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

AND

IN THE MATTER of Hearing of Submissions and Further Submissions on the Proposed Gore District Plan

---

Gore District Plan - Decisions on Submissions

Topic 38: Energy

Hearings Panel Members

Cliff Bolger

Glenys Dickson

Maria Bartlett

Date of Hearing
6 November 2024

Index

Page

1. Introduction

1.1 Scope of this Decision 1
1.2 Abbreviations 1
1.3 Statutory Considerations 1
1.4 Procedural Matters 2

2. The Hearings

2.1 Energy Chapter Hearing 2
2.2 Other Relevant Hearings 3

3. Energy Provisions General

3.1 Interpretation 3
3.2 General Submissions 4
3.3 Standalone Supporting Submissions 6
3.4 Overview 7
3.5 Mapping 8

4. Energy Objectives

4.1 Objective ENRG-O1 9
4.2 Objective ENRG-O3 10
4.3 Objective ENRG-O4 11
4.4 Additional Objectives Sought 11

5. Energy Policies

5.1 Policy ENRG-P1 12
5.2 Policy ENRG-P2 and ENRG-P4 12
5.3 Policy ENRG-P7 13
5.4 Policy ENRG-P8 15
5.5 Policy ENRG-P9 15
5.6 Policy ENRG-P10 16
5.7 Policy ENRG-P11 16
5.8 Policy ENRG-P12 18
5.9 Note 1 18

6. Energy Rules

6.1 Rule ENRG-R1 19

6.2 Rule ENRG-R2 20

6.3 Rule ENRG-R3 22

6.4 Standard ENRG-S1 22

6.5 Standard ENRG-S2 23

6.6 Standard ENRG-S4 23

7. Additional Matters

7.1 Whole of Plan Submissions 24

7.2 Section 32 AA 24

Appendix A. Submissions (attached as a separate document)

Appendix B. Plan Chapter (attached as a separate document)

1 Introduction

1.1 Scope of this Decision

1.1.1 This document details the evaluation and decisions of the Hearings Panel on the submissions and evidence considered in relation to the Energy chapter. The Hearings Commissioners comprising the Panel for this hearing were Commissioners Cliff Bolger, Maria Bartlett and Glenys Dickson.

1.1.2 This Decision focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, the Panel has adopted the recommendations and the underlying evaluation contained in the s42A Report prepared by Mishka Banhidi.

1.1.3 Attached is the updated provisions for the Energy chapter, referencing changes authorised by this and other Decisions of the Hearings Panel. Changes made in response to submissions are shown in normal black font, with text either underlined for additions or as ~~strikethrough~~ for deletions. A reference is also provided of the decision and paragraph number giving rise to the changes in response to submissions. Amendments made to the PDP pursuant to clause 16(2) are shown in the updated District Plan chapters in a green font. Shown in a red font are consequential numbering changes arising from provisions being added or deleted.

1.1.4 Appendix A lists the submissions considered in this decision and their outcome, described as accepted, accepted in part or rejected. For convenience, the Panel has chosen to make decisions on original submissions only. By implication, but not explicitly, it has also made decisions in relation to further submissions.

1.1.5 Attention is also drawn to Decision 2, Whole of Plan and Repeated Submissions that responds to submissions lodged to the District Plan as a whole, together with those lodged to multiple zones and/or chapters in the PDP. In some cases, these submissions may result in amendments to this chapter as well. Any such changes are annotated as a footnote in the updated provisions.

1.2 Abbreviations

1.2.1 In preparing this decision we have used the following abbreviations:

Full Text	Abbreviation
Clause 16(2) of the First Schedule of the RMA	cl 16(2)
Environment Southland	ES
Gore District Plan	Plan
Hearings Panel	Panel
Hokonui Rūnanga Incorporated	Hokonui Rūnanga
Proposed Gore District Plan	Proposed Plan or PDP
Report prepared under section 42A of the RMA	s42A Report
Resource Management Act 1991	RMA
RMA section	s
Royal Forest and Bird Society of NZ Inc	Forest and Bird
Southland Federated Farmers Inc	Federated Farmers

1.3 Statutory Considerations

1.3.1 The Panel's Decision1 Preliminary Matters and Statutory Requirements Relevant to Decisions sets out the legal framework and requirements for preparing a District Plan,

as well as case law referred to in legal submissions and evidence provided to the Panel. This framework is not repeated in this Decision. Rather, this Decision should be read in conjunction with Decision1.

1.3.2 In s42A reports to the Panel, the authors are required to consider any alternative provisions put forward in the context of s32, and when changes are recommended, a further assessment under s32AA is provided if the change is a material departure from what was notified. That same obligation to make a further assessment under s32AA also applies to the Panel if it decides to make changes to the Plan in response to submissions which materially depart from the notified version.

1.3.3 Through Minute 5, the Panel requested submitters seeking changes to District Plan provisions to have regard to the s32 provisions and provide material to the Panel that would facilitate any additional s32AA assessment required if it was of a mind to accept the changes they sought.

1.3.4 Where the Panel has made amendments to the Proposed Plan that are consistent with the recommendations contained within the s42A Reports and associated evidence the Panel has adopted the s32AA analysis contained within those reports and evidence, unless expressly stated otherwise. Those reports are part of the public record and are available on the Council's website.

1.3.5 Where the Panel has made amendments to the Proposed Plan that are not contained within the s42A Report, or which were not subject to a s32AA assessment provided by submitters, the Panel has undertaken the required s32AA analysis and has incorporated it into the body of the decision, with the required assessment forming part of the evaluation. The Panel is satisfied that the required substantive assessment has been undertaken where required.

1.4 Procedural matters

1.4.1 There were no pre-hearing meetings or meetings undertaken in accordance with clause 8AA of Schedule 1, on the submissions relating to the Energy chapter.

1.4.2 None of the Panel members identified any conflicts of interest.

1.4.3 No procedural matters were raised at the hearing.

1.4.4 No matters of trade competition were raised.

2 The Hearings

2.2.1 Energy Chapter Hearing

2.1.1 The hearing in relation to the Energy chapter was held on 24 June 2024 at the Gore District Council administration building, in Gore. Submissions with regard to the Energy chapter were heard together with other matters in Hearing Stream 7, comprising Earthworks, Infrastructure and Activities on the Surface of Water.

2.1.2 Prior to the hearing, the Panel received a s42A Report from Mishka Banhidi. The Report considered all submissions lodged to the Energy chapter and relevant definitions.

2.1.3 At the commencement of the hearing, the Panel received supplementary evidence from Mishka Banhidi responding to matters raised in the evidence of submitters. The Panel sought clarification from her regarding matters contained in her s42A Report and supplementary evidence at various times during the hearing.

2.1.4 Submitters who appeared at the hearing, speaking to matters dealt with in this Decision are shown below:

Energy – Submitters Attending the Hearing			
No.	**Submitter**	**Attendees**	**Nature of Evidence**
S130	Mercury Energy	Stuart Davie Shirley Chamberlain	In person
S101	Transpower	Ainsley McLeod Rebecca Eng	In person Video Link
S128	Greenbriar	Megan Justice	

2.1.5 Submitters who submitted further information in relation to the Energy chapter submissions dealt with in this Decision were:

- Department of Conservation (S109)

2.2 Other Relevant Hearings

2.2.1 Decision 2 lists the submissions lodged to the Whole of the Plan. Submission S139.040 Hokonui Rūnanga Inc raises issues relevant to this decision and in that regard, relevant evidence was received by the Panel during the hearings to consider submissions to the Mana Whenua and Sites of Significance to Māori chapters from:

- Courtney Bennett for the Gore District Council
- Amy Beran for Hokonui Rūnanga

2.3 All written material received by the Panel is available on the Council's web site.

3 Energy Provisions General

3.1 Interpretation

Submitter (S)	Decision Requested
S101.004 Transpower NZ Ltd	Interpretation: conductor: Support as it consistent with the definition included in the NESETA, Retain the definition of 'conductor' as notified or, alternatively, amend the definition as follows: "(a) means wire or cable used for carrying electric current along an electricity transmission line or electricity distribution line; and (b) includes any hardware and insulation associated with the wire or cable "

3.1.1 The Panel accepts the advice of Mishka Banhidi at paragraph 121 of her s42A Report that as the notified definition aligns with National Environment Standard for Electricity Transmission it should not be varied from this to avoid national inconsistency. Accordingly, submission S101.004 Transpower NZ Ltd is accepted in part by retaining the definition without change. The Panel notes Ansley McLeod in her statement of evidence on behalf of Transpower accepted that outcome.

Submitter (S)	Decision Requested
S101.006 Transpower NZ Ltd	Interpretation: national grid Amend the definition of 'national grid' as follows. "Nnational Ggrid means the network that transmits high-voltage electricity in NZ and that, at the commencement of these regulations, is owned, used or and operated by Transpower NZ Ltd, including-- (a) transmission lines; and (b) electricity substations"

3.1.2 The Panel accepts the recommendation of Mishka Banhidi at paragraph 123 of her s42A Report that this submission be accepted.

