

BEFORE A HEARING PANEL IN QUEENSTOWN

IN THE MATTER: of the Resource Management Act
1991

AND

IN THE MATTER of the Proposed Queenstown Lakes
District Plan (Chapters 3 – Strategic
Direction; 4 – Urban Development;
and 6 – Landscapes)

SUBMISSION/S Transpower New Zealand Limited
(Submitter 805 and Further
Submission 1301)

**STATEMENT OF EVIDENCE OF AILEEN MARY CRAW FOR
TRANSPOWER NEW ZEALAND LIMITED**

29 February 2016

Executive Summary

1. Transpower New Zealand Limited (“**Transpower**”), as the owner and operator of the National Grid, has significant infrastructure assets across New Zealand, including in the Queenstown Lakes District. **Mr Andrew Renton’s** statement of evidence has described Transpower’s role and responsibilities as the owner and operator of the National Grid, including the nature and operation of Transpower’s assets in the Queenstown District. He has also described the essential role the National Grid plays as a facilitator of growth for the Queenstown Lakes District through the reliable and resilient supply of electricity to distribution companies and industry, and detailed the potential for adverse effects on the National Grid.
2. The national significance of the National Grid¹ is recognised, in the context of the Resource Management Act 1991 (“**RMA**”), by the National Policy Statement on Electricity Transmission 2008 (“**NPSET**”) and the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (“**NESETA**”).
3. The Queenstown Lakes District Plan (“**QLDP**”) must also give effect to the operative Otago Regional Policy Statement (“**RPS**”) under section 75(3)(c) of the RMA, which in turn must give effect to the NPSET. “Giving effect” is a strong statutory directive compared to other directives in the RMA and was interpreted in the *EDS v New Zealand King Salmon* Supreme Court case as meaning “to implement”.
4. A District Plan must also have regard to any proposed RPS. I have given substantial weight to the content of the proposed Otago RPS on the basis that the specific objectives and policies relating to regionally significant infrastructure and lifeline utilities are unlikely to substantially alter when the proposed RPS is made operative. This is based on a review of all decisions requested in the relevant submissions.
5. Transpower’s submission and further submissions are primarily concerned with ensuring that the QLDP appropriately gives effect to the NPSET by:
 - a) Recognising the benefits of reliable and secure electricity supply provided by the National Grid that underpins the concept of “wellbeing” in section 5 of the RMA;

¹ The NPSET refers to the “electricity transmission network, electricity transmission and transmission activities/assets/infrastructure/resources/system” as all meaning part of the National Grid. The National Grid is defined as meaning the assets used or owned by Transpower NZ Ltd.

- b) Providing for the use, development and protection of the National Grid (as a physical resource in terms of section 5 of the RMA);
 - c) Protecting the National Grid from the adverse effects, including reverse sensitivity effects, of other activities and land uses; and
 - d) Appropriately managing the adverse effects of the National Grid.
- e) This evidence provides the planning background for Transpower's submissions in relation to the national importance of the National Grid and describes the NPSET before addressing in detail the content of Transpower's submission and relief sought in relation to the QLDP.
- f) Transpower's submission is generally supportive of the approach taken to providing for nationally and regionally significant infrastructure, such as the National Grid, in the QLDP. However, I consider that some additional specific amendments are required in order to appropriately give effect to the NPSET, such as avoiding adverse effects, including reverse sensitivity effects, on the National Grid, and altering the 'avoidance' policies in light of the recent King Salmon case, particularly to give effect to the 'seek to avoid' policies directed by the NPSET.
- g) It is concluded that, in my view, the amendments as set out in Attachment A of this evidence, enable the QLDP to appropriately give effect to the NPSET and as such achieve the purpose of the RMA by:
- a) Recognising the benefits of the National Grid;
 - b) Providing for the use, development and protection of the National Grid;
 - c) Protecting the National Grid from the adverse effects of incompatible third party development and activities, including reverse sensitivity effects; and
 - d) Appropriately managing the adverse effects of the National Grid.

Qualifications and Experience

6. My full name is Aileen Mary Crow. I am employed by Beca Limited ('**Beca**') as a Senior Planner based in Dunedin. I hold the qualification of a Bachelor of Science (Ecology and Natural Resource Management) with First Class Honours from Massey University, Palmerston North. I am an Associate member of the New Zealand Planning Institute.

