

Proposed Marlborough Environment Plan

**Section 42A Hearings Report for Hearing Commencing 21 May
2018**

Report dated 23 April 2018

**Report on submissions and further submissions
Topic: 20 - Utilities and Designations**

Report prepared by

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List of Abbreviations

MEP	Proposed Marlborough Environment Plan
MSRMP	Marlborough Sounds Resource Management Plan
NESETA	Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009
NESTF	Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016
NPSET	National Policy Statement on Electricity Transmission 2008
NPSREG	National Policy Statement for Renewable Electricity Generation 2011
NZCPS	New Zealand Coastal Policy Statement 2010
RMA	Resource Management Act 1991
WARMP	Wairau/Awatere Resource Management Plan

Submitter Abbreviations

Submitter Number	Submitter Abbreviation	Full Submitter Name
91	MDC	Marlborough District Council
232	MLL	Marlborough Lines Limited
425	Federated Farmers	Federated Farmers of New Zealand
460	Timberlink	Timberlink New Zealand Limited
464	Chorus	Chorus New Zealand Limited
482	DOC	Department of Conservation
768	Heritage NZ	Heritage New Zealand Pouhere Taonga
769	Horticulture NZ	Horticulture New Zealand
873	KiwiRail	KiwiRail Holdings Limited
1001	NZART & MARC	New Zealand Association of Radio Transmitters and Marlborough Amateur Radio Club
1002	NZTA	New Zealand Transport Agency
1158	Spark	Spark New Zealand Trading Limited
1199	Transpower	Transpower New Zealand Limited
1201	Trustpower	Trustpower Limited
1251	Fonterra	Fonterra Co-operative Group Limited

Introduction

1. My name is Liz White. I am a Senior Resource Management Consultant from Incite (Ch-ch), based in Christchurch. I hold a Master of Resource and Environmental Planning with First Class Honours from Massey University and a Bachelor of Arts with Honours from Canterbury University. I am an associate member of the New Zealand Planning Institute and a member of the Resource Management Law Association. I have over 10 years of resource management and planning experience spanning both the public and private sectors. My experience includes both regional and district plan development, including the preparation of s32 and s42A reports, as well as undertaking policy analysis and preparing submissions for clients on various RMA documents. I also have experience in resource consents and notices of requirement, both in preparing applications, as well as processing applications for territorial authorities.
2. In my current and previous roles, I have undertaken work for some of the submitters on the MEP, but I have not been involved in the preparation of any submissions made to the MEP or provided any advice with respect to projects in the MEP area.
3. I was not involved with the preparation of the MEP. I was contracted by the Marlborough District Council (Council) in August 2017 (after the MEP submission period had closed) to evaluate the relief requested in submissions and to provide recommendations in the form of a Section 42A report.
4. I have read Council's Section 32 reports.

Code of Conduct

5. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it.
6. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
7. I am authorised to give this evidence on the Council's behalf.

Scope of Hearings Report

8. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA).
9. In this report I assess and provide recommendations to the Hearing Panel on submissions made on the rules pertaining to 'Network Utilities' and related definitions, and to the Schedule of Designated Land and related zoning maps. In particular, this report contains my assessment of submissions on rules 2.38 to 2.40 (Volume 2, Chapter 2 – General Rules), the Schedule of Designated Land (Volume 3, Appendix 14) and zoning maps as they relate to designations.
10. I also assess and provide recommendations on submissions made on zone-based rules and standards that relate to the National Grid¹; and submissions made by network utility providers who seek that additional standards are included in various zone-based chapters, where the standards sought relate to protection of their infrastructure from the adverse effects of other activities.
11. As a consequence of recommendations made during Topic 3: Natural and Physical Resources, I also set out recommendations relating to objective and policy guidance for network utilities.
12. As submitters who indicate that they wish to be heard are entitled to speak to their submissions and present evidence at the hearing, the recommendations contained within this report are preliminary, relating only to the written submissions.

¹ 3.2.1.17, 3.2.1.18, 3.1.15, 3.3.15, 4.2.1.15, 4.2.1.16, 4.1.14, 4.3.14, 12.2.1.9, 12.2.1.10, 12.1.30, 12.3.19, 7.2.1.10, 7.2.1.11, 7.1.12, 7.3.10, 5.2.1.18, 16.1.9, 16.3.7.

13. For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions or decisions having considered all the evidence to be brought before them by the submitters.

Overview of Provisions

14. There is no separate chapter containing objectives and policies pertaining to network utilities within the MEP. As notified, the MEP contains RPS-level provisions in the Use of Natural and Physical Resources chapter (Chapter 4, Volume 1) pertaining to regionally significant infrastructure. For some regionally significant infrastructure (such as road, rail and ports) there are other (non-RPS level) policy provisions within the MEP. The lack of non-RPS level provisions within the MEP specific to other network utilities was a matter identified in relation to Chapter 4 – Use of Natural and Physical Resources, with the final officer recommendation being that this matter be considered again in this topic hearing.
15. The General Rules chapter of the MEP (Volume 2, Chapter 2) contains a set of rules that apply to network utilities. The following activities are provided for as permitted activities under Rule 2.38, but the permitted status is subject to meeting the applicable standards for that activity within 2.39:
 - The following network utility infrastructure (Rule 2.38.1. and subject to standards in 2.39.1.):
 - (a) an electricity line or facility;
 - (b) a telecommunication line or facility;
 - (c) a radio communication apparatus or facility;
 - (d) a meteorological service apparatus or facility;
 - (e) a navigational aid, lighthouses or beacon;
 - (f) a reservoir, well or supply intake for the reticulation or provision of public water supply;
 - (g) a speed camera installation and associated structures, facility, plant or equipment for traffic purposes;
 - (h) a water or sewerage treatment facility, underground pipe network for the conveyance and drainage of water or sewage, and any ancillary equipment;
 - (i) a telephone call box or the erection and use of a postal box
 - Trenching for cable laying (Rule 2.38.3. and subject to standards in 2.39.2.)
 - Vegetation trimming or clearance associated with the maintenance, replacement and minor upgrading of a network utility existing at 9 June 2016 (Rule 2.38.6. and subject to standards in 2.39.3.)
16. The following activities are provided for as permitted activities under Rule 2.38, and are not subject to meeting any standards:
 - Telecommunication line or cable over the bed of a lake or river (Rule 2.38.2.).
 - Maintenance and replacement of, (Rule 2.38.4.), or minor upgrading of, (Rule 2.38.5.) the following network utility infrastructure existing at 9 June 2016:
 - (a) an electricity line or facility;
 - (b) a telecommunication line or facility;
 - (c) a radio communication apparatus or facility;
 - (d) a meteorological service apparatus or facility (Rule 2.38.4.)

17. Where a network utility infrastructure activity is listed as a permitted activity, but the permitted activity standards are not met; or where the land use activity involves a network utility that is not listed as a permitted activity, consent is required as a discretionary activity (under Rule 2.40).
18. The Plan also includes a range of proposed designations, contained within the Schedule of Designated Land in Appendix 14. The Schedule details the designations for each requiring authority, and includes the purpose of each designation and its locational details. Each designation is also identified within the relevant planning maps.
19. Within the zone-based rules, there are also rules and standards that relate to managing the potential adverse effects of activities on network utilities. In particular, there are a range of standards that limit buildings, structures and earthworks in proximity to National Grid infrastructure.
20. The rules in 2.38 – 2.40 are also regional, regional and district, or district rules. Within the Port, Port Landing, Marina and Coastal Marines zones there are also coastal rules specific to utilities.
21. There are also various definitions that apply to utilities.

Statutory Documents

22. The following statutory documents are relevant to the provisions and/or submissions within the scope of this report. Although a summary of the way in which these provisions are relevant is provided below, the way in which they influence the assessment of the relief requested by submissions will be set out in actual assessment.

