

**BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL PROPOSED  
DISTRICT PLAN HEARINGS PANEL**

**IN THE MATTER** of the Resource Management Act 1991

**AND** the proposed Queenstown Lakes District Plan  
(Chapter 27 Subdivision and Development)

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**STATEMENT OF EVIDENCE OF AINSLEY JEAN MCLEOD ON BEHALF  
OF THE NEW ZEALAND FIRE SERVICE COMMISSION (SUBMITTER  
NO. 438 AND FURTHER SUBMITTER NO. 1125)**

**AND**

**TRANSPOWER NEW ZEALAND LIMITED (SUBMITTER NO. 805 AND  
FURTHER SUBMITTER NO. 1301)**

the 15th day of July 2016

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## 1. INTRODUCTION

- 1.1 My full name is Ainsley Jean McLeod. I hold the position of Technical Director of Planning at Beca Limited. I am a full member of the New Zealand Planning Institute.
- 1.2 I have been engaged by both the New Zealand Fire Service Commission (**the Commission**) and Transpower New Zealand Limited (**Transpower**) to provide expert planning evidence in relation to the submissions, and further submissions, made by these organisations on the Queenstown Lakes District Proposed District Plan (**Proposed District Plan**).
- 1.3 This is the second statement of evidence prepared by me in relation to the Commission's submission on the Proposed District Plan. My qualifications and relevant experience, particularly as this experience relates to the Commission's submission and further submissions, are set out in my first statement of evidence.<sup>1</sup>
- 1.4 This is my first statement of evidence in relation to Transpower's submissions on the Proposed District Plan and for completeness I record that I am familiar with Transpower's roles and responsibilities, having been the Director responsible for Beca's contracts to provide planning and environmental services to Transpower since 2001. Over the duration of these contracts I have provided planning advice in relation to new and upgraded National Grid transmission lines and substations, along with the relevant planning instruments including the National Policy Statement on Electricity Transmission 2008 (**NPSET**) and the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (**NESETA**).
- 1.5 My evidence specifically addresses:
- (a) the Commission's submission, and further submissions, on Chapter 27 Subdivision and Development;
  - (b) Transpower's submission, and further submissions on Chapter 27 Subdivision and Development, and on Chapter 30 Utilities (insofar

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<sup>1</sup> A McLeod, Statement of Evidence, Chapter 3 - Strategic Direction, 26 February 2016, paragraphs 1.1 to 1.3.

as they relate to subdivision in the vicinity of the National Grid);  
and

- (c) the 'Section 42A Hearings Report' on Chapter 27 Subdivision and Development dated 29 June 2016 (**Section 42A Report**).

- 1.6 For the purposes of my evidence I rely upon the earlier evidence of **Mr Keith McIntosh**, filed in relation to Chapter 3 Strategic Direction and Chapter 21 Rural, Chapter 22 Rural Residential and Lifestyle and Chapter 23 Gibbston Character Zone. **Mr McIntosh's** earlier evidence details the Commission's role, responsibilities and interests in the proposed District Plan. He sets out the New Zealand Fire Service's infrastructure needs, and the risks and consequences of a failure to provide adequate firefighting water supplies and vehicle access for firefighters. He also provides detailed evidence in relation to the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (**SNZ PAS 4509:2008**) and confirms that is the key document for setting out the requirements for firefighting water supply and a New Zealand Standard published in accordance with section 30(3) of the Fire Service Act (1975) (**FSA**).<sup>2</sup>
- 1.7 My evidence should also be read in conjunction with my earlier evidence and, to avoid repetition, I rely on that evidence insofar as it is relevant to the Commission's submission on Chapter 27. My earlier evidence, amongst other matters, supports the inclusion of a new Objective and accompanying Policies in Chapter 3 to specifically enable emergency services and supports the inclusion of a new standard in the rules tables in Chapters 21, 22 and 23 that requires compliance with SNZ PAS 4509:2008.<sup>3 4</sup>
- 1.8 For the purposes of my evidence, as it relates to the relief sought by Transpower, I rely on the earlier evidence of **Ms Aileen Crow** and **Mr Andrew Renton** filed in relation to Hearing Topics insofar as this

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<sup>2</sup> K McIntosh, Statement of Evidence, Chapter 3 – Strategic Direction, 2 March 2016 and Statement of Evidence, Chapter 21 – Rural, Chapter 22 Rural Residential and Lifestyle and Chapter 23 Gibbston Character Zone, 21 April 2016.

