

**BEFORE PROPOSED WAIMAKARIRI DISTRICT PLAN  
HEARING PANEL**

In the matter of

**the Resource Management Act 1991**

and

**the Proposed Waimakariri District Plan  
– Hearing Stream 3**

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**Statement of Evidence of Ainsley Jean McLeod on  
behalf of Transpower New Zealand Limited**

**(Submitter reference 195)**

**dated 10 July 2023**

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## SUMMARY OF EVIDENCE

1. The submission made by Transpower New Zealand Limited (“Transpower”) on the Proposed Waimakariri District Plan (“Proposed District Plan”), as relevant to Hearing Stream 3, is concerned with how the Proposed District Plan recognises and provides for the nationally significant National Grid, and particularly the extent to which the provisions of the Proposed District Plan give effect to the National Policy Statement on Electricity Transmission 2008 (“NPSET”) and give effect to the operative Canterbury Regional Policy Statement (republished in October 2020 (“CRPS”).
2. The NPSET provides policy direction in relation to:
  - a. recognising the benefits of the National Grid;
  - b. managing the adverse effects on the environment of the National Grid;
  - c. managing the adverse effects of land use and development on the National Grid; and
  - d. long-term strategic planning for transmission assets.
3. The CRPS, amongst other relevant provisions, includes Policy 16.3.4 that sets out how a reliable and resilient National Grid is to be achieved in Canterbury. The CRPS, in Chapter 11 also includes a suite of provisions that address the management of subdivision, land use and development in respect of natural hazards.
4. In respect of the matters that are the subject of Hearing Stream 4, Transpower’s submission is generally supportive of the Proposed District Plan as notified but seeks amendments to give effect to the NPSET and CRPS.
5. My evidence considers the relief sought by Transpower and addresses, as relevant to this relief, the recommendations made in the following (together referred to as “the Officer’s Report” or “the Officers’ Reports”):
  - a. Officer's Report: Matū mōrearea - Hazardous Substances AND Whenua paitini - Contaminated Land; and
  - b. Officer's Report: Matepā māhorahora - Natural Hazards.
6. I support the majority of the recommendations made in the Officers’ Reports for the reasons given in Transpower’s submission and the Officers’ Reports. These recommendations are listed in my evidence.
7. Given the extent of my support for the recommendations in the Officer’s Report, my evidence is confined to the relief sought by Transpower in respect of:
  - a. Policy NH-P14 New infrastructure and upgrading of infrastructure within fault overlays;
  - b. Rule NH-R17 Above ground critical infrastructure; and
  - c. Matters of Discretion NH-MD3 Natural hazards and infrastructure.

8. It is my evidence that:
  - a. Policy NH-P14 requires amendment to give effect to the Policy 11.3.3 and 11.3.5 of the CRPS, as opposed to Policy 11.3.4;
  - b. Rule NH-R17 requires amendment to apply restricted discretionary activity status as the most stringent activity status in order to achieve consistency between the rules that apply to activities in natural hazard areas and because the activity status allows a consideration of all relevant matters; and
  - c. The Matters of Discretion NH-MD3 Natural hazards and infrastructure require further limited amendments to remove duplication, properly give effect to Policy 11.3.4 and achieve consistency with recommendations made in the Officer's Report in respect of Policy NH-P13.
9. The amendments suggested in and supported by my evidence are consolidated in **Attachment A**. It is my conclusion that these amendments are necessary and the most appropriate (in terms of the requirements of section 32 of the RMA to achieve consistency with, and give effect to (as appropriate), higher order provisions; to improve the efficiency, clarity and usability of the Proposed District Plan and achieve the purpose of the RMA.

## INTRODUCTION

10. My full name is Ainsley Jean McLeod. I am a self-employed planner, trading as Ainsley McLeod Consulting Limited.
11. I have been engaged by Transpower to provide expert planning evidence in relation to the submission and further submissions made by Transpower on the Proposed District Plan.
12. This is the third statement of evidence prepared by me in relation to Transpower's submission. My qualifications and relevant experience are set out in my earlier evidence that was filed for Hearing Streams 1 and 2. I will not repeat this information here, but for completeness, I confirm that I am familiar with Transpower's roles and responsibilities and am also generally familiar with approaches in policy statements and plans to providing for infrastructure and utilities, including the National Grid, across New Zealand.
13. My evidence should also be read in conjunction with my earlier evidence and, to avoid unnecessary repetition, I rely on that evidence where it is relevant to the current Hearing Stream. In this regard, my earlier evidence sets out the statutory requirements for the Proposed District Plan, including the provisions of the NPSET and the CRPS as they relate to the content of Transpower's submission.
14. For the purpose of my evidence, I rely on the evidence of Rebecca Eng that was filed by Transpower for Hearing Streams 1 and 2 and describes Transpower's assets in Waimakariri District and gives an overview of Transpower's roles and responsibilities, including in respect of the pivotal role the National Grid plays in New Zealand's future zero-carbon economy. I also note that Transpower intends to:

- a. have an engineer available to respond to any questions the Hearing Panel may have as part of Hearing Stream 3; and
- b. file further engineering evidence as part of Hearing Stream 5 (Energy and Infrastructure) that will further describe the role of the National Grid and explain the technical, operational and functional requirements of the National Grid in more detail.

