

BEFORE THE ENVIRONMENT COURT

IN THE MATTER

of an appeal under Clause 14 of the
First Schedule to the Resource
Management Act 1991

AND

IN THE MATTER

of the Proposed Manawatu District
Plan Change 55 (District Wide Rules)

BETWEEN

POWERCO LIMITED

Appellant

AND

MANAWATU DISTRICT COUNCIL

Respondent

**NOTICE OF APPEAL UNDER CLAUSE 14 OF THE FIRST SCHEDULE TO THE RESOURCE MANAGEMENT
ACT 1991**

**To: The Registrar: Environment Court
District Court Building
Level 5
49 Ballance Street
Wellington 6011**

1. **The Appellant is Powerco Limited (*Powerco*).**
2. **The Respondent is the Manawatu District Council (*the Council*).**
3. Powerco appeals against part of a decision of the Council on Proposed Plan Change 55 to the Manawatu District Plan (*PC 55*). Powerco made submissions to the Council in relation to PC 55. PC 55 relates to District Wide rules and affects the entire Manawatu District. Powerco owns and operates electricity and gas distribution and sub transmission infrastructure that traverses parts of the Manawatu District.
4. Powerco is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
5. The Council notified PC 55 and made decisions on the submissions and further submissions of Powerco in relation to PC 55. Powerco received notice of the decisions on 1 May 2017. Appeals close on 12 June 2017.
6. **The parts of the decision that Powerco's appeal relates to are:**
 - (a) Stand Alone Utilities Chapter - S3.1 Introduction, 3A.4 Rules and 3A.4.2 Standards for Permitted Activities
 - (b) Provision for lineal network utilities to be discretionary activities in Outstanding Natural Landscape Areas, not non-complying – Rules 3A.4.4 and 3A.4.5
 - (c) Provision for Electricity Poles or towers Within An Electricity Transmission Corridor - Rule 3A.4.2(g)(ii)
7. **The general reasons for the Appeal are:**
 - (a) The decision does not accord with the purpose and principles of the Resource Management Act 1991;
 - (b) There is a risk that electricity and gas infrastructure, as existing and significant physical resources, will not be appropriately protected and/or provided for; and
 - (c) The decision does not give effect to the Horizons One Plan Part 1: Regional Policy Statement (*RPS*).
8. **The specific reasons for the Appeal are as follows:**
 - 8.1 **Stand Alone Utilities Chapter - Section 3.1 – Introduction and Section 3A.4 – Introduction to the Rules**
 - (a) ***Powerco's Submission and further submission***

Powerco (Submission S16/004) sought to clarify the relationship between the district wide rules and the zone rules. Powerco sought that the district wide rules prevail for utility activities, and that the specific provisions of the zone chapters are not relevant to utilities, unless specifically identified as such.

Powerco (Submission S16/022) also sought to amend Section 3A.4-Rules to amend the introductory text to delete reference to the zone rules, such that the zone rules are rendered inapplicable.

Powerco supported a submission of similar intent by First Gas (Further Submission FS13/004 to S20/005), which states that the applicability of other chapters makes it difficult for users to interpret the provisions and which seeks relief to the effect that a stand-alone network utility chapter should be provided within the District Wide rules. Powerco also supported in part a submission by Transpower New Zealand Limited (Further Submission FS13/001 to S11/008) seeking that Section 3.1 – Introduction of PC 55 be amended to more clearly describe the relationship between the zone rules and the District Wide rules.

(b) Council's Decision

The Council's decision states that in the end Section 3A may function entirely stand alone, once the sectional review is complete. It also stated that as the Council's Planner had some doubt as to whether or not a change to zone requirements was within the scope of the plan change, a conservative approach to this issue was taken.

The Council has made some amendments to the second paragraph of the Introduction (page 77 of the decision), which now reads as follows (deletions in strikethrough, additions underlined):

This chapter is intended to be read in conjunction ~~should be read along with the~~ relevant zoning provisions. If the relevant zoning rules are more restrictive specific than the provisions contained in this chapter, then ~~they~~ the zone rules shall apply.

The Council has also retained the introductory text in 3A.4 without change, such that it continues to read as follows (p. 83 of the decision):

Rules in this chapter apply District-wide and the chapter needs to be read in conjunction with the District Plan maps, relevant appendices and provisions of the applicable zone.

(c) Reason for Appeal

Powerco seeks the creation of a stand-alone network utility chapter. The zone based approach does not provide an efficient or effective way of dealing with network utilities, nor do the provisions for each zone currently deal with network utilities in an adequate way. Zone rules are designed to accommodate activities anticipated within the zone (eg: residential activities within residential zones). Zone rules will include controls that are not appropriate to apply to a range of network utilities. The changes that are sought through this submission do not seek to change the zone requirements per se, but rather to ensure that all relevant rules are included in, or cross referenced in, the utilities chapter.

Powerco continues to seek clarity on the relationship between the network utility provisions, which form part of the 'district wide' chapter, and the remainder of the district plan, including the zone and other district wide rules. The Council's decision makes some changes to the statements explaining which provisions apply to utilities. However, there is still some repetition and potential conflict between the network utility rules and the zone and remaining district wide rules, and it is not clear which of the zone rules are "relevant".

Powerco considers that there is scope for improvement in clarity as many of the zone rules repeat what is in the utilities rules and it will not necessarily be appropriate that the most restrictive rule should apply. Which rules are 'relevant' needs to be clarified; as such decisions should not be made on a case by case basis in relation to individual applications.

(d) Relief Sought:

Make changes as required to ensure that the zone rules do not apply to the Utilities Section of the District Wide rules. This can be achieved as follows (deletions in strikethrough, additions underlined):

- (i) Make the following changes to 3.1 Introduction, 3A.4 Rules and 3A.4.2 Standards for Permitted Activities:

3.1 Introduction

~~*This chapter is intended to be read in conjunction with the relevant zoning provisions. If the relevant zoning rules are more restrictive than the provisions contained in this chapter, then the zone rules shall apply. The rules in this chapter supersede the zone rules. The zone rules shall only apply if specifically stated in this chapter.*~~

3A.4 Rules

Rules in this chapter apply District-wide and the chapter needs to be read in conjunction with the other district wide rules, the District Plan maps, and relevant appendices ~~and provisions of the applicable zone.~~

3A.4.2 Standards for Permitted Activities

~~*For all zones, the permitted activities specified in Rule 3A.4.1 above must comply with the following standards:*~~

- (ii) Make any consequential amendments to, or as a result of, the above amendments.
- (iii) Other such relief as the Court sees fit.

8.2 Provision for Lineal Activities to be Considered as Discretionary not Non Complying Activities - Rules 3A.4.4 and 3A.4.5

(a) **Powerco's Submission**

Powerco's submissions and further submissions sought to ensure that lineal network utilities located within Outstanding Natural Landscape Areas (ONL's) were discretionary not non-complying activities, including as follows:

- (i) S16/045 – Seeking to retain Rule 3A.4.4 – Default to Discretionary Activity Status
- (ii) S16/046 – Seeking to amend Rule 3A.4.5 – To specifically exclude lineal network utilities from requiring non-complying activity consent.

Powerco lodged further submissions (FS13/027 to S11/042 and FS13/028 to S11/043) to submissions of Transpower New Zealand Limited seeking similar outcomes in respect of nationally significant infrastructure.

(b) **Council's Decision**

The Council has amended Rule 3A.4.5 to give effect in part to Powerco's submissions and further submissions (refer p. 90 of the Council's decision). Rules 3A.4.4 and 3A.4.5 read as follows (deletions in strikethrough, additions underlined):

3A.4.4 Discretionary

Any network utility not otherwise specified as Permitted, Restricted Discretionary or Non-Complying Activity, or is not specifically provided for in this Plan, shall be a Discretionary Activity

3A.4.5 Non-Complying

Any network utility located within an Outstanding Natural Feature or Landscape in Appendix 1C is a Non-Complying Activity unless it is minor upgrading, maintenance or replacement in which case Rule 3A.4.3 applies.

(c) **Reason for Appeal**

Powerco's submissions sought to apply a discretionary, rather than non-complying, activity status to new lineal network utilities in ONL's and to apply a permitted activity status to maintenance and minor upgrading of existing utilities.

The decision is to retain the non-complying status for new lineal utilities. The decision states that this status provides a clear signal that ONFLs are a special class of resource and their values cannot be compromised by general recourse to the evaluation under RMA, s104 unless one of those two gateways are met.

The decision also makes amendments to the provisions that confuse the activity status of maintenance and minor upgrading activities. These changes appear to

apply a restricted discretionary activity status to such activities in contrast to the recommendation that they be permitted.

While the decision advises that the upcoming plan change on ONL's will provide an opportunity to further consider the appropriate status of new utilities in ONL's, little progress appears to have been made on that plan change since comments were lodged in June 2015. Further, it is by no means certain that any such plan change would provide scope to consider the status of lineal network utilities in the Utilities Section of the District Plan. In contrast, there is a degree of likelihood that the status of network utilities in ONL's will be predetermined by PC 55.

Non-complying activity status for new lineal network utilities in ONL's is considered to be inappropriate and inefficient.

The provisions fail to give effect to the One Plan, including Chapters 3, which contains policy direction as to infrastructure and utilities and, Chapter 6 which contains policy direction as to Indigenous Biological Diversity, Landscape and Historic Heritage.

Non-complying status fails to recognise the regional significance of Powerco's infrastructure and the benefits associated with a reliable and secure supply of electricity. Nor does it recognise technical and operational constraints, for example on the location of new electricity lines, which can include the requirement to connect two fixed points, such as a generation source with the distribution network or to connect two substations, in an efficient manner. Non-complying status could potentially undermine the ability of a proposal to meet the S104D gateway tests, even if it meets the test of sustainable management and there are district or region-wide benefits. In that regard, whether or not the threshold test can be met is at present uncertain, because the District Plan section relating to ONL's has yet to be notified and determined.

Applying non-complying activity status to such activities clearly signals that regionally important utilities are not intended to be provided for in ONL, which is neither consistent with the overall policy direction in the One Plan nor effects based. It is possible for the values of outstanding natural areas to remain intact even in the presence of lineal utilities, as is evidenced by the fact that some existing areas are traversed by such infrastructure and there is no evidence that ONL's are currently "at their limit".

Non-complying activity status does not recognise the nature of constraints that apply to lineal activities and which may mean that some areas cannot be avoided and that remediation or mitigation may be appropriate. A lineal utility has to be managed as a whole. The bundling principle may mean that a whole line would become a non-complying activity which is problematic. Furthermore, given that non-lineal utility assets extend beyond property, zone and special area boundaries, this is a particularly important aspect of integrated management, one of the functions of the District Council.

Changes are also required to recognise that the operation, maintenance, replacement and minor upgrading of existing utilities is otherwise, and quite appropriately, specified as permitted, through Rules 3A.4.1 (a) and 3A.4.2(l) as amended¹. Rule 3A.4.1 (a) permits the operation, maintenance, replacement, or minor upgrading of lawfully established or consented network utilities, or those that are existing as at 22 February 2017 (refer page 83 of the decision), while Rule 3A.4.2 (l) permits works within an existing road corridor and operation, maintenance, replacement or minor upgrading works notwithstanding that they are within the areas scheduled in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) of this Plan (refer page 87 of the Decision). The default of operation, maintenance, replacement and minor upgrading activities that are not otherwise permitted to restricted discretionary status, also needs to be recognised.

Finally, the deletion of 'Feature or', is required because those items (Features) require restricted discretionary activity consent in accordance with Rules 3A 4.2.l. (PA standards) and 3A 4.3.i (RDA), and so are currently duplicated.

(d) Relief Sought

Make changes as required to ensure that lineal network utilities located within ONL's are discretionary not non-complying activities and to clarify that operation, minor upgrading, maintenance or replacement of existing lineal utilities within ONL's is a permitted activity. This can be achieved as follows (deletions in strikethrough, additions underlined):

- (i) Retain Rule 3A.4.4 and amend Rule 3A.4.5 as follows:

3A.4.4 Discretionary

Any network utility not otherwise specified as Permitted, Restricted Discretionary or Non-Complying Activity, or is not specifically provided for in this Plan, shall be a Discretionary Activity

3A.4.5 Non-Complying

Any network utility located within an Outstanding Natural ~~Feature or~~ Landscape in Appendix 1C that is not a regionally important lineal utility and which is not otherwise provided for as a permitted or restricted discretionary activity is a Non-Complying Activity ~~unless it is minor upgrading, maintenance or replacement in which case Rule 3A.4.3 applies.~~

¹ These rules were amended in response to submissions of Powerco seeking to permit the operation, maintenance, replacement and minor upgrading of existing utilities.

- (ii) Make any consequential amendments to, or as a result of the above amendments.
- (iii) Other such relief as the Court sees fit.

8.3 Rule 3A.4.2(g)(ii) - Provision for Electricity Poles or towers Within An Electricity Transmission Corridor

(a) *Powerco's Submission*

Powerco sought (Submission S16/035) to amend Rule 3A.4.2 (g)(ii) to provide for electricity poles or towers within an electricity transmission corridor to exceed the maximum height of 2.5m.

(b) *Council's Decision*

The Council rejected Powerco's submission (refer Page 86 of the Decision) and retained Rule 3A.4.2 (g)(ii) which requires that all buildings and structures within an electricity transmission corridor, including the National Grid Yard must both comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP34:2001) and not exceed a maximum height of 2.5m and an area of 10m².

A district wide consent requirement is therefore introduced for all buildings and structures exceeding a height of 2.5m within the National Grid Yard. This will apply to electricity support structures, even where they are providing a connection to the National Grid.

(c) *Reason for Appeal*

The inclusion of electricity infrastructure precludes a number of minor changes to existing National Grid lines, and also excludes the likes of Powerco line connections. Powerco seeks to amend this by explicitly excluding these poles and towers from the permitted standard height requirement (2.5m) as this approach is neither necessary nor effects based. It is not considered that these structures are intended to be captured by the maximum height threshold.

The Council has adopted Rule 3A.4.2 (g)(ii) on the basis that it was included in the District Plan by way of PC 45. In that case, however, the rule only applied to a specific 'growth precinct' in the residential zone. Transpower has made a number of changes to its transmission corridor approach since decisions were released on PC45 in early 2014 and equivalent corridor management rules in more recent district plans / plan changes typically take a more pragmatic and effects based approach to providing for network utilities in the transmission corridor. The wording of the original PC45 rule has been adopted on a district wide basis, however all elements of the rule are no longer considered to be appropriate.

(d) Relief Sought

Exclude electricity poles and towers from the permitted maximum height thresholds.
This can be achieved as follows (deletions in strikethrough, additions underlined):

(i) Amend Standard 3A.4.2 (g)(ii) as follows:

Buildings and structures within an electricity transmission corridor, including the National Grid Yard must:

(i) Comply with the New Zealand Code of Practice for Electrical Safe Distances 2001 (NZECP34:2001), and

(ii) With the exception of electricity lines associated with the electricity transmission or distribution, not exceed a maximum height of 2.5m and an area of 10m²

(ii) Make any consequential amendments to, or as a result of, the above amendments.

(iii) Other such relief as the Court sees fit.



Karen Blair
Burton Planning Consultants Limited
For and on behalf of Powerco Limited

Dated at Takapuna on 08 June 2017

Address for Service:

Burton Planning Consultants Limited
PO Box 33-817
Takapuna
AUCKLAND 0740

Attention: Karen Blair

Ph: (09) 917-4305

Fax: (09) 917-4311

E-Mail: kblair@burtonconsultants.co.nz

Annexures:

- (a) A copy of Powerco's submissions on the relevant points subject to this appeal.
- (b) A copy of the decision on the relevant points subject to this appeal.
- (c) Names and addresses of persons to be served with a copy of this notice.

Advice to Recipients Of This Copy of Notice of Appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the Environment Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see Form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission or the decision appealed. These documents may be obtained, on request, from the appellant by contacting:

*Karen Blair
Burton Planning Consultants Limited*

*Ph: (09) 917-4305
Fax: (09) 917-4311
E-Mail: kblair@burtonconsultants.co.nz*

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Contact Details of Environment Court for lodging documents

Documents may be lodged with the Environment Court by lodging them with the Registrar – refer the following page.

Auckland:	
Specialist Courts and Tribunals Centre Level 2 41 Federal Street (Corner Wyndham Street) Auckland 1010 New Zealand	CX10086 Auckland or PO Box 7147 Wellesley Street Auckland 1141
Ph (09) 916 9091	Fax: (09) 916 9090
Wellington:	
District Court Building Level 5 49 Ballance Street Wellington 6011	SX10044 Wellington or PO Box 5027 Wellington 6145
Ph (04) 918 8300	Fax: (04) 918 8303
Christchurch:	
District Court Building Level 1 282 Durham Street Christchurch 8013	WX11113 Christchurch or PO Box 2069 Christchurch 8013
Ph (03) 365 0905 or 353 8546	Fax: (03) 365 1740

Annexure A

A copy of Powerco's submission and further submissions to the Manawatu District Plan



**NOTICE OF SUBMISSION BY POWERCO LIMITED ON PROPOSED PLAN CHANGE
55 OF THE MANAWATU DISTRICT PLAN**

To: Manawatu District Council
Private Bag 10-001
Feilding 4743

Via email: districtplanreview@mdc.govt.nz

Submitter: Powerco Limited
Private Bag 2061
New Plymouth 4342

Address for Service: BURTON PLANNING CONSULTANTS LIMITED
Level 1, 2-8 Northcroft Street
PO Box 33-817, Takapuna,
AUCKLAND 0740

Attention: Karen Blair

Phone: (09) 917-4305

Fax: (09) 917-4311

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File ref: 13/117

A. INTRODUCTION

1. Powerco Limited (*Powerco*) is New Zealand's largest electricity and second largest gas distributor in terms of network length and has been involved in distribution in New Zealand spanning more than a century. The Manawatu rural sub-transmission network (ex-Manawatu Oroua EPB) consists of open 33kv rings feeding four substations around the periphery of Palmerston North, and 33kV radial feeders to Sanson and Kimbolton via Feilding. The Feilding substation supplies Feilding's entire load. The 33kV circuits are predominantly overhead construction on concrete poles.
2. Powerco also operates a gas distribution network within the Manawatu, which includes a network of underground pipes, valves and above-ground facilities such as District Regulator Stations (DRS) and Gas Measurement Systems (GMS). Powerco's gas assets are based in and around Feilding and Sanson and serve both urban and rural areas.
3. Powerco has telecommunication facilities to control its networks.
4. As such, Powerco seeks to ensure that both its gas and electricity assets in the District are appropriately provided for to enable the ongoing development, operation, maintenance and upgrading of these networks.

The Resource Management Act 1991

5. Under the Resource Management Act 1991 (RMA), Powerco's gas and electricity infrastructure is a significant physical resource that must be sustainably managed and any adverse effect on that infrastructure must be avoided, remedied or mitigated.

The Regional Policy Statement – the Horizons One-Plan

6. The Horizons One-Plan (which incorporates the Regional Policy Statement) contains relevant provisions in relation to the protection of electricity and gas distribution networks, including as follows:
 - Ensuring that the benefits of infrastructure are recognised and appropriately weighed along with other matters in the decision making process. (Policy 3-1);
 - Ensuring that adverse effects on infrastructure and other physical resources of regional or national importance from other activities are avoided as far as reasonably practicable (Policy 3-2), including by:

- ensuring safe separation distances from overhead electric lines are maintained in accordance with the New Zealand Code of Practice for Electrical Safe Distances (NZECP34:2001);
 - ensuring safe separation distance from gas pipelines are maintained by giving effect to Petroleum (NZS/AS 2885) and the Gas Distribution Networks (NZS 5258:2003), the latter promulgated under the Gas Act 1992; and
 - ensuring that planting does not interfere with existing infrastructure by giving effect to the Electricity (Hazards from Trees) Regulations 2003 promulgated under the Electricity Act 1992 and Section 6.6.4 External Interference Prevention of the Operating Code Standard for Pipelines – Gas and Liquid Petroleum (NZS/AS 2885).
 - Requiring decision makers to, in managing adverse effects of new infrastructure, take into account a range of factors including the need for the infrastructure, any functional, operation or technical constraints that require the infrastructure to be located or designed in the manner proposed, alternative locations and whether the effects can be off-set (Policy 3-3); and
 - Requiring territorial authorities to align the management of urban growth and infrastructure asset management planning to ensure the efficient and effective provision of associated infrastructure (Policy 3-3A).
7. Powerco's electricity and gas distribution networks are recognised in the One Plan as being of regional or national importance. It is, therefore, appropriate that its management is comprehensively addressed in the Manawatu District Plan.

