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# OFFICER'S RESPONSE TO QUESTIONS FROM THE HEARINGS PANEL

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**DATE:** 15 September 2021

**HEARING:** Energy and Infrastructure

**HEARING DATE:** 23 and 24 September 2021

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## Introduction

The purpose of this report is to provide a written response to the questions posed by the Hearings Panel on the respective section 42A report for the Energy and Infrastructure Chapter.

## Questions and Answers

Paragraph or Plan reference	Question from the Hearings Panel
7.49	<ul style="list-style-type: none"><li>The proposed 'social infrastructure' definition is recommended to be rejected. However, would the Rolleston Prison, which is recommended to be added to the definition of 'important infrastructure', be more accurately defined as social infrastructure?</li></ul>
Officer response:	<p><i>The Rolleston Prison could feasibly be defined as 'social infrastructure', as could 'emergency services facilities' and 'public healthcare institutions', which are included in the 'important infrastructure' definition. However, the 'important infrastructure' definition is considered to concisely cover the infrastructure important to Selwyn, including social infrastructure.</i></p> <p><i>Inclusion of the Rolleston Prison within the 'important infrastructure' definition as recommended will recognise this community and social facility as important to the District. As the site is designated, development in accordance with the designation would be subject to an Outline Plan of Works process, and only any development outside the scope of the designation would be subject to the relevant PDP provisions.</i></p> <p><i>It is also of note that Corrections are seeking that a new Corrections Zone be applied to the Rolleston Prison site in place of the designation and underlying General Rural zoning. As part of that hearing process, if supported, a comprehensive package of provisions would be developed including any necessary definitions.</i></p> <p><i>It is also of note that 'social infrastructure' is not a National Planning Standards definition.</i></p>
11.6	<ul style="list-style-type: none"><li>The recommendation is to reject the submissions as the term 'important infrastructure' concisely covers all of the types of infrastructure identified. Please elaborate on what Federated Farmers is seeking here as it is not clear that the analysis and recommendation responds to the issue raised by the submitter.</li></ul>

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Officer response:	<p><i>With respect to EI-03 Federated Farmers are seeking to replace 'important infrastructure' with 'National Grid, Regionally Significant and Critical infrastructure' and to refer to "incompatible activities" rather than "other activities". It is of note that the submission did not show the strikethrough text and underlining, which was corrected by Council at the time of summarising the submission.</i></p> <p><i>The original submission states that: "This objective effectively means important infrastructure will take precedence over all other activities. That goes beyond the NPS-ET, which provides for the National Grid only."</i></p> <p><i>In addition to the reasoning provided in the s42a report, important infrastructure is wider than infrastructure provided for under the NPSET and the National Grid. The objective is intended to ensure that the operation and security of established important infrastructure, wider than the National Grid and considered important in the Selwyn context, is not compromised by incompatible activities. Therefore, established important infrastructure and its continued safe and efficient operation and security does intentionally take precedence over proposed incompatible activities.</i></p>
12.6	<ul style="list-style-type: none"> <li>Should the word "mitigating" in E1-04 in Appendix 2 be in strikeout.</li> <li>Does the word "managing" provide useful guidance to decision-makers as it does not infer any particular outcome as "managing" is simply a process (as you appear to agree with in your paragraph 14.4)?</li> </ul>
Officer response:	<p><i>With respect to EI-04 in Appendix 2 it was intended that "mitigating" be in strikeout and that "managing" be underlined. This is an error.</i></p> <p><i>In the context of this objective, "managing" is preferred as it provides for the avoidance, remedying and mitigating of effects as sought by the submitter, and is broader than "mitigating", but is more concise than "avoiding, remedying, mitigating".</i></p> <p><i>In the context of EI-P2, "mitigating" is preferred as it is considered to provide more direction at policy level for the reasons explained in paragraph 14.4.</i></p>
13.6	<ul style="list-style-type: none"> <li>Have you considered defining "minor upgrading" of existing infrastructure and would that better respond to the submitters requested relief?</li> </ul>
Officer response:	<p><i>Defining 'minor upgrading' was considered but overall, it was too complex to determine what was considered 'minor' upgrading or otherwise in the context of all of the different types of infrastructure.</i></p>
18.3	<ul style="list-style-type: none"> <li>Re noise, at para 8.5 you stated that the EI Chapter has been created to be self-contained whereby earthworks in relation to infrastructure is regulated by the EI Chapter and not the Earthworks Chapter. Is this not the case for noise?</li> </ul>
Officer response:	<p><i>With respect to noise, the National Planning Standards state that if provisions for managing noise are addressed, they must be located in the Noise Chapter and that these provisions may include noise limits for zones or other spatially defined areas, requirements for significant noise generating activities, and sound insulation requirements for sensitive activities and limits to the location of those activities relative to noise generating activities; i.e., important infrastructure.</i></p>

