

Gore District Council Decisions



NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

Resource Management Act 1991

Application reference	LU24059
Applicant	Transpower New Zealand Limited
Proposal	Application under Section 88 of the Resource Management Act 1991 (RMA) for the replacement of an existing pole structure along the GOR-INV-A transmission line
Location	304 Craig Road
Legal Description	Section 4E Edendale Sett
Activity Status	Restricted Discretionary
Decision Date	14 January 2024

SUMMARY OF DECISIONS

1. Pursuant to sections 95A-95F of the Resource Management Act 1991 (**RMA**) the application will be processed on a **non-notified** basis given the findings of Section 5 of the Section 95A and 95B report. This decision is made by Werner Murray, on 14 January 2024 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to Section 104 and Section 104C of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 of the RMA. This consent can only be implemented if the conditions in this report are complied with by the consent holder. The decision to grant consent was considered by Werner Murray, under delegated authority pursuant to Section 34A of the RMA.

1 THE PROPOSAL

The proposal is thoroughly detailed in Section 3 of the applicant's AEE. This description is adopted and summarised as follows.

Consent is sought to replace one existing pole structure along the GOR-INV-A transmission line located within the Gore District. The pole requires replacement due to being in deteriorating condition and the GORE-INV-A transmission line does not currently meet legal ground clearance requirements. Therefore, replacing the existing structure with a taller pole, utilising more durable materials, is required to bring the transmission line up to standard.

The change in pole height is detailed as follows:

Existing Height	Proposed Height	Percentage Increase
L: 12.73 m	L: 15.55m	22.10%
R: 12.68	R: 15.48m	

Minor earthworks will be required to excavate foundations for the replacement pole structure. The estimated earthworks volume is 16m³. No earthworks is required for benching around the structure, removing vegetation or forming tracks. The site will be reinstated on completion.

Works to replace the pole will be completed within one working day within normal working hours.

2 SITE DESCRIPTION

The site description is outlined in Section 2 of the applicants AEE. This is adopted and summarised as follows:

The pole is located on Section 4E Edendale Sett as shown in Figure 1 below:



Figure 1: Location of structure to be replaced (GOR-INV-A0083)

The structure is within the Rural Zone under the Operative Gore District Plan (ODP). The surrounding area is flat open farmland primarily used for rural activities.

The site is not located within any areas of Natural Hazard or areas of Cultural significance within the ODP.

3 ACTIVITY STATUS

3.1 National Environmental Standards for Electricity Transmission Activities Regulations 2009 (NESETA).

The structure is located within the Gore District, however, the NESETA provisions override the District Plan requirements outlined in Chapter 7 of the ODP. GDC also has a PDP which hearings currently underway. As with the ODP, the NESETA overrides PDP requirements (noting that there are no Utility rules within the PDP that are currently in force). The NESETA came into effect on 14 January 2010 and applies to the existing high voltage electricity transmission network, specifically the line support structures (towers and poles), conductors (wires) and associated construction activity.

The proposed pole replacement activity requires resource consent under the NESETA for the following reason:

- A **Restricted Discretionary** activity resource consent pursuant to Reg 16(2)(a) as the proposed replacement pole will be 15.55m at its highest point, which is 22.10% higher than its base height and does not comply with Reg 14(3)(a). Council's discretion is restricted to:
 1. the location and height of the transmission line support structures in relation to—
 - i. visual, landscape, and ecological effects; and
 - ii. the effects on historic heritage; and
 - iii. the effects on sensitive land uses; and
 2. earthworks, clearance of trees and vegetation, and restoration of the land; and
 3. the effects and timing of construction works.

3.2 National Environmental Standard for Assessing Contaminants in Soil to Protect Human Health 2011 ("NES-CS")

Based on the Environment Southland's Selected Land Use Register, the piece of land to which this application relates is not a HAIL site, and therefore the NES-CS does not apply.