B. THE SPECIFIC PROVISIONS OF PLAN CHANGE 55 – DISTRICT WIDE RULES THAT POWERCO'S SUBMISSION RELATES TO ARE SUMMARISED AS FOLLOWS:

8. The submission relates specifically to the following provisions:
- Definitions in Chapter 2
 - Objective and Policies in Chapter 3 District Wide Rules
 - Rules, Permitted Activity Standards and the Matters of Discretion in Chapter 3 District Wide Rules

9. The specific provisions submitted on, the rationale for Powerco's submission on each of these matters, and the relief sought is contained in the following schedules. In the specific relief sought, all additions are shown in underline, with all deletions in ~~striketrough~~.

C. POWERCO WISHES TO BE HEARD IN SUPPORT OF THIS SUBMISSION

D. IF OTHERS MAKE A SIMILAR SUBMISSION, POWERCO WOULD BE PREPARED TO CONSIDER PRESENTING A JOINT CASE AT ANY HEARING.

E. POWERCO COULD NOT GAIN AN ADVANTAGE IN TRADE COMPETITION THROUGH THIS SUBMISSION.

F. POWERCO IS DIRECTLY AFFECTED BY AN EFFECT OF THE SUBJECT MATTER OF THE SUBMISSION THAT—

- (i) ADVERSELY AFFECTS THE ENVIRONMENT; AND**
- (ii) DOES NOT RELATE TO TRADE COMPETITION OR THE EFFECTS OF TRADE COMPETITION.**

Signature of person authorised to sign on behalf of Powerco Limited

Karen Blair

Director / Principal Planner



Dated this 9th day of August 2016

SCHEDULE 1 –DEFINITIONS

A. The specific part of the Proposed Plan Change (55) that is subject of this submission is:

- Definition of 'earthworks', which is supported subject to amendment.
- Definition of 'minor upgrading', which is supported.
- Definition of 'network utility', which is supported.

B. Reason for Submission:

Earthworks

1.1 The definition of 'earthworks' reads as follows:

EARTHWORKS: means the removal, deposit or relocation of soil that results in alteration between the existing and finished ground level. This includes but is not limited to, soil movement associated with subdivision and site works as defined in the Building Act 2004.

For the purpose of this Plan, earthworks excludes the following:

- *work associated with the upgrade or maintenance of farm tracks*
- *fences and fence lines*
- *trenching and backfilling ancillary to the installation of network utilities and services*
- *the minor upgrading or maintenance of network utilities*
- *cultivation*
- *aggregate extraction.*

1.2 Powerco generally supports the intent of the definition of earthworks, especially insofar as it is intended to relate to works that will change the ground level. However, Powerco considers that post holes should be specifically excluded in addition to fences and fence lines (as opposed to being specifically associated with them). Post holes are required for a variety of activities, such as erection of clotheslines and support structures for powerlines. The effects of such activities are similar in nature and extent to post holes for fences. Powerco seeks the specific exclusion of post holes (including those not associated with fences and fence lines) for this reason.

1.3 Additionally, in Powerco's experience maintenance works will often involve the repair and replacement of assets as well as their minor upgrading or maintenance. Minor earthworks

may be required. Replacement and repair are all standard maintenance-type activities that focus on retaining the integrity of the infrastructure. While repair is commonly viewed as a maintenance activity, it needs to be clear that replacement is also a maintenance activity, and this should also be reflected in the definition.

Minor Upgrading

1.4 The definition of 'minor upgrading' reads as follows:

*MINOR UPGRADING: in relation to network **utilities** means increasing the carrying capacity or efficiency of an existing utility while the effects of that utility remain the same or similar in character, intensity and scale. Minor upgrading shall not include an increase in the voltage of an electricity line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage. Examples of minor upgrading may include:*

- (a) Adding circuits and conductor to electricity and **telecommunications** lines.*
- (b) Reconductoring lines with higher capacity conductors.*
- (c) Resagging conductors.*
- (d) Bonding of conductors.*
- (e) Adding longer or more efficient insulators.*
- (f) Adding earthwires to electricity lines, which may contain telecommunication lines, earthpeaks and lightning rods.*
- (g) Adding electrical fittings*
- (h) Replacement of cross arms with cross arms of an alternative design.*

1.5 The definition of 'minor upgrading' as it applies to electricity or telecommunication lines should be amended to provide further clarity on the scope of activities that can be undertaken as 'minor upgrading'. It is noted that the definition states "examples of minor upgrading may include:..." and therefore it is not "limited to", however for clarity Powerco seek to include additional examples into the definition. The specific examples sought to be included relate to tower or pole replacement and the increase of the height of a tower or pole.

1.6 With respect to Powerco's proposed activities, the activities referred to will not have an adverse effect on the environment for the following reasons:

- i) Tower or pole replacement does not happen regularly and is likely to be required for foundation reasons. Powerco has few towers on its lines, but a new high voltage line connection to a windfarm could necessitate the need for towers. When the need arises for replacement, support structures will generally be built in the same or similar location as the previous - however in some circumstances this cannot be achieved. In that case, the support structures will be rebuilt as close as

practicable to the previous location, in order to minimise outage or line jointing. If Powerco has to modify the alignment of any line, it is required to obtain easements in accordance with the Electricity Act, which in turn is likely to address potentially affected parties (should this arise).

- ii) The requirement to increase the height of a pole or tower to meet the requirements of NZECP 34:2001 is often driven by building activities under or in close proximity to existing infrastructure. It may also be required where there is more current going down a line, to meet increased demand, and where the resulting increase in sag cannot be addressed on an ongoing basis by resagging the line.

- 1.7 The effects of the sought activities are considered to be less than minor in the context of the existing line.

Network Utilities

- 1.8 The definition of 'network utilities' reads as follows:

NETWORK UTILITY: means an activity or operation of a network utility operator (as defined under section 166 of the Resource Management Act) and includes those facilities which provide an essential service to the public including:

- (a) telecommunications,
- (b) radiocommunications,
- (c) electricity and gas transmission and distribution,
- (d) water supply (including treatment),
- (e) sewerage reticulation,.
- (f) sewage treatment and disposal,
- (g) drainage and stormwater control or irrigation systems,
- (h) refuse transfer stations,
- (i) recycling centres,
- (j) roads,
- (k) railway,
- (l) fire stations,
- (m) airports,
- (n) navigation aids and
- (o) meteorological facilities.

- 1.9 The definition is appropriate insofar as it refers to "electricity and gas transmission and distribution".

RELIEF SOUGHT – SECTION 2: DEFINITIONS

(Additions are underlined with deletions in ~~strikethrough~~)

1.1 Amend the definition of ‘earthworks’ to exclude ‘post holes’ and ‘replacement’ works for network utilities, as follows:

Earthworks

Earthworks means the removal, deposit or relocation of soil that results in alteration between the existing and finished ground level. This includes but is not limited to, soil movement associated with subdivision and site works as defined in the Building Act 2004.

For the purpose of this Plan, earthworks excludes the following:

- *work associated with the upgrading or maintenance of farm tracks*
- *fences and fence lines*
- *postholes.*
- *trenching and backfilling ancillary to the installation of network utilities and services*
- *the minor upgrading, replacement, or maintenance of network utilities*
- *cultivation*
- *aggregate extraction*

1.2 Amend the definition of ‘minor upgrading’ to include more specific examples of works that do not have an adverse effect on the environment, as follows:

Minor Upgrading

In relation to network utilities means increasing the carrying capacity or efficiency of an existing utility while the effects of that utility remain the same or similar in character, intensity and scale. Minor upgrading shall not include an increase in the voltage of an electricity line unless the line was originally constructed to operate at the higher voltage but has been to operating at a reduced voltage. Examples of minor upgrading may include:

...

- (g) *Adding electrical or telecommunication fittings,*
- (h) *Replacement of cross arms with cross arms of an alternative design.*
- (i) *Support structure replacement within the existing alignment of the line or within 5m of the existing support structures being replaced.*
- (j) *An increase in support structure height required to achieve compliance with NZECP34:2001*
- (k) *An increase in support structure height by no more than 15% of the base height of the support structure, and where the base height is defined as the height of the structure at the date of public notification of the Plan.*

1.3 Retain the definition of ‘network utility’, without further modification, insofar as it refers to “electricity and gas transmission and distribution.”

SCHEDULE 2: 3A NETWORK UTILITIES - GENERAL

A. The specific part of the Proposed Plan Change (55) that is subject of this submission is:

- Section 3.1 – District Wide Rules: Introduction
- Section 3A.1 – Network Utilities: Introduction
- Section 3A.2 – Network Utilities: Resource Management Issues

B. Reason for Submission:

Section 3.1 – District Wide Rules: Introduction

- 2.1 The intent of the Network Utilities chapter is unclear in so far both the district wide and zone provisions appear to apply and the relationship between those zone rules and district wide rules is not clear. The development standards in the zones should not apply to utility structures per se. Powerco seeks that the existing statement be replaced with one that very clearly states that the district wide rules prevail, and that the development standards of the zone are not relevant to utilities.

Section 3A.1 – Network Utilities: Introduction

- 2.2 Policy 3-1 of the One Plan states that the Regional Council and Territorial Authorities must recognise specified infrastructure, facilities and assets as a physical resource of regional or national importance, and have regard to the benefits derived from those resources in relation to their establishment, operation, maintenance or upgrade.
- 2.3 It is appropriate to acknowledge that network utilities can have adverse effects on the environment, that these effects cannot always be avoided, remedied or mitigated, and that this will need to be weighed in the decision making process along with other relevant matters such as the benefits of infrastructure and locational / operational constraints. Powerco supports an extension to clause 1 of Section 3A.1 - Introduction to highlight this.

Section 3A.2 – Network Utilities: Resource Management Issues

- 2.4 Powerco acknowledges that it is appropriate to recognise that network utilities may create adverse environmental effects as a result of their operation (including development and upgrading). As previously mentioned, it is important to recognise a balance between such adverse environmental effects and the benefits network utilities provide to the social, economic and wellbeing of a community (given the locational and operational constraints of such infrastructure). Powerco seeks an amendment to Issue 1 to acknowledge these adverse effects may occur and that they should be avoided, remedied or mitigated to the extent practicable.
- 2.5 Powerco also seeks to recognise that the development of network utilities can be put at risk by inappropriate subdivision, use and development of land. Risks could include the approval of such activities in the absence of utility networks being able to meet their needs (eg: sequencing and supply issues), as well as direct effects such as road realignments or widening affecting existing assets located within road reserve. Powerco seek the inclusion of a reference to “development” in Issue 3 to recognise the potential impact of inappropriate subdivision, use and development of land on the operation, maintenance and upgrading and development of network utilities.
- 2.6 Further, Powerco seeks the deletion of Issue 4. Issue 4 is framed narrowly, referring only to a balance between visual amenity effects and locational needs. The balancing required in respect of network utilities extends beyond visual amenity effects and can be addressed through the changes Powerco seeks to Issue 1.

RELIEF SOUGHT – NETWORK UTILITIES GENERAL

(Additions are underlined with deletions in ~~strike through~~)

- 2.1 Amend the District Wide Rules Introduction to provide clarity to the relationship between the Zone Rules and the District Wide Rules, and to ensure that the District Wide provisions only apply to utilities, as follows:**

~~*This chapter should be read along with the relevant zoning provisions. If the zoning rules are more specific than the provision contained in this chapter, then they shall apply. The provisions in this chapter supersede the zone provisions. The zone provisions shall only apply if specifically stated within this chapter.*~~

2.2 Amend clause 1 of section 3A.1: Introduction to acknowledge the potential adverse effects network utilities could have on the environment, as follows:

Network utilities, including infrastructure of regional and national importance, are an essential part of the District's infrastructure. Communities rely on network utilities to function. It is therefore critical the development, operation, upgrading and maintenance of these essential services are managed appropriately to ensure the social economic and cultural wellbeing of those in the District. Where such infrastructure cannot practicably avoid, remedy or mitigate potential adverse environmental effects, their technical, locational and operational constraints should be recognised and balanced against their benefits.

2.3 Amend Issue 1 to recognise the potential adverse effects network utilities may create, as follows:

To provide for the safe, effective and efficient operation of network utilities, including infrastructure of regional and national importance which support the economic and social wellbeing of the district, recognising that this infrastructure may create adverse effects on the environment.

2.4 Amend Issue 3 to recognise the potential risks of inappropriate subdivision, use and development of land on the development of network utilities, as follows:

The safe and efficient operation, upgrading, ~~and maintenance~~ and development of network utilities can be put at risk by inappropriate subdivision, use and development.

2.5 Delete Issue 4 as this Issue is addressed by the proposed amendment to Issue 1 (above) and other legislation, as follows:

~~*The need to balance the visual amenity effects of network utilities against their locational needs.*~~

SCHEDULE 3: 3A NETWORK UTILITIES - OBJECTIVES AND POLICIES

A. The specific part of the Proposed Plan Change (55) that is subject of this submission is:

- Section 3A.3 – Objectives and policies

B. Reason for Submission:

Objective 1

- 3.1 Powerco supports the general intent of Objective 1. However Objective 1 is drafted in the manner of a policy rather than an objective. Powerco seeks rewording the objective to retain the intent and better represent an objective.
- 3.2 It is also considered appropriate to recognise that network utilities can create adverse effects, and to acknowledge that these effects cannot always be avoided, remedied or mitigated. As such, Powerco seeks to amend Objective 1 to recognise this potential issue, as previously discussed in Schedule 2.

Policy 1.1

- 3.3 In Powerco's experience maintenance works will often involve the repair and replacement of assets. Replacement and repair focus on retaining the integrity of the infrastructure and it is therefore appropriate to include a reference to the activity of "replacement" in Policy 1.1.

Policy 1.2

- 3.4 An amendment is required to Policy 1.2, which refers to co-location being required where possible. The phrase "where possible" should be replaced with the phrase "where practicable". Possible means that which is able to be done, whereas practicable means that which is able to be done successfully. Practicable is considered to be a more appropriate requirement - including being more consistent with the policy approach.

Policy 1.3

- 3.5 Policy 1.3 needs to be amended to recognise that it may not be practicable to underground all new cables and lines. A blanket requirement to underground all lines is inappropriate and fails to give effect to Policy 3-1 of the One Plan. It is not a helpful policy because in the event that a line is not able to be placed underground (as is already required by the rules), it provides no policy guidance as to the circumstances when an above ground location would be appropriate.
- 3.6 Furthermore, an underground location does not necessarily equate to an efficient use. In some situations, an above ground location can be entirely appropriate (and indeed more appropriate than a below ground location). For example:
- There are natural or physical features or structures, or technological and operational constraints that make underground placement impracticable or unreasonable,
 - They are temporary or required for emergency purposes or critical events;
 - They are of a nature that can only operate above ground;
 - There is an existing above ground connection or connections.
 - The cost of undergrounding is prohibitive.
 - They are attached to a bridge to cross a waterway rather than installed underground below the waterway.

Policy 1.4

- 3.7 Powerco seeks to acknowledge the constraints of network utilities when assessing their location, design and appearance; this is especially important when assessing lineal utilities. For example, when a new line is proposed, it is the careful and robust route selection process that determines the best route in environmental and development cost terms, and it is the technical considerations along with the supply demands that dictate the nature and scale of the infrastructure. Because of the scale of the linear utilities network, it is important to recognise the impact of these constraints and requirements on their locations, design and appearance, and to assess these having regard to the broader (not just local or regional) benefits of lineal utilities. The impact of these constraints when attempting to minimise potential cumulative effects of network utilities, needs to be recognised in Policy 1.4.

Policy 1.5

- 3.8 The requirement to “ensure” construction and location that is sensitive to the amenity and landscape values is quite directive, particularly when read in contrast to Policy 1.4 that only

requires the “recognition” of locational requirements. Powerco considers that the Policy intent would better be covered by the deletion of the drafted Policy 1.5 and the inclusion of a new Policy 1.5.

- 3.9 While it is recognised that network utilities can create potential adverse environmental effects, it is also needs to be acknowledged that these effects cannot always be avoided, remedied or mitigated. The new Policy 1.5 could better acknowledge the balance between these potential effects and the benefits network utilities provide to the social, economic and wellbeing of a community, by recognising that it is only the significant adverse effects that need to be avoided, remedied or mitigated. The Policy proposed by Powerco is seen to further the policy package relating to the recognition that not all effects can be avoided, remedied or mitigated due to, for example, the operational and locational constraints of network utilities.

Objective 2 & Policy 2.2

- 3.10 Powerco supports the intent of Objective 2 and Policy 2.2 however, seeks to include provision for “upgrading” in both of these. Unlike buildings or land use activities, the location of utilities is often dictated by demand and the availability of alternatives can be constrained such that it is more appropriate to upgrade than develop a new utility. Similarly, Powerco seeks to include provision for “maintenance and replacement” as well as “upgrading” into both Objective 2 and Policy 2.2. Maintenance and replacement is essential work that must be carried out to ensure the safe and efficient operation of existing network utilities and as such, must be protected from the potential adverse effects of subdivision, development and land use activities. In that regard, potential adverse effects include risk (eg: of line failure) as well as reverse sensitivity effects.

Policy 2.3

- 3.11 Powerco seeks to amend Policy 2.3 to clarify that potential effects on planned network utilities (e.g. designations not yet given effect or utilities identified in structure plans) should also be managed. This can be achieved through incorporating “planned” network utilities into the Policy framework.

Objective 3

- 3.12 As currently drafted, Objective 3 essentially repeats Policy 3.2. Powerco seeks to broaden the objective to relate to the effects of network utilities generally, whilst still ensuring consistency

with the Resource Management Act 1991, and in a manner generally consistent with the intent of Policy 1.

Policy 3.2

- 3.13 The term “practicable” should be added to the end section of the policy to recognise that there may be alternatives, but that these may not be practicable (i.e. unless there is no practicable alternative). The primary way of minimising the adverse effects of new network utility lines is through a careful route selection process as highlighted in submission point 3.7 above. As part of the route selection process, significant landscapes and other sensitive areas (such as those areas identified in drafted Policy 3.2) will be identified and taken into account when arriving at the most appropriate line route, although the provision of the Plan should not have the effect of making such areas inviolable and should ensure that significant landscapes and other sensitive areas are clearly identified. Depending on the nature of the receiving environment, for example, the location of a new line may avoid a particular sensitive area. Alternatively it may have to traverse part of an area because to do otherwise may result in greater overall effects from the line route.

RELIEF SOUGHT – 3A NETWORK UTILITIES - OBJECTIVES AND POLICIES

(Additions are underlined with deletions in ~~strikethrough~~)

- 3.1 Amend Objective 1 to recognise that potential adverse environmental effects cannot always be avoided, remedied or mitigated and to read more like an objective than a policy, as follows:**

~~To ensure network utilities are designed, located, constructed, operated and maintained in a manner that ensures the efficient use of natural and physical resources while recognising the environment they are located in.~~ To recognise and provide for the ongoing operation, maintenance, replacement, upgrading and development of network utilities, whilst avoiding, remedying or mitigating significant adverse effects.

- 3.2 Amend Policy 1.1 to include reference to “replacement”, as follows:**

To enable the establishment, operation, maintenance, replacement and minor upgrading and development of network utilities.

- 3.3 Amend Policy 1.2 by replacing the phrase “where possible” with “where practicable”,**

which is considered a much more appropriate requirement, as follows:

To encourage network utility operators to coordinate and co-locate service or to locate within the existing roading network ~~where possible~~ where practicable to minimise potential cumulative effects.

- 3.4 Amend Policy 1.3 to recognise that it may not be practicable to underground all new cables and lines, as follows:**

To require that, to the extent practicable, all new cables and lines, including electricity distribution lines (but not the National Grid) are installed underground.

