



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

**Proposed Horowhenua District Plan
Rural Environment**

May 2013



Hearing Date: 13th – 16th May 2013
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Report Number: 13.02

CONTENTS

1. INTRODUCTION	4
2. TODD ENERGY LTD AND KCE MANGAHAO LTD.....	4
2.1 Objective 2.5.1.....	4
2.2 Explanation and Principal Reasons (Objective 2.5.1).....	4
2.3 New Policies – Chapter 2.....	5
2.4 Chapter 2 – General Matters.....	6
3. HIGGINS	7
3.1 Issue 2.5.....	7
3.2 Objective 2.5.1.....	7
3.3 New Policy 2.5.X.....	9
3.4 Rules 19.2 and Rule 19.7 - Controlled Activity	9
3.5 Rules 19.6.4 and Rule 19.8 – Permitted Activity Conditions and Discretionary Activity ...	10
4. TRANSPOWER.....	12
4.1 Objective 2.5.1 and Explanation and Principal Reasons for Objective 2.5.1.....	12
4.2 Rule 19.5.....	12
4.3 Rule 19.6.14	14
4.4 Rule 19.6 Permitted Activity Conditions and Assessment Criteria 25.2.4 Tree Planting ..	17

1. Introduction

This Supplementary Section 42A Report (13.02) to the District Plan Review Hearing Panel has been prepared for the hearing topic Rural Environment.

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

Expert Evidence was received from the following submitters:

- Todd Energy Ltd & KCE Mangahao Ltd
- Higgins
- Transpower

The report addresses the points by submitter, rather than by plan provision as is the case in the original Section 42A Report (Report No. 13.01). For ease of cross referencing between the reports, I have at the start of the discussion of each provision provided a reference to the relevant section of the original Section 42A Report.

As detailed in the Introduction of the original Section 42A Report, due to a potential or perceived conflict of interest, David McCorkindale is the author for the evaluation and recommendation for the Transpower expert evidence. Hamish Wesney is the author of this report for all other submitters.

2. Todd Energy Ltd and KCE Mangahao Ltd

2.1 Objective 2.5.1

(Refer to Section 4.12 of Section 42A Report)

2.1.1 Discussion & Evaluation

1. Todd Energy and KCE Mangahao made further submission points (514.16 and 515.16) in support of Transpower's submission point 99.01 which sought to amend Objective 2.5.1 by replacing the reference to "other associated rural based land uses" with "other established land uses that have a functional necessity to be located within the rural area". These submission points were recommended to be accepted in part, with the recommendation to delete 'associated' from the objective.
2. Todd Energy's and KCE Mangahao's expert evidence supports the recommended decisions and amendments in relation to these submission points 514.16 and 515.16 and seeks that the Hearing Panel accept the recommended decisions and amendments.

2.2 Explanation and Principal Reasons (Objective 2.5.1)

(Refer to Section 4.27 of Section 42A Report)

2.2.1 Discussion & Evaluation

1. Todd Energy's and KCE Mangahao's expert evidence supports the recommended decisions (accept) and amendments in relation to further submission points 514.17 and 515.17 to amend the text in this section of the Proposed Plan. Todd Energy and KCE Mangahao seek that the Hearing Panel accept the recommended decisions and adopts the amendments associated with submission points 514.17 and 515.17.
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2.3 New Policies – Chapter 2

(Refer to Section 4.29 of Section 42A Report)

2.3.1 Discussion & Evaluation

1. Todd Energy and KCE Mangahao sought two new policies in Chapter 2: Rural Environment. Firstly, to clearly recognise infrastructure as a legitimate rural land use activity due to constraints on their location in relation to physical resources (submission points 80.02 and 92.02). Secondly, to recognise potential reverse sensitivity issues (submission point 92.20). In the Section 42A Report, the relief sought for adding two new policies is recommended to be rejected as it is considered these matters are appropriately provided for in existing policies, namely Policies 2.5.3 and 2.5.4 (other activities) and Policies 2.3.6 and 2.5.11 (reverse sensitivity).
2. In relation to the first matter to recognise infrastructure in the policy framework, the expert evidence received on behalf of Todd Energy and KCE Mangahao contends that infrastructure is a key component of the rural environment, and therefore, clear and specific provision in the Proposed Plan is needed. The expert evidence acknowledges 'infrastructure' would be covered by the reference to 'other' land uses in Policy 2.5.3, but still seeks a new policy or an amendment to Policy 2.5.3 to give specific reference to 'infrastructure'. However, the expert evidence provides no further reason or explanation as to why this policy inclusion is appropriate.
3. In response to this evidence, I concur that infrastructure is part of the existing rural environment and it is appropriate and/or necessary to locate infrastructure in rural areas due to location requirements, such as avoiding sensitive areas or activities (e.g. residential areas) or that is where the resource is located. I do not consider it appropriate at a policy level to give explicit reference to infrastructure, as it is only one of many types of 'other' land uses in the rural environment. 'Other' (non-primary production) types of land uses in the rural environment include visitor accommodation, quarries and recreation in various forms and scales. However, I consider further recognition of the location requirement (or constraint) for some land use activities could be added to the Principal Reasons and Explanation. I consider this amendment is within the scope of submission points of Transpower (99.02) and further submission points of Todd Energy and KCE Mangahao (514.17 and 515.17) specifically relating to the Principal Reasons and Explanation where it is recommended these submission points be accepted (see Section 4.27 of Section 42A Report).
4. I also note that Chapter 12 (Utilities and Energy) of the Proposed Plan includes a policy that recognises the contribution of renewable energy use and development and the technical, locational and operational requirements of such facilities (Policy 12.2.5).

