

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

Under the Resource Management Act 1991

In the matter of the Proposed Waimakariri District Plan

**Joint Witness Statement – Energy EI - Pūngao me te hanganga hapori - Energy
and Infrastructure (NZECP)**

Date: 30 November 2023

INTRODUCTION:

- 1 This Joint Witness Statement (JWS) relates to expert conferencing on Energy EI - Pūngao me te hanganga hapori - Energy and Infrastructure (NZECP).
- 2 The following participants were involved in this conferencing and authored this JWS:
 - (a) Ainsley McLeod (Transpower)
 - (b) Clare Dale (Kāinga Ora)
 - (c) Lionel Hume (Federated Farmers)
 - (d) Melanie Foote (MainPower), and
 - (e) Andrew Maclennan (WDC).
- 3 A meeting between 12.30pm and 2pm was held on 19 September 2023 at the Waimakariri District Council, and further emails have been exchanged since. This JWS has resulted from the meeting and discussions.
- 4 In preparing this statement, the experts have read and understand the Code of Conduct for Expert Witnesses as included in the Environment Court of New Zealand Practice Note 2023.

PURPOSE AND SCOPE OF CONFERENCING:

- 5 The conferencing was focused on matters identified in Minute 9, dated 4 September in relation to conferencing.
- 6 The following matters has been considered by the experts:

7.1 NZCEP - Rules: EI-R51, EI-R52, EI-R52A, EI-R54, EI-R55, EI-R56

(a) How should the NZCEP be used in the EI chapter?

(b) Should it form part of the permitted standard, or should it be referred to within an advice note?

ACTIONS TAKEN:

7 N/A

MATTERS THAT THE EXPERTS AGREE ON:

(a) *How should the NZCEP be used in the EI chapter?*

(b) *Should it form part of the permitted standard, or should it be referred to within an advice note?*

It was agreed by all experts that:

8 For the National Grid – the NZCEP should be referred to as a permitted standard within EI-R51 and EI-R52 and standard within EI-R52A and not an advice note. This is because the permitted standard gives effect to Policies 10 and 11 of the NPS-ET, Policy 16.3.4 of the CRPS and Policy EI-P6 (2A), which require that the operation, maintenance, upgrading, and development of the electricity transmission network (National Grid) is not compromised.

9 EI-R54 should be re-drafted to align with EI-R52A(3) by deleting the following:

‘requirements of Clause 2.2.3 of NZCEP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances are met.’

it was agreeing these additional words were unnecessary.

MATTERS THAT THE EXPERTS DISAGREE ON:

Ms Foote, Ms McLeod, and Mr Maclennan consider that:

10 For the ‘major electricity distribution lines’ the NZCEP should be referred to as a permitted standard within EI-R54, EI-R55, and EI-R56 for the following reasons:

(a) NZCEP is one of a number of instruments (Electrical Safety Act, Electrical Safety Regulations, Hazards from Trees Regs and the Utilities Access Act), that provide governance for building, and activities in proximity to overhead electricity lines and support

structures. The corridor protection rules within the s42A version of EI-R54, EI-R55, and EI-R56, are consistent with NZECP, although the protections sought have been simplified to assist the plan user.

(b) It is considered an advice note within the PDP referring to the NZECP regulation is not sufficient. None of regulations/instruments listed above contain requirements to engage with or notify electricity distributors of a proposed development. Further the NZECP is written in complex technical language, making it challenging to read and follow.

(c) Section 5 of the RMA obliges decisionmakers to consider safety and this is inherent and explicit in the definition of 'sustainable management'. The proposed corridor protection rules provide for an integrated approach incorporating planning rules to provide complementary support and management of safety issues. The proposed rules assist with bringing the requirements to the attention of landowners and Council to pre-empt and prevent under build and/or encroachment. The proposed rules provide a clear simplified point for landowners to understand the applicable regulations.

(d) Ms Foote, Ms McLeod, and Mr MacLennan's preferred drafting of EI-R54, EI-R55, and EI-R56 is included in Appendix A.