### **CODE OF CONDUCT**

15. Although this matter is not before the Environment Court, I acknowledge the Hearing Panel direction in Minute 1 (paragraphs 70 and 84) and confirm that I have read the Code of Conduct for expert witnesses as contained in section 9 of the Environment Court Practice Note 2023. I further confirm that I have complied with this Code of Conduct when preparing my written statement of evidence and will do so, when giving evidence or otherwise participating in the hearing process.

### **SCOPE OF EVIDENCE**

16. My evidence:
  - a. acknowledges the statutory requirements for the Proposed District Plan, particularly in relation to the NPSET and the operative CRPS;
  - b. describes Transpower's submissions on the Proposed District Plan that are the subject of Hearing Stream 4; and
  - c. addresses (as relevant to the relief sought by Transpower) the recommendations made in the various Officers' Reports.

### **RELEVANT STATUTORY FRAMEWORK**

17. The statutory and policy considerations and directions for the Proposed District Plan, insofar as is relevant to Transpower's submission, are set out in detail in:
  - a. the Section 32 Reports; and
  - b. Transpower's submission; and
  - c. Summarised in the Officers' Report.
18. I consider that together these documents provide a fulsome and comprehensive description of the relevant statutory matters. I therefore rely on the summary in these documents and do not repeat the relevant provisions here except to emphasise that the Proposed District Plan must give effect to the NPSET and the CRPS and that "give effect to" is a strong statutory directive

in the RMA that was interpreted in the *EDS v New Zealand King Salmon* Supreme Court case as meaning “to implement”.<sup>1</sup>

19. My analysis and consideration of the relief sought by Transpower is informed by the statutory framework for decisions on the Proposed District Plan set out in the Section 32 Reports, the RMA, and the on-going guidance provided by the modified Long Bay test.<sup>2</sup>
20. The remainder of my evidence describes Transpower’s submission and considers the submission alongside the recommendations made in the Officers’ Report.
21. Where amendments to the provisions of the Proposed District Plan are suggested in, and supported by, my evidence these are shown as follows and consolidated in **Attachment A**:
  - a. Officers’ Report recommendation text: black underline and ~~black strikethrough~~;
  - b. Transpower submission text: blue underline and ~~blue strikethrough~~; and
  - c. evidence text: red double underline and ~~red double strikethrough~~.

## OFFICERS’ REPORT RECOMMENDATIONS

### Matters of agreement

22. I acknowledge that there are a number of recommendations in the Officers’ Reports relating to the relief sought by Transpower that are consistent with my opinion and conclusions in respect of that relief. In the interest of brevity, the following Table lists these recommendations and I confirm that the reasons for my support of these recommendations are those included in Transpower’s submission and the Officers’ Reports. I do not address these matters further in my evidence except that, in respect of Rules NH-R6 and RH-R14, I suggest further amendments to these rules as a consequence of my evidence in respect of Policy NH-P14 and the Officer’s Report recommendation on Rule NH-R14.

#### Officers’ Report recommendations that are supported

| Provision   | Submission reference | Relief sought by Transpower   | Officers’ Report recommendation  |
|---|----------------------|---|--|
| <b>Officer’s Report - Matū mōrearea - Hazardous Substances and Whenua paitini - Contaminated Land</b> |                      |   |  |
| Other potentially relevant District Plan provisions   | 195.54               | Include direction in respect of the provisions that address hazardous substances in the National Grid Yard. | Accept, it is recommended that the additional text set out in Transpower’s submission be included. |

<sup>1</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited*, NZSC 38, 17 April 2014.

<sup>2</sup> *Long Bay – Okura Great Park Society v North Shore City Council* NZEnvC A078/2008, 16 July 2008, at [34], *High Country Rosehip Orchards Ltd v Mackenzie District Council* [2011] NZEnvC 387 and *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC55.