3.1.3 Submission S101.006 Transpower NZ Ltd is accepted by amending the definition of National Grid as follows:

Nnational Ggrid Means the network that transmits high-voltage electricity in New Zealand and that, at the commencement of these regulations, is owned, used or operated by Transpower New Zealand Limited, including—
(a) *transmission lines*; and

(b) electricity substations

Submitter (S)	Decision Requested
S101.007 Transpower NZ Ltd	Interpretation: national grid subdivision corridor Amend the definition of 'national grid subdivision corridor' as follows:"Nnational Ggrid subdivision corridor ...

3.1.4 The Panel accepts the recommendation of Mishka Banhidi at paragraph 125 of her s42A Report that this submission be accepted.

3.1.5 Submission S101.007 Transpower NZ Ltd is accepted by amending the definition of "National Grid subdivision corridor" by capitalizing the words "National Grid".

Submitter (S)	Decision Requested
S101.008 Transpower NZ Ltd	Interpretation: national grid yard Amend as follows: Nnational Ggrid yard- The area located (as illustrated below): (a) 12 metres in any direction from the outside edge of a National Grid support structure foundation; ~~(b) 12 metres from the boundary of a National Grid substation;~~ (bc) 10 metres either side of the centreline of an overhead 1100kV National Grid transmission line on poles (cd) 12 metres either side of the centreline of any other overhead National Grid transmission line.

3.1.6 The Panel accepts the recommendation of Mishka Banhidi at paragraph 101 of her s42A Report that this submission be accepted.

3.1.7 Submission S101.008 Transpower NZ Ltd is accepted by amending the definition of National Grid yard as follows:

"Nnational Ggrid yard The area located (as illustrated below):

(a) 12 metres in any direction from the outside edge of a *National Grid* support *structure* foundation;

~~(b) 12 metres from the *boundary* of a *National Grid* substation;~~

(b) 10 metres either side of the centreline of an overhead ~~100~~ 110 kV *National Grid transmission line* on poles

(c) 12 metres either side of the centreline of any other overhead *National Grid transmission line*.

Submitter (S)	Decision Requested
S128.005 Greenbriar Ltd.	Interpretation: non-renewable electricity generation Amendments to Energy Provisions to address the issue that the definition recognises the generation from nonrenewable energy sources, but not the source materials. This may mean that the Energy policy framework is not applicable to applications for nonrenewable energy sources, even those that are required to support the transition from nonrenewable to renewables.

3.1.8 The Panel notes that Greenbriar has not proposed an alternative definition, however, seeks to achieve their relief through changes to the individual Plan provisions. As no changes are being made to the definition but further consideration has been given to the provisions of the chapter, submission S128.005 Greenbriar Ltd is accepted in part.

3.2 General Submissions

Submitter (S) Further Submitter (FS)	Decision Requested
S144.006 Contact Energy Ltd	The energy chapter should include provisions which relate to the management of indigenous biodiversity so that it is a standalone and comprehensive chapter for renewable energy.
FS31.0010 Department of Conservation	Allow S144.006 Contact Energy Ltd
FS26.017 Mercury Ltd	Allow S144.006 Contact Energy Ltd

3.2.1 Mishka Banhidi at paragraph 546 of her s42A Report refers to the National Planning Standards, noting that these require indigenous biodiversity provisions to be dealt with

in a separate chapter. Acknowledging that, the Panel does not consider the Energy chapter can be dealt with as a standalone chapter, consistent with decision reached on matters canvassed in Minute 27 pertaining to application of the National Planning Standards, as also outlined in decisions on the Earthworks and Infrastructure chapters. The Panel has also amended the How the Plan Works section of the Plan to improve clarity around the relationship between zones, district-wide chapters and overlay chapters that manage matters of national importance. Accordingly, submission S144.006 Contact Energy Ltd is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S136.020 Jenny Campbell	Renewable energy projects need to be in appropriate places with environmental effects emphasised.
S144.002 Contact Energy Ltd	Retain provisions relating to the development, operation, maintenance and protection of renewable electricity generation activities.
FS26.006 Mercury Ltd	Allow S144.002 Contact Energy Ltd

3.2.2 Mishka Banhidi at paragraph 531 of her s42A Report in response to the submission of Jenny Campbell states the existing provisions do have checks and balances to seek that renewable energy projects are within appropriate places and that environmental effects are avoided, mitigated or managed such as ENRG-O3, ENRG-P7 and the suite of rules such as ENRG-R1 and ENRG-R2, and through application of provisions in overlay chapters that manage matters of national importance. The Panel accepts that assessment and in the absence of any further material received from the submitter to assist the Panel, submission S136.020 Jenny Campbell is accepted in part.

3.2.3 The support for the Plan provisions relating to the development, operation, maintenance and protection of renewable electricity generation activities by Contact is acknowledged. As these provisions are subject to some amendments, albeit minor, submission S144.002 Contact Energy Ltd is accepted in part.

Submitter (S) Further Submitter (FS)	Decision Requested
S146.010 Southland District Council	Align the Energy unique identifier with NPS and/ or other Councils. To mitigate the impact on the Southland District, it is essential to avoid prominent ridgelines, significant natural areas, and zones of indigenous biodiversity shared with Southland District Councils. Skylines are mentioned in NFL-P1(3)(a) in the case of the Hokonui Hills and visually prominent hillslopes, but this could be made more explicit as other values are directly in the ENRG chapter.
FS24.006 Contact Energy Ltd	Disallow S146.010 Southland District Council

3.2.4 Mishka Banhidi at paragraphs 533 - 535 of her s42A Report in response to this submission stated:

> Regarding Southland District Councils submission, it appears that SDC are seeking that the infrastructure and energy chapters are bundled in together. These chapters have been included within the PDP separately in order to recognise the importance the Gore district has to the energy sector and to avoid unintended gaps within the regulatory provision of the activities. Based on this it is not recommended to combine these two chapters.
>
> SDC's submission regarding the avoidance of prominent ridgelines, SNAs, and indigenous biodiversity lacks clarity on the specific changes sought. The NFL, ECO, and ENRG Chapters do address these concerns by balancing energy generation with managing or mitigating adverse environmental effects, including visual impacts on ridgelines, with particular attention to the Hokonui Hills. Wind farms, for instance, often require elevation above ridgelines to function effectively. If all district ridgelines were to be avoided, rather than just those explicitly identified, energy generation could be unnecessarily restricted.
>
> Contact Energy further submission to this point opposes the relief sought, as there are instances where locating energy infrastructure in these areas may be appropriate. In such cases, provisions should allow for applying the effects management hierarchy when effects

cannot be fully avoided, particularly given the national and regional importance of energy generation infrastructure. This further submission is supported.

3.2.5 This assessment is adopted by the Panel and accordingly submission S146.010 Southland District Council is accepted in part.

Submitter (S) Further Submitter (FS)	Decision Requested
S130.029 Mercury NZ Ltd	Noise associated with the following activities are not subject to the Rules and Standards of the Noise Chapter: Add 12. Noise effects from operation of wind electricity generation activities. Compliance is achieved through assessment of NZS6808:2010 Acoustics - Wind farm noise ("insert rule reference" Energy Chapter -Rule ## operation of wind electricity generation activities - Noise Assessment). While the above noise sources are exempt from meeting the noise standards, any potential and actual adverse effects associated with the character, timing, duration or level of noise shall be considered for any discretionary or non-complying activity.
FS24.052 Contact Energy Ltd	Allow S130.029 Mercury NZ Ltd
S130.028 Mercury NZ Ltd	Provide for: The development of all wind electricity generation activities shall be assessed for compliance is achieved with NZS6808:2010 Acoustics - Wind farm noise relevant to amenity effects on other land uses. Where compliance is unable to be achieved activity status defers to that articulated in relevant rule.

3.2.6 The Panel agrees with Mishka Banhidi at paragraph 680 of her s42A Report where she opposes an exemption for noise from wind farms being added to the Noise rules. Given wind farms require a resource consent as a Discretionary or Non-Complying Activity under ENRG-R2 in the PDP any non-compliance with the applicable noise rules can be dealt with at the same time. Mercury did not provide any additional information on this issue for the Panel to consider.

3.2.7 Mishka Banhidi did accept that noise from wind farms should be assessed and measured in accordance with NZS6808:2010 Acoustics - Wind farm noise and the Panel agrees, with an addition being required to Rule ENRG-R2.

3.2.8 Submissions S130.029 and 130.028 Mercury NZ Ltd is accepted in part by the following addition to the end Rule ENRG-R2:

Note: Noise associated with a wind farm is assessed and measured in accordance with NZS6808:2010 Acoustics - Wind farm noise.

3.3 Standalone Supporting Submissions

Submitter (S) Further Submitter (FS)	Decision Requested
S130.011 Mercury NZ Ltd	Retain ENRG-O2
S121.022 Alliance Group Ltd	Retain ENRG-O2 as notified
S121.026 Alliance Group Ltd	Retain ENRG-P5 as notified
S130.016 Mercury NZ Ltd	Retain ENRG-P5 as notified
S125.010 Ministry of Education	Retain ENRG-P6 as notified
S130.017 Mercury NZ Ltd	Retain ENRG-P5 as notified
FS27.005 Alliance Group Ltd	Allow S130.017 Mercury NZ Ltd

3.3.1 There were no opposing submissions or submissions seeking change to the provisions above that are supported. Accordingly, these submissions are acknowledged and accepted.