11 Ms Foote, Ms McLeod, and Mr MacLennan consider EI-R56 should be re-drafted to align with the drafting of EI-R51 which provides a permitted activity status for new, or expansion or extension of existing activities and development, with a default activity status of non-complying. The suggested amendments to EI-R56 are set out in Appendix A.

12 Ms Foote notes that it is MainPower's frequent experience that many developers, landowners and contractors (as well as council planning staff) are unaware of the NZECP and if aware are not understood or are ignored.

Ms Dale and Mr Hume consider that:

13 For major electricity distribution lines NZECP:34 should be an advice note rather than being duplicated or summarised in rules EI-R54 and 56 for the reasons outlined below. The advice note is best placed at the top the Activity Rules for Managing effects of activities and development on major electricity distribution lines ahead of EI-R55:

- (a) There should be a differentiation between how the National Grid and major electricity distribution lines are treated in the District Plan.
- (b) There is a lack of S32 analysis to support the specified setbacks from major electricity lines and the need for duplication of NZECP:34 as a plan rule. No quantitative evidence has been presented by the Council or MainPower of the 'frequent breaches' of NZECP:34 within the Waimakariri District and the associated safety, supply, economic or access effects or costs to MainPower. Nor is it explained how a rule will be more effective in preventing breaches than an advice note. We appreciate the Selwyn District Plan economic evidence examples provided by Ms Foote however this information was not presented for the Waimakariri process. We are aware that such evidence may have been presented across the country at other Plan hearings that is not available in the Waimakariri context.
- (c) Plan users still need to refer to the full text of NZECP:34 regardless of simplified text (discussed above and appended below) in the Plan as there are other components of NZECP:34 that still need to be met that are not in EI-R54 and R56. Further EI-R54 and R.56 still require both the Plan and the code of practice to be read together, so there is no efficiency in summarising the NZECP into the Plan.
- (d) An advice note draws plan users attention to the need to comply with the code of practice. We note that other rules in the chapter contain advice notes referencing the Electricity (Hazards from Trees) Regulations 2003.
- (e) We do not disagree with Ms Foote, Ms McLeod, and Mr MacLennan that Section 5 of the RMA obliges decisionmakers to consider safety

and this is inherent and explicit in the definition of 'sustainable management'. However, if safety is already dealt with under other regulations we question why these need to be repeated in the District Plan and whether this is most efficient.

- (f) Ms Dale and Mr Hume's preferred drafting of EI-R54 and EI-R56 is included in Appendix A.

Date: 30 November 2023

Signatories



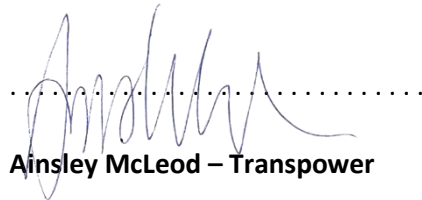
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Melanie Foote – MainPower

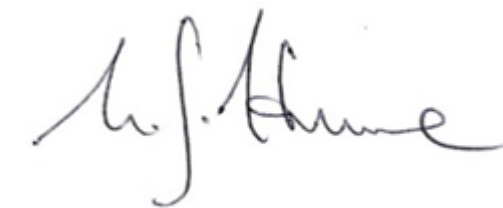


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Clare Dale – Kāinga Ora



Ainsley McLeod – Transpower



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Lionel Hume – Federated Farmers



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Andrew MacLennan – WDC

APPENDIX A – Recommended amendments to TRAN Chapter

In order to distinguish between the recommendations made in the s42A reports, the recommendations that arise from Initial Reply Reports, and the recommendations that arise from this JWS, and the amendments recommended by the final reply report, the following format is used:

| Appearance | Explanation |
|---|--|
| Black text | Text as notified. |
| Red text with <u>underlining</u> or strikethrough | Amendments recommended in section 42A report or reply report. |
| Blue text with <u>underlining</u> or strikethrough | Additional amendments recommended by the Initial Reply Report. |
| Purple text with <u>underlining</u> or strikethrough | Additional amendments experts are recommending as part of a Joint Witness Statement. |
| Green text with <u>underlining</u> or strikethrough | Amendments recommended by the Final Reply Report. |

