

**Before the Hearings Panel  
At Waimakariri District Council**

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** the Proposed Waimakariri District Plan

**Between** **Various**

**Submitters**

**And** **Waimakariri District Council**

**Respondent**

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**Council Officer's Preliminary Response to written questions on Pūngao me te  
hanganga hapori - Energy and Infrastructure (EI) on behalf of Waimakariri  
District Council**

**Date: 18 August 2023**

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## **INTRODUCTION:**

- 1 My full name is Andrew Maclennan. My role in preparing this report is that of an expert planner contracted to the Waimakariri District Council.
- 2 The purpose of this document is to respond to the list of questions published from the Hearings Panel in response to my s42 report.
- 3 In preparing these responses, I note that I have not had the benefit of hearing evidence presented to the panel at the hearing. For this reason, my response to the questions may alter through the course of the hearing and after consideration of any additional matters raised.
- 4 I also note that given the timing of these questions, my preliminary responses in some instances have not been informed by consideration of evidence or legal submissions lodged with the Council following the issuing of my s42A report. Where I have considered such evidence, I have recorded this within the preliminary answers below.
- 5 Following the conclusion of this hearing, a final right of reply document will be prepared outlining any changes to my recommendations as a result of evidence presented at the hearing, and a complete set of any additions or amendments relevant to the matters covered in my s42A report.
- 6 The format of these responses in the table below follows the format of questions identified in within the Commissioner's minute.
- 7 I am authorised to provide this evidence on behalf of the District Council.

**Date:** 18 August 2023

A handwritten signature in black ink, appearing to read 'Andrew MacLennan', is centered on the page. The signature is fluid and cursive.

.....  
Andrew MacLennan

Paragraph or Plan reference	Question	Officer's preliminary reply pre hearing
General questions		
1	<p>1. A number of submitters (including MainPower and CIAL) requested amendments to the Strategic Directive Objectives to better recognise the fundamental importance of infrastructure to the community. MainPower sought the following amendment to SD-O3:</p> <p>2. <u>the infrastructure needs of the community are fulfilled recognising the social, economic, environmental and cultural benefits that infrastructure provides.</u></p> <p>CIAL sought the following amendment to the same objective:</p> <p>2. <u>the social, economic and environmental and cultural benefits of infrastructure,</u> including strategic infrastructure, critical infrastructure, and regionally significant infrastructure:</p>	<p>As a starting point I note that I have not had any involvement in the development of the SD chapter and my only relationship to the chapter is come in the form of reading the chapter to ensure alignment with the TRAN and EI chapters. Therefore, I am conscious that I have not had the same understanding of the background to the SD chapter that Mr Buckley has. Therefore, I have consulted with Mr Buckley as part of this response.</p> <p>In reviewing the submissions from MainPower and CIAL, I agree with the views of Mr Buckley.</p> <p>Given this is a strategic objective, I agree with Mr Buckley that the direction within SD-O3 needs to remain at a high level and the detail can be fleshed out within the EI chapter. Therefore, replicating the language within EI-O1 (“social, economic, environmental and cultural benefits that infrastructure provides”) is not supported. Similarly, I disagree that SD-O3 needs to include recognition and provision for safe, efficient and effective development, upgrading, maintenance, as this is replicating the language within EI-O3.</p>

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	<p><u>a. is recognised and provided for, and its safe, efficient and effective development, upgrading, maintenance and operation is enabled</u> is able to operate efficiently and effectively; and</p> <p>Taking into account the recommendations made by Mr Buckley on the SD Chapter, please provide your response to this.</p>	
2	<p>What is meant by the word 'energy' in the context of these provisions? You cannot generate 'energy' but you can generate 'electricity' from certain forms of energy such as solar, wind, water and fossil fuels.</p>	<p>'Energy' does not have a definition within the RMA or the PDP. The title of the chapter is required by the National Planning Standards. The content of the chapter manages infrastructure activities and activities that transmit energy, such as the electricity transmission network.</p>
3	<p>There are several recommendations where you recommend to accept a submission but in reality, you have only recommended that they be accepted in part, or in some cases, rejected them. This is particularly so with MainPower submissions. Furthermore, there are also a number of submissions that seek to retain a provision as notified which you have</p>	<p>Yes, I can include an updated version of Appendix B in my reply report.</p>

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	<p>recommended to be accepted despite recommended changes in response to other submissions. Please check your recommendations and update these in an updated s42A report and Appendix B, as part of your reply report.</p>	
<p>Para 64</p>	<p>You state:</p> <p>“it is likely that the relevant matters of discretion within the protective chapters will be cross referenced within the EI chapter”.</p> <p>When exactly do you intend to undertake this exercise and how does it fit within the Hearing Stream timetable? How will interested submitters be able to respond to any further recommended amendments?</p>	<p>This was a matter that was picked up when writing the EI memo to the Hearing Panel and there was not time to include this within my s42A report.</p> <p>Suggested additions to the matters of discretion are included below that follow the current style of matters of discretion. The EI-MD1(8) of the PDP as notified already included cross-reference to:</p> <p><i>‘Any relevant matter set out in NFL-MD1.’</i></p> <p>Therefore, I have suggested adopting this same style of cross reference for the HH, TREE, SASM, ECO, NACT, and CE chapters as follows:</p> <p>EI-MD1 - Historic heritage, cultural values and the natural environment</p> <p>.....</p>

