



**Supplementary Section 42A Report to the  
District Plan Review Hearing Panel  
(Response to Expert Evidence)**

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**Proposed Horowhenua District Plan  
Utilities and Energy**

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**May 2013**



Hearing Date: 6-7 May 2013

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# 1. Introduction

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This Supplementary Section 42A Report (12.03) to the District Plan Review Hearing Panel has been prepared for the hearing topic Utilities and Energy.

This report specifically addresses the expert evidence that has been pre-circulated prior to the hearing.

Expert Evidence was received from the following submitters:

- Genesis Energy
- New Zealand Wind Energy Association (NZWEA)
- Powerco
- Telecom New Zealand Ltd
- Todd Energy Ltd & KCE Mangahao Ltd
- Transpower New Zealand Ltd
- Vector Gas Ltd

The report addresses the points by submitter, rather than by plan provision as is the case in the original Section 42A Report (Report No. 12.01). For ease of cross referencing between the reports, I have at the start of the discussion of each provision provided a cross reference to the relevant section of the original Section 42A Report.

## 2. Powerco

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### 2.1 Policy 12.1.4

**(Refer to Section 4.7 of Section 42A Report)**

#### 2.1.1 Discussion & Evaluation

1. Powerco made a further submission point (505.05) in support of Telecom's submission point 78.06 which sought the removal of the reference to 'open space' from Policy 12.1.4.
2. The submitter's expert evidence raises a number of concerns about the inclusion of this term in this policy. I acknowledge the submitter's concerns regarding the potential for an inherent conflict within the policy as different open space areas will have different levels of sensitivity (i.e. road reserve versus a residential neighbourhood playground). I concur that it is unhelpful to have a policy which does not provide a suitable level of certainty in terms of how and where it will be applied.
3. On reflection I accept that not including the term 'open space' is going to provide greater certainty to the application of this policy. On reviewing the policies and controls in the Proposed Plan I have noted that there are no specific controls that identify the open space areas that would need this additional protection. Many of the key open spaces are already

referred to in the terms “coast, lakes, river and other waterways” within the Policy. Given the potential uncertainty created by the introduction of the Open Space Zone and the confusion that might arise from the use of the term ‘open space’ which has historically been used in the Operative Plan and now carried over in to the Proposed Plan I accept that Policy 12.1.4 would be more effective not to include this reference.

4. I note that the submitter has suggested that the definition of Open Space could be reconsidered to avoid potential for conflict and confusion in the wider application of the term in the Proposed Plan. I can confirm that the submission points in relation to the definition of Open Space are being addressed in the General (Part 4 Definitions) hearing scheduled to start 20 May 2013.

### **2.1.2 Reporting Officer’s Recommendation**

I recommend that the Hearing Panel accept the expert evidence provided by Powerco in relation to further submission point (505.05) and amend Policy 12.1.4 as set out below.

### **2.1.3 Recommended Amendments to the Plan Provisions**

Amend Policy 12.1.4 to read

“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, ~~and open space~~ from the adverse environmental effects of network utilities.”

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## **2.2 Methods for Issue 12.1 and Objective 12.1.1**

**(Refer to Section 4.15 of Section 42A Report)**

### **2.2.1 Discussion & Evaluation**

1. Powerco (41.12) seeks the retention of Methods 12.1 and Objective 12.1.1 without modification. The Section 42A Report (page 47) recommends accepting Powerco’s submission in part, on the basis that changes to the wording of the other methods are recommended as a result of other submissions.
2. Powerco does not support the changes recommended to Methods bullet points 3 and 4. The expert evidence contends some difficulties with the wording recommended in the Section 42A Report. The expert evidence seeks the deletion of bullet point 3 as they contend it is unnecessary and will not result in any environmental outcomes that would not be otherwise achieved through the methods set out in bullet point 4.
3. The submitter makes a valid point that the reference “landscapes and domains of High Landscape Amenity” is confusing as this reference is not commonly used in the Proposed Plan, including the Planning Maps. Although there is a general description of these areas in Chapter 3 (Natural Features and Values) of the Proposed Plan, there is no link between the Method in Chapter 12 and Chapter 3.
4. I accept the points made in the evidence provided by Powerco and support the deletion of Method (bullet point 3) and proposed amendment to the Method (bullet point 4) which reads:

“Require network utilities, that do not comply with performance standards, including those or that apply to network utilities are located in ~~sensitive areas including Outstanding Natural Features and Landscapes, landscapes and Domains of High Landscape Amenity, or heritage sites or buildings, or within rural zoned parts of the Coastal Environment, Coastal Lakes, Manakau Downlands and Hill Country Landscape Domains~~ to be assessed through the resource consent process to consider the potential effects of the proposal and impose specific conditions if appropriate.”

5. These amendments clarify the intent and application of bullet point 4 and use terminology and references used throughout the Proposed Plan.
6. I consider the above amendments to align with the submission points by Todd Energy (80.08) and KCE Mangahao (92.08) which related to these same bullet points.
7. The support from Powerco for retaining bullet points 5 and 6 of the Methods for Issue 12.1 and Objective 12.1.1 as amended in the Section 42A Report is noted.

### **2.2.2 Reporting Officer’s Recommendation**

I recommend that the Hearing Panel accept the expert evidence provided by Powerco in relation to submission point (41.12) and amend the Methods for Issue 12.1 & Objective 12.1.1 as set out below.

### **2.2.3 Recommended Amendments to the Plan Provisions**

Delete the Methods for Issue 12.1 & Objective 12.1.1 (bullet 3) as follows:

~~“Resource consents will be required for network utility operations which do not comply with performance standards, or for heritage buildings and sites, or Outstanding Natural Features and Landscapes or landscapes and domains of High Landscape Amenity.”~~

Amend the Methods for Issue 12.1 & Objective 12.1.1 (bullet 4) to read:

“Require network utilities, that do not comply with performance standards, including those or that apply to network utilities are located in ~~sensitive areas including Outstanding Natural Features and Landscapes, landscapes and Domains of High Landscape Amenity, or heritage sites or buildings, or within rural zoned parts of the Coastal Environment, Coastal Lakes, Manakau Downlands and Hill Country Landscape Domains~~ to be assessed through the resource consent process to consider the potential effects of the proposal and impose specific conditions if appropriate.”

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## **3. Telecom**

### **3.1 Chapter 22 – X New Rule**

**(Refer to Section 4.58 of Section 42A Report)**

### **3.1.1 Discussion & Evaluation**

1. In the Section 42A Report no recommendation was made in relation to submission points 78.17 and 79.17 by Telecom and Chorus respectively on rules relating to co-location and height limits as further information was sought to better understand the issues and effects.
2. Telecom has provided expert evidence to address the matter of co-location and in particular an increased height limit to encourage co-location.
3. The expert evidence has outlined the basis for increased height limits for co-location which is primarily required to achieve adequate vertical separation on a single mast between the different telecommunication network operators antenna's to avoid interference.
4. The expert evidence contends that co-location as a permitted activity becomes more attractive as an option to Telecom and other operators to minimise costs (i.e. resource consent) and provide a high level of certainty. If additional height for co-location is not permitted, network utility providers are then more likely to prefer the more permissive and consequently more attractive option under the Proposed Plan to erect additional masts, potentially leading to two or more 20 metre high telecommunication masts located in close proximity to each other.
5. The submitter contends that utilising a single mast for co-location of more than one telecommunications operator is a more efficient use of that physical resource than constructing two similar but shorter masts in close proximity.
6. Telecom seek a new permitted activity standard under Rule 22.1 that provides for masts and attached antennas to exceed the permitted height limits in Rule 22.1. 8 by an additional 5 metres in the Commercial (Pedestrian Area Overlay in Levin) and the Rural Zones, where the antennas of more than one network utility operator are co-located on the same mast.
7. I note that Telecom have confirmed that the co-location provision is no longer considered necessary for the Industrial Zone and the Commercial Zone outside the Pedestrian Area Overlay in Levin.
8. I acknowledge the environmental benefits and efficiency that can be achieved through co-location. I also understand the need to allow extra height to enable suitable vertical separation distances to be achieved between antennae from different operators. In general terms, I consider the environmental effects of an additional 5 metres height for an existing structure to be less than those effects from an additional individual masts of 20 metres in close proximity. I recognise that such a rule could create a 'default permitted baseline' of effects. I would consider that the resource consent requirement (time and fees) and the uncertainty of the consent outcome would be the deterrent to utility operators seeking to use this argument to erect masts of 25 metres for single antenna.
9. I refer to Policy 12.1.8 that seeks to encourage the co-location or multiple use of network utilities where this is efficient and practicable. Provision of a permitted activity rule as requested by Telecom would align with the policy direction of the Proposed Plan. I therefore recommend that a permitted activity standard be provided in the Proposed Plan under Rule 22.1.8 to enable co-location by providing for an additional height in the Rural Zone and Commercial Zone in the Pedestrian Area Overlay in Levin.