5. In relation to the second matter to recognise reverse sensitivity issues in the policy framework, the expert evidence received on behalf of Todd Energy and KCE Mangahao supports the recommendation to reject this submission point as this issue is already addressed in the Proposed Plan to avoid duplication. Todd Energy and KCE Mangahao seek that the Hearing Panel accept the recommended decision to reject this submission point (92.20).

2.3.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Todd Energy and KCE Mangahao in relation to submission points 80.02 and 92.02 seeking a new policy be rejected.

Consequential recommendation: I recommend that submission points of Transpower (99.02) and further submission points of Todd Energy and KCE Mangahao (514.17 and 515.17) specifically relating to the Principal Reasons and Explanation be accepted.

2.3.3 Recommended Amendments to the Plan Provisions

Consequential Amendment: Amend paragraph 2 of the Principal Reasons and Explanation (Objective 2.5.1) as follows:

“Many other activities (e.g. vegetable and fruit packing, rural contractors yard) are appropriate in a rural setting and can establish and operate without compromising the core primary production activities in the rural areas. In addition, other activities, such as infrastructure, can rely on a rural location as this is where the resource is located (e.g. quarries and gravel extraction), and/or due to its linear nature and the need to traverse districts and regions (e.g. transmission lines, roads and rail). Minimum standards are also applied to these other activities to ensure their adverse effects are avoided, remedied or mitigated.”

2.4 Chapter 2 – General Matters

(Refer to Section 4.31 of Section 42A Report)

2.4.1 Discussion & Evaluation

1. Todd Energy and KCE Mangahao made submission points (80.01 and 92.01) regarding the relationship and implications of the Proposed Plan and Plan Changes 20 – 22, and that considering each separately was problematic. This issue was acknowledged in the Section 42A Report. The expert evidence received on behalf of Todd Energy and KCE Mangahao re-emphasises this point and seeks the Hearing Panel consider their comments and decide accordingly.
2. In response to this evidence, it is considered the implications of both the Proposed Plan and Plan Changes 20 – 22 can be determined in their own right. By including the notified provisions of Plan Changes 20 – 22 in the Proposed Plan (but greyed-out as they are not open for submission) it provides for a full understanding of how these provisions apply together. As the submitter has not stated any specific relief sought in the form of amendments to the Proposed Plan, including in expert evidence, it is recommended these submission points be rejected.

2.4.2 Reporting Officer's Recommendation

I recommend that the Hearing Panel reject the expert evidence of the submitter in relation to submission points (80.01 and 92.01) and therefore accept the recommendation in the Section 42A Report.

3. Higgins

3.1 Issue 2.5

(Refer to Section 4.11 of Section 42A Report)

3.1.1 Discussion & Evaluation

1. Higgins sought greater recognition of aggregate extraction in the Proposed Plan, including requesting additional text be added to the Issue 2.5 discussion (submission point 77.04). Higgins's expert evidence supports the recommended decision to accept in part this submission point and recommended amendments in the Section 42A Report, however, they note they prefer the wording in the Higgins submission. This support and preference is noted. For consistency with wording used in other parts of the Proposed, I consider the wording in the recommended amendments in the Section 42A Report is appropriate.

3.1.2 Reporting Officer's Recommendation

I recommend that the Hearing Panel note the support in the expert evidence of the submitter in relation to submission point (77.04) and therefore accept the recommendation in the Section 42A Report.

