



File: 11j117
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19th April 2013

Horowhenua District Council
Private Bag 4002
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Attention: David McCorkindale

By email: districtplan@horowhenua.govt.nz

Dear David,

**RE: PROPOSED HOROWHENUA DISTRICT PLAN HEARINGS –
HEARING 12: UTILITIES & ENERGY**

1. INTRODUCTION

We refer to the abovementioned matter set down for hearing commencing on 6th May 2013. Powerco Limited (*Powerco*) will not be attending the hearing as it is generally in agreement with the recommendations set out in the Officer's Report.

This statement has been prepared on behalf of Powerco and represents its views. The statement relates to the relevant submissions by Powerco including how they have been addressed in the Officer's Report. Powerco is identified as submitter 41 and further submitter 505 in the Officer's Report.

It would be appreciated if you could table this statement before the Hearings Committee.

2. POWERCO'S SUBMISSION

In its submission and further submissions, Powerco seeks to ensure that appropriate provision is made for network utilities in the proposed Horowhenua District Plan (*the Proposed District Plan*) including that the key social and economic benefits of network utilities in supplying energy are recognised and that appropriate provision is made for the ongoing operation, maintenance and upgrade of existing infrastructure as well as the establishment of new infrastructure.

Powerco lodged submissions in support of a number of the provisions relating to utilities and energy and sought some minor changes to others, as detailed in the table in **Attachment 1**.

3. THE PLANNING OFFICER'S REPORT

Powerco has reviewed the Planning Officer's Report and in particular the recommendations with respect to Powerco's submission points.

The Officer's Report recommends rejecting one of Powerco's further submissions (505.05) and accepting or accepting-in-part the remainder of Powerco's submissions and further submissions.

Powerco supports the Officer's recommendations with respect to most of Powerco's submissions and further submissions, for the reasons set out in **Attachment 1**. The exceptions to this are the Officer's recommendations in relation to:

- Powerco's further submission 505.05
- Powerco's submission 41.12

Policy 12.1.4 – Powerco further submission 505.05

Powerco's further submission 505.05 is in support of Telecom New Zealand Limited submission 78.06, which seeks to remove the reference to 'open space' from Policy 12.1.4 as follows (deletions in strikethrough):

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

The Officer's Report recommends rejecting the submission and further submission on the basis that the policy is signalling that some areas have a greater sensitivity to the adverse effects of network utilities and may warrant additional protection. The Officer's Report also draws attention to the definition of the term 'open space' in the Proposed District Plan, which reads as follows:

Open Space means any public or private area of substantially unoccupied space or vacant land; and includes parks, reserves, playgrounds, landscaped areas, gardens, together with any ancillary seating and vehicle parking and pedestrian shelters and conveniences; but excludes any recreation facilities. It need not specifically be zoned as Open Space.

Powerco does not support the Officer's recommendation in relation to Powerco's further submission and consider that the reference to 'open space' should be removed from Policy 12.1.4 for the reasons set out below.

The definition of open space appears to include almost any space that is not occupied by buildings, including land in both public and private ownership. It potentially includes land in all zones within the district ranging from a private residentially zoned garden to the parking area and landscaping associated with a commercial or industrial zone site to a public reserve in the open space zone. In addition, the definition would include a number of areas such as road reserves and stormwater reserves, which are generally accepted as appropriate locations for network utility infrastructure.

The use of the term 'open space' in the policy raises a number of issues. Firstly, while some areas covered by the definition of 'open space' may indeed be sensitive to the adverse effects of network utilities, other areas covered by the definition are exactly where network utilities are typically located and could not be considered to have a greater sensitivity to the adverse effects of network utilities, which would warrant additional protection. It is not appropriate to impose the same policy approach to network utilities across such a broad range of 'open space' locations. This creates an inherent conflict within the policy, which is likely to result in its inconsistent application (e.g. an application for a new network utility in the road reserve is likely to be treated differently to an application for a new network utility in a children's playground despite the fact that both locations are considered to be 'open space' in the context of this policy). Thus the policy will require arbitrary interpretation and may be inconsistently administered.