### **3.1.2 Reporting Officer's Recommendation**

I recommend that the expert evidence provided by Telecom in relation to submission point 78.17 and (indirectly Chorus (79.17)) be accepted and that Rule 22.1.8(a) be amended as set out below.

### **3.1.3 Recommended Amendments to the Plan Provisions**

Amend Rule 22.1.8(a) by adding a new clause (vii) to read:

“25 metres in the Commercial Zone in the Pedestrian Area Overlay in Levin and Rural Zone where antennas of more than one network utility operator are co-located on the same mast.”

## **4. Vector**

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### **4.1 Rule 22.1.10 and Rule 25.7.12**

(Refer to Sections 4.57 and 4.60 of Section 42A Report)

#### **4.1.1 Discussion & Evaluation**

1. Vector has provided evidence advising that Vector support the recommended decisions and amendments in relation to submission points 42.00 and 42.02 as they give effect to the relief sought by Vector.
2. Vector seeks that the Hearing Panel accept the recommended decisions and adopts the amendments associated with submission points 42.00 and 42.02.

## **5. Todd Energy Ltd & KCE Mangahao Ltd**

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### **5.1 New Policy 12.1.X**

(Refer to Section 4.13 of Section 42A Report)

#### **5.1.1 Discussion & Evaluation**

1. The submitters (80.07 and 92.07) consider that there is still no clear policy directive in terms of positive guidance for the establishment of utilities in domain of high landscape amenity. The submitter contends the recommended changes to Policy 12.1.4 that were made in place of adding a new policy have made Policy 12.1.4 more restrictive. The submitters therefore request that the recommendation in the Section 42A report be rejected. To provide for the relief sought by the submitter (i.e. a new policy) would in my opinion result in a policy that does not add any further direction or consideration than the existing policies (namely Policies 12.1.2 - 12.1.4). The rules for the domains of high landscape amenity provide for the establishment of network utilities 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. This framework is appropriately outlined in the existing policies. I therefore consider that there is little meaningful direction that could be given in a policy without repeating the existing policies. I do not consider that an additional policy along the lines to be efficient or effective in achieving Objective 12.1.1.

2. I note the recommended amendment to Policy 12.1.4 in response to this submission recognises that there is a rule regime in place for managing the effects of network utilities in certain landscape domains and as such there is additional protection provided to these areas.

### **5.1.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel reject the expert evidence of the submitters in relation to submission points (80.07 and 92.07) and therefore support that the recommendation in the Section 42A Report.

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## **5.2 Issue Discussion for Issue 12.2**

**(Refer to Section 4.17 of Section 42A Report)**

### **5.2.1 Discussion & Evaluation**

1. The submitters (80.10 and 92.10) requested that the Issue Discussion separate out the two discussions concerning renewable energy generation and design for efficient use. This relief was recommended to be rejected in the Section 42A Report. In expert evidence the submitters still consider that these two subjects require separate discussion to set the ground for the policies that follow as they set forth separate issues and considerations.
2. The submitter contends that the Section 42A Report does not recognise the importance given to each through national policy statements like the National Policy Statement for Renewable Electricity Generation (NPS REG). The submitter requests that the recommendation of the Section 42A report be rejected.
3. I consider that the Issue Discussion for Issue 12.2 provides an overview discussion on energy issues. The discussion is intended to be an overview not an exhaustive discussion on the issue. I remain of the opinion that it is appropriate to have a single collective discussion on energy as I consider energy efficiency and conservation to be closely linked to renewable energy. To help clarify this matter, I recommend that the following paragraph be added as a new final paragraph to the Issue Discussion.

“Energy efficiency and conservation go hand in hand with renewable energy. Passive energy approaches towards energy efficiency and conservation can be taken in relation to the built environment. These include orientation of buildings towards the sun to assist passive heating, cooling and natural lighting. Reductions in overall energy use can be made through provision of hotwater through solar water heating. The success of these approaches is dependent on the initial layout of a subdivision or building development providing landowners with opportunities to implement these passive energy approaches. It is important that future developments consider energy efficiency and conservation measures. Conserving the use of energy together with the generation of renewable energy will be vital in responding to the challenges of providing enough energy to meet future energy needs and reducing greenhouse gas emissions.”

## **5.2.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel accept in-part the expert evidence of the submitters in relation to submission points (80.10 and 92.10) and that Issue Discussion for 12.2 be amended as set out below.

## **5.2.3 Recommended Amendments to the Plan Provisions**

Include a new final paragraph of the Issue Discussion for 12.2 to read:

“Energy efficiency and conservation go hand in hand with renewable energy. Passive energy approaches towards energy efficiency and conservation can be taken in relation to the built environment. These include orientation of buildings towards the sun to assist passive heating, cooling and natural lighting. Reductions in overall energy use can be made through provision of hotwater through solar water heating. The success of these approaches is dependent on the initial layout of a subdivision or building development providing landowners with opportunities to implement these passive energy approaches. It is important that future developments consider energy efficiency and conservation measures. Conserving the use of energy together with the generation of renewable energy will be vital in responding to the challenges of providing enough energy to meet future energy needs and reducing greenhouse gas emissions.”

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## **5.3 Policy 12.2.4**

**(Refer to Section 4.21 of Section 42A Report)**

### **5.3.1 Discussion & Evaluation**

1. The submitters (80.12, 87.27, 92.12 and 92.27) have requested that Policy 12.2.4 be amended by way of qualifying adverse effects as significant. The submitter contends that adverse effects may occur that are minor and the policy as it is currently proposed would require that all adverse effects are avoided, remedied or mitigated in relation to renewable electricity generation.
2. In justifying how significant effects would be determined the submitter proposes that it would be up to the applicant to put forward a case as to whether an adverse effect is significant and it is then up to the consent authority to determine whether this assessment is correct in terms of the RMA. The Section 42A Report recommended rejecting this submission. The submitter requests that the recommendation of the Section 42A Report be rejected.
3. I remain of the view that amending the policy to refer to ‘significant’ adverse effects is not appropriate, as this qualifier is not used in the RMA (Section 5(2)(c)) or national policy direction (NPS or Proposed One Plan). I consider it appropriate that the policies refer to adverse effects and that there is the option of avoiding, remedying or mitigating those effects which is what this policy provides for.

### **5.3.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel reject the expert evidence of the submitters in relation to submission points (80.12, 87.27, 92.12 and 92.27) and therefore accept the recommendation in the Section 42A Report.

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## **5.4 Policy 12.2.8**

**(Refer to Section 4.25 of Section 42A Report)**

### **5.4.1 Discussion & Evaluation**

1. The support by the submitters for the recommendations in the Section 42A report in relation to the submission points 80.13 and 92.13 is noted.
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## **5.5 New Policy 12.2.X**

**(Refer to Section 4.32 of Section 42A Report)**

### **5.5.1 Discussion & Evaluation**

1. The submitters (80.11 and 92.11) sought relief for clearer guidance for wind energy facility development. The relief was recommended to be rejected in the Section 42A Report. The submitter accepts the resource consent process is the appropriate forum to consider such a request for this type of development. The submitter considers that Horowhenua is a unique location which is suitably placed and recognised for wind energy facility development and there is a need to recognise this unique situation in the District Plan and suggests this at a policy level.
2. The submitter may wish to elaborate at the hearing on what this unique situation is as it is not entirely clear from the submission or expert evidence.
3. While I understand that there are areas within the District (e.g. the coast and the Ranges) that are better suited to wind energy generation activities (e.g. location of the wind resource and close to existing electricity transmission infrastructure), I do not consider it necessary for the District Plan to specifically identify these locations at a policy level. I draw comparisons with other activities undertaken in the District such as market gardening or forestry. While there are clearly parts of the District that are better suited to these activities than others due to the location of natural and physical resources (e.g. soil types, climatic conditions, roading infrastructure), the District Plan does not on the Planning Maps or at a policy level indicate where these areas are, or the appropriateness or not of specific land use activities.
4. The policy and rule framework of the Proposed Plan signals that wind energy facilities are anticipated in the Rural Zone as this is the only zone (area) in the Proposed Plan that wind energy facilities are considered appropriate. I do not consider it would be efficient or effective to add a policy to specifically refer to locations or areas in the Horowhenua District

where wind energy facilities should be encouraged within the Rural Zone as there are a number of factors which would influence this outcome.

### **5.5.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel reject the expert evidence of the submitters in relation to submission point (80.11 and 92.11) and therefore accept the recommendation in the Section 42A Report.

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## **5.6 Methods for Issue 12.2 & Objective 12.2.1**

**(Refer to Section 4.34 of Section 42A Report)**

### **5.6.1 Discussion & Evaluation**

1. The submitters (80.14 and 92.14) disagree with the reasoning in the Section 42A Report as they contend that it is one of the main functions of a District Plan to identify areas (zones) for development including potential development and provide rules around these.
2. The submitter requests the Hearing Panel to reject the recommendation in the Section 42A Report
3. I consider that the Proposed Plan does indirectly signal the areas where it may be appropriate for renewable electricity generation facilities. The Rural Zone policy and rule frameworks provide for network utilities as permitted activities subject to compliance with certain standards. In identified overlay areas such as the Outstanding Natural Features and Landscapes there are more restrictive standards and a more onerous activity status. In the case of wind energy facilities in the Rural Zone, this is the only zone in the Proposed Plan that has a specific policy and rule framework about these activities. Again this framework is considered to be effective in the Proposed Plan signalling where this activity is anticipated.
4. I do not support the submitter's view that it is for the District Plan to identify areas (zones) for development and potential development for specific activities.