- 3.5 Amend Policy 1.4 to recognise the constraints associated with network utilities when assessing potential cumulative effects and / benefits of such infrastructure, as follows:**

To recognise the locational, technical and operational requirements and constraints of network utilities and the contribution they make to the functioning and wellbeing of the community when assessing their location and design.

- 3.6 Delete Policy 1.5 as to 'ensure' construction and location that is sensitive to the amenity and landscape values is unnecessarily directive, as follows:**

~~To ensure network utilities are constructed and located in a manner sensitive to the amenity and landscape values where they are located.~~

- 3.7 Insert a new Policy (1.5) that recognises that the significant effects of network utilities cannot always be avoided, remedied or mitigated, as follows:**

To ensure that significant adverse effects on the environment are avoided, remedied or mitigated.

- 3.8 Amend Objective 2 to also protect "maintenance, replacement and upgrading" of existing network utilities as well as planned development of new network utilities from the adverse effects of subdivision, development and land use activities, as follows:**

To protect the operation, maintenance, replacement and upgrading of existing network utilities, including infrastructure of regional and national importance, and the planned development of new network utilities from the potential adverse effects of subdivision, use, development and ~~other~~ land use activities.

3.9 Retain Policy 2.1 without modification, as follows:

To ensure that any vegetation is planted and maintained to avoid interference with network utilities, including transmission lines and the National Grid Yard.

3.10 Amend Policy 2.2 to include “maintenance, replacement and upgrading” thereby acknowledging instances that it is more appropriate to upgrade than develop new utility and to refer to risk as well as reverse sensitivity issues as follows:

To require that appropriate separation of activities is maintained to enable the safe operation, maintenance, replacement and upgrading of existing network utilities, and avoid reserve sensitivity and / or risk issues.

3.11 Amend Policy 2.3 to include a specific reference to ‘replacement’ activities and to acknowledge that planned network utilities should also be protected from the adverse effects of subdivision and development, as follows :

To ensure all subdivision and development is designed to avoid adverse effects on the operation, access, maintenance, replacement and upgrading of existing or planned, network utilities.

3.12 Amend Objective 3 to manage the significant adverse effects of utilities in a manner while also protecting the values of Outstanding Natural Features and Landscapes, as follows:

To protect ~~restrict, except within an existing road carriageway, the development of network utilities within areas of significant heritage and landscape value~~ recognising the values of Outstanding Natural Features and Landscapes from inappropriate development of network utilities.

3.13 Delete Policy 3.1 as this policy is now incorporated into the amendments sought to Objective 3, as follows:

~~To protect the values that cause an Outstanding Natural Feature and Landscape to be identified in Appendix 1C from inappropriate subdivision, use and development.~~

3.14 Amend Policy 3.2 to recognise both the overall benefits of proposed network utility development and that potential alternative locations for such development may not necessarily be practicable, as follows:

To limit the development of network utilities within Outstanding Natural Features and

Landscapes in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value) and 1F (Sites with Heritage Value) unless there is no practicable alternative location.

SCHEDULE 4:3A NETWORK UTILITIES - RULES

A. The specific part of the Proposed Plan Change (55) that is subject of this submission is:

- Section 3A.4.1 – Permitted Activities
- Section 3A.4.1 – Guidance Notes
- Section 3A.4.2 – Permitted Activities Standards
- Section 3A.4.3 – Restricted Discretionary Activities
- Section 3A.4.4 – Discretionary
- Section 3A.4.1 – Non-Complying

B. Reason for Submission:

Permitted Activities

- 4.1 Powerco seeks to amend the introductory text under '3A.4 Rules' and 3A.4.2 to delete reference to the zone rules. .
- 4.2 Powerco supports in principle 4.1(a) but seeks the date is deleted from Rule 3A.4.1(a) as it is not required. If a new facility is established then it should be able to be operated, maintained, and repaired and / or minor upgraded as a permitted activity. As the rule is currently drafted, it is not permitted to perform these works on new facilities. Further Powerco questions whether the inclusion of 'repair' is required as it is assumed, consistent with the policy approach, that these would fall to be considered as maintenance works.
- 4.3 Powerco supports in principle 4.1(c), however Rule 3A.4.1 (c) permits radiocommunication and/or telecommunication facilities, cables and lines, including those underground, provided that they comply with the standards of Rule 3A.4.2. However as drafted, the inclusion of "including those underground" could be read to imply that underground works are not necessarily provided for in respect of other utilities. Therefore, Powerco seeks that "including those underground" is deleted from the clause (c) for clarity and consistency.
- 4.4 Powerco supports in principle 4.1(g) however it notes that electricity networks are made up of a number of component pieces, not just lines, transformers and switchgear, which form an

integral but not exclusive part of the network. Powerco seeks a more general reference to provide for this other equipment rather than listing different items. Additionally, Powerco seeks the inclusion of “repair” if it is to be retained in Rule 3A.4.1(a) – although it prefers repair being a specific subset of maintenance activities. Alternatively, Rule 3A.4.1(g) could just relate to construction and rely on Rule 3A.4.1(a) to capture operation, maintenance, minor upgrading and repair of network utilities (assuming the date is also deleted as sought).

- 4.5 Powerco otherwise supports the following specific permitted activity rules:

C. radiocommunication and/or telecommunication facilities, cables and lines, including those underground

F. pipes for the distribution (but not transmission) of natural or manufactured gas at a gauge pressure not exceeding 2000kPa including any necessary ancillary equipment such as household connections and compressor stations.

N. decommissioning and removal of utilities.

- 4.6 Powerco also supports the inclusion of a new permitted activity rule as follows:

Trimming and removal of any vegetation that is required to maintain safe separation distances or the ongoing efficient operation of the line.

Permitted Activities - Guidance Note 4

- 4.7 Vegetation and planting around any electricity line, not just transmission lines (National Grid) must comply with the Electricity (Hazards from Trees) Regulations 2003. As drafted, Guidance Note 4 could be read to imply that compliance is only required in respect of the National Grid and is therefore opposed. However, Powerco does support the inclusion of a more generic guidance note in the Plan and considers that this would be entirely consistent with Policy 2.1. The Plan should be amended / corrected to properly refer to the activities that must comply with the Regulations.

Permitted Activities - Guidance Note 5

- 4.8 Powerco supports the inclusion of Guidance Note 5 relating to the NZECP34. However, Powerco seeks a minor amendment to the Guidance Note to ensure that Plan users appreciate that the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

Standards for Permitted Activities

- 4.9 Standards 3A.4.2 (a) and (f) apply a permitted threshold to the maximum height of network utilities - dependant on which zone the utility is constructed and whether the utility is new or existing, including applying to the minor upgrading of network utilities. However the definition of 'minor upgrading' only provides for increasing the carrying capacity or efficiency of an existing utility. Of concern to Powerco is that increasing the height of an existing utility as a result of, for example, achieving compliance with the NZECP34:2001 (that is provided for as a permitted activity), may not be regarded as 'improving the carrying capacity or efficiency' of the utility – therefore, not complying with the permitted activity rules. For assurance, Powerco seeks amendments to activity standards 3A.4.2 (a) and (f) to exempt minor upgrading from compliance with the height restriction. The application of (f) to distribution lines is supported.
- 4.10 Standard 3A.4.2 (g)(ii) restricts the maximum height of buildings and structures within an electricity transmission corridor (including the National Grid). The definition of structure captures electricity poles and towers. As drafted, the standard does not provide for electricity poles and towers to exceed the maximum height of 2.5m within an electricity transmission corridor. The inclusion of electricity infrastructure would, ironically, preclude a number of minor changes to existing National Grid lines, but would also exclude the likes of Powerco line connections. Powerco seeks to amend this by explicitly excluding these poles and towers from the permitted standard height requirement as it is considered these structures are not intended to be captured by the maximum height threshold.
- 4.11 Standard 3A.4.2 (l) permits, in certain areas, only works associated with any network utility that does not result in any adverse effects. Powerco considers that the rule is inappropriate as it lacks clarity and certainty, is not readily enforceable and simply repeats the policy intent of Policy 3.2. Where existing assets are located in these areas, Powerco considers that the operation, maintenance, minor upgrading, replacement or repair of those utilities or the location of utilities within an existing road reserve, will not result in adverse effects, and that such activities should remain permitted in these areas. Powerco acknowledges, however, that any new assets it may propose in these areas *may or may not* have adverse effects on the natural, cultural or historical heritage values of the items scheduled and referenced. As such, this standard could be amended. New network utilities in those stated areas would then

require restricted discretionary activity consent, in accordance with Rule 3A.4.3 (for non-compliance with the permitted activity standards) and unless otherwise specified.

- 4.12 Standard 3A.4.2 (q) manages vibration for all activities so that it is not discernible beyond site boundaries. Powerco considers this standard reasonable for activities that are not construction related. Construction related activities should be required to meet a relevant construction vibration standard. Therefore Powerco seek to exempt construction activities from this standard. Reference to a construction standard could however be incorporated.

Restricted Discretionary

- 4.13 The matters of discretion are drafted too broadly and include a range of matters that will not be relevant to every situation. For example, if compliance is not achieved with the height standard, then noise and vibration are not relevant considerations. It needs to be clear that discretion will only be restricted to effects that are relevant to the standard that is not being met.
- 4.14 Powerco generally accepts the proposed assessment criteria for restricted discretionary activities. However, Powerco seek the following minor amendments to the assessment criteria:
- Clause (i) to recognise that benefits can accrue to the wider community and beyond.
 - Clause (ii) – insert “significant” before ‘adverse effects’ to ensure that less than minor or minor adverse effects are not considered alongside significant adverse effects. Significant adverse effects should be the main concern of the Council determining whether to grant resource consents.
 - Clause (iv) – this clause should refer to all utilities except lineal utilities. Lineal utilities effects cannot be internalised to ‘the site’ (i.e. one site).
 - Clause (v) – ‘possible’ should be replaced with ‘practicable’. Impracticable placement of network utilities could, for example, be entirely possible at a large cost to the utility provider, although not entirely practical i.e. a proposal could require significantly more line and towers to travers a longer alternative route than a more practical shorter route. It is more appropriate for the practical route options to be assessed against each other and not all possible but impractical routes.
 - Clause (vi) – minor amendments are proposed for clarity i.e. not all proposals will have an impact on the identified heritage values of the District, however, if the proposal does impact built heritage there should be an assessment to both the

remedy and / or mitigation of these effects (not just mitigation). Furthermore, the criteria should refer to the effects on the identified heritage values, rather than on the heritage items per se.

- Clause (vii) – amend the requirement in this clause to the degree to which alternative locations, sites, or routes have been considered rather than requiring the route to be “better” than the alternatives, having regard to operational, locational or technical constraints.

Discretionary and Non-Complying Activities

- 4.15 The operation, maintenance, and minor upgrading of existing lines / utilities within Outstanding Natural Features or Landscape in Appendix C is permitted - it is only construction and upgrading, other than minor upgrading, that requires consent.
- 4.16 Non-complying activity status pre-empts the need to weigh the protection of natural resources against the appropriate development of physical resources in order to achieve sustainable management and fails to take into account the traversing of such utilities across a range of environments. When a new line is proposed, it is the careful and robust route selection process that determines the best route in environmental and development cost terms. That route selection process is the key means by which the potentially significant adverse effects of transmission lines can be addressed. Even so, because of the scale of the linear network there can still be considerable difficulty in avoiding such areas. In some cases, for example, it may be more appropriate for new transmission lines to traverse parts of significant landscapes, where this would result in less significant adverse effects overall.
- 4.17 Powerco considers that the construction or upgrading (excluding minor upgrading) of any ‘lineal network’ utilities should be discretionary only – noting that the operation, maintenance and minor upgrading of existing lines are already provided for as a permitted activity. Further, the construction or upgrading (excluding minor upgrading) of any non-lineal network utilities within an Outstanding Natural Feature or Landscape in Appendix 1C should be a non-complying activity – given the key difference that the utility in question is not “lineal”. Non complying activity status is inappropriate and fails to give effect to the policy intent of the RPS.
- 4.18 Furthermore, the reference to Outstanding Natural Feature or Landscape in Appendix 1C should be amended to delete “Feature or” as those items require restricted discretionary activity consent in accordance with Rules 3A 4.2.I. (PA standards) and 3A 4.3.i (RDA). Also, the

rule should specifically refer to 'new' network utility activities, to properly recognise that the operation, maintenance, replacement and minor upgrading of existing utilities is otherwise specified as permitted.

RELIEF SOUGHT – 3A NETWORK UTILITIES – RULES

- 4.1 Amend introductory text to section 3A.4 and 3A.4.2 to provide clarity on how the rules are read alongside the rest of the Plan, and specifically to remove the reference to the need to comply with zone rules, as follows:**

3A.4 Rules

Rules in this chapter apply District-wide and the chapter needs to be read in conjunction with the District Plan maps, and the relevant appendices ~~and provisions of the applicable zone.~~

3A.4.2 Standards for Permitted Activities

~~For all zones, the~~The permitted activities specified in Rule 3A.4.1 above must comply with the following standards:

- 4.2 Amend permitted activity Rule 3A.4.1(a) so that new facilities are recognised as a permitted activity for operation, maintenance, replacement, minor upgrading [or repairs] irrespective of their establishment date, as follows:**

The operation, maintenance, replacement, minor upgrading or repair of network utilities existing as at [add decision date] or which have been lawfully established.

- 4.3 Amend permitted activity Rule 3A.4.1(c) so that the clause does not imply that other underground utilities are not necessarily provided for, as follows:**

Radiocommunication and/or telecommunication facilities, cables and lines, ~~including those underground.~~

- 4.4 Amend Rule 3A.4.1(g) to include replacement and so that other equipment which forms an integral part of the network are also included as a permitted activity, as follows:**

The construction, operation, maintenance, replacement and upgrading of any new electricity lines up to and including 110kV and associated equipment such as transformers and switchgear.

- 4.5 Retain the following permitted activity rules:**

C. Radiocommunication and/or telecommunication facilities, cables and lines, including those underground

F. Pipes for the distribution (but not transmission) of natural or manufactured gas at a gauge pressure not exceeding 2000kPa including any necessary ancillary equipment such as household connections and compressor stations.

N. Decommissioning and removal of utilities.

4.6 Add a new permitted activity rule to permit

x. Trimming and removal of any vegetation that is required to maintain safe separation distances or the ongoing efficient operation of the line.

4.7 Amend Guidance Note 4 so that the Note properly refers to the activities that must comply with the Regulations referenced, as follows:

Vegetation and planting around ~~Transmission~~ all Electricity Lines (including the National Grid) shall comply with the Electricity (Hazards from Trees) Regulations 2003.

4.8 Amend Guidance Note 5 so that Plan users are aware that compliance with the Code of Practice is mandatory, as follows:

The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) contains restrictions on the location of structures and activities in relation to the lines, and must be complied with.

4.9 Amend Standard 3A.4.2 (a) so that existing network utilities are also provided for alongside new utilities, minor upgrading activities are excluded and it is clear that (f) applies over (a) as relevant, and as follows:

~~New~~ Unless otherwise specifically provided for, network utilities, with the exception of and minor upgrading, must not exceed a maximum height of

- (i) 9m within the Residential or Village Zone, or*
- (ii) 20m for all other zones.*

4.10 Amend Standard 3A.4.2 (f) to exclude minor upgrading activities, but otherwise retain as follows:

Poles or towers associated with electricity transmission and distribution must not, with the exception of minor upgrading of poles or towers, exceed a height of:

- i. 12m in the Residential and Inner Business Zones, or*
- ii. 20 in all other zones*

4.11 Amend Standard 3A.4.2 (g)(ii) so that electricity poles and towers are excluded from the permitted maximum height thresholds, as follows:

Buildings and structures within an electricity transmission corridor, including the National Grid Yard must:

- (i) Comply with the New Zealand Code of Practice for Electrical Safe Distances 2001 (NZECP34:2001), and*
- (ii) With the exception of poles or towers associated with the electricity transmission or distribution, nNot exceed a maximum height of 2.5m and an area of 10m²*

4.12 Amend Standard 3A.4.2 (l) to provide only for works that are considered have no adverse effects, as follows:

~~Works associated with any New network utilities, except within an existing road carriageway, are not located within those areas scheduled must not result in adverse effects on the values or characteristics for any significant historic built or natural heritage specified in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value) and 1F (Sites with Heritage Value) of this Plan.~~

4.13 Amend Standard 3A.4.2 (q) so that construction activities are exempt from requiring discernible vibration beyond site boundaries, and if necessary insert a new vibration standard relevant for construction activities, as follows:

All activities, except construction activities, must be managed so that no vibration is discernible beyond site boundaries.

4.14 Amend the matters of discretion in 3A.4.3 to require only those matters that are relevant to the infringement to be considered, as follows:

For these activities, the Council has restricted its discretion to considering the following matters, only to the extent that they are relevant to the standard that is not met:

4.15 Amend the Restricted Discretionary Assessment Criteria for various reasons outlined in paragraph 4.14, as follows:

- (i) The proposed benefits of the network utility proposal to the wider community and beyond.*
- (ii) whether the activity will result in any significant adverse effects on amenity values of neighbouring properties or the character of the zone in which the activity is proposed.*
- (iv) except in relation to lineal utilities, the degree to which the non-compliance can be mitigated to ensure the effects are internalised to the site.*
- (v) the degree to which co-location has been considered and is possible/practicable.*
- (vi) whether the activity impacts on the identified heritage values of the District and if so, how such impacts are remedied or mitigated.*
- (vii) The degree to which the proposed location, site or route is better than alternative locations, sites, or routes have been assessed and any operational, locational or technical constraints considered.*

4.16 Retain the Discretionary Rule, which will ensure that lineal network utilities located within an Outstanding Natural Landscape in Appendix 1C require discretionary activity consent, as follows:

Any network utility not otherwise specified as Permitted, Restricted Discretionary or Non-Complying Activity, or is not specifically provided for in this Plan, shall be a Discretionary Activity.

4.17 Amend the Non-complying Rule so that lineal network utilities located within an Outstanding Natural Landscapes (not Features) in Appendix 1C are a discretionary activity, as follows:

Any new non-linear network utility located within an Outstanding Natural Landscape in Appendix 1C is a Non-Complying Activity.

SCHEDULE 6: 3D EARTHWORKS – OBJECTIVES AND POLICIES

A. The specific part of the Proposed Plan Change (55) that is subject of this submission is:

- Section 3D.3.1 – Objectives and Policies

B. Reason for Submission:

Resource Management Issues

- 6.1 There is a need to manage earthworks and the development of land in the immediate vicinity of electricity utilities. All activities within the vicinity of overhead power lines must comply with the NZECP 34:2001 and the Trees Regulations 2003. These documents set out the minimum safe separation distance required to control the interface between overhead electricity lines and, of relevance to this submission point, earthworks. Safe separation distances between earthworks and network utility assets are required to ensure public safety and to preserve the reliability of the electricity supply system for all consumers. It is therefore appropriate to recognise this as a resource managing issue – i.e. earthworks can adversely affect the safe, efficient and effective functioning of network utilities.

Policy 1.2

- 6.2 As drafted, Policy 1.2 is not written in a way that clearly guides decision making or states how an effect is going to be dealt with. Clarification is required as to what this policy is seeking to achieve.

Policy 1.3

- 6.3 Policy 1.3 sets a high thresholds in so far that it provides for earthworks that can “eliminate” risks to human health and safety within Outstanding Natural Features or Landscapes. It is very difficult to eliminate risk therefore it is considered more appropriate and achievable to “manage” risks to an acceptable level rather than “eliminate” it.

Objective 2 and Policy 2.1

- 6.4 It is considered appropriate to remove “visual amenity effects” from both Objective 2 and Policy 2.1 because these effects have already been addressed in Objective 1.

Policy 2.3

- 6.5 Powerco has concerns over dust and its impacts on electricity lines. Dust can result in the build-up of material on electricity lines and their equipment. This can adversely impact on the operation of the network by increasing the risk of circuit trippings or flashovers. Particulate matter can also corrode the existing electricity equipment, which can shorten its economic life resulting in costly and unplanned replacement. It is important, therefore, to give some context to the management of dust and its potential impacts on electricity lines. Therefore, Powerco suggests an amendment to Policy 2.3 to include provision for the management of dust.

