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29 October 2018

Proposed Marlborough Environment Plan Hearing Panel
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Dear Commissioners,

Marlborough Environment Plan – Minute of the Hearing Panel (Minute 38)

A Minute of the Hearing Panel (Minute 38) seeks a response to four issues that have arisen, during deliberations, in relation to Transpower New Zealand's (Transpower) submission on the Proposed Marlborough Environment Plan (MEP). Transpower acknowledges and appreciates the opportunity to clarify its submission and responds to the issues in turn below.

National Grid Yard Issue

The Hearing Panel has sought clarification as to whether Transpower intends that the MEP includes a new rule and standard that would allow other network utilities to establish in the National Grid Yard as a permitted activity.

Transpower can confirm that this is the outcome sought in its submission, and supported by the evidence of Ms McLeod,¹ whereby network utilities are permitted when they comply with the New Zealand Electrical Code of Practice for Electrical Safe Distance (NZECP 34:2001) and when they are not for the reticulation and storage of water for irrigation purposes.

This is the approach taken by Transpower in submissions on planning documents across New Zealand and provides less stringent provisions in response to:

- the nature and scale of network utilities being less likely to compromise the National Grid and more likely to have a need to locate in the National Grid Yard (particularly in the case of other similar linear network utilities such as road, rail and telecommunications networks);²
- policies in many planning documents that seek opportunities for co-location; and
- the necessity for other network utilities (and particular electricity distribution infrastructure) to connect to the National Grid.

¹ A McLeod, Statement of Evidence dated 7 May 2018, paragraph 68.

² With the exemption of network utility irrigation infrastructure that can create issues in relation to earthworks and access to the National Grid

Given the above, and in Transpower's experience, network utilities that achieve compliance with NZECP 34:2001 do not compromise the National Grid and are therefore consistent with Policy 10 of the National Policy Statement on Electricity Transmission 2008 (NPSET).

Legal Status of NZECP 34:2001

The Hearing Panel has sought clarification in respect of the legal status of NZECP 34:2001. Transpower can confirm that NZECP 34:2001 is one of a suite of Electrical Codes of Practice that are issued by WorkSafe under Section 36 of the Electricity Act 1992. Compliance with NZECP 34:2001 is mandatory (as established by Regulation 17 of the Electricity (Safety) Regulations 2010).

NZECP 34:2001 Issues

The Hearing Panel has expressed some concern about directly referencing NZECP 34:2001 in the MEP. The Panel's concerns relate to:

- inconsistency of reference to NZECP 34:2001 (that is, "comply with", "meet the requirements of", etc);
- more generally incorporating documents by reference (Part 3 of the First Schedule to the RMA); and
- complexity and technical nature of the material in NZECP 34:2001, and the extent to which the document is available to the public.

In terms of inconsistency of reference, Transpower accepts that differences in the way in which the MEP expresses direction in terms of NZECP 34:2001 are not helpful. Suggested amendments are included as Attachment A.³

In terms of incorporating documents by reference, Transpower understands that section 75(5) of the Resource Management Act 1991 (RMA) expressly provides for the incorporation of material by reference under Part 3 of the First Schedule to the RMA and Clause 30 of the First Schedule allows for the incorporation of certain documents by reference in a plan. Transpower considers that Clause 30 enables the inclusion of NZECP 34:2001 given its status as a mandatory code of practice. Indeed, it is common practice for planning documents to include NZECP 34:2001 by reference.

Transpower has a strong preference to include reference to NZECP 34:2001 because it is not a requirement that is familiar to many. Inclusion in the MEP increases awareness and increases the likelihood of compliance with the (mandatory) regulations.

In this regard, Transpower acknowledges that NZECP 34:2001 is complex and technical but, because it is a mandatory Code, opportunities to simplify its requirements for the purpose of RMA documents presents risks in respect of compliance. Given the complex nature of the Code, its incorporation by reference is further provided for by Clause 30(1)(c) as follows:

"...any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the plan or proposed plan."

In terms of availability, unlike New Zealand Standards (that are often also incorporated by reference), NZECP 34:2001 is freely and readily available to the public, including on Transpower's

³ Made to the 'Amendments Supported in Evidence' document dated 22 May 2018 (provided to the Hearing Panel during Block 6).

website.⁴ Copies can be made available or a hyperlink on the Marlborough District Council's website could be provided.

The Hearing Panel has asked that Transpower:

- suggests a simplified version of the meaning of the rules without reference to NZECP 34:2001; or
- identifies the particular clauses of the Code being referred to (and provide a copy of those rules for the Hearing Panel to consider);
- or consider a schedule of particular compliance wording for including in a new Appendix.