The following version of EI-R54, EI-R55, and EI-R56 is supported by Ms Foote, Ms McLeod, and Mr MacLennan:

| EI-R54 | Earthworks adjacent to a 66kV or 33kV <u>major</u> ¹ electricity distribution line | |
|-----------|---|---|
| All Zones | Activity Status: PER Where: 1. earthworks shall be setback at least 6m from the centreline of a major electricity distribution line as shown on the planning map; or ² earthworks shall not exceed 3m in depth between 6m and | Activity status when compliance not achieved: RDIS-NC⁸ Matters of discretion are restricted to: EI-MD13 – Major electricity distribution lines ⁹ Notification An application for a restricted discretionary non-complying ¹⁰ activity under this rule is precluded from being publicly notified, but may be limited notified only to the relevant electricity distribution line operator where the consent authority |

¹ Mainpower NZ Ltd [249.92]

² Mainpower NZ Ltd [249.92]

⁸ Mainpower [249.93]

⁹ Mainpower [249.93]

¹⁰ Mainpower [249.93]

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|--|--|---|
| | <p>10m from the visible outer edge of a foundation of a 66kV or 33kV electricity distribution line pole or tower³;</p> <p><u>2. earthworks shall meet the following requirements:</u></p> <p><u>a. be no deeper than 300mm within 2.2m of the foundation of the major electricity distribution line pole, pi-pole or tower; and</u></p> <p><u>b. be no deeper than 0.75m between 2.2m and 6m from the foundation of the major electricity distribution line pole, pi-pole or tower; and⁴</u></p> <p>a.c. shall not destabilise a 66kV or 33kV major⁵ electricity distribution line pole, <u>pi-pole⁶</u> or tower; and</p> <p><u>2.3</u> earthworks shall not result in a reduction in the ground to conductor clearance distances below what is required by Table 4 in NZECP</p> | <p>considers this is required, absent its written approval.</p> |
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³ Mainpower NZ Ltd [249.92]

⁴ Mainpower NZ Ltd [249.92]

⁵ Mainpower NZ Ltd [249.92]

⁶ Mainpower NZ Ltd [249.92]

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|--|---|--|
| | <p>34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances, unless the requirements of Clause 2.2.3 of NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances are met.⁷</p> | |
| | <p>Exemptions This rule does not apply to:</p> <ul style="list-style-type: none"> • earthworks undertaken as part of agricultural or domestic cultivation; or repair, sealing or resealing of a road, footpath, driveway or vehicle access track; • earthworks that are undertaken by a network utility operator <u>or their approved contractor on behalf of the network utility operator</u>¹¹ (other than for the reticulation and storage of water in canals, dams or reservoirs including for irrigation purposes); • earthworks for which a dispensation has been granted prior written consent¹² by the relevant electricity distribution line operator under the NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances; • vertical holes not exceeding 500mm in diameter provided they: <ul style="list-style-type: none"> ○ are more than 1.5m from the visible outer edge of a pole or stay wire; or ○ are a post hole for a farm fence or horticultural structure more than 6m from the visible outer edge of a tower.¹³ | |
| | <p>Advisory Notes</p> <ul style="list-style-type: none"> • 66kV/33kV Major¹⁴ electricity distribution lines are shown on the planning map. • Vegetation to be planted around electricity distribution lines should be selected and managed to ensure that it will not breach the Electricity (Hazards from Trees) Regulations 2003. • The NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances contains | |

⁷ Mainpower NZ Ltd [249.92]

¹¹ Mainpower NZ Ltd [249.92]

¹² Mainpower NZ Ltd [249.92]

¹³ Mainpower NZ Ltd [249.92]

¹⁴ Mainpower NZ Ltd [249.92]