3.3 Activity Status Summary

Overall, the application is being considered and processed as a **restricted discretionary** activity under the NESETA.

4 NOTIFICATION ASSESSMENT

Sections 95A – 95F (inclusive) of the Resource Management Act 1991 ('RMA') set out the steps the Council is required to take in determining whether or not to publicly notify an application or notify on a limited basis.

4.1 Public notification – Section 95A

In accordance with section 95A, the following steps have been followed to determine whether to publicly notify the resource consent application:

Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

- The applicant has not requested public notification.
- Public notification is not required as a result of a refusal by the applicant to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the RMA .
- The application does not involve exchange to recreational reserve land under section 15AA of the Reserves Act 1977.

Step 2 – Public notification is precluded

Public notification is not precluded as follows:

- There are not rules in a plan or National Environmental Standard that preclude notification.
- The application is not:
 - a controlled activity; or
 - a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

Step 3 – Public notification is required in certain circumstances

- There are no rules in a plan or National Environmental Standard that require notification.
- A consent authority must publicly notify an application if notification is not precluded by Step 2 and the consent authority decides, in accordance with s95D, that the proposed activity will have or is likely to have adverse effects on the environment that are more than minor. An assessment in this respect is undertaken as follows:

The following effects must be disregarded:

- Effects on the owners or occupiers of land on which the activity will occur and on adjacent land.
- Trade competition and the effects of trade competition.
- Any persons that have provided their written approval and as such adverse effects on these parties have been disregarded.

The following effects may be disregarded:

- An adverse effect of the activity if a rule or national environmental standard permits an activity with that effect – referred to as the “permitted baseline”. The relevance of a permitted baseline to this application is as follows:

Permitted Baseline

The consent authority **may** disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. In this case, it is a permitted activity under the NESETA regulations, for a replacement transmission line support structure to be 15% higher than its base height. In this case, the percentage of height increase is 22.10%. The following demonstrates the height increase which is above the permitted baseline:

Existing Height (m)	Permitted 15% increase in height	Proposed replacement pole height (m)	Increase above permitted height (m)
L: 12.73	L: 14.64	L: 15.55	L: 0.91
R: 12.68	R: 14.58	R 15.48	R: 0.90

Effects on the Environment

The applicant has provided a thorough assessment of environmental effects in Section 5 of the AEE. This assessment is adopted in full and summarised as follows.

Visual and Landscape Effects

The GOR-INV-A electricity transmission line is existing and forms part of the existing character of the surrounding environment. The existing pole will be replaced by a structure of similar design as shown in Figure 2 below. The structure will be unpainted grey steel and narrow which will aid in minimizing visual effects.

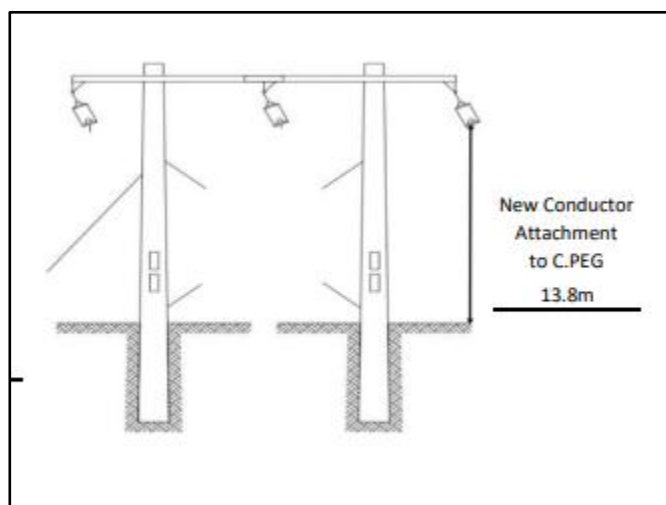


Figure 2: Design of proposed structure.