| Provision   | Submission reference | Relief sought by Transpower   | Officers' Report recommendation  |
|---|----------------------|---|--|
| HS-P1 New major hazard facility   | 195.55               | Amend Policy HS-P1 to include reference to major hazard facilities being located outside of the National Grid Yard. | Accept, it is recommended that 'National Grid Yard' is included in the Policy.   |
| <b>Officer's Report - Matepā māhorahora - Natural Hazards</b>   |                      |   |  |
| Objective NH-O2 Infrastructure in natural hazard overlays   | 195.56               | Seeks that Objective NH-O2 is retained as notified.   | Accept in part, it is recommended that the Objective is amended, however, the recommended amendments are not material to Transpower's relief.                                  |
| Policy NH-P10 Maintenance and operation of existing infrastructure  | 195.57               | Seeks that Policy NH-P10 is amended to replace 'allow' with 'enable'.   | Accept, it is recommended that 'allow' be replaced with 'enable'.  |
| NH-P13 New above ground critical infrastructure and upgrading of critical infrastructure within high flood hazard areas | 195.58               | Seeks that 'and there are no practical alternatives' be deleted from Policy NH-P13.                                 | Accept in part, it is recommended that 'no practical alternatives' is replaced with 'no reasonable alternatives' to be consistent with Policy 11.3.4 of the CRPS.              |
| Rule NH-R4 Below ground infrastructure and critical infrastructure  | 195.60               | Seeks that Rule NH-R4 be retained as notified.  | Accept in part, it is recommended that the Rule be amended, with the amended rule continuing to appropriately manage any flooding caused by an activity on any other property. |
| Rule NH-R6 Above ground critical infrastructure   | 195.61               | Amend Rule NH-R6 to ensure that footprint area is measured 'per structure'.   | Accept, a number of amendments are recommended to Rule NH-R6 including amendments to confirm that footprint is measured 'per structure'.                                       |
| NH-R14 New and upgrading of above and below ground critical infrastructure  | 195.62               | Amend the activity status in Rule NH-R14 from discretionary to restricted discretionary.                            | Accept, Rule NH-R14 is amended to apply restricted discretionary activity status.  |
| NH-R18 Below ground infrastructure and critical infrastructure<br>Coastal Flood Assessment Overlay                      | 195.64               | Retain Rule NH-R18 as notified.   | Accept in part, it is recommended that the Rule be amended, with the amended rule continuing to appropriately manage any flooding caused by an activity on any other property. |

### Outstanding matters

23. Those parts of Transpower's submission and further submissions that remain outstanding relate to the following provisions and are addressed in the remainder of my evidence:

- a. Policy NH-P14 New infrastructure and upgrading of infrastructure within fault overlays;

- b. Rule NH-R17 Above ground critical infrastructure; and
- c. Matters of Discretion NH-MD3 Natural hazards and infrastructure.

## **PART 2 – DISTRICT-WIDE MATTERS**

### **Hazards and risks: NH - Matepā māhorahora - Natural hazards**

#### Policy NH-P14 New infrastructure and upgrading of infrastructure within fault overlays

24. Transpower's submission<sup>3</sup> seeks that Policy NH-P14 be amended as follows:

*"Within the fault overlays: ...*

- 2. ~~*only allow*~~*avoid* *new and upgrading of existing critical infrastructure below and above ground in the Ashley Fault Avoidance Overlay* ~~*where unless there is no reasonable alternative, in which case*~~ *the infrastructure* ~~*is*~~ *must be* *designed to:*
  - a. *maintain, as far as practicable, its integrity and ongoing operation during and after natural hazard events; or*
  - b. *be able to be reinstated in a timely manner; ...*

25. The Officer's Report (Matepā māhorahora -Natural Hazards) recommends that the submission be rejected and comments as follows:

*"... as set out earlier under the assessment for NH-P13, CRPS Policy 11.3.4 states that new critical infrastructure will be located outside high hazard areas unless there is no reasonable alternative, and in relation to all areas, critical infrastructure must be designed to maintain, as far as practicable, its integrity and function during natural hazard events. The reference to 'no reasonable alternatives' in Policy NH-P14 therefore gives effect to the CRPS requirement to demonstrate the absence of 'reasonable alternatives'. In my opinion it is therefore appropriate to require critical infrastructure to demonstrate that there are 'no reasonable alternatives' in NH-P14. I consider that linear infrastructure should be able to demonstrate the lack of reasonable alternatives. ..."<sup>4</sup>*

26. The Officer's Report does not address the part of Transpower's submission that seeks the replacement of 'avoid' with 'only allow'.

27. The Policy, as recommended for amendment, is as follows:

*"Within the fault overlays: ...*

- 2. *avoid new and upgrading of existing critical infrastructure below and above ground in the Ashley Fault Avoidance Overlay unless there is an operational need*

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<sup>3</sup> Submission reference 195.59.

<sup>4</sup> Paragraph 286.

*or functional need and no reasonable alternative, in which case the infrastructure must be designed to: ...”*

28. Policy NH-P14 is relevant to the National Grid because:
- the existing Islington - Kikiwa A (ISL-KIK-A) and Islington - Kikiwa B (ISL-KIK-B) 220kV overhead transmission lines traverse the the Ashley Fault Avoidance Overlay (shown on the planning map excerpt below);
  - the existing Benmore – Haywards A (BEN-HAY-A) 350kV HVDC overhead transmission line traverses the Fault Awareness Overlay (also shown on the planning map excerpt below);
  - the existing Ashley Deviation A (ASY-DEV-A) 66kV overhead transmission line traverses the Fault Awareness Overlay (also shown on the planning map excerpt below); and
  - there is the potential for new transmission lines to traverse the areas subject to the two Overlays.