3.4 Overview

Submitter (S) Further Submitter (FS)	Decision Requested
S110.009 Royal Forest and Bird Society of NZ Inc	Add: Logistical or technical practicalities, and the need to integrate with existing supporting infrastructure, may also place constraints on the location of these activities, as does potential effects on natural landscape, amenity, biodiversity and ecosystems.
S110.089 Royal Forest and Bird Society of NZ Inc	Amend to: Adverse environmental effects, including discharges to air, visual impacts, ~~and~~ noise, and indigenous biodiversity among other**s** can arise from the investigation, development and utilisation of both renewable and non-renewable energy resources. Equally, the development and use of energy resources, including the generation of electricity, can be compromised by the location of incompatible land uses.
FS31.009 Department of Conservation	Allow S110.089 Royal Forest and Bird Society of NZ Inc

3.4.1 The Panel accepts the explanation of Mishka Banhidi at paragraph 519 of her s42A Report that adding the potential effects on natural landscapes, amenity, biodiversity and ecosystems as a potential constraint as it better articulates the intent of this portion of the overview and recognises the constraints on energy generation.

3.4.2 Submissions S110.009 Royal Forest and Bird Society of NZ Inc is accepted by amending the final sentence of the 5th paragraph of the Overview as follows:

Logistical or technical practicalities, and the need to integrate with existing supporting infrastructure, may also place constraints on the location of these activities, as does potential effects on natural landscapes, amenity, ecosystems and indigenous biodiversity.

3.4.3 The adverse effects of discharges to air, visual impacts and noise can arise from the investigation, development and utilisation of both renewable and non-renewable energy resources regardless of location. The Panel considers that it is sufficient to reference ecosystems and indigenous biodiversity in the fifth paragraph without additional reference in the seventh paragraph, particularly as adverse environmental effects are inclusive. Further, adverse effects on indigenous biodiversity is considered in the Ecosystems and Indigenous Biodiversity chapter in the context of all activities. Accordingly, submission S110.089 Royal Forest and Bird Society of NZ Inc is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S128.013 Greenbriar Ltd.	Energy is required to meet the day-to-day needs of people and communities, and to facilitate social, cultural and economic activities. Agriculture and other primary production which is the dominant land use within the District has high energy demands associated with processing of food and fibre. Development and use of renewable energy resources is becoming increasingly important as a way of meeting future energy demand in an environmentally sustainable manner. ... The Gore District has the potential to provide for large scale energy production utilising wind. The District also contains substantial coal ~~and lignite~~ reserves, ~~However, the adverse environmental effects arising from its production and use, particularly its contribution to climate change, rules out the development of lignite under current technology.~~ It is preferrable, where non-renewable energy sources need to be utilised that they are sourced as close to where they are needed as possible, whilst also to recognising that they are locationally constrained**.** Small scale electricity generation is utilised in the District using solar, water and wind sources. Coal, including lignite, remains a significant source of home heating and provides energy to large scale production facilities within Gore District and the wider Southland Region. The Southland Regional Air Plan includes provisions providing for a transition away from this energy source to improve air quality. Factors such as emissions reduction targets under the Climate Change Response legislation are also likely to result in reduced reliance on nonrenewable energy generation over time. Although, there will still be

	certain situations where it may need to be retained. The location of renewable electricity generation facilities is often driven by their functional need and operational need to access renewable energy resources. With wind for example, suitable sites are located on exposed ridge lines where there is a constant wind. This limits the geographic areas where renewable electricity generation activities can occur. Logistical or technical practicalities, and the need to integrate with existing supporting infrastructure, may also place constraints on the location of these activities. Sources of material for non-renewable energy generation are locationally constrained.

3.4.4 Mishka Banhidi at paragraph 520 of her s42A Report recommended rejecting this submission on the basis that the Energy Chapter is intended to address the infrastructure required to generate energy from non-renewable sources, not the land use activities involved in sourcing those materials, such as coal mining. Megan Justice in her statement of evidence accepted that explanation at a general level but still considered some of the changes sought should be made to provide consistency with other changes sought by Greenbriar, primarily to recognise ongoing extraction at the New Vale mine. Given the provisions now included in the Plan with regard to the New Vale mine and for the reasons given by Megan Justice, and endorsed by Mishka Banhidi, the Panel adopts the agreed changes.

3.4.5 Submission S128.013 Greenbriar Ltd is accepted in part by amending the third and fourth paragraphs of the Overview as follows:

The Gore District has the potential to provide for large scale energy production utilising wind. The District also contains substantial lignite reserves. ~~However, the adverse environmental effects arising from its production and use, particularly its contribution to *climate change*, rules out the development of lignite under current technology.~~ Coal, including lignite, remains a source of home heating and energy for large scale production facilities during the transition to renewable energy sources.

Small scale electricity generation is utilised in the District using coal, solar, *water* and wind sources. ~~Coal, including lignite, remains a significant source of home heating. The Southland Regional Air Plan includes provisions providing for a transition away from this energy source.~~

3.5 Mapping

Submitter (S) Further Submitter (FS)	Decision Requested
S95.029 PowerNet Ltd	Include PowerNet's 33kV lines, and 11kv lines that are the only power supply for communities in the District Planning Maps, as shown in the Plan (pg 15 of submission) . Note that the plan maps the 33kV lines, and PowerNet are currently mapping the 10kV lines which are the only power supply for communities, which will be provided to Council once mapping is completed.
FS28.074 Kainga Ora	Disallow S95.029 PowerNet Ltd

3.5.1 Mishka Banhidi advised the Panel PowerNet no longer sought to have the 11kV lines shown on the planning maps but still sought the 33kV lines for included. The Panel in Decision 39 on the Infrastructure chapter includes rule INFR-R8 requiring buildings to be set back from the 33kV lines, and incorporates a mapped information layer showing the location of lines that can be updated to show any changes to the network during the life of the Plan.

3.5.2 Submission S95.029 PowerNet Ltd is accepted in part by including PowerNet's 33kV lines as a mapped information layer.

4. Energy Objectives

4.1 Objective ENRG-O1

Submitter (S) Further Submitter (FS)	Decision Requested
S128.014 Greenbriar Ltd.	The significant local, regional and national benefits derived from the use and development of renewable energy resources are recognised and provided for and the transitional need for non-renewable energy, including the resources to provide it are recognised.
S130.010 Mercury NZ Ltd	Ensure the national significant~~t~~ce ~~local, regional and national benefits~~ derived from the use and development of renewable energy resources, including the benefits of Renewable Electricity Generation are appropriately recognised and provided for ~~and the transitional need for non-renewable energy is appropriately managed.~~
S121.021 Alliance Group Ltd	Retain as notified
FS21.021 Yrless Ltd	Allow S121.021 Alliance Group Ltd
S110.010 Royal Forest and Bird Society of NZ Inc	Amend to: The significant local, regional and national benefits derived from the use and development of renewable energy resources are recognised and provided for and the transitional need for non-renewable energy is appropriately and sustainably managed.
FS24.007 Contact Energy Ltd	Disallow FS24.007 Contact Energy Ltd

4.1.1 The submission supporting the objective is acknowledged. As changes have been made to the provision submission S121.021 Alliance Group Ltd is accepted in part.

4.1.2 The Panel notes the Greenbriar submissions are focused on the activities associated with production of non-renewable sources of energy and agrees with Mishka Banhidi that is not appropriate in this chapter of the Plan. As a consequence, the Panel does not support the requested amendment to the objective.

4.1.3 Arising from the submission however, Mishka Banhidi recommended a new policy be included. The intent of that new policy was accepted by Megan Justice in her evidence on behalf of Greenbriar subject to minor wording changes supported by Mishka Banhidi. For the reasons set out in the reports and evidence the revised wording is accepted by the Panel.

4.1.4 Accordingly submission S128.014 Greenbriar Ltd. is accepted in part by the inclusion of an additional policy as follows:

ENRG-P13 Only allow the operation, maintenance, and upgrading of non-renewable electricity generation activities where:

(a) The activity is existing;

(b) It is required to assist the transition to renewable energy, and

(c) The effects of the activity are avoided, remedied or mitigated.

4.1.5 Mishka Banhidi supported the addition sought by Forest and Bird as it aligns with the purpose of the RMA, and the Panel agrees.

4.1.6 Regarding the submission form Mercury, Mishka Banhidi stated the following at paragraph 559:

> Mercury's submission to amend the wording of ENRG-O1 is supported in part. The inclusion of "National Significance" is seen as an improvement, as it aligns with national policy direction. However, I do not support removing the references to regional and local benefits. While Mercury argues that the reference to National Significance highlights the importance of transitioning away from non-renewable energy, this connection may not seem apparent to every plan user. Therefore, I recommend retaining this aspect of the objective.

4.1.7 The Panel endorses that assessment, although it notes that Mercury in its presentation to the Panel made no mention of this submission.