Resource Management Act 1991

23. Of relevance to this topic, Section 7(b) of the RMA requires that particular regard is given to “*The efficient use and development of natural and physical resources*” in managing the use, development and protection of such resources under the RMA.
24. Sections 166 – 186 of the RMA, which relate to designations, apply to “*network utility operators*”. Under these sections, a particular set of planning processes specific to network utility operators are provided, and this includes that section 9(3) of the RMA does not apply to a public work or project or work undertaken by a requiring authority under the identified designation. This is important to bear in mind because although the rules covered within this topic relate to network utilities, for a large part, activities undertaken by network utility operators on their designated land will occur under the RMA’s provisions for designations, rather than in reliance on the MEP rules.

National Policy Statements

National Policy Statement for Renewable Electricity Generation

25. The overarching objective of the NPSREG is to recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, to increase the proportion of electricity generated from renewable energy sources to meet government targets. The NPSREG is not directly relevant to the network utility rules, but is relevant to a submission from Trustpower, that seeks the provisions are extended to also include renewable electricity generation as well as network utilities.

National Policy Statement on Electricity Transmission

26. The NPSET sets out the objective and policies for managing the electricity transmission network (the National Grid). It imposes obligations on both Transpower and local authorities. The NPSET promotes a more standardised and consistent approach throughout New Zealand to the transmission of electricity within a region or district and in managing the effects of the transmission network on the environment. The policies within the NPSET are grouped into the following five categories: recognition of the national benefits of transmission; managing the environmental effects of transmission; managing the adverse effects of third parties on the transmission network; mapping; and long-term strategic planning for transmission assets.
27. The NPSET is particularly relevant to this topic because it includes rules and standards intended to give effect to aspects of the NPSET.

National Environmental Standards

National Environmental Standards for Telecommunication Facilities 2016 (NESTF)

28. The NESTF came into force on 1 January 2017. As such, at the time of submissions being made on the MEP, it was not in force.
29. The NESTF provides rules in relation to telecommunications infrastructure, and covers the following activities:
- cabinets in the road reserve, outside the road reserve and on buildings

- antennas on existing poles in the road reserve
 - antennas on new poles in the road reserve
 - replacement, upgrading and co-location of existing poles and antennas outside road reserve (with different conditions in residential and non-residential areas)
 - new poles and antennas in rural areas
 - antennas on buildings (above a permitted height in residential areas)
 - small-cell units on existing structures
 - telecommunications lines (underground, on the ground and overhead).
30. While other NES' provide a standalone set of rules that prevail over those in a district plan (meaning those matters do not need to be addressed within a plan), I note that (except in relation to radiofrequency fields) where the permitted standards in the NESTF are not met, consideration is required to be had to the rules within a district plan, in order to determine the relevant activity status. Where the activity is not covered by rules in a district plan, the activity status defaults under the NESTF to discretionary². As such, consideration should be given to how telecommunication facilities that do not meet the permitted standards within the NESTF are managed under the MEP, rather than relying solely on the NESTF.

National Environmental Standards for Electricity Transmission Activities (NESETA)

31. The NESETA applies to high voltage electricity transmission lines and covers activities related to the operation, maintenance and upgrading of existing lines, but does not apply to the construction of new lines or to substations. Under Section 43B of the RMA, a rule in the MEP cannot be more stringent or more lenient than the NESETA (as the NESETA does not contain provisions allowing for rules to be more stringent or lenient), and under Section 44A, the MEP must be amended if it contains a rule that duplicates the provisions in the NESET.

Other

32. The Electricity Act 1992 is mentioned by some submitters. The Electricity Act sets out the regulatory framework for the supply of electricity and the electricity industry, and for regulation and control of electrical workers. It includes powers and duties of electricity operators/owners of electricity works and electrical codes of practise.
33. Electrical codes of practise are issued under the Electricity Act 1992. This includes the New Zealand Electrical Code of Practice (NZECP34:2001), which sets minimum safe electrical distance requirements for overhead electric line installations and other electricity supply works. These minimum distances have been set primarily to protect persons, property, vehicles and mobile plant from harm or damage from electrical hazards.
34. The Electricity (Hazards from Trees) Regulations 2003 sets out obligations relating to trees in proximity to power lines, including prescribing the minimum safe distances for trees growing near network power lines. These regulations apply regardless of any rules or standards in the MEP.

² Regulation 16(b)(ii).

Analysis of submissions

35. There were approximately 254 submission points received on provisions relevant to the Topic 20 – Utilities and Designations.

Key matters

36. I have set out my analysis of the submissions points by issue and then by respective components of the topic, under the following headings:
- Matter 1: Objective and policy framework pertaining to network utilities
 - Matter 2: Application of other rules within the Plan
 - Matter 3: What activities should be covered by the network utility rules, and in particular, whether the rules should be extended to apply to:
 - 'amateur radio configurations';
 - rail and roads; and
 - renewable electricity generation activities.
 - Matter 4: Changes sought to rules and standards 2.38 – 2.40
 - Matter 5: Changes sought to zone provisions (plan-wide) that relate to utilities
 - Matter 6: Designations

Pre-hearing meetings

37. There have been no pre-hearing meetings for this topic.
38. However, for completeness and transparency, I note that I contacted the submitters as outlined below, in order to seek clarity in relation to aspects of their submission. Where this has occurred, I have identified the discussions within this report. The purpose of this contact was not to discuss or mediate matters of substance in their submission. This dialogue has enabled a more focussed response to a number of matters raised in submissions.
39. I contacted and met with representatives from Transpower to discuss various submission points. The purpose of this was to clarify: any area in their submission where the decision sought or reason given was unclear to me; their view of the relationship between the NESETA and the MEP provisions; and their position on any aspects where I considered an alternate resolution might be more appropriate than that sought in their submission.
40. I requested that Spark and Chorus provide an update of their submission and relief sought, in light of the new NESTF having come into effect after submissions on the MEP closed. The purpose of this was to provide the opportunity to identify any areas of their submission where the effect of the NESTF was such that the relief sought was no longer valid or had altered, in order to narrow down the issues in contention, and in recognition that the Council is required to avoid repetition or duplication with the NESTF under Section 44A of the RMA.
41. I contacted Trustpower to clarify various aspects of their submission, and in particular to confirm whether their concerns related to regional plan or district plan provisions. I also clarified to what extent their concerns remained after taking into account existing plan provisions and changes recommended in other Section 42A reports.

Matter 1 – Objective and policy framework pertaining to network utilities

Submissions and Assessment

42. Within the MEP as notified, RPS-level direction is provided in relation to regionally significant infrastructure in Chapter 4, Volume 1 – Use of Natural and Physical Resources. Transpower seek that Objective 4.2 and related policies are stated as also being regional plan, regional coastal plan and district plan provisions, as well as RPS provisions. Objective 4.2 reads:

Efficient, effective and safe operation of regionally significant infrastructure.

43. In response to Transpower's submission, the Section 42A report for Topic 3 agreed that "there is a potential gap between the over-arching guidance within this chapter, and the specific rules intended to implement them, because there are no finer grained policy provisions relating to all the items of infrastructure identified, particularly network utilities" and recommended that policies 4.2.1 and 4.2.2 be stated as RPS, district, coastal and regional provisions (but not Objective 4.2).

