

Proposed Marlborough Environment Plan

Topic 20: Utilities and Designations

Hearing dates: 21 – 23 May 2018

S42A Report Writer: Liz White

Conflicts of Interest: None

Interim decision: Yes

(Note: A list of conflicts of interest which arose during the process are available to view on the Marlborough District Council Website)

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List of Abbreviations

HVDC	High Voltage Direct Current
PMEP	Proposed Marlborough Environment Plan
MDC	Marlborough District Council
MLL	Marlborough Lines Limited
NES	National Environmental Standards
NESTF	National Environmental Standards for Telecommunication Facilities 2016
NPSET	National Policy Statement on Electricity Transmission
NZECF	New Zealand Electrical Code of Practice
NESTF	National Environmental Standards for Telecommunication Facilities 2016
RMA	Resource Management Act 1991

Submitter abbreviations

MLL	Marlborough Lines Limited
NZART & MARC	NZART Incorporated and Marlborough Amateur Radio Club (Branch 22)
NZTA	New Zealand Transport Agency

Structure of Decisions

1. It is important that the topic decision is read as a whole together with the tracked change version of the Plan. The decision on each topic contains the reasons for the Panel's decisions. These comprise either adoption of the reasoning and recommendations of the original Section 42A Report or the replies to evidence, or a specific reasoning by the Panel¹.
2. The tracked change version of the relevant PMEP provisions forms an integral part of the decision. The source of the change in terms of the topic that the subject matter was dealt with is clearly identified in the track changes version of the plan. This records all amendments (additions and deletions) to the notified PMEP provisions made by the Panel.
3. Where the PMEP provisions **remain as notified**, it is because:
 - (a) The Panel has decided to retain the provision as notified for reasons set out in this decision; or
 - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to retain the provision as notified as recommended in the Reply to Evidence; or
 - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report to retain the provision as notified in the original Section 42A report.
4. Where there is a **change to a provision** within the plan it is because:
 - (a) The Panel has amended a provision for reasons set out in this decision in response to a submission point which the Section 42A report writer(s) does not recommend in their reports; or
 - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the Reply to Evidence; or
 - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the original Section 42A report;
or

¹ (The only exception to that approach relates to the Noise section of the Nuisance topic where the reasoning and recommendations in the responses to Minutes 54 and 59 may have been adopted, rather than the reasoning and recommendations in the Section 42A Report or the Reply to Evidence report. The reasons for that difference in that topic are dealt with in detail at the commencement of the Noise section of the Nuisance topic decision. In respect of that topic the approach to understanding of the individual submission point decisions addressed in paragraphs 13.3 to 13.5 below should be adjusted accordingly to apply references to the Section 42A Report and/or Reply to Evidence in those paragraphs as being references to the responses to Minutes 54 & 59 for that Nuisance topic.)

- (d) A consequential change has been necessary following on from a decision in either a), b) or c).
5. Where there is a **different recommendation** between the Section 42A Report and the Reply to Evidence (i.e., the recommendation by the Section 42A report writer(s) has changed as a result of hearing the evidence of submitters), unless the Panel decision specifically adopts the original report's reasoning and recommendations, the reasoning and recommendations in the (later) reply to evidence has been adopted and it must be taken to prevail.
 6. There are limited circumstances where the Panel has taken the opportunity to give effect to national policy statements or implement national environmental standards. Where this occurs the relevant decision clearly sets out the nature of the change and the reason for the change.
 7. Finally, there are limited circumstances where the Panel has decided that **alternative relief** is more appropriate than that requested by the submitters, but still within the scope of the relief sought. This is recorded in the Panel's decision.

Objective 4.2

Efficient, effective and safe operation of regionally significant infrastructure

8. There were no provisions in Chapter 4 as to provide for utilities, and there was confusion over the status of the provisions in respect of network utilities. This matter was also raised by Transpower in Topic 3 Natural and Physical Resources and was also addressed by the Section 42A Report Writer. The Report Writer at that point and at the outset of the hearing of this topic conceded that there was a gap between the RPS provisions and the specific rules for utilities. She initially continued to hold this view in the context of Topic 20 on Utilities and Designations.²

Section 42A Report

9. Against this background, the Report Writer formed the opinion in assessing the requirements of Topic 20 that a new Objective 4.2A should be recommended to be added to Chapter 4, and also a new Policy 4.2.4 to emphasise the importance of network utilities and to provide for their upgrade and development. The decision was made by the Panel to include the term 'network utilities'³ in the original Objective 4.2 with the [R] designation (which rendered the recommended new Objective 4.2A otiose).
10. The new recommended Policy 4.2.4 was accepted by the Panel and coded 'C' in addition to 'R' and 'D'.⁴

Decision

11. Objective 4.2 is amended to read:

[R]

Objective 4.2 – Efficient, effective and safe operation of regionally significant infrastructure and network utilities.

12. The explanation to Objective 4.2 is amended to read:
13. The community relies on the considerable infrastructure that has been developed to protect and support the population. It is essential for the social and economic wellbeing, health and safety of the Marlborough community that this critical infrastructure continues to operate efficiently, effectively and safely on an ongoing basis. This includes the ability to maintain, upgrade and replace existing infrastructure and network utilities. A new policy is added as follows:

² Chapter 4, Section 42A Report, paragraphs 42-55.

³ Transpower (1198.4, 1198.5, 1198.6).

⁴ Topic 20 Utilities and Designations, Section 42A Report, Reply to Evidence, pages 18 and 19.