Transpower has given due consideration to the Hearing Panel's request and has considered the extent to which provisions can be expressed without including a reference. Unfortunately, this proved problematic because:

- In many cases, more than one section of NZECP 34:2001 would (or could) apply to any activity that is regulated by the provisions (as demonstrated in Attachment A). For instance, Standard 2.13.1 of the MEP that relates to land drainage works may need to comply with the following sections of NZECP 34:2001:
 - Section 2: relating to excavation and construction near support structures;
 - Section 3: relating to distances between structures and conductors;
 - Section 4: relating to distances to ground and distances to water; and
 - Section 5: relating to distances for the operation of mobile plant.
- In order to correctly reflect the nuances of NZECP 34:2001 substantial 'chunks' of the document would need to be reproduced.
- Embedding the requirements of NZECP 34:2001 in the MEP (without reference) is not an effective or practical work around in a situation where the Code is updated, given that compliance is mandatory.

That said, Attachment A includes amendments that achieve consistent expression in respect of NZECP 34:2001, and provide for the refinement to make one reference to the Code more specific.

Deletion of Standard 16.3.7.1

The Hearing Panel has requested that Transpower provides detailed reasons for seeking the deletion of Standard 16.3.7.1, which controls the volume of foreshore and seabed materials that might be disturbed during the replacement of, or installation of, a new submarine cable (if permitted).⁵

In his evidence, Mr Renton confirms that Transpower own and operate three high voltage direct current (HVDC) submarine cables and two fibre optic submarine cables that traverse Cook Strait.⁶ These cables lie unburied on the seabed across Cook Strait, within the Cook Strait Submarine Cable Protection Zone, except where they are buried at a target depth of 0.8m for a distance of 20m seaward of mean high water springs, and at a minimum depth of 0.6m for a further distance of 180m. Beyond this point burial is prevented by the topography and geology of the seabed.

⁴ <https://www.transpower.co.nz/resources/new-zealand-electrical-code-practice-electrical-safe-distances-nzecz-34>

⁵ It is assumed that Standard 16.3.7.1 would also apply to the repair and maintenance of the submarine cables.

⁶ A Renton, statement of evidence dated 7 May 2018.

Transpower's submission seeks the deletion of Standard 16.3.7.1 to provide:

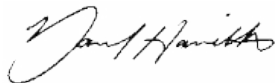
- for the ability re-bury cables, should they become exposed as a result of normal tidal or storm-related movement of the seabed (on the basis that more than one tidal or storm event in a calendar year would 'trigger' the need for resource consent to bury the exposed cables); and
- for the ability to install a new cable within the Cook Strait Submarine Cable Protection Zone.

Transpower considers any adverse effects of such disturbance to be minor and of limited duration because the seabed in the near-shore area of the Cook Strait Cable Protection Zone has been previously disturbed on a number of occasions and is a highly dynamic environment, such that effects are not discernible after as few as two tidal cycles.

Transpower notes that the extent of disturbance is not entirely unfettered, given that any works are limited in geography to the extent of the Cook Strait Submarine Cable Protection Zone⁷ by virtue of the MEP definition of "National Grid Cook Strait Submarine Cables" and therefore limited to an area that has been previously disturbed. Transpower considers that the extent of disturbance could be further confined by amending Standard 16.3.7.1 limit works to within 200m of mean high water springs.

Such an approach reflects the enabling policies of the NPSET, while confining activities, and any associated effects, to an area of the seabed that is specifically identified and protected by statute in respect of submarine cables.

Yours sincerely



Daniel Hamilton

Environmental Regulatory Team Leader

Transpower New Zealand Limited

⁷ Established under the Submarine Cables and Pipelines Protection Order 2009

Attachment A: Transpower New Zealand Limited - Further Amendments to Relief in Response to Minute 38

The following sets out further amendments to the relief sought by Transpower (dated 22 May 2018). The following includes those provisions that make reference to NZECP 34:2001 only and does not include the full suite of Transpower's relief.

These amendments are to the proposed provisions of the MEP as revised by the Section 42A Report. The Section 42A Report recommended amendments are shown in black (including those amendments recommended in response to evidence heard at previous hearings, but not including any further recommendations made at the close of the Block 6 hearing). Amendments supported in evidence are shown in blue. Further amendments following the filing of evidence are shown in green. Amendment proposed in response to Minute 38 are shown in red.

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Amend Standard 2.13.1 to include the following:

"2.13.1.x. The activity and associated works must ~~comply maintain compliance with the New Zealand Electrical Code of Practice (NZECP34:2001) at all times.~~ Advice note: Vegetation to be planted around the National Grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003."

Commented [Transpower]: (Drainage Channel Network) This Standard applies to a range of activities from earthworks to structures (and associated activities). The provisions apply to land and water. As such, sections 2 to 5 of ECP34 may be relevant and it is not possible to confine the standard.