The broad scope of the term 'open space' also casts doubt on the robustness of the policy. There is no apparent effects based reason to provide additional protection for 'open spaces' such as road reserves or stormwater reserves from the adverse effects of network utilities, when some such spaces will be exactly where it is most appropriate to locate network utilities. Further, the definition of 'open space' is so broad ranging that it is not entirely clear what the other spaces are that will not require additional protection from network utilities. As noted above, the definition potentially includes land in all zones of the district that is not otherwise occupied by buildings.

This also means that there is no certainty as to how and where the policy will be applied. In contrast, the other sensitive areas identified in the policy are clearly defined in the Proposed District Plan and Planning Maps on the basis of specific criteria (e.g. Outstanding Natural Features and Landscape, heritage and cultural sites and buildings, and notable trees) or are distinct natural features (e.g. coasts, lakes, rivers and other waterways).

A further concern with the policy is the use of the threshold 'adverse effects' in relation to 'open space'. Given the broad scope and uncertainty associated with the term 'open space', such features should, at most, only be afforded additional protection from '*significant* adverse effects', rather than 'adverse effects' in general. Notwithstanding this, a reference in Policy 12.1.4 to significant adverse effects on open spaces would not resolve the wider concerns in relation to the use of this term in the policy and Powerco considers that the words 'and open space' should be deleted from the policy, consistent with its further submission 505.05.

As identified above, the definition of open space is problematic, particularly in the context of how it is applied in Policy 12.1.4 and potentially other parts of the plan. As such, if there is scope, the Council may also wish to reconsider the definition of 'open space' to avoid the potential for conflict and confusion in the wider application of the term in the Proposed District Plan.

Methods for Issue 12.1 and Objective 12.1.1 – Powerco submission 41.12

Powerco's submission 41.12 seeks the retention of the Methods for Issue 12.1 and Objective 12.1.1 without modification. The Officer's Report, at page 47, recommends accepting Powerco's submission in part, on the basis that changes to the wording of the methods are recommended as a result of other submissions.

The recommended wording of the methods (bullet points 3, 4, 5 and 6) is as follows (additions underlined; deletions in strikethrough):

- *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.*
- *Require network utilities, that do not comply with performance standards or that are located in sensitive areas including Outstanding Natural Features and Landscapes, landscapes and Domains of High Landscape Amenity, or heritage sites ~~which have variable effects or which may have adverse effects if located in some localities,~~ to be assessed through the resource consent process to consider the potential effects of the proposal and impose specific conditions if appropriate.*
- *Promote the use of relevant Codes of Practice and industry guidelines.*
- *Designated network utilities and sites and the electricity transmission network will be identified on the Planning Maps*

Powerco supports the changes recommended to bullet points 5 and 6 (the 3rd and 4th bullet points above), but does not support the changes recommended to bullet points 3 and 4 (the 1st and 2nd bullet points above).

The wording of bullet point 3 would need to be amended to achieve the intended outcome, which is to specify that resource consents will be required for network utility operations, that are to be located on or within heritage buildings and sites, or Outstanding Natural Features and Landscapes etc. The method currently states that resource consents will be required for heritage buildings and sites, or Outstanding Natural Features and Landscapes etc themselves. As a minimum, bullet point 3 should be amended to read as follows (additions underlined; deletions in strikethrough):

- *Resource consents will be required for network utility operations which do not comply with performance standards or which are to be located on or within ~~for~~ heritage buildings and sites, or Outstanding Natural Features and Landscapes or landscapes and domains of High Landscape Amenity.*

Notwithstanding this, the wording recommended for bullet points 3 and 4 in the Officer's report results in no substantive difference between the two bullet points and it is submitted that only one of these bullet points is required. As such, Powerco seeks the deletion of bullet point 3 as 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.