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		<p>8. <i>Any relevant matter set out in NFL-MD1, <u>HH-MD1, TREE- MD1, SASM-MD1, SASM-MD2, SASM-MD3, ECO-MD1, NACT-MD4, CE-MD1.</u></i></p> <p>The relevant parties can respond to these additional amendments at the hearing.</p>
<p>Para 70 Other Potentially relevant DP provisions</p>	<p>There are two typos in the chapeau.</p> <p>The sub-heading 'Rules' on page 9 needs changing as it refers to 'objectives, policies ...' etc in subclause 2. Therefore, does sub clause 2 need its own sub-heading?</p> <p>....</p> <p>Please explain how the following rules are relevant to Infrastructure, and how these wouldn't be considered as rules in their own right requiring consent?</p> <p><u>Relocation of any historic heritage listed in HH-SCHED2 must comply with HH-R4, HH-R6 and HH-R8;</u></p>	<p>Yes, it should read:</p> <p><b><u>Rules</u></b> <b><u>How to interpret and apply the <u>rules-provisions</u></u></b></p> <p>...</p> <p>These rules are relevant to infrastructure as the proposed additional rule (how to apply the rules) means that energy and infrastructure activities won't need to consider the rules within the HH or TREE chapters unless specifically refer to or amended are made to the EI chapter to include these rules (as suggested by Ms McLeod for Transpower within her evidence).</p>

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	<p><u>Demolition of historic heritage items listed in HH-SCHED2 must comply with HH-R7 and HH-R9;</u></p> <p><u>Removal of any Notable Tree listed in TREE-SCHED1 must comply with TREE-R6 and TREE-R7</u></p> <p>....</p> <p>For the same rules, please explain what you mean that these rules must be complied with? The Panel can understand the reference to compliance with a standard. However, HH-R4 is a RDIS activity. How is compliance achieved with that Rule, apart from needing a consent under it?</p> <p>....</p> <p>Please explain how you intend that the following "rule" will work? Will there be a cross-reference from the rules to these standards?</p> <p><u>New buildings and structures within a SAL, ONF and ONF must comply with NFL-S1 and NFL-S2;</u></p>	<p>....</p> <p>The intention of the additional rule (how to apply the rules) was that the specifically listed rules would 'apply'. I agree 'complying' with a RDIS rule does not make sense.</p> <p>For these cross-references, if this style of rule is to be retained, the drafting of the clause would need to be amended so that HH-R4, HH-R6, HH-R7, HH-R8, and HH-R9 'apply', rather than 'must be complied with'.</p> <p>....</p> <p>For these cross-references, I acknowledge the misalignment created by the cross reference. I consider a more concise drafting approach would be to integrate these standards into the EI chapter and remove the cross-reference, (as suggested by Ms McLeod for Transpower within her evidence).</p>



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	<p>....</p> <p>In respect to clause 5, please explain how clause e is relevant to this Chapter.</p>	<p>....</p> <p>The intention was that habitable buildings associated with energy and infrastructure activities would need to comply with rules of the zone in which they are to be located. However, on reflection, a habitable building would be considered on its merits and would not be considered an energy and infrastructure activity. On this basis, I consider this clause can be removed.</p>
	<p>In minute 6 we asked the NFL s42A report writer the following questions:</p> <ol style="list-style-type: none"> <li>1. <i>Would it be appropriate to relocate NFL-R8 and R9 to the EI chapter if they are deemed to be infrastructure? (noting that NFL-R9 relates to roads and therefore the Transport Chapter is the relevant chapter)</i></li> <li>2. <i>What is the intent of NFL-R8? What effects does it seek to manage?</i></li> </ol>	<p>I have discussed this with Ms Milosavljevic. In relation to NFL-R8, I consider centre pivot and travelling irrigators would not be considered 'infrastructure' under the PDP definition (which is the s2 RMA definition) as while they are a system for irrigation, once they are on private land I consider it is likely they are no longer undertaken by a network utility operator (s166(d) of RMA specifies that network utility operators include those that undertake distribution of water for supply including irrigation). Therefore, I consider NFL-R8 should remain in the NFL chapter, and not relocated to the EI chapter.</p> <p>I consider NFL-R9 should be relocated to the TRAN chapter as this provides for roading, not the EI chapter.</p> <p>I agree with the response provided by Ms Milosavljevic within her right of reply, that the intent of the rule, supported by landscape assessment, is that NFL-R8 intends to manage the visual impact of the large centre pivot itself.</p>

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	<p>Please provide your view this along with the possibility of bringing other rules and standards, such as NFL-S1 and S2, into the EI chapter. The Panel note that NFL-R8 and NFL-R9 are both a DIS activity and specific to infrastructure and transport.</p>	<p>As noted in the above row, I support the inclusion of NFL-S1 and S2, into the EI chapter.</p>
<p>Para 86 and 88</p>	<p>The change recommended in response to Mainpower submission does not appear to make sense in the context of this part of the objective. Should functional and operational need be provided for in a separate part of the objective?</p>	<p>I agree the drafting of the recommended amendments could be improved. My suggestion is in red as follows:</p> <p><b>EI-O1 Provision of energy and infrastructure</b>  Across the District:  1. efficient, effective, resilient, safe and sustainable energy and infrastructure, including critical infrastructure, strategic infrastructure and regionally significant infrastructure, is developed and maintained to benefit the social, economic, cultural and environmental well-being of the District, <u>region and nation</u>,<sup>1</sup> including in response to future <u>functional, or operational needs</u> and increased sustainability<sup>2</sup> <u>needs such as increased sustainability, and changing techniques and technology</u>;<sup>3</sup></p>
<p>Parsa 92 and 95</p>	<p>What does the word 'manage' achieve and what is meant by it? The Act requires sustainable management. Should the objective not tell us what</p>	<p>The word 'manage' in the context of this objective enables range of methods to manage the adverse effects of energy and infrastructure. I consider 'managing' adverse effects could include avoiding, remedying, mitigating, offsetting,</p>