44. As a result of evidence lodged, it was agreed by the officer that if Policies 4.2.1 and 4.2.2 are extended to be regional, coastal and district plan provisions, Objective 4.2 should also be extended because the policies must be achieving a regional, coastal and district plan objective (not just giving effect to an RPS provision). However, in reconsidering this matter, the following was noted:

I note that regionally significant infrastructure encompasses a number of differing types of infrastructure, and while the overarching direction is provided in Chapter 4, there are various other chapters that provide more specific objectives and policies, and rules, for various different infrastructure, for example, Volume 1, Chapter 17 and Volume 2, Chapter 2 contains provisions relating to the roading network, and Volume 1, Chapter 13 and Volume 2, Chapter 13 contains provisions relating to the Port Zone. There is, however, no specific policy framework for network utilities, although rules relating to these are contained in Volume 2, Chapter 2. The Section 42A report recommendation was to amend the regionally significant infrastructure provisions within Chapter 4 to be regional, coastal and district plan provisions as well, because of this policy gap. However, an alternate approach that I now consider most appropriate would be to include specific objectives and policies in the MEP for network utilities, to sit between the rules and Chapter 4. In my view it would be appropriate to reconsider this at the time of Topic 20 – Utilities

45. The final recommendation made by the reporting officer in reply was:

Retain provisions as regional policy statement provisions only, noting that there is currently a policy 'gap' in relation to network utilities that therefore needs to be otherwise addressed, and reconsider the overall approach as part of Topic 20 – Utilities.

46. Also relevant, is that one of the matters outstanding in relation Topic 3 between the officer and submitters related to the extent to which the provisions applied to the upgrade and development of infrastructure. The officer stated:

My view is that at a regional policy level, it is not appropriate to set the development and upgrading of infrastructure as the 'end goal'. In my view, Objective 4.2 is appropriately focussed on the overall operation of regionally significant infrastructure. This is implemented through Policies 4.1.1 and 4.2.2, the former seeking that the benefits of these items of infrastructure be recognised and the latter directing how the adverse effects of other activities on this infrastructure is to be managed.

After considering a number of matters raised by submitters (and discussed in more detail elsewhere), I consider that these provisions should be retained as RPS-level provisions, and as part of giving effect to them, further policy guidance (or the appropriateness of notified provisions) should be given relating to development, at the regional, coastal and district plan level. In other words, provisions elsewhere in the MEP should address development of infrastructure, providing direction that appropriately recognises the benefits of the infrastructure, but balances this against other RPS provisions within the MEP too.

47. In light of this, it is therefore necessary to revisit the appropriateness of the objective and policy framework as it relates to network utilities. I note that in relation to this matter, the Hearing Panel have not yet made decisions on Topic 3, and as these matters are integrated, the Panel will likely need to consider the matters raised as part of Topic 3, alongside the following analysis and recommendations. The final provisions recommended in Topic 3 are as follows:

Issue 4B – The social and economic wellbeing, health and safety of the Marlborough community are at risk if community regionally significant infrastructure serving the community is not able to operate efficiently, effectively and safely.

Objective 4.2 - Efficient, effective and safe operation of regionally significant infrastructure.

Policy 4.2.1 - Recognise ~~and provide for~~ the social, economic, environmental, health and safety benefits from the following regionally significant infrastructure, either existing or consented at the time the Marlborough Environment Plan became operative, as regionally significant

Policy 4.2.2 - Protect regionally significant infrastructure from the adverse effects of ~~other~~ subdivision, use and development activities that may compromise its operation, and in addition, in relation to the National Grid, that may compromise its maintenance, upgrading and development.

48. After further consideration, my view is still that Objective 4.2 and Policy 4.2.1 should be retained as RPS-level provisions, because they relate to all regionally significant infrastructure, and there are finer-grained provisions at the district, regional and coastal level located elsewhere in the MEP that give effect to this direction in relation to particular infrastructure (such as the Port Zone provisions). However, I consider that it is necessary to provide more specific direction for network utilities, to sit between the rules in Volume 2, Chapter 2, and the RPS-level provisions. I consider that in formulating such provisions, these need to give effect to not only the RPS-level provisions in Chapter 4, but also other relevant policy directions in the MEP. For this reason, while Policy 4.2.1 is focussed on recognising the benefits of regionally significant infrastructure, my view is that in considering the direction for network utilities, these should also reflect the need to take into account other directions in the MEP for management of adverse effects.
49. In relation to Policy 4.2.2, I consider that it is appropriate for this to be an RPS, District and Regional provision as well. This is because it is a necessary part of achieving the overarching aim in Objective 4.2; as well as providing the policy guidance at the district and regional plan levels, which is then implemented through the rule framework in the MEP.
50. I have not recommended that the new objective and policy, or Policy 4.2.2, are coastal provisions. This is because the coastal plan provisions which apply to utilities sit within the various coastal-based chapters (Port Zone, Port Landing Zone, Marina Zone and Coastal Marine Zone) which already contain coastal objective and policy provisions, and a suite of rules that also apply to utilities. Therefore I consider that additional provisions could add an unnecessary additional layer, noting that with respect to regionally significant infrastructure, the provisions within the coastal chapter will in any case need to give effect to Objective 4.2 (alongside other relevant RPS provisions).
51. For completeness I note that my previous position has been based on the premise that the overall outcome sought in Objective 4.2 – the operation of regionally significant infrastructure – encompasses development and upgrading of this infrastructure, in the sense that for regionally significant infrastructure to continue to operate in an efficient, effective and safe manner, new or upgraded infrastructure may be required. It is also based on the idea that this is the overarching end goal, rather than development or upgrading being an end goal in themselves. The recommended new provisions reflect this, in providing more specific direction in relation to this development and upgrading, which give effect to the overarching direction in Objective 4.2. As noted previously, if the Hearing Panel do not agree that this is the case, more explicit reference to development and upgrading in Objective 4.2 and 4.2.1 may be required. In my view, this does not affect the drafting of the recommended new provisions.
52. For completeness, I also note that if the Hearings Panel determine that it is more appropriate to grant the original relief sought by Transpower, that Objective 4.2 and Policy 4.2.1 be regional plan, regional coastal plan and district plan provisions, as well as RPS provisions, then these additional provisions may not be required.

53. Related to the policy framework for regionally significant infrastructure, I note that in Topic 3, a submission from NZTA (1002.249) was considered which sought that 'regionally significant infrastructure' be added as a definition. The recommendation was that "*this is not necessary because the policy itself (4.2.1) already defines this. The definition sought essentially just repeats Policy 4.2.1 in any case and therefore results in unnecessary duplication.*" The Topic 3 report did not consider a similar submission from Port Clifford Ltd (1041.83) to add a definition of 'regionally significant infrastructure'. In their submission, they seek the additional definition on the basis that it is used a number of times in the MEP but not defined, and seek that the definition is based on that used in the Canterbury RPS. Similarly, NZDF (992.93) seek that a new definition is added for 'regionally significant infrastructure', either by listing the facilities from Policy 4.2.1 or by referring to Policy 4.2.1. As noted in the Topic 3 Report, I reiterate that the definition is not required because what this infrastructure encompasses is essentially defined in Policy 4.2.1. If a definition is considered necessary then my preference would be for NZDF's alternate option whereby the definition refers plan users to Policy 4.2.1, rather than listing the facilities. However, because there is no reliance on this phrase within the rules, in my view a specific definition within the definitions chapter is not necessary.
54. In addition, submissions from Chorus and Spark were discussed in Topic 3 that related to amending the wording used from 'regionally significant infrastructure' to 'infrastructure'. To align with this wider request, Chorus (464.84) and Spark (1158.76) sought that an additional definition for 'infrastructure' be added to the MEP. Consistent with the Topic 3 recommendation to retain the distinction for 'regionally significant infrastructure', I do not recommend that the additional definition for infrastructure be added.

