

BEFORE THE INDEPENDENT HEARINGS PANEL

Under the Resource Management Act 1991 and the Canterbury Earthquake
(Christchurch Replacement District Plan) Order 2014

In the matter of

The Proposed Christchurch Replacement District Plan – Proposal 8 – Subdivision, Development and Earthworks (part)

and

Transpower New Zealand Limited (Submitter 2218 and Further Submitter 2780)

Submitter

**Closing legal submissions on behalf of Transpower New
Zealand Ltd**

16 November 2015

BELL GULLY

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May it please the Panel:

Background to hearing

1. We are not aware of any submitters that lodged further submissions opposing Transpower New Zealand Ltd (**Transpower**)'s submission as it relates to Proposal 8 (Stage 2) of the Proposed Christchurch Replacement District Plan (**Replacement Plan**).
2. The rule framework promoted in Transpower's submission was supported by the further submission of Federated Farmers of New Zealand (further submission ref: 2788) and supported in part by the further submission of Orion New Zealand Limited (further submission ref: 2797).¹
3. The Council and Transpower agreed on revised provisions for Proposal 8 that address earthworks in the vicinity of the National Grid. These provisions were addressed in both the Council's and Transpower's evidence in chief. These agreed provisions were not challenged by any submitter in evidence in chief, or in rebuttal evidence.
4. On the basis of the above Transpower sought leave from the Panel for Ms McLeod to be excused from attending the hearing on Proposal 8, although we noted she was available if the Panel had questions for her. The Panel granted leave.
5. Notwithstanding the agreement of all relevant parties, issues were raised at the hearing which indirectly related to the agreed relief sought by Transpower.
6. We are grateful that the Panel has granted us leave to file closing submissions.²

¹ Statement of Evidence in Chief of Ainsley Jean McLeod on behalf of Transpower New Zealand Limited dated 14 October 2015, footnote 4. We note the text of Federated Farmers' submission states it supports part of Transpower's submission on Chapter 8.

² Minute of the Panel relating to Request by Transpower for leave to file closing submissions and further evidence dated 3 November, para 5

Hearing on Proposal 8

Rationale for reference to parts of NZECP34 in rules

7. At the hearing on Proposal 8, Fiona MacKenzie for Federated Farmers raised the issue of interpreting the New Zealand Electrical Code of Practice for Electrical Safe Distances (“**NZECP34:2001**”) in rules in the Proposed Plan, and expressed her view that it inevitably goes wrong and there is no need to have that additional level (presumably additional level of regulation).³
8. Ms McLeod noted in her evidence in chief there is alignment between the agreed provisions and NZECP34:2001.⁴
9. At the hearing on Proposal 8, Mr Watson confirmed awareness of NZECP34:2011 is not high.⁵ Mr Long considers the Proposed Plan is “more visible to people” than NZECP34:2001.⁶ Ms Buttimore also highlighted the benefit that at the building consent stage, if people are doing something that is not complying with the NZECP34:2001 it will be picked up by the Council.⁷
10. Transpower considers that it is appropriate to include the content of parts of NZECP34:2001 in the Proposed Plan because including these requirements makes it easier for people to understand. This is consistent with the requirement in the Statement of Expectations for the Replacement Plan to use clear and concise language and be easy to use.

³ Lines 20-27, and lines 1-11, page 106 of the Transcript dated 2 November 2015

⁴ Statement of Evidence in Chief of Ainsley Jean McLeod on behalf of Transpower New Zealand Limited dated 14 October 2015, para 10

⁵ Lines 8-9, page 79 of the Transcript dated 2 November 2015

⁶ Lines 5-10, page 37 of the Transcript dated 2 November 2015

⁷ Lines 44-46, page 72, and lines 1-3, page 73 of the Transcript dated 2 November 2015

Value of a non-complying activity rule

11. In response to a question from Mr Willis as to whether Orion would allow a breach of NZECP34:2001, Mr Watson stated it would enforce it.⁸ There are circumstances where Transpower would grant a dispensation so there would not be a breach of NZECP34. For example, to temporarily allow earthworks behind a retaining wall, but the retaining wall then “reinstates” the distances in NZECP34:2001.
12. We acknowledge the issue raised by Mr Willis that if the Council was to grant a resource consent to do something which would be unlawful under the NZECP34:2001 then this would have no value to the applicant.⁹ However, Transpower considers there stills needs to be a corresponding rule for any breach of a permitted activity rule, instead of it being captured by any generic ‘default’ rule.
13. Transpower supports non-complying activity status as included in Rule 8.8.4 NC1 in the Council’s revised proposal. This is consistent with the National Policy Statement on Electricity Transmission 2008, and gives a clear indication that earthworks that breach NZECP34:2001 are not an activity that is anticipated by the plan.



AJL Beatson/ N J Garvan
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16 November 2015

⁸ Line 44, page 81 of the Transcript dated 2 November 2015

⁹ Lines 35-38, page 73 of the Transcript