

Proposed Horowhenua District Plan

Utilities and Energy

Hearing: 6-7 May 2013

Officer Right of Reply and Response to Commissioners Questions

Officer Right of Reply

I have considered the evidence presented by submitters at the hearing on 6th May 2013. In addition, I have considered the questions and comments from the Commissioners raised during the hearing. Below I respond to the evidence presented and to the questions raised by Commissioners.

Federated Farmers

Introduction – Chapter 12 (Section 4.1 of the Section 42A Report)

I note the support by the submitter for the recommendation in the Section 42A Report. This recommendation has been further amended in response to the expert evidence provided by Transpower (see 7.1 of the Supplementary Section 42A Report). I think it would be unlikely that this additional amendment would reduce the support indicated by Federated Farmers for the wording of the Introduction to Chapter 12.

Objective 12.1.1 (Section 4.4 of the Section 42A Report)

Federated Farmers considers that Objective 12.1.1 as notified already meets the requirements of the NPS regarding the transmission network and is not in need of the additional words. Federated Farmers seek no amendments to Objective 12.1.1

I do not support the Federated Farmers relief. I support the matters raised by Transpower at the hearing that confirmed the appropriateness of including the word 'protect' in this Objective as it is considered necessary to give effect to the requirements of the NPSET in particular the NPS Objective and Policy 10.

I recommend that the relief sought by Federated Farmers be rejected.

Policy 12.1.3 (Section 4.6 of the Section 42A Report)

The submitter seeks the words 'including effects on primary production activities' be added to Policy 12.1.3. I do not support this amendment. Horticulture NZ accepted the Section 42A report recommendation and in response suggested that an additional paragraph be added to the Explanation and Principal Reasons instead. I have commented on this proposed new paragraph below, but am generally supportive of recognition being given to

the impacts on primary production activities in the Explanation and Principal Reasons rather than Policy 12.1.3. I therefore do not support the relief sought by Federated Farmers.

The submitter supports the recommendation in the Section 42A Report in relation to not including the words 'to the extent practicable'. I note and agree with this support.

Issue 12.2 (Section 4.16 of the Section 42A Report)

Federated Farmers opposed NZWEA's submission to have new renewable energy facilities recognised as a matter of national significance in Issue 12.2. I have addressed this in Section 8.2 of my Supplementary Section 42A Report where I recommended that the reference to 'matter of national significance' be added to Issue 12.2. I therefore recommend that the relief sought by Federated Farmers be rejected.

Policy 12.2.6 (Section 4.23 of the Section 42A Report)

The submitter supports the recommendation in the Section 42A Report.

Policy 12.2.11 (Section 4.28 of the Section 42A Report)

The submitter supports the recommendation in the Section 42A Report.

Chapter 12 - New Objective (Section 4.35 of the Section 42A Report)

The submitter supports the recommendation in the Section 42A Report.

Rule 19.1(k) (Section 4.41 of the Section 42A Report)

The submitter supports the recommended amendment to Rule 19.1(k).

Rule 22.1.2 (Section 4.48 of the Section 42A Report)

The submitter seeks that Rule 22.1.2 that provides for new electricity lines up to 110kV as permitted, be deleted. Transpower confirmed at the hearing that this rule was consistent with the NPSET in particular giving effect to the NPS Objective and policies 5 and 10. I support the rule be retained.

I therefore recommend that the relief sought by Federated Farmers be rejected.

Rule 22.1.10(b) (Section 4.57 of the Section 42A Report)

Federated Farmers opposes Rule 22.1.10(b) and seek that it be deleted and that minor upgrading and upgrading of network utilities are a discretionary activity.

I support the retention of this rule and consider it appropriate that minor upgrading be provided for as a permitted activity. I note the support for the retention of this rule by Transpower and also the further submitters (Chorus, Telecom, Todd Energy and KCE Mangahao Ltd) opposing the Federated Farmers' submission point.

I therefore recommend that the relief sought by Federated Farmers be rejected.

Chapter 22 - New Rule (Section 4.58 of the Section 42A Report)

The submitter supports a discretionary activity status for new wind farms. The submitter opposes the restricted discretionary activity status sought by NZWEA (100.14).