Recommendation

55. Add the following new provisions in Volume 1, Chapter 4:

[D, R]

Objective 4.2A - Network utilities provide for the social and economic wellbeing and health and safety of the community, while their adverse effects are appropriately managed.³

[D, R]

Policy 4.2.3 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.*⁴

Matter 2 - Application of other rules within the Plan

Submissions and Assessment

56. The beginning of the section of rules relating to network utilities (the top of page 2-60), reads as follows:

Network Utilities

³ Refer Topic 3. Relates to 1198.4, 1198.5, 1198.6 – Transpower.

⁴ Refer Topic 3. Relates to 1198.4, 1198.5, 1198.6 – Transpower.

Other General Rules contained in Chapter 2 may apply in addition to any relevant zone rules for network utilities.

2.38. Permitted Activities

Unless expressly limited elsewhere by rule a in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without resource consent where they comply with the applicable standards in 2.39:

57. Chorus (464.30) and Spark (1158.28) support the approach of having a standalone utilities section within the General Rules which applies regardless of zoning. NZTA (1002.174), Chorus (464.31), Transpower (1198.37; 1198.65) and Spark (1158.29) raise concerns that it is unclear and uncertain what other rules in the MEP apply to network utilities. In addition to the above statements, I note that the Introduction chapter to Volume 2 of the MEP also states that:

The General Rules in Chapter 2 of Volume 2 apply to activities irrespective of zoning. The rules control the following activities: ... • Utilities...

58. I agree with the submitters that it is not entirely clear what rules in the MEP apply to utilities, particularly in terms of the zone-based provisions. My understanding is that the intention was that network utilities (of the type specified in Rule 2.38) need only meet the standards set out in Rules 2.38 – 2.40, and the zone-based standards would not apply, except where there are standards within the zone-based rules that are explicitly related to utilities.⁵ For example, the maximum height for a network utility structure is 25m as per Rule 2.39.1.5, not the maximum height for any other building or structure specified in any zone provisions. However, if there are some rules specific to utilities within the zone rules, there is the potential for confusion as to what rules apply and what do not, and from a plan user perspective, a user would need to consult the district-wide network utility rules as well as the zone-based rules, and any other relevant general rule. The statement quoted above in the Introduction chapter to Volume 2 also appears at odds with this approach. In my view, this results in the potential for confusion, and complexity.
59. However, further complicating this, is that having reviewed the zone-based rules, it also appears that there are no district or regional rules that are explicit to utilities. Rather, it appears that there are some coastal plan rules, in the Port Zone, Port Landing Zone, Marina Zone and Coastal Marine Zone, that explicitly apply to utilities. If I am incorrect, and there are specific district plan zone-based rules that apply to utilities, my recommendation would be to move these out of the zone chapter and include them within Rule 2.38 – 2.40. In my view, this would be a more efficient way to manage utilities and avoid unnecessary complexity.
60. In relation to regional plan rules, for reasons that I will go on to explain later in this report, I am recommending that the network utility rules are amended such that they are only district plan provisions, with relevant regional plan rules moved into Section 2.7. The effect of this is that rules 2.38 – 2.40 would supercede the district plan zone-based rules, but not the regional-based zone based rules. For example, network utility activities would still need to comply with the regional plan discharge rules. Similarly, the coastal plan provisions applicable to utilities would remain within the coastal plan provisions contained in the relevant zone chapters.
61. As a result of all of this, I recommend that the introductory sentence is amended to make it clear what rules are applicable and what are not. For completeness I note that some reference will still need to be made to the district plan zone rules, because Standard 2.39.1.13 requires that *“Excavation, filling, vegetation clearance (indigenous and non-indigenous), noise and discharge rules for the relevant zone in which the network utility is located must be complied with”*. In my view, this is appropriate as it is clear, when looking at the utility rules, exactly what other rules must be complied with, and where to look for them. Again, the introductory statement can be amended to make this clearer.
62. In my view, it is not necessary to list what other of the General Rules in Chapter 2 apply, as sought by Chorus & Spark, as these will depend on the nature of the activity. For example, the rules relating to heritage resources and notable trees will apply where any utility works affect these, and similarly, if the taking and use of water is proposed, reference must be had to these rules.

⁵ Refer also paragraph 109 in the Section 42A Report on Significant Wetlands.

Recommendation

63. Amend the first paragraph on page 2-60, before Rule 2.38, as follows:

*The district plan zone rules do not apply to network utilities, except where referenced in the following rules. Other General Rules contained in Chapter 2, regional plan zone rules and coastal plan zone rules may also apply in addition to any relevant zone rules for network utilities.*⁶

Matter 3 - What activities should be covered by the network utility rules

Submissions and Assessment

64. This section addresses submission points made on what additional activities should be covered by the network utility rules (but are not currently covered), and in particular, whether the rules should be extended to apply to:

- 'amateur radio configurations';
- rail and roads;
- renewable electricity generation activities;

Amateur Radio Configurations

65. MARC & NZART (1001.1, 1001.4) have provided a detailed submission seeking that provision is made for amateur radio configurations within the MEP. They are concerned that the MEP provides no specific provisions for such configurations, and consider that the MEP should include a permitted activity status for licensed radio amateurs to erect masts and aerials (amateur radio configurations (ARCs)) in all zones on their properties, and where any amateur radio clubrooms are established. They also seek that existing ARCs continue to be permitted. The submission provides detail on the permitted activity standards that would be applied to ARCs, with a restricted discretionary activity sought beyond these limits. My understanding of these is that permitted status would be provided for:

- antennas attached to buildings, at a height of up to 7m from the point of attachment
- a maximum total number of 12 antennas
- masts, including antennas, to a maximum height of 20 metres
- a requirement to meet "streetscape" requirements, (which I have assumed means any setback from a road)
- dish antenna, up to a diameter of 5 metres, provided they are "close to the ground"

66. There is also a reference in the submission to applying the height in relation to boundary controls to be "*the maximum height allowed for masts without reference to the distance from the boundary*", which does not appear to align with the height limits set out above, and my understanding from the related text is that what is sought is that the height in relation to boundary controls not be applied to ARCs. The submission also requests "*Include the same provision for [ARCs] in the network Utilities provisions for height, and specify acceptable configurations within residential and other zones.*" It is unclear to me how this relates to the other matters sought, as, for example, a maximum height for various network utilities including aerials and antennas for telecommunication, radiocommunication or meteorological facilities is 25m, which differs from the other references in the submission to a 20 metre height limit. Notwithstanding this, the submission clearly provides scope for consideration of specific provisions for ARCs.

⁶ 464.31 – Chorus; 1002.174 – NZTA; 1158.29 Spark; 1198.37, 1198.65 – Transpower.