The nearest road (Terrace Road) is 370m away and residential dwelling is approximately 240m away. Given the distance from the road and residential house, along with the height increase above baseline of L: 0.91m and R: 0.90m, it is considered that the height increase will have no more than minor visual and landscape effects from the road or residence.

The pole is located within a rural environment with no protected landscape or visual amenity overlays within the Gore District Plan maps. Earthworks required will be minimal, completed within one day and reinstatement works (topsoil reinstatement and grass seeding) will occur immediately.

Overall, given that the replacement pole will be of similar design, within a rural environment with no protected visual or amenity overlays, it is considered that visual and landscape effects will be no more than minor.

Ecological Effects

The nearest waterbody is located 200m east of the structure. The applicant has advised that appropriate erosion and sediment controls will be in place at the site and remain in place for the duration of the works or until the site is fully stabilised to ensure construction works and the proposed structure will not effect any waterbodies. No vegetation removal is required for the works.

Any potential ecological effects are considered to be no more than minor.

Historic Heritage

There are no known heritage sites, ancestral land, waahi tapu or waahi taonga sites in the vicinity of the works as determined by the Gore District Plan Maps. An accidental discovery protocol is to be adhered to during the duration of the works and has been included as a condition of consent.

Any potential effects on historic heritage are considered to be no more than minor.

Sensitive Land Uses

Sensitive land use within the NESETA is defined as *'includes the use of land for a childcare facility, school, residential building, or hospital'*.

The nearest residential dwelling is 240m from the structure and no childcare facility, school, or hospital is nearby. As required under Reg 37 of the NESETA construction works will comply with NZS 6803: 1999 Acoustics – Construction Noise and Table 1 of German Standard DIN 4150–3:1999 Structural Vibration—Effects of Vibration on Structures. The works will take one day during daylight hours.

Effects from the proposal on sensitive land uses will be less than minor.

Earthworks, Clearance of Trees and Vegetation, and Restoration of the Land

The replacement of GOR-INV-A0083 requires approximately 16m³ of earthworks and no tree or vegetation removal is required. The earthworks will be undertaken in accordance with standard erosion and sediment control procedures and reinstatement works at the pole site will be undertaken immediately after the construction works.

It is considered that effects from earthworks including clearance of trees and vegetation, and restoration of the land will be less than minor.

Effects and Timing of Construction works

Transpower will be in direct contact with the landowners regarding the proposed works prior to their commencement and where possible, coordinated with the landowners. The works will take up to one working day during daytime working hours. Noise and vibration effects will be

compliant with the New Zealand Standard NZS 6803:1999 Acoustics— Construction Noise and the peak particle velocity limits in Table 1 of German Standard DIN 4150– 3:1999 Structural Vibration—Effects of Vibration on Structure. Further, the construction will be of short duration in a remote location and during daytime hours.

Any effects from the construction works will be less than minor.

Conclusion: Effects On The Environment

On the basis of the above assessment, in terms of s95D, it is assessed that the proposed activity will not have adverse effects on the environment that are more than minor.

Step 4 – Public Notification in Special circumstances

- There are no special circumstances that warrant public notification.

4.2 Limited notification – Section 95B

In accordance with section 95B, the following steps have been followed to determine whether to give limited notification of the application:

Step 1 – Certain affected groups or persons must be notified

- There are no protected customary rights groups or customary marine title groups affected by the proposed.
- The proposal is not on or adjacent to, and will not affect, land that is the subject of a statutory acknowledgment.

Step 2 – Limited notification precluded

- The activity is not subject to a rule or National Environmental Standard that precludes limited notification.
- The application is not for a controlled activity (other than for a subdivision of land) under a district plan.

Step 3 – Certain other affected persons must be notified

- Under Step 3, if the proposal is a boundary activity, only the owner/occupier of the infringed boundary can be considered. The activity is not a boundary activity.
- For any other activity, a consent authority must notify an application on any person, if notification is not precluded by Step 2, and the consent authority decides, in accordance with s95E, that the proposed activity will have or is likely to have adverse effects on that person that are minor or more than minor.