3.2 Objective 2.5.1

(Refer to Section 4.12 of Section 42A Report)

3.2.1 Discussion & Evaluation

1. Higgins sought greater recognition of aggregate extraction in the Proposed Plan, including requesting explicit reference to aggregate extraction activities in Objective 2.5.1 (submission point 77.05). Higgins's expert evidence explains the three key themes that were set out in the original submission in order to recognise the value of aggregate resource to the community and provide for activities to enable the extraction and their protection. The expert evidence demonstrates how these three key parts are or are not provided for as a result of the evaluation of the submission points in the Section 42A Report.
2. The issues highlighted in the expert evidence relating to aggregate extraction are acknowledged. Two key points made in this evidence; firstly distinguishing aggregate extraction activities from other types of 'rural based land use', and secondly, confirming that the aggregate extraction is an appropriate 'rural based land use'. I do not consider the reasons given for distinguishing aggregate extraction activities from other activities in rural

areas are unique or only apply to this activity type. I acknowledge aggregate extraction must inherently locate where the resource is located, but this circumstance also applies to other activities such as market gardening (soil and climate), wind energy facilities (wind resource), water storage or hydro-electricity generation (water resource). Also, other activities are also seasonal or cyclic in terms of activity periods, with longer summer hours a common situation. Notwithstanding the above, I do consider it appropriate to recognise that aggregate extraction is an appropriate activity in rural areas for the reasons stated in the evidence.

3. After considering the expert evidence, I am still of the opinion that having specific recognition of aggregate extraction in Objective 2.5.1 is not appropriate, as it is one of many rural based land uses, and I do not consider there are any specific or unique reasons that justify this recognition. I consider the appropriate recognition is in the associated Explanation and Principal Reasons for Objective 2.5.1 to clarify aggregate extraction is a rural based land use.
4. In response to expert evidence on behalf of Todd Energy and KCE Mangahao discussed above on a similar point, I recommended a further amendment to the Explanation and Principal Reasons for Objective 2.5.1 to recognise other types of activities in rural areas. I consider this recommended amendment recognises aggregate extraction as an appropriate activity in rural areas.
5. Therefore, I recommend this submission point (77.05) be accepted in part,

3.2.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Higgins in relation to submission point 77.05 seeking an amendment to Objective 2.5.1 be accepted in part through a consequential recommendation to the Principal Reasons and Explanation.

3.2.3 Recommended Amendments to the Plan Provisions

Consequential Amendment: Amend paragraph 2 of the Principal Reasons and Explanation (Objective 2.5.1) as follows:

“Many other activities (e.g. vegetable and fruit packing, rural contractors yard) are appropriate in a rural setting and can establish and operate without compromising the core primary production activities in the rural areas. In addition, other activities, such as infrastructure, can rely on a rural location as this is where the resource is located (e.g. quarries and gravel extraction), and/or due to its linear nature and the need to traverse districts and regions (e.g. transmission lines, roads and rail). Minimum standards are also applied to these other activities to ensure their adverse effects are avoided, remedied or mitigated.”

3.3 New Policy 2.5.X

(Refer to Section 4.28 of Section 42A Report)

3.3.1 Discussion & Evaluation

1. Higgins sought a new policy in Chapter 2: Rural Environment to manage reverse sensitivity issues near aggregate extraction activities. The expert evidence on behalf of Higgins contends that most effects from aggregate extraction activities can be internalised, while noise is a residual issue due to the nature of this activity. The expert evidence comments this requested new policy follows on from the requested changes to Objective 2.5.1.
2. In the Section 42A Report the recommended amendment to Policy 2.5.4 was the most appropriate way to address this issue in the Proposed Plan. I note the expert evidence comments the recommended amendment is acceptable to the submitter on this matter.

3.3.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Higgins in relation to submission point 77.06 be accepted in part for the reasons outlined in the Section 42A Report.

3.4 Rules 19.2 and Rule 19.7 - Controlled Activity

(Refer to Section 4.44 and 4.69 of Section 42A Report)

3.4.1 Discussion & Evaluation

1. Higgins sought new rules to manage aggregate extraction activities as a Controlled Activity in the Rural Zone (submission points 77.02 and 77.03). The expert evidence on behalf of Higgins comments that by splitting these two submission points and evaluating them separately in the Section 42A Report can overlook the connection in the relief sought. I acknowledge this comment and understand this issue.
2. In response to the evaluations and recommendations in the Section 42A Report, the expert evidence submits that a restricted discretionary activity status would be appropriate to recognise the importance of aggregate to the local community, while providing the ability to assess the environmental effects and impose conditions, as well as the ability to decline consent if the effects could not be avoided, remedied or mitigated. The expert evidence comments this activity status is supported on the basis the matters of discretion remain the same as the matters of control listed in the submission, and that applications under such a rule are processed on a non-notified basis.
3. In considering this evidence, in principle, I support the activity status of restricted discretionary activity for aggregate extraction activities as it recognises the benefits of this type of activity and the ability to assess the environmental effects. However, I do not consider the matters of discretion, non-notified basis and no conditions would effectively address a full range of potential adverse effects to achieve the objectives for the rural environment. Other effects and matters I consider relevant include visual amenity values, public access values, vegetation and ecological values, cultural and historic heritage values, the use and

management of hazardous substances, and rehabilitation of the site. In addition, other matters included hours of operation and proximity to dwellings may be indirectly covered by the submitted matters, I consider explicit reference to these matters would increase the effectiveness of such a rule. Furthermore, conditions could be effective in providing thresholds where the location may have particular sensitivities to aggregate extraction activities, such as in close proximity to existing dwellings and recreational areas (e.g. minimum setback). Lastly, it is unclear from the submission and expert evidence whether aggregate 'processing' is considered by the submitter to be part of 'aggregate extraction' activities. I note the expert evidence refers to some processing type activities (e.g. crushing and screening).