Insert the following Standard in 2.39:

"2.39.4 Network utilities within the National Grid Yard

2.39.4.1 Utility buildings and structures ~~shall must~~ comply with ~~the New Zealand Electrical Code of Practice (NZECP 34:2001).~~

2.39.4.2 The reticulation and storage of water for irrigation purposes shall not be located with the National Grid Yard."

Commented [Transpower]: As above, this Standard applies a range of activities that are regulated by different sections for ECP34 (including matters relating to the separation of telecommunications and electricity lines). It is therefore not possible to succinctly confine the standard.

Insert the following Standard in 3.3, 4.3, 7.3, 12.3, 18.3 and 19.3:

"x.3.x. Buildings, structures and activities in the ~~vicinity of the~~ National Grid Yard

x.3.x.1 Sensitive activities ~~and buildings for the handling or storage of hazardous substances with explosive or flammable intrinsic properties~~ must not be located within the National Grid Yard.

x.3.x.2. Buildings and structures must not be located within the National Grid Yard unless they are:

(a) a fence not exceeding 2.5m in height; or

(b) an uninhabited farm or horticultural structure or building (except where they are commercial greenhouses, wintering barns, produce packing facilities, or milking/dairy sheds (excluding ancillary stockyards and platforms).

(c) irrigation equipment used for agricultural or horticultural purposes including the reticulation and storage of water where it does not permanently physically obstruct existing vehicular access to a National Grid support structure.

x.3.x.3 Buildings and structures must not be within 12m of a foundation of a National Grid transmission line support structure unless they are:

(a) a fence not exceeding 2.5m in height that ~~is~~ located at least 6m from the foundation of a National Grid transmission line support structure ~~or at least 5m from a National Grid pi-pole structure (but not a tower); or~~

(b) artificial crop protection structures or crop support structures ~~not more than 2.5m in height and located at least 8m from a National Grid pi-pole structure (but not a tower) and are:~~

(i) removeable or temporary to allow a clear working space of 12m from the pole for maintenance and repair purposes; and

(ii) all weather access to the pole and a sufficient area for maintenance equipment, including a crane; or

(c) located within 12 metres of a National Grid transmission line support structures ~~that and meets~~ the requirements of clause 2.4.1 of the New Zealand Electrical Code of Practice (NZECP 34:2001).

x.3.x.4 All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor or otherwise meet the safe electrical clearance distances required by Section 3 of the New Zealand Electrical Code of Practice (NZECP 34:2001) under all transmission line and building operating conditions.

Advice note: Vegetation to be planted around the National Grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.

Amend Standards 3.3.15, 4.3.14, 7.3.10, 12.1.30 and insert in 18.3 and 19.3 the following:

"X.3.X Excavation or filling Earthworks within the National Grid Yard.

X.3.X.1 ~~Excavation Earthworks~~ within the National Grid Yard in the following circumstances is exempt from the remaining standards under this rule:

(a) ~~Excavation that is Earthworks~~ undertaken as part of agricultural, horticultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track;

(b) Excavation of a vertical hole, not exceeding 500mm in diameter, that is more than 1.5m from the outer edge of a pole support structure or stay wire;

~~(c) Excavation of a vertical hole, not exceeding 500mm in diameter, that is a post hole for a farm fence or horticulture structure and more than 5m from the visible outer edge of a tower support structure foundation;~~

~~(d)~~ Earthworks that are undertaken by a network utility operator (excluding buildings or structures associated with the reticulation and storage of water for irrigation purposes).

X.3.X.2. The ~~excavation earthworks~~ must be no deeper than 300mm within 6m of the outer visible edge of a foundation of a National Grid transmission line support structure ~~Transmission Tower Support Structure~~.

X.3.X.3. The ~~excavation earthworks~~ must be no deeper than 3m between 6m and 12m of the outer visible edge of a foundation of a National Grid transmission line support structure ~~Transmission Tower Support Structure~~.

X.3.X.4. The ~~excavation earthworks~~ must not compromise the stability of a National Grid transmission line Support Structure.

X.3.X.5. The ~~filling~~ earthworks must not result in a reduction in the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice (NZECP34:2001).

Insert the following standard into Section 21.2:

"21.2.x. Activities within the National Grid Yard:

21.2.X.1 the activity and associated works must ~~comply~~ maintain compliance with the New Zealand Electrical Code of Practice (NZECP34:2001) at all times.

Advice note: Vegetation to be planted around the National Grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulation 2003.

Commented [Transpower]: No change necessary as the standard includes direct reference to the relevant regulation in ECP34.

Commented [Transpower]: (Floodway Zone) This Standard applies to a range of activities from earthworks and stop banks to passive recreation. The provisions apply to land and water. As such, sections 2 to 5 of ECP34 may be relevant and it is not possible to confine the standard.