[R, D, C,]

Policy 4.2.4 Provide for the upgrade and development of network utilities, while ensuring that any adverse effects are avoided, remedied or mitigated to the extent practicable.

It is important that network utilities are able to be developed and upgraded, in order to provide for the social and economic wellbeing and health and safety of the community. However, this must be balanced with the need to manage the adverse effects of such infrastructure. Consideration of the management of these effects needs to take into account the logistical, technical and operational constraints associated with network utilities. Reference must also be made to the relevant policy direction in other parts of this plan, for example, where located within an Outstanding Natural Landscape, or involving the removal of indigenous biodiversity, the policy framework relating to those will be relevant.

National Grid Provisions

14. The Panel issued Minute 38 to Transpower seeking clarification with respect to the company's request for multiple changes to notified provisions together with new provisions in respect of the proximity of activities to the National Grid. And as to whether the company intends that the PMEP include a new rule and standard that provides that other network utilities within the National Grid Yard should be identified as a permitted activity.
15. A good example of those requests by Transpower is that addressed at paragraph 222 of the Section 42A Report where it was also recommended that a new standard was inserted into Standard 21.2 for permitted activities in Floodway zones as requested by Transpower. The wording Transpower requested was as follows:

21.2.x. Activities within the National Grid Yard:

21.2.x.1 The activity and associated works must maintain compliance with the New Zealand Electrical Code of Practice (NZECP34:2001) at all times.

Advice note: Vegetation to be planted around the National Grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.83

Consideration

16. Ainslie McLeod for Transpower identifies in her additional evidence that provision of network utilities within the National Grid Yard is the outcome sought by the company and that other network utilities are permitted when they comply with the New Zealand Electrical Code of

Practice for Electrical Safe Distances (NZECP 34:2001). They are not to include the reticulation and storage of water for irrigation purposes.

17. The reasons given for Transpower's responses to Minute 38 from the Panel were that:
 - There is necessity for other network utilities (and particular electricity distribution infrastructure) to connect to the National Grid; this would give effect to Policy 10 of the NPSET.
 - Policies in many planning documents seek opportunities for co-location.
 - The nature and scale of network utilities are less likely to compromise the National Grid than some other activities (particularly other similar linear networks such as road, rail and telecommunications networks).
18. The Panel had also requested in Minute 38 that Transpower clarify the general legal status of NZECP 34:2001. Its response was as follows:

Legal Status of NZECP 34:2001

The Hearing Panel has sought clarification in respect of the legal status of NZECP 34:2001. Transpower can confirm that NZECP 34:2001 is one of a suite of Electrical Codes of Practice that are issued by WorkSafe under Section 36 of the Electricity Act 1992. Compliance with NZECP 34:2001 is mandatory (as established by Regulation 17 of the Electricity (Safety) Regulations 2010).
19. In the Panel's view, as the NZECP constitutes a mandatory requirement under its own legislative scheme, there is no necessity for it to be provided for by incorporation in the PMEP for it to continue to have mandatory effect, or for the plan to provide for the National Grid.
20. The Panel also inquired:
 - whether a simplified version of the meaning of the rules could be referenced without identifying NZECP 34:2001;
 - whether there were particular clauses of the code being referred to;
 - whether consideration could be given to providing a schedule of particular compliance wording for including in a new appendix.
21. Transpower identified that:
 - more than one section of the code could apply to any activity that is regulated by the provisions;

- to correctly reflect the nuances of the NZECP, substantial sections of the document would need to be reproduced;
 - embedding the requirements of NZECP 34:2001 without reference is not effective or practical.
22. In their response to Minute 38, Transpower provided (inter alia) amendments that it suggested may achieve consistent expression of NZECP34:2001 and provide for the refinement to make one reference to the code more specific.⁵
23. NZECP 34:2001 is readily available to the public on Transpower’s website.⁶
24. Other submitters including Transpower sought regulation of planting by an advice note requiring compliance with the Electricity (Hazards from Trees) Regulations 2003.
25. Both in the Introduction Topic 1 decision and the Natural Hazards Topic 9 decision the Panel stated that as these statutory regulations have mandatory effect, it is unnecessary for there to be further references to them in a manner which incorporates them into the Plan.
26. Instead a method has been included in the Natural Hazards Topic decision at 4.M.11 drawing attention to the information available on those regulations via the websites of Transpower New Zealand Limited and Marlborough Lines limited. No addition to that method is required in this Utilities Topic.

Decision

27. The submissions seeking specific references to the NZECP 34:2001 and the Electricity (Hazards from Trees) Regulations 2003 by way of rules or other provisions, requiring general compliance with them are rejected. If compliance with a particular provision is specified then that has been accepted. Otherwise the new Method 4.M.11 draws attention to websites with further information as to the application of those instruments.
28. Standards 3.2.1.17, 3.2.1.18, 4.2.1.15, 4.2.1.16, 7.2.1.10, 7.2.1.11, 12.2.1.9 and 12.2.1.10 have been deleted and replaced with the following, to be inserted in 3.3, 4.3, 7.3, 12.3, 18.3 and 19.3:

x.3.x. Buildings, structures and activities in the National Grid Yard

⁵ Transpower, Ainslie McLeod Evidence, and Attachment A Transpower New Zealand Limited – Further Amendments to Relief in Response to Minute 38.