4. On the basis of the rule outlined in the evidence, I do not consider the requested rules to be the most effective or efficient in achieving Objective 2.5.1 of providing for aggregate extraction activities while avoiding, remedying or mitigating the adverse effects.

3.4.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Higgins in relation to submission points 77.02 and 77.03 be rejected.

3.5 Rules 19.6.4 and Rule 19.8 – Permitted Activity Conditions and Discretionary Activity

(Refer to Section 4.53 and 4.70 of Section 42A Report)

3.5.1 Discussion & Evaluation

1. Higgins sought new rules to include a setback for residential dwelling units to be 500m from any aggregate extraction site or the Ohau River bed (submission points 77.08 and 77.09). In the Section 42A Report, to assist in the evaluation of these submission points, further comment was sought from the submitter relating to the location of existing aggregate extraction sites and the basis for the 500m distance. In the expert evidence on behalf of Higgins, there are two currently active aggregate extraction sites along a section of the Ohau River, with a future potential site in Kimberley Road. The expert evidence comments the basis for the 500m distance is largely noise related.
2. Below are two aerial photographs showing the area that would be subject to the 500m buffer rule. In addition, the aerial photographs show the location and extent of the Flood Hazard Overlay Area in the Proposed Plan.

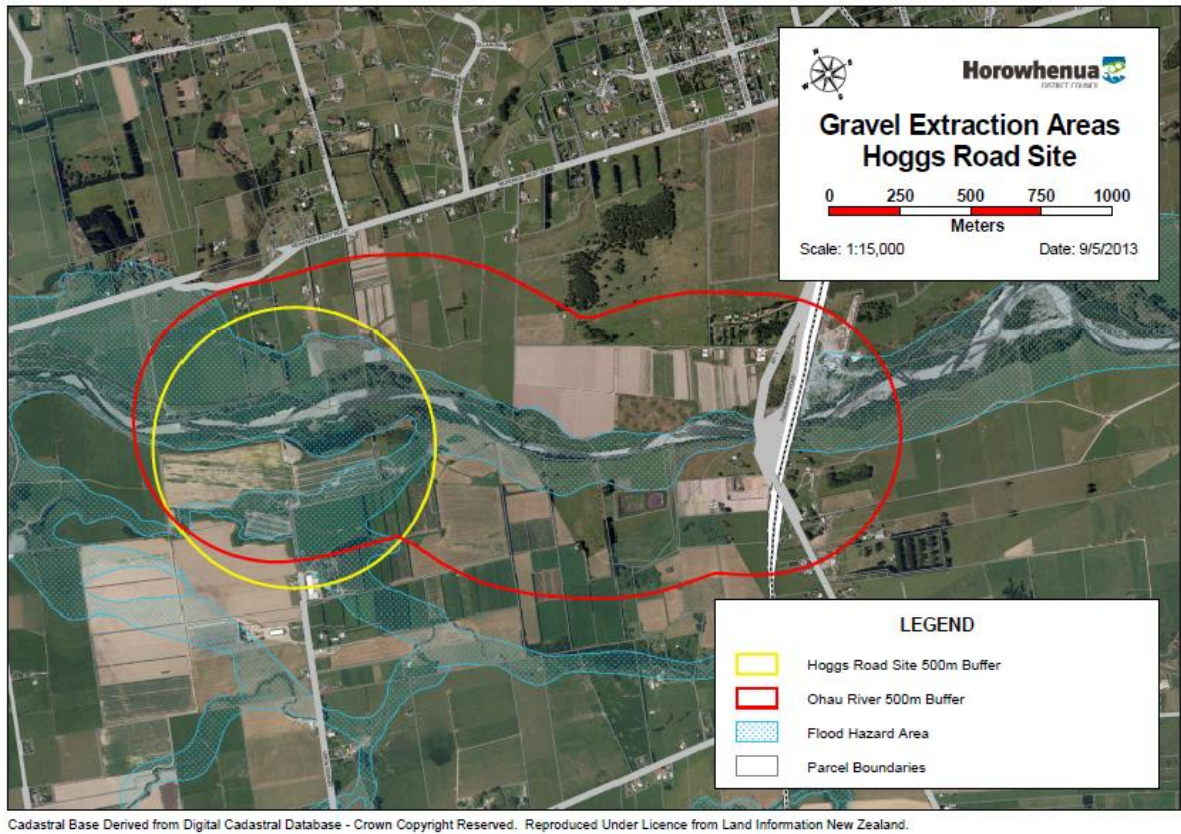


Figure 1: Hoggs Road Site 500m Buffer (yellow) and Ohau River 500m Buffer (red)

