:

- (1) *The maintenance or operation of any existing natural hazard mitigation works; or*
- (2) *The upgrading of any natural hazard mitigation works administered by a Regional Council or Territorial Authority; or*
- (3) *New natural hazard mitigation works administered by a Regional Council or Territorial Authority provided:*

- (a) The works are outside of an area identified as SASM, ONL or ONF; and
- (b) The works are soft engineering natural hazard mitigation; or
- (4) The maintenance, operation, upgrade, or new natural hazard mitigation works undertaken in accordance with a rule in the Canterbury Land and Water Regional Plan or a resource consent and/or approval granted by the Canterbury Regional Council;

Note: The earthworks provisions in the Earthworks Chapter shall not apply to any activity permitted under NH-R5.1, 5.2 and 5.3.

All Zones

Activity Status: RDIS-DIS

Where:

The works are:

- (5) The upgrading or establishment of any new natural hazard mitigation works not administered by a Regional Council or Territorial Authority, and not otherwise undertaken in accordance with a rule in the Canterbury Land and Water Regional Plan or a resource consent and/or approval granted by the Canterbury Regional Council.

Matters of discretion are restricted to:

- (a) — NH-MD2.

2.4 Overall, I consider the amendments recommended by the reporting officers and the additional amendments set out in my evidence and summarised in [2.3] are appropriate and necessary to ensure the Plan Changes:

- (a) Give due recognition of the regional significance of various activities OWL undertakes within the Mackenzie District, including the

continuing operation of the Opuha Dam and related assets and infrastructure, and the exercise of OWL's regional consents; and

- (b) Are consistent with the relevant statutory requirements for district plans (as set out in section 75 and 76 of the Resource Management Act 1991 (**RMA**)) and the relevant directives of higher order planning documents.

3 REASONS FOR OWL'S INVOLVEMENT IN THE PLAN CHANGES

- 3.1 OWL owns and operates the Opuha Dam and Lake Opuha, as well as downstream irrigation infrastructure. OWL is a co-operative company owned by approximately 235 irrigator shareholders with a Board comprising four elected farmer shareholder Directors, and three appointed independent Directors. It has a management and operation staff of thirteen, based at its office/depot near Pleasant Point.
- 3.2 The Opuha Dam has been operating for 26 years and is situated at the confluence of the North and South Opuha Rivers, 17 kilometres north-east of Fairlie in the Mackenzie District. It is a 50-metre-high earth dam, with a single 7MW hydro turbine and a lake covering up to 710 ha and storing over 74 million cubic metres of water. Flows released from the Opuha Dam are attenuated by the Downstream Weir (**DSW**) approximately 1.8km downstream of the Opuha Dam. The rate of flow released from the DSW gate is to ensure regional consent conditions regarding minimum flows and water use requirements are met.
- 3.3 **Figure 1** below shows Lake Opuha, the Opuha Dam, the regulating pond and DSW.



Figure 1: The Opuha Dam, regulating pond, and DSW (looking upstream).

- 3.4 The scheme operates by releasing water from the Opuha Dam into the Opuha River, which joins the Ōpihi River at Raincliff. This augmentation sustains in-river flows and supplies reliable water to its irrigator shareholders and the urban and industrial users through a number of Timaru District Council's community water supply schemes within the wider Ōpihi catchment.
- 3.5 The water supplied by the Scheme presently facilitates the irrigation of approximately 16,000 hectares of land within the Mackenzie and Timaru Districts, and the power generated by the hydro station supplies, on average, over 3,800 households per year.
- 3.6 Approximately 3100ha of land is irrigated with water from the Opuha Scheme in the non-augmented tributaries of the North and South Opuha, Te Ana a Wai, and Upper Ōpihi (above Raincliff). While not directly augmented by water released from the Opuha Dam, these takes are affiliated to the Scheme because OWL is required to offset their takes from the tributaries, through releases down the mainstream of the Ōpihi River.