⁶ <https://www.transpower.co.nz/keeping-you-connected/landowners-and-developers/safe-separation-distances>

x.3.x.1 Sensitive activities and buildings for the handling or storage of hazardous substances with explosive or flammable intrinsic properties must not be located within the National Grid Yard.

x.3.x.2. Buildings and structures must not be located within the National Grid Yard unless they are:

(a) a fence not exceeding 2.5m in height; or

(b) an uninhabited farm or horticultural structure or building (except where they are commercial greenhouses, wintering barns, produce packing facilities, or milking/dairy sheds (excluding ancillary stockyards and platforms).

(c) irrigation equipment used for agricultural or horticultural purposes including the reticulation and storage of water where it does not permanently physically obstruct vehicular access to a National Grid support structure;

x.3.x.3 Buildings and structures must not be within 12m of a foundation of a National Grid transmission line support structure unless they are:

(a) a fence not exceeding 2.5m in height that is located at least 6m from the foundation of a National Grid transmission line support structure or at least 5m from a National Grid pi-pole structure (but not a tower); or

(b) artificial crop protection structures or crop support structures not more than 2.5m in height and located at least 8m from a National Grid pi-pole structure (but not a tower) and are:

(i) removeable or temporary to allow a clear working space of 12m from the pole for maintenance and repair purposes; and

(ii) all weather access to the pole and a sufficient area for maintenance equipment, including a crane; or

(c) located within 12 metres of a National Grid transmission line support structures that meets the requirements of clause 2.4.1 of the New Zealand Electrical Code of Practice (NZECP 34:2001).

x.3.x.4 All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor under all transmission line and building operating conditions.

29. The following permitted activity rule is added to Sections 3.1, 4.1, 7.1, 12.1, 18.1 and 19.1:

x.1.x. Buildings, structures and activities in the National Grid Yard.

30. A new rule is to be inserted at 18.3 and 19.3 as follows:

X.3.X Earthworks within the National Grid Yard.

X.3.X.1 Earthworks within the National Grid Yard in the following circumstances are exempt from the remaining standards under this rule:

(a) Earthworks undertaken as part of agricultural, horticultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track;

(b) Excavation of a vertical hole, not exceeding 500mm in diameter, that is more than 1.5m from the outer edge of a pole support structure or stay wire;

(c) Earthworks that are undertaken by a network utility operator.

X.3.X.2. The earthworks must be no deeper than 300mm within 6m of the outer visible edge of a foundation of a National Grid transmission line support structure.

X.3.X.3. The earthworks must be no deeper than 3m between 6m and 12m of the outer visible edge of a foundation of a National Grid transmission line support structure.

X.3.X.4. The earthworks must not compromise the stability of a National Grid transmission line Support Structure.

X.3.X.5. The earthworks must not result in a reduction in the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice (NZECP 34:2001).

31. Rules 3.1.15, 4.1.14, 7.1.12 and 12.1.30 are amended as follows:

~~X.1.X. Excavation or filling~~ Earthworks within the National Grid Yard.

32. Standards 3.3.15, 4.3.14, 7.3.10, 12.3.19 are amended to read as follows:

~~X.3.X.1 Excavation~~ Earthworks within the National Grid Yard in the following circumstances is are exempt from the remaining standards under this rule:

~~(a) Excavation that is~~ Earthworks undertaken as part of agricultural, horticultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track;

~~(b) Excavation of a vertical hole, not exceeding 500mm in diameter, that is more than 1.5m from the outer edge of a pole support structure or stay wire;~~

~~(c) — Excavation of a vertical hole, not exceeding 500mm in diameter, that is a post hole for a farm fence or horticulture structure and more than 5m from the visible outer edge of a tower support structure foundation.~~

(ed) Earthworks that are undertaken by a network utility operator.

X.3.X.2. The ~~excavation~~ earthworks must be no deeper than 300mm within 6m of the outer visible edge of a foundation of a National Grid transmission line support structure ~~Transmission Tower Support Structure.~~

X.3.X.3. The ~~excavation~~ earthworks must be no deeper than 3m between 6m and 12m of the outer visible edge of a foundation of a National Grid transmission line support structure ~~Transmission Tower Support Structure.~~

X.3.X.4. The ~~excavation~~ earthworks must not compromise the stability of a National Grid transmission line Support Structure.

X.3.X.5. The ~~filling~~ earthworks must not result in a reduction in the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice (NZECP 34:2001).

New standard as to reticulation and storage of water in National Grid

33. Transpower had requested a new standard be inserted as a new 2.39.4.2 as follows:

The reticulation and storage of water for irrigation shall not be located within the National Grid yard.

34. The Section 42A Report recommended that new standard be adopted because reticulation lines and storage were not good for access requirements to the whole of the National Grid.

Consideration

35. During the hearing, Mr Renton, for Transpower, provided a practical description of the access issues created by the storage and distribution of water. The Panel agreed with those concerns but took the view that the standard was more appropriately located in the provisions related to the permitted activities for damming of water in the general rules Chapter 2. Constraints to access could be created by any storage and distribution of water not just that undertaken by a network utility operator. The Panel has also noted elsewhere in this decision that it cannot identify an example of a network utility operator storing water. The issue of reticulation could be addressed by reference in the new standard to '*...damming and storage of water, and operation of their associated reticulation lines...*'.

Decision

36. Insert a new standard as follows in the General rules:

2.3.16.3 The damming of water, and operation of their associated reticulation lines, shall not occur within the National Grid Yard.

Exemptions from new Standard for Earthworks within the National Grid Yard

37. One of the more convoluted outcomes of the Transpower submissions and the Reply to Evidence in relation to National Grid provisions related to the requested and recommended exemptions from the new general standards in a range of zones for 'Earthworks within the National Grid Yard'. The outcome was that the Reply to Evidence recommended the following wording requested by Transpower, which provided for exemptions from the standard for the activities listed as (a) to (c):

Earthworks within the National Grid Yard.