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	<p><i>The National Planning Standards also provide for noise provisions to be located in the Energy and Infrastructure Chapter which are not specific to Special Purpose Zones, which must be consistent with the Noise and vibration metrics standard.</i></p> <p><i>The Council has taken the approach of making the EI Chapter self-contained by including a noise specific rule requirement (EI-REQ10 Noise), which in turn refers to the relevant parts of the Noise Chapter and the Noise and Vibration metrics standard. This form of cross-referencing is used throughout the EI Chapter in relation to district-wide matters rather than replicating these matters in the EI Chapter.</i></p> <p><i>In addition, the Council has taken the approach of containing all noise provisions relating to sensitive activities seeking to establish near important infrastructure within identified Noise Overlays, in the Noise Chapter (NOISE-R3 to NOISE-R7). As the Noise Overlays cross a multitude of zones and apply to a range of developments, it is considered that these provisions are best grouped in the Noise Chapter rather than duplicated across Chapters.</i></p>
18.9	<ul style="list-style-type: none"> <li>Some submitters on the Strategic Directions topic argued that ‘incompatible activities’ and ‘reverse sensitivity’ were not exactly the same thing. Is your approach consistent or inconsistent with the approach taken by the reporting officer on that topic?</li> </ul> <p>Would it be better to title P6 as 'incompatible activities' as that is the wording in the policy?</p>
Officer response:	<p><i>The s42a report for Strategic Directions commented on the terms ‘reverse sensitivity’ and ‘incompatible activities’. For example, SD-DI-O2 District Wellbeing and Prosperity includes reference to ‘incompatible activities’, and it is of note that some submitters are seeking reference to protecting existing activities from ‘reverse sensitivity’ as well as ‘incompatible activities’. There is submitter evidence that describes the terms as overlapping but different, and notes that the terms are separately referenced in the CRPS.</i></p> <p><i>The reporting officer for Strategic Directions recommended in the Right of Reply Report<sup>1</sup> with respect to SD-DI-O2 that the term ‘incompatible activities’ could potentially not be all encompassing to the extent intended by the notified version, and recommended that the objective refer to both “incompatible activities, and reverse sensitivity”.</i></p> <p><i>The recommended approach with respect to EI-P6 at paragraphs 18.9 and 18.10 of the EI s42a report is to retain the reference to ‘Reverse sensitivity’ in the policy heading, which is partly aligned with the Strategic Directions reporting officer’s recommendation.</i></p> <p><i>Incompatible activities in relation to important infrastructure can create reverse sensitivity effects and a range of other potential adverse effects. Therefore, renaming the policy as ‘Incompatible activities’ may be better in this instance so that the policy is not only focussed on reverse sensitivity effects, but the broader effects of incompatible activities. ‘Incompatible activities’ is also the term referenced in the policy. Such an amendment may achieve greater consistency with the Strategic Directions Chapter (depending on the Panel’s decision in this respect) and may also satisfy Transpower’s relief sought.</i></p>