<sup>3</sup> A McLeod, Statement of Evidence, Chapter 3 – Strategic Direction, 26 February 2016 and Statement of Evidence Chapter 21 – Rural, Chapter 22 Rural Residential and Lifestyle and Chapter 23 Gibbston Character Zone, 21 April 2016.

<sup>4</sup> Following the Chapters 21, 22 and 23 hearing, and in response to questions from the Hearings Panel, the relief supported in my evidence has been further amended as set out in the Memorandum of Counsel on behalf of the New Zealand Fire Service Commission dated 7 June 2016.

evidence is relevant to Chapter 27 and subdivision and development in the vicinity of the National Grid. In particular, I note that:

- (a) **Ms Crow's** evidence details how the national significance of the National Grid is recognised by the NPSET and NESETA; sets out the relevant policies of the Proposed Regional Policy Statement for Otago 2015 (**Proposed RPS**); and concludes that amendments to the Proposed District Plan are required in order to give effect to the NPSET;<sup>5 6</sup>
- (b) **Mr Renton's** evidence describes the National Grid, including Transpower's assets in Queenstown Lakes District, and sets out the actual and potential effects of third party activities on the National Grid.<sup>7</sup>

1.9 In preparing this evidence I have reviewed a number of documents, insofar as they relate to the submissions made by Transpower and the Commission. These documents are listed in **Attachment A**.

1.10 In the remainder of my evidence I specifically address the relief sought in the submissions and further submissions made by Transpower and the Commission. My evidence is structured to address the submissions of each organisation separately, given the distinct and confined nature of the relief sought in each case.

1.11 The consideration included in my evidence is made in the context of the statutory framework for decisions on the proposed District Plan set out in the Resource Management Act 1991 (**RMA**) and the on-going guidance provided by the modified *Long Bay* test.<sup>8</sup> This statutory framework is generally set out in the Section 42A Report (and accompanying Section 32 Report) and I will not repeat it here, with the exception of noting that these Reports do not address national policy statements, and particularly the NPSET, including the requirement included in section 75(3) of the Resource Management

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<sup>5</sup> A Crow, Statement of Evidence, Chapter 3 – Strategic Direction, 29 February 2016 and Statement of Evidence, Chapter 21 – Rural, Chapter 23 Gibbston Character Zone and Chapter 33 Indigenous Vegetation and Biodiversity, 21 April 2016.

<sup>6</sup> The Council's 'Right of Reply' in relation to Chapter 3, dated 7 April 2016, recommends the inclusion of a goal, objective and policy that seeks to enable and protect infrastructure.

<sup>7</sup> A Renton, Statement of Evidence, Chapter 3 – Strategic Direction, 29 February 2016 and Statement of Evidence, Chapter 21 – Rural, Chapter 23 Gibbston Character Zone and Chapter 33 Indigenous Vegetation and Biodiversity, 21 April 2016.

<sup>8</sup> *Long Bay – Okura Great Park Society v North Shore City Council* EnvC A078/2008, 16 July 2008, at [34], *High Country Rosehip Orchards Ltd v Mackenzie District Council* [2011] NZEnvC 387 and *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC 55.

Act 1991 (**RMA**) for the Proposed District Plan to 'give effect to' the NPSET. The requirement to 'give effect to' is a strong statutory direction and was interpreted in the *EDS v New Zealand King Salmon* Supreme Court case as meaning 'to implement'.<sup>9</sup>

1.12 I also acknowledge that the Hearings Panel is required to undertake a re-evaluation of changes to the proposal under section 32AA of the RMA and I therefore address the relevant matters in section 32(1)-(4) where appropriate to do so.

## **2. CODE OF CONDUCT**

2.1 In accordance with the 'Minute and Directions of Hearings Commissioners on Procedures for Hearing of Submissions' dated 25 January 2016, I confirm that I have read the code of conduct for expert witnesses as 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.

2.2 My qualifications as an expert are referenced above. I confirm that the issues addressed in this brief of evidence are within my areas of expertise.

2.3 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 I express.

2.1 I confirm that the issues of concern to, and the relief sought by, the Commission and Transpower are distinct. No conflict of interest arises and I have prepared my evidence with the mutual consent of both submitters.

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<sup>9</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited*, NZSC 38, 17 April 2014.

### **3. THE COMMISSION'S SUBMISSION, AND FURTHER SUBMISSIONS, ON CHAPTER 27**

3.1 The Commission's submission is primarily concerned with the manner in which Chapter 27 addresses water supply in the context of subdivision, and specifically water supply for firefighting purposes.