X.3.X.1 Excavation Earthworks within the National Grid Yard in the following circumstances is exempt from the remaining standards under this rule:

(a) Excavation that is Earthworks undertaken as part of agricultural, horticultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track;

(b) Excavation of a vertical hole, not exceeding 500mm in diameter, that is more than 1.5m from the outer edge of a pole support structure or stay wire;

~~(c) Excavation of a vertical hole, not exceeding 500mm in diameter, that is a post hole for a farm fence or horticulture structure and more than 5m from the visible outer edge of a tower support structure foundation.;~~

~~(d)~~(c) Earthworks that are undertaken by a network utility operator (excluding buildings or structures associated with the reticulation and storage of water for irrigation purposes).

38. The Panel accepted the reasoning for those exemptions as recommended, except for the exclusion from the exemption in parentheses at the end of subclause (c). The use of the parentheses provides an exclusion from an exemption - which is effectively a clumsy double negative.
39. In any event as subclause (c) only applies to earthworks 'undertaken by a network utility operator' the Panel does not see that the words in parentheses are necessary. The Panel is

unaware of any situations where network utility operators reticulate or store water for irrigation purposes in Marlborough and it received no evidence to the contrary.

40. The final point the Panel decided was that the heading to this proposed provision was not accurate as it only contains exemptions. Accordingly the heading should reflect the fact it is an exemption provision.

Decision

41. A new standard X.3.X.1 is inserted as follows:

X.3.X.1 ~~Excavation~~ Earthworks within the National Grid Yard in the following circumstances is are exempt from the remaining standards under this rule:

(a) ~~Excavation~~Earthworks ~~that is~~ undertaken as part of agricultural, horticultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track;

(b) Excavation of a vertical hole, not exceeding 500mm in diameter, that is more than 1.5m from the outer edge of a pole support structure or stay wire;

(c) ~~Excavation of a vertical hole, not exceeding 500mm in diameter, that is a post hole for a farm fence or horticulture structure and more than 5m from the visible outer edge of a tower support structure foundation.~~ Earthworks that are undertaken by a network utility operator.

National Grid Cook Strait Marine Cables

Policy 13.10.1

Enable structures to be located within the coastal marine area where these are necessary for the purposes of assisting with navigation of ships/vessels or are temporary in nature for scientific monitoring or research purposes.

Rule 16.1.9

Repair, maintenance or replacement of the existing subsurface Cook Strait cable.

34. Transpower in its submission requested that provision be made for the installation, operation and upgrading of the Cook Strait submarine cable to give effect to Policy 10 NPSET. The Panel has accepted that, as a matter of law, it is required to give effect to that policy. Rule 16.1.9 needs amendment to achieve that.
30. However, Policy 13.10.1 which enables rules such as Rule 16.1.9 also needs a consequential amendment to achieve that enabling outcome. To provide a policy framework for the requested amended wording of the rules it is necessary for Policy 13.10.1 which enables occupation of the coastal marine area for certain defined purposes to also include occupation for the purposes of operation of the National Grid Cook Strait cables and the related activities required to be provided for by Policy 10 of the NPSET.

Decision

31. Amend Policy 13.10.1 as follows:

Policy 13.10.1 – Enable structures to be located within the coastal marine area where these are necessary for the purposes of assisting with navigation of ships/vessels, or for the operation of the National Grid Cook Strait submarine cables, or are temporary in nature for scientific monitoring or research purposes.

32. Amend the explanatory text to Policy 13.10.1 as follows:

For safety reasons it is important that navigational aids can be strategically located in Marlborough’s coastal marine area. Monitoring equipment for scientific purposes or research is often temporary in nature and does not usually involve significant alteration or occupation of the coastal marine area. The installation of cables in the coastal marine area is necessary as part of the operation of the National Grid. The cables provide for the transmission of electricity between the South Island and North Island and are vital for security of electricity supply. An enabling approach to these types of structures is provided for through the rules, subject to standards.

33. Insert a new paragraph at the end of the explanatory text to 13.10.1 as follows:

The installation of cables in the coastal marine area is necessary as part of the operation of the National Grid. The cables provide for the transmission of electricity between the South Island and North Island and are vital for security of electricity supply.

34. Rule 16.1.9 is amended as follows:

16.1.9. Installation, operation, ~~Repair, maintenance, repair and upgrade~~ or replacement of the existing subsurface National Grid Cook Strait submarine cables including the following:

(a) disturbance of the foreshore or seabed and associated discharges

(b) the discharge of heat to coastal water; and

(c) associated lighting, navigational aids and signs.

35. As a consequence, Standard 16.3.7 is also amended to read as follows:

16.3.7. ~~Repair~~ Installation, operation, maintenance, or replacement repair and upgrade of National Grid ~~the existing subsurface~~ Cook Strait submarine cables.

Standard 16.2

Standards that apply to all permitted activities

36. Transpower's submission sought a standard to be included to protect the Cook Strait cable from activities from third parties on the foreshore.
37. However, the wording supported by both the report writer and Transpower of 'immediately adjacent to Transpower New Zealand Limited's Fighting Bay Terminal Station this description leaves an uncertainty which can be avoided by utilising the phrase '*within the Cook Strait Cable Protection Zone*'.
38. The Panel also notes that the proposed inclusion of the word 'mooring' is not apposite in the new standard as moorings are not permitted activities under rule 16.2.1. The word 'mooring' has, therefore, been omitted from the wording which the Panel has otherwise accepted as being required in the new standard.
39. Otherwise the Panel accepts that the proposed new standard should be included in the plan to meet the obligations imposed by Regulation 10 of NPSET .