The Proposed Plan provides for Wind energy facilities as a discretionary activity (Rule 19.4.6(b) in the Rural zone. This is considered to be the only appropriate zone for such a development in Horowhenua. Rule 19.5.3(b) confirms that any wind energy facility on any land within an ONFL identified on the Planning Maps is a Non-Complying Activity.

I therefore consider that the Proposed Plan provides the relief (and possibly goes beyond that relief) sought by Federated Farmers.

Horticulture New Zealand

(Section 4.6 of the Section 42A Report)

In response to the recommendation regarding Policy 12.1.3, Horticulture NZ suggested that a new paragraph be added to the Explanation and Principal Reasons for this policy.

The proposed paragraph would read:

“Many network utilities are located in the rural zone, often on privately owned land. Where this occurs there is a need to consider effects of the network utility on the activities undertaken on the land such as primary production activities which can be constrained due to the location of the network utility on the land. Such effects should be considered when considering the establishment, construction, operation, maintenance and upgrading of network utilities.”

Transpower in responding at the hearing to this new paragraph did not support its inclusion in the Proposed Plan. Transpower commented that it would be contrary to the NPSET in particular Policy 10.

I appreciate that Horticulture NZ are seeking some recognition that in the Rural environment it is often primary production activities that may be compromised or constrained by the presence of network utilities. I note that it is not just the electricity transmission network that is sited in the Rural zone, there are other network utilities such as the gas pipelines that run through rural parts of the District, so while the NPSET is relevant it does not relate to all network utilities that are sited in the Rural zone.

I accept that particularly in the case of the electricity transmission network where this network is existing, the effects of the network utility on a new primary production activity should not need to be considered. However I consider it appropriate that where a new or upgraded network utility requires resource consent then it would be appropriate to consider any adverse effects that the network utility would have on existing primary production activities.

While there are many other land uses that could also be affected by network utilities I accept that their presence in the rural environment is usually more at odds with the surrounding land uses and for these reasons I can support some additional text being added to the Explanation and Principal Reasons to recognise this potential tension between land uses.

I recommend the following wording be added to the end of the 2nd paragraph Explanation and Principal Reasons for Objective 12.1.1

“It is recognised that many network utilities in the District are located in the Rural zone and often on privately owned land. In some circumstances the location of these network utilities can constrain the activities undertaken on the land. Where resource consent is required to establish, construct, operate, maintain and upgrade network utilities in the Rural zone, consideration should be given to the effects of the network utility on the existing activities undertaken on the land such as primary production.”

Transpower – New Definition of Critical Infrastructure

(Section 4.65 of the Section 42A Report)

Transpower requested that a new definition be added to the Proposed Plan for the term ‘Critical Infrastructure’. The term is currently used within Chapter 8 (Natural Hazards) of the Proposed Plan in Policy 8.1.8 and the supporting Explanation and Principal Reasons.

Given that there appears to only be two references to this term in the Proposed Plan, one of which is followed by a series of examples I am not convinced that a definition needs to be added to the Proposed Plan.

I have however considered whether the list of examples that are included in the Proposed Plan covers the matters that Transpower sought to be included in their definition. Transpower had specifically sought the inclusion of ‘electricity substations and the electricity transmission network’.

I note that the current list of examples captures those matters included in the Proposed One Plan definition of ‘Critical Infrastructure’. While the list of examples is not intended to be exhaustive I consider that the electricity transmission network would be part of the District’s critical infrastructure. I also acknowledge that the list of examples for critical infrastructure does not necessarily need to be limited to just those matters identified in the list. Notwithstanding that I consider it appropriate to add the words ‘electricity transmission network’ to this list of examples. I acknowledge that this term is not included in the Proposed One Plan definition but in my opinion the electricity transmission network would be as important if not more so than the substations, for this reason and to retain a level of consistency with the Proposed One Plan I would recommend that both electricity substations and electricity transmission networks be included in the list of examples.