<sup>1</sup> Transpower New Zealand [195.24]

<sup>2</sup> MainPower [249.52]

<sup>3</sup> Transpower New Zealand [195.24]

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	<p>outcome is sought? Please consider this in line with the responses from other reporting officers.</p> <p>....</p> <p>Also, how does 'manage' give effect to the 'avoid' directions in NZCPS for example, and how does it relate to NC activity status which may apply in certain situations?</p>	<p>compensation. While I acknowledge this is not directive as to the outcome, it is no less directive as to the outcome sought if the notified 'avoid, remedy, mitigate' was retained. I understand this is consistent with other authors views.</p> <p>....</p> <p>In the context of the NZCPS, and the 'avoid' direction, I consider one management method in specific coastal environments could be to 'avoid' particular activities. That would achieve this objective.</p>
Para 94	<p>Please explain why you have recommended ECan [316.17] were they are seeking a hierarchy of effects and your proposed amendment would remove any hierarchy of effects beyond "manage"?</p>	<p>ECan sought amendments to include a general hierarchy of effects to provide guidance for resource consent applications. They noted that Objective 5.2.1(g) of CRPS specifies that effects on significant resources should be avoided first, and if they cannot be avoided, then remedied or mitigated. Within para 92 of my s42a report I state that I consider it more appropriate to apply a hierarchical approach to the policy context as that is where the guidance as to how the objective is to be achieved should be set out as is done in EI-P5.</p> <p>I note that Objective 5.2.1(g) of CRPS relates to the adverse effects on 'significant resources' whereas EI-O2 relates more broadly to adverse effects on 'the qualities and characteristics of surrounding environments and community well-being'. Therefore, I do not think it is appropriate to adopt the hierarchy within the Objective</p>

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		5.2.1(g) in EI-O2. I retain the view the policies of the EI chapter set out how objective is to be achieved.
Para 100	Is the word 'incompatible' required? Whether an activity is incompatible will be determined by the 'constrained or compromised' test in the objective.	I agree that the 'constrained or compromised' test in the objective would largely determine the compatibility of an activity. In my view, the addition to the objective is not essential but provides additional clarity to the objective. I note that the term 'incompatible' is used within the RPS <sup>4</sup> when considering reverse sensitivity effects.
Para 103	Does this address ECan's submission point? They appear to be seeking the objective be amended to apply to regionally and critically significant infrastructure only.	Not directly. Instead of narrowing the scope of the objective to apply only to regionally significant and critical infrastructure I suggested including the qualifier of 'incompatible'. On reflection, I note that if the objective was refined to only include regionally significant and critical infrastructure there would be no objective relating to managing reverse sensitivity effects on infrastructure. Therefore, I retain my suggested recommendation.
Para 126	Is there scope for the change to 'encourage'?	The notified version of the policy was 'seek', the submitter sought a change to 'promote'. I therefore consider that the scope of the change is somewhere between 'seek and 'promote'. I have recommended 'encourage'. I consider 'promote' is more directive than 'Encourage' and in my view is within scope.
Para 127	Clause 8 is very specific and reads like a standard, does this standard	Clause 8 is to be read in the context of the chapeau which is to 'Encourage' 'where possible'. It is an aspirational

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<sup>4</sup> Objective 5.2.1(j), Policy 5.3.2(2)(b), Policy 5.3.8(2)

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	translate to rules in the Plan, and if not how will it be implemented?	policy rather than a directive policy. However, there is no method in the District Plan gives effect to this clause, and therefore on reflection I agree with the submitters it should not be included within the PDP.
Paras 63 and 64, and discussion in section 7.4.2	<p>In these paragraphs you discuss the issue of potential for conflict between enabling provisions and protective provisions. Having read your discussion, the Panel is still unclear on how there is a pathway for EI activities when they must locate within sensitive environments that are managed with avoid policies given your comment at paragraph 150 that the protective policies will likely be given greater weight when there is a conflict. For example, NFL-P3 and P4 require avoidance whereas EI-P5(4) recognises circumstances where this can't occur and requires mitigation etc.</p> <p>As a part of that discussion, you highlight that the 'specific' overrides the 'general'. In the context of the NZCPS and the NPS-ET, which is considered the 'specific' and which is considered the 'general'?</p>	<p>In the context of the NZCPS I consider policies 11, 13, 15 within the NZCPS that relates to indigenous biodiversity, natural character, and natural features and landscapes are specific to avoiding specific effects in on particular values within the coastal environment. These are the types of specific policies I was referring to. In contrast Policy 8 of the NPS-ET in my view is more general.</p>

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	<p>....</p> <p>At paragraph 146 you state <i>"in my view, in order to give effect to the NZCPS, when energy and infrastructure activities are proposed in the coastal environment, the protective policies of the Plan that give effect to the NZCPS (policies ECO-P7, CE-P2, NFL-P1 and NFL-P3) should apply"</i></p> <p>In this context, please provide your understanding of how Policy 6 of the NZCPS relates to this policy framework. Furthermore, please provide your understanding of Policy 8 of the NPS-ET. Does the 'Rural environments' include land adjoining MHWS? Do 'areas of high natural character' include areas within a coastal environment?</p> <p>....</p> <p>At para 141 you also refer to the need to consider 'immediately closer higher order documents' first. We assume this means the RPS?</p> <p>....</p>	<p>....</p> <p>In my view Policy 6 of the NZCPS and also Policy 8 of the NZCPS need to apply together. So the enabling aspects of Policy 6 and Policy 8 need to be achieved to the extent that 'protective' policies are also being achieved.</p> <p>....</p> <p>Yes that's correct I was referring to the RPS.</p> <p>....</p>