RELIEF SOUGHT – 3D EARTHWORKS – OBJECTIVES AND POLICIES

(Additions are underlined with deletions in ~~striketrough~~)

- 6.1 Insert a new Resource Management Issue that recognises the potential adverse effects of earthworks close to or on network utilities, as follows:**

Earthworks can adversely affect the safe, efficient and effective functioning of network utilities.

- 6.2 Amend Policy 3D.3.1.3 to ensure risk is managed to an appropriate level rather than eliminated, as follows:**

To restrict earthworks in Outstanding Natural Features or Landscapes, except where earthworks are necessary to eliminate unacceptable risk to human health and safety.

- 6.3 Amend Objective 3D.2 by deleting reference to visual amenity effects’ as this is already considered to be addressed in the previous objective, as follows:**

To ensure that earthworks are designed and undertaken in a manner to minimise the risk of land instability and accelerated erosion ~~and visual amenity effects.~~

- 6.4 Amend Policy 3D.2.1 by deleting reference to visual amenity effects’ as this is already addressed in Objective 1, as follows:**

To ensure that earthworks are appropriate for the site they are located on to avoid land instability ~~and visual amenity effects beyond the site.~~

6.5 Amend Policy 3D.2.4 by ensuring the impact of dust does not impact electricity lines as well as other activities, as follows:

To ensure all adverse effects from earthworks including dust and sediment run-off are managed onsite to ensure that particulate matter does not cause nuisance or pollution or affect the safety or operation of other activities.

SEHDULE 7: 3D EARTHWORKS - RULES

A. The specific part of the Proposed Plan Change (55) that is subject of this submission is:

- Section 3D.4.2 – Standards for Permitted Activities
- Section 3D.4.2 – Guidance Notes
- Section 3D.4.5 – Non-Complying Activities

B. Reason for Submission:

Standards for Permitted Activities

- 7.1 Permitted Activity Standard 3D.4.2 (a) should be deleted and replaced with reference to erosion and sediment control measures complying with a suitable reference document applicable to the Manawatu-Whanganui Region. A suggestion could be the Greater Wellington Regional Council's *Erosion and Sediment Control Guidelines* (Reprint June 2006) as this Plan is incorporated by reference into the One Plan (Rule 13-2 of the One Plan). This is because the standard otherwise reads as an absolute standard, which is inappropriate as long as best practice is met, and could be read to require all runoff from earthworks to be discharged to land rather than to the reticulated network.
- 7.2 As previously mentioned in paragraph 6.5 above, Powerco has concerns over dust and its impacts on electricity lines and seeks an appropriate amendment to Policy 2.3. As a result of this amendment, Powerco seeks to add a standard relating to the control of dust into the permitted activities standards.
- 7.3 Policy 3-2 (c) of the One Plan requires infrastructure owners to be notified of applications that may affect their assets. An additional standard is proposed to give effect (in part) to that requirement. While the inclusion of Guidance Note 4 is acknowledged, in practise this is unlikely to be consistently given effect. The alternative approach would be to require consent for earthworks in and around lines (as per rule 3D.4.2(f) and (g)).

Guidance Note

- 7.4 Powerco supports the Guidance note associated with Permitted Activity Standard 3D.4.2 (f) insofar as it indicates compliance with the NZECP34:2001 is mandatory and that this applies to all electricity lines.

Non-Complying Activities

- 7.5 On the basis that the changes sought are accepted to the definition of 'earthworks' (to ensure that earthworks associated with the maintenance, minor upgrade, replacement or installation of network utilities are excluded from the definition), such earthworks would not be subject to Rule 3D.4.5 and so the non-complying activity rule is not opposed. A non-complying activity status for earthworks associated with network utilities in ONFLs would, otherwise, be opposed, for the same reasons set out in the comment on Rules 3A.4.4 and 3A.4.5.

RELIEF SOUGHT – 3D EARTHWORKS - RULES

(Additions are underlined with deletions in strikethrough)

- 7.1 **Delete Permitted Activity Standard 3D.4.2 (a) and merge with Standard 3D.4.2 (b) to require appropriate Erosion and Sediment Control Standards to be implemented, as follows:**

Erosion and sediment control measures complying with the Greater Wellington Regional Council's Erosion and Sediment Control Guidelines (Reprint June 2006). ~~Any sediment run-off from earthworks must be contained within the subject site.~~ must be installed prior to earthworks commencing, maintained during the works, and only removed once stabilisation occurs.

- 7.2 **Insert a new Permitted Activity Standard 3D.4.2 (b) to control dust to prevent nuisance including unwanted build-up on electricity lines, as follows:**

Dust shall be controlled so that it does not generate a nuisance.

Retain the Guidance Note for Permitted Activity Standard 3D.4.2 (f), as follows:

The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) contains restrictions on the location of structures and activities in relation to all electricity lines. Compliance with the Code of Practice is mandatory. Compliance with the permitted

activity standards of the Plan does not ensure compliance with the Code of Practice.

- 7.3 Insert a new Permitted Activity Standard 3D.4.2 (g) to give effect to Policy 3 – 2 (c) of the One Plan to require the notification of infrastructure owners when applications may affect their assets, as follows:**

Where earthworks are to be undertaken within 20m of any electricity line, the owners of the electrical network shall be advised in writing of the intention to carry out the works not less than 5 working days prior to their commencement.

SEHDULE 8: 3E SIGNS

A. The specific part of the Proposed Plan Change (55) that is subject of this submission is:

- Section 3E.1 – Introduction

B. Reason for Submission:

Network Utility Signage

8.1 Powerco uses signs on its electricity assets for the purposes of asset identification and warning people of health and safety hazards, as required by other legislation. Such signs are important for the identification of assets and to warn the public of health and safety risk associated with utilities (such as high voltage electricity) or safety requirements for temporary works within the vicinity of the assets. Such signs are small in size and are typically attached to, and viewed within the context of, the network utility structure. It is considered appropriate to permit these signs throughout the District.

8.2 The definition of 'sign' reads as follows:

means any advertising matter used to give information on a product, service, event or location. It includes the frame, supporting device and any associated ancillary equipment where the principal function is to support the advertising matter. Any advertising material located within shop window displays in the Inner and Outer Business Zones and the Special Development Zone are excluded.

8.3 It is understood that the above definition is limited to 'advertising signs' only and this is supported.

8.4 While the definition of 'official sign' reads as follows:

means any regulatory traffic and official signs approved by Council or provided under any legislation.

- 8.5 The above definition for 'official signs' provides a link to the defined term 'sign' (refer to 8.2 above). As drafted, this means that only signs used for advertising purposes will be controlled as 'official signs' – which is also supported.
- 8.6 Given that it is noted that the definition of signs relates to advertising matters, the definition of both 'signs' and 'official signs' are supported insofar as they also only relate to advertising signs / displays. As such, warning signs and identification signs associated with network utilities are assumed to be uncontrolled. That intent is supported. An amendment to the introduction is proposed to ensure this intent is clear.

RELIEF SOUGHT – SECTION 3E - SIGNS

(Additions are underlined with deletions in strikethrough)

- 8.7 Amend paragraph two of the introduction to ensure it is clear that hazard and / or risk, identification and site safety signs are exempt from controls of this Plan, as follows**
- It is critical to ensure all signs are managed appropriately to avoid, mitigate, and remedy potential adverse effects on the environment. For clarification, hazard or risk, identification and site safety signage does not fall to be considered as 'signs' as defined in the Plan and are therefore not controlled by the Plan. Such signs are provided for and required by other legislation.*

SEHDULE 9: 3F TEMPORARY ACIVITIES

A. The specific part of the Proposed Plan Change (55) that is subject of this submission is:

- Section 3F.3 – Objectives and Policies
- Section 3F.4.1 – Permitted Activities

B. Reason for Submission:

Policy 1.2

- 9.1 Insert “significant” before ‘adverse effects’ to ensure that less than minor or minor adverse effects are not considered alongside significant adverse effects. For temporary activities, significant adverse effects should be the main concern of Council when determining whether to grant resource consent. It should also be noted that sometimes short term effects are acceptable when temporary (e.g. for emergency works).

Permitted Activity Rules

- 9.2 Construction activities and their related effects are temporary in nature and it is not always considered practicable to ensure compliance with the noise limits of the zone the works are in. For example, the same construction activity may be permitted (in terms of noise thresholds) in the industrial zone but may not comply within the noise limits in the rural zone. In the rural zone there may be a greater distance between the works and the nearest neighbour / sensitive activity whereas in the industrial zone there may be considerably more neighbours / sensitive activities within close proximity to the works – thereby increasing the nuisance effects generated by the works. It is therefore suggested that construction and demolition activities are exempt from rule 3F.4.1 (e) and instead compliance is required with both NZS 6803:1999 Acoustics Construction Noise and BS 5228-2:2009 – Part 2 Vibration.
- 9.3 It is suggested reference to both New Zealand Standard NZS 6803:1999 Acoustics – Construction Noise and British Standard BS 5228-2:2009 Code of Practice for noise and vibration control on construction and open sites – Part 2: Vibration are included in the permitted activities rules. NZS 6803:1999 covers the measurement and predication of noise

from construction, maintenance and demolition works, and the assessment of such noise to determine whether action is required to control it. BS 5288-2:2009 provides guidance on human expectations and responses to construction vibration, stating when vibration is typically perceptible and when it can be tolerated if prior warning and explanation has been given.

RELIEF SOUGHT – SECTION 3F – TEMPORARY ACTIVITIES

(Additions are underlined with deletions in strikethrough)

- 9.4 Amend Policy 1.2 by inserting “significant” to ensure significant adverse effects are the primary concern for Council when determining resource consents, as follows**

To ensure temporary activities do not result in significant adverse amenity effects on noise sensitive activities.

- 9.5 Amend Permitted Activity Rules by inserting construction and demolition activities, as follows:**

e. Noise associated with temporary activities, except construction and demolition activities, must comply with the noise provisions relating to the zone it is located in.

f. Construction and demolition activities must:

i. Comply with NZS 6803:1999 Acoustics – Construction Noise;

ii. Controlling construction vibration by reference to British Standard DS 5228-2:2009 Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration

To:

**District Plan Review
Manawatu District Council
Private Bag 10-001
Feilding 4743**

By E-mail: districtplanreview@mdc.govt.nz

**Further Submissions by Powerco Limited on
Submissions to Proposed Plan Changes 52, 55
and 60 to the Manawatu District Plan**

Due: 28 September 2016

**FURTHER SUBMISSIONS BY POWERCO LIMITED ON SUBMISSIONS
TO PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

To: District Plan Review
Manawatu District Council
Private Bag 10-001
Feilding 4743

By E-Mail: districtplanreview@mdc.govt.nz

Name of further submitter:

Powerco Limited ("Powerco")
Private Bag 2061
NEW PLYMOUTH 4342

- 1. Powerco's further submissions are as contained in the attached Table.**
- 2. Powerco does wish to be heard in support of its further submissions.**
- 3. Powerco could not gain an advantage in trade competition through this further submission.**
- 4. If others make similar submissions Powerco may be prepared to consider presenting a joint case with them at any hearing.**

Dated at AUCKLAND this 28th day of September 2016

Signature of person authorised to
sign on behalf of Powerco Limited:

Karen Blair (Principal Planner as duly authorised person)



**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON
SUBMISSIONS TO PROPOSED PLAN CHANGES 52, 55 AND 60 TO The
MANAWATU DISTRICT PLAN**

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**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
DISTRICT WIDE RULES – NETWORK UTILITIES			
3.1 Introduction Transpower NZ Limited S11/008	Replace the following with a statement that more clearly describes the relationship between the zone rules and the district wide rules: <i>This chapter should be read along with the relevant zoning provisions. If the zoning rules are more specific than the provisions contained in this chapter, then they shall apply.</i>	Support in Part	Powerco agrees that the intent of the provision is unclear. As sought in Powerco's submission (S16/004), a statement along the following lines is suggested: <u><i>The provisions in this chapter supersede the zone provisions. The zone provisions shall only apply if specifically stated within this chapter.</i></u>
3A.1 Introduction Transpower New Zealand Limited S11/009	Add the following text to Clause 3A.1 Introduction: <i>Network utilities, including infrastructure of regional and national importance, are an essential part of the District's infrastructure. Communities rely on network utilities to function. It is therefore critical the development, operation, upgrading and maintenance of these essential services are managed appropriately to ensure the social, economic and cultural wellbeing of those in the District and beyond. Such infrastructure, services and facilities can also create significant direct or indirect adverse environmental effects, some of which may be quite specific to the utility. Due to their locational, functional, technical and operational constraints, some utilities may generate adverse effects that cannot be practically avoided, remedied or mitigated. As such, these effects need to be balanced against the essential nature of</i>	Support in Part	As stated in Powerco's submission (S16/005), it is appropriate to acknowledge that network utilities can have adverse effects on the environment, that these effects cannot always be avoided, remedied or mitigated, and that this will need to be weighed in the decision making process along with other relevant matters such as the benefits of infrastructure and locational / operational constraints.

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
	<u>facilities and the benefits these utilities provide to the social, economic, health and safety and wellbeing of people and communities in the Manawatu District and beyond.</u>		
3A.1 Introduction Federated Farmers S1/002	That the introduction to 3A.1 is amended to include the following paragraph: <u>Utility Networks can create adverse effects on landholders trying to operate their legitimate businesses on land legally held by them. The District Plan seeks to manage these adverse effects and ensure planning provisions do not supplant Utility Network operator's obligations towards landowners who host their infrastructure.</u>	Oppose in Part	Powerco agrees it is appropriate to recognise that network utilities can create adverse effects. However Powerco does not agree with the wording proposed, in particular with the apparent focus of the wording on property rights rather than planning issues. Through its submission (S16/005), Powerco sought alternative wording to address this omission.
3A.1 Introduction First Gas S20/005	Provide for stand-alone network utilities rules in the district wide chapter.	Support	Powerco agrees that the rules in the district-wide chapter should provide a stand-alone rule framework for network utilities. As drafted, the introduction creates ambiguity because of the applicability of other chapters, therefore potentially making it difficult for some plan users to interpret the network utility provisions - given the cross chapter rule requirements for network utilities.
3A.3 Objectives and Policies Federated Farmers S1/003	Add a new issue as follows: <u>8. The adverse effects of network utilities on adjacent land uses such as farming are avoided, remedied or mitigated.</u>	Oppose	Powerco agrees it is appropriate to recognise that network utilities can create adverse effects. However the new issue sought reads like a policy and Powerco considers that the concern is better addressed through the changes to Issue 1 as sought in its own

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
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Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
			submission (S16/005) or the submission of Transpower New Zealand Limited S11/010.
3A.3 Objectives and Policies Heritage New Zealand Pouhere Taonga S3/008	Add a new issue as follows: <i>The subdivision, use and development of network utilities can result in adverse effects on natural, cultural, and historic heritage values.</i>	Oppose	Powerco agrees it is appropriate to recognise that network utilities can create adverse effects. However the new issue sought has a narrowly defined scope and Powerco considers that the concern is better addressed through the changes to Issue 1 as sought in its own submission (S16/005) or the submission of Transpower New Zealand Limited S11/010.
3A.3 Objectives and Policies Federated Farmers S1/004	That Objective 1 is amended to read: <i>To ensure network utilities are designed, located, constructed, operated and maintained in a manner that ensures the efficient use of natural and physical resources, while also avoiding, remedying or mitigating any significant adverse effects on adjoining land uses.</i>	Support in Part	Powerco agrees with the intent of the submission insofar as it is appropriate to recognise that network utilities can create adverse effects, and to acknowledge that these effects cannot always be avoided, remedied or mitigated. However Powerco prefers the wording that is set out in its submission (S16/009).
3A.3 Objectives and Policies (Objective 1) Transpower New Zealand Limited S11/017	Replace Objective 1 as follows: <i>To recognise and provide for the ongoing operation, maintenance, replacement, upgrading and development of regionally significant infrastructure, including the National Grid, and other network utilities.</i>	Support	Objective 1 as proposed in the Plan Change is drafted in the manner of a policy.
3A.3 Objectives and Policies (Policy 1.4) Transpower	Amend Policy 1.4 as follows: <i>To recognise the locational, technical and operational requirements and constraints of</i>	Support	The inclusion of "and beyond" is supported, while the other changes are consistent with those sought in Powerco's submission

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
New Zealand Limited S11/021	<i>network utilities and the contribution they make to the functioning and wellbeing of the community <u>and beyond when assessing their location, design and appearance.</u></i>		(S16/013). The changes are particularly important when assessing lineal utilities. For example, when a new line is proposed, it is the careful and robust route selection process that determines the best route in environmental and development cost terms, and it is the technical considerations along with the supply demands that dictate the nature and scale of the infrastructure. Because of the scale of the linear utilities network, it is important to recognise the impact of these constraints and requirements on their location, design and appearance, and to assess these having regard to the broader (not just local or regional) benefits of lineal utilities.
3A.3 Objectives and Policies Transpower New Zealand Limited S11/023	Amend Objective 2 as follows: <i>To <u>avoid the establishment of subdivision, development and land use activities that could adversely affect (including through reverse sensitivity) the safe, effective and efficient operation, maintenance, upgrading and development of regionally and nationally important infrastructure and other network utilities, including the National Grid, protect the operation of network utilities, including infrastructure of regional and national importance, from the</u></i>	Support In Part	The changes to the objective provide more guidance, insofar as they seek to avoid activities that may adversely affect network utilities, including the development of network utilities. However Powerco considers that the wording of the Objective should refer to "planned" development of regionally and nationally important infrastructure rather than development per se.