7. I have over seven years' experience in planning practice both in New Zealand and the United Kingdom, primarily as a consultant planner, during which time I have undertaken both consenting and policy planning work. More specifically, I have provided advice to energy and utilities clients in relation to the preparation of policy documents, including preparing submissions and presenting evidence on behalf of Transpower during the recent hearings on the Proposed Otago Regional Policy Statement. I have also assisted Councils in the preparation of policy documents such as plan changes and section 32 reports. I have prepared and processed numerous applications for resource consents and notices of requirement for designations, including making recommendations on consent applications to hearing panels.
8. I have been engaged by Transpower to assist in its review of the Proposed Queenstown Lakes District Plan ('**PQLDP**') and consider the effectiveness of the outcomes proposed. In this capacity I have:
 - a) participated in dialogue with Queenstown Lakes District Council ('**Council**') in relation to the pre-notification drafts of the PQLDP; and
 - b) assisted with the preparation of Transpower's submission and further submissions.
9. I am familiar with Transpower's roles and responsibilities, having acted for, or advised, Transpower on both statutory and policy planning matters over the last six years.
10. I am generally familiar with district plan approaches to providing for infrastructure across New Zealand through my work for Transpower and other network utility operators.

Code of Conduct

11. In accordance with the 'Minute and Directions of Hearings Commissioners on Procedures for Hearing of Submissions' dated 26 January 2016, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court's 2014 Practice Note. I have complied with the Practice Note when preparing my written statement of evidence and will do so when I give oral evidence before the hearings panel.
12. My qualifications are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise.

13. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

14. In my evidence I provide the planning background for Transpower's submissions in relation to the national importance of the National Grid, particularly in the context of the national planning instruments, being the NPSET and the NESETA'.
15. My evidence then addresses Transpower's submissions on Chapter 3 (Strategic Direction); Chapter 4 (Urban Development); and Chapter 6 (Landscapes), including further submissions received on Transpower's submission, with specific reference to the relief sought in relation to the following:
 - a) Definition for 'Regionally Significant Infrastructure'
 - b) Objective 3.2.1.5 – Maintaining and promoting the operation of the District's infrastructure
 - c) Objective 3.2.5.1 and Policies 3.2.4.2.1 and 3.2.5.1.1 – Protecting Outstanding Natural Landscapes and Features from inappropriate subdivision, use and development
 - d) Objective 3.2.5.2 and Policies 3.2.4.6.1 and 3.2.5.2.1 – Replace "minimise" with "avoid, remedy or mitigate" adverse effects
 - e) Objective 3.2.2.1 and Policy 3.2.2.1.3 – Avoiding adverse effects on regionally significant infrastructure
 - f) Policy 3.2.6.3.2 – Open spaces / community facilities
 - g) Chapter 4 – Objectives and policies relating to protecting regionally significant infrastructure from adverse effects
 - h) Section 6.2, Policies 6.3.1.3, 6.3.1.4, 6.3.3.1, 6.3.4.1 and 6.3.5.2 - Protecting Outstanding Natural Landscapes and Features from subdivision, use and development

16. In preparing this evidence I have reviewed the following documents:
- the RMA
 - the NPSET;
 - the NESETA;
 - the operative Otago Regional Policy Statement 1998 (“**operative RPS**”);
 - the proposed Otago Regional Policy Statement 2015 (“**proposed RPS**”) including the associated Section 42A Report on Decisions Requested and the summary of submissions received;
 - submissions of a number of parties, particularly those related to infrastructure matters or land holding that are traversed by Transpower’s assets;
 - the further submissions on Transpower’s submission;
 - the Section 32 report and proposed changes; and
 - the Planner’s report.

The National Grid and Transpower’s Assets in the Queenstown Lakes District

17. Transpower, as the owner and operator of the National Grid, has significant infrastructure assets across New Zealand, including in the Queenstown Lakes District. These assets include high voltage electricity transmission lines and associated infrastructure, such as substations, that traverse the District in order to supply electricity to the Queenstown Lakes District as well as transmit electricity across the broader Otago Region and the rest of New Zealand. Mr Renton’s evidence lists the specific lines and substations located within the Queenstown Lakes District. I have therefore not repeated this information within my evidence.
18. Mr Renton’s statement of evidence has described Transpower’s role and responsibilities as the owner and operator of the National Grid, including the nature and operation of Transpower’s assets in the Queenstown Lakes District.
19. Mr Renton also provides some useful examples of reverse sensitivity, and direct effects, on the National Grid to illustrate the need for clear objectives and policies

that give effect to the NPSET and protect the National Grid as strategic infrastructure that is critical to the District's and New Zealand's wellbeing.

The National Policy Statement on Electricity Transmission 2008

20. The national significance of the National Grid is recognised, in the context of the RMA, by the NPSET and the NESETA. Both instruments apply only to the National Grid, and do not apply to assets owned and operated by electricity distributors or generators. A district plan must give effect to a national policy statement under section 75(3)(a) of the RMA.
21. There is no alternative to this requirement. The requirement to "give effect to" is a strong statutory directive compared to other directives in the RMA and was interpreted in the *EDS v New Zealand King Salmon* Supreme Court case as meaning "to implement".
22. The Preamble to the NPSET includes useful background, or rationale, for the NPSET. It states that "*the efficient transmission of electricity on the national grid plays a vital role in the well-being of New Zealand, its people and the environment*". The Preamble notes that the National Grid has particular physical characteristics and operational/security requirements that have been challenging to manage under the RMA. It also acknowledges the potential significance of some effects of transmission lines (including the inability for these to be avoided or mitigated), along with the significant constraints that third party activities and development can place on the network. It notes that adverse effects are experienced at the local level, while benefits are regional or national, requiring a balanced consideration of effects.
23. The NPSET has a single Objective as follows:

"To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

 - *Managing the adverse environmental effects of the network; and*
 - *Managing the adverse effects of other activities on the network"*.
24. The NPSET imposes positive obligations on both decision-makers and Transpower through 14 policies that implement this Objective.