- 3.7 There are four irrigation schemes that draw water from the Opuha and Ōpihi Rivers – Kakahu, Totara Valley, Sutherlands, and Levels Plains schemes, all of which lie within the Timaru District. Shareholder irrigators also abstract water directly from those rivers.
- 3.8 Approximately 61% of the water supplied by OWL is utilised on dairy or dairy support farms within the Scheme, 23% on drystock properties, and the remaining spread across mixed cropping, vegetables, lifestyle blocks, and some other small activities.
- 3.9 The location of the Opuha Scheme is shown in **Figure 2** below:

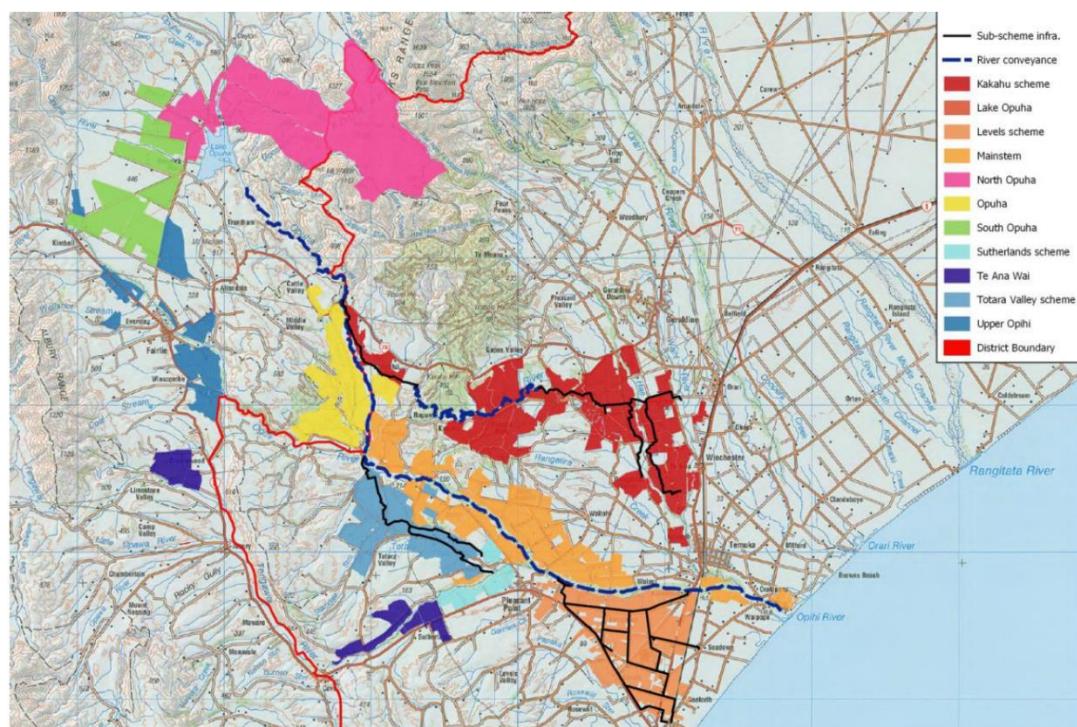


Figure 2: Opuha Scheme Map

- 3.10 The Opuha Dam has been an enabler of economic growth in South Canterbury and has facilitated the development of a robust agricultural sector comprising a wide range of land use activities, including dairying, horticulture and arable cropping, sheep, beef and deer farming, and specialist seed growing. These on-farm activities support significant downstream industries such as the vegetable processing facilities at Washdyke, dairy processing, and also represent a significant portion of South Canterbury's export economy and earnings.

- 3.11 The Opuha Scheme is recognised as regionally significant infrastructure in the Canterbury Land and Water Regional Plan (**CLWRP**). The strategic importance of the Opuha Dam and OWL's hydro-electric and irrigation and community supply schemes are recognised in the following regional planning documents:
- (a) The Canterbury Regional Policy Statement (**CRPS**) – the hydro-electric scheme and community-scale irrigation scheme and sub-schemes are “regionally significant infrastructure” for the purpose of this document.¹
 - (b) CLWRP – the national benefits of the Opuha hydro-electric and irrigation and community water supply schemes are recognised within Policy 4.51 and Rule 5.125C of this document, and OWL's status as “principal water supplier” is also recognised and provided for through the CLWRP's policy and rule framework, including Plan Change 7.
- 3.12 Given the strategic importance of the infrastructure and assets owned by OWL in the Mackenzie District, OWL has an interest in the Plan Changes that is greater than the interest of the general public.