**Excerpt of the Proposed District Plan Planning Map showing the Ashley Fault Avoidance Overlay (red); the Fault Awareness Overlay (yellow) and the National Grid transmission lines (grey)**



29. While I agree with the Officer’s Report that linear infrastructure should generally be able to demonstrate that there is no reasonable alternative to traversing a hazard overlay area, in my opinion, Policy 11.3.4 of the CRPS is not relevant to Policy NH-P14. This is because Policy 11.3.4 relates to the location of new critical infrastructure outside of ‘high hazard areas’, and ‘high hazard areas’ are defined in the CRPS as flood hazard areas, coastal erosion areas, and tsunami/sea water inundation areas. Importantly, the definition of ‘high hazard areas’ does not make reference to seismic hazards. As such, I am of the view that the CRPS does not distinguish the management of critical infrastructure from the management of other infrastructure in respect of seismic hazards.



30. In my view it is Policy NH-P13 (as recommended for amendment by the Officer's Report) that gives effect to Policy 11.3.4 of the CRPS.
31. Instead, I consider that Policies 11.3.3 and 11.3.5 of the CRPS that related to all subdivision, land use and development generally direct the content of Policy NH-P14. I summarise the direction given by these Policies as follows:
  - a. Policy 11.3.3 requires that new subdivision, use and development of land is managed to avoid or mitigate the adverse effects associated with earthquake hazards; and
  - b. Policy 11.3.5 the subdivision, use and development of land not addressed by Policy 11.3.3 (for instance, upgrading of infrastructure) to be avoided where the natural hazard risk is unacceptable.
32. Given that CRPS does not distinguish the management of critical infrastructure from the management of other infrastructure in respect of seismic hazards, I am of the view that there is no rationale for applying the approach in Policy NH-P13 and distinguishing critical infrastructure. Instead, I support the following amendments to Policy NH-P14 so that, consistent with the CRPS, all infrastructure is addressed in the same manner:

***"Policy NH-P14 New infrastructure and upgrading of infrastructure within fault overlays***

*Within the fault overlays:*

1. *provide for new and upgrading of existing ~~not critical~~ infrastructure below and above ground in the Ashley Fault Avoidance Overlay where:*
  - a. *it does not increase the risk to life or property from a natural hazard event; and*
  - b. *it does not result in a reduction in the ability of people and communities to recover from a natural hazard event;*
- ~~2. avoid new and upgrading of existing critical infrastructure below and above ground in the Ashley Fault Avoidance Overlay unless there is an operational need or functional need and no reasonable alternative, in which case the infrastructure must be designed to: a. maintain, as far as practicable, its integrity and ongoing operation during and after natural hazard events; or b. be able to be reinstated in a timely manner;~~
3. *enable ~~small scale critical infrastructure and other~~ infrastructure in the Fault Awareness Overlay, while ensuring that larger critical infrastructure does not increase the risk to life or property from natural hazard events unless:*
  - ~~a. there is an operational or functional need or there is no reasonable alternative, in which case the infrastructure must be designed to maintain, as far as practicable, its integrity and ongoing operation during and after natural hazard events; or~~

~~b. — be able to be reinstated in a timely manner.”~~

33. In terms of the Rules that implement Policy NH-P14, I suggest and support the following consequential amendments (shown in full in **Attachment A**):
- a. Rule NH-R14 is deleted and Rule NH-R11 is amended to apply to all infrastructure (given that the Officer’s Report recommends that the same activity status and matters of discretion apply to the infrastructure managed by both rules); and
  - b. Rule NH-R6 is amended to delete ‘Fault Awareness Overlay’ and associated clause (2).

#### Rule NH-R17 Above ground critical infrastructure

34. Transpower’s submission<sup>5</sup> generally supports Rule NH-R17 but is concerned that the Rule does not anticipate linear infrastructure, and particularly infrastructure that is made up of a number of structures, such as a transmission line. Transpower seeks a limited amendment to clarify that the standard apply singly to each structure. Further, Transpower’s submission is that the ‘default’ rules are overly complex and onerous seeks that the most stringent activity status that should apply is restricted discretionary because any potential effects in respect of the coastal flood hazard can be adequately assessed via Matters of Discretion NH-MD3 and NH-M4.
35. The Officer’s Report (Matepā māhorahora -Natural Hazards) recommends that the submission be accepted in part on the basis that the Rule is clarified so that the standard includes an area threshold per structure. In terms of activity status, the Officer’s Report notes that “Standard 2 only applies to buildings that are proposed in areas subject to between 0.3 and 0.99m of flooding. It does not apply to structures” and concludes as follows:

*“As set out earlier in the definitions section of my report under ‘high coastal flood hazard area’ (see s3.3.3), flooding of more than 1m is likely to be high hazard under the CRPS. As set out in my assessment under NH-R6, CRPS Policy 11.3.4 states that new critical infrastructure will be located outside of high hazard areas unless there is no reasonable alternative. The principal explanation and reasons for CRPS Policy 11.3.4 states that the policy seeks to ensure that critical infrastructure is not placed as a matter of course in areas subject to significant natural hazard exposure and in relation to all areas, critical infrastructure must be designed to maintain, as far as practicable, its integrity and function during natural hazard events. I therefore consider that it is appropriate that buildings associated with critical infrastructure proposed to be located in areas subject to more than 1m of flooding in the prescribed hazard event are non-complying.”<sup>6</sup>*

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<sup>5</sup> Submission reference 195.65.