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
	potential adverse effects of subdivision, use, development and other land use activities.		
3A.3 Objectives and Policies (Policy 2.1) Transpower New Zealand Limited S11/024	Amend Policy 2.1 as follows: <i>To ensure that any vegetation is planted and maintained to avoid interference with network utilities. including transmission lines and the <u>Vegetation and planting around transmission lines (National Grid) and shall comply with the Electricity (Hazards from Trees) Regulations 2003.</u></i>	Oppose	Vegetation and planting around any electricity line, not just transmission lines (National Grid) must comply with the Electricity (Hazards from Trees) Regulations 2003. The amendment sought could be read to imply that compliance is only required in respect of the National Grid. Furthermore a policy should not include a requirement to comply. Amendments to Guidance Note 4 should suffice (Refer Powerco's submission S16/031).
3A.3 Objectives and Policies (Policy 2.3) Transpower New Zealand Limited S11/026	Amend Policy 2.3 as follows: <i>To ensure all subdivision and development is designed to avoid adverse effects on the operation, access, maintenance and upgrading of network utilities <u>(except the National Grid).</u></i>	Oppose in Part	The meaning of the bracketed text is unclear. It reads as if subdivision and development does not need to be designed to avoid adverse effects on the operation, access, maintenance and upgrading of the National Grid. It is understood that the intent of the submission is that this policy does not apply because a new policy 2X, specific to the National Grid, is sought by Transpower through submission S11/027. If new Policy 2X is included, then the bracketed text should be clarified to read: (except <u>This policy does not apply to the National Grid. Policy 2.X applies instead).</u>

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
3A.3 Objectives and Policies Chorus S18/013 (Policy 3.2)	<p>Amend Policy 3.2 as follows:</p> <p>To restrict the development of network utilities, except within an existing road carriageway, within areas of significant heritage and landscape value in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves)), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value) and 1F (Sites with Heritage Value) unless there is no alternative location.</p> <p><u>Consider the following matters where new network utilities or major upgrades to network utilities are proposed within areas of significant heritage and landscape value in Appendix 1A (Wetlands, Lakes, River and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves)), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value) and 1F (Sites with Heritage Value):</u></p> <p><u>(a) the economic, cultural and social benefits derived from the network utility and the adverse effects of not providing the network utility;</u></p>	Support in part	<p>Powerco agrees that the wider community benefits of, and the technical requirement or functional need to locate, telecommunications and radiocommunication infrastructure in areas of significant heritage and landscape value needs to be reflect in Policy 3.2</p> <p>However, Powerco considers that the use of the phrase "items" is more appropriate than "areas" given that not all references relate to areas, and that the extent of an "area" is not clearly defined.</p>

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
3A.3 Objectives and Policies Spark S17/012 (Policy 3.2)	<p><u>(b) whether the network utility has a functional or operational need to be located in or traverse the proposed location;</u></p> <p><u>(c) the need for utility connections across or through such areas to enable an effective and efficient network;</u></p> <p><u>(d) whether there are any practicable alternative locations, routes, or designs, which would avoid, or reduce adverse effects on the values of those places, while having regard to Policy 3.2 (a) - (c);</u></p> <p><u>(e) the extent of existing adverse effects and potential cumulative adverse effects;</u></p> <p><u>(f) how the proposed network utility contributes to the strategic form or function of the Manawatu;</u></p> <p><u>(g) the type, scale and extent of adverse effects on the identified values of the area;</u></p> <p><u>(h) whether adverse effects on the identified values of the area must be avoided pursuant to any national policy statement, national environmental standard, or regional policy statement.</u></p>		
3A.3 Objectives and	Amend Policy 3.2 as follows:	Opposed in Part	Powerco is not sure what is meant by the

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
Policies (Policy 3.2) Heritage New Zealand Pouhere Taonga S3/011	<i>To restrict development of network utilities, except within an existing road carriageway, within <u>the area or setting</u> of items scheduled significant heritage and landscape value in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), <u>1E (Buildings and Objects with Heritage Value)</u> and 1F (Sites with Heritage Value) unless there is no alternative location.</i>		"area or setting" and it is unclear how extensive the reference to 'setting' might be applied. The inclusion of the phrase " <i>the area or setting</i> " is therefore opposed, and the changes sought in Powerco's own submission (S16/019) are supported.
3A.3 Objectives and Policies (Policy 3.2) Transpower New Zealand Limited S11/030	Delete Policy 3.2	Support in Part, Oppose in Part	<p>The deletion of Policy 3.2 would, in combination with the deletion of Policy 3.1 as sought in Transpower New Zealand's submission S11/029, mean that there were no policies relating to Objective 3, except a new policy specific to the National Grid, as sought by Transpower in its submission (S11/031)). Accordingly, and in accordance with its reasons for opposing in part the submission of Heritage New Zealand Pouhere Taonga (S3/011), Powerco supports amending Policy 3.2 as follows:</p> <p>If a new (Transpower specific) policy is to be included then a similar approach should be taken as suggested in relation to Policy 2.3. That is bracketed text should be added to clarify that: <i>(This policy does not apply to the</i></p>

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
			<u>National Grid: Policy 3.X applies instead).</u>
3A.4 Rules First Gas S20/018	Provide for stand-alone network utilities rules.	Support	Powerco agrees that the district-wide chapter should provide a stand-alone rule framework for network utilities to reduce the difficulty for some plan users to interpret the network utility provisions – given the cross chapter rule requirements for network utilities.
3A.4 Rules Federated Farmers S1/007	That the following activities listed in 3A.4.1 are made discretionary activities. <i>A, the operation, maintenance, minor upgrading or repair of utilities existing as at (notification date)</i> <i>B, construction, operation, and upgrading of roads and railway lines within the existing road reserve or railway corridor</i> <i>C, radiocommunication and/or telecommunication facilities, cables and lines, including those underground</i> <i>G, the construction, maintenance and upgrading of any new electricity lines and associated transformers up to and including 110kv.</i> <i>K, railway crossing warning devices and barrier arms.</i>	Oppose	Powerco specifically opposes making activities A, C and G discretionary. Such activities are appropriately provided for as permitted activities.
3A.4.1 Permitted Activities (Guidance Note 2) Manawatu-Whanganui Regional Council (Horizons) S5/042	Amend the second guidance note under Rule 3A 4.1 as follows: <u>Water takes, diversion and earthworks are also regulated by the Manawatu-Wanganui Regional</u>	Oppose in Part	Whilst Powerco is not necessarily opposed to the inclusion of specific reference to water takes and diversions, the additional text is not considered necessary given that water takes and diversion are only controlled by the

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
	<i>Council and a resource consent may be required under the rules of the One Plan.</i>		regional council rules. This is in contrast to earthworks, where rules in both the regional and district plan apply.
3A.4.2(j) Standards for Permitted Activities First Gas S20/021	Amend 3A.4.2j: <i>Where network utilities are located underground, any disturbance of the ground surface and any vegetation (<u>apart from vegetation compromising the operational integrity of the network utility</u>) must be reinstated or replaced upon completion of the works within the first available planting season.</i>	Support	Powerco agrees that in circumstances where the replanting of vegetation removed as part of land disturbance activities may compromise the operational integrity of the network utility, such planting should not be required.
3A.4.2(k) Standards for Permitted Activities Chorus S18/025	Delete Rule 3A.4.2.k in its entirety.	Support	Powerco supports the deletion of Rule 3A.4.2(k). Cross referencing to the National Code of Practice for Utility Operators Access to Transport Corridors 2011 in the District Plan is unnecessary as this matter is already controlled by Councils through Corridor Access Requests.
3A.4.2(k) Standards for Permitted Activities Spark S17/025			
3A.4.2 Standards for Permitted Activities (l) Heritage New Zealand Pouhere Taonga S3/012	Amend Rule 3A.4.2.l as follows: <i>Works associated with any network utility, except within an existing road carriageway, must not result in adverse effects on the <u>natural, cultural or historical heritage values or characteristics for any</u></i>	Support in Part	The intent of the changes is generally supported, however the rule is inappropriate as it lacks clarity and certainty, is not readily enforceable and simply repeats the policy intent of Policy 3.2. Powerco supports the

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
	significant historic built or natural heritage specified of the items scheduled in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) unless there is no alternative location.		changes sought to Rule 3A.4.2.1 as outlined in its submission (S16/036).
3A.4.2(q) Standards for Permitted Activities Chorus S18/027	Delete Rule 3A.4.2.q in its entirety, or rewrite it to determine what level of vibration is appropriate, measured at the site boundary, rather than being a subjective 'discernible' vibration beyond the site boundary.	Support	Powerco supports the deletion of Rule 3A.4.2(q) insofar as the rule captures 'all activities' including construction activities. Construction activities (noise and vibration) should rather comply with NZS 6803:1999 Acoustics – Construction Noise and British Standard DS 5228:2:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites – Part 2 Vibration.
3A.4.2(q) Standards for Permitted Activities Spark S17/026			
3A.4.3 – Restricted Discretionary (a) Horticultural New Zealand S23/008	Amend Rule 3A.4.3 by adding an addition bullet Point -potential reverse sensitivity effects	Oppose	Powerco considers that the addition sought is neither necessary nor appropriate in the context of assessing activities that do not comply with the permitted activity standards.
3A.4.3 – Restricted Discretionary (a - ii) Horticultural New Zealand	Amend Rule 3A.4.3 ii) by adding ii. <i>whether the activity will result in any</i>	Oppose	In accordance with its comments on S23/008, and the non-inclusion of a bullet point in 3A.4.3 relating to reverse sensitivity effects,

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
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Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
S23/009	<i>adverse effects on amenity values <u>or land uses</u> of neighbouring properties or the character of the zone in which the activity is proposed.</i>		Powerco considers that the changes sought are equally unnecessary and inappropriate.
3A.4.3 Restricted Discretionary (a - i) Transpower New Zealand Limited S11/040	Amend Rule 3A 4.3.i as follows: <i>The proposed benefits of the network utility proposal to the wider community <u>and beyond.</u></i>	Support	The addition is appropriate, especially having regard to lineal network utilities.
3A.4.4 Discretionary Transpower New Zealand Limited S11/042	Amend Rule 3A 4.4 as follows: <i>3A.4.4 i Any network utility not otherwise specified as Permitted, Restricted Discretionary or Non-Complying Activity shall be a Discretionary Activity.</i> <i><u>3A.4.4.ii Nationally significant infrastructure located within an Outstanding Natural Feature or Landscape in Appendix 1C is a Discretionary Activity.</u></i>	Support in Part Oppose in Part	In the context of the changes proposed to Rule 3A.4.2.i (proposed in response to the submission points of Heritage New Zealand Pouhere Taonga S3/012 and Transpower New Zealand Limited S11/039), the reference to Outstanding Natural Feature or Landscape in Appendix 1C should be amended to delete "Feature or" as those items require restricted discretionary activity consent in accordance with Rules 3A 4.2.i. (PA standards) and 3A 4.3.i (RDA). Also, the rule should specifically refer to 'new' network utility activities, to properly recognise that the operation, maintenance, replacement and minor upgrading of existing utilities is otherwise specified as permitted. Furthermore, Rule 3A.4.4 should be amended to provide for <i>regionally and nationally</i> significant infrastructure as (at worst)

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
			<p>discretionary activities within an Outstanding Natural Landscape identified in Appendix 1C, except insofar as operation, maintenance, replacement and minor upgrading is otherwise specified as permitted.</p> <p>If Transpower's submission is accepted, new Rule 3A.4.4(ii) should therefore be amended as follows: 3A.4.4.ii <u>New nationally or regionally significant infrastructure located within an Outstanding Natural Feature or Landscape in Appendix 1C is a Discretionary Activity.</u></p> <p>An alternative way of addressing this issue is to amend Rule 3A.4.5 as sought in Powerco's submission S16/046), and retain the discretionary activity rule.</p>
3A.4.5 Non-Complying Transpower New Zealand Limited S11/042	Amend Rule 3A.4.5 as follows: <i>Any network utility <u>which is not nationally significant infrastructure</u> located within an Outstanding Natural Feature or Landscape in Appendix 1C is a Non-Complying Activity.</i>	Support in Part Oppose In Part	As above, Rule 3A.4.5 should be amended to provide for an exclusion for <i>regionally</i> and nationally significant infrastructure (ie: to recognise that these should only require discretionary activity consent within an Outstanding Natural Landscape identified in Appendix 1C, except insofar as operation, maintenance, replacement and minor upgrading is otherwise specified as permitted or restricted discretionary).

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
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Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
			<p>Also, the rule should specifically refer to 'new' network utility activities, to properly recognise that the operation, maintenance, replacement and minor upgrading of existing utilities is otherwise specified as permitted.</p> <p>Non-complying activity status is inappropriate and fails to give effect to Policy 3-1 of the One Plan.</p> <p>If Transpower's submission is accepted, Rule 3A.4.5 should therefore be amended as follows: <i>3A.4.5 Any <u>new</u> network utility which is not nationally or regionally significant infrastructure located within an Outstanding Natural Feature or Landscape in Appendix 1C is a Non-Complying Activity.</i></p> <p>An alternative way of addressing this issue is to amend Rule 3A.4.5 as sought in Powerco's submission S16/046), and retain the discretionary activity rule.</p>
DEFINITIONS			
2. Definitions – Earthworks	Amend the definition of earthworks as follows:	Support in Part	Powerco generally supports the intent of the

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
Federated Farmers S1/001	<p><i>Earthworks means the removal, deposit or relocation of soil that results in alteration between the existing and finished ground level. This includes but is not limited to, soil movement associated with subdivision and site works as defined in the Building Act 2004.</i></p> <p><i>For the purposes of this Plan, earthworks excludes the following:</i></p> <ul style="list-style-type: none"> • <i>work associated with the <u>forming, upgrading or maintenance of farm tracks</u></i> • <i>fences and fence lines, <u>including their post holes</u></i> • <i><u>harvesting and maintaining of crops</u></i> • <i><u>drilling bores</u></i> • <i><u>offal pits and burial of dead stock</u></i> • <i><u>installation of services such as water pipes and troughs and drainage for overflow or pipes</u></i> • <i>trenching and backfilling ancillary to the installation of network utilities and services</i> • <i>the minor upgrading or maintenance of network utilities</i> • <i>tiling and cultivation</i> • <i>aggregate extraction.</i> <p><i>includes the construction and maintenance of driveways, building platforms, loading areas, tracks, drainage works and dams MWRG. NB Earthworks near roads are subject to the Local Government Act 1974, refer Page 76.</i></p>		<p>definition of earthworks, especially insofar as it is intended to relate to works that will change the ground level.</p> <p>Powerco supports the specific exclusion of post holes, including those not associated with fences and fence lines. Powerco considers that post holes should, however, be specifically excluded in addition to fences and fence lines (as opposed to being specifically associated with them). Post holes are required for a variety of activities, such as erection of a clothesline, and postholes for power lines. The effects of such activities are similar in nature and extent to post holes for fences. The following change, consistent with Powerco's own submission S16/ 001, is sought:</p> <ul style="list-style-type: none"> • <i>fences and fence lines, including their post holes</i> • <i><u>postholes</u></i> •
2. Definitions – Network	Amend the definition of Network Utility as	Oppose In Part	Powerco opposes in part the proposed

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Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
Utility First Gas Ltd S20/004	follows: d) Distribution or transmission by pipeline of gas or petroleum <u>inclusive of incidental equipment and facilities.</u>		reference to "incidental equipment and facilities". While the reference is clearly intended to be helpful, it is unclear why it is needed. The proposed reference is not included in the definition of 'network utility operator' pursuant to the RMA [s.166(a)]. Under the RMA, a network utility operator means a person who "undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy". That definition is inclusive already, and the definition of 'network utility' should reflect the RMA.
2. Definitions – Reverse Sensitivity Horticulture New Zealand S23/024	Include a definition for reverse sensitivity as follows: <u>Reverse sensitivity occurs when occupants of a new development (for example, a lifestyle block) complain about the effects of an existing, lawfully established activity (for example, noise or smell from industry or farming). This can have the effect of imposing economic burdens operational limitations or other constraints on the existing activity thereby reducing its viability.</u>	Oppose	Powerco opposes this definition. The definition proposed by Horticulture New Zealand is an example of a reverse sensitivity effect rather than a definition. Powerco consider that there is already an appropriate definition of reverse sensitivity effects in the Plan.
2. Definitions – Reverse Sensitivity	Include a definition for reverse sensitivity as follows:	Oppose	

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Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
Horticulture New Zealand S23/002	<u>Reverse sensitivity occurs when occupants of a new development (for example, a lifestyle block) complain about the effects of an existing, lawfully established activity (for example, noise or smell from industry or farming). This can have the effect of imposing economic burdens operational limitations or other constraints on the existing activity thereby reducing its viability.</u>		
NOISE			
3C.1 Introduction Federated Farmers S1/009	That the following paragraph is added to 3C.1 Introduction <u>With the recent trend towards country living, traditional agriculture and horticulture activities may be subject to an increasing number of complaints in respect of the effects of their day to day activities. The effects of these activities often cannot be readily avoided, remedied or mitigated by the person undertaking the activity without causing significant adverse economic effects. Those activities that locate adjacent to an existing rural activity, should take steps to mitigate the effects that the existing rural activity may have upon them.</u>	Oppose in part	Powerco opposes the submission by Federated Farmers to include another paragraph into the introduction of 3C.1 insofar as it is too limited to rural activities and although in the noise chapter, is not necessarily specific to noise. Powerco prefers the changes proposed by Horticultural New Zealand submission S23/010 which reads as follows: <i>Rural production activities are the predominant activities in the rural area of the district. There is pressure for increased rural lifestyle living which can seek different expectations for the rural area. This can lead</i>

**FURTHER SUBMISSIONS ON BEHALF OF POWERCO LIMITED ON SUBMISSIONS TO
PROPOSED PLAN CHANGES 52, 55 AND 60 TO THE MANAWATU DISTRICT PLAN**

Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
			<p>to complaints about the noise generated by rural production activities as part of day to day activities.</p> <p>It is considered by Powerco that the proposed paragraph by Horticultural New Zealand better reflects the current situation – i.e. growing trend towards country living and potential conflicts regarding noise.</p>
EARTHWORKS			
3D.3 Objectives and Policies (Policy 1.2) Heritage New Zealand Pouhere Taonga S3/018	<p>Amend Policy 1.2 as follows: To restrict earthworks within sites identified in this Plan as containing significant heritage values, particularly those identified <u>the area or setting of items scheduled in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value).</u></p>	Oppose in Part	<p>Powerco is not sure what is meant by the “area or setting” and it is unclear how extensive the reference to ‘setting’ might be applied. The inclusion of the phrase “area or setting” is therefore opposed. The policy should refer to “items scheduled in Appendix” ... as follows:</p> <p>To restrict earthworks within sites identified in this Plan as containing significant heritage values, particularly those identified items scheduled in Appendix 1A ...</p>
SIGNS			
3E.1 Introduction Heritage	Amend Introduction as follows:	Oppose in Part	Powerco is not necessarily opposed to the

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Submission	Relief Sought By Submitter	Position of Further Submitter	Reason For Support / Opposition
New Zealand Pouhere Taonga S3/023	<p><i>It is critical to ensure all signs are managed appropriately to avoid, mitigate and remedy potential adverse effects on the environment.</i></p> <p><u>Objectives and policies relating to managing the adverse effects of signs on cultural and historic heritage can be found in Chapter 4 Historic Heritage.</u></p>		intent of the amendment sought, but opposes the reference to Chapter 4, and the difference in approach that would result between the signage chapter and the utilities chapter, where Heritage New Zealand Pouhere Taonga has sought to include specific policy provisions relating to cultural and historic heritage. Powerco considers the approach adopted by the Plan should be consistent.
3E 4.2 (new Rule) Heritage New Zealand Pouhere Taonga S3/024	<p>Add a new rule in 3E.4.2 as follows:</p> <p><u>x. any signage attached to an item scheduled in Appendix 1E (Buildings and Objects with Heritage Value) or located within the site of an item in Appendix 1E or 1F (Sites with Heritage Value) must not result in adverse effects on the cultural or historical heritage values of the item.</u></p> <p><u>For these activities, the Council has restricted its discretion to considering the following matters:</u></p> <ul style="list-style-type: none"> <u>effects on historical and cultural heritage values</u> <u>sign design, construction, location and placement</u> <u>area, height and number of signs</u> <u>illumination</u> 	Oppose	The new rule is inappropriate as it lacks clarity, certainty and is not readily enforceable.

Annexure B

A copy of the Council's decision on the relevant points subject to this appeal

BEFORE THE MANAWATU DISTRICT COUNCIL

IN THE MATTER the sectional review of the Manawatu
District Plan

AND

IN THE MATTER of Plan Change 55

COMMISSIONERS' DECISION

Dated: 22 February 2017

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Terms

MDC	=	Manawatu District Council.
MDP	=	Operative Manawatu District Plan.
RMA	=	Resource Management Act 1991.
NZDF	=	New Zealand Defence Force.
TMTAs	=	Temporary Military Training Activities.
ONFLs	=	Outstanding Natural Features and Landscapes.

Versions of PC55 promoted by MDC

[1] Plan making is an iterative process. Along the journey there are a number of changes expected in response to submissions and in response to information obtained at the hearing. This also happened with PC55. The planning witness for MDC on PC55 was Andrea Harris from Opus Consultants Ltd and she provided versions using the nomenclature that we proposed in our Commissioner Minute dated 2 November 2016. Recapping, the following terms apply:

- (a) PC55(N) = the version of PC55 notified by MDC;
- (b) PC55(R1) = the version proposed by MDC in its s 42A report. In this case this was Appendix 2 to the s 42A report by Ms Harris;
- (c) PC55(R2) = this is the final version recommended by Ms Harris, in her right of reply after the hearing and is also called "Appendix 2 – 16 December 2016";
- (d) PC55(C) = the version we the Commissioners approve in this decision using PC55(R2) as a template.

- [2] We attach as **Appendix 4** to this decision, the final marked up text which is PC55(C). Changes in yellow are those changes recommended by Ms Harris as part of her s 42A report in PC55(R1). The changes in green and double underlined are further changes proposed by Ms Harris in her reply as a result of the evidence presented at the hearing (i.e. PC55(R2)). In addition, PC55(R2) was extensively footnoted to identify the provenance of the plan change. In particular, what submissions it is responding to. This has been enormously helpful to satisfy us about scope and the reasoning for the changes. Our final changes on Appendix 1 are highlighted in blue while retaining the footnoting in PC55(R2).