I therefore recommend that the following amendment be made to the 4th paragraph of the Explanation and Principal Reasons for Objective 8.1.1 to read:

“Preferably, lifeline and critical infrastructure and services (e.g. electricity substations and transmission networks, public water supply/treatment plants, public wastewater treatment plants, strategic road and rail networks and health care institutions/hospitals) should be placed at minimal risk from natural hazards, and therefore some form of control on the location of such services within areas of significant risks is necessary. The presence of hazardous facilities or substances within natural hazard areas may also cause additional adverse effects during an event, and therefore need to be managed.”

Todd Energy Ltd & KCE Mangahao Ltd - Policy 12.2.4

(Section 4.21 of the Section 42A Report)

Commissioner Chrystal questioned the wording of Policy 12.2.4 and asked whether it would be more appropriate for this policy to refer to effects that are more than minor?

Policy 12.2.4 as currently reads:

“Manage the establishment and development of new renewable electricity generation facilities to ensure the adverse effects on the environment are avoided, remedied or mitigated.”

I have recommended against referring to ‘significant’ adverse effects as requested by Todd Energy Ltd and KCE Mangahao Ltd. In doing so I note that the intent is not to capture every adverse effect and require these effects (some of which may be minor) to be avoided, remedied or mitigated. On that basis I would support the suggestion to include reference to those adverse effects that are more than minor.

I recommend that Policy 12.2.4 be amended to read:

“Manage the establishment and development of new renewable electricity generation facilities to ensure the adverse environmental effects ~~on the environment~~ that are more than minor are avoided, remedied or mitigated.”

Todd Energy & KCE Mangahao Ltd – Policy 12.1.4

(Sections 4.7 and 4.13 of the Section 42A Report)

Todd Energy Ltd and KCE Mangahao Ltd sought made submissions seeking a new policy (12.1.X refer to Section 4.13 of Section 42A Report) in relation to the Reporting Officer’s recommendations the submitter tabled some recommended wording to be added to Policy 12.1.4 instead of seeking a new separate policy.

Policy 12.1.4 (as per the recommendation of the Supplementary Section 42A Report) reads:

“Provide additional protection for sensitive areas such as Outstanding Natural Features and Landscapes, heritage and cultural sites and buildings, Notable Trees, coast, lakes, river and other waterways from the adverse environmental effects of network utilities.”

The tabled amendment would result in Policy 12.1.4 reading:

“Provide additional protection for sensitive areas such as Outstanding Natural Features and Landscapes, heritage and cultural sites and buildings, Notable Trees, coast, lakes, river and other waterways from the adverse environmental effects of network utilities **except that it is acknowledged that network utilities may be located in ONFLs and Domains of High Landscape Amenity.** The adverse effects of these and, any mitigation measures proposed, will be determined on a case by case basis.”

I do not support the proposed amendment. While I understand and appreciate that the submitter is trying to signal that network utilities can be sited within ONFLs and Domains of High Landscape Amenity, I do not consider the policy to send the contrary message (i.e. no network utilities can be sited within ONFLs and Domains of High Landscape Amenity). I do not consider it necessary to include a policy that confirms that network utilities can be sited in these areas. The rules for the domains of high landscape amenity provide for the establishment of network utilities of up to certain heights, which is no different to the approach for all zones where network utilities are a permitted activity subject to complying with certain standards. I consider that the Proposed Plan would become very long if it was necessary to have a policy giving direction and positive guidance about all the possible activities that can be located in certain areas. I draw a comparison with earthworks for instance, which are another activity with specific standards (rule thresholds) in the ONFL and domains of high landscape amenity. The Proposed Plan does not include a policy direction confirming that earthworks can be undertaken in these areas subject to complying with the specified standards.

The Proposed Plan already creates an expectation that the network utilities can be sited in the ONFLs and domains of high landscape amenity through the rule framework. I do not support the amendment proposed by the submitter as I consider it to be unnecessary. I therefore recommend that Policy 12.1.4 be retained as per my recommendation in the Supplementary Section 42A Report.

Prepared by David McCorkindale

7 May 2013

Horowhenua District Plan

Utilities and Energy Hearing: 6 – 7 May 2013

Reporting Officer Response – 15 May 2013

Response to Statement of Supplementary Evidence of Ben Farrell for and on behalf of New Zealand Wind Energy Association

Mr Farrell requested permission from the Hearing Panel to provide a Statement of Supplementary Evidence following the hearing held for Utilities and Energy.