<sup>6</sup> Paragraph 550.

36. I acknowledge the direction given by Policy 11.3.4 of the CRPS, as set out in the Officer's Report, however, do not support the non-complying activity status in Rule NH-R17 for the following reasons:
- a. Policy 11.3.4 has not been given effect to in a consistent manner in setting activity status, that is, the most stringent activity status for critical infrastructure in the Urban Flood Assessment Overlay and Non-Urban Flood Assessment Overlay is restricted discretionary (Rule NH-R6) and there is no clear rationale for taking a more stringent approach to giving effect to Policy 11.3.4 in the Coastal Flood Assessment Overlay;
  - b. restricted discretionary activity status, and the associated matters of discretion, are sufficient to ensure that critical infrastructure is not placed as a matter of course in high hazard areas and, where such a location is necessary, to allow for a comprehensive consideration of all potential effects, the ability functioning during and following natural hazard events and whether there are reasonable alternatives;
  - c. the Officer's Report has accepted that restricted discretionary activity status can give effect to Policy 11.3.4 in respect of Rule NH-R14;
  - d. the Rule applies the same activity status that applies to 'natural hazard sensitive activities' and as such fails to:
    - i. distinguish the particular characteristic of critical infrastructure such as, being generally uninhabited;
    - ii. recognise and provide for the functional and operational needs of critical infrastructure, including as necessary to give effect to the NPSET;
    - iii. give weight to the duties and responsibilities that apply (irrespective of the rules in the Proposed District Plan) to critical infrastructure that is a lifeline utility<sup>7</sup> under the Civil Defence Emergency Management Act 2002 ("CDEMA") as follows:

*"60 Duties of lifeline utilities*

*Every lifeline utility must—*

- (a) ensure that it is able to function to the fullest possible extent, even though this may be at a reduced level, during and after an emergency:*
- (b) make available to the Director in writing, on request, its plan for functioning during and after an emergency:*
- (c) participate in the development of the national civil defence emergency management strategy and civil defence emergency management plans:*

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<sup>7</sup> Lifeline utilities are defined by Schedule 1 to the Civil Defence and Emergency Management Act 2002.

- (d) provide, free of charge, any technical advice to any Civil Defence Emergency Management Group or the Director that may be reasonably required by that Group or the Director:
- (e) ensure that any information that is disclosed to the lifeline utility is used by the lifeline utility, or disclosed to another person, only for the purposes of this Act.”

37. For these reasons, I am of the view that restricted discretionary status is the most efficient and appropriate to give effect to the higher order planning instruments and achieve the purpose of the RMA and I therefore support the following further amendments to Rule NH-R17:

| <b>NH-R17</b>                           | <b>Above ground critical infrastructure</b>  |  |
|---|--|--|
| <b>Coastal Flood Assessment Overlay</b> | <p><b>Activity status: PER</b></p> <p><b>Where:</b></p> <p><u>1. the infrastructure is a road and does not exacerbate flooding on any other property by displacing or diverting floodwater on surrounding land in a 0.5% AEP event; the profile, contour or height of the land is not permanently raised by more than 0.25m when compared to natural ground level;</u></p> <p><u>2. the activity does not exacerbate flooding on any other property by displacing or diverting floodwater on surrounding land in a 0.5% AEP event;</u> and</p> <p>a. <u>new infrastructure or an extension to existing upgraded infrastructure has a footprint of less than 103m<sup>2</sup> per structure;</u> or</p> <p>b. <u>any new building that is identified as being subject to 0.29m 0.3m or less of coastal flooding as stated in a Coastal Flood Assessment Certificate and has finished floor level equal to or higher than the minimum finished floor level as stated in a Coastal Flood Assessment Certificate issued in accordance with NH-S2;</u> or</p> <p>c. <u>if not a building, new infrastructure, excluding any support base, towers or poles, is located above ground level at an elevation higher than the minimum floor level as stated in a Coastal Flood Assessment Certificate issued in accordance with NH-S2.</u></p> | <p><b>Activity status where compliance is not achieved: <del>for NH-R17 (1), NH-R17 (1)(a) and NH-R17 (1)(c); NH-R17 (2), NH-R17 (2)(a) and NH-R17 (2)(c);</del></b></p> <p><b>RDIS</b></p> <p><b>Matters of discretion are restricted to:</b></p> <p>NH-MD3 – Natural hazards and infrastructure</p> <p><u>NH-MD4 – Natural hazards coastal matters</u></p> <p><del>Activity status where compliance is not achieved for NH-R17 (12)(b); RDIS (see NH-R17 (23))</del></p> |
| <b>Coastal Flood Assessment Overlay</b> | <p><del><b>Activity status: RDIS</b></del></p> <p><del><b>Where:</b></del></p> <p><del><u>2.3 any building that is identified as being subject to between 0.3m and 0.99m</u></del></p>   | <p><del><b>Activity status where compliance is not achieved: NC</b></del></p>  |