Background

- [3] PC55 reviews and amends the MDP in accordance with MDC's obligations under RMA, s 79. The MDP has an existing Section A2 that contains rules that apply district wide. PC55 seeks to replace most of Section A2 and do the job that Section A2 presently does in a manner that reflects the improved layout and structure of the intended final product of MDC's second generation district plan. In addition, the purpose is to ensure these provisions reflect current best practice and to recognise and implement national and regional policy. PC55 addresses the following district wide activities in a new Section 3:

- (a) Network Utilities – Section 3A;
- (b) Transport – Section 3B;
- (c) Noise – Section 3C;
- (d) Earthworks – Section 3D;
- (e) Signs – Section 3E;
- (f) Temporary Activities –Section 3F;
- (g) Relocated Buildings – Section 3G

It also makes changes to Section 2 of the MDP containing definitions by adding and amending definitions.

- [4] A comprehensive s 32 report was prepared in respect of PC55 and that is on MDC's website.
- [5] MDC received 29 submissions. PC55 was notified with PC's 52 and 60 in May 2016. Submission points relating to PC55 were identified. Of the 29 submissions received, 19 submissions received on the combined plan changes related to PC55. 16 further submissions were then received in respect of those original submissions.
- [6] The issues identified in the submissions are set out at [4.7] onwards of the s 42A report from Ms Harris dated 18 November 2016.

Matters in contention at the hearing

- [7] The attraction of bedding down the district wide rules at an early stage in the sectional review of the District Plan are obvious, including setting those rules that will apply across the district and therefore do not need to be readdressed with each zone. Equally there are some dis-benefits, including the risk of unintended changes to other parts of the Plan that need correction once the totality of the Plan can be seen. The benefits far outweigh the dis-benefits and in any event addressing the review in bite sized chunks is the only logistically feasible way for MDC to complete its review. We say this because it is acknowledged by MDC that at the end of the sectional review the loose ends will need to be tidied up as part of an omnibus plan change.
- [8] Ms Harris, in her s 42A report at Appendix 1, goes through each provision which is the subject of a submission and identifies the submission point, the decision requested, MDC's assessment and recommendations. Where changes are recommended as part of that analysis, these found their way into the tracked changes version in PC55(R1).
- [9] The matters in contention before us were substantially narrower than the matters in contention and the scope of provisions contested on the face of the submissions. That is because to a large extent PC55(R1) satisfactorily addresses the concerns in a large number of submitter submission points. This is testament to the quality of engagement by MDC and Ms Harris and

we expressly acknowledged that this has made our task much easier than it otherwise may have been.

[10] It is necessary to set out the major matters in contention in this decision and to resolve them rather than to quote chapter and verse about everything that we heard at the hearing. In relation to matters that are not identified, we mean no disrespect to the submitter or the submission point by not mentioning it. It is simply that we consider that the conclusions of Ms Harris on these submission points in her right of reply (which is on MDC's website), and in particular, in Section C is sufficient to respond to that submission point and does not warrant any further deliberation by us. We adopt the reasoning of Ms Harris.

[11] The major matters in contention in some cases concern a basket of issues identified by individual submitters. In other cases the issue is a topic that was addressed by multiple submitters. We set out the major headings for the matters in contention that will be addressed in this decision in the following way:

- (a) Issue 1 - The treatment of relocated buildings;
- (b) Issue 2 - The regulatory treatment of network utilities within ONFL's;
- (c) Issue 3 - A stand-alone network utilities chapter;
- (d) Issue 4 - Amendments sought by Powerco;
- (e) Issue 4 - Provision for telecommunication facilities requested by Spark and Chorus;
- (f) Issue 6 - Provision for the National Grid as proposed by Transpower;
- (g) Issue 7 – Noise related issues other than in relation to TMTAs;
- (h) Issue 8 - Basket of matters identified by NZDF relating to TMTAs and other issues relating to defence facilities; and

- (i) Issue 9 - A basket of matters raised by Federated Farmers relating to rural interests;
- (j) Issue 10 – Issues raised by Horticulture New Zealand and Federated Farmers; and

Issue 1 – The treatment of relocated buildings

Overview

- [12] Relocated buildings are a district wide resource management issue and are therefore addressed in the district wide section of the Plan.
- [13] MDC considered that relocated buildings are a resource management issue that requires regulation. The relocation of residential buildings is common place throughout the various zones in the Manawatu district. There are problems with the state of some of those buildings, the quality of reinstatement and the timing of reinstatement. These problems all have an impact on the amenity of residents within the district. The risk of adverse amenity effects is most acute, by reason of density, in the Residential and Village Zones. This is an area where community concern has been identified.
- [14] PC55(R1) proposed a bi-furcated rule stream depending on the zone in which the building is to be located. In the case of relocated buildings in the Outer-Business, Industrial, Residential and Village Zones, buildings could only be relocated as a permitted activity if they did not exceed 40m² in gross floor area (“gfa”) as provided in R3G.4.1. Otherwise, they defaulted to the controlled activity class under R3G.4.3. In the Rural Zone, relocated buildings are permitted activities provided the performance standards in R3G.4.2 are met. R3G.4.2 contains the permitted activity standards. These standards are designed to ensure that MDC receives a building pre-inspection report of sufficient quality to identify the reinstatement works that are required to bring the building up to a workmanlike standard and tidy appearance. To ensure the quality of the report, one performance standard requires that building pre-inspection report is prepared by a licensed building practitioner or building inspector. Other performance

conditions require a commitment to complete those works within 12 months and for the owner to complete a certificate that the work has been complete. Another standard is that any *“relocated building must be installed on permanent foundations immediately upon delivery to the destination site”*.

- [15] The reason MDC wished to retain control through the requirement for consent in the Residential, Village, Industrial and Outer Business Zones (for buildings larger than 40m² gfa) is because the performance standards in R3G.4.3 may not be sufficient to protect the amenity of the area in which the building will be situated and there is a need to respond to the specific site context when deciding the requirements for any particular relocated building.

Evidence in support of the submission by the New Zealand Heavy Haulage Association Inc

- [16] The New Zealand Heavy Haulage Association Inc, and in particular the House Movers section (**“House Movers”**), was the main submitter on this issue. A member of House Movers is the well-known Whanganui based business called Britton House Movers Limited that operates throughout the lower North Island which was also a submitter.

- [17] The thrust of the House Movers submission was that all relocated buildings should be permitted activities. House Movers accept that there needs to be performance standards applying to that activity. Some of the performance standards were contested, as were some of the requirements of the pre-inspection report prescribed by the new Appendix 3G.1 of PC55. This proposed building pre-inspection report contained information requirements in order to achieve a robust management regime outside a resource consent that also created enforceable obligations.

- [18] The evidence for House Movers was given by Paul Britton. He emphasised the importance of the relocated buildings in the lower North Island, and in particular, the Manawatu. He identified how the industry was important to move residential properties to meet housing demand. Mr Britton said that in many cases relocation was less disturbing than where there is

construction of a new dwelling because of the shorter construction period.

At [21] Mr Britton said:

When a relocatable home arrives on site, it may (depending on size) arrive in two sections. Generally the aim will be to get the house to the section around day break. The roof may have been lowered and draped with tarpaulins. The initial visual impact can be unexpected for neighbours. It can trigger calls to councils. However, this is temporary and typically within a few days the home will have been placed on a new foundation, re-joined and roof reinstated. There is a need to get this work quickly so that the house is made weatherproof.

[19] Mr Britton considered that all relocated buildings can be addressed by way of permitted performance standards and treated as a permitted activity. Mr Britton said that reinstatement work required by performance standards should work in with Building Act 2004 controls, which the territorial authority also administers.

[20] Submissions were presented on behalf of House Movers by Rowan Ashton. He cited the Environment Court decision *New Zealand Heavy Haulage Association Incorporated v Central Otago District Council*,¹ as authority for the proposition that relocated buildings should be dealt with as a permitted activity. In that case, the Environment Court rejected plan provisions proposed by the territorial authority that control relocated buildings as a restricted discretionary activity. Instead, the Environment Court endorsed a permitted activity rule with performance conditions that, amongst other things, required a pre-inspection building report and completion of the work identified in that report within six months.

[21] Mr Ashton also argued that a one month period to place the building on permanent foundations was appropriate.

MDC's evidence in reply

[22] Ms Harris worked with Brittons to revise the building pre-inspection report template (in Appendix 3G.1), and to refine its wording so that what was required was clear, able to be monitored and enforceable. There did not

¹ Decision No. C45/2004.
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seem to be any dispute that these sorts of characteristics were essential for the permitted performance standards to work.

- [23] In PC55(R2) Ms Harris changed the rules so that controlled activity resource consent was only required for buildings in excess of 40m² gfa in the Residential and Village Zone. Not the Industrial and Outer Business Zones. She did not support a permitted activity standard for relocated buildings in all cases in the Residential and Village Zones. She also did not support a one month period of grace to establish permanent foundations as proposed by House Movers. Ms Harris considered that obtaining a building consent in advance and ensuring that foundations were permanent as part of the building relocation process were significant steps in ensuring amenity was adequately protected and to ensure that foundation design had been addressed at the outset. If it became apparent that special foundation design was required after the building was on site, then that may delay the period when the building is placed on proper foundations. In most situations, while the building is not on permanent foundations, it is likely to appear as a significantly incongruous element in its setting.

Our conclusion on Issue 1

- [24] The parties are in agreement about the information required by the building pre-inspection report template in Appendix 3G.1. We agree that the wording changes make the requirements clearer and more enforceable. They provide an assurance that better quality information is obtained both on what is required to reinstate the building and also ensuring adequate information is provided to demonstrate it is done. We therefore support the changes to Appendix 3G.1 in PC55(R2).
- [25] We do not agree with House Movers that there should be a one month grace period for establishing the relocated buildings on permanent foundations for the following reasons:
- (a) Mr Britton's own evidence said that it was normal to place the building on permanent foundations promptly;

- (b) There is an appreciable risk that if the issue of foundations is not addressed prior to relocation, then greater adverse effects may arise from the unanticipated requirements relating to foundation design;
- (c) Site contouring and management generally occurs alongside foundation preparation. It is desirable that these issues occur as a single 'transaction'; and
- (d) Mr Britton said that the performance standards should tie in with the Building Act requirements. This is best achieved by the performance standard requiring the building to be placed on permanent foundations immediately.

[26] We doubt that inclement weather conditions would make the proposed performance condition unworkable in some cases. The requirement of the conditions means that some planning and foresight is required which is desirable to achieve amenity protection. The word "immediately" in the standard does not mean "instantaneously".

[27] We did not receive from House Movers the final decision of the Environment Court in the *Central Otago* decision recording the final terms of the approved permitted activity rule. It is unclear whether House Movers' proposed grace period is consistent with that decision or not. Mr Ashton's submissions suggested that that grace period was completely new because it is identified as bold at [3.1] of his submissions.

[28] We support the view of Ms Harris that the controlled activity standards should continue to apply for relocated buildings in the Residential and Village Zones. We accept that the dataset of complaints is somewhat incomplete about relocated buildings. The collective experience of the Panel is that the issue is real for some communities where land is zoned Residential or Village. The Environment Court in the *Central Otago* decision did acknowledge that to some extent these sorts of controls were for the community to determine, and in this case the Panel, using its collective experience, does consider that there is a need for a further level of control

beyond the performance activity standards for permitted activities in the case of relocated buildings in the Residential and Village Zones.

[29] We note that the *Otago* decision set a performance standard of six months rather than 12 months to complete work. This reinforces the point made by Ms Harris, that in the Residential and Village Zones, it may be appropriate for MDC through the controlled activity control to set a shorter period (rather than the default 12 months in other zones) within which reinstatement works must be complete. In addition, we accept the evidence of Ms Harris that the site, locality and context may mean that specific requirements are appropriate to protect amenity, which are not achieved by generic performance standards across all zones. The controlled activity status is not unreasonable. Ms Harris has quite properly conceded that this consent would be dealt with on a non-notified basis and appropriate changes to PC55 have been made in PC55(R2) to ensure non-notification of an application.

[30] Overall, we are satisfied with the treatment of relocated buildings as amended in PC55(R2).

Issue 2 – The regulatory treatment of network utilities within ONFLs

[31] Section 3A of PC55 addresses network utilities. Network utilities are developed, operated and upgraded district wide. Proposed Objectives 1 and 2 set the goals for enabling and protecting network utilities. Objective 3, and its implementing policy, addresses network utilities in three special classes of natural or physical resources:

- (a) Outstanding Natural Features and Landscapes in Appendix 1C of MDP;
- (b) Historic heritage scheduled in Appendix 1E of the MDP; and
- (c) Heritage sites in Appendix 1F in MDP.

Overview

- [32] Through the sectional review, MDC has not notified the plan change that identifies all outstanding natural features and landscapes in the Manawatu district using current best practice. That is a separate work stream currently under consultation through the draft PC53. So, the Appendix 1C list is quite short at present and addresses only outstanding features. The likely ONFLs that will be identified in the future in PC53 are in the draft report by Hudson Associates dated 25 February 2013.² This report was commissioned by MDC to enable MDC to fulfil its statutory responsibilities to implement Chapter 6 of Part 1 of the Horizons Regional Council One Plan, and in particular Policy 6-6 and 6-7. Mr Hudson's report uses assessment factors as contemplated by Table 6.1 of the One Plan. For each feature or landscape, the values are recorded.
- [33] The relatively small areas that may qualify as ONFLs based on Mr Hudson's assessment in the Manawatu District is seen in **Appendix 1**.
- [34] The major ONFL is Ruahine State Forest Park. The risk of any material adverse effects on that natural resource is low. A number of the areas identified in **Appendix 1** are identified generally as potential regionally significant ONFLs in Schedule G to the One Plan. In his statement of evidence, Mr Hudson summarised the situation in this way:

The situation we now have is that; there are OF's listed in the Operative District Plan, there are ONFLs listed in One Plan Schedule G, and there are ONFLs proposed as part of the Manawatu District Council PC53. The full extent of proposed ONFL areas and the reasons for their conclusion are detailed in the Manawatu Landscape Assessment draft.

The One Plan

- [35] The One Plan is the most specific policy instrument in relation to ONFLs. Policy 6-6 is set out below:

Policy 6-6: Regionally outstanding natural features and landscapes

² Hudson Associates: "Manawatu District Landscape Assessment" MDC 25 February 2013. Commissioners' Decision – PC55

- (a) The natural features and landscapes listed in Schedule G Table G.1 must be recognised as regionally outstanding and must be spatially defined in the review and development of district plans. All subdivision, use and development directly affecting these areas must be managed in a matter which: Avoids significant adverse effects on the characteristics and values of those outstanding natural features and landscapes; and
- (b) Except as required under (a), avoids adverse effects as far as reasonably practicable and, where avoidance is not reasonably practicable, remedies or mitigates adverse effects on the characteristics and values of those outstanding natural features and landscapes.

[36] Policy 6-6 was finalised through the Environment Court process after considerable debate.

[37] Chapter 3 of the One Plan governs infrastructure, energy waste and hazardous substances. Policy 3-1 identifies the National Grid as being of regional or national importance.

[38] Policy 3-3 is the most applicable policy in relation to new infrastructure of regional or national importance. The provisions of Policy 3-3 are set out below:

Policy 3-3: Adverse effects of infrastructure and other physical resources of regional or national importance on the environment

In managing any adverse environmental effects arising from the establishment, operation, maintenance and upgrading of infrastructure or other physical resources of regional or national importance, the Regional Council and Territorial Authorities must:

- (a) Recognise and provide for the operation, maintenance and upgrading of all such activities once they have been established,
- (b) Allow minor adverse effects arising from the establishment of new infrastructure and physical resources of regional or national importance, and
- (c) Avoid, remedy or mitigate more than minor adverse effects arising from the establishment of new infrastructure and other physical resources of regional or national importance, taking into account:
 - (i) The need for the infrastructure or other physical resources of regional or national importance,

- (ii) Any functional, operational or technical constraints that require infrastructure or other physical resources or regional or national importance to be located or designed in the manner proposed,
- (iii) Whether there are any reasonably practical alternative locations or designs, and
- (iv) Whether any more than minor adverse effects that cannot be adequately avoided, remedied or mitigated by services or works can be appropriately offset, including through the use of financial contributions.

The essence of the dispute

[39] The cascade of rules in Section 3A4 of PC55 for network utilities is generally enabling as anticipated by the One Plan. All network utility activities are permitted under R3A4.1 subject to compliance with permitted activity standards in R3A4.2. Activities that are not permitted because of non-compliance with the performance standard default to restricted discretionary class with the matters of discretion confined to the extent that any relevant standard is not met.

[40] A permitted activity standard (Standard I) requires that the works must not be located in areas scheduled in Appendix 1A, 1B, 1C, 1D, 1E and 1F. Appendix 1C refers to ONFLs. If that standard is not met, then R3A.4.3 concerning restricted discretionary activities is engaged. Assessment criteria (vi) in that rule requires consideration of the extent of impacts on values of the listed item in either Appendix 1A, 1B, 1C, 1D or 1E and the extent to which those impacts are remedied.

[41] R3A.4.5 however states that any network utility located within an ONFL is non-complying. Rule 3A.4.5 states:

Any network utility located within an Outstanding Natural Feature or Landscape in Appendix 1C is a Non-Complying Activity.

[42] Mr Hudson drew a distinction between linear and non-linear infrastructure. Linear infrastructure includes such things as transmission lines. Non-linear infrastructure includes such things as pylons and masts for telecommunications.

[43] Submitters with interests in linear and non-linear infrastructure sought a discretionary status (rather than non-complying) for network utilities in ONFLs in Appendix 1C. The reasoning varied. For example:

- (a) Powerco argue that discretionary classification is appropriate because sometimes network utilities are located within road corridors or other locations where the potential impact on ONFL values was small and a non-complying activity status was inappropriate;
- (b) Transpower argued that the national benefits of their infrastructure, if required in an ONFL, could outweigh the dis-benefits and therefore make the use appropriate. The non-complying activity status was argued to be too restrictive; and
- (c) Spark and Chorus argued that small infrastructure, such as telecommunications in ONFLs, may be useful for emergencies such as to enable search and rescue.

[44] Much of the debate concerning the appropriate activity classification relied on planning evidence and was argued in the abstract. That is because the amount of network utility infrastructure already in ONFLs (excluding that within road corridor) is small and there were no plans by any network operator to take new infrastructure in a known ONFL either listed in Appendix 1C now, or proposed in draft PC53.

[45] There was also argument regarding the appropriate wording for Objective 3 and its implementing policies. Of course, with activity classification and the requirements of RMA, s 104 (and in particular for non-complying activities where there are two gateways) the significance of policy can be great.

[46] We therefore had to address the issue as one of planning principle and were obliged, amongst other things, to:

- (a) Recognise and provide for RMA Part 2, s 6(b); and

- (b) Give effect to the National Policy Statement on Electricity Transmission (NPSET);³ and
- (c) Give effect to Part 1 of the One Plan and in particular Policy 6-6 and Policy 3-3.

How should Objective 3 and its implementing policy read?

[47] The amendments to objective 3 and implementing policies proposed by Ms Harris in her reply in PC55(R2) are set out below:

Objective 3

To protect the values that are important to significant heritage and landscape areas from the inappropriate development of network utilities. To restrict, except within an existing road carriageway, the development of network utilities within areas of significant heritage and landscape value recognising the values of these important areas.

Policies

3.1 Subject to Policy 3.2, to protect the values that cause an Outstanding Natural Feature and Landscape to be identified—scheduled in Appendix 1C (Outstanding Natural Features) or a site of historic heritage scheduled in Appendix 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) from inappropriate subdivision, use and development.

3.2 To restrict the development of network utilities, except within an existing road ~~corridor~~carriageway, within areas scheduled of significant heritage and landscape value in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) unless there is no practicable alternative location; and

³ Gazetted on 13 March 2008.
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the infrastructure is of national or regional importance;
and the development substantially protect the values of
the scheduled resource.