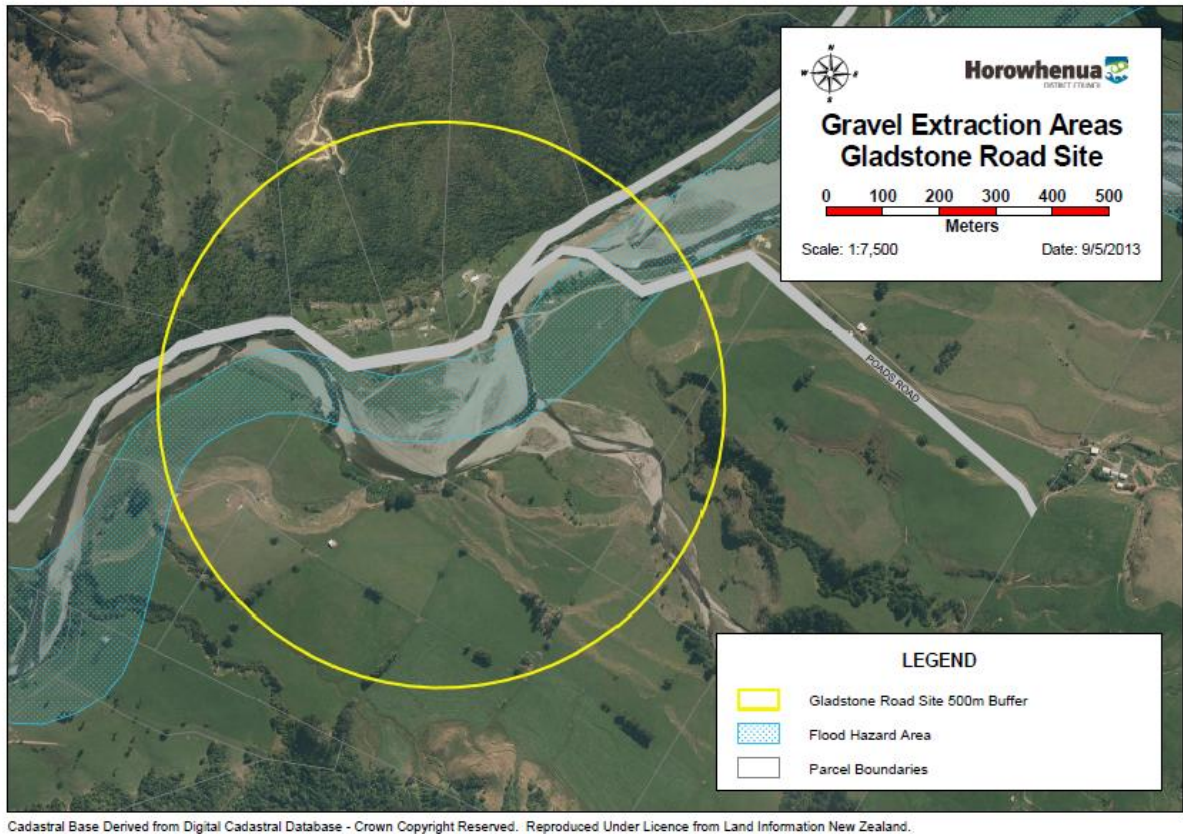


Figure 2: Gladstone Road Site 500m Buffer (yellow)

3. As evaluated in the Section 42A Report, in principle, I consider a buffer (setback) is an effective method where adverse effects cannot be effectively internalised. Based on the evidence presented, it is unknown whether there are specific issues at the subject site with internalising the noise effects. In reviewing the location and extent of the 500m buffer area, a few properties would be fully or mostly contained within the buffer area. Therefore, the requested rule would mean a resource consent would be required for any dwelling on these properties to consider the reverse sensitivity effects on the aggregate extraction activities. In the absence of any specific evidence identifying why the aggregate extraction activities cannot internalise their effects on these sites, I do not consider it reasonable or appropriate to impose such as restriction on adjoining properties. I therefore recommend submission point 77.08 be rejected. Consequently, the submission point (77.09) on matter of discretion is also recommended to be rejected.

3.5.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Higgins in relation to submission points 77.08 and 77.09 be rejected.

4. Transpower

4.1 Objective 2.5.1 and Explanation and Principal Reasons for Objective 2.5.1

(Refer to Sections 4.12 and 4.27 of Section 42A Report)

4.1.1 Discussion & Evaluation

1. The expert evidence provided by Transpower supports the recommended amendments in the Section 42A Report in relation to Objective 2.5.1 and the Explanation and Principal Reasons for Objective 2.5.1.

4.1.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Transpower in relation to submission points 99.01 and 99.02 be accepted.