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	<p>At para 142, can you please confirm that you also considered Policy 6, activities in the coastal environment, of the NZCPS, which specifically refers to infrastructure.</p> <p>....</p> <p>Para 146 – You have recommended deleting reference to the coastal environment from EI-P5 clauses 3 and 4. How do you reconcile your recommendation with Policy 6 of the NZCPS?</p> <p>....</p> <p>How does your recommended amendments to EI-P5 relate to the rule framework in EI which retain restrictions relating to the coastal environment (areas of ONC, VHNC and HNC which are retained in clause 3 of EI-P5)? And, where rules do have restrictions related to the coastal environment (and the sensitive environments in it), and are a RDIS</p>	<p>Yes I agree Policy 6 is also relevant to this consideration. As set out above, I consider the direction within Policy 6 is more general than the specific and directive policies 11, 13, and 15.</p> <p>....</p> <p>As noted above, while I agree that Policy 6 is relevant to this discussion as it recognises the provision of infrastructure. I also consider that this provision of infrastructure needs to be achieved while also achieving specific and directive policies 11, 13, and 15 need to be achieved as well. If clauses 3 and 4 were to apply in the coastal environment I consider this would not achieve the directive requirements of the NZCPS as these subclauses provide an alternative pathway for managing the effects which does not include a strict avoidance of effects.</p> <p>....</p> <p>Clauses (3) and (4) of EI-P5 as recommended, do not relate to the 'coastal environment' which is identified on the planning maps. If there are areas of ONC, SNA etc in this area clauses (3) and (4) of EI-P5 will not apply and the provisions of the CE, NATC, ECO etc will apply.</p> <p>If an application is lodged for RSI within the coastal environment (and the sensitive environments in it), an RD</p>

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	<p>with specific MoD, how is this reflective of your proposed policy approach?</p> <p>....</p> <p>Para 148 – You state “The provisions of the RPS provide an alternative pathway for managing the effects of these activities ...”. Please explain how this relates to any pathways you are recommending in the EI Chapter of the Plan.</p> <p>....</p> <p>Para 149 – while RPS provides a pathway for ‘regionally significant infrastructure’, should this be read as</p>	<p>consent will be required and the relevant objective policies of the CE, ECO, etc chapters will apply.</p> <p>....</p> <p>The ‘alternative pathway for managing the effects’ I was referring to is highlighted within policy 5.3.9(3) for example, which states:</p> <p><i>3. provide for the expansion of existing infrastructure and development of new infrastructure, while:</i></p> <p><i>a. recognising the logistical, technical or operational constraints of this infrastructure and any need to locate activities where a natural or physical resource base exists;</i></p> <p><i>b. avoiding any adverse effects on significant natural and physical resources and cultural values and where this is not practicable, remedying or mitigating them, and appropriately controlling other adverse effects on the environment; and</i></p> <p><i>c. when determining any proposal within a sensitive environment (including any environment the subject of section 6 of the RMA), requiring that alternative sites, routes, methods and design of all components and associated structures are considered so that the proposal satisfies sections 5(2)(a) – (c) as fully as is practicable.</i></p> <p>This is a similar pathway that is set out for RSI in EI-P5(3) and (4).</p> <p>....</p> <p>Yes, in my view the RPS provides a pathway for regionally significant infrastructure (RSI), (Policy 5.3.9). The same pathway is not provided for by other infrastructure.</p>



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	<p>not allowing a similar pathway for other infrastructure in sensitive environments via District Plan rules?</p> <p>What is the justification for not providing a pathway for all infrastructure when they are often networks that comprise regionally significant components and local components (for example, the electricity network is linear system that starts with the generator, the transmission and then the distribution and associated local connection. There is no point in building the regionally significant part of that network if it can't then reach the end user through the non-regionally significant part of the network).</p>	<p>I consider it is important to note that this 'pathway for RSI' is required because there are provisions that seek the avoidance of adverse effects. In sensitive environments large scale electricity generation or transmission could potential have an adverse effect on a sensitive environment, where as the 'local connection' is less likely to have the same scale of effects, that would need a particular pathway.</p>
<p>Para 161</p>	<p>The Panel notes the following:</p> <ul style="list-style-type: none"> <li>• Typo in first line of EI-P5(1) - 'for' to be deleted</li> <li>• Typo in clause 3 - 'and' to be deleted</li> </ul> <p>....</p> <p>In respect to your recommended amendments to EI-P5:</p>	<p>Yes agree.</p> <p>....</p>