4.1.8 Submission S110.010 Royal Forest and Bird Society of NZ Inc is accepted and submission S130.010 Mercury NZ Ltdis accepted in part by amending Objective ENRG-O1 as follows:

The national significance, and ~~significant~~ local, regional and national benefits derived from the use and development of renewable energy resources are recognised and provided for and the transitional need for non-renewable energy is appropriately and sustainably managed.

4.2 Objective ENRG-O3

Submitter (S) Further Submitter (FS)	Decision Requested
S109.022 Department of Conservation	Retain as notified
S121.023 Alliance Group Ltd	Retain as notified
FS21.023 Yrless Ltd	Allow S121.023 Alliance Group Ltd
S128.015 Greenbriar Ltd.	ENRG-03 - Effects from electricity generation activities on communities, the environment and the underlying relationship Ngāi Tahu hold with the natural environment are managed, while recognizing practical constraints (eg, technical, locational, operational) from the use and development of ~~renewable~~ energy, including renewable energy and materials to produce non-renewable sources of energy.
S130.063 Mercury NZ Ltd	Effects from use and development of renewable energy resources ~~electricity generation activities~~ on communities, the environment and the underlying relationship Ngāi Tahu hold with the natural environment are managed, while ~~recognising~~ acknowledging practical constraints, including, technical and functional needs., ~~locational, operational from the use and development of renewable energy~~
FS24.008 Contact Energy Ltd	Allow S130.063 Mercury NZ Ltd
S139.042 Hokonui Rūnanga Inc	Amend Clause 3 to read: Effects from electricity generation activities on people and communities, and the environment ~~and the underlying relationship Ngāi Tahu hold with the natural environment~~ are managed, while recognising practical constraints (eg, technical, locational, operational) from the use and development of renewable energy; and The whakapapa relationship of mana whenua with the whenua (land) and wai (water) is recognised and potential effects on mauri, wāhi tapu, mahinga kaiand the ability to offer manaakitanga, mātauranga associated with the current landscape, and the exercise of kaitiakitanga are avoided, remedied or mitigated; including any adverse visual or amenity effects.
FS26.007 Mercury Ltd	Allow in part S139.042 Hokonui Rūnanga Inc. Mercury supports the first part of the draft policy but is concerned the reference to "including" drills into an issue better addressed in other policies and seek that part be deleted: including any adverse visual or amenity effects.

4.1.1 The submissions supporting the objective are acknowledged. As changes have been made to the provision submissions S109.022 Department of Conservation and S121.023 Alliance Group Ltd are accepted in part.

4.1.2 The change sought by Greenbriar is the same at that sought to ENRG-O1 and it is rejected for the same reasons.

4.1.3 Mishka Banhidi at paragraph 576 of her s42A Report supports the submission from Mercury as this provides better alignment with the provision of the NPS-REG, acknowledging the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities. Including the minor change recommended by Mishka Banhidi at the hearing, the Panel agrees. The Panel considers the final version recommended adequately responds to the matters raised by Mercury in their statement of evidence.

4.1.4 In response to Hokonui Rūnanga, Mishka Banhidi at paragraph 573 of her s42A Report recommended accepting the submission in part by adding a further objective setting out the detail sought in the submission, notwithstanding in her view this narrowed the effect of the notified objective. Having regard to evidence submitted to later hearings by

Hokonui Rūnanga, and in light of decisions across the Plan, the Panel prefers to use consistent wording that references the values listed in MW-1.2.

4.1.4 Submissions S130.063 Mercury NZ Ltd and S139.042 Hokonui Rūnanga Inc are accepted by amending Objective ENRG-O3 as follows:

Effects from the use and development of renewable energy generation ~~electricity generation activities~~ on people and communities, including impacts on Ngai Tahu cultural values listed in MW1.2, and the natural *environment* ~~and the underlying relationship Ngāi Tahu hold with the natural *environment*~~ are managed, while ~~recognising~~ acknowledging ~~practical constraints~~ *functional need* and *operational need.* ~~(eg, technical, locational, operational) from the use and development of renewable energy;~~

4.3 Objective ENRG-O4

Submitter (S) Further Submitter (FS)	Decision Requested
S126.058 Southland Federated Farmers of NZ S115.059 Kevin Robertson S143.070 Rural Ratepayers Group S148.071 Alistair & Bernadette Hunt S60.061 Ronald Crispin S68.179 John Baynes	Amend ENRG-O4: The safe and efficient operation, maintenance and upgrading of existing electricity generation activities is not constrained or compromised by reverse sensitivity effects.
S130.012 Mercury NZ Ltd	Retain.
FS27.002 Alliance Group Ltd	Allow S130.012 Mercury NZ Ltd

4.3.1 The submission supporting the objective is acknowledged. As a change have been made to the provision submission S130.012 Mercury NZ Ltd is accepted in part.

4.3.2 The Panel accepts the recommendation of Mishka Banhidi at paragraph 548 of her s42A Report that the submissions of Federated Farmers and others are accepted.

4.3.3 Submissions S126.058 Southland Federated Farmers of NZ and others are accepted by amending Objective ENRG-O4 as follows:

The safe and efficient operation, maintenance and upgrading of existing electricity generation activities is not constrained or compromised by *reverse sensitivity effects*.

4.4 Additional Objective Sought

Submitter (S) Further Submitter (FS)	Decision Requested
S130.043 Mercury NZ Limited	Insert new objective: Renewable Electricity Generation Activities and Transmission Enable the operation, use, development and upgrading of renewable electricity generation activities and transmission within the rural environment.
FS24.059 Contact Energy Ltd	Allow S130.043 Mercury NZ Limited

4.4.1 The Panel notes that Objective ENRG-O2 refers to enabling the investigation, development, operation, maintenance and upgrading of renewable electricity generation activities and that is reflected in Rule ENRG-R2. Arising from those provisions the Panel does not consider there to be a need for the additional objective sought. Accordingly, submission S130.043 Mercury NZ Limited is rejected.

Submitter (S)	Decision Requested
S128.016 Greenbriar Ltd.	A separate provision recognizing the need to manage non-renewable energy generation required on a transition basis is necessary. ENRG-03A - Where non-renewable energy is required (including provision of energy sources) on a transitional basis the effects of these activities must be managed while recognising the locational constraints and the functional and operational needs of the activities.

4.4.2 The Panel notes this submission raises the same issues considered in the context of submission S128.015 Greenbriar Ltd in section 4.1. above where the outcome was an additional policy being included in the plan incorporating matters contained in this submission. The Panel considers no addition regard is required. Accordingly, submission S128.016 Greenbriar Ltd is accepted in part by adopting the decision in paragraph 4.1.4 above.

5. Energy Policies

5.1 Policy ENRG-P1

Submitter (S) Further Submitter (FS)	Decision Requested
S121.024 Alliance Group Ltd	Retain ENRG-P1 as notified
S130.013 Mercury NZ Ltd	ENRG-P1 Recognise the ~~local, regional and national~~ benefits of renewable electricity generation activities including, but not limited to: 3. using renewable natural resources rather than finite resources, <u>which requires transition away from fossil fuels.</u>
S110.011 Royal Forest and Bird Society of NZ Inc	In ENRG-P1 add: <u>6. reducing emissions and contribution to climate change</u>
FS26.009 Mercury Ltd	Allow in part S110.011 Royal Forest and Bird Society of NZ Inc The point needs to be redrafted to address the benefits of reducing GHG in addressing climate change.

5.1.1 The submission supporting the policy is acknowledged. As a change have been made to the provision submission S121.024 Alliance Group Ltd is accepted in part.

5.1.2 The Panel agrees with Mercury in their further submission that the addition sought by Forest and Bird is not necessary as clause (1) in the policy already covers the issue. Accordingly, submission S110.011 Royal Forest and Bird Society of NZ Inc is rejected.

5.1.3 The Panel, with one exception, adopts the recommendation of Mishka Banhidi to accept the Mercury submission as it streamlines the intent of the policy while giving effect to national direction (NPSREG), and regional direction (Southland Murihiku Regional Energy Strategy 2022-2050). The Panel has not included the phrase “which requires the transition away from fossil fuels” in clause 3 as it merely repeats in different words what is already there.

5.1.4 Submission S130.013 Mercury NZ Ltd is accepted by amending Policy ENRG-P1 as follows:

Recognise the ~~local, regional and national~~ benefits of *renewable electricity generation activities* including, but not limited to:

1. maintaining or increasing electricity generation capacity while avoiding, reducing or offsetting greenhouse gas emissions;
2. maintaining or increasing security of electricity supply at local, regional and national levels by diversifying the type and/or location of electricity generation;
3. using renewable natural resources rather than finite resources.
4. the reversibility of the adverse *effects* on the environment of some renewable electricity generation technologies; and
5. avoiding reliance on imported fuels for the purposes of generating electricity.