<sup>1</sup> [https://www.selwyn.govt.nz/data/assets/pdf\\_file/0007/494494/Right-of-Reply-Strategic-Directions.pdf](https://www.selwyn.govt.nz/data/assets/pdf_file/0007/494494/Right-of-Reply-Strategic-Directions.pdf)

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27.5	<ul style="list-style-type: none"> <li>Would a landowner be expected to be aware of the NZCEP and be familiar with its requirements?</li> </ul> <p>If not, is there value in having a district plan rule as well?</p>
Officer response:	<p><i>The EI-Overview refers to the NZCEP and notes that it contains restrictions on the location of buildings and structures in relation to the National Grid and electricity distribution lines, and that compliance with the District Plan rules does not ensure compliance with the NZCEP and vice versa. The NZCEP is readily available online and is relatively straightforward to read and understand with explanatory diagrams. It is anticipated that most land owners with land in the proximity of overhead lines would be aware of the NZCEP, as well as development professionals.</i></p> <p><i>The Council has taken the approach of not duplicating mandatory regulation within the District Plan wherever possible, especially where the regulation is readily obtainable online.</i></p>
31.5	<p>What is the issue with allowing underground infrastructure in areas subject to flooding if there is no permanent change in ground level (acknowledging that this question may be better directed to the natural hazards topic reporting officer)?</p>
Officer response:	<p><i>I have discussed this matter with the Natural Hazards Reporting Officer in relation to EI-R10 and it is considered that the risk of underground utilities exacerbating or being affected by flooding is likely low, especially where there is no permanent change to ground level which would not permanently affect overland flow paths. Therefore, based on this information and in light of the Chorus evidence, I recommend disapplying NH-REQ5.1 in relation to EI-R10 with respect to flooding.</i></p> <p><i>It is of note that there are a number of other rules which attracted submissions seeking deletion of NH-REQ5.1, including: EI-R9; EI-R14; EI-R17; and EI-R19; which also need to be considered further in the context of both flooding and the Greendale Fault, whereby there may also be merit in disapplying such a rule requirement at least with respect to flooding given the temporary nature or minor building footprint of these activities. However, consideration of disapplying such a rule requirement also needs to factor in the wider impact beyond non-regulated Chorus facilities for example.</i></p>
40.8	<ul style="list-style-type: none"> <li>Is there a rule regulating the establishment of artificial waterways and associated structures for 'non network utility operators' either in this chapter or the other chapters?</li> </ul> <p>If not, would the change to remove reference to network utility operators actually widen the scope of the rule significantly, thereby requiring farmers to now meet the standard and the listed rule requirements?</p>
Officer response:	<p><i>Permitted activity rule EI-R26 as notified only refers to waterways for a 'network utility operator', which is a defined term. There is no other rule regulating the establishment of artificial waterways and associated structures specifically for 'non-network utility operators' in the EI Chapter or elsewhere in the PDP.</i></p> <p><i>Therefore, if a non-network utility operator were to seek to establish an artificial watercourse, then this would default to a non-complying activity status (i.e., there is no applicable catch-all discretionary activity rule).</i></p> <p><i>However; after more careful analysis, when looking at the definition of 'network utility operator', effectively any person constructing a watercourse for drainage or water supply (including irrigation) is a network utility operator. It is considered highly unlikely that a watercourse would be constructed for any other purpose than drainage or water supply, so it is unlikely there would be any non-network utility operator</i></p>