4.2 Rule 19.5 – Non-Complying Activity

(Refer to Section 4.50 of Section 42A Report)

4.2.1 Discussion & Evaluation

1. The submission by Transpower (99.33) requested that where the permitted activity standards relating to subdivisions, use and development within the National Grid Corridor are not able to be met, a Non-complying activity status should be applied. The recommendation in the Section 42A Report considered the default Restricted Discretionary activity status to be appropriate and recommended that submission point 99.33 be rejected and that the further submission by Horticulture NZ (517.25) be accepted.

2. The expert evidence provided by Transpower contends that the application of a Restricted Discretionary activity status where Permitted activity standards are not met would not give effect to Policies 10 and 11 of the NPSET. The submitter highlights the wording contained in Policy 11 which states that:

“Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent.”

3. The submitter contends that a Non-complying activity status would better align with this Policy particularly the wording *“will generally not be provided for in plans and/or be given resource consent”* part of the policy. I accept that there is a community perception and expectation that Restricted Discretionary activities are an application classification that are generally granted consent, notwithstanding that this activity status provides for the ability to decline consent.
4. This perception and expectation would not align with Policy 11 of the NPSET. The submitter also contends that a Non-complying activity status would give effect to Policy 10 of the NPS by ensuring that operation, maintenance, upgrading and development of the electricity transmission network is not compromised.
5. I agree with the submitter in acknowledging that resource consent for a Non-complying activity can be granted but applicants must establish that the adverse effects of the activity on the environment are no more than minor or that the activity would not be contrary to the objectives and policies of the Proposed Plan.
6. The Non-Complying activity status is generally applied to those activities where the potential adverse effects are significant, but do not necessarily warrant prohibition. When Non-complying rules apply, it is generally intended consent would only be granted where there are exceptional circumstances. If a Non-complying activity status is applied, it is important there are clear and strong objectives and policies in the Proposed Plan to assist decision-makers on the desired outcomes and the means to achieve that outcome when considering non-complying consent application.
7. To provide some context, I have considered in what other circumstances the Non-complying activity status has been applied in the Proposed Plan, noting that this activity status has only been introduced through recent plan changes to the Operative District Plan. The Operative District Plan did not contain a single Non-complying activity rule until the adoption of Plan Change 17 in 2008. Further Non-complying activity rules are to be added through Plan Changes 20-22 for rural subdivision, urban growth and outstanding natural features and landscapes. Non-complying activities have been used somewhat sparingly given that there is an absence of any Prohibited Activities, the Non-complying activities have the most onerous activity status applied in the Proposed Plan. Examples of Non-complying activities in the Proposed Plan in the Rural zone include demolition and destruction of a Group 1 building, structure or site listed in Schedule 2 – Historic Heritage, Wind energy facilities in Outstanding Natural Features and Landscapes, and several other subdivision and land use activities in specific Landscape domains. Generally, these Non-complying rules apply to a specific activity or development rather than a non-compliance with prescribed conditions. I note that a Non-complying activity status for the National Grid Corridor could be triggered for activities with a very minor degree of non-compliance (e.g. very small encroachment of the corridor).

8. While I consider that the originally recommended Restricted Discretionary activity would have provided an appropriate activity status and consent process to consider the effects of any non-compliance with the permitted activity standards relating to the National Grid Corridor, I accept that the Restricted Discretionary activity status does not fully reflect the intent of Policy 11 of the NPSET and may give potential applicants the false expectation that consent would generally be granted. I consider that a Non-complying rule would potentially act as a further deterrent to those considering not complying with the permitted activity standards, which would in part, be effective in achieving the outcome sought (i.e. protect the safe and efficient functioning of the National Grid). I also note some of the further exemptions that have been recommended to be added to Rule 19.6.14 (permitted activity) which would further reduce the number of activities that would be a Non-complying. On this basis, I recommend that a new Non-complying activity rule be added for activities that do not comply with the permitted activity conditions within the National Grid Corridor.

4.2.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Transpower in relation to submission point 99.33 be accepted and that a new Non-complying activity rule be added to the Proposed Plan for the Rural Zone as set out below.

4.2.3 Recommended Amendments to the Plan Provisions

Include a new Non-Complying rule to 19.5 as follows:

19.5.X National Grid Corridor

(a) Any activity within the National Grid Corridor that does not comply with conditions in Rule 19.6.14.