OWL'S SUMMARY POSITION ON THE SECTION 42A REPORTS

- 3.13 Having reviewed the Section 42A Reports, I accept the responses provided and the textual changes the reporting officers have recommended to plan provisions address most of OWL's concerns, and those raised by other submitters. Specifically, I consider those responses and recommendations satisfactorily address the matters raised in the primary submission points made by OWL that are set out in **Annexure B** to my evidence.
- 3.14 However, I consider the reporting officer's recommendations in relation to NH-R5 do not fully respond to the concerns raised by OWL in its submission. I set out my concerns with respect to that submission in the following section of my evidence, together with the decision OWL seeks in terms of amendments.

¹ The Scheme's status as “regionally significant infrastructure” was confirmed in the Report and Recommendations of Hearing Commissioners in the matter of Proposed Plan Change 18 to the Mackenzie District Plan, dated 12 April 2021, at [118].

4 OWL'S REMAINING CONCERN AND DECISION SOUGHT

NH-R5: Natural hazard mitigation works

- 4.1 Ms Justice recommends that OWL's submission point 64.10 in relation to NH-R5 be rejected.² That submission point sought that the permitted activity status for the upgrading of existing natural hazard mitigation works be extended to works undertaken by a critical infrastructure operator.
- 4.2 The Opuha Dam and the related infrastructure assets owned and operated by OWL fall within the definition of "critical infrastructure", specifically clauses (c), (h), and (i) of that definition (as recommended to be amended by the reporting officer). In its original submission, OWL expressed its view that it is appropriate and necessary to ensure the Mackenzie District Plan recognises the strategic importance of that infrastructure and assets as identified in the CRPS and CLWRP.
- 4.3 Accordingly, in its original submission, OWL requested the amendment of NH-R5 as follows:

NH-R5 Natural Hazard Mitigation Works

All Zones

Activity Status: PER

Where:

The works are:

1. *The maintenance or operation of any existing natural hazard mitigation works, or*
2. *The upgrading of any natural hazard mitigation works administered by a Regional Council ~~or~~, a Territorial Authority, or an operator of critical infrastructure.*

Note: The earthworks provisions in the Earthworks Chapter shall not apply to any activity permitted under NH-R5.1.

All Zones

² PC28 Section 42A Report, at [227].

Activity Status: RDIS

Where:

The works are:

3. *The establishment of any new natural hazard mitigation works administered by a Regional Council ~~or, a~~ Territorial Authority, or an operator of critical infrastructure.*

Matters of discretion are restricted to:

- a. NH-MD2.

4.4 The concerns held by Ms Justice in relation to OWL's submission are as follows:

"I do not agree with the OWL submission on NH-R5 (64.10), which seeks the rule is amended to provide for new natural hazard mitigation works to be undertaken by a critical infrastructure provider as a permitted activity. Natural hazard mitigation works could be a broad range of activities, including building stop banks, defences against water and structures or works to manage rockfall risk or erosion. These works require careful engineering design and management to ensure they are effective at managing the natural hazard risks while not increasing risks at another site. Natural hazard mitigation works are typically undertaken by regional councils and territorial authorities. However, they can also be undertaken by landowners and developers. In the event that a critical infrastructure provider, or a developer, proposes to establish a new natural hazard mitigation works, then I consider the appropriate activity status for this activity is discretionary in order to enable full consideration of the range of environmental effects that the activity may generate. I therefore recommend that the OWL submission (64.10) on NH-R5 is rejected."³

4.5 A key concern for OWL in relation to NH-R5 is this rule seems to apply within the bed of rivers and streams and associated riparian zones controlled by section 13(1) RMA and rules in the CLWRP. Whilst the Opuha Dam and the associated hydroelectric power station do not lie within the proposed Flood Hazard Assessment and Liquefaction Overlays in the planning maps, the overlays do extend across the adjoining Lake Opuha, the regulating pond, the downstream weir, and over the Opuha River.

³ PC28 Section 42A Report, at [227].

4.6 I appreciate Mackenzie District Council and ECan have dual responsibilities in relation to natural hazards under the RMA.⁴ However, I consider it would be inefficient (in terms of the requirements of section 32) for the Mackenzie District Plan to require operators of critical infrastructure to obtain land use consent for natural hazard works when such activities are either permitted by the CLWRP or authorised by a resource consent granted under the CLWRP (or other approval that has been obtained from the ECan).