|  |  |  |
|--|--|--|
|  | <p><del>more than 0.3m and less than 1m of coastal flooding, as stated in a Coastal Flood Assessment Certificate, is erected on raised land or utilises a combination of raised land and a raised floor level equal to or higher than the minimum requirements stated in a Coastal Flood Assessment Certificate issued in accordance with NH S2.</del></p> <p><del>Matters of discretion are restricted to:</del></p> <p><del>NH MD4 Natural hazards coastal matters</del></p> |  |
|--|--|--|

### Matters of Discretion NH-MD3 Natural hazards and infrastructure

38. Transpower's submission<sup>8</sup> seeks that the Matters of Discretion NH-MD3 Natural Hazards and Infrastructure is amended to improve expression, remove duplication and to delete reference to cultural effects on the basis that it is not clear how the location of critical infrastructure in a natural hazard overlay would have a cultural impact as follows:

- “1. Any increase in the risk to life or property from natural hazard events.
2. ~~Any negative e~~Effects on the ability of people and communities to recover from a natural hazard event.
3. The extent to which the infrastructure will suffer damage in a hazard event and whether the infrastructure is designed to maintain reasonable and safe operation during and after a natural hazard event.
- ~~4. The time taken to reinstate critical infrastructure following a natural hazard event.~~
- ~~45.~~ The extent to which the infrastructure exacerbates the natural hazard risk or transfers the risk to another site.
- ~~56.~~ The ability for flood water conveyance to be maintained.
- ~~67.~~ The extent to which there is a functional need and operational need for that location ~~and there are no practical alternatives.~~
- ~~78.~~ The extent to which any mitigation measures are proposed, ~~their effectiveness and environmental effects,~~ and any benefits to the wider area associated with hazard management.
- ~~89.~~ The ~~positive~~ benefits ~~derived from the installation~~ of ~~the~~ infrastructure.
- ~~10. Any effects on cultural values.”~~

39. The Officer's Report (Matepā māhorahora -Natural Hazards) recommends that the submission be accepted in part and agrees with the relief sought by Transpower in respect of clauses (2),

<sup>8</sup> Submission reference 195.65.

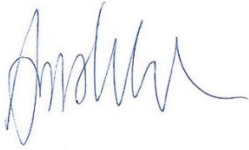
(9) and (10). I also support these amendments for the reasons set out in Transpower's submission and the Officer's Report.

40. In respect of clause (4), I accept that this clause is related to the direction in Policy 11.3.4 of the CRPS that critical infrastructure must be designed to maintain, as far as practicable, its integrity and function during natural hazard events. I also note that this direction is aligned to the statutory obligation imposed on lifeline utilities by the CDEMA.
41. However, as drafted the clause relates to **after** an event and is therefore inconsistent with Policy 11.3.4, which only provides direction in respect to during an event (irrespective of the explanatory text). The ability to operate during, and after, an event is sufficiently addressed by clause (3), such that clause (4) is, at least in part, duplication. In addition, I am of opinion that considering the time taken to reinstate critical infrastructure may be difficult to present in the context of an application for resource consent and it is not clear how an appropriate (or inappropriate time) for reinstatement may be determined. Finally, I consider that the statutory obligations on lifeline utilities under the CDEMA ensure that critical infrastructure is sufficiently resilient, without the need for further regulation under the RMA.
42. For these reasons, I therefore support the deletion of clause 4.
43. In respect of clause (7), I note that the Officer's Report has recommended the replacement of 'no practical alternative' with 'no reasonable alternative' in Policy NH-P13. As a consequence of this recommendation, I support a similar amendment being made to clause (7) in NH-MD3.
44. In all, the further amendments I support to the Matters of Discretion in NH-MD3 Natural Hazards and Infrastructure are as follows:
  - "1. Any increase in the risk to life or property from natural hazard events.*
  - 2. ~~Any negative effects~~ Effects on the ability of people and communities to recover from a natural hazard event.*
  - 3. The extent to which the infrastructure will suffer damage in a hazard event and whether the infrastructure is designed to maintain reasonable and safe operation during and after a natural hazard event.*
  - ~~*4. The time taken to reinstate critical infrastructure following a natural hazard event.*~~
  - 45. The extent to which the infrastructure exacerbates the natural hazard risk or transfers the risk to another site.*
  - 56. The ability for flood water conveyance to be maintained.*
  - 67. The extent to which there is a functional need and operational need for that location and there are no ~~practical~~ reasonable alternatives.*

78. *The extent to which any mitigation measures are proposed, their effectiveness and environmental effects, and any benefits to the wider area associated with hazard management.*

89. *The positive benefits derived from the installation of the infrastructure.*

~~10.~~ *Any effects on cultural values.”*



Ainsley Jean McLeod

10 July 2023

## ATTACHMENT A: AMENDMENTS SOUGHT IN, AND/OR SUPPORTED BY, EVIDENCE

The following sets out the amendments to the provisions of the Proposed District Plan that are proposed by and/or supported in evidence that are in addition to the amendments made by the Officers' Report recommendations that are supported in my evidence and listed in the Table at paragraph 25.