25. In relation to the QLDP and the relief sought by Transpower, in particular for Chapters 3, 4 and 6, the following Policies are of particular relevance (emphasis added):
- a) *“decision-makers **must recognise and provide for** the national, regional and local benefits of sustainable, secure and efficient electricity transmission” (Policy 1);*
 - b) *“decision-makers **must recognise and provide for** the effective operation, maintenance, upgrading and development of the electricity transmission network” (Policy 2);*
 - c) *“when considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision-makers **must consider** the constraints imposed on achieving those measures by the technical and operational requirements of the network” (Policy 3);*
 - d) *“decision-makers **must enable** the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets” when considering environmental effects associated with transmission activities” (Policy 5);*
 - e) *“In rural environments, planning and development of the transmission system **should seek** to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities” (Policy 8); and*
 - f) *“decision-makers **must** to the extent reasonably practicable **manage** activities to **avoid** reverse sensitivity effects on the electricity transmission network and to **ensure** that operation, maintenance, upgrading and development of the electricity network is not compromised” (Policy 10).*
26. In a general sense, the QLDP, in giving effect to the NPSET, should achieve the following:
- a) Recognition of the benefits of reliable and secure electricity supply provided by the National Grid that underpins the concept of “wellbeing” in section 5 of the RMA. The provision of infrastructure to enable a secure and reliable supply of electricity is critical to sustaining and growing the District and has potential positive effects in terms of enabling people and communities to provide for their social, economic and cultural wellbeing and for their health and safety;

- b) Provision for the use, development and protection of the National Grid (as a physical resource in terms of section 5 of the RMA) by enabling the operation, maintenance and upgrading of the existing network and the establishment and development of new transmission resources;
 - c) Protection of the National Grid from the adverse effects, including reverse sensitivity effects, of other activities and land uses and actively assisting the long-term planning and integration of the National Grid with current and future land uses; and
 - d) Appropriate management of adverse effects of the National Grid by establishing a consistent framework that takes into account:
 - The connected linear nature of the National Grid;
 - The technical, practical and risk issues associated with operating, maintaining and upgrading National Grid infrastructure; and
 - The inherent and unavoidable visual and other impacts of overhead National Grid lines.
27. Transpower's submission is generally supportive of the PQLDP insofar as it relates to the National Grid. I agree with this general support, subject to some specific amendments to better give effect to the NPSET.

Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009

28. The national significance of the National Grid is also recognised by the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA) that establishes a national regulatory framework for activities related to existing National Grid transmission lines. Many Transpower activities are expressly permitted or controlled by the NESETA.
29. I note that section 43B(3) of the RMA states that “*a rule may not be more lenient than a national environmental standard (NES).*” In addition, section 43B(1) of the RMA states that “*a rule or resource consent that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a rule or consent may be more stringent than it.*”

The Operative and Proposed Otago Regional Policy Statements

30. The proposed RPS contains a number of detailed policies that are specific to regionally significant infrastructure and lifeline utilities, particularly protecting these assets from adverse effects, including reverse sensitivity effects, and recognising their locational, operational and technical constraints.
31. In summary, the policies contained in the proposed RPS (insofar as they relate to regionally significant infrastructure and / or the National Grid) include:
- a) Objective 3.4 – Good quality infrastructure and services meet community needs
 - b) Policy 3.4.1 – Integrating infrastructure with land use
 - c) Policy 3.4.2 – Managing infrastructure activities
 - d) Policy 3.4.3 – Designing lifeline utilities and facilities for essential services
 - e) Policy 3.4.4 – Managing hazard mitigation measures, lifeline utilities, and essential and emergency services
 - f) Objective 3.5 – Infrastructure of national and regional significance is managed in a sustainable way
 - g) Policy 3.5.1 – Recognising the national and regional significance of infrastructure
 - h) Policy 3.5.2 – Managing adverse effects of infrastructure that has national or regional significance
 - i) Policy 3.5.3 – Protecting infrastructure of national or regional significance
 - j) Objective 3.8 – Urban growth is well designed and integrates effectively with adjoining urban and rural environments
32. I have given substantial weight to the content of the proposed RPS, and specifically the policies set out above, on the basis that I have reviewed the decisions requested in submissions and have concluded that no submissions have sought a decision to substantially amend or 'dilute' the policies insofar as they relate to regionally significant infrastructure. I note that Transpower and other infrastructure providers sought amendments to strengthen the content of these policies in their submissions and subsequent evidence. This means that

these policies are unlikely to be substantially altered by decision-makers (unless they are strengthened) such that when the proposed RPS is made operative, the proposed District Plan is required to give effect to these policies in a same or similar form.