5.2 Policy ENRG-P2 and ENRG-P4

Submitter (S) Further Submitter (FS)	Decision Requested
S121.025 Alliance Group Ltd	Retain ENRG-P2 as notified
S130.014 Mercury NZ Ltd	~~Encourage and facilitate~~ <u>Provide</u> for the increased use <u>and development</u> of renewable energy resources including the use of:

	1. wind, solar and hydro; and 2. waste products; and 3. gas discharges as a source of energy production.
FS27.003 Alliance Group Ltd FS24.009 Contact Energy Ltd	Allow S130.014 Mercury NZ Ltd
S130.015 Mercury NZ Ltd	~~Support~~ Recognise and provide for activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation.
FS27.004 Alliance Group Ltd	S130.015 Mercury NZ Ltd

5.2.1 The submission supporting Policy ENRG-P2 is acknowledged. As a change has been made to the provision submission S121.025 Alliance Group Ltd is accepted in part.

5.2.2 The Panel adopts the recommendation of Mishka Banhidi to accept the Mercury submissions as they relate to Policy A of the NPSREG, which directs decision makers to recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities).

5.2.3 Submissions S130.014, S130.015 Mercury NZ Ltd are accepted by amending the policies as follows:

Policy ENRG-P2 ~~Encourage and facilitate~~ Provide for the increased use and development of renewable energy resources including the use of:

Policy ENRG-P4 Recognise and provide for ~~Support~~ activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation

5.3 Policy ENRG-P7

Submitter (S) Further Submitter (FS)	Decision Requested
S128.017 Greenbriar Ltd.	Amend ENRG-P7 ~~3. areas of indigenous biodiversity~~
S130.018 Mercury NZ Ltd	Provide for ~~Avoid the location~~ of renewable ~~and non-renewable~~ electricity generation activities whilst managing ~~within the following areas unless a~~dverse effects can be remedied, mitigated, or residual effects offset or compensated: 1. outstanding natural features and landscapes 2. significant natural areas ~~3. areas of indigenous biodiversity~~
FS27.006 Alliance Group Ltd	Allow S130.018 Mercury NZ Ltd
S109.023 Department of Conservation	Amend ENRG-P7: Avoid the location of renewable and nonrenewable electricity generation activities within the following areas unless adverse effects can be ~~mitigated~~ managed by applying the effects management hierarchy: 4. areas of highly specified mobile fauna 5. riparian margins
FS26.0010 Mercury Ltd	Disallow S109.023 Department of Conservation. Points 2, 3, 4 and 5 overlap and should be consolidated
FS24.0010 Contact Energy Ltd	Disallow S109.023 Department of Conservation
S144.004 Contact Energy Ltd	Consistency with NPSREG. References to SNA's and areas of indigenous biodiversity may be too broad.
FS26.011 Mercury Ltd	Allow S144.004 Contact Energy Ltd

5.3.1 At paragraph 620 of her s42A Report, Mishka Banhidi recommended accepting the submissions to remove reference to “areas of indigenous biodiversity” as clause 1.3(3) of the NPS-IB excludes the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities. The Panel discusses application of the NPSIB in Decision 45 and agrees it is correct that renewable electricity generation activities are exempt from application of the effects management hierarchy, however these activities are not exempt from consideration of effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna as matters of national importance. The Panel

therefore considers that it is appropriate to manage effects on these areas and avoid impacts on them where practicable.

5.3.2 With regard to the structure of the policy, Mishka Banhidi stated at paragraph 621 of her s42A Report:

> It is acknowledged that the same policy test for renewable and non-renewable is not logical given the policy direction set by the NPS-REG. Additionally, an avoid policy is too strong a requirement given the national direction to encourage renewable energy. However, a "provide" policy is inappropriate as it would appear to encourage locating these activities within sensitive environments. The PDP in general has been drafted so that policies managing district wide matters are dealt with in their respective Chapters, however this policy relates directly to ENRG-R1. ENRG-R1 specifically aims to manage small scale renewable electricity generation within Outstanding Natural Features and Landscapes and Heritage buildings. As such it is considered that ENRG-P7 is appropriate, with the removal of the reference to SNAs and Indigenous Biodiversity as they relate to REG, to reflect the direction of the NPS-REG and the cascaded rule ENRG-R1.

5.3.3 Arising that discussion, Mishka Banhidi recommended a change in the overall layout of the policy, which she considered better reflected the intent, while responding positively to the submissions lodged. The recommended changes did not include those sought by the Department of Conservation.

5.3.4 Elizabeth Williams representing the Department of Conservation sought retention of the notified version of the policy, referring also to the draft Proposed National Policy Statement for Renewable Electricity Generation, but as she noted the Panel is unable to place weight on this. Submission S109.023 Department of Conservation is accepted in part because although renewable electricity generation activities are not subject to the effects management hierarchy in the NPSIB, non-renewable electricity generation activities are governed by this. The NPSREG allows for renewable electricity generation activities to avoid, remedy or mitigate adverse effects, and where there are residual adverse effects, offset or compensate for those effects, as identified in the Mercury submission. In essence, both types of electricity generation are able to utilise the full suite of options, avoid, remedy, mitigate, offset or compensate, so while non-renewable electricity generation activities cannot rely on support in national direction, the policy can similarly apply to them. The Panel does not anticipate demand for new non-renewable electricity generation activities to establish in the district, in light of other policies in this chapter that relate to transition towards renewable electricity sources.

5.3.5 The Panel does not find the redrafted policy to be coherent and do not consider that it achieves the intent expressed by Mishka Banhidi. Essentially, the policy relates to functional need and operational need, application of the NPSREG and NPSIB, and expectations regarding options to address adverse effects of electricity generation activities.

5.3.5 Submissions S128.017 Greenbriar Ltd, S130.018 Mercury NZ Ltd, S144.004 Contact Energy Ltd and S109.023 Department of Conservation are accepted in part by amending Policy ENRG-P7 as follows:

Where practicable ~~A~~avoid the location of renewable and *non-renewable electricity generation* activities within the following areas ~~unless adverse effects can be mitigated~~:

1. outstanding natural features and landscapes
2. *significant natural areas*
3. areas of *significant indigenous vegetation* ~~*biodiversity*~~ and significant habitats of indigenous fauna;

and where adverse effects cannot be avoided, ensure they are remedied or mitigated, and that any residual effects that cannot be remedied or mitigated are offset or compensated.

5.4 Policy ENRG-P8

Submitter (S) Further Submitter (FS)	Decision Requested
S101.014 Transpower NZ Ltd	Amend Policy ENRG-P8 as follows: "ENRG-P8 Protect electricity generation activities-, ~~transmission~~ and associated infrastructure and undeveloped energy resources from reverse sensitivity effects from incompatible subdivision, land use and development."
S130.019 Mercury NZ Ltd	Delete ENRG-P8 to be new policy in General Rural Zone Chapter. Protect electricity generation activities, transmission and associated infrastructure and undeveloped renewable energy resources from reverse sensitivity effects from incompatible subdivision, land use and development.
FS27.007 Alliance Group Ltd	Disallow FS27.007 Alliance Group Ltd
S128.018 Greenbriar Ltd.	Support ENRG-P8 subject to clarification that 'energy resources' includes nonrenewable energy sources' If that is not the case then provision is opposed and amendments are required.

5.4.1 At paragraph 633 of her s42A Report Mishka Banhidi recommended rejecting the Transpower submission because in her view the reference to transmission within this policy is compatible with INFR-P5. Ansley McLeod in her statement of evidence agreed. Accordingly, submission S101.014 Transpower NZ Ltd is rejected.

5.4.2 Mishka Banhidi also recommended rejecting the Mercury submission on the basis that a location in the Energy chapter then impacts on all zones, rather than just the General Rural Zone if it was shifted. The Panel agrees and accordingly submission S130.019 Mercury NZ Ltd is rejected. In a Submitter Statement received from Mercury that outcome was accepted.

5.4.3 The Panel in reading the policy is unsure what “undeveloped energy resources” refer to and in that regard shares the concerns of Greenbriar. Mishka Banhidi in responding to the Greenbriar submission stated the reference to undeveloped energy sources is not intended to refer to non-renewable energy generation activities, nor is it considered appropriate to do so. However, there was no guidance given as to what it does refer to and in the absence of a clear explanation the Panel considers reference to undeveloped energy sources should be deleted. In doing so, the policy is clearer and there will be no confusion in the future requiring debate as to what the policy means.

5.4.4 Accordingly, submission S128.018 Greenbriar Ltd is accepted in part by amending Policy ENRG-P8 as follows:

Protect electricity generation activities, transmission and associated *infrastructure* ~~and undeveloped energy resources~~ from *reverse sensitivity effects* from incompatible *subdivision*, land use and development.

5.5 Policy ENRG-P9

Submitter (S) Further Submitter (FS)	Decision Requested
S130.020 Mercury NZ Ltd	Add: 4. Practical constraints, including functional and technical needs 5. Benefits of Renewable Electricity Generation, including maintaining or increasing generation capacity and security of electricity supply, as well as the reduction in use of finite resources
FS24.011 Contact Energy Ltd	Allow S130.020 Mercury NZ Ltd

5.5.1 At paragraph 636 of her s42A Report Mishka Banhidi recommended accepting this submission. However, the Panel does not consider the addition can be considered a relevant measure in the context of the policy. In addition, all of the matters referred to in the submission are included in Policy ENRG-P1 that lists the benefits of renewable

electricity generation. Further, the Panel notes the policy is general and not limited to renewable electricity generation, and will work in conjunction with the amendments made to ENRG-P7. Accordingly, submission S130.020 Mercury NZ Ltd is rejected.