67. The submission states the benefits that the submitter considers amateur radio provides to the individuals involved in it as well as to the wider community. The latter includes a reliable system of communication that can be used during emergencies and research and development. The submission includes multiple examples of where MARC assist with wider community communication matters, for example, communications relating to event management and support for Police, Search and Rescue and Civil Defence. It explains that operators must be licensed (not the equipment), and that there are currently approximately 45 licenses in the Marlborough District. The submission states that most local authorities have had little or no provisions for ARCs in their plans, and that NZART is trying to systematically address this situation by seeking specific rules that permit a basic set of aerials and antennas. The submission includes two recent Environment Court decisions that relate to ARCs in different jurisdictions, and references to other local authority areas where similar provisions have been included in district plans or sought through submissions by NZART. In their view, not providing a permitted status for ARCs would affect the ability to undertake experimentation, research and development and the consequential flow-on effects of that. They submit that the provision made for network utilities ought to be available to amateur radio operators, as they consider that there is little difference in environmental effects, with comparable masts, towers, microwave dishes and other equipment.
68. My understanding of the MEP is due to the definition of network utilities, which is linked to the definition in Section 166 of the RMA, the network utility rules do not apply to ARCs. As such, they are managed under the zone-based rules and would likely require resource consent.
69. I have reviewed a number of plans referred to in the submission that have recently been made operative (or operative in part), including: Auckland Unitary Plan; Christchurch District Plan; Hamilton City District Plan; and the Waipa District Plan. These plans all include specific provisions for ARCs, providing a permitted activity status within defined standards. The permitted activity standards do, however, vary between jurisdictions. I have also reviewed the relevant Court decisions attached to the submission. I note that one⁷ is a consent order, and as such it is not a decision or determination of the merits of the agreement reached between the parties. The Court in *Tauranga Emergency Communications Group Incorporated and New Zealand Association of Radio Transmitters Incorporated v Tauranga City Council*⁸ comments that the council has a duty to recognise and provide for the needs of amateur radio in New Zealand, and that they have a particular role in emergencies and in maintaining international communication, while noting that the duty needs to be recognised and balanced with the needs of the community for amenity.
70. My understanding of the permitted height of 20m sought by the submitter for the primary supporting structure for ARCs, relates to the effectiveness of communication as it relates to the height of the antenna, with 20m being an optimum height for operation (but noting this will vary depending on a number of factors). In my opinion, the technical requirements for height do need to be considered, but this consideration should be alongside the potential adverse effects from the height, and in particular, visual amenity. This is consistent with the comments of the Court, who in that case, particularly considered the visual effects of these structures both from the point of view of neighbours and the wider community. They also considered that the structures involved (i.e. aerials and antennas) are typically expected in residential areas. Related to this, while I also accept the comments in the submission that amateur radio equipment is ancillary to the “*enjoyment of the dwelling on the property*”, I consider that regard needs to be had to the effects of this equipment on neighbours, and those neighbours’ enjoyment of their own properties. In this regard, the effects of configurations are, in my view, different to other ancillary items mentioned in the submission such as clotheslines, television antennas and swimming pools. I also consider it important to consider the context for various provisions in other jurisdictions, namely, what other structures and permitted height levels otherwise apply in the various zones, as this is likely to differ for Marlborough. In this regard, I note that a number of provisions in other jurisdictions include a height limit in relation to the underlying zone limit (for example, up to 5m above the otherwise permitted limit).
71. While I accept that ARCs are similar in some respects to other utility structures provided for in the MEP, such as telecommunications masts and meteorological structure, in my view, a key difference is that ARCs are associated with the operators’ residential dwellings, and therefore located predominantly in residential areas. As noted in the submission, most operations take place at the operator’s homes and most live in urban or semi-urban areas. By contrast, while some

⁷ *New Zealand Association of Radio Transmitters Inc and the Marton and District Branch of the New Zealand Association of Radio Transmitters Inc v Rangitikei District Council*.

⁸ [2012] NZEnvC 107, Oral Interim Decision, at [25(a)].

telecommunication or meteorological facilities may locate some equipment in residential locations, this is not the predominant location for such facilities, and these are not ancillary to a residence.

72. Taking all of the above into account, my view is that it is appropriate to provide for ARCs, subject to permitted standards, in the MEP. This recognises the importance of these facilities, while ensuring their effects are appropriately managed. I consider that this provision can be made either by amending the General Rules section on network utilities to extend to ARCs and including a standalone set of provisions for ARCs; or by including the standards within the zones in the MEP that provide for residential activity as a permitted activity (i.e. Rural Environment, Coastal Environment, Urban Residential 1, 2 and 3, Business 1, Coastal Living and Rural Living zones). My preference is for the latter, because my understanding is that ARCs are an activity ancillary to residential activity, and not all zones within the MEP permit residential activities (for example, Open Space 1-4). As such, I consider there is a potential tension between providing for ARCs in all zones and the policy framework for those zones, which does not anticipate residential activities (and therefore ancillary residential activities) as of right. I note that the provisions in other jurisdictions are a mix, with some applying district-wide and others only applying in residential zones.
73. On balance, I consider the 20m height limit sought is appropriate, for one structure per property. It is less than that provided for telecommunication, radiocommunication or meteorological facilities (of 25m) but reflects that ARCs will be located in residential areas. The limitation to one structure per property at this height is consistent with the limits in other jurisdictions. For antennas mounted on a building, I note that the submission seeks that these be provided for up to 7m above the height of attachment. I note that in the MEP, the maximum height permitted above a building for an aerial or support structure associated with a network utility is 3m. My provisional view is that it would be appropriate for the limitations to align, and therefore recommend a 3m limit (above the building height, rather than in relation to the point of attachment). The submitter may wish to expand on whether there are technical or other reasons to justify a higher height (as a permitted activity). With the exception of these two additional height allowances, I have recommended that ARCs be required to meet the height limits otherwise applicable in the relevant zone. This does not mean additional structures beyond the permitted limits could not be contemplated; rather they would require consideration through a resource consent process. This is intended to provide for a level of ARCs, while still managing potential adverse effects on the amenity of residential areas. An alternate option the Hearings Panel may wish to consider is whether to permit additional height exceedances for multiple structures, for example up to 5m above the height otherwise permitted in that zone. In my view, this might be appropriate if it can be demonstrated that the usual zone height restriction would unduly compromise the ability to operate ARCs effectively on structures at the permitted zone height levels (bearing in mind the two permitted exceptions outlined earlier). This would need to be balanced with the potential adverse effects on the amenity of residential areas. The submitters may wish to address these areas further.
74. Having reviewed other plan provisions, I also recommend some additional limits, such as a restriction on the diameter of antennas of 80mm, and restrictions on the length of horizontal antennas. The recommendations include an exception from the requirement for these structures to meet the recession plane and height controls (except for dish antenna up to 5m in diameter) but a requirement that they do not overhang any property boundary.
75. I recommend that the activity status for ARCs that do not meet the permitted activity standards defaults to discretionary. While I accept that a restricted discretionary status might be appropriate, I note that no specific matters of discretion have been put forward for consideration.
76. With regards to the request to provide a permitted status for existing ARCs, the submitter seeks that existing non-complying ARCs are to be deemed complying if they have not been subject to complaint or compliance or enforcement action for 2 years or longer. My view is that this is not necessary as land use rules cannot be applied retrospectively to existing activities. Any legally established configurations will have existing use rights under Section 10 of the RMA. Should any ARCs not have been established legally (under the relevant plan rules at the time of their establishment) this is a compliance and enforcement matter and cannot be regulated through rules in the MEP.

Rail and roads

77. KiwiRail (873.112, 873.113, 873.114, 873.115) seek that the network utility rules are amended to include “*rail and rail related activities and assets as a network utility provided for under this Chapter.*”