33. On this basis I consider that, in order to have regard (and in the future 'give effect to') the policies set out above, it is necessary for the proposed District Plan to include a specific policy approach for regionally significant infrastructure, such as the National Grid, that both provides for, and protects, regionally significant infrastructure and its ongoing operation, maintenance, upgrade and development. It is my view that the proposed RPS gives a particularly strong direction in relation to the protection of regionally significant infrastructure.
34. I acknowledge that the proposed District Plan must also give effect to the operative RPS. I have reviewed this document and am of the view that the operative RPS does not provide any specific or direct references to regionally significant infrastructure or the National Grid that would guide the detailed content of the proposed District Plan. Rather, the operative RPS reflects section 5 of the RMA by making a number of more general references to the need to enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety.
35. I turn now to addressing the specific relief sought by Transpower.

Definition – Regionally Significant Infrastructure

36. Transpower's submission seeks the inclusion of a new definition for 'regionally significant infrastructure', as follows:

"Regionally significant infrastructure: includes the following:

- a) Renewable electricity generation facilities, where they supply the national electricity grid and local distribution network; and
- b) The National Grid; and
- c) The Electricity distribution network; and
- d) Telecommunication and radio communication facilities; and
- e) Road classified as being of national or regional importance; and
- f) Marinas and Airports; and
- g) Structures for transport by rail."

37. Transpower's submission received three further submissions in support² and three further submissions supported in part³.
38. The proposed definition is consistent with other District Plans throughout New Zealand and will also give effect to the proposed RPS at the time it is made operative, specifically Policy 3.5.1 which aims to protect the national and regional significance of specific infrastructure within the Otago region. Although there is no specific definition for 'regionally significant infrastructure' provided in the proposed RPS, I note that Policy 3.5.1 acts as a definition in that it lists all the infrastructure of national and regional significance.
39. The planner's report accepts Transpower's proposed definition with minor amendments. Transpower supports the majority of the proposed amendments but does not accept the planner's recommendation on point b) as follows (amendments shown via strikethrough and underline):
- b) Electricity transmission infrastructure ~~The National Grid~~;*
40. Transpower does not support this amendment as it is inconsistent with definitions and provisions contained in the District Plan, such as definitions for the 'National Grid Corridor', 'National Grid Sensitive Activities', and 'National Grid Yard', as well as provisions in the Utilities and Energy Chapter which refer to 'the National Grid'. I note that there are no definitions or provisions within the Utilities and Energy Chapter relating to the 'electricity transmission network'. In order to avoid confusion for users of the Plan, I agree with Transpower that point b) should refer to 'the National Grid'. This is also consistent with the NPSET and NESETA, as well as submissions made on the proposed RPS.
41. For clarity purposes, electricity generation companies can own and operate small portions of transmission lines where the lines exit the generation facility and before it joins the National Grid. As renewable electricity generation facilities are covered under point a) of the definition, Transpower considers that it needs to be made clear that point b) refers to the National Grid, a term also used and defined within the NPSET as being "*the assets used or owned by Transpower NZ Limited*".
42. In addition, the planner's report recommends deleting point c) which refers to the 'electricity distribution network' and thus it appears that Council does not intend to include the local electricity distribution network within the definition for regionally significant infrastructure. If this is the case, it needs to be explicitly clear that point

² Aurora Energy Limited; Queenstown Airport Corporation; and Board of Airline Representatives New Zealand

³ Spark New Zealand Trading Limited; Chorus New Zealand Limited; and Vodafone New Zealand Limited

b) relates to the National Grid and does not include the electricity distribution network.

43. For these reasons, I support Transpower's submission on point b) and consider "the National Grid" to be clearer and more explicit for users of the District Plan.

Chapter 3 – Strategic Direction

Objective 3.2.1.5

44. Transpower's submission seeks the following amendment to Objective 3.2.1.5:

Maintain and promote the efficient and effective operation, maintenance, development and upgrading of the District's infrastructure, including designated Airports, the National Grid, key roading, and communication technology networks.

45. The planner's report accepts in part Transpower's submission point, accepting all proposed amendments except the addition of "the National Grid", instead inserting the proposed change:

"the District's regionally significant infrastructure".

46. Transpower's submission seeks to give effect to Policy 2 of the NPSET, which states that decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the National Grid.
47. Provided Transpower's relief sought in relation to the definition of 'regionally significant infrastructure' is accepted by the Panel, I support the amended version of Objective 3.2.1.5 in the planner's report because it better gives effect to Policy 2 of the NPSET and is also consistent with Policy 3.5.1 of the proposed RPS. The definition for 'regionally significant infrastructure', if accepted by the Panel, will cover the National Grid, and thus I support the proposed amendments contained in the planner's report.