Decision

40. The following new standard is inserted under Standard 16.2:

16.2.X Activities in the vicinity of the of National Grid Cook Strait submarine cables

16.2.x.1 Except for works associated with the National Grid Cook Strait submarine cables there shall be no disturbance, anchoring, or occupation of the foreshore within the Cook Strait Cable Protection Zone.

Standard 2.39.1.7

The maximum height of any aerial or support structure attached to the top of a building must not exceed the height of the building by more than 3m.

41. This standard provides for aerials and support structures up to a height of 3 metres attached to the top of buildings.
42. Chorus and Spark seek the maximum height for aerials and support structures in the less sensitive zones (Industrial 1 and 2, Rural, Lake Grassmere Salt Works and Port Environment) should be extended to 5 metres from 3 metres.⁷

Section 42A Report

43. The Report Writer accepts that NESTF permits antenna attached to buildings by up to 5 metres and therefore the additional height would be consistent with this. The original Section 42A Report indicated that the higher 5 metre antenna, if allowed higher in these zones being

⁷ Chorus (464.40) and Spark (1158.38).

less visually sensitive, could impact on the visual amenity of the Urban Zones. The Report Writer was neutral to the outcome.⁸ She observes that the additional height due to scope issues would result in two separate height limits depending on which zone is less streamlined.⁹

Consideration

44. First, the standard should apply to ‘antenna’ not ‘aerial’. ‘Aerial’ is not defined in the PMEP, ‘antenna’ is, and the definition would encompass aerials in the Panel’s view.
45. Secondly, the Panel considers that it is appropriate to add the words ‘except for the Rural Zone and Industrial 1 and 2 Zones where the maximum exceedance must not be more than 5 metres’. This decision excludes the Lake Grassmere Salt Works Zone and the Port Zone where amenity is an issue.

Decision

46. Standard 2.39.1.7 is amended as follows:

2.39.1.7 The maximum height of any ~~aerial~~ antenna or support structure attached to the top of a building must not exceed the height of the building by more than 3m except for the Rural Zone and the Industrial 1 and 2 Zones where the maximum exceedance must not be more than 5m.

Network utilities

Standard 2.39.1.14

A line or network utility structure, or a telecommunication, radio communication or meteorological facility, or a building or depot must not be located:

- (a) in, or within 8m of, a Significant Wetland;
- (b) within 8m of a river or the Drainage Channel Network;
- (c) on, or adjacent to, any land used for the purposes of a farm airstrip, or in such a manner as to adversely affect the safe operation of a farm airstrip existing at the time of the Plan becoming operative.

47. When Significant Wetlands were being addressed in Topic 6, the Report Writer indicated that support might be given to excluding facilities (such as telecommunications, radio or meteorological facilities) located within a formed legal road from the provisions in (a) of the standard. The submitters to this provision, Chorus and Spark,¹⁰ seek a refined amendment to the standard to exclude application of the setbacks of the facilities within a formed legal road.
48. They also seek removal of the reference to a ‘building or depot’ on the basis that the definition of telecommunication and radiocommunication facilities already covers such

⁸ Section 42A Report, Reply to Evidence, page 10.

⁹ Section 42A Report, paragraph 105.

¹⁰ Chorus (464.40) and Spark (1158.42).

facilities. Chorus and Spark consider that new lines with a legal road are an efficient use of infrastructure (and will not give rise to noticeable effects on a Significant Wetland, drainage channel network or farm strip over and above those effects caused by the legal road).

49. Following reconsideration as a result of the 2016 NESTF they seek only that the exclusion applies to where a legal road is formed or provided for under NESTF. NESTF applies under Regulations 44-52 to district plan rules and to Significant Wetlands separately (Regulations 48-49).
50. The standard provided in the notified plan, Standard 2.39.1.14(b), identifies the various network facilities and structures exclusion within 8m of the Drainage Channel Network or adjacent to or on any land used for the purposes of a farm airstrip, Standard 2.39.1.14 (c). These activities were not originally managed under NESTF.¹¹ Transpower notes that the standard (which the company initially thought should be deleted) has the effect of giving priority to farm strips over regionally significant infrastructure including the National Grid (even when underground) in a manner that could frustrate site or route selection. ('Farm strips' is a permitted activity in the PMEP without onerous standards.)

Consideration

51. The report writer's understanding is that the reference to 'building or depot' applies to the standard as a whole rather than the named facilities, and she recommends a slight change in the order of the wording to make this clearer.
52. The Panel, noting that some of the activities would not occur in the road reserve, considered the order of activities listed including 'building or depot' should revert to the words originally set out in the opening words of the standard.
53. The Panel disagreed with reordering the matters in the standard to ensure that the exception did not apply to buildings and depots.

Decision

54. Amend Standard 2.39.1.14 to read as follows:

2.39.1.14 A line or network utility structure, or a telecommunication, radio communication or meteorological facility (except where located within a formed legal road), or a building or depot must not be located: ...

¹¹ Transpower, Ainsley McLeod, Evidence, paragraph 45.

Standard 3.3.8.2

Planting must not be in, or within:

- (a) 100m of any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3, Rural Living or Coastal Living;
- (b) 30m of a formed and sealed public road;
- (c) 8m of a river (except an ephemeral river) or lake;
- (d) 8m of a Significant Wetland or 30m of a river within a Water Resource Unit with a Natural State classification;
- (e) 200m of the coastal marine area;
- (f) Steep Erosion-Prone Land, unless replanting harvested woodlot forest lawfully established.