3.3 To seek to avoid the adverse effects generated by the
National Grid on Outstanding Natural Features and
Landscapes while taking into account the locational,
technical and operational requirements and constraints
of the National Grid and the contribution it makes to the
functioning and well-being of the community and
beyond.

- [48] So far as Objective 3 (in PC55(R2)) is concerned, the focus is on the protection of the important values. A values based approach to the protection of ONFLs is important and ordained by the One Plan in Policy 6-6. The values will vary depending on the ONFL. Values are to be identified to give effect to the One Plan. These values are described in the Draft Manawatu District Landscape Assessment. The introduction of the word “inappropriate” in Ms Harris’ objective 3 (in PC55(R2)) provides the pathway to her proposed Policy 3.2 that explains what might be appropriate in limited circumstances. Consequently, the qualifier “inappropriate subdivision use and development” in Policy 3.1 in PC52(R1) is removed. This change is necessary since policy in a district plan should resolve what is appropriate and what is not.
- [49] Policy 3.1 (in PC55(R2)) now contains an unqualified outcome statement, only *subject to Policy 3.2*, to protect the values of the specific ONFLs listed in Appendix 1C and the other resources identified in that Policy.
- [50] Policy 3.2 (in PC55(R2)), in achieving Policy 3.1, restricts development of network utilities (except within the existing road corridor) unless three requirements are met:
- (a) There is no practicable alternative location; and
 - (b) The infrastructure is of national and regional importance; and

- (c) The development substantially protects the values of the scheduled resource.

[51] Ms Harris also proposed Policy 3.3 as a specific mechanism to give effect to Policy 8 in the NPSET.

[52] In our view, the environmental bottom lines, which must be implemented by the provisions of PC55, can be found in Policy 6-6 of the One Plan that also implements RMA Part 2 and NPSET. The thrust of Policy 6-6 is:

- (a) Avoiding significant adverse cumulative effects on values; and
- (b) Subject to (a), avoid adverse effects unless the avoidance is not reasonably practicable.

[53] Proposed Policy 3.1 in PC55(R2), in our view, more than implements Policy 6-6(a) of the One Plan by demanding, subject to Policy 3.2, the protection of ONFL values from network utilities and hence avoidance of adverse effects on them. Policy 3.2 implements Policy 6-6(b) of the One Plan, by restricting network utilities in ONFLs and other key sites and further clarifying what is “reasonably practicable” and appropriate for the purpose of One Plan Policy 6-6(b) by specifying three estimable requirements:

- (a) First, there must be no practicable alternative location. That is also a prerequisite under One Plan, Policy 6.6;
- (b) The second requirement is that the infrastructure is of national or regional importance. This further limits the eligible development that can rely on the exception so that only development which confers significant national or regional benefits can meet the exception; and
- (c) Finally, the bottom line is that the values of the scheduled resource are protected so that in practical terms Policies 6-6(a) and (b) of the One Plan are achieved.

[54] Our overall assessment is that Objective 3 and Policies 3-1 and 3-2 are appropriate and should be confirmed.

[55] The next question is whether or not Policy 3.3 in PC55(R2) (specifically directed at the National Grid) should be adopted. Policy 3.1 is only made subject to Policy 3.2. Therefore, the National Grid would need to qualify under the exceptions in Policy 3.2. It would certainly meet the second limb as being nationally or regionally important. Does Policy 3.3 in PC55(R2) add anything? Probably not.

[56] Ms Eng emphasised for Transpower, that Policy 8 in NPSET is not an absolute avoidance policy. Policy 8 reads:

In rural environments, planning and development of the transmissions system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

[57] We agree. But Policy 3.2 is not absolute either. The problem with Policy 3.3 as proposed is that it is not outcome based. It is also redundant given our recommended change to Objective 1 later in this decision. Objective 1, Objective 3 and Policy 3.3 as we propose in PC55(C) more comfortably sit together. We have deleted Policy 3.3 in PC55(R2).

What activity class should be applied to new network utilities?

[58] It will be recalled some submitters opposed the non-complying classification in R3A.4.5.

[59] Before we address that classification issue, it appears to us there is some ambiguity about the relationship between R3A.4.3 and R3A.4.5. On our reading of the rules, a new network utility in an ONFL does not meet performance standard R3A.4.2(I). It then defaults to restricted discretionary under R3A.4.3 and assessment criteria (vi) applies. On the other hand, R3A.4.5 makes the same activity non-complying. Our assessment is that there is an error here and that R3A.4.3 should be amended so that it excludes network utilities within ONFLs that are not minor upgrades. Minor upgrades is a defined term.

[60] The non-complying activity status is employed in planning to protect resources by jurisdictionally barring consideration of activities, unless one

of two gateways are met in RMA, s 104D. A non-complying classification implements a protection orientated policy framework by placing gateway barriers to consideration of activities. Anyone considering the Plan has to ask an *antecedent* question before assessing RMA, s 104 matters and answer it affirmatively before considering the activity. Are the effects minor? Is the proposal consistent with the objectives and policies of the Plan?

- [61] The assessment of whether or not the effects are minor is necessarily evaluative, but that doesn't mean to say it isn't an appropriate question to address at the outset. Given the framework of objectives and policies, it is quite straightforward also to assess whether or not, for example, a particular proposal falls within the cumulative requirements in Policy 3.2 to be classed as a possible exception to the direction in Policy 3.1 subject to a full RMA, s 104 evaluation.
- [62] We consider that the non-complying activity status for network utilities in ONFLs is appropriate. This provides a clear signal that ONFLs are a special class of resource and their values cannot be compromised by general recourse to the evaluation under RMA, s 104 *unless* one of those two gateways are met.

Issue 3 – A stand-alone network utilities section of the District Plan

- [63] PC55 contains a district wide policy suite for network utilities as an activity class. But PC55 does not contain an exhaustive set of rules applying to that activity class. R3A.4 states:

Rules in this chapter apply district wide and the chapter needs to be read in conjunction with the District Plan maps, relevant appendices and provisions of the applicable zone.

- [64] A number of submitters, including Powerco, Spark and Chorus sought a stand-alone utilities chapter in the District Plan. Ms Blair for Powerco addressed that in detail in Section 4 of her statement of evidence. Para 4.3 of her evidence in particular states:

4.3 There are in my opinion, a number of factors that in combination make network utilities unique activities and which justify them being dealt with separately. These include:

- a) Network utilities are essential functions that form part of the fabric of modern society;
- b) Due to their nature and function there is difficulty in avoiding, remedying or mitigating adverse effects (e.g. it is not possible to readily screen electricity poles), hence choice of location (route) is usually the primary means to reduce effects;
- c) Utilities are of strategic importance to the district and if society is to enjoy the benefits of such facilities it has to be prepared and most often does accept a greater level of effect from such facilities than for other types of developments;
- d) Existing utilities have to be maintained and upgraded to meet increasing demand;
- e) The unique role and function of network utilities and the problems they face is recognised in the RMA by allowing network utility operators to become requiring authorities;
- f) A standalone chapter would make the approach to the management of such network utilities more consistent and certain across the district particularly when seeking to manage linear network utilities that traverse multiple zones; and
- g) It is inappropriate to apply zone based provision that have been drafted with development of that nature in mind (e.g.: residential zone provisions are drafted with a view to managing residential development and industrial zone provisions with a view to managing industrial development). While I accept that some zone based provisions may be relevant, for example noise, I consider that these should be specifically identified as such, and cross referenced in the utilities chapter.

[65] All these points made by Ms Blair are valid and in the end Section 3A may function entirely stand-alone (even if not in a separate section of the Plan entirely) in the way that Ms Blair wanted once the sectional review is complete. Ms Blair's concern at the potential for policy in other zones to apply to network utilities, as well as the policy applying in 3A is a somewhat overstated concern. The Policy suite in Section 3A is the most specific policy applying to network utilities.

- [66] The most significant area of concern was the potential overlap in relation to height and setback requirements. Ms Harris, in her PC55(R2) proposed a change to R3A4.2 to make it plain that the permitted activity standards for height and setback for network utilities overrode the requirements of any zone chapter. In other words, Ms Harris was satisfied that in respect of these two requirements, those in Section 3A of PC52 could operate as standalone requirements. Ms Harris was not able to satisfy herself that other zone requirements could be excluded. She also doubted whether or not such a change to zone requirements was within the scope of the plan change.
- [67] Our predicament is that we cannot determine the question of scope without knowing what the implications of the stand-alone chapter, Ms Blair suggests, might be. That is essential to determining the question of scope, including the potential fairness implications of such a change. As we were not assisted by the submitters' evidence on this question (or what that replacement standalone chapter might look like), we prefer to take the conservative course of retaining PC55 as notified with the amendment to R3A4.2 in PC55(R2).

Issue 4 – Amendments sought by Powerco

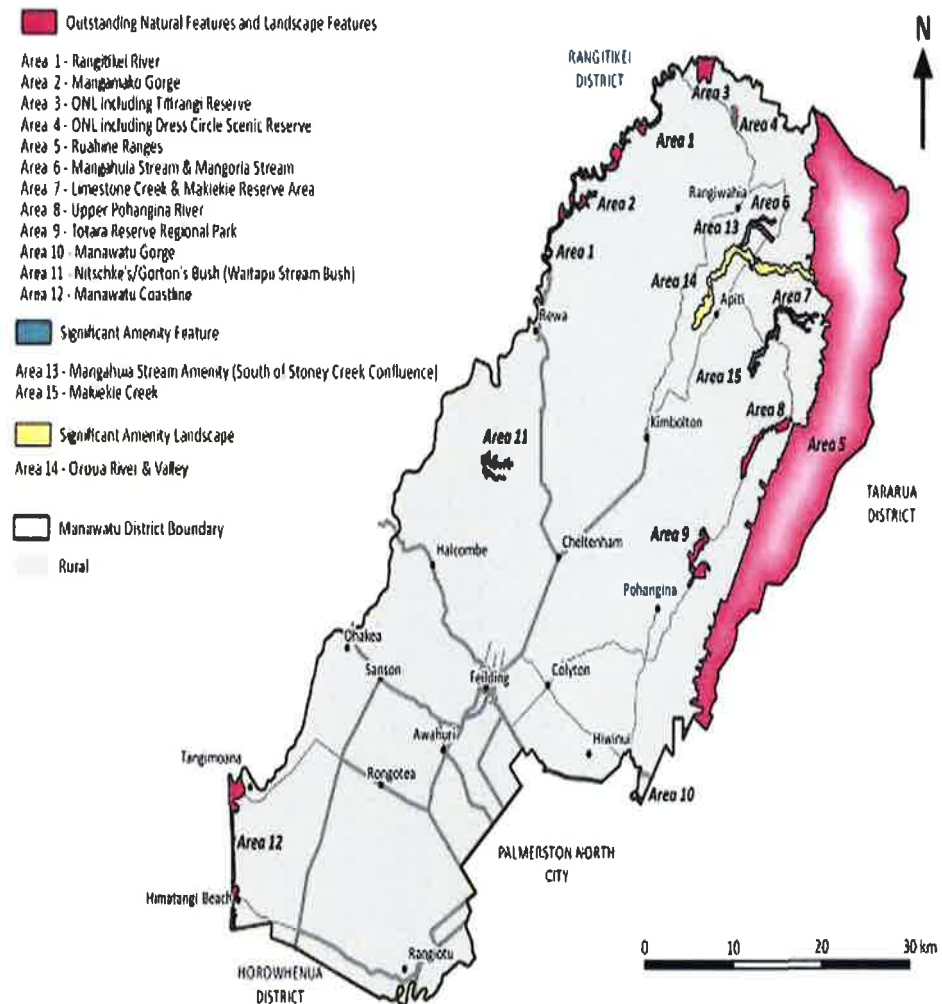
- [68] Ms Blair, on behalf of Powerco, sought a number of changes to Section 3A that can be described as “tweaking” beyond the issues that she addressed in her evidence concerning Issue 2 and 3.
- [69] Ms Harris, for MDC, in her right of reply addresses each of these matters by submission number. Ms Harris recommended changes that she considered appropriate to PC52(R1) and PC52(R2) as set out in the fifth column of evidence in reply. In most cases, Ms Harris consulted with Ms Blair and the wording was agreed.
- [70] These matters in contention were therefore substantially resolved and we adopt the amended wording in PC52(R2).

Issue 5 – Provision for telecommunication facilities requested by Spark and Chorus

Overview

- [71] In addition to addressing Issues 2 and 3, Spark and Chorus, sought changes to elements of Section 3A in PC55.
- [72] Generally speaking, Spark and Chorus were supportive of the enabling framework for network utilities in PC55. We gratefully received the body of evidence from experts concerning the importance of network communication facilities to enable social, economic and cultural well-being. We were left in no doubt also that this was a dynamic field where significant changes occur over a relatively short timeframe.
- [73] A new National Environmental Standard for Telecommunication Facilities replaces the 2008 National Environmental Standard in 1 January 2017 called the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulation 2016 (NESTF). This new standard was made by Order in Council in November 2016, but comes into force in January 2017. Spark and Chorus were particularly anxious to ensure that the District Plan provisions cited NESTF and that the Plan was explicit that the provisions of NESTF would override the requirements of the District Plan in the event of conflict. Ms Harris in her right of reply agreed that these changes to the District Plan referred to the most recent standard. We agree.
- [74] There are a number of changes in PC55(R1) to the specifications stated in R3A.4.2(i) in relation to antennae dishes. These changes respond to the requests of Spark and Chorus.
- [75] Additionally, in R3A.4.2 Ms Harris proposed a change to the guidance note to refer to NESTF. This change is made at the request of Spark and Chorus.
- [76] Spark in submission point 17/025 and submission point 18/026 requested the maintenance, replacement and minor upgrading of existing utilities in ONFLs. A similar request was made by Powerco and the amendment to

APPENDIX 1 - ONFL IN DRAFT ASSESSMENT



3.0 DISTRICT WIDE RULES

3.1 Introduction

This chapter contains provisions that apply in the Manawatu District relating to:

- Network utilities:
- Transport
- Noise
- Earthworks
- Signage
- Temporary activities
- Relocated buildings

This chapter is intended to be read in conjunction should be read along with the relevant zoning provisions. If the relevant¹ zoning rules are more specific-restrictive than the provisions contained in this chapter, then the zone rules they shall apply.²

3A NETWORK UTILITIES

PAGE
1

3A.1 Introduction

Network utilities, including infrastructure of regional and national importance, are an essential part of the District's infrastructure. Communities rely on network utilities to function. It is therefore critical the development, operation, upgrading and maintenance of these essential services are managed appropriately to ensure the social, economic and cultural wellbeing of those in the District and beyond. Such infrastructure, services and facilities can also create significant direct or indirect adverse environmental effects, some of which may be quite specific to the utility. Due to their locational, technical and operational constraints, some utilities may generate adverse effects that cannot be practically avoided, remedied or mitigated. As such, these effects need to be balanced against the essential nature of facilities and the benefits these utilities provide to the social, economic, health and safety and wellbeing of people and communities in the Manawatu District and beyond.³

The National Grid is managed and regulated in part by the National Policy Statement on Electricity Transmission 2008 (NPSET) and the Resource Management (National Environmental Standards for Electricity Transmission Activities (NESETA). The NPSET came into effect on 13 March 2008 and recognises the national significance of the National Grid in its entirety. The NPSET facilitates the operation, maintenance and

¹ S16/004 by Transpower

² S3/007 by Heritage New Zealand Pouhere Taonga and S11/008 by Transpower NZ

³ S16/005 by Powerco and S11/009 by Transpower NZ

upgrade of the existing National Grid network and the establishment of new National Grid assets. The District Plan is required to give effect to the NPSET.

The NESETA came into effect on 14 January 2010. The NESETA sets out a national framework for permissions and consent requirements for activities on National Grid lines existing at 14 January 2010. Activities include the operation, maintenance and upgrading of existing lines but exclude the development of new lines and substations. The NESETA must not be in conflict with nor duplicate the provisions of the NESETA.

Telecommunication and Radiocommunication facilities are in part managed under the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 2008 (NESTF). The NESTF provides a nationally consistent planning framework for a wide range of telecommunication facilities in locations inside and outside the road reserve. Telecommunication facilities not covered by the NESTF 2016 are controlled under the District Plan. radiofrequency fields of all telecommunication facilities, and for some telecommunication infrastructure that is located in the road reserve, such as cabinets and antennas.⁴

The Manawatu Wanganui Regional Council's One Plan also recognises provides for⁵ the regional and national importance of a range of infrastructure in the region. The Regional Policy Statement section of the One Plan (RPS) requires that councils recognise, and⁶ have regard to the benefits that derive from regionally and nationally important infrastructure and utilities, and that the establishment, operation, maintenance and upgrading of such infrastructure be provided for in the District Plan. The RPS also requires that the Council ensure that adverse effects from other activities on network utility infrastructure are avoided as reasonably practicable.

This chapter provides clarification to network utility operators for activities that can be undertaken without a resource consent, and the parameters these activities must comply with. The District Plan provides for a large range of works to be permitted subject to performance standards.

Subdivision, use and development can adversely impact surrounding network utilities. Therefore, additional provisions relating to setbacks from key network utilities are included in the Chapter 8 - Subdivision. Earthworks when undertaken in proximity to network utilities can undermine the infrastructure asset. Provisions restricting earthworks near some network utilities are contained in the earthworks section of this chapter.

3A.2 Resource Management Issues

The following resource management issues have been identified in relation to network utilities:⁷

⁴ S17/005 by Spark and S18/006 by Chorus

⁵ S5/046 by Heritage NZ Pouhere Taonga

⁶ S5/046 by Heritage NZ Pouhere Taonga

⁷ Support all issues S20/007 by First Gas and S8/005 by NZ Defence Force

1. To provide for the safe, effective and efficient operation, maintenance, replacement⁸ and upgrade⁹ of network utilities, including infrastructure of regional and national importance.¹⁰
2. Recognising that network utilities have technical and operational requirements that may dictate their location and design.¹¹
3. The safe, effective and efficient operation, upgrading and maintenance, replacement and upgrading¹² and planned development¹³ of network utilities can be put at risk by inappropriate subdivision, use and development.¹⁴
4. The need to balance the visual amenity effects of network utilities against their locational needs.
5. The need to manage the disposal of solid waste material by reusing and recycling where possible, while avoiding the use of contaminated soils.
6. Recognising the constraints on existing network utilities when considering new development.¹⁵
7. Potential effects from electromagnetic and other forms of radiation.
8. The location, operation and maintenance, replacement and upgrading¹⁶ of network utilities can create adverse effects on the environment.¹⁷

3A.3 Objectives and policies

Objective 1

To ensure network utilities are designed, located, constructed, operated, upgraded and maintained in a manner that ensures the efficient use of natural and physical resources while recognising the environment they are located in.¹⁸

To ensure:

- (a) Network utility infrastructure of national and regional importance, including the National Grid, is able to operate, upgrade and develop efficiently and effectively

⁸ S16/006 by Powerco

⁹ S11/010 by Transpower and S16/006 by Powerco

¹⁰ Support issue 1 S7/005 NZ Transport Agency

¹¹ Support issue 2 S11/011 by Transpower

¹² S16/006 by Powerco

¹³ S16/007 by Powerco

¹⁴ Support issue 3 S7/006 by NZ Transport Agency

¹⁵ Support issue 6 S2/002 by Kiwirail

¹⁶ S16/006 by Powerco

¹⁷ S23/001 by Horticulture NZ, S1/003 by Federated Farmers and S3/008 by NZ Defence Force

¹⁸ Support S5/010 by Horizons

while managing any adverse effects in the environment having regard to the locational, technical and operational constraints of the infrastructure.