Objective 3.2.5.1 and Policies 3.2.4.2.1 and 3.2.5.1.1 – Protect Outstanding Natural Landscapes and Features from inappropriate subdivision, use and development

48. Transpower's submissions on Objective 3.2.5.1 and Policies 3.2.4.2.1 and 3.2.5.1.1 seek to amend the provisions to protect Outstanding Natural Landscapes and Features from "inappropriate" subdivision, use and development. For example, Transpower's submission on Objective 3.2.5.1 is as follows:

“Protect the natural character of Outstanding Natural Landscapes and Outstanding Natural Features from inappropriate subdivision, use and development.”

49. The planner’s report made no specific reference to Transpower’s submission points except to reject them.
50. Objective 3.2.5.1 and Policy 3.2.5.1.1, as currently worded, are not consistent with section 6(b) of the RMA which aims to recognise and provide for “*the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development*”. The provisions do not allow for appropriate subdivision, use and development, such as an electricity substation or line, to be located within outstanding natural features and landscapes. The existing Cromwell-Frankton transmission line is located within an Outstanding Natural Landscape, being the Gibbston Valley.
51. Section 6 of the RMA allows the decision-maker to determine if an “appropriate” development, such as the National Grid, should be allowed within an area of ONL or ONF. In addition, the objective and policy are not consistent with the NPSET which states that decision-makers must recognise and provide for the National Grid, including its development, whilst having regard to the extent to which any adverse effects have been avoided, remedied or mitigated. In addition, the objective and policies are not consistent with Policy 8 of the NPSET, which states that “*the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.*” The NPSET is a higher order document and Council must give effect to it within the District Plan.
52. The objective and policy is also inconsistent with Chapter B3 of the Proposed Otago RPS, which acknowledges that some developments may need to be located in particular areas.
53. The planner’s report states that the word ‘inappropriate’ has not been inserted into the relevant provisions because although section 6(b) of the RMA provides the context to this, the planner considers the ‘inappropriate’ test to be implicit – i.e. development that does not protect the quality of an ONL or ONF will be considered inappropriate.
54. I disagree with the planner’s report as the test may not be completely clear or explicit to users of the plan and / or decision-makers in the future, particularly those who are not aware of why the terminology differs between the QLDP and

the RMA. It is dangerous to assume that all users of the plan and decision-makers in the future will understand this. In addition, the planner has provided no justification as to why the provisions cannot be altered to be consistent with the RMA. I consider the benefits of including the word 'inappropriate' to far outweigh the costs of not including it, not least that it will ensure the provisions are consistent with the RMA and the proposed RPS, as well as giving effect to the NPSET. Overall, I disagree with the planner's report and cannot find an adequate justification as to why the word 'inappropriate' is not included in the provisions.

55. In terms of Policy 3.2.4.2.1, Transpower's submission seeks the following amendment:

'Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna, referred to as Significant Natural Areas on the District Plan maps and ensure their protection from inappropriate subdivision, use and development.'

56. I agree with the reasoning contained in Transpower's submission that regionally significant infrastructure, such as a new electricity substation or line, may have a functional, operational and / or locational need to be located within or near an area identified as a Significant Natural Area. These activities may have unavoidable adverse effects on those values, such as indigenous vegetation or fauna, and thus could potentially be declined statutory approval under the direction of this policy.
57. Although I agree with Transpower's reasoning, the current wording contained in the PQLDP is consistent with section 6(c) of the RMA which aims to protect "areas of significant indigenous vegetation and significant habitats of indigenous fauna". I therefore agree with the recommendation in the planner's report on Policy 3.2.4.2.1 as the notified wording is consistent with section 6(c) of the RMA.
58. In terms of Objective 3.2.5.1 and Policy 3.2.5.1.1, I disagree with the recommendation in the planner's report to reject Transpower's submissions for the reasons described above. These provisions, as currently worded, are not consistent with the RMA, the NPSET or the proposed RPS. In order to be consistent with the RMA, NPSET, proposed RPS and recent case law, I support Transpower's submissions to alter Objective 3.2.5.1 and Policy 3.2.5.1 to allow for appropriate development, such as the National Grid, to be located within these areas.

59. In terms of section 32 analysis, I consider that the amendments will provide benefits by enabling people and communities to provide for their social and economic well-being by providing for the effective operation, maintenance, upgrading and development of the National Grid. I consider that the costs associated with implementing the amendments will be limited, as a case-by-case assessment of the effects of a proposal is still enabled (i.e. it does not mean a proposal will be granted consent), whereas the costs of not providing for the National Grid have the potential to be significant to the Queenstown Lakes District.