### **5.6.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel reject the expert evidence of the submitters in relation to submission points (80.14 and 92.14) and therefore accept the recommendation in the Section 42A Report.

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## **5.7 Chapter 12 – General Matters**

**(Refer to Section 4.36 of Section 42A Report)**

### **5.7.1 Discussion & Evaluation**

1. The submitters (80.05 and 92.05) sought relief for the provision of a clear introduction, policies and objectives, particularly in relation to existing and proposed renewable electricity generation projects.
2. The Section 42A Report invited the submitters to suggest an appropriate reference to a specific existing facility or project for inclusion in the Proposed Plan. The submitters have requested a reference be made to the Mangahao Power Station and its continued operation as a key contributor to national renewable energy generation as part of either the Introduction, Policies or Objectives section.
3. The submitters contend that Chapter 12 would benefit for more clarity and stronger policy links with the inclusion of specific reference to the Mangahao Power Station and seek that the Hearing Panel accept this recommendation in-part.
4. I acknowledge that the Mangahao Power Station is currently the District's only renewable energy facility. As such, I support the submitter's request for specific reference be made to this facility.
5. I recommend that the following text be added to the 4<sup>th</sup> paragraph of the Issue Discussion for Issue 12.2

"The Mangahao Power Station located east of Shannon is currently the District's only renewable energy facility. This facility contributes to the national renewable energy generation and its continued operation will be important in responding to the challenge of meeting the national target of 90% of electricity in New Zealand being from renewable sources by 2025."

### **5.7.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel accept the expert evidence of the submitters in relation to submission point (80.05 and 92.05) and that Issue Discussion for 12.2 be amended as set out below.

### **5.7.3 Recommended Amendments to the Plan Provisions**

Amend the 4<sup>th</sup> paragraph of the Issue Discussion for Issue 12.2 to read

"There are many different forms of economically viable renewable energy options currently being developed in New Zealand and overseas. Currently, the key potential source of renewable energy development in the District is from wind, and to a lesser extent hydro (water). Options such as solar generation, biomass or wave energy may become more technically and economically viable in the future. The Mangahao Power Station located east of Shannon is currently the District's only renewable energy facility. This facility contributes to the national renewable energy generation and its continued operation will be important in responding to the challenge of meeting the national target of 90% of electricity in New Zealand being from renewable sources by 2025."

## **5.8 Rule 19.1(k)**

**(Refer to Section 4.41 of Section 42A Report)**

### **5.8.1 Discussion & Evaluation**

1. The Section 42A Report invited the submitters (80.16 and 92.16) to comment on the upgrading of buildings. The submitters have indicated that the inclusion of a reference in this rule to the minor upgrading of buildings being not more than an increase of 15% in floor area. The submitters have indicated that the selection of 15% has been based on discussions with architects and what in their view would constitute a minor upgrade of a building.
2. The submitters now seek that the Hearing Panel accepts the recommendation in the Section 42A Report provided that the amendment suggested above is included.
3. As previously identified, the Mangahao Power Station is the District's only existing energy generation facility so the rule reference to electricity generation activities has a narrow application. (The definition of 'existing' will mean that the rule will only apply to those energy generation facilities that exist at the date the Proposed Plan becomes operative). I consider it appropriate to provide for the submitter's request to clarify in the rule what size increase in the floor area of the existing facility could be undertaken as part of upgrading the facility.

### **5.8.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel accept the expert evidence of the submitters in relation to submission points (80.16 and 92.16) and that Rule 19.1(k)(iv) be amended as set out below.

### **5.8.3 Recommended Amendments to the Plan Provisions**

Amend Rule 19.1(k) as follows:

“(k) The following network utilities and electricity generation activities:

- (i) The construction, operation, maintenance and minor upgrading of network utilities.
- (ii) Wind monitoring masts.
- (iii) Domestic scale renewable energy device.
- (iv) The operation, maintenance, refurbishment, enhancement and minor upgrading of an existing energy generation facility including an increase in floor area of up to 15% of the existing gross floor area.”

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## **5.9 Rule 22.1.10**

**(Refer to Section 4.57 of Section 42A Report)**

### **5.9.1 Discussion & Evaluation**

1. The submitters (80.19 and 92.19) sought that it would be clearer if this rule made reference to “including generation and distribution utilities for renewable sources of energy” in the title.

The Section 42A Report considered that it was not clear what was meant by “energy activities” in the original submission. The submitters suggest that the inclusion of the above wording would clarify this. The submitters seek the Hearing Panel accept the amendment suggested above.

2. Although I consider the suggested amendment to be of limited benefit, the submitters have identified that it would lead to greater clarity and on that basis I support the title of Rule 22.1.10 being amended as requested.

### **5.9.2 Reporting Officer’s Recommendation**

I recommend that the Hearing Panel accept the expert evidence of the submitters in relation to submission points (80.19 and 92.19) and that title of Rule 22.1.10 be amended as set out below.

### **5.9.3 Recommended Amendments to the Plan Provisions**

Amend the title of Rule 22.1.10 to read

“Rule 22.1.10 Maintenance, Replace and Upgrading Network Utilities including generation and distribution utilities for renewable sources of energy”

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## **5.10 Chapter 22 – General Matters**

**(Refer to Section 4.59 of Section 42A Report)**

### **5.10.1 Discussion & Evaluation**

1. The relief sought by the submitters (80.18 and 92.18) is the inclusion of more specific wording that provides for energy generation and distribution. The Section 42A Report has invited the submitters to comment at the hearing. In expert evidence, the submitters respond to this invitation by commenting that Chapter 22 (in relation to rules for utilities and energy) seems to focus on general utilities and would benefit with the inclusion of the wording “including generation and distribution utilities for renewable sources of energy” within the text of Chapter 22.
2. The submitters consider that the specific inclusion of the words “renewable sources of energy” would promote both clarity in terms of the chapter and will also reflect national policy documents such as the NPS REG. The submitters seek that the Hearing Panel accepts the amendment as suggested above.
3. I support the intent of the submitter for greater clarity. However, I am still uncertain from the expert evidence how the additional words requested would provide this greater clarity and the submitter may be able to suggest specific sections within Chapter 22 where this wording would fit. I note that a number of the rules in this chapter do specifically relate to network utilities rather than renewable sources of energy and in those cases it would not be necessary to include the suggested wording. I also note the recommended amendment to Rule 22.1.10 made above is the most logical place for the additional wording but the submitters may wish to specifically identify others references also.



### **5.10.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel accept in-part the expert evidence of the submitters in relation to submission points (80.18 and 92.18) in so far as the recommended amendment to Rule 22.1.10 provides some of the relief sought by these submission points.

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## **5.11 Rule 25.7.13 Assessment Criteria – Wind Energy Facilities**

**(Refer to Section 4.61 of Section 42A Report)**

### **5.11.1 Discussion & Evaluation**

1. The submitters made further submissions (514.08 and 515.08) in support of Genesis's opposition to the rule and subsequent deletion of this rule based on the reasoning that "the effects of a windfarm should be based on the information supplied in an application and balanced with a broad judgement of effects of the development accordingly".
2. The submitters acknowledge that assessment criteria are useful tools within the District Plan, however they consider there is merit in advocating an approach such as in Genesis's submission in relation to determining effects of an activity on a case by case basis.
3. The submitters have stated that if the Hearing Panel is not inclined to accept Genesis's submission then they are willing to support NZWEA's submission which seeks consequential amendments to the wording of this rule.
4. I have recommended that the Assessment Criteria be retained with minor amendments. I note that some of the amendments sought by NZWEA to Assessment Criteria 25.7.13 have been accepted but not all of them.
5. I am uncertain about the scope to change supporting different further submission points at this stage of the process. So while I note the submitter's support for the NZWEA submission point (100.17) I have only provided a recommendation for these further submission points in relation to the submission point that was originally submitted against (44.25).

### **5.11.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel reject the expert evidence of the submitters in relation to further submission points (514.08 and 515.08) and therefore accept the recommendation in the Section 42A Report.