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	<p>a. Comparing clauses 2 to 3, please explain what the difference is between a more than minor upgrade and a major upgrade. How will those administering the Plan determine this distinction?</p> <p>b. Please discuss your recommended use of "where appropriate to do so" in clause 3A – how would this be assessed?</p> <p>c. Please explain how your deletion of "places adjoining the coastal marine area" is consistent with rules in the EI chapter which retain conditions relating to the infrastructure not being located in places adjoining the coastal marine area, particularly where these default to a RDIS activity?</p>	<p>I acknowledge there is an inconsistency within clauses (2) and (3) that is not clear. I consider reference to 'major' should be amended to 'more than minor'.</p> <p>I consider this additional clause is a prompt to energy and infrastructure providers to consider how upgrades to energy and infrastructure can provide an opportunity to reduce adverse existing effects.</p> <p>The deletion of "places adjoining the coastal marine area" ensures that RSI proposed within the coastal environment are required to achieve the provisions of the CE chapter and don't have the benefit of 'alternative pathway' within EI-P5(3) and (4). Given this, if an application for RSI was applied for within the 'places adjoining the coastal marine area' the RDA rule would apply and the relevant policies in the EI and CE chapters would need to be complied with.</p>
Paras 166, 170 and 179	Hort NZ sought the use of the phrase 'to the extent reasonably possibly' in relation to sensitive activities, which is also used in this context in Policy 10 of the NPS ET. Please consider whether this should be included in the redrafted policy2A(a).	<p>I agree in part with the amendments suggested by Hort NZ.</p> <p>When re-considering the content of the Hort NZ submission in light of the suggested amendments to the Policy EI-P6(2), I agree with the addition of the phrase 'extent reasonably possible' as I consider that it</p>

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		<p>acknowledges that not all activities will be excluded from establishing within the safe buffer distances.</p> <p>I also agree with removing the reference to 'intensive farming activities' as there no specific restrictions of intensive farming activities within EI-R54, which is the rule that implements EI-P6(2). Given the above assessment I recommend the following amendment to EI-P6(2):</p> <p>2. with regards to <del>the National Grid and</del><sup>5</sup> major electricity distribution lines, in addition to (1) above, by ensuring that:</p> <ol style="list-style-type: none"> <li>a. safe buffer distances are identified in the District Plan for managing the effects of incompatible activities and development on <del>the National Grid and</del><sup>6</sup> major electricity distribution lines including support structures;</li> <li>b. sensitive activity and development that may compromise <del>the National Grid and</del><sup>7</sup> major electricity distribution lines, <del>including those associated with intensive farming activities indoor primary production</del><sup>8</sup>, are excluded from establishing within identified safe buffer distances <u>to the extent reasonably possible</u>;</li> </ol>
Para 174	<p>You have recommended replacing 'intensive farming activities' with 'intensive <u>indoor</u> primary production'.</p> <p>Is 'indoor' too limiting, i.e. are you confident that will not be any other</p>	<p>As noted above I consider reference to primary production can be removed all together.</p>

<sup>5</sup> Transpower NZ Ltd [195.30]

<sup>6</sup> Transpower NZ Ltd [195.30]

<sup>7</sup> Transpower NZ Ltd [195.30]

<sup>8</sup> Horticulture NZ [295.76], Federated Farmers [414.71], Transpower NZ Ltd [195.30]

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	(outdoor) forms of intensive primary production that may generate effects on energy and infrastructure?	
Para 176	In line with our earlier question, does replacing 'avoid' with 'manage' affect any NC activity status rules?	<p>I consider replacing 'manage' with 'avoid' in the context of EI-P6 would create a more restrictive consent framework for breaches to the non-complying activity rules related to reverse sensitivity effects. However, the requirement to 'avoid' or 'manage' effects within EI-P6 is qualified by sub-clause (1) – (3) so it would not require strict avoidance of all reverse sensitivity effects.</p> <p>I note that 'manage' in this context is consistent SD-O3(2)(b) therefore support the retention of manage.</p>
Para 182	Can you please confirm that Fulton Hogan has submission points that seek this as a policy in the RURZ chapter?	<p>They have a general submission point seeking recognition of the aggregate supply sterilisation risk. In addition, they have supported the notified version of GRUZ–P2 stating that they support the maintenance of primary production opportunities as rural land fragmentation is a contributor to the sterilisation of aggregate resource.</p> <p>I have confirmed with the author of the GRUZ s42A report that he is considering the Fulton Hogan request for a new policy seeking greater recognition within the GRUZ chapter of the aggregate supply sterilisation risk.</p>
Para 216	Please set out the scope for your recommended amendment to include	The Chorus NZ, Spark NZ Trading Ltd and Vodafone NZ Ltd [62.6] submission sought greater clarity between the

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	<p>an additional subclause to EI-R6 relating to trimming Notable Trees.</p> <p>....</p> <p>Do you think that it is clear that EI-R6 is intended to also cover Notable Trees given this is not mentioned in the rule title itself?</p>	<p>overlap between the EI chapter and other chapters of the PDP such as the TREE chapter. This is a consequential change associated with the introduction of the new rule which means that the TREE provisions not longer apply to EI activities.</p> <p>....</p> <p>'Notable Trees' are a subset of trees. However, greater clarity could be provided by including 'Notable Trees' in the title.</p>
Paras 232 and 233	This section does not appear to be completed.	<p>Yes, this should read:</p> <p>I recommend that the submissions from the following submitters be <b>accepted</b>:</p> <ul style="list-style-type: none"> <li>• Chorus, Spark and Vodafone [62.21] and,</li> <li>• NZDF [166.15]</li> <li>• Mainpower [249.69]</li> </ul> <p>I recommend that the submissions from <a href="#">Transpower [195.34]</a> <del>the following submitters</del> be <b>rejected</b>:</p>
Para 243	Should the advice note to EI R10 also be deleted?	<p>I don't think there is scope to delete this advice note. I do think a consequential change could be made as follows:</p> <p><b><i>Advisory Note</i></b></p>