4.3 Rule 19.6.14 – Permitted Activity Condition (Transmission Line Corridor)

(Refer to Section 4.59 of Section 42A Report)

4.3.1 Discussion & Evaluation

1. Transpower submission (99.27) sought that Rule 19.6.14 be amended to incorporate permitted earthworks thresholds. While the recommendation in the Section 42A Report on this matter was to reject the submission point, the report did invite the submitter to further explain at the hearing the need for these earthworks controls to be included in the Proposed Plan given that NZECP already applies and it would seem to be a duplication. This submission point was opposed by a further submission from Federated Farmers and in-part by Horticulture NZ.
2. The submitter has provided expert evidence and contends that relying on NZECP would not be adequate as it:
 - Does not proactively deliver on requirements of the NPSET

- Does not give effect to Policy 3-2(d) of the Proposed One Plan , which specifically requires rules to give effect to the safe separation distances in NZECP 34:2001
 - Will not be effective nor efficient (in terms of section 32 of the Act)
 - Does not reflect the facilitative approach to inclusion of district plan provisions, which is required by the NPSET
 - Will not represent sustainable management of the land resource; and
 - From a practical perspective, not including the earthwork provisions in the Proposed Plan misses an opportunity for the District Plan to bring together in one place key information that can lessen the risk of un-informed activity by landowners.
3. I understand that NZECP seeks to protect persons, property, vehicles and mobile plants from harm or damage from electrical safety hazards by setting out minimum safe electrical distances. NZECP does not address the other electrical safety hazards and the potential effects of the line on activities in close proximity to the line. It also does not protect the integrity of the National Grid from the effects of other activities. On this basis, I support the inclusion of the earthwork provisions as requested by Transpower (subject to a minor wording change¹) and accept that relying on the NZECP 34:2001 as explained by the expert evidence of the submitter would not be adequate to protect the National Grid Corridor from environmental effects.
 4. The expert evidence provided by Transpower advises that Transpower has been in discussion with stakeholders in relation to the National Grid Corridor. These discussions have prompted Transpower to request some additional changes to Rule 19.6.14 that would meet the various stakeholder interests.
 5. The submitter considers there is scope for the Hearing Panel to accept these amendments. I have considered the scope and agree that the submissions in relation to this rule (namely those by Transpower, Horticulture NZ and Federated Farmers) which range from seeking that the rule be deleted through to seeking specific amendments, provide the scope necessary to consider the latest amendments requested by Transpower. In addition to their own requested relief for the inclusion of earthworks controls, the other amendments respond directly to matters raised by submissions from Horticulture NZ and Federated Farmers.
 6. The latest requested amendments would enable crop support and protection structures to establish and for buildings associated with primary production to be developed, subject to minimum setbacks from transmission structures. The expert evidence is consistent with the recommendations in the Section 42A Report for exemptions for crop support and protection structures. I note the support for this aspect of the recommendation.
 7. The expert evidence seeks to specifically exempt Milking Sheds from those primary production buildings which would be permitted to establish within the National Grid Corridor as a Permitted activity.
 8. While I can think of other rural primary production buildings that would also be seen as a major investment and may have other siting requirements, I accept that the daily occupation

¹ Minor wording change to refer to “excluding milking sheds” rather than “but not being milking sheds”.

and use of the Milking Sheds means that there would be a greater impact on farming operations if they cannot be used during transmission line maintenance or upgrading. Given the potential reverse sensitivity effects from milking sheds and that Policy 10 of the NPSET provides that reverse sensitivity effects should be avoided. I can understand the desire to separate Milking Sheds out from other primary production buildings.

9. I consider that the latest requested amendments to exempt buildings associated with primary production (except milking sheds) from the setback requirements of Rule 19.6.14(b) would give effect to the NPSET, the Proposed One Plan and be consistent with the purpose of the RMA.
10. In responding to this expert evidence I note that no expert evidence has been pre-circulated by Horticulture NZ or Federated Farmers. Therefore, it is unknown whether the latest amendments requested by Transpower align with the views of the stakeholders that have been involved in the discussions. My recommendation contained in this supplementary report remains subject to any evidence presented at the hearing by potentially affected stakeholders.

4.3.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Transpower in relation to submission points 99.27 and further submission points 518.11 and 518.09 be accepted and that Rule 19.6.14(b) be amended as set out below.

4.3.3 Recommended Amendments to the Plan Provisions

Amend Rule 19.6.14 as to read:

19.6.14 National Grid Corridor

- (a) All buildings within a National Grid Corridor (as set out by the distances in (b)(i), ~~and (ii)~~ and (iii) below shall comply with New Zealand Electrical Code of Practice of Electrical Safety Distances (NZECP 34:2001).
- (b) No building or sensitive activity shall be located closer than:
 - (i) 10 metres either side of the centreline of any high voltage (110kV) transmission line shown on the Planning Maps.
 - (ii) 12 metres either side of the centreline ~~and support structures~~ of any high voltage (220kV or more) transmission line shown on the Planning Maps.
 - (iii) 12 metres from the outer edge of any support structure of any high voltage transmission line shown on the Planning Maps.