The Commission's submission seeks:

- (a) the retention of Objective 27.2.5, Policy 27.2.5.6 and 27.2.5.7 insofar as they relate to water supply; and
- (b) an amendment to Policy 27.5.10 to specifically recognise SNZ PAS 4509:2008; and
- (c) the inclusion of an additional standard (as associated matters over which discretion is restricted) that requires compliance with SNZ PAS 4509:2008 in situations where subdivisions that may accommodate buildings are not connected to a reticulated water supply.

3.2 The Commission's further submissions:

- (a) do not support or oppose the use of rain water tanks, as promoted in the primary submission of A Brown, but reiterates the importance of having appropriate water for firefighting purposes;<sup>10</sup>
- (b) do not support or oppose a change in activity status for all subdivisions from discretionary to controlled that is sought by a number of submitters, but seeks that such subdivisions are required to comply with SNZ PAS 4509:2008.<sup>11</sup>

#### **Objectives and Policies (excluding Policy 27.2.5.10)**

3.3 The Commission's submission supports, and seeks the retention of, Objective 27.2.5, Policy 27.2.5.6 and Policy 27.2.5.7 insofar as they relate to water supply, including the requirement to connect to reticulated networks and water supply for firefighting purposes.<sup>12</sup>

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<sup>10</sup> Primary submission references 289.6 and 289.7 and further submission references 1125.13 and 1125.14.

<sup>11</sup> Primary submission references 761.29, 762.2, 763.14, 767.16, 497.17, 512.13, 513.43, 520.5, 522.40, 523.14, 525.2, 527.4, 529.5, 530.14, 531.27, 532.33, 534.33, 535.33, 536.13, 537.38, 583.1, 583.4, 608.56, 610.17, 613.17 and further submission references 1125.15, 1125.16, 1125.18 to 1125.40.

<sup>12</sup> Submission references 438.35, 438.36 and 438.37.

- 3.4 The Section 42A Report recommends the retention of Policy 27.2.5.6 and Policy 27.2.5.7 as notified and recommends limited amendments that clarify Objective 27.2.5 and re-phrase the Objective as an outcome.<sup>13</sup>
- 3.5 Objective 27.2.5, Policy 27.2.5.6 and Policy 27.2.5.7, as amended by the Section 42A Report, achieve the relief sought by the Commission. In my opinion these provisions appropriately recognise the importance of firefighting water supply by requiring water supply, including for firefighting, to be provided to new subdivisions and developments either through connection to a reticulated network or by providing 'sufficient capacity' and as such:
- (a) are consistent with SNZ PAS 4509:2008;
  - (b) are consistent with the priority given to firefighting water supply in section 14(3) of the RMA;
  - (c) enable the Commission to achieve its statutory obligations, including the promotion of fire safety under section 20 of the FSA, including the importance of sufficient water to address risk to life and property (as described in the earlier evidence of **Mr McIntosh**);<sup>14</sup>
  - (d) implement, in part, the proposed new Objective and Policies supported in my earlier evidence (and as amended by a Memorandum of Counsel for the Commission following the Chapter 3 Hearing);<sup>15</sup>
  - (e) better have regard to (and in the future 'gives effect to') Policies 3.2.3, 3.2.5 and 3.2.7 of the Proposed RPS;<sup>16</sup> and
  - (f) achieve the purpose of the RMA by enabling people and communities to provide for their health, safety and well-being by managing a potential adverse effect of relatively low probability but high potential impact.

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<sup>13</sup> As set out in Appendix 2 to the Section 42A Report, 'list of submission points with recommended decision'.

<sup>14</sup> K McIntosh, Statement of evidence, dated 21 April 2016, paragraph 18.

<sup>15</sup> Memorandum of Counsel regarding revised relief New Zealand Fire Service Commission, dated 24 March 2016.

<sup>16</sup> My earlier evidence (dated 26 February, paragraph 4.3 and 4.7) sets out the Policies of the Proposed RPS that are relevant; concludes that the Proposed RPS gives a particularly strong direction in relation to emergency service functions; and confirms that I give substantial weight to the Proposed RPS on the basis that no submissions have sought to substantially amend or 'dilute' the policies that relate to emergency services.