Officers' Report amendments are shown in black underline and ~~black strikethrough~~ and the further amendments supported in evidence are shown in red double underline and ~~red double strikethrough~~.

### PART 2 – DISTRICT-WIDE MATTERS

#### Hazards and risks: NH - Matepā māhorahora - Natural hazards

**Amend** Policy NH-P14 New infrastructure and upgrading of infrastructure within fault overlays as follows:

***“Policy NH-P14 New infrastructure and upgrading of infrastructure within fault overlays***

*Within the fault overlays:*

1. *provide for new and upgrading of existing ~~not critical~~ infrastructure below and above ground in the Ashley Fault Avoidance Overlay where:*
  - a. *it does not increase the risk to life or property from a natural hazard event; and*
  - b. *it does not result in a reduction in the ability of people and communities to recover from a natural hazard event;*
- ~~2. avoid new and upgrading of existing critical infrastructure below and above ground in the Ashley Fault Avoidance Overlay unless there is an operational need or functional need and no reasonable alternative, in which case the infrastructure must be designed to: a. maintain, as far as practicable, its integrity and ongoing operation during and after natural hazard events; or b. be able to be reinstated in a timely manner;~~
3. *enable ~~small scale critical infrastructure and other~~ infrastructure in the Fault Awareness Overlay, while ensuring that larger critical infrastructure does not increase the risk to life or property from natural hazard events unless:*
  - ~~a. there is an operational or functional need or there is no reasonable alternative, in which case the infrastructure must be designed to maintain, as far as practicable, its integrity and ongoing operation during and after natural hazard events; or~~
  - ~~b. be able to be reinstated in a timely manner.”~~



**Amend** Rules NH-R6 Above ground critical infrastructure, NH-R11 New and upgrading of above and below ground existing infrastructure that is not critical infrastructure and NH-R14 New and upgrading of above and below ground critical infrastructure as follows:

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| <p><b>NH-R6</b></p> <p><del>Fault Awareness Overlay</del><br/> <b>Urban Flood Assessment Overlay Kaiapoi Fixed Minimum Finished Floor Level Overlay Non-Urban Flood Assessment Overlay</b></p> | <p><b>Above ground critical infrastructure</b></p> <p><b>Activity status: PER</b></p> <p>Where:</p> <p>1. <u>the infrastructure is a road and does not exacerbate flooding on any other property by displacing or diverting floodwater on surrounding land in a 0.5% AEP event;</u></p> <p><del>1. 2. if located with the Fault Awareness Overlay, new critical infrastructure or an extension to existing upgraded infrastructure has a footprint of less than 100m<sup>2</sup> per structure; and</del></p> <p><u>2. 3. if located within a Flood Assessment Overlay or the Kaiapoi Fixed Minimum Finished Floor Level Overlay:</u></p> <p>a. <u>the profile, contour or height of the land is not permanently raised by more than 0.25m when compared to natural ground level; the activity does not exacerbate flooding on any other property by displacing or diverting floodwater on surrounding land in a 0.5% AEP event; and</u></p> <p>b. <u>the infrastructure is located on a site outside of high flood hazard area as stated in a Flood Assessment Certificate issued in accordance with NH-S1; or</u></p> <p>c. <u>new infrastructure or an extension to existing upgraded infrastructure:</u></p> <p>i. <u>has a footprint of less than 103m<sup>2</sup> per structure attached to the ground; or</u></p> <p>ii. <u>is located 3m or more above ground level, excluding any support base, towers or poles, at an elevation higher than the minimum finished floor level as stated in a Flood Assessment Certificate issued in accordance with NH-S1; or</u></p> <p>iii. <u>has a finished floor level equal to or higher than the minimum finished floor level as stated in a Flood Assessment Certificate issued in accordance with NH-S1; and</u></p> <p>d. <u>new buildings, or extensions to existing buildings that increase the footprint of the existing infrastructure by more than 25m<sup>2</sup>, are not located within an overland flow path as stated in a Flood Assessment</u></p> | <p><b>Activity status where compliance is not achieved: RDIS</b></p> <p><b>Matters of discretion are restricted to:</b></p> <p>NH-MD3 - Natural hazards and infrastructure</p> <p><b>Notification</b></p> <p>An application for a restricted discretionary activity under this rule is precluded from being publicly notified, but may be limited notified</p> |
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|  | Certificate issued in accordance with NH-S1. |  |
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| <b>NH-R11</b>                         | <b>New and upgrading of above and below ground existing infrastructure <del>that is not critical infrastructure</del></b>      |  |
|                                       | This rule shall not apply to customer connections.   |  |
| <b>Ashley Fault Avoidance Overlay</b> | <b>Activity status: RDIS</b><br><b>Matters of discretion are restricted to:</b><br>NH-MD3 - Natural hazards and infrastructure | <b>Activity status where compliance is not achieved: N/A</b> |