55. Standard 3.3.8.2 Woodlot forestry planting provides for planting distances from zoning, public roads, wetlands, rivers, Water Resource Units, the coastal marine area and steep erosion land.

56. KiwiRail seeks an additional standard to the restrictions on woodlot forestry plantings in the Rural and Coastal Environment Zones and on a formed and sealed road. The intent of the submission is to restrict planting within 10 metres of the rail corridor thereby reducing risk to the safe operation of the main trunk railway by creating a suitable buffer for KiwiRail's rail corridor operations. The purpose of the setback is to try and prevent issues in the future when woodlots and commercial forestry are developed or redeveloped on sites adjacent to the rail network.¹²

Section 42A Report

57. The Report Writer agreed that a setback is appropriate from the rail corridor to ensure the safety of the network but queried why only woodlot forestry should be affected rather than also addressing commercial forestry.¹³

58. In evidence, Ms Rebecca Beale for KiwiRail clarified that this type of planting (along with commercial forestry addressed elsewhere) poses a greater risk to the safe operation of the rail corridor than shelterbelt planting. This led to the Report Writer to restrict the Section 42A Report Standards 3.3.8.2(a) and 4.3.7.2(f) to recommend excluding woodlot forestry from within 10 metres of the edge of the railway track.¹⁴

59. Ms Beale identified that woodlot forestry is non-commercial (Standards 3.3.6.2 and 4.3.6.1) and gave a list of what can take place in the rail corridor with the intrusion of this type of forestry into sight lines, encroachment on the tracks, and harvesting which involves heavy

¹² KiwiRail (873.127 and .122).

¹³ Section 42A Report, paragraphs 179-180. In relation to other forestry planting managed under NESPF, the regulations include a requirement for afforestation (planting) to be set back 10 metres from adjoining properties which would include the boundary within the rail corridor.

¹⁴ KiwiRail, Rebecca Beale Evidence, paragraphs 56-61.

machinery near the tracks. Restrictions on planting location is a means of combatting these effects.

Consideration

- 60. The Panel concluded, having heard the evidence, that the restriction should be consistent with Standard 3.3.8 Woodland forestry planting, that applies to the road reserves in the PMEP Standard 3.3.8.2(b) – [species named] where planting must not be in or within 30m of a formed and sealed public road.
- 61. MLL otherwise seeks that the permitted activity standards in the Rural Environment, Coastal Environment and Rural Living Zones that relate to woodlot forestry and conservation planting require a 40m buffer setback from their distribution circuit.¹⁵
- 62. Ms Straker for MLL in questioning was happy to accept a fall distance setback, however, rather than a 40m buffer. In response to the Panel questions she confirmed that a 40m setback covers the worst case scenario and accepted that a lesser distance would be appropriate. Therefore the Panel agreed to a 30m setback. This is consistent with the setback from the road network for woodlot forestry.
- 63. We concluded that there should be a consistent standard as applies to the road reserve in proposed Standard 3.3.8.2(b) with the addition of the words 'or within 30m of the Main Trunk railway track' as there is uncertainty as to what constitutes a 'rail corridor'.

Decision

- 64. Standard 3.3.8.2 is amended as follows:

[R, D]¹⁶

Standard 3.3.8.2 Planting must not be in or within: ...

(b) 30m of a formed and sealed public road or 30m of the Main Trunk railway track.

Standard 16.3.7

Repair, maintenance or replacement of the existing subsurface Cook Strait cable.

Standard 16.3.7.1

No more than 500 m³ of material must be disturbed in any one calendar year.

- 65. In Minute 48 the Hearing Panel requested that Transpower provide detailed reasons for seeking the deletion of Standard 16.3.7.1 which controls the volume of foreshore and seabed materials that might be disturbed during the replacement or installation of a new submarine

¹⁵ MLL (232.3, .4, .5, .6, .7, .8).

¹⁶ KiwiRail. Ms Beale's Evidence, paragraph 9, pointed out that the provisions sought are both [R, D].

cable.¹⁷ The Cook Strait cables are vital to New Zealand's electricity and communications system.

66. In evidence for Transpower, Mr Andrew Renton identified that Transpower owns and operates three High Voltage Direct Current (HVDC) submarine cables that transmit up to 1470 MW of power, and two fibre optic submarine cables that traverse Cook Strait for domestic and commercial traffic. Transpower is responsible for control and protection of the HVDC link between Benmore in the South Island and Haywards in the Hutt Valley.
67. These cables lie unburied on the seabed across Cook Strait within the Cook Strait Submarine Cable Protection Zone except where they are buried at a target depth of 0.8m for a distance of 20 metres seaward of mean high water springs and at a minimum depth of 0.6m for a further distance of 180 metres.¹⁸ Beyond this point, burial is prevented by the topography and geology of the seabed.
68. Transpower seeks deletion of the standard to provide for:
 - the ability to bury cables should they become exposed as a result of normal tidal or storm-related movement of the seabed (more than one tidal or storm event in a calendar year would trigger the need for a resource consent to bury the exposed cables);
 - the ability to install a new cable within the Cook Strait Submarine Cable Protection Zone with minimal disturbance of the seabed;
 - damage and repair works on the cable as a result of fishing activities – any maintenance work would be temporary as the cables rest on the sea floor.
69. Due to the critical importance of the cables and the significant expense associated with repair and maintenance, Transpower puts considerable effort into ensuring the cables are protected.
70. Transpower notes that any seabed effects would be minor and of limited duration because the seabed in the near shore area on which the cable lie has been previously disturbed and is a highly dynamic environment where any effects are not discernible after as few as two tidal cycles.