- (b) All other network utilities are designed, located, constructed, operated, upgraded and maintained in a manner that ensures the efficient use of natural and physical resources while recognising the environment they are located in.¹⁹

Policies

- 1.1 To enable the establishment, operation, maintenance, replacement,²⁰ and minor upgrading of network utilities.
- 1.2 To encourage network utility operators to coordinate and co-locate services or to locate within the existing roading network where practicable possible²¹ to minimise potential cumulative effects.²²
- 1.3 To require that encourage²³ all new cables and lines, including electricity distribution lines (but not the National Grid) are installed underground.
- 1.4 To recognise the locational, technical and operational requirements and constraints of network utilities and the contribution they make to the functioning and wellbeing of the community and beyond when assessing their location, design and appearance.²⁴
- 1.5 To ensure network utilities are constructed and located in a manner sensitive to the amenity and landscape values where they are located.²⁵

Objective 2

To protect the operation, maintenance, replacement and upgrading of existing network utilities, including infrastructure of regional and national importance and the planned development of new network utilities, from the potential adverse effects of subdivision, use, development and other land use activities.²⁶

To protect network utilities in the district, and in particular nationally and regionally important infrastructure, including the National Grid, by avoiding the adverse effects of subdivision use and development and other land use activities on the operation,

¹⁹ Support S5/010 by Horizons

²⁰ S11/018 by Transpower

²¹ S16/011 by Powerco

²² S17/006 by Spark and S18/007 by Chorus

²³ S17/007 by Spark and S18/008 by Chorus

²⁴ S11/021 by Transpower, S16/013 by Powerco and S20/010 by First Gas

²⁵ Support S5/015 by Horizons

²⁶ S11/023 by Transpower, S16/015 by Powerco and S20/011 by First Gas

maintenance, replacement, and upgrading of the existing network utilities and planned development of new network utilities.

Policies

- 2.1 To ensure that any vegetation is planted and maintained to avoid interference with network utilities, including transmission lines and the National Grid Yard.²⁷
- 2.2 To require that appropriate separation of activities is maintained to enable the safe operation, maintenance, replacement and upgrading²⁸ of network utilities, and avoid reverse sensitivity and/or manage risk²⁹ issues.
- 2.3 To ensure all subdivision and development is designed to avoid adverse effects on the operation, access, maintenance, replacement and upgrading of existing or planned development of network utilities.³⁰
- 2.4 To manage the effects of subdivision, development and land use on the safe, effective and efficient operation, maintenance, replacement³¹ and upgrading of the National Grid by ensuring that:
 - a. Areas are identified in the Plan to establish safe buffer distances for managing subdivision and land use development near the National Grid.
 - b. Sensitive activities, and intensive farming and farm buildings³² are excluded from establishing within the National Grid Yard.
 - c. Subdivision is managed around the National Grid Corridor to avoid subsequent land use from restricting the operation, maintenance and upgrading of the National Grid.
 - d. Changes to existing activities within a National Grid Yard do not further restrict the operation, maintenance and upgrading of the National Grid.³³

Objective 3

To protect the values that are important to significant heritage and landscape areas from the inappropriate³⁴ development of network utilities. To restrict, except within an existing road carriageway, the development of network utilities within areas of

²⁷ Support S7/008 by NZ Transport Agency, S8/007 by NZ Defence Force, S5/017 & 018 by Horizons and S20/012 by First Gas

²⁸ S16/017 by Powerco

²⁹ S16/017 by Powerco

³⁰ S16/018 by Powerco

³¹ S16/006 by Powerco

³² S11/027 by Transpower

³³ S11/027 by Transpower

³⁴ S16/019 by Powerco

significant heritage and landscape value recognising the values of these important areas.³⁵

Policies

- 3.1 Subject to Policy 3.2, to protect the characteristics and values that cause an Outstanding Natural Feature and Landscape to be identified scheduled in Appendix 1C (Outstanding Natural Features) or a site of historic heritage scheduled in Appendix 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value)³⁶ from inappropriate subdivision, use and development.³⁷
- 3.2 To restrict the development of network utilities, except within an existing road corridor³⁸ or carriageway,³⁸ within areas scheduled of significant heritage and landscape value³⁹ in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value)⁴⁰ and 1F (Sites with Heritage Value) unless
- there is no practicable⁴¹ alternative location; and
 - the infrastructure is of national or regional importance; and⁴²
 - the development substantially protects the values of the scheduled resource.⁴³
- 3.3 To seek to avoid the adverse effects generated by the National Grid on Outstanding Natural Features and Landscapes while taking into account the locational, technical and operational requirements and constraints of the National Grid and the contribution it makes to the functioning and well-being of the community and beyond.⁴⁴

³⁵ S3/009 by Heritage NZ Pouhere Taonga, S11/028 by Transpower, S16/019 by Powerco and S20/015 by First Gas

³⁶ S3/010 by Heritage NZ Pouhere Taonga

³⁷ S16/019, S16/020 and S16/036 by Powerco

³⁸ S16/019, S16/020 and S16/036 by Powerco

³⁹ S3/001 by Heritage NZ Pouhere Taonga

⁴⁰ S3/001 by Heritage NZ Pouhere Taonga and S7/011 by NZ Transport Agency

⁴¹ S16/021 by Powerco and S20/016 by First Gas

⁴² S16/019, S16/020 and S16/036 by Powerco, S17/011 and S17/012 by Spark, S18/012 and S18/013 by Chorus, S3/010 by Heritage NZ

⁴³ S16/019, S16/020 and S16/036 by Powerco, S17/011 and S17/012 by Spark, S18/012 and S18/013 by Chorus, S3/010 by Heritage NZ

⁴⁴ S11/029 by Transpower

3A.4 Rules

Rules in this chapter apply District-wide and the chapter needs to be read in conjunction with the District Plan maps, relevant appendices and provisions of the applicable zone.

3A.4.1 Permitted Activities

The following network utilities are Permitted Activities throughout the District, provided that they comply with the standards in Rule 3A.4.2 below:

- a. The operation, maintenance, replacement,⁴⁵ or minor upgrading or repair of lawfully established or consented network utilities, or those that are existing as at 22 February 2017 or which have been lawfully established.⁴⁶
- b. Construction, operation, maintenance, realignment and upgrading of roads and railway lines within the road reserve or railway corridor.⁴⁷
- c. The construction, operation, maintenance, replacement⁴⁸ and minor upgrading of⁴⁹ radiocommunication and/or telecommunication facilities, cables and lines, including those underground.⁵⁰
- d. Underground pumping stations and pipe networks for the conveyance or drainage of water or sewage, and necessary incidental equipment.
- e. Water storage tanks, reservoirs and wells, including pump stations.
- f. Pipes for the distribution (but not transmission) of natural or manufactured gas at a gauge pressure not exceeding 2000kPa including any necessary ancillary equipment such as household connections and compressor stations.⁵¹
- g. The construction, operation, maintenance, replacement⁵² and upgrading of any new electricity lines up to and including 110kV and associated transformers and switchgear.
- h. Soil conservation, erosion protection, river control or flood protection works undertaken by, or on behalf of the Manawatu Wanganui Regional Council.
- i. Land drainage, stormwater control or irrigation works including pump stations.

⁴⁵ S20/019 by First Gas and S16/024 by Powerco

⁴⁶ S16/036 by Powerco and Further Submissions FS13/020 and FS13/021

⁴⁷ Support S2/010 by Kiwirail

⁴⁸ S16/006 by Powerco

⁴⁹ S17/014 by Spark and S18/015 by Chorus

⁵⁰ S16/025 by Powerco

⁵¹ Support S16/028 by Powerco

⁵² S16/026 by Powerco

- j. Railway crossing warning devices and barrier arms.⁵³
- k. Trig stations and survey marks.⁵⁴
- l. Navigational aids, lighthouses and beacons.
- m. Meteorological instruments and facilities.
- n. Decommissioning and removal of utilities.⁵⁵
- o. Electric vehicle charging stations.
- p. The trimming and removal of any vegetation that is required to maintain safe separation distances or the ongoing efficient operation of the telecommunication or electricity line.⁵⁶

Guidance Notes:

1. The provisions of the National Environmental Standard for Telecommunications Facilities (2016~~2008~~) apply and resource consent may be required under those Standards. In the event of a conflict between them the provisions of the National Environmental Standard override the District Plan.⁵⁷
2. Water takes, diversions, new tracks, drilling of bores, offal pits, farm dumps and ~~e~~Earthworks are also regulated by the Manawatu-Wanganui Regional Council and a resource consent may be required under the rules of the One Plan.⁵⁸
3. The National Environmental Standard for Electricity Transmission Activities (2010) (NESETA) sets out a national framework of permission and consent requirements for activities on National Grid lines existing at 14 January 2010. Activities include the operation, maintenance and upgrading of existing lines but exclude the development of new lines (post 14 January 2010) and substations. The District Plan must not be in conflict with nor duplicate the provisions of the NESETA.⁵⁹
4. Vegetation and planting around ~~Transmission all electricity L~~ines (including the National Grid) shall comply with the Electricity (Hazards from Trees) Regulations 2003.⁶⁰

⁵³ Support S2/011 by Kiwirail

⁵⁴ Support S2/026 by Kiwirail

⁵⁵ Support S16/029 by Powerco

⁵⁶ S11/032 by Transpower and S16/030 by Powerco

⁵⁷ S17/015 by Spark and S18/016 by Chorus

⁵⁸ S5/042 by Horizons

⁵⁹ Support S11/035 by Transpower

⁶⁰ S16/031 by Powerco

5. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to the lines, and must be complied with.⁶¹

6. Early consultation with Heritage New Zealand Pouhere Taonga is encouraged where a development may adversely affect an item listed on the New Zealand Heritage List/Rarangi Korero. Works near or within areas of historic heritage may also require an Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act (2014). It is an offence to modify or destroy an archaeological site or demolish/destroy a whole building if the person knows or reasonably suspects it to be an archaeological site. An archaeological site is any place, including any building or structure (or part of), that:

- was associated with human activity or the site of a wreck of a vessel that occurred before 1900; and
- provides or may provide, through archaeological investigation, evidence relating to the history of New Zealand.⁶²

3A.4.2 Standards for Permitted Activities

For all zones, the permitted activities specified in Rule 3A.4.1 above must comply with the following standards, and need not comply with the height and setback rules in the zone chapters.⁶³

- a. New network utilities and minor upgrading⁶⁴ must not exceed a maximum height of
- i. 9m within the Residential or Village Zone, or
 - ii. 25m within the Rural Zone, or
 - iii. 2022m for all other zones.⁶⁵

Guidance Note: antennas (including any ancillary equipment) or lightning rods that do not extend 3m above the height of the building or mast are excluded from the 9m, 22m or 25m or 20m limit above. The mast heights provided in i, ii and iii above can be increased by 5m if the mast is used by more than one

⁶¹ S16/032 by Powerco

⁶² S3/013 by Heritage NZ Pouhere Taonga

⁶³ S16/004, S16/022, S16/023, S16/033, and S16/034 by Powerco, S17/013 by Spark, S18/014 by Chorus, and S20/005 and S20/018 by First Gas

⁶⁴ S16/033 by Powerco

⁶⁵ S17/016 by Spark and S18/017 by Chorus

telecommunications provider. Lightning rods may exceed the maximum height. Refer also to Clause f relating to transmission line requirements.⁶⁶

- b. Any mast with a height of more than 9m must not be located within 20m of any site zoned Residential or Village.
- c. All masts must be set back 20m from a road reserve on any site zoned Rural or Flood Channel.
- d. No mast, building or structure may be located closer than 5m to any site boundary. This 5m yard does not apply to buildings with a floor area of less than 10m², or to overhead lines and cables.
- e. Telecommunication cabinets must not exceed 10m² in area in all zones, except in Flood Channel Zone where cabinets must not exceed 5m² in area.
- f. ~~Poles or towers associated with~~ Electricity transmission and distribution must not ~~with the exception of minor upgrading activities,~~⁶⁷ exceed a height of:
 - i. 12m in the Residential and Inner Business Zones, or
 - ii. 250m in all other zones.⁶⁸
- g. Buildings and structures within an electricity transmission corridor, including the National Grid Yard must:
 - i. Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP34:2001) (Note: compliance with the permitted activity standard of the Plan does not ensure compliance with NZECP34:2001); and⁶⁹
 - ii. Not exceed a maximum height of 2.5m and an area of 10m².
- ~~h. Any radiocommunication and/or telecommunication facility must be designed and operated to comply with the maximum exposure levels (3kHz to 300 GHz) as prescribed by NZ Standard NZS2772.1:1999 Radiofrequency Fields,⁷⁰~~
 - i. No ~~dish~~ antenna will exceed the following dimensions a diameter of:
 - i. 2.5 metres in diameter (dish antenna), or a face area of 1.5m² (other antenna) in the Residential Zone, or

⁶⁶ S17/017 by Spark and S18/018 by Chorus

⁶⁷ S16/033 by Powerco

⁶⁸ S16/034 by Powerco

⁶⁹ S11/038 by Transpower

⁷⁰ S17/022 by Spark and S18/023 by Chorus

- ii. 5 metres in diameter (dish antenna), or a face area of 2.5 m² (other antenna) in all other zones.⁷¹

- j. Where network utilities are located underground, any disturbance of the ground surface and any vegetation (apart from vegetation compromising the operational integrity of the network utility)⁷² must be reinstated or replaced upon completion of the works within the first available planting season.

Guidance Note: The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) also applies to earthworks and a resource consent may be required under those provisions.

~~k. For any construction work associated with any infrastructure that is undertaken in the legal road, the person responsible for that work must be able to demonstrate compliance with the National Code of Practice for Utility Operators Access to Transport Corridors (2011).⁷³~~

- l. Works associated with any network utility, except that are undertaken outside of within an existing road corridor carriageway, or that are not operation, maintenance, replacement or minor upgrading works⁷⁴ must not be located within the areas scheduled must not result in adverse effects on the values or characteristics for any significant historic built or natural heritage specified in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) of this Plan.⁷⁵
- m. Exterior lighting must be directed away from public places and adjoining sites, and must avoid any spill of light that may result in safety concerns for road users.
- n. Metal cladding or fences must be painted or otherwise treated to mitigate reflection.
- o. All road/rail level crossings must be kept clear of buildings and other obstructions which might block sight lines in accordance with Appendix 3B.5.⁷⁶
- p. All network utilities must meet the noise standards relevant to the zone they are located in.

⁷¹ S18/024 by Chorus and S17/023 by Spark

⁷² S20/021 by First Gas

⁷³ S18/025 by Chorus

⁷⁴ S16/036 by Powerco and Further submissions FS13/020 and FS13/021 by Powerco

⁷⁵ S3/012 by Heritage NZ Pouhere Taonga, S16/036 by Powerco, S17/025 by Spark, S18/026 by Chorus and S20/022 by First Gas

⁷⁶ Support S2/012 by Kiwirail

- q. All activities that result in vibration must be managed in accordance with the NZ Transport Agency State Highway Construction and Maintenance Noise and Vibration guide (August 2013) to manage so that no vibration is discernible beyond site boundaries.⁷⁷
- r. Electric vehicle charging stations must not exceed 1.5m² in area and 1.8m in height per charging station in all zones.

Guidance Notes:

1. Vegetation planted within an electricity transmission corridor, including the National Grid Yard and distribution lines⁷⁸ should be selected and managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.
2. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to the lines.
3. Buildings, structures and other activities near transmission gas lines should be managed according to the Operating Code Standard for Pipelines – Gas and Petroleum (NZS/AS 2885) and the Gas Distribution Networks (NZS 5258:2003).
4. Compliance with the permitted activity standards in Rule 3A.4.2 does not necessarily ensure compliance with the relevant code of practice identified above.
5. Sounds generated by construction, maintenance and demolition activities will be assessed, predicted, measured, managed and controlled by reference to NZS6803:1999 Acoustics – Construction Noise.
6. For any construction work associated with any infrastructure that is undertaken in the legal road, the person responsible for that work must be able to demonstrate compliance with the National Code of Practice for Utility Operators Access to Transport Corridors (2011).⁷⁹
7. Radiocommunication and/or telecommunication facilities that emit radiofrequency fields are required to comply with the radiofrequency regulations in the NESTF 2016.⁸⁰

⁷⁷ S16/037 by Powerco, S17/026 by Spark and S18/027 by Chorus

⁷⁸ S23/007 by Horticulture NZ

⁷⁹ S18/025 by Chorus

⁸⁰ S17/002 by Spark and S18/023 by Chorus

3A.4.3 Restricted Discretionary

The following activities are Restricted Discretionary Activities in respect to network utilities:

- a. Any permitted activity that does not comply with any of the relevant standards in Rule 3A.4.2). This rule does not apply to activities that do not meet standard (l) in Rule 3A.4.2 unless it meets the definition of minor upgrading, maintenance or replacement.

For these activities, the Council has restricted its discretion to considering the following matters, only to the extent that they are relevant to the standard that is not met.⁸¹

- scale of built form and location on site, including height
- screening, storage and landscaping
- traffic generation, site access and parking
- noise and vibration
- signage
- lighting
- effects on heritage
- known effects on the health and safety of nearby residents.

In determining whether to grant a resource consent and what conditions to impose, the Council will, in addition to the objectives and policies of the Network Utilities section and the relevant zone, assess any application in terms of the following assessment criteria:

- i. the proposed benefits of the network utility proposal to the wider community and beyond.⁸²
- ii. whether the activity will result in any adverse effects on amenity values of neighbouring properties or the character of the zone in which the activity is proposed.
- iii. whether the application remains consistent with the intention of the standard(s) it infringes.

⁸¹ S16/038 by Powerco

⁸² S11/040 by Transpower

- iv. the degree to which the non-compliance can be mitigated to ensure the effects are internalised to the site.
- v. the degree to which co-location has been considered and is possible/practicable⁸³.
- vi. whether the activity impacts on the scheduled heritage values of the District in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves)), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) of this Plan and, if so, how such impacts are remedied or mitigated.⁸⁴
- vii. the degree to which the proposed location, site or route is better than alternative locations, sites, or routes have been assessed and any operational, locational or technical constraints considered.⁸⁵
- viii. the degree to which the proposed facility may affect the performance of other utilities nearby.
- ix. the technical and operational needs for the efficient functioning of the network utility.

3A.4.4 Discretionary

Any network utility not otherwise specified as Permitted, Restricted Discretionary or Non-Complying Activity, or is not specifically provided for in this Plan, shall be a Discretionary Activity.

3A.4.5 Non-Complying

Any network utility located within an Outstanding Natural Feature or Landscape in Appendix 1C is a Non-Complying Activity unless it is minor upgrading, maintenance or replacement in which case Rule 3A.4.3 applies.

⁸³ S16/043 by Powerco

⁸⁴ S16/043 by Powerco

⁸⁵ S11/041 by Transpower, S16/044 by Powerco and S20/023 by First Gas

Annexure C

Names and addresses of persons to be served with a copy of this notice

Manawatu District Council

Private Bag 10001,

Feilding 4743

districtplanreview@mdc.govt.nz

- (a) Stand Alone Utilities Chapter - S3.1 Introduction, 3A.4 Rules and 3A.4.2 Standards for Permitted Activities**
- (b) Provision for lineal network utilities to be discretionary activities in Outstanding Natural Landscape Areas, not non-complying – Rules 3A.4.4 and 3A.4.5**

Submitter	Contact Details
First Gas	Adam Du Fall First Gas 42 Connett Road West New Plymouth 0276030833 adam.dufall@firstgas.co.nz
Heritage NZ	Finbar Kiddle Heritage Adviser – Planning Heritage New Zealand PO Box 2629 Wellington 6140 DDI 04-494-8325 HAPanningCR@heritage.org.nz
Transpower	Rebecca Eng Transpower NZ limited PO Box 17215 Greenlane Auckland 1546 DDI 09-520-7072 environment.policy@transpower.co.nz
Spark	Graeme McCarrison Spark NZ Trading Limited Private Bag 92028 Auckland 1010

	DDI 09-357-2807 Graeme.McCarrison@spark.co.nz Cc: Tom Anderson Incite PO Box 2058 Wellington DDI 04-801-6862 tom@incite.co.nz
Chorus	Mary Barton Chorus NZ Limited PO Box 632 Wellington 6140 DDI 04-896-4168 Mary.Barton@chorus.co.nz

**(c) Provision for Electricity Poles or towers Within An Electricity Transmission Corridor
- Rule 3A.4.2(g)(ii)**

Submitter	Contact Details
Transpower	Rebecca Eng Transpower NZ limited PO Box 17215 Greenlane Auckland 1546 DDI 09-520-7072 environment.policy@transpower.co.nz