The following are exempt from the setback requirements in Rule 0(b):

- Fences up to 2.5 metres in height
- Mobile machinery and equipment
- Utilities within a road or rail corridor and electricity infrastructure

- Crop support structures and crop protection structures that meet the requirements of New Zealand Electrical Code of Practice of Electrical Safety Distances (NZECP 34:2001) for minimum distance beneath conductors and are 12 metres from the support structure of high voltage transmission lines.
- Non-habitable buildings associated with primary production (excluding milking sheds) that meet the requirements of New Zealand Electrical Code of Practice of Electrical Safety Distances (NZECP 34:2001) for minimum distance beneath conductors and are 12 metres from the support structure of high voltage transmission lines.

(c) Earthworks

(i) Earthworks around Poles shall be:

- (a) no deeper than 300mm within 2.2 metres of a transmission pole support structure or stay wire; and
- (b) no deeper than 750mm between 2.2 to 5 metres from a transmission pole support structure or stay wire.

Except that:

Vertical holes not exceeding 500mm diameter beyond 1.5 metres from the outer edge of a pole support structure or stay wire are exempt from (a) and (b) above.

(ii) Earthworks around Towers shall be:

- (a) no deeper than 300mm within 6 metres of the outer visible edge of a transmission tower support structure; and
- (b) no deeper than 3 metres between 6 to 12 metres from the outer visible edge of a transmission tower support structure.

(iii) Earthworks 12m either side of a high voltage transmission line shall not:

- (a) create an unstable batter that will affect a transmission support structure; and/or
- (b) result in a reduction of the existing conductor clearance distances as required by NZECP34:2001.

The following activities are exempt from (c)(i), (c)(ii) and (c)(iii) above:

- Earthworks undertaken by a Network Utility operator; or
- Earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath or driveway.

4.4 Rule 19.6 Permitted Activity Conditions and Assessment Criteria

25.2.4 Tree Planting

(Refer to Sections 4.51 and 4.75 of Section 42A Report)

4.4.1 Discussion & Evaluation

1. Transpower (99.30) sought the inclusion of a permitted activity standard providing for trimming, felling and removal of vegetation and non-notable trees. Transpower (99.42) also sought the inclusion of a new assessment criterion relating to tree planting. Both submission points were recommended to be rejected in the Section 42A Report.

2. The proposed assessment criteria would read:

“Whether tree planting within the transmission corridor would have an adverse effect on the operation, maintenance, upgrading or development of the electricity transmission network.”

3. I note that Transpower have in their expert evidence advised they no longer seek a new permitted activity rule but do still seek the assessment criterion. The expert evidence contends that Transpower’s approach is consistent with the NPSET and Proposed One Plan.

4. I do not consider that the assessment criterion sought by the submitter to serve any helpful purpose. In the absence of any rules controlling the planting of vegetation in relation to the National Grid Corridor, there would not be the opportunity to utilise this assessment criterion as there would not be any resource consent applications on this matter requiring assessment of this non-compliance.

5. The submitter has referred to Policy 3-2(e) of the Proposed One Plan which requires Council to ensure that any planting does not interfere with existing infrastructure. I consider that the Council does give effect to this policy through the recommended rules that enable the trimming and removal of branches from vegetation that are likely to compromise the effective operation of utility networks. I note that this is in relation to branches of Notable Trees and that there is no rule preventing similar work on non-Notable trees. I acknowledge the recommendation of the Reporting Officer to the Natural Features and Values Hearing Panel that provided for works in relation to Notable Trees as follows:

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 arbores who has advised the Council in advance of the work to be carried out.”

6. I consider this amendment to be more effective in giving effect to the NPSET and Proposed One Plan policy than the suggested assessment criterion.

7. The current assessment criterion (25.2.4) in the Proposed Plan relates to trees potentially shading roads and neighbouring buildings. This links back to Rule 19.6.16 in the Rural zone that requires setbacks for plantation forestry and shelterbelt planting from site boundaries, residential dwelling units and road carriageways. I do not consider the proposed assessment criterion to be relevant to the consideration of the matters that this rule focuses on (i.e. the rule does not include any setback distance to the National Grid Corridor).

8. I note the support for the Reporting Officer’s recommendation in relation to submission point 99.30. I do however acknowledge that through the relief recommended in the Natural Features and Values hearing the original relief sought by the submitter has been provided for

in part through the amendment to Rule 19.6.27 outlined above and equivalent consequential changes in the other zones.

9. I acknowledge the submitter's comments included in the expert evidence of wanting to avoid the 'ambulance at the bottom of the cliff approach' by only rely on trimming trees that grow too close to the lines and instead wanting to be proactive and prevent trees from being planted within the corridor in the first place. I am not persuaded to support a rule being added to the Proposed Plan that would restrict the ability for trees and vegetation to grow or be planted within the National Grid Corridor and in this circumstance consider that the rules that provide for tree trimming to be an appropriate response for this issue.

4.4.2 Reporting Officer's Recommendation

I recommend that the expert evidence provided by Transpower in relation to submission point 99.42 be rejected.

Prepared by Hamish Wesney and David McCorkindale
Dated 13 May 2013