- They state that the rule provides a list of what is determined to be network utility infrastructure, which is inconsistent with the RMA, the definition of 'network utility' and 'utility' within the MEP itself. They also consider it inconsistent with the policy direction in relation to regionally significant infrastructure. Their particular concern relates to the rail corridor not being identified as a network utility, noting that while the rail corridor has its own zone, there are no standards in relation to it. They state that this means that the upgrade, maintenance and operation of the rail corridor is not specifically provided for through any chapters of the MEP. While accepting that the corridor is designated, they state that the RMA does not place an obligation on the requiring authority to use that designation. They further state that other identified network utilities are also able to be provided for by designation.
78. NZTA (1002.244) also note that the definition of "*network utility*", which in turn relates to "*network utility operator*" in the RMA, and then to Section 166 of the RMA means, in their view, that Rules 2.38-2.40 apply to roads. However they consider that these rules have not been drafted with this in mind, probably on the basis that roads are designated. Given that the rules are both regional and district rules, they seek that the rules are amended (for example, in the introductory statement) to state that activities within legal road are not subject to the rules, where undertaken by the requiring authority and in accordance with their designated purpose.
79. I firstly note that Rule 2.38.1 (and related Standard 2.39.1), which refers to network utility infrastructure, does not define what are considered to be "*network utilities*". Rather it provides a permitted activity status (subject to meeting the specific standards) to those particular network utilities identified. In this respect, it is not inconsistent with the RMA or MEP definitions. In relation to KiwiRail's request, that then leaves the question, as to whether it is appropriate to extend the rules to apply to rail. I accept that the MEP does not include zone rules for road or rail. The direction set out in the methods in Chapter 17 (Volume 1) is for designations to be used for works within roads and railways lines/facilities. My understanding is that the existing rail network is all designated, and therefore allows (under the relevant provisions of the RMA) for the upgrade, maintenance and operation of the rail corridor. If the Hearing Panel consider that default rules should be included within the MEP for activities within this area, to provide the requiring authority with the ability to choose whether to use the designation or rely on rules, my view is that consideration would need to be given to relevant permitted activity standards. This is because, in my view, permitting any activity, without any limits on scale or understanding of the potential effects of this is not appropriate, and in any case is not consistent with the approach taken to the other network utilities identified. I note that the submission has not proposed a set of permitted activity standards that would apply to rail and rail related activities and assets. Therefore, I do not recommend any amendment be made.
80. In relation to NZTA's submission, in my view, it is not necessary to include the statement sought. Firstly, any activity that is undertaken by a requiring authority in accordance with the designation purpose and any conditions, is not subject to the MEP rules but to the separate designation and outline plan process set out in the RMA; this is not specific to roads. Secondly, as set out above, the rules only apply to those network utilities that are specified, not to all network utilities. Rule 2.38.1, for example, does not apply to roads in any case. My understanding is also that the designation would only 'prevail' over the district rules in any case, and therefore any relevant regional rules would still apply.

Renewable Electricity Generation

81. Trustpower (1201.128) states that the MEP does not include any rules that provide for the maintenance, upgrade or enhancement of existing renewable electricity generation ("REG") infrastructure in a similar manner to network utilities. They consider that in order to give effect to the NPSREG, the provisions in Chapter 2 should be extended to cover REG infrastructure, as well as network utilities. They seek (1201.129, 1201.130) that a permitted activity is included for "*any work associated with the on-going operation, maintenance, replacement or upgrading of any lawfully established renewable electricity generation activity*", with a range of suggested permitted activity standards. These include limits on the height, size and location of buildings, adherence to the relevant zone standards for excavation, filling, vegetation clearance, noise, and discharges. These largely replicate some (but not all) of those standards that apply to network utility infrastructure (under 2.39.1). A standard is also proposed limiting the location of transmission lines, telecommunication, radiocommunications or meteorological facilities, buildings or depots, with respect to Significant Wetlands, the Drainage Channel Network and airstrips. This appears to replicate standard 2.39.1.14 and it is not clear how it relates to REG activities. As a consequence of this, Trustpower (1201.131) also seek that a default new discretionary activity rule is introduced for any specified REG activity that does not meet the permitted standards.

82. I had concerns that as the submitter's assets within the District are hydroelectricity schemes, that because of their nature, General Rules 2.7 – 2.11 will apply (activity in, on, over or under the bed of a lake or river) which do not supersede the utility rules. For example, Rule 2.7.1 already provides for the alteration, repair or maintenance of an existing structure in, on or over the bed of a lake or river, subject to standards, as a permitted activity. However, the submitter has clarified that their concerns relate to a perceived gap between the maintenance of structures in the river, and the maintenance of their structures and buildings on land. They have indicated that such land-based structures include penstocks, canals, tunnels, surge tanks and powerhouses. Their concern is that in relation to REG activities, the MEP is silent in both the general rules and zone-based rules on maintenance and upgrading and that certainty and clarity is required as to how these are to be treated.
83. My view is that a number of aspects of maintenance and replacement are likely to be covered by existing use rights under Section 10 of the RMA. Beyond that, I agree in principle with providing a permitted activity that would allow generally for maintenance, replacement and minor upgrading, subject to there being very clear limitations on what those include, in the same way that these are limited by definition as they relate to network utilities. However, I consider that there are difficulties with extending the network utility rules as sought, to include these aspects of REG activities. In particular, this set of rules (2.38 – 2.40) is specific to network utilities, and provides a rule package that is intended to supersede the general zone provisions for these activities. It therefore covers all network utility activities, not just their maintenance, replacement and upgrading. In relation to maintenance, replacement and minor upgrading of these utilities, what these activities encompass is limited by definition, and particularly focussed on network utilities. I therefore have concerns with including a rule for REG activities that only relates to operation, maintenance, replacement or upgrading in this location in the MEP, when other rules controlling REG activities beyond this (e.g. new REG or extensions of existing facilities) would continue to be managed under the zone-based rules.
84. In my opinion, the permitted activity rules sought would better sit within the relevant zone-based chapters. My understanding is that the relevant zone within which the submitter's assets are located is Rural Environment and therefore consider a permitted activity rule for maintenance and replacement would best be located in the Rural Environment Zone rules. While I consider that the definition of '*maintenance and replacement*' could be easily amended to encompass REG activities (and have recommended an amendment to achieve this), I consider that more thought would need to be given in relation to upgrading, and to what extent upgrading should be permitted. By comparison, Rule 2.38.5 provides for '*minor upgrading*' of specified network utilities as a permitted activity, but by definition what this allows for is very limited, and could not easily be extended to REG activities. In my view, generally permitting 'upgrading' as sought by the submitter, and without a clear definition of what this would encompass, is not appropriate, as it could allow for a range of adverse effects. However, a specifically targeted definition, with appropriate limitations, applicable to upgrading of REG activities may be acceptable.
85. I also queried how the submitter envisaged their proposed permitted activity standards applying, given that the standards applying to network utilities (2.39.1) relate to new infrastructure, rather than maintenance, replacement or upgrading of existing infrastructure. The submitter accepts that these standards do not fit well with the permitted activity that is sought. In my opinion, subject to appropriate limitations being placed on maintenance and replacement (and if appropriate, minor upgrading) through their definition, permitted activity standards would not be required.
86. Similar to the above, Trustpower (1201.132, 1201.133) also seek that vegetation clearance associated with the maintenance, replacement and minor upgrading of REG infrastructure should be provided for as a permitted activity, subject to various permitted activity standards, which replicate those applicable to network utilities (Standard 2.39.3). They consider that avoiding the need for resource consent for this type of regionally significant infrastructure will ensure it can continue to function with minimal disruption, and consider that the effects will be no different to those associated with the network utility provisions. While I agree with this in principle, I queried whether the zone-based indigenous and non-indigenous vegetation clearance rules would already achieve the outcome sought, such that a separate rule was not required. The submitter has indicated that they are comfortable that the vegetation clearance rules elsewhere in the MEP are sufficient and that they are not pursuing the separate rule.
87. Overall, I therefore agree in principle with providing a specific permitted activity for the maintenance and replacement of REG facilities, but consider that this should be located in the Rural Environment chapter rules rather than within the network utility provisions. A permitted activity rule for 'minor

upgrading' may also be appropriate, but this would need to be appropriately limited through definition (or through appropriate permitted activity standards).

Recommendation

88. Insert the following as a permitted activity within the Rural Environment, Coastal Environment, Urban Residential 1, 2 and 3, Business 1, Coastal Living and Rural Living zone chapters:

X.1.X Amateur Radio Configurations⁹

89. Insert the following in the "Standards that apply to specific permitted activities" sections of the Rural Environment, Coastal Environment, Urban Residential 1, 2 and 3, Business 1, Coastal Living and Rural Living zone chapters:

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

X.3.X.5 The maximum height of any antenna or support structure attached to a building must not exceed the height of the building by more than 3m.