## **Firefighting Water Supply – SNZ PAS 4509:2008**

- 3.6 The Commission’s submission seeks the inclusion of an additional standard, and associated matters over which discretion is restricted, which requires compliance with SNZ PAS 4509:2008.<sup>17</sup> This submission is supported by the further submission made by the Otago Regional Council “as this requirement would provide for emergency services and critical infrastructure, giving effect to the Regional Policy Statements and the Resource Management Act 1991”.<sup>18</sup>
- 3.7 The Commission’s submission also seeks an amendment to Policy 27.2.5.10(ii) to include specific reference to SNZ PAS 4509:2008.<sup>19</sup> Queenstown Park Limited has made a further submission acknowledging the importance of firefighting water supply, but questioning the need to refer to SNZ PAS 4509:2008 in the Proposed District Plan.<sup>20</sup>
- 3.8 The Section 42A Report indicates support in principle for the relief sought by the Commission, but questions whether the relief is necessary. The Report notes that:
- “The QLDC and NZFS have a memorandum of understanding (MOU) that sets out the requirements for firefighting provisions in non-reticulated areas. The MOU requires 20,000 litres of water for a firefighting reserve, whilst the Code of Practice requires 45,000 litres. Most subdivision activity undertaken within the District is assessed in accordance with SNZ PAS 4509:2008, which is set out in the Code of Practice and in all cases subdivision approvals are supported with conditions that link back to the Code of Practice.”*
- 3.9 The Section 42A Report concludes that the recommended restricted discretionary activity status for subdivision, alongside the inclusion of ‘water supplies for firefighting purposes’ as a matter over which Council restricts its discretion goes some way to providing for part of the relief sought by the Commission and allows resource consent to be refused where water supply is inadequate. The Section 42A Report does not recommend an amendment to Policy 27.2.5.10(ii).<sup>21</sup>
- 3.10 I generally agree with the Section 42A Report that the provision of water supply for firefighting purposes can be addressed as a matter

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<sup>17</sup> Submission reference 438.39.

<sup>18</sup> Further submission reference 1160.4.

<sup>19</sup> Submission reference 438.38

<sup>20</sup> Further submission reference 1097.420.

<sup>21</sup> Section 42A Report, paragraphs 25.4 to 25.6.



over which Council's discretion is restricted, and resource consent conditions imposed, in situations where subdivision is a restricted discretionary activity. However, I consider that the 'matter of discretion' that currently reads "*fire fighting water supply*" would benefit from an amendment to provide further clarity in terms of what is considered sufficient water supply for firefighting purposes in a manner that:

- (a) references SNZ PAS 4509:2008;
- (b) confirms that connection to a fully reticulated water supply is sufficient; and
- (c) aligns to the further amended relief sought by the Commission in relation to land use activities in Chapters 21, 22 and 23.<sup>22</sup>

3.11 In this regard, the Section 42A Report<sup>23</sup> alludes to the following firefighting water supply requirements that are currently being relied on in Queenstown:

- (a) an existing agreement between Council and the Commission, which requires either a 20,000 litre static water supply within a 30,000 litre tank or a 7,000 litre static supply where a domestic sprinkler system is installed (as provided for within the SNZ PAS 4509:2008);<sup>24</sup> and
- (b) the Council's Land Development and Subdivision Code of Practice (**Code of Practice**), that generally sets out the standards for the design and performance of reticulated water supplies but also generally requires compliance SNZ PAS 4509:2008 (that in turn requires 45,000 litres of or an alternative approved by the NZFS).

3.12 The different volumes that are currently being relied on have the potential to cause confusion, and I consider that clearly establishing the volume that is sufficient in the Proposed District Plan, in a manner that is consistent with a New Zealand Standard (SNZ PAS

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<sup>22</sup> As set out in the Memorandum of Counsel on behalf of the New Zealand Fire Service Commission dated 7 June 2016

<sup>23</sup> Paragraph 25.4.

<sup>24</sup> I address the history of the agreement between the Council and the Commission in my earlier evidence (dated 21 April 2016) where I conclude that the agreement was an interim measure that does preclude the Proposed District Plan relying on another Standard.

4509:2008) and the Council's Code of Practice to be advantageous to plan users.