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	<p><i>seeking to undertake this type of activity. Therefore, a farmer seeking to establish a watercourse for the distribution of water for supply (including irrigation) or to establish a drainage system, would be defined as a network utility operator and would be permitted to establish an artificial watercourse in accordance with Rule EI-R26 as notified.</i></p> <p><i>Therefore, the rule as notified is broadly applied in any case due to the definition, and on reflection the recommended deletion of “by a network utility operator” from EI-R26 is somewhat redundant and does not broaden the scope of the rule. However not referring to the defined term as recommended may remove any confusion in this regard.</i></p>
40.14	<p>■ Why does this evaluation only refer to the National Grid Yard? How does EI-R26 relate to EI-R1 which specifically covers activities in the National Grid Yard including the reticulation and storage of water in open channels, dams and reservoirs, which are non-complying activities under EI-R1?</p>
Officer response:	<p><i>The amendment to EI-R26 relates to EI-R1 (and EI-REQ1) as EI-R1 as notified does not permit the reticulation or storage of water in open channels, dams or reservoirs within the National Grid Yard. The intention was to achieve consistency between these provisions (refer to the explanation at paragraph 40.8).</i></p> <p><i>However; the section 32AA evaluation should not be confined to the National Grid Yard only and should be broader. In saying this, the s32AA may not be considered necessary at all now given the comments above in relation to EI-R26 and the rule as notified being essentially the same in effect as the recommended amended version.</i></p>
43.7	<p>Elsewhere you have referred to provisions in other district plans as a comparison and for guidance. Are there any examples from other District Plans you can review that would provide guidance on appropriate provisions for wind turbines?</p>
Officer response:	<p><i>Other District Plans do have examples of wind turbine provisions. The Renewable Energy Baseline Reports, which form the basis of the s32 Evaluation, considered other District Plan provisions including the Auckland Unitary Plan, Christchurch District Plan, Far North District Plan and the Proposed Dunedin District Plan (Second Generation Plans).</i></p> <p><i>Wind turbine provisions in less sensitive rural areas were recommended to be explored by the Baseline Report prepared in September 2017<sup>2</sup>, and a further Baseline Report dated 16 October 2018 recommended that enabling policy be developed for small-scale on-site wind generating activities in Industrial and Rural areas provided they are not within sensitive areas (p35)<sup>3</sup>.</i></p> <p><i>In addition, the subsequent Endorsed Preferred Option Report<sup>4</sup> at paragraphs 3.5, 3.6, 6.2 and section 10 addressed REG and wind energy generation. The effects of such structures are recognised as including visual amenity, noise, overshadowing, and impacts on amenity values, and the report noted the tension between enabling small-scale REG activities and ensuring environmental effects are managed.</i></p>

<sup>2</sup> [https://www.selwyn.govt.nz/\\_data/assets/pdf\\_file/0007/354634/EI001-final-report.pdf](https://www.selwyn.govt.nz/_data/assets/pdf_file/0007/354634/EI001-final-report.pdf)

<sup>3</sup> [https://www.selwyn.govt.nz/\\_data/assets/pdf\\_file/0006/287727/6.-Energy-Generation-baseline.pdf](https://www.selwyn.govt.nz/_data/assets/pdf_file/0006/287727/6.-Energy-Generation-baseline.pdf)

<sup>4</sup> [https://www.selwyn.govt.nz/\\_data/assets/pdf\\_file/0004/296302/Endorsed-Preferred-Option-Report-Energy-Generation-EI008.pdf](https://www.selwyn.govt.nz/_data/assets/pdf_file/0004/296302/Endorsed-Preferred-Option-Report-Energy-Generation-EI008.pdf)

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	<p><i>The recommended option was that wind turbines limited to on-site and community scale generation would be a restricted discretionary activity in rural and industrial zones, and a discretionary activity in residential and commercial zones. It was considered this option would permit activities with minor effects such as domestic solar panels and enable increased domestic energy efficiency and opportunities for surplus energy generated by domestic users to be sold back to energy distributors and retailers. It was also recommended to require a resource consent for a restricted discretionary activity for most other activities (except in sensitive locations where consents would be required for discretionary activities) consistent with the NPS-REG.</i></p> <p><i>The PDP rule applicable to small-scale on-site wind turbines is EI-R31, which applies a discretionary activity status across all zones. Therefore, the rule and the need for consent is broadly consistent with the endorsed preferred option report. As stated in the s42a report, while supported in principle, more evidence of small-scale renewable energy generation and its effects would be required. This may in turn enable more targeted and flexible rules to be developed for other renewable energy sources, including wind turbines.</i></p>