¹⁷ Hearing Panel Minute 38.

¹⁸ Transpower, Andrew Renton Evidence, paragraph 20.

Consideration

71. By virtue of the Cook Strait Submarine Cable Zone, any works limited to this area are identified by the PMP definition of 'National Grid Cook Strait Submarine Cables' and therefore are limited to the area that has been previously disturbed.
72. In a reflection of the enabling policies of NPSET while confining activities and any associated effects, the Panel considered that Transpower's newly proposed (enabling) amendment to Rule 16.3.7 as opposed to its deletion is an appropriate solution to the issue. For the company affirmed that the extent of the disturbance to the seabed could be further confined by amending Standard 16.3.7.1 to within 200m of mean high water springs.¹⁹

Decision

73. The amended wording to Standard 16.3.7.1 is as follows:

16.3.7.1. ~~No more than 500m³ of m~~Material must not be disturbed beyond 200m from MHWS.

[New] Rule

74. Submissions were received from MARC & NZART which sought that provision be made in the Plan for amateur radio aerials to be constructed and operated so as to ensure amateur operators were not unduly restricted by the height limitations proposed in the PMP rules. The submission sought:

Seeks that the permitted height limit for antennas attached to a building be 7m (as sought in submission) rather than the 3m recommended in the Section 42A report, on the basis that a higher height is required for technical reasons. Also explains the visual effects associated with these types of structures.

Section 42A Report

75. The Reply to Evidence by the report writer on this issue stated as follows:

I note the comments in evidence that any antenna an ARC operator would want to mount on a building would be of a similar shape form and size to an analogue TV aerial. As such, I accept that visually, they would form an anticipated part of a residential environment. I also accept that additional technical information has been provided to demonstrate that the 3m limit would not meet technical requirements. On the basis of this, and the information provided about what these types of structures look like, I am comfortable with recommending the additional height. I note that if the Panel have concerns that a 7m height for all antennas (e.g. UHF or VHF Yagi antennas) is not appropriate, the submitters have indicated they would be happy with a 7m height for

¹⁹ Transpower (1198.122).

simple, vertical collinear aerials. As a result of questions from the Panel, I do recommend some minor changes to better clarify the intent of the recommended standards.

Consideration

76. Answers from the submitters satisfied the Panel that the report writer's views were accurate that the impacts of such aerials was unlikely to affect residential amenity, so long as some controls were placed on the numbers and height of aerials above structures.
77. The suggestions in that regard by the report writer were viewed as reasonable and will be adopted in the Plan as set out in the decision below. That will also require a consequential extra definition to be included for 'Amateur Radio Configurations'.

Decision

78. A new rule is inserted in the Plan as follows:

X.3.X Amateur Radio Configurations

X.3.X.1 Except as specified below, the Recession Plane and Height Controls do not apply to any antenna or support structure.

X.3.X.2 Any part of an antenna or support structure must not overhang property boundaries.

X.3.X.3 Any of the elements making up an antenna must not exceed 80mm in diameter.

X.3.X.4 The maximum height of any support structure (including antenna) shall not exceed the height limit otherwise applicable to structures, except that:

(a) one free standing support structure (including antenna) per site may exceed the maximum height for a structure, up to a maximum of 20m; and

(b) any support structure (including antenna) attached to a building may exceed the height of the building by no more than 7m

X.3.X.6 The maximum number of antennas on a site shall not exceed 12.

X.3.X.7 For horizontal HF yaqi or loop antenna, the maximum element length shall not exceed 14.9m and the boom length must not exceed 13m.

X.3.X.8 Any dish antenna must:

(a) Be less than 5m in diameter

(b) Be pivoted less than 4m above the ground

(c) Meet the relevant building setback

(d) At any point in its possible rotation, not exceed a height equal to the recession plane angle determined by the application of the Recession Plane and Height Controls in Appendix 26. The recession plane angle must be measured from a starting point 2m above ground level at the property boundary.

79. A new definition is inserted of Amateur Radio Configurations as follows:

Amateur Radio Configurations means the aerials, antennae and associated support structures which are owned and operated by licenced amateur radio operators.

Rules 2.38.3 and 2.39.2

Trenching for cable laying

80. Chorus and Spark²⁰ informed the Panel that most installations of cables are installed underground rather than using a trenching method.
81. They also raised concern with respect to Standard 2.39.2.2 in that it would limit the installation of cables in close proximity to Significant Wetlands and rivers with a Natural State classification. The submitters sought an exemption :

The 8m setback does not apply to undergrounding which is undertaken within formed legal road.

82. In making this request Chorus and Spark, in the evidence of Tom Anderson, highlighted that 'road corridors to be appropriate locations for network utility lines'.

Consideration

83. The Panel considered that consequently rules relating to trenching should also refer to undergrounding for cable laying.
84. The Panel also agreed that roads are appropriate locations for network utility lines and the exemption sought should apply. As pointed out in evidence, the method of undergrounding involves a reduced potential for adverse effects.

Decision

85. Rules 2.38.3 and 2.39.2 are amended to read:

Trenching or undergrounding for cable laying.