Objective 3.2.5.2 and Policies 3.2.4.6.1 and 3.2.5.2.1 – Replace “minimise” with “avoid, remedy or mitigate” adverse effects

60. Transpower’s submissions on Objective 3.2.5.2 and Policies 3.2.4.6.1 and 3.2.5.2.1 seek to replace the word “minimise” with the words “avoid, remedy or mitigate”. For example, Transpower’s submission on Policy 3.2.4.6.1 sought the following amendments:
- “That subdivision and / or development be designed so as to avoid, or where this is not possible, remedy or mitigate, adverse effects on the water quality of lakes, rivers and wetlands in the District.”*
61. The planner’s report rejected Transpower’s submissions.
62. I support Transpower’s submissions as the proposed terminology is more consistent with the RMA, and responds to the position in the recent King Salmon Case where the Court stated that the word “avoid” means “not allowing” or “preventing the occurrence of”.
63. In addition, Policy 3 of the NPSET directs decision-makers to consider the technical and operational constraints imposed on Transpower when considering the measures to avoid, remedy or mitigate adverse environmental effects. Overall, the NPSET directs the Council to consider the extent to which effects have been avoided, remedied or mitigated as well as the constraints imposed on Transpower to do so.
64. As currently drafted, Policy 3.2.4.6.1 would “not allow” any adverse effects on lakes, rivers and wetlands in the District, whilst Objective 3.2.5.2 would require adverse effects to be ‘minimised’ on Rural Landscapes – not offering the options to avoid, remedy or mitigate effects. I consider this approach to be inconsistent with the RMA and could have detrimental effects on Transpower’s National Grid.

65. In addition, the 'seek to avoid' policy direction in the NPSET (Policy 8) applies to the planning and development of the National Grid in rural environments, in regards to adverse effects on areas of outstanding and high natural character, areas of high recreation value and amenity, as well as existing activities. This policy direction has not been implemented in the District Plan and it is my opinion that strong direction is required at the District Plan level to ensure that the National Grid is not compromised in situations where it needs to be located in Rural Landscapes.
66. I also note that policies within the PRPS, particularly Chapter B3, acknowledge that some developments may need to be located in particular areas. This results in the District Plan being inconsistent with the PRPS. In addition, the technical and locational constraints imposed on infrastructure, such as the National Grid, have not been appropriately recognised and acknowledged within the Utilities and Energy Chapter of the District Plan. As such, the District Plan does not give effect to Policy 3 of the NPSET.
67. Although the planner's report did not discuss Transpower's submission points specifically, the report does state that a number of submissions raised the King Salmon case in regards to the use of the word 'avoid'. The planner's report accepts that care is required when using the word 'avoid' in policies as it effectively 'prohibits' a particular type of adverse effect. The planner's report also acknowledges that the use of the word 'avoid' may essentially place a 'ban' on a certain activity.
68. The discussion provided in the planner's report further emphasises why the provisions require alteration, particularly Policy 3.2.4.6.1. As currently worded, Policy 3.2.4.6.1 would essentially 'prohibit' any adverse effects on lakes, rivers and wetlands in the District, which could essentially 'ban' activities associated with the development, operation, maintenance and upgrading of regionally significant infrastructure, such as the National Grid. This is contrary to the purpose of the RMA and does not give effect to the NPSET, in particular the 'seek to avoid' policy direction (Policy 8).
69. In order to be consistent with the RMA, the proposed RPS and recent case law, and to give effect to the NPSET, I support Transpower's submission to alter the objective and policies to allow adverse effects from developments in these areas to be 'avoided, remedied or mitigated.'

Objective 3.2.2.1 and Policy 3.2.2.1.3 – Avoiding adverse effects on regionally significant infrastructure

70. Transpower's submission seeks additional clauses be included in Objective 3.2.2.1 and Policy 3.2.2.1.3, as follows:
- “ensure that land use and development does not adversely affect the effective and efficient operation, maintenance, upgrading or development of regionally significant infrastructure”.*
71. The planner's report does not specifically address Transpower's submission in the discussion, but does recommend that the submission points be rejected.
72. Transpower seeks the wording be amended to ensure that urban growth and development does not adversely affect regionally significant infrastructure such as Transpower's National Grid. The amendments will not only give effect to the Objective and Policies 2 and 10 of the NPSET, but also to the objectives and policies contained in the proposed RPS, which provides clear direction to Territorial Authorities to protect infrastructure corridors both now and in the future. The objectives and policies in the proposed RPS also aim to integrate infrastructure with land use.
73. In my opinion, the notified versions of Objective 3.2.2.1 and Policy 3.2.2.1.3 do not fully achieve Council's obligations to protect regionally significant infrastructure, such as the National Grid, from adverse effects. The provisions do not give full effect to the NPSET, particularly Policy 10, or give full effect to Chapter B3 of the proposed RPS.
74. I therefore support Transpower's amendments to Objective 3.2.2.1 and Policy 3.2.2.1.3 and consider that the proposed amendments will enable Council to meet their obligations under section 31 of the RMA and give full effect to the NPSET (provided other amendments are also made).