3.13 In my earlier evidence I have also expressed a preference to rely on SNZ PAS 4509:2008, as a New Zealand Standard, on the basis of my understanding that the Environment Court has made it clear in *McIntyre v Christchurch City Council* [1996] NZRMA 286 that New Zealand Standards are deserving of respect. Further, it is my understanding is that section 75(5) of the RMA expressly provides for the incorporation of material by reference under Part 3 of the First Schedule to the RMA and Clause 30 of the First Schedule allows for the incorporation of certain documents by reference in a plan (including Standards). I also note that the Council gave public notice of its "Proposal to Incorporate Material by Reference in the Proposed Queenstown Lakes District Plan (Stage 1)" under Clause 34(2)(c) of the First Schedule to the RMA in September 2015 and this notice included SNZ PAS 4509:2008 along with a number of other Standards.

3.14 It is for these reasons, and also for the reasons set out in paragraph 3.5 above, that I support the following amendment to the matters over which discretion is restricted in Rules 27.5.5 and 27.5.6 as follows (shown in [blue](#)):

“• Fire-fighting water supply (*adequate water supply for firefighting purposes would be achieved by connecting to a fully reticulated water supply or through compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008*),”

3.15 Having regard to the number of submissions that have been made seeking that subdivision be a controlled activity, rather than a restricted discretionary activity, I have also considered the most appropriate way in which water supply for firefighting purposes may be addressed in the context of controlled, discretionary and non-complying activities.

3.16 Should the Hearings Panel be of a mind to accept the submissions seeking that subdivision be a controlled activity, I consider that the relief sought in the Commission's original submission is more appropriate than an equivalent amendment to 'matters of control', on the basis that it enables an application for resource consent to be

refused and is aligned with the approach sought by the Commission (and supported in my earlier evidence) in relation to Chapters 21, 22 and 23. I therefore suggest the following alternative Rule (where subdivision is a controlled activity) and also suggest that this Rule could be applied in Rule 27.7.15.3 that addresses the provision of water in non-reticulated areas (Zone and Location Specific Standards). I acknowledge that this Rule could also be applied as a Standard that controlled activities must meet with a 'default' to restricted discretionary activity status:

	<b>Subdivision Activities – District Wide</b>	<b>Activity Status</b>
<u>"27.5.x</u>	<u>Subdivision of land resulting in an allotment that may accommodate a building (excluding accessory buildings that are not habitable) that:</u> <u>(a) is not connected to a fully reticulated water supply; and</u> <u>(b) that does not have a dedicated firefighting water supply of 45,000L and comply with the other requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008."</u>	<u>RD</u>

3.17 In terms of the direct inclusion of SNZ PAS 4509:2008 in Policy 27.2.5.10(ii), subject to the amendment I set out in paragraph 3.5 above, I agree with the Section 42A Report and I do not consider this amendment to be necessary. I consider that the Rules that implement Policy 27.2.5.10(ii) are a more appropriate location for a direct reference to a Standard to be achieved and I consider that a generic reference to firefighting water supply in the Policies provides a sufficient basis for the rules and any subsequent consideration of an application for resource consent. In this regard, I acknowledge that my opinion is similar to the conclusion reached in the Section 42A Report in regard to the inclusion of the Code of Practice in a Policy.<sup>25</sup>

<sup>25</sup> Section 42A Report, paragraph 18.15.

#### 4. TRANSPOWER'S SUBMISSION, AND FURTHER SUBMISSIONS, ON CHAPTER 27

4.1 Transpower's submission on Chapter 27 is primarily concerned with the approach the Proposed District Plan takes to ensuring that subdivision does not adversely affect the National Grid in a manner that gives effect to Policies 10 and 11 of the NPSET. Transpower's submission seeks:

- (a) an amendment to Objective 27.2.5 to ensure that new infrastructure associated with servicing subdivisions does not adversely affect the National Grid;
- (b) the inclusion of a new Objective and a new Policy that seek the avoidance of subdivision that may adversely affect the National Grid;
- (c) the inclusion of a clause cross referencing to Chapter 30 when subdivision is in the vicinity of the National Grid;<sup>26</sup> and
- (d) in respect of Chapter 30, the inclusion of new rules that manage subdivision in the vicinity of the National Grid (alongside limited amendments to the definition of 'National Grid Corridor').

4.2 Transpower's further submissions:

- (a) oppose in part the primary submission made by Aurora Energy Limited (**Aurora**), which seeks a similar subdivision corridor, to the extent that Transpower considers the use of the term 'critical electricity line' is inconsistent, uncertain and potentially confusing;<sup>27</sup>
- (b) opposes the primary submissions made by Moraine Creek Limited (1366.4 and 1366.5) and Three Beaches Limited (561.5), which seek controlled activity status for all subdivisions, and seeks that the rules proposed by Transpower for subdivision in the vicinity of the National Grid be accepted instead.<sup>28</sup>

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<sup>26</sup> Transpower's primary submission is supported by the further submission made by Aurora (further submission reference 1121.21 subject to the cross reference also referring to 'critical electricity lines').