86. Standards 2.39.2.2, 2.39.2.3, 2.39.2.6 are also amended to include the additional wording 'or undergrounding' as follows:

²⁰ Chorus (464.34) and Spark (1158.32)

2.39.2.2. *Trenching or undergrounding must not occur in, or within 8m of, a Significant Wetland or Water Resource Unit with a Natural State water quality classification. The 8m setback does not apply to undergrounding which is undertaken within formed legal road.*

2.39.2.3. *Trenching or undergrounding must not occur within such proximity to any abstraction point for a community drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply.*

2.39.2.6. *Trenching or undergrounding must not cause any conspicuous change in the colour or visual clarity of any flowing river after reasonable mixing, or the water in a Significant Wetland, lake or the coastal marine area, measured as follows: ...*

Definitions Minor Upgrading

87. The Panel accepted the report writers recommended amendment to the definition of minor upgrading but considers that upgrading should be limited to replacement structures.

Minor Upgrading means an increase in the carrying capacity, efficiency or security of electricity (for the purpose of utilities) lines, telecommunication lines and radio communication facilities, using the existing support structures or replacement structures of a similar scale and character, and includes:

(a) The replacement, reconfiguration, relocation or addition of lines, circuits and conductors;

(b) The re-conductoring of the line with higher capacity conductors;

(c) The re-sagging of conductors;

(d) The addition of longer or more efficient insulators;

(e) The addition of earthwires ~~which may contain telecommunications lines, earthpeaks and lighting rods;~~

(f) Foundation works associated with the minor upgrading.

~~Minor upgrading does not include an increase in the voltage of the line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage.~~

Maps 218 and 234

88. Kiwirail sought two changes to the designation. One of which was supported by the S42A report writer and one that was not. The Panel was not convinced that the land zoned Open Space 3 was required for rail operations. In contrast the adjoining area, which the Panel did

agree to rezoning, is in the Rural Environment Zone. The map attached below shows those two areas.

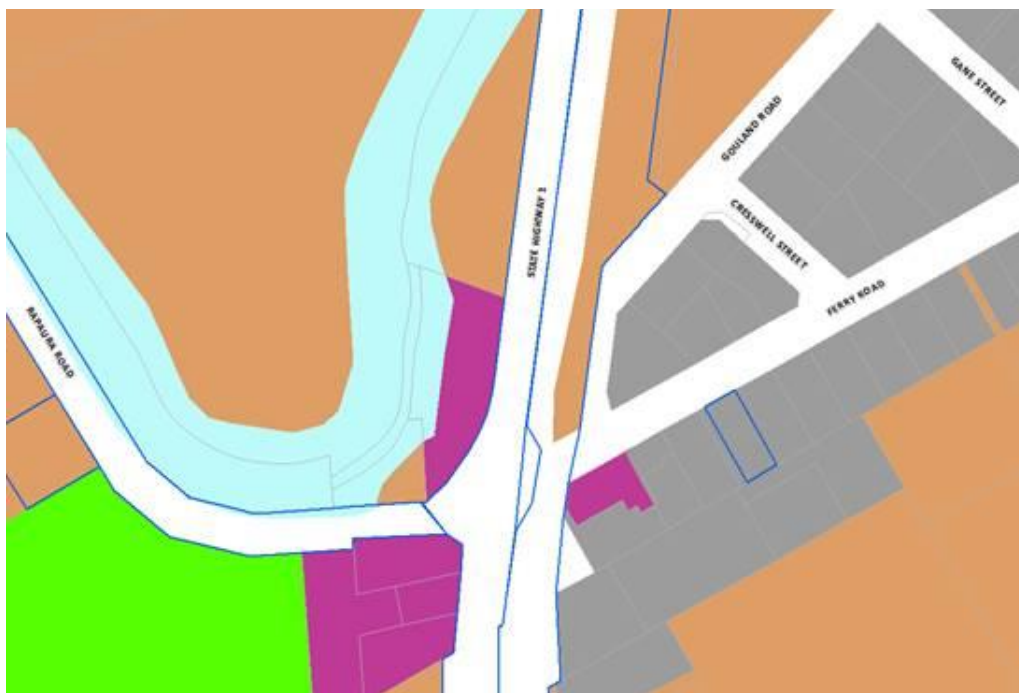
Decision

- 89. Maps 218 and 234 are amended as below:



Map 83 and 159

- 90. Amend maps as per the response to Minute 40 from NZTA



Pine Valley Camp

91. In the course of the Panel’s deliberations, the Panel became aware of an apparent mapping error for designation C15. C15 applies to the “Pine Valley School” and the requiring authority is the Ministry of Education. This site is more commonly known as the Pine Valley Outdoor Education Centre and is used extensively by local schools and the wider community.
92. The Centre is located over two properties: Section 3 Sec 2 BLK XVIII Pine Valley SD owned by the Ministry of Education and Section 4 Sec 2 BLK XVIII Pine Valley SD owned by MDC. As described in Appendix 14 of Volume 2, the designation only applies to the Ministry’s property. There is no equivalent entry for the Centre in the Council’s designations (pages 14-4 to 14-10). Map 155 in Volume 4, however, shows the designation applying to both properties. Given the specificity in the appendix, the Panel has determined that this inconsistency is as a result of a mapping error.
93. The Panel has also looked at the Wairau/Awatere Resource Management Plan and notes that the same mapping error occurs in that Plan²¹. It was probably simply a case of the mapping error being transferring from one plan to the other.
94. The Panel has decided to amend Map 155 to correct this mapping error in accordance with Clause 16 of the RMA. The designation will now only apply to Section 3 Sec 2 BLK XVIII Pine Valley SD.

²¹ Map 132 of Volume 3