## **6. Genesis**

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### **6.1 Policy 12.2.8**

**(Refer to Section 4.25 of Section 42A Report)**

### 6.1.1 Discussion & Evaluation

1. The expert evidence provided by Genesis confirms that they seek Policy 12.2.8 to be deleted in its entirety as per their original submission point (44.08).
2. Genesis does not accept that Policy 12.2.8 is an important policy for 'addressing a specific tension for the District'. The submitter is unclear on what this tension is. The tension in the local context is that the view of the Tararua Ranges, particularly the view of the Tararua Ranges immediately behind Levin (being the district's largest and most concentrated populated area) are considered important and valued by the local community. The local community would consider those views to be 'spoiled' and the natural values of this feature compromised if there were network utility structures or wind turbines sited on these Ranges. The tension exists between the potential opportunities for wind turbines to be sited in this area (being the location of the wind source) and the community value placed on the views towards the Tararua Ranges in this location.
3. The Proposed One Plan includes Policy 7-7 which relates to Outstanding Natural Features and Landscapes. The Horowhenua District Council is required to give effect to this policy and has sought to do so through Plan Change 22 and the identification of Outstanding Natural Landscapes and Features but also through policies within the Proposed Plan such as Policy 12.2.8. Policy 7-7 (as set out below) requires that management of the effects of all subdivision, use and development directly affecting these areas, noting this may be through a visual impact created by a development located outside an Outstanding Natural Feature and Landscape such as the Tararua Ranges but yet is located in such a way that is visible against the back drop created by the Tararua Ranges.

#### ***Policy 7-7: Regionally outstanding natural features and landscapes***

*The natural features and landscapes listed in Schedule F Table F1 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 manner which:*

- (aa) avoids significant adverse cumulative effects<sup>^</sup> on the characteristics and values of those outstanding natural features and landscapes, and*
  - (a) except as required under (aa), avoids adverse effects<sup>^</sup> as far as reasonably practicable and, where avoidance is not reasonably practicable, remedies or mitigates adverse effects<sup>^</sup> on the characteristics and values of those outstanding natural features and landscapes.*
4. Given the tension described above, I consider it appropriate to retain this policy. I stand by my recommendation in the Section 42A Report which sought to make this policy less blunt and consider that 'minimises' is an appropriate word to use. I do not consider it appropriate that this policy use the wording from the RMA by stating that the effects need to be avoided remedied or mitigated. The policy reflects what is considered to be reflect the direction from the regional policy and community values on this matter.
  5. I note that the recommended amendment to this policy was supported by Todd Energy and KCE Mangahao in Section 5.4 above.

## **6.1.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel reject the expert evidence of the submitter in relation to submission point (44.08) and therefore accept the recommendation in the Section 42A Report to amend Policy 12.2.8.

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## **6.2 Policies 12.2.12 – 12.2.14**

**(Refer to Sections 4.29-4.31 of Section 42A Report)**

### **6.2.1 Discussion & Evaluation**

1. Genesis (44.12, 44.13 and 44.14) sought to delete Policies 12.2.12 – 12.2.14 in their entirety and reinstate them within the relevant zone chapters of the Proposed Plan, largely as they contend these policies are not directly linked to any Objective listed within Chapter 12.
2. The submitter contends that the policies are not relevant to the energy generation and transmission industries generally, but are more specifically relevant to residential, commercial and industrial development within the District.
3. I note the support from the submitter for the wording of the policies. The contention is with regards to where in the Plan these policies are located. I note the submitter cannot find a logical connection between subdivision and development and the Utilities and Energy chapter of the Proposed Plan, supported by the fact that there is no narration within the Introduction Chapter of the Proposed Plan which outlines the purpose of each Chapter. The submitter also identifies the lack of a linkage to the Objectives in Chapter 12. I have considered whether some additional wording could clarify this linkage even though I consider there to be a connection between the issues. Following further consideration of this matter, I recommend that Objective 12.2.1 be amended to read:

“To recognise and provide for the efficient use of energy and the development and use of renewable electricity generation infrastructure, where the adverse effects on the environment can be avoided, remedied or mitigated.”

4. The approach taken in the Proposed Plan towards Energy (as a topic) is no different to the other district wide matters addressed in the Proposed Plan such as Land Transport. Part of the Land Transport provisions relate to managing the effects of Land Transport and ensuring that there are appropriate standards in place. A secondary part of the provisions relate to enabling more sustainable forms of transport and providing for greater transport efficiency.
5. I accept that as a new matter for the Proposed Plan there may be a transition period while Plan users get use to the slightly changed format of the Proposed Plan and the application of new matters in the Proposed Plan such as Energy. Furthermore, if in the future renewable electricity generation became a more significant issue in the district, and/or energy efficiency increased in significance, then separate sections may be appropriate at that time.
6. I do not consider it to be efficient duplicating these policies in all the Zone chapters of the Proposed Plan. On this basis, I remain of the view that these policies are appropriate within

the Chapter 12 Utilities and Energy and recommend an amendment to Objective 12.2.1 to strengthen the effectiveness between the policies and objective.

### **6.2.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel accept in part the expert evidence of the submitter in relation to submission points (44.12, 44.13 and 44.14) and that Objective 12.2.1 be amended as set out below.

### **6.2.3 Recommended Amendments to the Plan Provisions**

Amend Objective 12.2.1 to read:

“To recognise and provide for the efficient use of energy and the development and use of renewable electricity generation infrastructure, where the adverse effects on the environment can be avoided, remedied or mitigated.”

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## **6.3 Rules 22.1.8(b)(iii)**

**(Refer to Section 4.56 of Section 42A Report)**

### **6.3.1 Discussion & Evaluation**

1. The expert evidence provided confirms that the recommended amendments to Section 22.1 respond to the submission point 44.19. The support for this amendment is noted.

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## **6.4 Rules 25.7.13(a)(ii)**

**(Refer to Section 4.61 of Section 42A Report)**

### **6.4.1 Discussion & Evaluation**

1. The submitter accepts that the visual effects of a wind energy facility are an integral consideration as to its appropriateness. However the submitter comments that the Assessment Criteria 25.7.13(a)(ii) refers to the visibility of a proposal, with specific reference to the number of turbines and their height. The submitter contends that because something is visible it does not mean that there is an effect.
2. The submitter considers that the Assessment Criteria 25.7.13(a) is sufficiently broad to allow a comprehensive assessment of the actual and potential visual effects of a development to be undertaken without the need to include criterion (ii). On this basis the submitter seeks that Assessment Criterion 25.7.13(a)(ii) be deleted in its entirety as per their original submission point (44.25).
3. As set out in the Section 42A Report, I consider the visual effects to be a very important criterion. I acknowledge and agree that just by being visible does not mean that there is an adverse effect from the proposal. I consider that this criterion sends a clear signal to potential applicants and decision-makers that the visual component of the development is

something that in the Horowhenua context it is considered to be important and will form part of the assessment.

4. I appreciate that the broad nature of other assessment criterion would potentially allow this matter to be assessed. I however consider it more helpful to send a clear signal to those who are likely to be part of a consent process (i.e. applicants and decision-makers) that the visual component will be specifically assessed. The assessment would consider what type effect arises from the proposal being visible.

#### **6.4.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel reject the expert evidence of the submitter in relation to submission point (44.25) and therefore accept that the recommendation in the Section 42A Report.

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### **6.5 Rules 25.7.13(b)**

**(Refer to Section 4.61 of Section 42A Report)**

#### **6.5.1 Discussion & Evaluation**

1. In response to the submission point 44.26 the submitter having considered the Section 42A report has suggested that the concerns of both Council and the Department of Conservation could be addressed by the following wording which provides a context for the inclusion of the reference to waterways.
2. The submitted amended wording of Assessment Criterion 25.7.13(b) would read:

“The ecological impact of the proposal, including the extent of the disruption to vegetation and habitat, any impacts on waterways located within a specific Landscape Domain, Heritage Setting, Coastal Outstanding Natural Feature and Landscape, and the likely effect on birds and other fauna”
3. I consider that this amendment confuses the matter as it could imply that it is only the earthworks impacts on waterways in these specific locations that would be considered. The criterion is currently focused on the ecological impact, which I consider relates to the overall impacts on the ecological values of the waterbodies. While earthworks may be one source of the impacts, there could be other activities or works that may adversely affect waterways. I therefore consider the additional wording to be unhelpful. I remain satisfied that it is appropriate to retain the reference to waterways as set out in the Section 42A Report. Council would be limited to addressing those ecological impacts in relation to waterways that it has responsibility for.

#### **6.5.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel reject the expert evidence of the submitter in relation to submission point (44.26) and therefore accept the recommendation in the Section 42A Report

## 7. Transpower

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### 7.1 Chapter 12 Introduction

(Refer to Section 4.1 of Section 42A Report)

#### 7.1.1 Discussion & Evaluation

1. Transpower (99.07) submitted in relation to the Introduction section of Chapter 12 to add explanatory text on competing land use activities. Federated Farmers' further submission 516.06 opposed Transpower's submission 99.07. The intent of Federated Farmers' further submission is to require a balancing statement that network utilities and the national grid can have adverse impacts on surrounding land uses, some of which were established before the national grid.
2. In resource management terms, Transpower does not agree that the 'balancing' in section 5 of the RMA relates specifically to balancing 'competing' land uses. Rather, it is the effects of those land uses which need to be assessed in terms of section 5.
3. The expert evidence from Transpower agrees that while there is a need to recognise the national significance of the electricity transmission network by facilitating its operation, maintenance and upgrading, there is also a need to manage adverse effects of the network. I note Policies 3 – 8 of the NPSET provide this direction for decision-makers.
4. The expert evidence from Transpower has suggested some alternative wording:

"It is recognised while network utilities can have national, regional and local benefits, they can also have adverse effects on surrounding land uses, many of which have been established long before the network utility. The sustainable management of natural and physical resources requires Council to achieve a balance between the effects of different competing land uses"
5. I accept the point made by the submitter in that it is the effects of the different land uses rather than the different land uses themselves that need to be balanced. I therefore support the revised wording above.