4.7 In this regard, I note that Rules 5.138 and 5.141A of the CLWRP provide as follows:

5.138 The installation, maintenance, use and removal of defences against water in, on or under the bed of a lake or river, including

- a. the associated deposition of substances on, in or under the bed of a lake or river, the associated diversions and discharges of sediment into water, and any excavation or other disturbance of the bed of a lake or river; and
- b. any associated diversion and discharge or sediment laden water into an artificial watercourse;

is a permitted activity, provided the following conditions are met:

1. The activity does not prevent access in any way to lawfully established structures, including defences against water; and
2. Other than for the use of defences against water the activity is not in, on, or under the bed of any river or lake listed as a high naturalness waterbody in Sections 6 to 15 or within a salmon spawning site listed in Schedule 17, or in any inanga spawning habitat during the inanga spawning season of 1 March to 1 June inclusive, or in any Critical Habitat; and
3. The activity is undertaken by or on behalf of a local authority or a network utility operator in accordance with a plan that has been certified by the CRC as being in accordance with the Canterbury Regional Code of Practice for Defences Against Water and Drainage Schemes (April 2019); and
4. The works or structures do not prevent any existing fish passage.

5.141 A The placement, installation, erection, reconstruction, alteration or removal of any structure, excluding dams, on, in or under the bed of a lake or river, and including any associated excavation, disturbance, diversion and discharge in the bed of a lake or river, or any diversion or discharge in an artificial watercourse, that does not comply with

Rules 5.135 to 5.141 is a discretionary activity.

4.8 Relevant to these rules is the CLWRP's definition of "defence against water", which is as follows:

⁴ Under sections 31(1)(b)(i) (the control of any actual or potential effects of the use, development, or protection of land including for the purpose of the avoidance or mitigation of natural hazards) and 30(1)(c)(iv) (the control of the use of land for the purpose of the avoidance or mitigation of natural hazards).

Defence against water	means any structure or equipment, including any bund, weir, spillway, floodgate, bank, stopbank, retaining wall, rock or erosion protection structure, groyne, vegetation (including anchored tree protection) or reservoir, that is designed to have the effect of stopping, diverting, controlling, restricting or otherwise regulating the flow, energy or spread of water, including floodwaters, in or out of a waterbody, artificial watercourse, or artificial lake. For the purposes of this definition, dams are excluded.
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- 4.9 I consider, as an alternative to the relief requested in OWL's original submission, that an amended additional permitted activity condition would address both my concern regarding the issue of efficiency in the context of section 32, and Ms Justice's concerns with OWL's submission on NH-R5. I also consider that amendment would appropriately recognise the significance of critical infrastructure in the Mackenzie District and the need for its protection from natural hazards.
- 4.10 My suggestions in this respect that expand on the reporting officer's recommendations (shown in black underline and strikethrough) are set out below (in red):

NH-R5 Natural Hazard Mitigation Works

All Zones

Activity Status: PER

Where:

The works are:

- (1) *The maintenance or operation of any existing natural hazard mitigation works; or*
- (2) *The upgrading of any natural hazard mitigation works administered by a Regional Council or Territorial Authority; or*
- (3) *New natural hazard mitigation works administered by a Regional Council or Territorial Authority provided:*
 - (a) *The works are outside of an area identified as SASM, ONL or ONF; and*
 - (b) *The works are soft engineering natural hazard mitigation; or*
- (4) *The maintenance, operation, upgrade, or new natural hazard mitigation works undertaken in accordance with a rule in the Canterbury Land and Water Regional Plan or a resource consent*

and/or approval granted by the Canterbury Regional Council;

Note: The earthworks provisions in the Earthworks Chapter shall not apply to any activity permitted under NH-R5.1, 5.2 and 5.3.