5.6 Policy ENRG-P10

Submitter (S) Further Submitter (FS)	Decision Requested
S128.019 Greenbriar Ltd.	No amendments required
S130.021 Mercury NZ Ltd	Recognise the need for resilient -critical infrastructure, which is interdependent on other critical infrastructure, including energy supply which must function during ~~including~~ ~~standby power generation in~~ emergency situations, emergency response may also need, ~~and~~ stand-alone power systems, to mitigate outage risk ~~where other sources are not available.~~

5.6.1 Mishka Banhidi at paragraph 651 of her s42A Report recommended rejecting this submission as the policy is promoting off grid energy supply such as dwelling scale, solar panels, purposely independent of critical infrastructure. She considered the requested relief changes the intent of the policy and the Panel agree. Mercury in its presentation to the Panel at the hearing did not refer to this policy and the recommendation. Accordingly, submission S130.021 Mercury NZ Ltd is rejected.

5.6.2 The submission supporting the policy is acknowledged. As no change has been made to the provision submission S128.019 Greenbriar Ltd is accepted.

5.7 Policy ENRG-P11

Submitter (S) Further Submitter (FS)	Decision Requested
S110.012 Royal Forest and Bird Society of NZ Inc	Add: 10. adverse effects on indigenous biodiversity and the eco-systems that support them
S121.027 Alliance Group Ltd	7. adequate separation distances from sensitive activities and, where not already located within an identified Outstanding Natural Feature overlay, Outstanding Natural Features and Landscapes to ensure conflict and reverse sensitivity effects are minimised;
S130.022 Mercury NZ Ltd	~~Require~~ large scale renewable electricity generation activities are provide for in the General Rural Zone, or required to demonstrate they are ~~located~~ appropriate~~ly~~ having regard to relevant land use zone, also considering the following: 1. any practical constraints, including functional, or technical needs ~~logistical or technical constraints~~ to developing, upgrading, operating or maintaining the activity, including essential activities such as distribution to the national grid; 2. effects on existing infrastructure; ~~the location of existing structures and infrastructure including, but not Ltd to, roads, navigation and telecommunication structures and facilities, and connections to distribution networks, and the efficient use of land;~~ 4. the design and site layout of the activity ~~and its ability to internalise effects;~~ ~~7.effects on adequate separation distances from~~ sensitive activities ~~and Outstanding Natural Features and Landscapes to effects acceptable ensure conflict and reverse sensitivity effects are minimised.~~
FS27.008 Alliance Group Ltd	Disallow in part to the General Rural Zone is not necessary or appropriate. Point 1: The NPS-REG refers to "logistical or technical practicalities" (Policy C1(b)). Rewording should use this for consistency. Point 2: Should retain reference to "location of existing structures and infrastructure",but agree list of inclusions is not necessary. Point 4: Proposed deletion not appropriate (removes effects-based reason to consider site layout and design). Point 7: Agree Reference to "significant environmental values" (As submitted) is better than the simplistic "separation distance" (as notified).
FS24.013, FS24.014 Contact Energy Ltd	Allow S130.022 Mercury NZ Ltd
S109.024 Department of Conservation	Retain with amendments as follows (or words to similar effect): Require large scale renewable electricity generation activities to demonstrate

	they are located appropriately having regard to relevant land use zone, also considering the following: (...) x. best practice techniques for managing adverse effects on highly mobile fauna and their habitats; 4. the design and site layout of the activity and its ability to internalise effects; 5. earthworks and construction effects;6. adverse amenity effects, including but not Ltd to visual, traffic generation, safety, light spill, shadow and noise effects; 7. adequate separation distances from sensitive activities, SNAs or unmapped areas identified as SNAs in accordance with the criteria in Appendix 4 specified highly mobile fauna areas, riparian margins and Outstanding Natural Features and Landscapes to ensure conflict and reverse sensitivity effects are minimised; (...)
FS26.012 Mercury Ltd	Disallow S109.024 Department of Conservation
FS24.012 Contact Energy Ltd	Disallow S109.024 Department of Conservation

5.7.1 Mishka Banhidi considers these submissions at paragraphs 652 - 656 of her s42A Report and recommended a number of changes to the policy. In response to that recommendation:

(a) Mercury sought insertion of reference to "functional need and operational need where practical" in clause 1 and advised of its withdrawal of that part of its submission referring to "significant environmental values" seeking rewording of clause 7 to simply state "Effects on sensitive activities".

(b) Department of Conservation requested including reference to SNAs in the revised clause 7.

5.7.2 In considering the content of Policy ENRG-P11 the Panel is mindful that the provisions of other chapters of the Plan will apply, including Ecosystems and Indigenous Biodiversity and Natural Features and Landscapes. As a consequence, the Panel does not consider there to be a need to refer to these other chapters in the policy, nor add reference to SNAs as sought by Department of Conservation and indigenous biodiversity as requested by Forest and Bird, which are already referenced in ENRG-P7. Equally, reference to highly mobile fauna and their habitats is not required in this chapter. Accordingly, submissions S110.012 Royal Forest and Bird Society of NZ Inc and S109.024 Department of Conservation are rejected.

5.7.3 The Panel considers the manner in which Alliance interpreted the policy seeking clarification that there was a degree of acceptance of their existing hydro-electric installation highlights an issue with the provision. The response of the Panel is to include wording to clarify the policy only applies to new and expansion to existing renewable electricity facilities.

5.7.4 The Panel also has concerns that the addition referring to the General Rural zone appears to limit application of the policy to other zones, yet it notes renewable electricity facilities are a discretionary activity in that zone. The Panel therefore has reworded the provision to refer to the compatibility with the zoning and any other spatial layers that apply.

5.7.5 Submissions S121.027 Alliance Group Ltd and S130.022 Mercury NZ Ltd are accepted in part by amending Policy ENRG-P11 as follows:

When considering proposals for new or expansion of existing ~~Require large scale~~ *renewable electricity generation activities* - *large scale* have regard to: ~~to demonstrate they are located appropriately having regard to relevant land use zone, also considering the following:~~

1. compatibility with the zoning and any other spatial layers that apply;

~~1~~2 any ~~practical constraints, including~~ functional need or operational need relevant~~, logistical or technical constraints~~ to developing, upgrading, operating or maintaining the activity.

3 the effects of infrastructure required to facilitate distribution to the *national grid*;

~~2~~4 the location of, and effects on, existing structures and infrastructure; ~~including, but not limited to, roads, navigation and telecommunication structures and facilities, and connections to distribution networks, and the efficient use of land;~~

~~3~~5 the scale, intensity, duration or frequency of the activity's *effects*;

~~4~~6 the design and *site* layout of the activity and its ability to internalise *effects*;

~~5~~7 *earthworks* and construction *effects*;

~~6~~8 adverse amenity *effects*, including but not limited to visual, traffic generation, safety, *light spill,* shadow and *noise effects*;

~~7~~9 effects on ~~adequate separation distances from *sensitive activities* and *Outstanding Natural Features and Landscapes* to ensure conflict and *reverse sensitivity effects* are minimised;~~

~~8~~10 use of adaptive management measures through monitoring of adverse *effects*; and

~~9~~11 Impacts on Ngāi Tahu cultural values~~, including those~~ listed in ~~MW2.3~~ MW-1.2.

5.8 Policy ENRG-P12

Submitter (S) Further Submitter (FS)	Decision Requested
S130.023 Mercury NZ Ltd	~~Encourage~~ Provide for innovation and flexibility for new and existing renewable electricity generation activities to adopt new technologies and sources of renewable energy where this: 1. Increases the efficient use of renewable energy resources; or 2. Encourages the re-use of structures and associated infrastructure where appropriate; or 3. Increases the resilience, safety or reliability of renewable electricity generation activities; or 4. Results in environmental benefits and enhancements. Or 5. Increases electricity generation capacity, or increases security of electricity supply
FS27.009 Alliance Group Ltd	Allow S130.023 Mercury NZ Ltd

5.8.1 Mishka Banhidi at paragraph 657 of her s42A Report recommended amending the policy in response to this submission. Mercury in their statement of evidence did not provide any additional comment.

5.8.2 The Panel accepts Mishka Banhidi's recommendation regarding the increase in electricity generation capacity but considers there is some difficulty in interpreting the change recommended to the policy chapeau. In order to adopt new technologies and new sources of renewable energy the Panel considers it more appropriate to "encourage innovation and provide flexibility".

5.8.3 Submission S130.023 Mercury NZ Ltd is accepted in part by amending Policy ENRG-P12 as follows:

Encourage innovation and provide flexibility for new and existing *renewable electricity generation activities* to adopt new technologies and sources of renewable energy where this:

1. Increases the capacity and efficient use of renewable energy resources; or
2. Encourages the re-use of *structures* and associated *infrastructure* where appropriate; or
3. Increases the resilience, safety or reliability of *renewable electricity generation activities*; or
4. Results in environmental benefits and enhancements.