#### 7.1.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Transpower in relation to submission point 99.07 be accepted and that the Introduction to Chapter 12 be amended as set out below.

#### 7.1.3 Recommended Amendments to the Plan Provisions

Amend the new 11<sup>th</sup> paragraph to the Utilities section of the Introduction (Chapter 12) to read:

"It is recognised while network utilities can have national, regional and local benefits, they can also have adverse effects on surrounding land uses, many of which have been established long before the network utility. The sustainable management of natural and physical resources requires Council to achieve a balance between the effects of different competing land uses"

## 7.2 Issue Discussion for Issue 12.1

(Refer to Section 4.3 of Section 42A Report)

### 7.2.1 Discussion & Evaluation

1. Transpower submission (99.09) seeks the removal of reference to areas containing outstanding natural features and landscapes being vulnerable to the intrusion of large pylons. Transpower considers the inference of the sentence was to preclude tower development whereas the consideration of this issue would need to be assessed under the policy framework of the District Plan.
2. The expert evidence from Transpower notes while this submission point is accepted, the evidence also notes the following sentence of the Proposed Plan retains the intent of the sentence recommended for deletion, being:

“Areas with outstanding natural features and landscapes and areas of significant indigenous vegetation or habitats also need to be protected from inappropriate use and development of utilities”
3. The expert evidence from Transpower further comments that the intent of Transpower’s submission was to not preclude high voltage transmission line development in rural areas where there would be adverse effects on outstanding natural landscapes and areas of high natural character. Reference is made to Policy 7 of the NPSET which states:

“In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character.”
4. The expert evidence from Transpower further comments there is an onus on Transpower to ‘seek to’ avoid such effects. However this obligation is not the same as having District Plan provisions worded in a way that can be interpreted as precluding such effects entirely. The expert evidence comments the ability to practically avoid such effects entirely is not always feasible. The presence of such sensitive areas would be considered in the route selection method (Policy 4 of the NPSET) for any new development through which avoidance of such areas would be a key consideration.
5. In light of the above, the expert evidence from Transpower has suggested an amendment to the 3<sup>rd</sup> paragraph of the Chapter 12.1 Issue Discussion in order to better align with and give effect to Policy 7 of the NPSET:

“Areas with outstanding natural features and landscapes and areas of significant indigenous vegetation or habitats also need to be protected from inappropriate use and ~~should seek to be protected from~~ development of utilities should seek to avoid these.”
6. I accept the expert evidence provided by Transpower in relation to this submission point (99.09). I consider that the revised wording provided above would achieve the original intent in my earlier recommendation while clarifying that it does not preclude such adverse effects entirely.

## 7.2.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Transpower in relation to submission point 99.09 be accepted and that the Issue Discussion for Issue 12.1 be amended as set out below.

## 7.2.3 Recommended Amendments to the Plan Provisions

Amend 3<sup>rd</sup> paragraph of the Chapter 12.1 Issue Discussion to read:

“Areas with outstanding natural features and landscapes and areas of significant indigenous vegetation or habitats also need to be protected from inappropriate use and ~~should seek to be protected from~~ development of utilities should seek to avoid these.”

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## 7.3 Explanation & Principal Reasons for Objective 12.1.1

(Refer to Section 4.14 of Section 42A Report)

### 7.3.1 Discussion & Evaluation

1. Transpower (99.11) sought to amend Objective 12.1.1 to add a protective element to the objective which as originally proposed, provided for the establishment, operation, maintenance and upgrading of network utilities, while avoiding remedying or mitigating adverse effects on the environment.
2. In respect of Transpower's submission point which seeks to add the qualifier statement 'to the extent practicable', the submitter agrees with the reporting officer's comment (page 26) that the term is not used within the RMA. Neither is it used in the NPSET. However, the expert evidence comments there are 'qualifier statements' in the NPSET policy framework which decision-makers must give effect to:

*Policy 3*                      *When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision makers must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network*

*Policy 4*                      *When considering the environmental effects of new transmission infrastructure or major upgrades of existing transmission infrastructure, decision-makers must have regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection.*

3. The submitter considers it appropriate to include a 'qualifier statement' in relation to Transpower's activity to give effect to Policies 3 and 4 of the NPSET. The submitter acknowledges this circumstance only applies to Transpower and it would not be appropriate to include such a specific reference in the overall utilities objective itself.
4. The submitter has provided an amendment to the wording of the Explanation and Principal Reasons to read:

“In establishing the standards and in assessing resource consent applications, it is important to recognise the location of utilities is often dictated by operational and technical requirements. For example, constraints imposed on avoiding, remedying and mitigating adverse environmental effects of transmission activities are recognised under the NPSET



(Policy 3). In addition, given the function and role of network utilities, some must be distributed throughout the District and in particular the settlements”.

5. I consider that this additional text provides a useful example of technical requirements that could apply and appropriately regards the policy direction in the NPSET. I support the proposed wording.

### **7.3.2 Reporting Officer’s Recommendation**

I recommend that the expert evidence provided by Transpower in relation to submission point 99.11 be accepted and that the Explanation and Principal Reasons for Objective 12.1 be amended as set out below.

### **7.3.3 Recommended Amendments to the Plan Provisions**

Amend the 3<sup>rd</sup> paragraph of the Explanation and Principal Reasons for Objective 12.1 to read:

“In establishing the standards and in assessing resource consent applications, it is important to recognise the location of utilities is often dictated by operational and technical requirements. For example, constraints imposed on avoiding, remedying and mitigating adverse environmental effects of transmission activities are recognised under the NPSET (Policy 3). In addition, given the function and role of network utilities, some must be distributed throughout the District and in particular the settlements”

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## **7.4 Policy 12.2.11**

**(Refer to Section 4.28 of Section 42A Report)**

### **7.4.1 Discussion & Evaluation**

1. The support by the submitter for the recommendation in the Section 42A Report in relation to submission point 99.21 is noted.

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## **7.5 Rule 19.1(k)(i)**

**(Refer to Section 4.41 of Section 42A Report)**

### **7.5.1 Discussion & Evaluation**

1. The support by the submitter for the recommendation in the Section 42A Report in relation to submission point 99.23 is noted.

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## **7.6 Rule 19.6.24(b)**

**(Refer to Section 4.43 of Section 42A Report)**

### **7.6.1 Discussion & Evaluation**

1. Transpower lodged a submission (99.28) to the effect that new network utilities should not be required to comply with the Rural Zone provisions and that permitted activities should be recognised for their existence and performing function.
2. The Section 42A Report confirms that the notes section of Chapter 22 provides for minor upgrading that these works do not need to comply with any conditions other than 22.1.10 and as a result, Rule 19.6.24(b) only relates to network utilities and major upgrades. The recommended change to the rule read as follows:

“All other relevant conditions in this part of the District Plan shall also apply to any new or major upgrade of any network utility or associated structure”.

3. The submitter agrees with the intent of the recommendation, but disagrees with the terminology recommended. The submitter considers that the intent of Rule 19.6.24(b) is to capture those activities not able to achieve compliance with the permitted activity conditions for ‘minor upgrades’. Non-compliance with those standards does not mean the upgrade is a ‘major upgrade’, but rather, the upgrade is not a minor one.
4. The submitter has provided alternative wording which reads:

“All other relevant conditions in this part of the District Plan shall also apply to any new utilities or ~~major~~-upgrade of any network utility or associated structure which are not able to meet the permitted activity conditions under Rule 22.1.10”.

5. I consider this suggested wording better describes the intent and application of these rules.

### **7.6.2 Reporting Officer’s Recommendation**

I recommend that the expert evidence provided by Transpower in relation to submission point 99.28 be accepted and that Rule 19.6.24(b) be amended as set out below.

### **7.6.3 Recommended Amendments to the Plan Provisions**

Amend Rule 19.6.24(b) to read:

“All other relevant conditions in this part of the District Plan shall also apply to any new utilities or ~~major~~-upgrade of any network utility or associated structure which are not able to meet the permitted activity conditions under Rule 22.1.10”.

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## **7.7 Rule 22.1.2(a)**

**(Refer to Section 4.48 of Section 42A Report)**

### **7.7.1 Discussion & Evaluation**

1. The support by the submitter for the recommendations in the Section 42A Report in relation to submission point 99.35 and further submission point 518.12 is noted.