<sup>27</sup> Primary submission reference 635.42 and further submission reference 1301.12.

<sup>28</sup> Primary submission references 1366.4, 1366.5 and 561.5 and further submission references 1301.21, 1301.22 and 1301.23.

## Objectives and Policies

4.3 Transpower's submission seeks an amendment to Objective 27.2.5 to ensure that new infrastructure associated with servicing subdivisions does not adversely affect the National Grid.<sup>29</sup> This submission is supported by the further submission made by the New Zealand Defence Force on the basis that the amendments proposed appropriately provide for regionally significant infrastructure.<sup>30</sup>

4.4 Transpower's submission also seeks the inclusion of a new Objective and associated Policy that specifically addresses the avoidance of the effects of subdivision on the National Grid.<sup>31</sup>

4.5 The Section 42A Report generally supports the intent of the relief sought by Transpower, but concludes:

*“... that it is more appropriate for the relief to be directed under Objective 27.2.2 as opposed to the Infrastructure policies. This is because the issue raised relates to the siting and design of subdivision close to transmission networks, not the establishment of new infrastructure. Protecting infrastructure of national and regional significance from adverse effects (including reverse sensitivity effects) is entrenched within the higher order National Policy Statement on Electricity Transmission 2008 (NPSET), and Objective 3.5 and Policy 3.5.1 of the PRPS.”<sup>32</sup>*

4.6 The Section 42A Report recommends the inclusion of the following additional Policy 27.2.2.10:

*“Policy 27.2.2.10 - Manage subdivision within or near to electricity transmission corridors to facilitate good amenity and urban design outcomes, while minimising potential reverse sensitivity effects on the transmission network.”<sup>33</sup>*

4.7 I generally agree with the Section 42A Report's recommendation that a single additional policy that implements Objective 27.2.2, and the new Objective 3.2.8.1 that was recommended in Council's reply at the conclusion of the Strategic Direction Hearing, appropriately achieve the relief sought by Transpower in a manner that can give effect to the NPSET and have regard to the Proposed RPS. However, I consider that further minor amendments are necessary to give effect to Policies 10 and 11 of the NPSET as follows (shown in [blue](#)):

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<sup>29</sup> Submission reference 805.62.

<sup>30</sup> Further submission reference 1211.30.

<sup>31</sup> Submission references 805.63 and 805.64.

<sup>32</sup> Section 42A Report, paragraph 18.128.

<sup>33</sup> Section 42A Report, paragraph 18.128.

"Policy 27.2.2.10 - Manage subdivision within or near to electricity transmission corridors to facilitate good amenity and urban design outcomes, while ~~avoiding~~ minimising potential adverse effects (including reverse sensitivity effects) on the National Grid transmission network."

- 4.8 In my opinion the amendments set out above better give effect to Policies 10 and 11 of the NPSET. In particular, Policy 10 includes two requirements, firstly to *"manage activities to **avoid** reverse sensitivity effects"* and, secondly to *"**ensure** that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised"*. I consider that the proposed amendments:
- (a) appropriately reflect the direction to 'avoid' reverse sensitivity effects in Policy 10 of the NPSET;
  - (b) appropriately expand the range of potential effects on the National Grid to include the direct effects of subdivision (such effects may include anticipating earthworks or landscaping that may compromise the lines and structures, and subdivision layouts that effectively prevent access); and
  - (c) provide greater clarity through the use of the term 'National Grid', in a manner that is consistent with the terminology used in the Council's reply version of Chapter 3 – Strategic Direction.

#### **Subdivision in the Vicinity of the National Grid**

- 4.9 Transpower's submission seeks the inclusion of a clause in 27.3.1 that directs plan users to the Rules in Chapter 30 where subdivision is located in the vicinity of the National Grid.<sup>34</sup> In relation to Chapter 30, Transpower seeks the inclusion of new rules that manage subdivision in the vicinity of the National Grid and an accompanying limited amendment to the definition of 'National Grid Corridor'.<sup>35</sup>
- 4.10 By way of background, Policy 11 of the NPSET requires local authorities to *"identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans"*. In terms of subdivision activities, the rule framework proposed in Transpower's submission to give effect to Policies 10 and 11 of the NPSET requires resource consent for a restricted

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<sup>34</sup> Submission reference 805.65.