Policy 3.2.6.3.2 – open spaces / community facilities

75. Transpower's submission seeks minor amendments to Policy 3.2.6.3.2 as follows:

“That open spaces and community facilities are located and designed to be desirable, safe, accessible places and recognise that they can have multiple uses.”

76. The planner's report recommended that Transpower's submission be rejected with no justification stated.
77. Transpower's submission seeks amendments to the policy to acknowledge that open spaces can have multiple uses – for example, National Grid corridors could potentially be used as open, connecting spaces such as cycleways and walkways. This is particularly possible in the Queenstown Lakes District where the National Grid traverses Outstanding Natural Landscapes (the Gibbston Valley) and is located near to waterways and residential developments.
78. I agree with Transpower's submission point as I consider it broadens the scope for Policy 3.2.6.3.2, allowing multiple uses for open spaces and community facilities within the District.

Chapter 4 – Urban Development

79. Transpower's submission points on Chapter 4 principally seek to alter the applicable objective and policies to ensure that urban growth and development does not adversely affect regionally significant infrastructure such as the National Grid. Transpower's submission points on Section 4.1 – Purpose, Objective 4.2.1 and Policies 4.2.1.2, 4.2.3.1, 4.2.3.4, 4.2.3.5 and 4.2.4.2 seek to include text or clauses such as the following:

“ensure that land use and development does not adversely affect the effective and efficient operation, maintenance, upgrading or development of regionally significant infrastructure”.

80. The planner's report does not discuss Transpower's submission points but recommends that they all be declined.
81. Transpower supports the purpose of Chapter 4 as it seeks to achieve integration between land use, infrastructure and community facilities. However, there is no mention of integrating land use development and growth with regionally significant infrastructure such as the National Grid. Land use integration is not only provided for in the NPSET but it is also a key theme in the objectives and policies contained in the proposed RPS, such as Policies 3.4.1 and 3.5.3, which aim to protect infrastructure of national and regional significance from activities and land use which may result in reverse sensitivity effects. Policy 3.4.4 of the proposed RPS also seeks to protect the functioning of lifeline utilities, which includes the National Grid. The District Plan must give effect to and be consistent with the proposed RPS.

82. Policy 10 of the NPSET states that:
- “In achieving the purpose of the Act, decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.”*
83. In my opinion, the notified versions of the provisions in Chapter 4 do not fully achieve Council’s obligations to protect the National Grid from adverse effects and enable it to be operated, developed, maintained and / or upgraded in order to meet the requirements of the community. Chapter 4 does not currently give full effect to the NPSET, particularly Policy 10.
84. Council may consider that regionally significant infrastructure and the impact that development can have on that infrastructure is adequately covered in the Utilities and Energy Chapter. However I do not agree as the Utilities and Energy Chapter does not currently provide protection of regionally significant infrastructure from adverse effects, including reverse sensitivity effects.
85. I therefore support Transpower’s amendments to the provisions contained in Chapter 4, and consider that the proposed amendments will enable Council to meet their obligations under section 31 of the RMA and give full effect to both the NPSET and the proposed RPS.

Chapter 6 – Landscapes

Policies 6.3.3.1, 6.3.4.1 and 6.3.5.2

86. Transpower’s submission seeks amendments to Policies 6.3.3.1 and 6.3.4.1 to “avoid inappropriate subdivision and development” on Outstanding Natural Features or landscape amenity areas. For example, Transpower’s submission on Policy 6.3.3.1 is as follows:
- “Avoid inappropriate subdivision and development on Outstanding Natural Features to protect, maintain or enhance Outstanding Natural Features.”*
87. As stated earlier in this evidence, the policies, as currently worded, are not consistent with section 6(b) of the RMA which aims to recognise and provide for “the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development”. The provisions do not allow for appropriate subdivision, use and development, such as an electricity substation or line, to be

located within outstanding natural features and landscapes. The existing Cromwell-Frankton transmission line is located within an Outstanding Natural Landscape, being the Gibbston Valley. I therefore agree with Transpower that the policies are not consistent with section 6 of the RMA, Policy 8 of the NPSET, or Chapter B3 of the proposed RPS, to which the District Plan must give effect.