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## 7.8 Rule 22.1.10(a) & (b)

(Refer to Section 4.57 of Section 42A Report)

### 7.8.1 Discussion & Evaluation

1. To give effect to Policies 2, 3 and 5 of the NPSET, Transpower (99.37) sought that Rule 22.1.10(a) and (b) be retained and the inclusion of a new permitted activity sub-clause relating to the trimming, felling and removal of vegetation and trees:
  - (c) The trimming, felling and removal of vegetation and trees
    - i) The trimming, felling and removal of vegetation and non-notable trees to retain the operational efficiency of existing network utilities.
    - ii) The trimming and removal of branches likely to compromise the operational efficiency of overhead wires or utility networks
2. In the Section 42A Report I supported the intent of the submission and that it is appropriate to provide rules for the trimming, felling and removal of non-notable trees and vegetation in these circumstances. These rules would recognise that trimming, felling and removal of vegetation and non-notable trees is vital to the operation of the lines and network facilities.
3. Transpower agree with the inclusion of the relief sought to the extent that recommended rules gives effect to Policy 5 of the NPSET in particular. However, the submitter contends that the recommended rules do not address the full suite of issues raised in their submission.
4. Firstly, Transpower's submission seeks to enable the trimming, felling and removal of vegetation and non-notable trees to retain the operational efficiency of existing network utilities. The expert evidence comments while the recommended rules do not generally restrict such activities, specifically on general vegetation or non-notable trees, the inclusion of additional rules provides certainty for Transpower and is appropriate in this regard.
5. Secondly, Transpower seeks the enablement of trimming and removal of specific branches likely to compromise the operational efficiency of the overhead wires or utility networks. The submitter contends the sub-clause (c) (ii) does not specifically relate to non-notable trees, therefore the intent of the submission was to provide for trimming and removal of specific branches of notable trees.
6. The submitter questions whether the removal of specific branches would compromise the overall integrity or health of a notable tree. To provide reassurance on these matters, the submitter suggests that further permitted activity clauses could be included to the effect that the Council needs to be notified of any notable tree branch removal in advance of the removal and furthermore the work be undertaken by a qualified arborist who has confirmed that the overall integrity or health of the notable tree will not be compromised.
7. The submitter seeks that the Hearing Panel accept the Section 42A Report recommendation and add a new sub-clause to Rule 22.1.10, subject to an amendment to confirm Rule 22.1.10(c)(ii) relates to notable trees:

(c) The trimming, felling and removal of vegetation and trees

i) The trimming, felling and removal of vegetation and non-notable trees to retain the operational efficiency of existing network utilities

ii) The trimming and removal of branches of notable trees likely to compromise the operational efficiency of overhead wires or utility networks

8. It is noted that a similar matter was raised at the Natural Features and Values hearing which covered the Notable Tree rules. A recommendation was made to the Hearing Panel for the Natural Features and Values hearing on a related point for Rule 19.6.27 Notable Trees. The recommendation amended Rule 19.6.27(c)(ii) to read:

"The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with~~ likely to compromise the effective operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

9. To be consistent with this recommendation and to address the submitter's concern expressed above, I recommended there should be consistency between the relief provided here and the recommendation to the Natural Features and Values Hearing Panel. To that end, the following amendment is recommended to the provision:

"(c) The trimming, felling and removal of vegetation and trees

i) The trimming, felling and removal of vegetation and non-notable trees to retain the operational efficiency of existing network utilities.

ii) The trimming and removal of branches of notable trees likely to compromise the effective operational efficiency of overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

10. Notwithstanding the change recommended above, I question the need to make this amendment to Chapter 22 given that the recommendation of the Reporting Officer for the Natural Features and Values hearing recommended the same rule wording be adopted in all zones (Refer to Appendix 1 of this report). This wording has a broader focus than just network utilities (i.e. by referring to buildings) and for that reason I consider that it is more appropriate for this rule to sit within the zone chapters rather than in just Chapter 22 (Utilities and Energy). I do not consider it to be efficient to have a duplication of this rule in Chapter 22. I consider that the relief sought by the submitter can be provided within the zone rules relating specifically to notable trees.

11. I note the support by the submitter for the recommendation in the Section 42A Report in relation to submission point 99.37 retaining Rule 22.1.10(b).

### **7.8.2 Reporting Officer's Recommendation**

I recommend that the Hearing Panel do not accept the recommendation in the Section 42A Report in relation to submission point 99.37 on the basis that the recommendation of the Reporting

Planner to the Natural Features and Values Hearing Panel would provide the relief sought by the submitter's expert evidence provided in relation to this submission point.

### **7.8.3 Recommended Amendments to the Plan Provisions**

Delete the new clause added to Rule 22.1.10:

~~“(c) The trimming, felling and removal of vegetation and non-notable trees~~

~~(i) The trimming, felling and removal of vegetation and non-notable trees, in part or whole, to retain the operational efficiency of overhead wires or utility networks”~~

Amend the following Rules

Amend Rule 19.6.27(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where the work is carried out by , or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Residential Zone - Conditions for Permitted Activities Rule 15.6.28(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Industrial Zone - Conditions for Permitted Activities Rule 16.6.20(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Commercial Zone - Conditions for Permitted Activities Rule 17.6.22(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Open Space - Conditions for Permitted Activities Rule 20.6.19(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where

the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

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## **7.9 Rule 25.7.12 Assessment Criteria**

(Refer to Section 4.60 of Section 42A Report)

### **7.9.1 Discussion & Evaluation**

1. The support by the submitter for the recommendation in the Section 42A Report in relation to submission point 99.43 is noted.
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## **7.10 Chapter 26 Definitions – New Definition “National Grid Corridor”**

(Refer to Section 4.66 of Section 42A Report)

### **7.10.1 Discussion & Evaluation**

1. I note that the submitter seeks that the Hearing Panel accept the recommendations in the Section 42A report and replace the term ‘Transmission Line Corridor’ with ‘National Grid Corridor’ and provide a definition for that term as outlined in the Section 42A report but that this definition be revisited during the Rural Hearing (scheduled to start 13 May 2013).

## **8. New Zealand Wind Energy Association (NZWEA)**

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### **8.1 Chapter 12 Introduction**

(Refer to Section 4.1 of Section 42A Report)

#### **8.1.1 Discussion & Evaluation**

1. NZWEA (100.00) sought amendment to the Introduction of Chapter 12. In evidence for NZWEA, they note this relief was supported in the Section 42A Report recommendations with the inclusion of the qualifying term “where appropriate”.
2. The evidence from NZWEA considers the recommendation in the Section 42A Report that introduces the term “*where appropriate*” has not been justified and they do not support its inclusion. The submitter considers that the recommended text would undermine the requirements of the NPS REG. The submitter seeks that the relief sought by NZWEA (100.00) should be accepted without amendment.
3. The contention between the relief sought and the recommended text relates to the inclusion of the words “where appropriate”. These words were intended to indicate that not every objective, policy and method in the Proposed Plan recognises the benefits and need for renewable energy, and that it is just those appropriate (or relevant) provisions that do.

4. I appreciate that one reading of this wording could lead to the submitter's interpretation (i.e. that these words have been added as a qualifier). As indicated above, the intention was not to down play the recognition of benefits and needs for renewable energy. Had a qualifier been intended to limit where the benefits and needs for renewable energy would be recognised, then it would have been more helpful to have had a specific reference at the end of the paragraph.
5. On reflection, I consider that the words "where appropriate" do not add much value to this paragraph and therefore if they are removed the paragraph is still accurate and achieves the original intent.

### **8.1.2 Reporting Officer's Recommendation**

I therefore recommend that the expert evidence from the submitter in relation to submission point 100.00 be accepted and that the fifth paragraph of the Energy Section of the Introduction be amended as set out below.

### **8.1.3 Recommended Amendments to the Plan Provisions**

Amend the fifth paragraph of the Energy section of the Introduction to read:

"The benefits and need for renewable energy is recognised ~~where appropriate~~ through objectives, policies and methods (including rules) that provide for the development, maintenance, operation and upgrading of renewable energy activities."

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## **8.2 Issue 12.2**

**(Refer to Section 4.16 of Section 42A Report)**

### **8.2.1 Discussion & Evaluation**

1. NZWEA (100.01) sought changes to Issue 12.2. The main issue of contention between the submitter is over the inclusion of the words "matter of national significance". The Section 42A Report identified the potential for confusion between this term and Section 6 of the RMA – Matters of National Importance.
2. The evidence from NZWEA contends the submitted wording is not "*misleading*" and is appropriate and consistent with the requirements of the NPSREG and is relevant to achieving the purpose of the RMA. The submitter has identified that matters of national significance are those matters set out in a national policy statement and has referred to several references within the NPS REG where the phrase is used. The submitter seeks that the relief sought by NZWEA (100.01) be accepted.
3. To address the reporting officer's concerns regarding confusion, the submitter suggests the Council consider amending the district plan to provide an explanatory note that explains the difference between 'matters of national significance' and 'matters of national importance'.
4. On reflection, I consider that the following amendment would address the relief that the submitter seeks, while providing the NPS REG context for the term 'matters of national significance'. I recommend the following amendment

“Like all districts in New Zealand, the Horowhenua district is required under the NPS for Renewable Energy Generation to provide for the development of renewable electricity facilities as a matter of national significance. The development of new electricity generation facilities can create adverse effects on the environment, in particular, the scale and utilitarian nature of many facilities may cause adverse landscape and visual effects. Generating electricity from renewable resources can have greater environmental benefits compared to utilising non-renewable energy resources, as well as support economic and social well-being at a local, regional and national level.”