<sup>35</sup> Submission references 805.95 and 805.13.

discretionary activity where subdivision is within a 'National Grid Subdivision Corridor' and where a building platform can be identified outside of a 'National Grid Yard'.<sup>36</sup> In situations where an identified building platform is within both the 'corridor' and the 'yard', resource consent for a non-complying activity is required.

- 4.11 The corridor width is based on conductor swing in high wind conditions, while the building platform separation distances are related to the everyday wind conductor position and are consistent with the separation distances included in the Proposed District Plan for land use activities through the definition of 'National Grid Yard'.
- 4.12 The rule seeks to ensure that subdivision design avoids situations where allotments are created that cannot accommodate principal buildings without the buildings breaching the requirements of New Zealand Electrical Code of Practice For Electrical Safe Distances (NZECP 34:2001), or resulting in direct and reverse sensitivity effects on the National Grid (as discussed in **Mr Renton's** earlier evidence).<sup>37</sup> As such, the rule serves as an early signal that subdivision should be designed with cognisance of the location of transmission lines that in turn protects Transpower's on-going access to the lines and reduces the potential for adverse effects.

- 4.13 The Section 42A Report has recommended the inclusion of a new Rule 27.5.7 (and default Rule 27.5.19) on the basis that:

*"... it is more effective for Chapter 27 to regulate subdivision activities than have these controls solely imbedded within a separate chapter of the PDP, as there is the potential that they could be overlooked by plan users. I also consider that it is more effective for a method to be included within Chapter 27 to ensure that this gives effect to the policy direction set out within the NPSET, Objective 3.5 and Policy 3.5.1 of the PRPS and Strategic Direction 3.2.8 Goal and supporting 3.2.8.1 Objective and 3.2.8.1.1 Policy, which seek to provide for the ongoing operation and provision of infrastructure."<sup>38</sup>*

- 4.14 I agree with the Section 42A Report in terms of the location of the National Grid subdivision corridor rules and consider that including the Rules in Chapter 27 improves the usability of the Proposed District Plan. I also generally agree with the conclusion reached in

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<sup>36</sup> The Proposed District Plan includes a definition of "National Grid Yard" and "National Grid Corridor". Transpower's submission supports these definitions, subject to minor amendments that provide further clarity.

<sup>37</sup> A Renton, Statement of evidence, dated 29 February 2016.

<sup>38</sup> Section 42A Report, paragraph 24.8.

the Section 42A Report (and accompanying Section 32AA Report)<sup>39</sup> and conclude that the recommended rule framework is the most appropriate way to implement the relevant objectives and policies of the Proposed District Plan; give effect to the NPSET and therefore achieve the purpose of the RMA.

4.15 That said, I have two residual concerns in relation to the ‘construction’ of the rule framework,<sup>40</sup> these are:

- (a) whether it is appropriate for a matter of discretion to ‘trigger’ a non-complying activity in Rule 27.5.19; and
- (b) whether the matters of discretion are sufficiently clear and concise.

4.16 I consider that the recommended Rule 27.5.19 (and the manner in which it works alongside Rule 27.5.7) is not sufficiently clear and reasonable to the extent that it requires judgement to be exercised in relation to “whether there is merit” and relies on a matter for discretion to ‘trigger’ the more stringent non-complying resource consent requirement. It is my understanding that the matters for discretion have a specific purpose under section 104C(1) of the RMA in terms of determining an application for resource consent, rather than determining the category of resource consent that is required. On this basis, and in order to provide greater clarity, I support the following amendments to Rules 27.5.7 and 27.5.19 (shown in [blue](#)):

	<b><i>Subdivision Activities – District Wide</i></b>	<b><i>Activity Status</i></b>
<u>“27.5.7</u>	<p><u><i>Subdivision of land in any zone within the National Grid Subdivision Corridor where all allotments identify a building platform for the principal building and any dwelling to be located outside of the National Grid Yard.</i></u></p> <p><u><i>Discretion is restricted to all of the following:</i></u></p> <p><u><i>a) Whether the allotments are intended to be used for residential or commercial activity and whether there is merit with identifying a building platform to ensure future buildings are located outside the National Grid Yard.</i></u></p> <p><u><i>ba) Impacts on the operation, maintenance,</i></u></p>	<u><i>RD”</i></u>

<sup>39</sup> Section 32AA Report, pages 29 and 30 (included as Appendix 4 to the Section 42A Report).