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| | <p>restrictions on the location of activities and development in relation to electricity distribution lines. Activities and development in the vicinity of these lines must comply with NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances.</p> | |
| EI-R55 | <p>Network utilities within 10m <u>6m</u>¹⁵ of the centre line of a 66kV or 33kV <u>major</u>¹⁶ electricity distribution line</p> | |
| All Zones | <p>Activity status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> the network utility complies with the NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances. | <p>Activity status when compliance not achieved: NC</p> <p><u>Notification</u></p> <p><u>An application under this rule is precluded from being publicly notified, but may be limited notified only to the relevant electricity distribution line operator where the consent authority considers this is required, absent its written approval.</u>¹⁷</p> |
| | <p>Advisory Note</p> <ul style="list-style-type: none"> 66kV/33kV <u>Major</u>¹⁸ electricity distribution lines are shown on the planning map. | |

| | | |
|------------------|--|---|
| EI-R56 | <p>Activities and development (other than earthworks or network utilities) adjacent to a 66kV or 33kV <u>major</u>¹⁶⁶ electricity distribution line</p> | |
| All Zones | <p><u>Activity Status: PER</u></p> | <p>Activity status when compliance not achieved: <u>N/A-NC</u></p> |

¹⁵ Mainpower NZ Ltd [249.93]

¹⁶ Mainpower NZ Ltd [249.93]

¹⁷ Chorus, Spark and Vodafone [62.35]

¹⁸ Mainpower NZ Ltd [249.93]

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| | <p>1. <u>New, or expansion or extension of existing activities and development.</u></p> <p><u>Where:</u></p> <p><u>The activity is not within:</u></p> <ul style="list-style-type: none"> i. <u>6m from the centreline and/or foundation of a support structure of a major electricity distribution line; and</u> ii. <u>The activity complies with the requirements of NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances.</u> <p>Activity status: NC</p> <p>Where:</p> <p>1. <u>new, or expansion or extension of existing,</u>¹⁶⁷ activities and development adjacent to a <u>66kV or 33kV major</u>¹⁶⁸ electricity distribution line involve the following:</p> <ul style="list-style-type: none"> a. <u>new a sensitive activity and or a new buildings or structure</u>¹⁶⁹ (excluding accessory buildings)¹⁷⁰ within <u>6m</u>¹⁷¹ of the centreline of a <u>66kV or 33kV major</u>¹⁷² electricity distribution line or within <u>10m 6m</u>¹⁷³ of the visible outer edge of a¹⁷⁴ foundation of an associated <u>a pole, pi-pole</u>¹⁷⁵ or tower; and | <p><u>Notification:</u></p> <p><u>An application under this rule is precluded from being publicly notified but may be limited notified only to the relevant electricity distribution line operator where the consent authority considers this is required, absent its written approval.</u></p> |
|--|---|--|

| | | |
|--|---|--|
| | <p><u>a.b. does not comply with the requirements of NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances.</u>¹⁷⁶⁻</p> <p><u>b.new fences more than 2.5m high and within 5m of the visible outer edge of a foundation for a 66kV or 33kV electricity distribution line, pole or tower.</u>¹⁷⁷⁻</p> <p>¹⁷⁸Notification</p> <p><u>An application under this rule is precluded from being publicly notified, but may be limited notified only to the relevant electricity distribution line operator where the consent authority considers this is required, absent its written approval.</u>¹⁹</p> | |
| | <p>Advisory Notes</p> <ul style="list-style-type: none"> • 66kV/33kV Major²⁰ electricity distribution lines are shown on the planning map. • Vegetation to be planted around electricity distribution lines should be selected and managed to ensure that it will not breach the Electricity (Hazards from Trees) Regulations 2003. • The NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances contains restrictions on the location of activities and development in relation to electricity distribution lines. Activities and development in the vicinity of these lines must comply with NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances. | |

¹⁹ Mainpower NZ Ltd [249.94]

²⁰ Mainpower NZ Ltd [249.94]

The following version of EI-R54 and EI-R56 are supported by Ms Dale and Mr Hume:

Activity Rules – Managing Effects of activities and development on major distribution lines

Advisory Notes:

- 66kV/33kV [electricity distribution lines](#) are shown on the planning map for information purposes and to alert applicants of the need to meet other relevant legislation specified below.
- Vegetation to be planted around [electricity distribution lines](#) should be selected and managed to ensure that it will not breach the **Electricity (Hazards from Trees) Regulations 2003**.
- The **NZCEP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances** contains restrictions on the location of activities and development in relation to [electricity distribution lines](#). Activities and development in the vicinity of these lines must comply with **NZCEP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances**.