### **8.2.2 Reporting Officer’s Recommendation**

I recommend that the expert evidence provided by the submitter in relation to submission point 100.01 be accepted in-part and that Issue 12.2 be amended as set out below.

### **8.2.3 Recommended Amendments to the Plan Provisions**

Amend Issue 12.2 to read:

“Like all districts in New Zealand, the Horowhenua district is required under the NPS for Renewable Energy Generation to provide for the development of renewable electricity facilities as a matter of national significance. The development of new electricity generation facilities can create adverse effects on the environment, in particular, the scale and utilitarian nature of many facilities may cause adverse landscape and visual effects. Generating electricity from renewable resources can have greater environmental benefits compared to utilising non-renewable energy resources, as well as support economic and social well-being at a local, regional and national level.”

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## **8.3 Rule 22.1.8(b) Height of Network Utility Masts, Pylons, Towers, Aerials and other Structures**

(Refer to Section 4.55 and 4.56 of Section 42A Report)

### **8.3.1 Discussion & Evaluation**

1. The support by the submitter for the recommendations in the Section 42A Report in relation to the submission points 100.13 and 503.06 is noted.

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## **8.4 Chapter 22 – X New Rule and Rule 25.7.13 Assessment Criteria – Wind Energy Facilities**

(Refer to Sections 4.58 and 4.61 of Section 42A Report)

### **8.4.1 Discussion & Evaluation**

1. The submitter acknowledges the recommendation to reject NZWEA’s submission point (100.15) not to provide a new policy that codifies NZS6808:2010 and provide guidance about assessing and safeguarding potential health effects associated with wind turbine noise while providing some flexibility about setting noise limits.



2. The submitter has now requested that the following policy (as included in the Operative Clutha District Plan) be introduced to the Proposed Plan:

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

(a) Require that wind farm sound be predicted, measured and assessed in accordance with NZS 6808:2010 Acoustics – Wind Farm Noise; and

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

(c) Acknowledging that non-compliance with the standard in certain circumstances does not necessarily mean that noise and health effects are significant.

3. I do not consider it appropriate to add a specific policy to the Proposed Plan relating to noise effects arising from development of a wind energy facility. Noise is only one of the potential effects that could arise from a wind energy facilities, and I do not consider it appropriate to give prominence to this single potential effect when there are others (e.g. traffic, earthworks, vegetation disturbance). I consider that this matter is more effectively addressed by the assessment criteria, which includes reference to the same standard. This assessment criterion reads:

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

4. The assessment criteria contains a suite of criterion that signals the matters that will be assessed in considering an application for a wind energy facility development with noise being one of those. I acknowledge the concern raised by the submitter (100.17) in that the above wording implies that all wind energy facilities have special audible characteristics. To address this concern, I recommend a minor amendment so that this criterion refers to ‘any special audible characteristics’.
5. The submitter has requested amendment to Clause 15.7.16(e) but I am uncertain of the relevance of this reference. The submitter may be able to clarify or confirm this reference to the Hearing Panel at the hearing.

#### **8.4.2 Reporting Officer’s Recommendation**

I recommend that the expert evidence of the submitter in relation to submission point 100.15 be rejected and in relation to submission point 100.17 be accepted in part with Assessment Criteria 25.7.13(e) amended as set out below.

#### **8.4.3 Recommended Amendments to the Plan Provisions**

Amend 25.7.13(e) to read:

“The actual or potential noise effects of the construction, development and operation of the wind energy facilities, including particular consideration of any ~~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.”

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## **8.5 Chapter 26 Definitions – Wind Energy Facilities**

(Refer to Section 4.64 of Section 42A Report)

### **8.5.1 Discussion & Evaluation**

1. NZWEA (100.20) sought that the term ‘wind energy facility’ should be replaced with the more common term ‘wind farm’.
2. I acknowledge the error in my Section 42A Report Section 4.64.2 (para 3) which referred to the NPS REG including the term ‘Wind Energy Facility’. This is incorrect and should have referred to the NPS REG referring to ‘Wind Energy Generating Activity’.
3. The submitter has provided evidence that acknowledges that ‘wind farm’ and ‘wind energy facility’ are largely synonymous. The submitter does state that in the submitter’s experience the most common and plainer of the two terms is wind farm.
4. The submitter recognises that there is inconsistency across New Zealand on this point and that NZWEA, which represents the New Zealand wind energy industry, is attempting to promote a nationally consistent approach by encouraging use of the term “*wind farm*” in its submissions on district plans throughout New Zealand.
5. The relief sought by NZWEA (100.20) is supported by Genesis Energy (501.17) and is not opposed by any other party.
6. While I accept it is a finer point of detail, my overriding concern is the perception that a wind farm consists of multiple or many wind turbines. While this may be more often the case, there could be single wind turbines established. The term wind energy facility is considered a better fit when referring to a single or small number of turbines and the associated ancillary buildings and structures.
7. I have considered whether some sort of hybrid could work (i.e. Wind Energy Facility/Wind Farm) but concluded that this would be clumsy and potentially would require a further definition to ensure that Wind Energy Facility and Wind Farm were one in the same. As far as other alternatives go, I note that the Far North District Plan has used the hybrid ‘Wind Energy Facility (Wind Farm)’.
8. For these reasons I remain of the view that the appropriate term for the Horowhenua District Plan is Wind Energy Facility. I stand by my original recommendation to reject the relief sought by NZWEA in relation submission point 100.20.

### **8.5.2 Reporting Officer’s Recommendation**

I recommend that the expert evidence provided by the submitter in relation to submission point 100.20 be rejected.

## 9. Corrections to Section 42A Report

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1. I acknowledge an error in my Section 42A Report (Section 4.64.2 - para 3) which referred to the NPS REG including the term 'Wind Energy Facility'. This is incorrect and should have referred to the NPS REG referring to 'Wind Energy Generating Activity'.
2. This paragraph as corrected would read:
 

“While I appreciate the submitter’s desire for wind energy facilities to be seen as a farming activity in a similar way to a typical rural primary production activity. The proposed change does create some issues of consistency. Neither the RMA nor the NPS REG refers to wind farms. The term ‘wind energy generating activity’ is however used within the NPS REG. In my mind the term wind farm also gives the impression of a group of wind turbines (more than one or two). The term wind energy facility is sufficiently neutral in that it could be used in reference to a single wind turbine or a group of them.”
3. I acknowledge an inconsistency in my Section 42A Report (Page 166 under the heading ‘Amend Rule 22.1.8(b) to read’). The recommended amendment to Rule 22.1.8(b)(iii) should reflect the recommendation made on Page 115 (in relation to Section 4.56 of the report – I note a numbering error for the heading ‘Recommended Amendments to the Plan Provisions’).
4. To be consistent with the recommendation on Page 115, the recommended amendment contained on Page 166 should read:

Amend Rule 22.1.8(b)(iii) to read:

(iii) Minimum Setback: ~~500 metres from all boundaries~~ Equal to the height of the wind monitoring mast from any residential dwelling unit on a site under separate ownership.

## 10. Missing Submission Points

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Following an audit of the submission points and further submissions I have identified that two further submission points were not addressed or provided with a recommendation in the original Section 42A Report (12.01) or the Supplementary Section 42A Report (12.02). I have provided a recommendation on these below.

### 10.1 Further Submission: Genesis 501.11 – Policy 12.2.11

(Refer to Section 4.28 of Section 42A Report)

1. Genesis made a further submission (501.11) in support of the Transpower’s submission point on Policy 12.2.11. The Section 42A Report recommended that the Transpower submission point be accepted. I therefore recommend that the further submission point 501.11 by Genesis also be accepted.

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer’s Recommendation
99.21		Transpower New Zealand Ltd		Accept

	516.13	Federated Farmers of New Zealand	Oppose	Reject
	501.11	Genesis Power Ltd	Support	Accept

## 10.2 Further Submission: Transpower 518.13 – Rule 22.1.10(b)

(Refer to Section 4.57 of Section 42A Report)

1. Transpower made a further submission (501.11) in opposition of the Federated Farmers' submission point on Rule 22.1.10(b). The Section 42A Report recommended that the Federated Farmers submission point be rejected. I therefore recommend that the further submission point 518.13 by Transpower be accepted.