The final concern is the Officer's recommendation to introduce a reference to 'landscapes and Domains of High Landscape Amenity' to the methods. The rules in Chapter 22: Utilities and Energy include specific consent requirements for certain network utilities within rural zoned parts of the Coastal Environment, Coastal Lakes, Manakau Downlands and Hill Country Landscape Domains (e.g. Rules 22.1.5(b); 22.1.7(b) and 22.1.8(a)). These areas can be specifically identified by a combination of the zoning maps and the landscape domains maps. Powerco could, therefore, accept a reference to these specific areas in the methods. However, the wording recommended by the Officer refers to 'landscapes and Domains of High Landscape Amenity.' At best this is confusing as there is no definition of the term 'landscapes and Domains of High Landscape Amenity' in Chapter 26: Definitions of the Proposed District Plan and nor does the terminology reflect that used for the maps, which is 'Landscape Domains Maps'.

Powerco accepts that there is a description of these areas in Chapter 3 Objectives/Policies: Natural Features and Values. However, there is no link between the method and this chapter making the description difficult to identify. Further, the description appears to relate to the Coastal Environment, Coastal Lakes, Manakau Downlands and Hill Country Landscape Domains in general and not just to the rural zoned parts of those domains, which is where the rules in Chapter 22 apply. As such, there is a potential conflict between the methods and the rules relating to the management of network utilities located in sensitive areas.

The recommended wording of the method is confusing as the 'landscapes and Domains of High Landscape Amenity' are not clearly defined. In addition, the wording does not accurately reflect the rules relating to network utilities and creates the potential for confusion and misinterpretation. As such, Powerco seeks that the method be amended to refer specifically to those areas where the rules relating to network utilities apply and to acknowledge that not all network utilities will necessarily require consent due to a location in or on a sensitive area / feature. It is only those network utilities that exceed the permitted activity conditions that will require consent, including where they are in or on a sensitive area / feature. This could be achieved by amending the wording of the method (bullet point 4) as follows (additions underlined / deletions in strikethrough):

- *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.*

Recommendation to the Committee:

1. Accept the Officer recommendations in relation to Powerco's submissions and further submissions on Utilities & Energy as set out in **Attachment 1**.
2. Delete the term 'open space' from Policy 12.1.4 as sought in Powerco's further submission 505.05, as follows (deletions in strikethrough):

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

3. Consider whether there is scope to address some of the more general concerns likely to arise as a result of the definition of 'open space.'
4. Amend the Methods for Issue 12.1 and Objective 12.1.1 by deleting bullet point 3 and amending bullet point 4 as follows (additions underlined; deletions in strikethrough):
 - *~~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.~~*

- *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. Retain bullet points 5 and 6 of the Methods for Issued 12.1 and Objective 12.1.1 as amended in the Officer's Report.

4. CONCLUDING STATEMENT

Thank you for your time and acknowledgement of the issues raised in Powerco's submission. Please do not hesitate to contact the writer on (09) 917 4301 should you wish to seek any clarification as to the above.

Yours faithfully,

BURTON CONSULTANTS



Georgina McPherson

Senior Planner

Attachment 1: Hearing 12: Utilities and Energy
Powerco Submissions and Further Submissions Where the Officer Recommendation is Supported

Powerco Submission No.	Provision	Summary of Submission <i>(additions to provisions <u>underlined</u>, deletions in strikethrough)</i>	Officer Recommendation (Page Number from Officer Report) <i>(additions to provisions <u>underlined</u>, deletions in strikethrough)</i>	Powerco Comment
41.11	Discussion for Issue 12.1	Retain the fourth paragraph of the issue discussion for 12.1 without modification.	Accept in-part (page 25) Amend the fourth paragraph of the issue discussion for 12.1 as follows: <i>Therefore, in making provision for network utilities, their environmental effects must be balanced against the community's need for the service or facility. <u>An example of this challenge is the provision of street lighting which is required for public safety, yet the spill light from this can adversely affect the night environment.</u> It is also recognised that there may be limited choice in locating utilities, given logistical or technical practicalities. Some level of adverse effects may need to be accepted to recognise the necessity for some utility services and facilities.</i>	A change to the wording of the paragraph is recommended as a result of another submission. Powerco does not have a concern with the recommended wording and can support the Officer recommendation.
41.02	Objective 12.1.1	Retain Objective 12.1.1 without modification.	Accept in part (page 27) Amend Objective 12.1.1 to read: <i>To <u>protect and</u> provide for the establishment, operation, maintenance and upgrading of network utilities, while avoiding, remedying or mitigating adverse effects on the environment.</i>	A change to the wording of the objective is recommended as a result of another submission. Powerco does not have a concern with the recommended wording and can support the Officer recommendation.
41.03	Policy 12.1.2	Retain Policy 12.1.2 without modification.	Accept (page 28)	Powerco's submission is given effect to.