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| <del><b>NH-R14</b></del>                         | <del><b>New and upgrading of above and below ground critical infrastructure</b></del>  |  |
| <del><b>Ashley Fault Avoidance Overlay</b></del> | <del><b>Activity status: DIS RDIS</b></del><br><del><b>Where:</b></del><br><del>2. the critical infrastructure involves any of the following:</del><br><del>a. electricity substations, networks, and transmission and distribution installations, including the National Grid and the electricity distribution network;</del><br><del>b. supply and treatment of water for public supply;</del><br><del>c. stormwater and sewage treatment and disposal systems;</del><br><del>d. radiocommunication and telecommunication installations and networks;</del><br><del>e. strategic road and rail networks;</del><br><del>f. petroleum storage and supply facilities.</del><br><del><b>Matters of discretion are restricted to:</b></del><br><del>NH-MD3 - Natural hazards and infrastructure</del> | <del><b>Activity status where compliance is not achieved: NC</b></del> |

Amend Rule NH-R17 Above ground critical infrastructure as follows:

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|---|---|--|
| <b>NH-R17</b>                           | <b>Above ground critical infrastructure</b>   |  |
| <b>Coastal Flood Assessment Overlay</b> | <b>Activity status: PER</b><br><b>Where:</b><br>1. <u>the infrastructure is a road and does not exacerbate flooding on any other property by displacing or diverting floodwater on surrounding land in a 0.5% AEP event; the profile, contour or height of the land is not permanently raised by more than 0.25m when compared to natural ground level;</u><br>2. <u>the activity does not exacerbate flooding on any other property by displacing or diverting floodwater on surrounding land in a 0.5% AEP event; and</u> | <b>Activity status where compliance is not achieved: <del>for NH-R17 (1), NH-R17 (1)(a) and NH-R17 (1)(c): NH-R17 (2), NH-R17 (2)(a) and NH-R17 (2)(c):</del> RDIS</b><br><br><b>Matters of discretion are restricted to:</b><br>NH-MD3 – Natural hazards and infrastructure |

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|  | <p>a. <del>new infrastructure or an extension to existing upgraded infrastructure</del> has a footprint of less than 103m<sup>2</sup> per structure; or</p> <p>b. any new building that is identified as being subject to <del>0.29m</del> 0.3m or less of coastal flooding as stated in a Coastal Flood Assessment Certificate and has finished floor level equal to or higher than the minimum finished floor level as stated in a Coastal Flood Assessment Certificate issued in accordance with NH-S2; or</p> <p>c. if not a building, new infrastructure, excluding any support base, towers or poles, is located above ground level at an elevation higher than the minimum floor level as stated in a Coastal Flood Assessment Certificate issued in accordance with NH-S2.</p> | <p><u>NH-MD4 – Natural hazards coastal matters</u></p> <p><del>Activity status where compliance is not achieved for NH-R17 (12)(b); RDIS (see NH-R17 (23))</del></p> |
| <p><b>Coastal Flood Assessment Overlay</b></p> | <p><del>Activity status: RDIS</del></p> <p><del>Where:</del></p> <p><del>2.3 any building that is identified as being subject to between 0.3m and 0.99m more than 0.3m and less than 1m of coastal flooding, as stated in a Coastal Flood Assessment Certificate, is erected on raised land or utilises a combination of raised land and a raised floor level equal to or higher than the minimum requirements stated in a Coastal Flood Assessment Certificate issued in accordance with NH-S2.</del></p> <p><del>Matters of discretion are restricted to:</del></p> <p><del>NH MD4 – Natural hazards coastal matters</del></p>   | <p><del>Activity status where compliance is not achieved: NC</del></p>   |

Amend Matters of Discretion NH-MD3 as follows:

**“NH-MD3 Natural hazards and infrastructure**

1. Any increase in the risk to life or property from natural hazard events.
2. ~~Any negative e~~Effects on the ability of people and communities to recover from a natural hazard event.
3. The extent to which the infrastructure will suffer damage in a hazard event and whether the infrastructure is designed to maintain reasonable and safe operation during and after a natural hazard event.
- ~~4. The time taken to reinstate critical infrastructure following a natural hazard event.~~
45. The extent to which the infrastructure exacerbates the natural hazard risk or transfers the risk to another site.
56. The ability for flood water conveyance to be maintained.

~~67.~~ *The extent to which there is a functional need and operational need for that location and there are no ~~practical~~ reasonable alternatives.*

~~78.~~ *The extent to which any mitigation measures are proposed, their effectiveness and environmental effects, and any benefits to the wider area associated with hazard management.*

~~89.~~ *The ~~positive~~ benefits ~~derived from the installation of~~ the infrastructure.*

~~10.~~ *Any effects on cultural values.”*