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
96.38		Federated Farmers of New Zealand		Reject
	506.22	Ernslaw One Ltd	Support	Reject
	507.11	Chorus	Oppose	Accept
	508.11	Telecom	Oppose	Accept
	514.12	Todd Energy Ltd	Oppose	Accept
	515.12	KCE Mangahao Ltd	Oppose	Accept
	518.13	Transpower New Zealand Ltd	Oppose	Accept

## 11. Chapter 26 Definitions - 'Site'

1. In Section 4.56 of the Section 42A Report I made a recommendation to amend the definition of 'site' as a consequential change in response to a submission point made by Genesis 44.19.
2. I have since noted that Genesis had additional submission points in relation to this definition which are to be addressed in the General (Parts 2, 3 and 4) hearing scheduled to start 20 May 2013.
3. I note that the recommendation to be provided to the Hearing Panel as part of this General hearing differs from the recommendation in my Section 42A Report which read:

Amend the definition of "site" as follows:

"an area of land comprised wholly of one (1) computer freehold register certificate of title; or the area of land contained within an allotment on an approved plan of subdivision; or the area of land which is intended for the exclusive occupation by one (1) residential unit; or an area of land held in one (1) computer freehold register."

4. The proposed definition of 'Site' means "an area of land comprised wholly of one (1) certificate of title; or the area of land contained within an allotment on an approved plan of

subdivision; or the area of land which is intended for the exclusive occupation by one (1) residential unit; or an area of land held in one (1) computer register." The submitter infers that the term Certificate of Title is obsolete and should be substituted with the term "1 (one) computer freehold register" within the definition.

5. The current definition reflects four different interpretations of a site including land contained either within a title, or one computer register. In situations such as a body corporate or a cross lease, a site is the area of land intended for occupation by one residential unit. In the case of an approved subdivision for which title has not yet been issued, a site is the area of land contained within the approved plan of subdivision.
6. Computer Registers (Certificates of Title) prove the ownership of land and the rights and restrictions that apply to the land. According to the LINZ website, land titles have been recorded electronically since 2002. All earlier paper-based Certificates of Title were converted into 'computer registers' between 1999 and 2002. The LINZ website identifies that there are four different types of computer register, depending on the classification of the land: "computer freehold registers (CFRs) for freehold (fee simple) land; computer interest registers (CIRs) for leasehold land, or for any land of a lesser interest than freehold; computer unit title registers (CUTRs) for stratum freehold or leasehold interests in a unit-titled development; and composite computer registers (CCRs) which are combinations of the other three types, e.g. a cross lease title is a combination of freehold and leasehold computer registers." - (<http://www.linz.govt.nz/survey-titles/land-records/types-of-records/computer-register-current>)
7. In respect of the Genesis submission (44.19), I agree that the definition of site ought to be adapted to be consistent with current terminology, and I recommend that the submission point (44.19) be accepted in-part, with an amendment reflective of the terminology used by LINZ which nominally refers to a 'Computer Register (Certificate of Title)'. Given that there are different types of computer registers, it is accurate to refer to a property record/title as a Computer Register. However, being a rather generic term, I recommend that this be followed with '(Certificate of Title)' for consistency with LINZ and avoidance of any confusion.
8. I therefore revise my recommendation in relation to Section 4.56 of my Section 42A Report and recommend an amendment that is consistent with the recommendation to be provided to the Hearing Panel for the General (Parts 2, 3 and 4) hearing. My recommendation on submission point 44.19 remains accept in-part. I recommend that the definition be amended to read as follows:

**Site** means an area of land ~~comprised wholly of~~ held in one (1) computer register (certificate of title); or the area of land contained within an allotment on an approved plan of subdivision; or the area of land which is intended for the exclusive occupation by one (1) residential unit; ~~or an area of land held in one (1) computer register.~~

Prepared by David McCorkindale

Dated 6 May 2013



## 12. Appendix 1 – Reporting Officer Response to Natural Features and Values Hearing

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### Proposed Horowhenua District Plan

#### Natural Features and Values and Notable Trees

Hearing: 12 April 2013

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#### Tabled amendment to the proposed notable tree provisions

##### Permitted Activity Rule for Notable Trees

At the hearing for Natural Features and Values, the proposed permitted activity rule for notable trees was discussed. There was one submission by Truebridge Associates Limited which opposed the permitted activity Rule 15.1(m) regarding notable trees in the Residential Zone. The reason for this was that the submitter felt that the rule could be interpreted to allow for the partial or full removal of a notable tree as a permitted activity which would undermine the purpose of listing a tree as notable.

As the discussion in the Section 42A Report provides, it is not intended that this rule be read in isolation but rather in conjunction with the Conditions for Permitted Activities. The conditions for notable trees allow for the removal or partial removal of a notable tree only in the case that the tree has been confirmed dead by the Council or the activity of removal is required as an emergency work.

In the Section 42A Report I made the recommendation to provide an advice note below the permitted activity rule which made reference to compliance with the conditions for permitted activities.

Following questions from the Commissioners during the hearing, I agreed that it would be appropriate to strengthen this advice note to ensure that plan users are aware that for a permitted activity to be permitted, it must comply with the permitted activity conditions and provide a reference to where in the Plan these could be found. I recommend the following amendment to my initial recommendation on pages 68 and 69 of the Section 42A Report.

##### Recommended Amendment:

Amend Rule 15.1(m) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:.

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 15.6.28."

As a consequential amendment to this submission, I also recommend that this advice note is included in all the notable tree permitted activity rules across the other zone chapters (Commercial, Industrial, Rural and Open Space) in the Proposed Plan. On reflection I should have raised these consequential amendments within the Section 42A Report as I feel that they provide for a consistent approach in protecting notable trees in the Proposed Plan without the advice note, notable trees in each of these zones will be at risk of misinterpretation of the Plan. I have provided the recommended consequential amendments below:

Amend Rule 16.1(q) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:.

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 16.6.20."

Amend Rule 17.1(w) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:.

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 17.6.22."

Amend Rule 19.1(p) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:.

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.



Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 19.6.27."

Amend Rule 20.1(j) to read:

" Where a tree is listed in Schedule 3 - Notable Trees the following are permitted activities:.

- (i) The removal or partial removal of a Notable Tree.
- (ii) Any activities within the drip line of a Notable Tree.
- (iii) Any trimming and maintenance of a Notable Tree.

Note: The above activities must comply with all Conditions for Permitted Activities specified in Rule 19.6.27."

### **Conditions for Permitted Activities for Notable Trees**

The Permitted Activity Conditions were also a point of discussion at the hearing with the Commissioners and it was requested that I provide amendments to the conditions for notable trees to ensure that the removal or partial removal of a notable tree is confirmed by a qualified arborist and any trimming or maintenance of a notable tree is undertaken or approved by a qualified arborist.

These comments were raised in relation to the submission point made by Transpower New Zealand Ltd (99.31). Submission Point 99.31 (page 70 of the Section 42A Report) sought amendment to Rule 19.6.27(c)(ii) to ensure that the trimming of notable trees would be a permitted activity if the tree is likely to compromise the effective operation of network utilities.

There was some concern raised by Commissioner McMeeken that this Rule does not state that trimming and maintenance of notable trees shall be required to be undertaken by or with the supervision and approval of a qualified arborist. To ensure that the trimming and maintenance of notable trees does not undermine the health and status of the notable tree, I recommend that this rule is amended to ensure that works are undertaken by, or approved by a qualified arborist.

This same concern was raised in relation to the permitted activity condition Rule 19.6.27(a)(i). I have analysed the submission made by Transpower New Zealand Ltd and as their submission point relates specifically to clause (c) I did not consider that there was scope to amend clause (a) although there was merit in clarifying that the declaration of a notable tree as dead should be confirmed by a qualified arborist. I note that while this rule carries a risk (i.e. a tree is confirmed dead by someone other than a qualified arborist), the confirmation must be by Council which I consider significantly reduces the risk that a tree may be incorrectly confirmed as dead. While Council does not currently employ an arborist, Council officers have ready access to qualified arborists working for Council's contractors.

#### **Recommended Amendment:**

Amend Rule 19.6.27(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where the work is carried out by , or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

As a consequential amendment to this submission, I also recommend that the above recommended amendment is included in all the notable tree conditions for permitted activity rules in all zone chapters in the Proposed Plan. On reflection I should have raised these consequential amendments within the Section 42A Report as I feel that they provide for a consistent approach in protecting notable trees in the Proposed Plan. I have provided the recommended consequential amendments below:

Amend Residential Zone - Conditions for Permitted Activities Rule 15.6.28(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Industrial Zone - Conditions for Permitted Activities Rule 16.6.20(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Commercial Zone - Conditions for Permitted Activities Rule 17.6.22(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Amend Open Space - Conditions for Permitted Activities Rule 20.6.19(c)(ii) to read:

" The removal of branches interfering with buildings, structures, overhead wires or utility networks, but only to the extent that they are touching those buildings, or structures, or ~~interfering with likely to compromise the effective~~ operation of those overhead wires or utility networks and only where the work is carried out by, or under the supervision of a qualified arborist who has advised the Council in advance of the work to be carried out."

Prepared by Sheena McGuire

Reviewed by David McCorkindale

Dated 19 April 2013