Powerco Submission No.	Provision	Summary of Submission <i>(additions to provisions <u>underlined</u>, deletions in strikethrough)</i>	Officer Recommendation (Page Number from Officer Report) <i>(additions to provisions <u>underlined</u>, deletions in strikethrough)</i>	Powerco Comment
41.04	Policy 12.1.3	Retain Policy 12.1.3 without modification.	Accept (page 31)	Powerco's submission is given effect to.
505.04	Policy 12.1.3	Oppose Horticulture NZ submission 98.35, which seeks to amend Policy 12.1.3 as follows: <i>Avoid, remedy or mitigate the adverse environmental effects, <u>including effects on primary production activities</u>, arising from the establishment, construction, operation, maintenance and upgrading of network utilities.</i>	Accept (page 31)	Powerco's further submission is given effect to.
41.05	Policy 12.1.4	Retain Policy 12.1.4 without modification.	Accept (page 34)	Powerco's submission is given effect to.
41.06	Policy 12.1.5	Retain Policy 12.1.5 without modification.	Accept (page 35)	Powerco's submission is given effect to.
41.07	Policy 12.1.6	Retain Policy 12.1.6 without modification.	Accept (page 36)	Powerco's submission is given effect to.
41.08	Policy 12.1.7	Retain Policy 12.1.7 without modification.	Accept in part (page 38) Amend Policy 12.1.7 to read <i>Require services where practicable, to be underground in new areas of development within Urban areas and <u>Greenbelt Residential areas</u>.</i>	A change to the wording of the policy is recommended as a result of another submission. Powerco does not have a concern with the recommended wording and can support the Officer recommendation.
41.09	Policy 12.1.8	Retain Policy 12.1.8 without modification.	Accept (page 38)	Powerco's submission is given effect to.
41.10	Policy 12.1.9	Retain Policy 12.1.9 without modification.	Accept in part (page 40) Amend Policy 12.1.9 to read: <i>Recognise the presence and function of existing network utilities, and their locational and operational requirements, by managing</i>	A change to the wording of the policy is recommended as a result of another submission. Powerco does not have a concern with the recommended wording and can support the Officer recommendation.

Powerco Submission No.	Provision	Summary of Submission <i>(additions to provisions <u>underlined</u>, deletions in strikethrough)</i>	Officer Recommendation (Page Number from Officer Report) <i>(additions to provisions <u>underlined</u>, deletions in strikethrough)</i>	Powerco Comment
			<i><u>land use, development and / or subdivision in locations which could compromise their safe and efficient operation and maintenance</u> subdivision and new land use activities adjacent to them, to ensure the long-term efficient and effective functioning of that utility.</i>	
41.15	Rule 15.1 (i) Permitted Activity Rule – Residential Zone	Retain Rule 15.1(i) without modification.	Accept (page 86)	Powerco’s submission is given effect to.
41.36	Rule 15.7.5(a)(iv) Subdivision of Land – Residential Zone	Amend Rule 15.7.5(a)(iv) as follows: <i>The provision of servicing, including water supply, wastewater systems, stormwater management and disposal, streetlighting, telecommunications and electricity <u>and, where applicable, gas.</u></i>	Accept (page 87)	Powerco’s submission is given effect to.
41.16	Rule 16.1(m) Permitted Activity Rule – Industrial Zone	Retain Rule 16.1(m) without modification	Accept (page 88)	Powerco’s submission is given effect to.
41.17	Rule 17.1(o) Permitted Activity Rule - Commercial Zone	Retain Rule 17.1(o) without modification	Accept (page 89)	Powerco’s submission is given effect to.
41.18	Rule 19.1(k) Permitted Activity Rule – Rural Zone	Retain Rule 19.1(k) without modification.	Accept in part (page 94) Amend Rule 19.1(k) as follows: <i>(k) The following network utilities and electricity generation activities: (i) The construction, operation,</i>	Changes to the wording of the rule are recommended as a result of other submissions. Powerco supports this change as it provides a better link to the rules in the network utilities chapter and in particular to Rule 22.1.10(b),