5.9 Notes

5.9.1 The Panel have considered Note 1 to this chapter as part of decision to remove unnecessary duplication within the Plan and determined that it can be deleted because reliance can be placed on the introductory sections of the Plan. The Panel have made an addition to the chapter Overview to include a new final paragraph that makes it clear

how the chapter interacts with zones and overlay chapters, under Clause 16(2) of the First Schedule, as follows:

Rules and standards in Part 3 - Area Specific Matters (zones) do not apply to activities managed under this chapter, unless expressly identified within the chapter. Rules and Standards in overlay chapters will apply where relevant.

Submitter (S)	Decision Requested
S109.026 Department of Conservation	Retain with the following amendments (or words to similar effect): Note 1 - Include a more specific description of what other provisions apply to this chapter with references to the ECO chapter provisions. Add: Note 2 Activities below mean high water springs (MHWS) or on the beds of water bodies may require resource consent from Southland Regional Council. In relation to hydro renewable energy generation, fish passage must be maintained, or is improved, by instream structures as per the National Policy Statement for Freshwater Management 2020, the National Environmental Standards for Freshwater Regulations 2020 and the Southland Regional Plan.

5.9.2 Having regard to submissions made to various chapters of the PDP seeking inclusion of information relating to the need for consents from Environment Southland and other matters submitters consider relevant, the Panel has concluded that the major of Notes included in the PDP should be deleted and replaced by text added to "How the Plan Works" and where appropriate to the Overview of each chapter. The Panel also anticipates that since the Plan is to be available in electronic form on the Council's web site that general directions can be provided web page and links. The Panel has also been advised that where reference is made in chapters to provisions in other chapters electronic links will be provided. In the Panel's view, this reinforces a move away from detailed Notes in the Plan. As the Notes have no statutory force, the Panel considers that changes made to Notes as outlined above, are a minor matter able to be actions under clause 16(2) of the First Schedule to the RMA.

5.9.3 The Panel considers the matters raised by Department of Conservation relate to issues outside of the realm of the District Plan. The wording used is also akin to a rule, which is inappropriate for a Note.

5.9.4 Having regard to the above matters, submission S109.026 Department of Conservation is rejected.

6. Energy Rules

6.1 Rule ENRG-R1

Submitter (S) Further Submitter (FS)	Decision Requested
S109.025 Department of Conservation	Retain with the following amendments Activity Status: Permitted Where 1. All Energy Standards are complied with; and 2. No structure or building is located in an Outstanding Natural Feature or Landscape or SNA or unmapped SNA that has been assessed as significant against the criteria in Appendix 4; and 3. (...)
FS26.013 Mercury Ltd	Disallow S109.025 Department of Conservation
S110.013 Royal Forest and Bird Society of NZ Inc	Amend: 2. No structure or building is located in an Outstanding Natural Feature or Landscape, and/or a Significant Natural Area;
FS26.014 Mercury Ltd	Allow in part S110.013 Royal Forest and Bird Society of NZ Inc. It would be clearer if the reference to SNA's was added as a separate number in the list rather than and/or

6.1.1 To the extent relevant, the provisions of the Biodiversity and Indigenous Vegetation chapter applies and as a consequence the Panel does not consider a need for the requested additions to the Rule. Accordingly, submissions S109.025 Department of Conservation and S110.013 Royal Forest and Bird Society of NZ Inc are rejected.

6.2 Rule ENRG-R2

Submitter (S) Further Submitter (FS)	Decision Requested
S121.028 Alliance Group Limited	Clarify that the Alliance hydro-electric plant would not meet the definition of a 'renewable electricity generation activities - large scale'. If it does; either exempt it from the definition or introduce a permitted activity or controlled activity rule for the operation, maintenance, repair and upgrade of the Mataura Hydro-Electric Plant or suitable alternative relief.

6.2.1 Alliance in their submission lodged to the PDP provided the following information and comment with regard to their on-site hydro-electric plant:

> Alliance operates a hydro-electric scheme on the Mataura River adjacent the Plant. The hydro-electric plant can generate 530 kW/h of renewable electricity and consequentially supplies a significant proportion of the Plants electricity. Structures associated with this scheme are likely to have been in place since the 1920's or 1930's.
>
> While the hydro-electric plant is principally in place to provide a reliable supply of renewable electricity to the Plant, it also provides electricity into the National Grid during times of low electricity demand at the Plant.
>
> The hydro-electric plant appears to meet the definition of 'Renewable Electricity Generation Activities – Large scale'.
>
> Because the hydro-electric scheme is 'large scale' and is not located in the Rural Zone, any maintenance, operation, repairs, or upgrading of the scheme would require consent as a non-complying activity in accordance with ENRG-R2.
>
> A non-complying activity status is not appropriate for activities associated with an existing renewable electricity generation scheme, does not reflect the outcome sought by ENRG-02 or the National Policy Statement for Renewable Electricity Generation 2011 Policy E2 which requires district plans to provide for the operation, maintenance and upgrading of existing hydro-electricity general activities.
>
> Given the above, Alliance is seeking that activities related to the operational, maintenance, repair and upgrade of the Mataura hydro-electric plant are given a permitted or controlled activity status, or that the Alliance hydro-electric scheme be exempted from the definition of a Renewable Electricity Generation Activities – Large scale.

6.2.2 Mishka Banhidi was not aware of this information and was therefore not in a position to fully assess the submission. The Panel is aware and acknowledges that under Policy E2 of the NPD-REG:

> Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities to the extent applicable to the region or district.

6.2.3 The Panel notes this does not direct that the maintenance and upgrading of existing hydro-electricity generation activities is to be provided for as a permitted activity. However, the Panel is of the view that the operation and maintenance of the existing Alliance hydro-electricity generation plant should be enabled without the need for resource consent. This has been provided in paragraph 6.3.8 below. Whether an upgrade of the plant is appropriate requires assessment having regard to the extent of any adverse effects. The Panel has not had any information provided to it to consider that matter further. It agrees however that non-complying status for upgrades to the existing facility is not appropriate. In the updated Plan provisions below this has been provided for as a discretionary activity.

6.2.4 Submission S121.028 Alliance Group Limited is therefore accepted in part.

Submitter (S) Further Submitter (FS)	Decision Requested
S130.025 Mercury NZ Limited	Amend Activity status: ~~Non-Complying~~ Discretionary
S130.024 Mercury NZ Limited	ENRG-R2 - General Rural Zone Activity status: Discretionary New Large-Scale Renewable Electricity Generation ~~construction,~~ development and operation, ~~maintenance, repairs and upgrading~~ (including any associated structures) ~~and associated~~ Costs and benefits General Rural Zone: Activity status: Permitted ENRG-R2.2 Maintenance and upgrading of existing Large-Scale Renewable Electricity Generation structures where replacement of like for like and same locations. General Rural Zone: Activity status: Controlled New Rule ENRG-R2.3 Upgrading of large-Scale Renewable Electricity Generation, including repowering of wind farms, including replacement of any structures with less than 10% increase in envelope. Matters of control are limited to: 1.construction impacts, and 2.increased operational effects, from greater scale and bulk, including amenity noise effects and compliance with NZS 6808: 2010 (Acoustics - Wind Farm Noise), or any effects on scheduled significant values
FS27.0010 Alliance Group Ltd	Allow in part S130.024 Mercury NZ Limited. Should be district-wide and not restricted to just the General Rural Zone.
FS11.053 Heritage NZ Pouhere Taonga	Disallow S130.024 Mercury NZ Limited
S144.003 Contact Energy Ltd	Contact supports the discretionary status of large scale renewable electricity construction operation, maintenance, repairs and upgrading activities in the General Rural Zone and opposes the non-complying status for such activities in all other zones.
FS26.015 Mercury Ltd	Allow S144.003 Contact Energy Ltd

6.2.5 The Panel agrees with Mishka Banhidi at paragraph 677 of her s42A Report where she responded to the status of Large-Scale Renewable Electricity Generation Activities, as follows:

> It is agreed that the operation and maintenance of existing Large-Scale Renewable Electricity Generation Activities should be provided for as a permitted activity, however the expansion of existing, or construction and operation of new activities needs to be appropriately managed. The requested relief for a controlled activity is considered too permissive, given these are large scale activities, appropriate settings need to be in place to manage adverse effects.

6.2.6 Mercury also requested provision be made for repowering of wind farms, including replacement of any structures with less than 10% increase in envelope. That is not supported by the Panel given uncertainty over what that actually means. For example, is that an increase in the overall footprint of the wind farm or the number or size of individual structures. In addition, if this relates to an increase in area, there may well be significant effects on one or more adjoining properties or the wider environmental effects depending on the location of the extension. In the Panel's view assessment through the consenting process is appropriate. Shirley Chamberlain representing Mercury at the hearing expressed concern that in the absence of permissive provisions Councils should assess any repowering or other increase in scale as a new development. The Panel though notes that existing approved development would be part of the existing environment, the effects of which are assessed against any extended development proposal.

6.2.7 Mercury did not expand on other aspects of the recommendation of Mishka Banhidi, nor did other submitters provide any additional information for the Panel to consider.