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

X.3.X.7 For horizontal HF yagi 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 5 metres in diameter

(b) Be pivoted less than 4 metres 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.¹⁰

90. Insert the following new definition:

Amateur Radio Configurations means the antennas, aerials (including rods, wires and tubes) and associated supporting structures which are owned and used by licenced amateur radio operators.¹¹

91. Insert the following new rule into Chapter 3, Rule 3.1. Permitted Activities:

[D]

Maintenance and replacement of an existing renewable electricity generation activity.¹²

⁹ 1001.1, 1001.4 - MARC & NZART.

¹⁰ 1001.1, 1001.4 - MARC & NZART.

¹¹ 1001.1, 1001.4 - MARC & NZART.

92. Amend the definition of 'maintenance and replacement' as follows:

*means any work, including foundation work, or activity necessary to continue the operation and or functioning of an existing line, building, structure or (for the purpose of utilities and renewable electricity generation) other facility with another of the same or similar height, size or scale, within the same or similar position and for the same or similar purpose.*¹³

Matter 4 - Changes sought to rules and standards

2.38 – 2.40

93. Rule 2.38 lists those network utility activities that are permitted, subject to those activities meeting any related permitted activity standards set out in 2.39. Where these standards are not met, the activity becomes a discretionary activity under Rule 2.40.1. Any other land use activity involving a network utility, which is not listed as permitted activity under Rule 2.38, is also a discretionary activity under Rule 2.40.2.
94. The assessment of submissions that follows is undertaken for changes sought to each permitted activity, including any relevant permitted standards. Any submissions seeking additional provisions are then assessed.
95. Transpower (1198.62, 1198.63 and 1198.64) generally oppose the Network Utility provisions on the basis that the rules do not give effect to the NPSET, nor reflect the approach taken in the NESETA and do not provide an efficient and effective approach to network utilities. The specific changes that they seek to address this are detailed in their submission and as follows below.
96. Transpower (1198.66) also seek that the introduction to the Network Utility provisions is amended to include a statement explaining the NESETA and its relationship to the MEP provisions. They consider this necessary to be consistent with the direction in Section 44A of the RMA. In general, I agree this type of note can be helpful, but I also consider it necessary to consider drafting consistency with rest of the plan, where this type of advice note/introductory sentence is not common¹⁴.
97. My understanding, from a number of submissions points made by Transpower (and discussed more specifically below), is that they seek additional rules and standards that might technically duplicate the NESETA, simply because it is difficult to succinctly write a rule that captures those aspects of National Grid activities that are not covered by the NESETA. In my view, an introductory note that is clear that the rules relevant to the National Grid only apply where the NESETA does not, would assist in making this clear. However, as I later go on to expand on, I recommend that any additional rules sought by Transpower are drafted such that the rules themselves explicitly state that they only apply to the identified National Grid activities when the activities are not covered by the NESETA. As such, an introductory note in addition to this is, in my view, not necessary. For completeness I note that if such an introductory note were to be included, it would be appropriate to also refer to the NESTF.

¹² 1201.129, 1201.130 - Trustpower

¹³ Relates to 1201.129, 1201.130 - Trustpower

¹⁴ One example of such an introduction is contained in the General Rules chapter, in relation to the Drainage Channel Network Activity, which states –

Network utility infrastructure – Rule 2.38.1 and Standard 2.39.1

98. These rules provide a permitted activity status for those items of network utility infrastructure that are listed in Rule 2.38.1, subject to meeting the various standards set out in Standard 2.39.1. Rule 2.38.1 reads:

[R, D]

2.38.1. Network utility infrastructure listed as follows:

- (a) an electricity line or facility;
 - (b) a telecommunication line or facility;
 - (c) a radio communication apparatus or facility;
 - (d) a meteorological service apparatus or facility;
 - (e) a navigational aid, lighthouses or beacon;
 - (f) a reservoir, well or supply intake for the reticulation or provision of public water supply;
 - (g) a speed camera installation and associated structures, facility, plant or equipment for traffic purposes;
 - (h) a water or sewerage treatment facility, underground pipe network for the conveyance and drainage of water or sewage, and any ancillary equipment;
 - (i) a telephone call box or the erection and use of a postal box.:
99. Federated Farmers (425.496) oppose Rule 2.38.1, due to concerns that the rule allows for new utilities as a permitted activity, on the basis that they are often located across private land and encumber existing uses and can impact on farming activities. They consider that permitted status disregards the adverse effects on landowners and surrounding land uses, and that any rights to cause such effects or impose restrictions “*should be obtained through purchase or negotiation*”. I note that permitted activity status under the MEP does not negate the rights of landowners with respect to use of, or access to private land. Therefore, I do not agree that this is a relevant consideration. With regard to effects on landowners or neighbours, I note that the permitted status is limited to specific activities listed in the rule, and that these are subject to standards set out in Rule 2.39.1. In my view, these standards essentially only provide a permitted activity status to utilities that are of a limited scale. Subject to more specific recommendations on the appropriateness of these standards that I discuss below, I generally consider these to set the permitted activity status at the appropriate level. In the absence of the identification of effects of particular permitted activity standards that the submitter is concerned about, my view is that the standards are generally, and subject to other recommendations, appropriate. For completeness, I note that in many cases the types of network utilities covered by Rule 2.38.1 would most likely be established through the designation and outline plan process in any case, with the permitted activity rules and standards acting as a guide.
100. Chorus (464.32) and Spark (1158.30) seek a change to Rule 2.38.1(c) and permitted standard 2.39.1(c) to remove reference to a radio communication “*apparatus*”, retaining only reference to a radio communication facility, as the latter, by definition, encompasses the former. They also seek that Rules 2.38.1(i) and 2.39.1(i) are amended to refer to a telephone kiosk rather than a call box, as this is a more current term given the facility may use more than just call technology. (Note, this is a slight change from their original submission, due to the effect of the definitions in the 2016 NESTF.) On this basis, I agree that that amendments are appropriate as they avoid duplication and potential confusion and take into account the current nature of this technology.
101. Spark and Chorus support various standards in 2.39.1 as appropriate limits for their activities (464.37 and 464.38; 1158.35 and 1158.36). However, they also seek a range of changes to the standards. Given the introduction of the 2016 NESTF which came into force after the MEP was notified, (and as outlined earlier) I asked the submitters to clarify their position on these submission points. My understanding, from my discussion with the submitter regarding the interface between the 2016 NESTF and the MEP, is that their preference is to:

- Amend the rules and standards to make it clear where they do not apply to activities or facilities managed under the NESTF, either through amendments to the standards or through an introductory note; and
- Amend the standards in the MEP to align with those in the NESTF, so that those activities not managed under the NESTF will have to meet the same standards in order to be permitted.