Powerco Submission No.	Provision	Summary of Submission <i>(additions to provisions <u>underlined</u>, deletions in strikethrough)</i>	Officer Recommendation (Page Number from Officer Report) <i>(additions to provisions <u>underlined</u>, deletions in strikethrough)</i>	Powerco Comment
			<i>maintenance and <u>minor</u> upgrading of network utilities.</i> <i>(ii) Wind monitoring masts.</i> <i>(iii) Domestic scale renewable energy device.</i> <i>(iv) The operation, maintenance, refurbishment, enhancement and <u>minor</u> upgrading of an existing energy generation facility, except where significant external modification is involved.</i>	which defines minor upgrading.
41.19	Rule 20.1(f) Permitted Activity Rule – Open Space Zone	Retain Rule 20.1(f)) without modification.	Accept (page 97)	Powerco’s submission is given effect to
41.40	Chapter 22 - Introduction	Retain without modification the first paragraph of the introduction to Chapter 22.	Accept (page 98)	Powerco’s submission is given effect to
41.41	Rule 22.1.1 Gas Pressure	Retain Rule 22.1.1 without modification.	Accept (page 100)	Powerco’s submission is given effect to
41.42	Rule 22.1.5(a) Undergrounding of Services	Retain Rule 22.1.5(a) without modification.	Accept (page 104)	Powerco’s submission is given effect to
41.43	Rule 22.1.5(c) Undergrounding of Services	Retain Rule 22.1.5(c) without modification.	Accept (page 105)	Powerco’s submission is given effect to
41.44	Rule 22.1.6 Underground Services - Reinstatement	Retain Rule 22.1.6 without modification.	Accept (page 106)	Powerco’s submission is given effect to
41.45	Rule 22.1.10 Maintenance, Replacement and Upgrading Network Utilities	Amend Rule 22.1.10(a) as follows: <i>The maintenance and replacement of the following utilities:</i> <i>(i) Existing transformers and lines above ground for conveying electricity at all</i>	Accept (page 122)	Powerco’s submission is given effect to

Powerco Submission No.	Provision	Summary of Submission (additions to provisions <u>underlined</u> , deletions in strike through)	Officer Recommendation (Page Number from Officer Report) (additions to provisions <u>underlined</u> , deletions in strike through)	Powerco Comment
		<p>voltages and capacities.</p> <p>(ii) Existing telecommunication lines.</p> <p>(iii) Existing telecommunication and radiocommunication facilities.</p> <p>(iv) Existing buildings and depots.</p> <p>(v) Existing weather radar.</p> <p>(vi) Existing river protection works.</p> <p>(vii) <u>Existing gas transmission and distribution facilities.</u></p>		
41.49	Rule 25.7.12 Assessment Criteria – Network Utilities and Wind Monitoring Masts	Retain Assessment Criteria 25.7.12 without modification.	<p>Accept in part (page 137)</p> <p>Amend Assessment Criteria 25.7.12(f) to read:</p> <p><u>With respect to network utilities, whether alternative locations, routes or other options are economically, operationally, physically or technically practicable.</u></p>	A change to the wording of the rule is recommended as a result of another submission. Powerco does not have a concern with the recommended wording and can support the Officer recommendation.
41.50	Chapter 26 Definitions - Network Utility	Retain the definition of Network Utility without modification.	Accept (page 147)	Powerco's submission is given effect to