Paragraph or Plan reference	Question	Officer's preliminary reply pre hearing
		<ul style="list-style-type: none"> <li>• See also EI-R11 Relocation of <u>above ground</u> infrastructure; EI-R32 Installation of gas distribution pipeline and fuel systems (including LPG); and EI-R33 An increase in the carrying or operating capacity, efficiency or security of existing gas distribution pipeline and fuel systems.</li> </ul>
Para 245	<p>Please explain how this rule would work if the infrastructure is to be relocated within a “sensitive environment”/overlay?</p> <p>....</p> <p>Please explain why this exemption is included in this rule, based on your earlier explanation about the distinction between the E&amp;I and Transport Chapters?</p>	<p>The activity of relocating above ground infrastructure will be permitted if it complies with 5m standard regardless of whether it is located within a sensitive environment overlay or not. However, the earthworks provisions will also apply.</p> <p>.....</p> <p>I understand this exemption was included to clarify that this permitted rule does not apply to transport infrastructure. I acknowledge that the introduction to the EI chapter states that District wide provisions relating to transport are contained in the Transport Chapter. So this exemption is not necessary. However, I note that there are no submissions on this exemption.</p>
Para 250	You have not assessed the request to insert a reference to the date of notification of the District Plan.	Yes, this was overlooked in my assessment. I consider this is appropriate as I avoids the incremental creep of larger and larger poles without the requirement for resource consent.

Paragraph or Plan reference	Question	Officer's preliminary reply pre hearing
Para 256	Does EI R12 allow replacement of a complete line of poles or towers? If so, what are the implications of allowing the width of the poles to be increased 3x under EI-R12(4)?	Yes it will, provided the permitted standards are comply with. The effect will be a line of pole with an increased width. Given this relates to the replacement of poles I consider the effects of this will likely be minimal.
Para 259	Isn't the definition of height in relation to infrastructure merely establishing how the height of infrastructure is measured? That establishes the 'height of the existing pole. If so, is MainPowers amendment then clearer?	Yes, on reflection the drafting proposed by MainPower is much simpler.
Para 268	Please explain why you agree that internal setbacks etc should not apply in these circumstances when the footprint and height can be increased by 30%?	<p>On reflection I note that new infrastructure buildings are required to meet the building height in relation to boundary and internal boundary setbacks (EI-R20) so I consider the replacement of existing infrastructure buildings should be required meet these standard.</p> <p>However, I note that new infrastructure cabinet, electricity cabinet and kiosk are not required to meet these standards, so I consider the replacement of existing infrastructure cabinet, electricity cabinet and kiosk should be required meet these standards.</p>
Para 270	Can you please explain why you have recommended deletion of EI-MD14 here, but you haven't recommended	Yes, I agree that the justification for deleting EI-MD14 would apply to other rules. However, this would only apply where a rule contains both EI-MD2 and EI-MD-14. The only other rule where this is the case in EI-R13. I consider EI-

Paragraph or Plan reference	Question	Officer's preliminary reply pre hearing
	the same for other submissions points that seek it be deleted?	MD14 can be deleted for this rule. There is also scope within the MainPower <sup>9</sup> submission for this amendment.
Para 289	Perhaps the amendment 1(a) should be to ensure the attachment does not cause flood impediment?	I don't think there is scope for this. The submission sought the removal of the requirement to attach pipes, cables, conductors or lines to the bottom of bridges. To require attachment does not cause flood impediment would in my view be beyond the scope of the submission.
Para 357	Can you please clarify why this rule, and in particular the new clauses for installation of (presumably) domestic scale solar hot water systems (i.e. needs to be for the use on the site etc) are an RMA matter significant enough to require regulation in the District Plan?	The rule was included within the PDP. I presume the RMA rational is that solar hot water systems are built structures that may affect the amenity of an area if they are not managed. I note that the only submission seeking amendments was to expand the scope of the rule so that solar hot water systems are provided. So, the scope to amend this rule is limited.
Para 386	What purpose does EI-R49 serve? Should s10 of the Act not apply here?	Section 10 of the RMA would apply. However, EI-R49 relates to the maintenance, repair, and <u>upgrade</u> of existing community scale irrigation/stockwater networks. The upgrading aspect of EI-R49 would not be captured by Section 10. In addition, I consider a rule in a plan provides more certainty to a plan user rather than having to rely on existing use rights.

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<sup>9</sup> 249.74



Paragraph or Plan reference	Question	Officer's preliminary reply pre hearing
<p>Para 399 and 407</p>	<p>Is it necessary to draw the line somewhere, that is does 'better giving effect to the NPSET', in every case require including the NPSET provisions directly into a District Plan (noting this has been recommended in several parts of the EI Chapter)?</p> <p>....</p> <p>In respect of your recommended changes to this rule, can you please explain your rationale for including the requirement for compliance with NZECP, given this is a regulation that applies irrespective of the District Plan? In the same vein, please explain the rationale of your inclusion of clause 3.a, and in particular why this is a matter relevant to the District Plan. In doing so, please consider whether this activity is already managed through other legislation and regulations and whether there is a reason under the RMA to duplicate this. Please also advise as to how this clause would be administered as a permitted activity condition.</p>	<p>The PDP is required to give effect to the NPSET. However, there is discretion as to how the NPSET direction is given effect to in the PDP context.</p> <p>....</p> <p>The requirement to comply with the NZECP was included within the PDP. My recommendation re-drafted the notified version of the PDP. I note that compliance with the NZECP was also included within the ODP.</p> <p>However, I note that more recently reviewed district plans such as the Selwyn District Plan and the CCC District Plan have not included compliance with NZECP as a permitted standard. Instead, they have integrated the setbacks etc of the NZECP into the rules of the plan and included a reference to the NZECP as an advice note. I do not have a fixed view on which approach is best, but I acknowledge it may be clearer to incorporate the requirements of the NZCEP into the PDP.</p> <p>I consider the expert witnesses for Transpower and Mainpower may be able to provide their views and I can provide my final view in the reply report.</p>