6.2.8 Submissions S130.024, S130.025 Mercury NZ Limited and S144.003 Contact Energy Ltd are accepted in part by amending Rule ENRG-R2 as follows:

Renewable Electricity Generation Activities – Large Scale construction, operation, maintenance, repairs and upgrading (including any *structures* and associated *buildings*)

All Zones
Activity Status: Permitted
1. Operation and maintenance of existing activities
Activity status where compliance not achieved: N/A

General Rural Zone, General Industrial Zone
Activity status: Discretionary
2. Upgrading of existing, or construction and operation of new activities
Activity status where compliance not achieved: N/A

All Other Zones
Activity status: Non-Complying
3. Upgrading of existing, or construction and operation of new activities
Activity status where compliance not achieved: N/A

6.3 Rule ENRG-R3

Submitter (S)	Decision Requested
S130.026 Mercury NZ Ltd	Renewable Electricity Generation Investigations, including associated structures ~~and buildings~~ : Permitted Where: 1. All Energy Standard~~s~~ are complied with. ~~2. Associated structures and buildings are temporary and removable.~~

6.3.1 Mishka Banhidi at paragraph 679 of her s42A Report recommended rejecting this submission on the basis that insufficient information was provided to enable considered assessment. Mercury did not provide any additional information at the hearing and it is unclear to the Panel how the rule is inconsistent with the NPS-REG. Accordingly, submission S130.026 Mercury NZ Ltd is rejected.

6.4 Standard ENRG-S1

Submitter (S)	Decision Requested
S109.027 Department of Conservation	Retain with the following amendments: Matters of discretion: 1. The type, scale, form and location of the turbine and any adverse effects on the character, amenity, indigenous biodiversity values or Ngāi Tahu cultural values of the locality ....
S110.014 Royal Forest and Bird Society of NZ Inc	Add: 5. a comprehensive ecological assessment must be completed by a suitably qualified person. 6. No structure is to be located in a Significant Natural Area
S139.043 Hokonui Rūnanga Inc	Make consequential amendments to align with the amendments sought for ENRG-O3.

6.4.1 The Panel notes that the rules in the Ecosystems and Indigenous Biodiversity chapter, as amended by decisions, require consideration where indigenous vegetation is being removed, including within an SNA. Incorporating indigenous biodiversity as part of matters of discretion allows for consideration of the policies in the Ecosystems and Biodiversity chapter. Accordingly, submissions S109.027 Department of Conservation and S110.014 Royal Forest and Bird Society of NZ Inc are accepted in part.

6.4.2 Consequential to amendments made to ENRG-O3 in response to a submission by Hokonui Rūnanga, and also Decision 14 Mana Whenua, changes are appropriate to this provision as well.

6.4.3 Submission S139.043 Hokonui Rūnanga Inc is accepted in part by amending the Matters of Discretion in Standard ENRG-S1 as follows:

The type, scale, form and location of the turbine and any adverse *effects* on the character~~,~~ amenity, or indigenous biodiversity ~~Ngāi Tahu cultural values~~ of the locality or impacts on Ngāi Tahu cultural values listed in MW-1.2

The ability to mitigate any adverse effects on visual amenity or ~~*effects*~~ on Ngāi Tahu cultural values listed in MW-1.2 through use of screening, planting and alternative design.

6.5 Standard ENRG-S2

Submitter (S) Further Submitter (FS)	Decision Requested
S109.028 Department of Conservation	Retain with the following amendments (or words to similar effect): Matters of discretion: 4. Adverse effects on Ngāi Tahu cultural values, including those listed in MW2.3
S139.044 Hokonui Rūnanga Inc	Make consequential amendments to align with the amendments sought for ENRG-O3.

6.5.1 Consequential to amendments made to ENRG-O3 in response to a submission by Hokonui Rūnanga changes are appropriate to this provision as well.

6.5.2 Submissions S109.028 Department of Conservation and S139.044 Hokonui Rūnanga Inc is accepted in part by amending the Matters of Discretion in Standard ENRG-S2 as follows:

Adverse *effects* on Ngāi Tahu cultural values ~~including those~~ listed in ~~MW2.3~~ MW-1.2.

6.6 Standard ENRG-S4

Submitter (S) Further Submitter (FS)	Decision Requested
S109.029 Department of Conservation	ENRG-S4 Matters of discretion: 1. The type, scale, form and location of the turbine and any adverse effects on indigenous biodiversity values including threatened and at risk species and their habitats, the character and amenity values of the locality.
FS26.016 Mercury Ltd	Disallow in part S109.029 Department of Conservation
FS24.015 Contact Energy Ltd	Disallow S109.029 Department of Conservation
S130.027 Mercury NZ Ltd	Amend to give effect to NPS-REG: Exploratory wind ~~generation~~ masts 1. The minimum setback from the site boundary is at least ~~10 times the mast's height~~. 2. The Maximum duration of ~~activity~~ is five years Matters of discretion: ~~1. The type, scale, form and location of the turbine and any adverse effects on the character and amenity values of the locality.~~ 2. The ability to mitigate any adverse visual amenity effects through ~~use of screening, planting and alternative~~ and design. ~~3. Adverse noise and vibration effects.~~
FS24.016 Contact Energy Ltd	Allow S130.027 Mercury NZ Ltd

6.6.1 The submission from Department of Conservation is the same as that considered in paragraph 6.5.1 and for the same reasons submission S109.029 Department of Conservation is accepted in part.

6.6.2 In response to the Mercury submission, Mishka Banhidi at paragraph 701 of her s42A Report stated:

> While aspects of their submission are supported in intent, it is considered that the proposed amendments go too far and it is not considered appropriate to allow for 100m structures as a permitted activity, unless the structure is setback significantly from boundaries. It is acknowledged that masts of this height could occur, the requirement for this to be set back 1000m from a boundary would sufficiently manage adverse effects. A setback equal to a height of a structure may be appropriate if the heights of the structures were similar in scale to those authorised under ENRG-S1.

6.6.3 In evidence presented at the hearing, Mercury advocated the minimum setback from a site boundary in different ownership be at least 100m. The Panel acknowledges that the

difficulty of complying with a 1km setback from the property boundary for monitoring masts and having regard to the profile of the masts and the limited duration they are permitted to be used, the Panel is inclined to some relaxation of the Standard. The Panel is mindful that under Standard ENRG-S1 small scale wind turbines which can be up to 20 metres hight are required to be set back from the boundary ten times their height, potentially 200 metres. In the Panel's view, the 100 metre distance promoted by Mercury is clearly inadequate and as a minimum 200 metres should apply, but also with an allowance taking into the account the height of the mast. In that regard, the Panel opts for five times the height of the mast.

6.6.4 Submission S130.027 Mercury NZ Ltd is accepted in part by making the following amendments to Standard ENRG-S4:

Exploratory wind ~~generation~~ monitoring masts
The minimum *setback* from the *site boundary* is 200 metres or at least ~~10~~5 times the mast's *height whichever is the greater*.

Matters of discretion:

1. The type, scale, form and location of the mast ~~turbine~~ and any adverse *effects* the character, ~~and~~ *amenity* and indigenous biodiversity *values* of the locality.
2. The ability to mitigate any adverse visual amenity *effects* ~~through use of screening, planting and alternative~~ siting and design.

7. Additional Matters

7.1 Whole of Plan Submissions

Submitter (S)	Decision Requested
S139.040 Hokonui Rūnanga Inc	Wherever possible the plan provisions should specify the particular effects of concern to mana whenua to ensure the plan provisions are clear and that appropriate effects are identified and assessed, including when Hokonui Rūnanga Inc may be an affected party. Amend references to 'Ngāi Tahu values' with more detailed description of particular effects to be avoided, remedied or mitigated.
S139.091 Hokonui Rūnanga Inc	Make consequential amendments to rules that refer to 'Ngai Tahu cultural values' by adding the words: "as identified in the objectives and policies for this zone and listed in MW2.3"

7.1.1 Courtney Bennett and Amy Berin in their joint response to Minute 15 noted the policy framework for the Energy chapter referred to cultural effects in general terms but the standards were more specific referring to Ngai Tahu cultural values. Amy Berin in later evidence did not seek and specific changes to the provisions.

7.1.2 Courtney Bennett in her statement of evidence to the final hearing also provided additional comment and in that regard the Panel notes:

(i) no submissions were lodged to Policies ENRG-P5 or ENRG-P6 and as no reference is made to Ngai Tahu cultural values there is no scope to make a change.

(ii) Appropriate changes have been made in response to submissions lodged to Policy ENRG-P11, ENRG-S1, ENRG-S2 and new ENRG-S5.

(ii) Standard ENRG-S4 refers to MW-2.3 and that requires amending to refer to MW-1.2.

7.2 Section 32AA

7.2.1 The s42A Report prepared for the Energy chapter and for Sites and Areas of Significance to Māori chapter hearings included assessment of s32AA matters. The Panel too has had regard to the relevant s32AA provisions to fill any gaps. The Panel has not identified any need for a further s32AA assessment as a result of matters contained in this

decision.