All Zones

Activity Status: RDIS-DIS

Where:

The works are:

(5) *The upgrading or establishment of any new natural hazard mitigation works not administered by a Regional Council or Territorial Authority, and not otherwise undertaken in accordance with a rule in the Canterbury Land and Water Regional Plan or a resource consent and/or approval granted by the Canterbury Regional Council.*

Matters of discretion are restricted to:

(a) *NH-MD2.*

CONCLUSION

4.11 On behalf of OWL, I respectfully request that the Panel accepts:

- (a) The reporting officers' recommendations in relation to OWL's submission points listed in **Annexure B** to my evidence; and
- (b) The additional amendments in relation to NH-R5 that I have addressed in my evidence and summarised in **Annexure A.**

4.12 Overall, I consider those recommendations and amendments are appropriate and necessary to:

- (a) Satisfactorily address the matters raised in OWL's submission points falling within the scope of the Plan Changes;

- (b) Give appropriate recognition of the regional significance of various activities OWL undertakes within the Mackenzie District, including the continuing operation of the Opuha Scheme and related assets and infrastructure, and the exercise of OWL's regional consents; and
- (c) Ensure the relevant statutory requirements for district plans and the relevant directives of the higher order planning documents are achieved.



Julia Margaret Crossman

16 May 2025

ANNEXURE A: DECISIONS SOUGHT BY OWL

Note: requested amendments are shown as red track changes to the reporting officers' recommendations.

Submission Point	Decision Sought
64.10	<p>Amend NH-R5 as follows:</p> <p>NH-R5 Natural Hazard Mitigation Works</p> <p><i>All Zones</i></p> <p><i>Activity Status: PER</i></p> <p><i>Where:</i></p> <p><i>The works are:</i></p> <ul style="list-style-type: none"> (1) <i>The maintenance or operation of any existing natural hazard mitigation works; or</i> (2) <i>The upgrading of any natural hazard mitigation works administered by a Regional Council or Territorial Authority; or</i> (3) <i>New natural hazard mitigation works administered by a Regional Council or Territorial Authority provided:</i> <ul style="list-style-type: none"> (a) <i>The works are outside of an area identified as SASM, ONL or ONF; and</i> (b) <i>The works are soft engineering natural hazard mitigation; or</i> (4) <i>The maintenance, operation, upgrade, or new natural hazard mitigation works undertaken in accordance with a rule in the Canterbury Land and Water Regional Plan or a resource consent and/or approval granted by the Canterbury Regional Council;</i> <p><i>Note: The earthworks provisions in the Earthworks Chapter shall not apply to any activity permitted under NH-R5.1, 5.2 and 5.3.</i></p> <p><i>All Zones</i></p> <p><i>Activity Status: RDIS-DIS</i></p> <p><i>Where:</i></p> <p><i>The works are:</i></p> <ul style="list-style-type: none"> (5) <i>The upgrading or establishment of any new natural hazard mitigation works not administered by a Regional Council or</i>

Submission Point	Decision Sought
	<p><i>Territorial Authority, <u>and not otherwise undertaken in accordance with a rule in the Canterbury Land and Water Regional Plan or a resource consent and/or approval granted by the Canterbury Regional Council.</u></i></p> <p><i>Matters of discretion are restricted to:</i></p> <p>(a) NH-MD2.</p>

ANNEXURE B: SUBMISSIONS ADDRESSED BY SECTION 42A
OFFICER RECOMMENDATIONS

Chapter	Provision	Submission Reference
Whole Plan Change	General.	64.01
Interpretation	Definitions.	64.02
Hazardous Substances	Introduction, Objectives, Policies, Rules.	64.03
Natural Hazards	Overlays – Flood Hazard Assessment and Liquefaction Overlay.	64.05
	Introduction, NH-O1 – NH-O4, NH-P1 – NH-P10.	64.06
	NH-R2.	64.07
	NH-R3.	64.08
	NH-R4.	64.09
	NH-S1, NH-MD1 – MD2, SCHED-NH1.	64.11
Infrastructure	Introduction – Table 1.	64.12
Renewable Electricity Generation	Introduction – Table 1.	64.13
Interpretation	Definitions.	28.01
Noise	Introduction, NOISE-O1 and NOISE-P1.	28.02
	NOISE-P2.	28.03
	NOISE-R1 – R5; R7 – R12; R-14 – R16; R18.	28.04
	NOISE-R6.	28.05
	NOISE-R13.	28.06
	NOISE-R17.	28.07
	NOISE-TABLE1, NOISE-TABLE-2.	28.08
	NOISE-MD1.	28.09
Signs	Whole Chapter.	28.10
Temporary Activities	Whole Chapter.	28.11
Infrastructure	Introduction – Table 1.	28.12
Renewable Electricity Generation	Introduction – Table 1.	28.13