88. Transpower's submission also seeks that Policy 6.3.5.2 be amended to provide an exemption for regionally significant infrastructure when trying to *"avoid adverse effects from subdivision and development that are highly visible from public places"*. As currently worded, this policy may restrict the operation, maintenance and development of the National Grid. The Cromwell-Frankton transmission line is located within areas identified as Rural Landscapes, particularly around Frankton and Lake Hayes. A transmission line or substation will always be highly visible, particularly the Cromwell-Frankton transmission line as it is located near the State Highway as well as the Frankton township and existing residential developments such as the Lake Hayes Estate.
89. The planner's report acknowledges Transpower's concerns regarding Policies 6.3.3.1, 6.3.4.1 and 6.3.5.2 but considers that the importance of regionally significant infrastructure is acknowledged and recognised within the Strategic Direction and the Energy and Utilities Chapters of the District Plan. I disagree with this statement as there is currently only one policy within the Strategic Directions Chapter which aims to promote the operation of the District's infrastructure. There is currently no recognition of the locational, functional and operational constraints that infrastructure, such as the National Grid, may be subject to and thus, I do not consider that the QLDP has given effect to Policy 3 of the NPSET.
90. The planner's report goes on to say that *"providing exemptions and add-ons to the policies as requested, particularly within the higher-order Landscape Chapter policies, is not considered necessary or appropriate at all."*
91. This suggests that the Landscape chapter is a higher-order chapter and contains more weight and importance than other chapters within the District Plan. Therefore, applying this approach, one policy contained within the Strategic Directions Chapter regarding regionally significant infrastructure will not carry much weight by a decision-maker compared to several, contrary provisions in the Landscape Chapter. I also note that the National Grid is a nationally significant infrastructure that is subject to a National Policy Statement, a document that is higher-order than the District Plan and all its chapters, including the Landscape

chapter. Therefore, if the Panel was to accept a “higher-order” chapter approach then this must include provision for the National Grid.

92. However, the planner’s report does recommend the addition of a new policy to acknowledge the important contribution that regionally significant infrastructure makes to the social and economic wellbeing and health and safety within the District, and to also acknowledge the location constraints in the District. The new policy (Policy 6.3.12) states:

“Regionally significant infrastructure shall be located to avoid degradation of the landscape, while acknowledging location constraints”.

93. In my opinion, the changes sought by Transpower are more appropriate and give better effect to the NPSET and proposed RPS than the proposed policy as the main focus of the proposed policy is still to avoid degradation of landscape. Acknowledging the locational constraints of infrastructure is only an ‘add-on’ and does not give full effect to the NPSET or the proposed RPS.

94. If the proposed policy is adopted by the Panel, I recommend that Transpower’s further submission on Aurora Energy Limited’s submission regarding a new objective and policy be accepted and inserted in the Strategic Directions or Landscape Chapter as follows (amendments shown via underline and strikethrough):

Objective xxxx

Recognise that Regionally Significant Infrastructure has specific locational, and technical, and operational constraints.

Policy xxx

Manage potential effects of Regionally Significant Infrastructure on the ~~surrounding environment~~ Outstanding Natural Landscapes and Outstanding Natural Features, having regard to the economic benefits and locational, technical and operational requirements ~~needs~~ of such infrastructure.”

95. The objective and policy proposed by Aurora give better effect to the NPSET and the proposed RPS than proposed Policy 6.3.12, as the objective and policy recognises the locational, technical and operational constraints that infrastructure have.

96. In terms of section 32 analysis, I consider that the amendments will provide benefits by enabling people and communities to provide for their social and

economic well-being by providing for the effective operation, maintenance, upgrading and development of the National Grid. I consider that the costs associated with implementing the amendments will be limited, as a case-by-case assessment of the effects of a proposal is still enabled (i.e. it does not mean a proposal will be granted consent), whereas the costs of not providing for the National Grid have the potential to be significant to the Queenstown Lakes District.

Section 6.2, Policies 6.3.1.3 and 6.3.1.4

97. Transpower also submitted on Section 6.2, Policy 6.3.1.3 and 6.3.1.4 to insert additional text into these provisions which recognised the importance of infrastructure activities and recognising that infrastructure is subject to significant locational, technical and / or operational constraints.
98. The planner's report recommended these submission points be rejected with no justification provided.
99. I agree with Transpower's submission points in relation to Section 6.2, Policy 6.3.1.3 and 6.3.1.4 as Chapter 6, as notified, does not provide adequate recognition of the locational, technical and / or operational constraints that infrastructure activities such as the National Grid is subject to. Chapter 6 does not currently give effect to the NPSET or the proposed RPS. Policy 3 of the NPSET specifically directs decision-makers to consider the constraints imposed on avoiding, remedying or mitigating adverse effects of transmission activities considering the technical and operational requirements of the network.
100. I agree with Transpower that the additional text would better give effect to the NPSET and the proposed RPS.

Further Submissions

101. Transpower has made further submissions to other parties' submissions to the PQLDP. The further submissions have either been included in the above sections, or in Attachment A to my evidence.

Conclusion

102. The Queenstown Lakes District Plan must give effect to the NPSET and must achieve the purpose of the RMA. Transpower's submission seeks a number of amendments to achieve this.

103. In my view, the amendments as set out in Attachment A of this evidence, enable the PQLDP to appropriately give effect to the NPSET and the proposed RPS and as such achieve the purpose of the RMA by:
- a) Recognising the benefits of the National Grid;
 - b) Providing for the use, development and protection of the National Grid;
 - c) Protecting the National Grid from the adverse effects, including reverse sensitivity effects; and
 - d) Appropriately managing the adverse effects of the National Grid.

Aileen Mary Crow
29 February 2016