An assessment in this respect is therefore undertaken as follows:

Considerations in assessing adverse effects on persons under s95E

- a) The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (a “permitted baseline”). The relevance of the permitted baseline to this application is outlined in the above s95D assessment of environment effects.
- b) The consent authority **must** disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and
- c) The consent authority **must** have regard to every relevant statutory acknowledgement specified in Schedule 11.
- d) The consent authority **must** disregard effects on those parties who have provided written approval.

Assessment: Effects on Persons

Taking into account the exclusions in sections 95E, the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor.

Section 4E Edendale Sett

The section where the replacement pole and construction will occur is owned by Bryson David Clark, Nicola Jane Clark and Hokonui Drive Trustees Limited. In section 7.3 of the AEE, Transpower has advised that:

Transpower will contact the landowners of the sites where works are required at least 10 working days prior to works taking place, but where possible notice is given earlier, and no works will commence until land access approval has been obtained from the owners of the land upon which the existing pole structures are located. This process is a standard procedure that occurs for transmission line maintenance and occurs irrespective of the resource consent process. Accordingly, it is not necessary to duplicate this requirement as part of the consideration of this application.

This assessment is adopted and a condition included to ensure the landowners are notified prior to works commencing. No other persons are considered to be affected by the proposal.

Conclusions: Effects on Persons

In terms of section 95E of the RMA, and on the basis of the above assessment, no person is considered to be adversely affected.

Step 4 – Special Circumstances for Limited Notification

- There are no special circumstances that warrant limited notification of the application.

5 DECISION PURSUANT TO S95A AND S95B OF THE RMA

For the reasons set out above, under s95A and s95B of the RMA, the application is to be processed on a non-notified basis.

6 SECTION 104 ASSESSMENT

6.1 Matters for consideration

This application must be considered in terms of Section 104 of the RMA.

Subject to Part 2 of the RMA, Section 104 sets out those matters to be considered by the consent authority when considering a resource consent application. Considerations of relevance to this application are:

- (a) *any actual and potential effects on the environment of allowing the activity; and*
- (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
- (b) *any relevant provisions of:*
 - (i) *A national environmental standard;*
 - (ii) *other regulations;*
 - (iii) *a national policy statement;*
 - (iv) *a New Zealand coastal policy statement;*
 - (v) *a regional policy statement or proposed regional policy statement;*
 - (vi) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

6.2 Effects on the Environment

Actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under s108 of the RMA as required to avoid, remedy or mitigate adverse effects.

Positive effects from the proposal include facilitation of a secure and efficient supply of electricity throughout the Gore District and wider Southland Region. The increase in height of the pole will enable the GOR-INV-A transmission line to meet the current legal ground clearance requirements and provide a more durable structure creating more resilience in the electricity network.

6.3 Relevant Provisions

Operative District Plan

The applicant has assessed the proposal against the relevant objectives and policies of the Operative Gore District Plan in Section 6.2.2 of the AEE. This assessment is considered complete and adopted in full.

Proposed District Plan

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closed on 27 November 2023. The further submission period closed on 12 April 2024 and hearings are currently underway. The proposal is consistent with the proposed objectives and policies of the Infrastructure chapter.

National Policy Statement on Electricity Transmission (NPS-ET)

The applicant has assessed the proposal against the relevant policies of the NPS-ET in Section 6.2.1 of the AEE. The assessment is considered complete and adopted in full.

Southland Regional Policy Statement 2017

The following objectives and policies have been considered against the proposal

Objective INFR.1 – Southlands Infrastructure

Southland's regionally significant, nationally significant and critical infrastructure is secure, operates efficiently, and is appropriately integrated with land use activities and the environment.