<sup>40</sup> In this regard, I acknowledge that intent of the form of the rule framework is to reflect Rule 15.2.3.3(viii) in the Operative District Plan, which applies to the Shotover Country Special Zone (Section 42A Report, paragraph 24.9)



	<p><u>upgrade and development of the National Grid.</u></p> <p><del>eb) The ability of future development to comply with NZECP34:2001.</del></p> <p><del>ec) Technical details of the characteristics and risks on and from the National Grid infrastructure.</del></p> <p><del>ed) The ability of the applicant to provide a complying building platform.</del></p> <p>d) <u>The location, design and use of any proposed building platform as it relates to the National Grid transmission line;</u></p> <p>e) <u>The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</u></p> <p>f) <u>Whether the subdivision would result in the planting of trees or shrubs in the vicinity of the National Grid transmission lines and the potential for effects on the operation and security of the National Grid Transmission Lines.</u></p>	
<u>27.5.19</u>	<u>Any subdivision of land in any zone within the National Grid <del>Subdivision</del> Corridor, which does not comply with <del>matter of discretion (a) under Rule 27.5.7.</del></u>	<u>NC”</u>

4.17 The Section 42A Report does not include a specific recommendation in relation to the minor amendment sought by Transpower to the definition of ‘National Grid Corridor’. Transpower’s submission seeks the inclusion of the word ‘subdivision’ in the definition in order to clearly indicate that the ‘corridor’ applies to subdivision activities only, whereas the related ‘yard’ definition applies to all activities.

4.18 I consider that this minor amendment improves the clarity and usability of the provisions that relate to activities in the vicinity of the National Grid and I therefore support the following amendment to the ‘National Grid Corridor’ definition (and have reflected this in the amendments I support to Rules 27.5.7 and 27.5.19 set out above) (shown in [blue](#)). I have also suggested that the reference to 220kV transmission lines may be deleted on the basis that there are no 220kV lines within Queenstown Lakes District.

**“National Grid Subdivision Corridor:** means the area measured either side of the centreline of above ground National Grid lines as follows:

- 16m for the 110kV lines on pi poles
- 32m for 110kV lines on towers
- ~~37m for the 220kV transmission lines~~

*Note: The National Grid Subdivision Corridor does not apply to underground cables or any transmission lines (or sections of line) that are designated.”*

## 5. CONCLUSION

- 5.1 Insofar as is relevant to the submissions made by the Commission and Transpower, it is my conclusion that further limited amendments to Chapter 27 of the Proposed District Plan are necessary to:
- (a) enable the Commission to achieve its statutory obligations under the FSA;
  - (b) better give effect to the NPSET;
  - (c) better have regard to (and in the future ‘gives effect to’) Policies 3.2.3, 3.2.5, 3.2.7 and 3.5.1 of the Proposed RPS;
  - (d) implement the revised Objectives and Policies included in Chapter 3 and Chapter 27 of the Proposed District Plan; and therefore
  - (e) achieve the purpose of the RMA.



Ainsley Jean McLeod

15 July 2016

## ATTACHMENT A: DOCUMENT REVIEW IN PREPARING THIS EVIDENCE

In preparing this evidence I have reviewed the following:

- (f) Section 42A Hearing Report, dated 29 June 2016, including the Recommended Revised Chapter, the Section 32 Evaluation Report and the Section 32AA Evaluations and Recommended Amendments – Chapter 27 (Subdivision and Development);
- (g) National Policy Statement on Electricity Transmission 2008, including the 2007 Board of Inquiry Report to the Minister for the Environment in relation to this Policy Statement;
- (h) Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009;
- (i) Operative Regional Policy Statement for Otago 1998;
- (j) Proposed Regional Policy Statement for Otago 2015 including the associated Section 42A Report on Decisions Requested and the summary of submissions received;
- (k) Queenstown Lakes District Council District Plan (February 2016) (Operative);
- (l) New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001);
- (m) The Council's public notice of its "Proposal to Incorporate Material by Reference in the Proposed Queenstown Lakes District Plan (Stage 1)", dated 23 September 2015;
- (n) New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008;
- (o) Submissions made by a number of parties in relation to Chapter 27, and further submissions in relation to Transpower's and the Commission's primary submission; and
- (p) Queenstown Lakes District Council's Land Development and Subdivision Code of Practice dated June 2015.