Within the statement provided Mr Farrell identifies some corrections in his evidence in chief before addressing the main matter contained in the statement. This matter is in relation to assessment criteria for managing wind farm noise.

Mr Farrell identifies that he considers an appropriate and effective alternative to introducing a policy to address wind farm noise (as he had originally requested), would be to introduce more specific and directive assessment criteria for wind turbine noise and associated health effects. Mr Farrell had outlined at the hearing his reasons for this.

Mr Farrell has recommended that the following amendment to Clause 25.7.13(e) or any other amendment with like effect:

25.7.13(e)

The actual or potential noise effects of the construction, development and operation of the wind farm.

With respect to the assessment of wind turbine noise effects during both the assessment of any resource consent application for a wind farm, and the ongoing operation of any wind farms, Council will:

(i) Require that wind turbine sound be predicted, measured and assessed in accordance with NZS 6808:2010 Acoustics – Wind Farm Noise (or any superseding standard); and

(ii) Recognise that compliance with this standard will ensure that wind turbine noise and associated health effects will be no more than minor; and

(iii) Acknowledge that non-compliance with the standard ~~in~~ does not necessarily mean that wind turbine noise and associated health effects will be significant.

~~energy facilities, including particular consideration of the special audible characteristics, and the proximity to and effect on settlements or dwellings, and the ability to meet NZS 6808:2010 Acoustics – Wind Farm Noise.~~

I have considered the proposed wording provided by Mr Farrell.

I remain content with the wording of the current assessment criteria which as per my recommended amendment would read:

“The actual or potential noise effects of the construction, development and operation of the wind energy facilities, including particular consideration of any special audible characteristics,

and the proximity to and effect on settlements or dwellings, and the ability to meet NZS 6808:2010 Acoustics – Wind Farm Noise.”

I consider that the currently worded assessment criteria is adequate in identifying that noise from wind energy facilities needs to be considered and assessed in terms of its ability to meet NZS 6808:2010 Acoustic – Wind Farm Noise. I do not consider it appropriate for this assessment criteria to state that compliance with the standard would ensure that the noise and health effects would be no more than minor as suggested in (b) of the Mr Farrell’s suggested text. While the standard is designed to ensure that noise and health effects are no more than minor, I consider it appropriate that the assessment criteria allow the level of effects to be determined based on the effects themselves. Although I understand the submitter’s desire to provide greater certainty through this assessment criteria, because of the limited number of applications anticipated for wind energy facilities in the District and the site specific nature of the effects that would be likely to arise, I consider a case by case approach to be the preferred approach rather than a generic approach to this activity and it’s associated noise effects. The current wording of the assessment criteria in my opinion enables this to occur.

One final note on the suggested wording by Mr Farrell. The wording provided for in (i) refers to “*or any superseding standard*” I do not support using this phrasing where a particular standard has been referred to in the Proposed Plan. I note that the Quality Planning website¹ advises against this practice of using words such as “or any replacement standard” or “or any subsequent corresponding successor” after the reference to the document. Clause 31 of Schedule 1 requires that there has to be a variation or plan change for an amendment to an externally referenced document to have effect through the Plan. On this basis it is not appropriate to simply expect an updated version of NZS6808:2010 to apply to the Proposed Plan without that updated standard or document having gone through the First Schedule process.

I therefore recommend that the assessment criteria 25.7.13(e) be worded as below which is the same as the recommendation I made in the Supplementary Section 42A Report to the District Plan Review Hearing Panel (Response to Expert Evidence) – Report No.12.03.

“The actual or potential noise effects of the construction, development and operation of the wind energy facilities, including particular consideration of any special audible characteristics, and the proximity to and effect on settlements or dwellings, and the ability to meet NZS 6808:2010 Acoustics – Wind Farm Noise.”

Response prepared by David McCorkindale

15 May 2013

¹ [http://www.qualityplanning.org.nz/index.php/plan-steps/witig-plans/external-documents-and-appendices\(e\)](http://www.qualityplanning.org.nz/index.php/plan-steps/witig-plans/external-documents-and-appendices(e))