Policy INF.1 – Regional, national and critical infrastructure

Recognise the benefits to be derived from, and make provision for, the development, maintenance, upgrade and ongoing operation of regionally significant, nationally significant and critical infrastructure and associated activities.

SRPS has been considered and the proposal is consistent with this document.

7 PART 2 OF THE RMA

The purpose of the RMA is to promote the sustainable management of natural and physical resources.

Section 5 – Purpose

The proposed activity takes into account Section 5 of the RMA. The proposed replacement structure will sustain natural and physical resources and whilst enabling people and communities to provide for their social, economic and cultural well-being. As assessed above, the adverse effects of the proposal can be avoided, remedied or mitigated.

Section 6 – Matters of national importance

Attention has been given to matters of national importance. This site does not contain any outstanding natural features or landscapes, nor any area of significant indigenous vegetation. It is considered the proposal is appropriate within this rural landscape.

Section 7 – Other matters

Particular regard has been given to the maintenance and enhancement of amenity values (section 7(c)) and maintenance and enhancement of the quality of the environment (section 7(f)). The amenity of the land and surrounding area will be maintained, and the proposed activity will not have adverse effects on the quality of the environment.

Section 8 – Treaty of Waitangi

This site is not within any known heritage sites or statutory acknowledgement areas and therefore, this recommendation is not inconsistent with the principles of the Treaty of Waitangi.

Overall, the proposal is considered to meet the purpose and principles of the RMA.

8 DECISION ON RESOURCE CONSENT

Pursuant to Section 104C of the RMA, consent is **granted** to replace structure GOR-INV-A0083 subject to the following conditions imposed pursuant to Section 108 of the RMA:

Consent Conditions

1. The land use activity must be undertaken in general accordance with the application made to Council on 18 December 2024, reference LU24059.
2. Transpower is to advise the owners of Section 4E Edendale Sett at least 10 days prior to any works commencing in accordance with standard transmission line maintenance procedure.
3. In the event of an accidental discovery of archaeological material the following steps must be taken:
 - a. All work on the site will cease immediately. The contractor/works supervisor will shut down all equipment and activity.
 - b. The contractor/works supervisor will take immediate steps to secure the site (tape it off) to ensure the archaeological remains are undisturbed and the site is safe in terms of health and safety requirements. Work may continue outside of the site area.
 - c. The contractor/works supervisor will notify Transpower's project manager, who will contact the Area Archaeologist of Heritage NZ Pouhere Taonga (HNZPT), tangata whenua and any required statutory agencies 1 if this has not already occurred.
 - d. HNZPT will appoint/advise a qualified archaeologist who will confirm the nature of the accidentally discovered material.
 - e. If the material is confirmed as being archaeological, under the terms of the Heritage NZ Pouhere Taonga Act (2014) the landowner will ensure that an archaeological assessment is carried out by a qualified archaeologist, and if appropriate, an archaeological authority is obtained from HNZPT before work resumes.
 - f. If burials, human remains/koiwi tangata are uncovered, steps 1 to 3 above must be taken and the Area Archaeologist of HNZPT, the New Zealand Police and the Iwi representative for the area must be contacted immediately. The area must be treated with discretion and respect and the koiwi tangata/human remains dealt with according to law and tikanga.
 - g. Works at the site area shall not recommence until an archaeological assessment has been made, all archaeological material has been dealt with appropriately, and statutory requirements met. All parties will work towards work commencement in the shortest possible timeframe while ensuring that archaeological and cultural requirements are complied with.

Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of section 125 of the RMA.

If you have any enquiries please contact the duty planner on phone (03) 209 0330 or email planning@goredc.govt.nz.

Prepared by

A handwritten signature in black ink, appearing to read 'J Skuse', with a long horizontal flourish extending to the right.

Joanne Skuse
Consultant Planner

Decision made by

A handwritten signature in black ink, appearing to read 'W Murray', with a long horizontal flourish extending to the right.

Werner Murray
Commissioner