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	<p>....</p> <p>Please also explain the relationship between the default NC activity status where the Permitted activity conditions are not met, and the standalone NC part of this rule.</p>	<p>In relation to clause 3a, I acknowledge that as a permitted activity it is not clear what 'hazardous substances with explosive or flammable intrinsic properties' are or how 'greater than domestic scale quantities' would be administered. I consider this clause should be deleted.</p> <p>....</p> <p>I acknowledge this is an anomaly and is not consistent with other NC rules. The matters listed within the standalone NC rule appear to replicate the requirements in the rule above. My initial view is that the standalone NC rule is not required.</p>
Para 412	Please address the Federated Farmers submission point.	<p>Within appendix B I have responded to this submission point where I reject the submission point:</p> <p>The amendments suggested by Federated Farmers are not consistent with NZECP 34:2001.</p> <p>Further to this I note that Section 2.2.3 of NZECP34 states:</p> <p><i>Prior written consent of the tower owner shall be obtained for any excavation or other interference with the land near any tower supporting an overhead electric line where the work:</i></p> <p><i>(a) is at a greater depth than 300 mm within 6 m of the outer edge of the visible foundation of the tower; or</i></p>

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		<p>Given this is a permitted activity standard that applies to activities within the National Grid Yard, and the national grid yard includes towers, I consider any permitted activity rule would need to less than 300mm within 6m of a tower.</p>
Para 416	<p>Please explain how this new rule works with EI-R52? And in particular, where there is non-compliance with the permitted activity conditions of EI-R52.</p>	<p>The amendments to EI-R52 narrow the scope of the rule to earthworks associated with fences within a National Grid Yard. Where the installation of a fence does not comply with the permitted activity standards the activity requires a resource consent as an RDA. EI-R52A applies to all other earthworks (i.e. not fences) within a National Grid Yard.</p>
Para 427	<p>Please clarify that this particular cross referencing still accords with your recommendations for the 'Other Potentially Relevant Plan provisions' section to be inserted at the start of the EI Chapter.</p> <p>....</p> <p>In doing so, please consider whether this cross-referencing consistent with the treatment for the Noise requirements for residential units under NOISE-R16? If not, please explain what the rationale for a different treatment is.</p>	<p>Yes it is still relevant. This is the cross-reference that ensure new buildings and structures comply with EI-51, EI-R52, EI-R54, EI-R55, and EI-R56.</p> <p>....</p> <p>Noise-R16 relates to residential setback from arterial road, strategic road or rail designation. I am not aware of a similar cross-reference for Noise-R16 but will check with the NOISE author and confirm at the hearing.</p>

Paragraph or Plan reference	Question	Officer's preliminary reply pre hearing
Para 428	Please consider whether there needs to be a definition provided for 'major electricity distribution lines'.	Yes, I think that would add to the readability of the PDP.
Para 429	<p>Kainga Ora and Federated Farmers make the point that there is a distinction between the National Grid and electricity distribution lines. The NZECP 34:2001 would also seem to differentiate between poles and towers. Please confirm what standards apply to the various types of electricity infrastructure.</p> <p>....</p> <p>Please set out your justification for a default NC activity status.</p>	<p>Yes, there is a distinction within NZECP 34:2001 between poles and towers and also distinctions between the depending on the level of voltage within the lines. Below this table I have included the diagram from the NZECP 34:2001 which sets out the setback distances from poles and towers.</p> <p>....</p> <p>The default activity status was included within the PDP and there were no submissions seeking a change to the activity status of EI-R55. However, from a merits perspective given the NZECP 34:2001 includes minimum safe distances that have been set primarily to protect persons, property, vehicles and mobile plant from harm or damage from electrical hazards. I consider and breach of these setback would need to be discouraged through a non-complying activity.</p>
Para 440	Should the reference in the 'Notification' clause to 'MainPower' be changed to 'relevant electricity distribution line operator'?	Yes.

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Para 444	<p>In line with our earlier question, why is it appropriate for a permitted activity to include a condition that requires compliance with the NZECP? How is this different to any other activity that requires compliance with a regulation or code set under other legislation? Why is there separate treatment for electricity transmission and distribution lines, to for instance, gas and storage tanks?</p> <p>....</p> <p>If the Panel was to include clause b as a condition of the rule, please consider how it follows from the chapeau of the condition. Also, if it was to be included as a condition of the rule, what would the need for the advisory note that references the NZECP?</p>	<p>As set out above, the requirement to comply with the NZECP was included within the PDP and also included within the ODP. However, more recently reviewed district plans such as the Selwyn District Plan and the CCC District Plan have not included compliance with NZECP as a permitted standard.</p> <p>I do not have a fixed view on this.</p> <p>I note that the setbacks in the NZECP are non-technical in nature, i.e. they set out a setback in metres and so compared to other more technical codes, and therefore may be more applicable within the district plan context.</p> <p>....</p> <p>Yes, I agree this does not make sense, if the Panel was to include clause b, I consider the following amendment is required:</p> <p>new, or expansion or extension of existing, activities and development adjacent to major electricity distribution line involve the following:</p> <p>b. <del>does not comply</del> <u>compliance</u> with the requirements of NZECP 34:2001..</p> <p>No there would be no need for the advisory note.</p>

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Para 453	<p>There is quite a difference between the phrases 'building with historic values' and 'historic heritage' building or structure 'listed in HH-SCHED2'.</p> <p>Not all buildings with heritage values are listed. As a consequence, is this an appropriate change under clause 16?</p>	<p>From a drafting perspective, I consider a permitted activity rule that refers to a 'building with historic values' is very vague as to what is captured by the rule, and therefore I consider the recommended drafting is much clearer as to which buildings are captured by the rule.</p> <p>From a scope/clause 16 perspective, I acknowledge that, depending on how the 'historic values' definition is interpreted, it could refine the application of these rules.</p>
Para 462	<p>In this section, you appear to be discussing adding EI-MD1 to EI-R13 and EI-R15. Given MainPower's relief sought is limited to adding a single clause relating to functional and operational need, please explain the scope for include the entire EI-MD1 to these rules.</p>	<p>Apologies, there is a typo in this paragraph, I should have referred to 'MD-1(2)', rather than 'MD-2'.</p> <p>The addition sought by MainPower replicates MD-1(2). So rather than including a new clause within MD-2 that replicates MD-1(2) I considered including MD-1(2) into EI-R13 and EI-R15 would achieve the same result.</p>
Para 472	<p>Is it really necessary to include "existing". What does this add, and if this is to be accepted will it not then be necessary to insert 'existing' throughout the Plan where reverse sensitivity effects may be an issue?</p> <p>What about where land is zoned Residential but has not yet been developed for sensitive activities?</p>	<p>No, it's not necessary to include existing. I agree the inclusion here does create questions as to the application of all other references to reverse sensitivity in the PDP that does not reference to 'existing sensitivity activities'. On reflection, I consider the addition is not required.</p>

Paragraph or Plan reference	Question	Officer's preliminary reply pre hearing
Para 489	<p>Please confirm that the terms used in this MD are consistent with terms used elsewhere in the PDP.</p> <p>Please consider whether proposed new 1A is consistent with EI-P5(2), which refers to “any adverse effects”, not just significant ones.</p>	<p>On reflection, I note that the MD's in other parts of the PDP do not include qualifiers such as the 'significance' of the potential effect. I also note that EI-P5(2) applies more broadly to 'any adverse effects', not just significant ones. Therefore, I consider removing 'significant' is appropriate.</p>
Para 527	<p>Hort NZ and Fed Farmers are concerned that if infrastructure does not comply with the relevant standards, this may lead to greater compliance cost on adjoining landowners. While the standard as written could cover this, is it not better to be specific about this issue, which is a matter that is slightly different than the usual effects assessment?</p>	<p>I don't quite follow the question. Re-reading the Federated Farmers submission point, it appears they are concerned that the matters of discretion don't include acknowledgement of effects on the underlying or adjacent landholders. My response is that EI-MD14 includes broad discretion to consider effects on the landowner.</p>
Para 575	<p>Please confirm whether the National Grid includes any distribution lines?</p>	<p>The definition of the 'National grid' within the PDP refers to the definition within the NPSET which reads:</p> <p><i>means the assets used or owned by Transpower NZ Limited.</i></p> <p>I understand Transpower NZ Limited does not own any distribution lines.</p>

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Para 579 - 580	See section 7.1 of Coastal s42A report. What are the implications of your recommended change?	I was not aware of the recommendation within the Section 7.1 of Coastal s42A report which provides a more nuanced approach to the definition of 'Emergency Service'. I support this approach,
Para 595	Please consider whether "include" would be a better word than "means".	Yes, I agree.
Para 599	Please consider whether it would be more appropriate to refer to "an electricity cabinet or kiosk".	Yes, I agree.
Para 603	Please advise why this definition is already included in the online version of the PDP.  Please also advise where this definition is used in the PDP, as the Panel were unable to find any reference to it in the PDP beyond the definition which would justify a definition being included.	Its not clear why this definition is already included in the online version of the PDP, I understand it is used within Variation 1 to the PDP.  I agree this definition is not used anywhere within the PDP in the context of the district plan reviewed except the definition itself. I consider the definition is not required.
Para 612	Please address that part of DoC's submission which seeks to delete "strategic infrastructure" from the definition.	I disagree with the removal of 'strategic infrastructure' as removing this from the definition will be inconsistent with the RPS definition.
Para 614	In recommending these amendments, did you consider Mr Buckley's	I was not aware of Mr Buckley's recommendations. I acknowledge Mr Buckley's assessment that including the



Paragraph or Plan reference	Question	Officer's preliminary reply pre hearing
	<p>recommendations in respect to the strategic infrastructure definition in respect to the SDs chapter? Please explain why you have a different view.</p>	<p>full RPS definition would ensure the PDP is consistent with the RPS. I support this suggestion.</p>
<p>Para 616 - 618</p>	<p>In his s42A report on the SDs, Mr Buckley recommends 'Lyttleton port' remain in the definition. This is on the basis of both the wording being in the RPS and the potential for an inland port and transport links to the harbour. Please respond to that recommendation and explain why you have a different opinion.</p>	<p>As noted above, I support Mr Buckley's recommendation.</p>

Figure 2 from NZECP 34:2001