102. My understanding of the above is that where activities are managed under the NESTF, but do not meet the permitted activity standards, (and due to the drafting of the NESTF, activity status is determined through reference back to the relevant district plan) would become a discretionary activity under the MEP, consistent with the status that would apply to the same activities not meeting the permitted standards under the MEP. I also understand that the drafting of the NESTF is such that there are situations where the NESTF does not apply, and the submitter considers that the standards in the NESTF that apply to similar activities should also apply. By way of example, the NESTF only applies to new facilities outside of road reserve in the rural zone, not other zones; does not apply to new poles in road reserve that are more than 100m from any other pole, and do not apply to new antennas on an existing building in the residential zone where that existing building is less than 15m in height.
103. Given the direction in Section 44A of the RMA, I agree that there is a need to make it clear that the standards in the MEP do not apply to those activities that are managed under the NESTF. I can also see benefit in aligning the standards within the NESTF with those in the MEP, where the MEP standards would be more lenient. This would avoid less stringent standards being applicable to activities that fall outside the NESTF. I have less concern with the standards in the MEP being more stringent than the NESTF, and note that there is limited scope to amend all the standards to align with the NESTF in any case.
104. Standard 2.39.1.5 provides a 25m height limit for a telecommunication, radiocommunication or meteorological facility or structure. Chorus (464.39) and Spark (1158.37) seek that an additional 5 metres be provided for, for telecommunication facilities which are used by more than one provider. This is supported in a further submission by Dominion Salt Limited on the basis that the increased height is appropriate for telecommunication facilities. I understand this to be more commonly referred to as co-location, where additional antenna are added to existing masts or lattice, at a height above existing antenna, with the height being required to avoid interference between antennas. As noted above, the submitters have requested changes that would make it clear that the standard does not apply to telecommunication facilities managed under the NESTF. In my view it is appropriate to provide for a higher height limit to extend an existing structure so that it can accommodate additional antennas, as the effects of the increased height would be balanced with avoiding the effects of a second (up to 25m high) structure. I note that this is consistent with recently adopted plan provisions in both Christchurch and Hurunui districts.
105. Standard 2.39.1.7 provides for aerials and support structures attached to the top of a building, up to a maximum height of 3m. Chorus (464.40) and Spark (1158.38) consider that the standard should be extended to also include antennas, as they consider this is an efficient use of existing structures and *"generally give rise to only negligible environmental effects"*. In addition, they consider that a higher limit of 5m is appropriate for industrial and rural zones¹⁵, on the basis that these zones are less sensitive and a higher height can be better assimilated into those environments. I agree that allowing for the installation of antenna on an existing building is an efficient use of infrastructure and that providing for this up to an additional height of 3m would have limited visual effects. I also note that *"aerial"* is not defined in the MEP, but antenna is, and the definition of the latter would likely encompass aerials in any case. As such, my recommendation is to amend the standard to apply to antennas rather than aerials. I have some concerns regarding the higher 5m limit being applied to rural and industrial zones, on the basis that while these zones may be less visually sensitive, these facilities could be viewed (because of the additional height) outside the zones and from more sensitive zones (e.g. Urban). However, I do note that the NESTF permits antennas attached to buildings by up to 5m. While I see benefit in applying a consistent standard to facilities that are/are not managed under the NESTF, I consider that there is not scope in the submission to apply a 5m limit to all zones (i.e. to align the MEP rule with the NESTF) and for simplicity I consider it best to retain the 3m height for all zones.
106. Standard 2.39.1.8 provides a maximum diameter for dish antenna of 3m. Chorus (464.41) and Spark (1158.39) support this, but consider it should be extended to set permitted standards for other antenna types. The suggested amendment is to apply the 3m diameter limit to all antenna, and add a limit of either 2.5m² in face area, or alternatively a 700mm width limit. As noted earlier, I consider that where the standards in the MEP are currently more lenient than those in the NESTF, it is appropriate to align these standards (subject to their being scope within submissions to do so). In this instance, the NESTF includes a maximum width for non-dish antenna of 0.7m, and the standards for dish antenna size varies depending on the zone in which a pole is located, but are

¹⁵ Industrial 1 and 2, Lake Grassmere Salt Works, Port and Rural Environment zones.

generally less than 3m in diameter. I consider it appropriate to include the 0.7m width as a standard in the MEP, but note that there is no scope to reduce the diameter for dish antenna to align with the NPSTF and hence recommend it is retained as 3m.

107. Standard 2.39.1.9 requires new lines to be located underground in a number of urban zones. Chorus (464.42) and Spark (1158.40) support this in “*high amenity areas*”, but do not consider Industrial Zones to be as sensitive, and therefore consider they should not be included. They also seek that a note is added to clarify that the standard does not apply to additional or replacement lines provided for as minor upgrading. In my view, the additional note is not required, as the rules are clear that minor upgrading (as that is defined) is permitted under Rule 2.38.5, and not subject to the standards set out in 2.39.1. In terms of the undergrounding of lines, in my experience, such requirements are aimed at avoiding the effects of new overhead lines within urban environments in their entirety, rather than within specific zones. For example, while Industrial zones may not be as sensitive, infrastructure within them can often be seen outside the zone. I also note that Objective 12.6 seeks that the character and amenities of industrial areas are maintained and enhanced such that they are places people want to work, visit and invest. In my view, the standard would not align with that direction, or maintain amenity across the urban area as a whole, and as such I do not agree with amending it to exclude Industrial zones. In terms of the application of the NESTF, my understanding is that overhead lines are permitted (subject to standards) where they use existing or replacement support structures (similar to what the MEP permits as “*minor upgrading*”), but not using new support structures. Subject to standards, the undergrounding of telecommunication lines is permitted under the NESTF. My understanding of that way that the NESTF is drafted, is that new overhead lines using new support structures are essentially not ‘covered’ by the NESTF and therefore the rule in the MEP would apply. As such, I do not consider there is tension between the standards in the MEP and the NESTF.
108. Standard 2.39.1.10 requires that any network utility structure for a line within the Rural Environment or Coastal Environment zones be setback at least 15m from any road intersection. Chorus (464.43) and Spark (1158.41) seek that Standard 2.39.1.10 is deleted in its entirety, as they consider it unnecessary. They note that placement of new poles within road reserve requires a Corridor Access Request to be put through to the Council, and view that as being the appropriate stage for pole location to be determined between the network utility operator and the Council. My understanding is that within the MEP, road reserve is unzoned and therefore this standard would not apply to poles located within road reserve. Rather, the standard applies to poles located within land adjacent to the road that are zoned Rural Environment or Coastal Environment and within which erection of a utility structure would not be subject to a Corridor Access Request. Therefore, I do not agree that the issue identified arises, and therefore does not justify the deletion of the standard.
109. Transpower (1198.67) raise concerns that Rule 2.38.1 is notated as being a regional plan and district plan rule, but not a coastal plan rule, and as such, for any new designation, the regional rule would also apply and could also require a regional land use consent, despite the activity not relating directly to the Council’s Section 30 functions. As a result, they consider that the rules need to be ‘unbundled’ to reduce unnecessary ambiguity and regulation. In doing so, they suggest that the rule also potentially includes a regional coastal plan rule to provide for Transpower’s submarine cables, and the ongoing operation of the High Voltage Direct Current overhead transmission line in areas where it traverses the CMA. They consider this necessary to give effect to Policies 2 and 5 of the NPSET. They further seek such as approach is taken to other relevant rules, including vegetation clearance, cultivation and excavation.
110. I agree with Transpower that the rules need to be amended in some way, so that activities that are undertaken in accordance with their designated purposes are not required to obtain a regional consent under the MEP, where the rule requiring such a consent is effectively a district-focussed rule. I have considered the standards in 2.39.1, and in my view, consider that these are for the most part, related to the functions of territorial authorities. An exception is that Standard 2.39.1.13 requires compliance with various zone-based rules, some of which are both district and regional rules, and in the case of discharges, are solely regional. Having taken this account, my recommendation is that Rule 2.38.1 is amended so that it is solely a district plan rule, with Standard 2.39.1.13 amended to exclude reference to discharge rules. There would need to then be a separate requirement for utilities to meet the regional plan rules relating to discharges. As I go on to explain, I am recommending that Rule 2.38.2 is amended so that it is a regional rule only, meaning that it would remain the only regional-based rule within this part of the chapter. Because there are other utility-based regional rules within the general rules, such as Rule 2.7.8 (minor upgrading of specified

utilities in, on, over or under the bed of a lake or river) it would make sense that Rule 2.38.2 is shifted to this location. In summary this would mean:

- Rules 2.38 – 2.40 would become district plan rules only
- Network utilities would be subject to the regional plans rules in both the General rules chapter and the zone based chapters (including discharge rules)
- In relation to coastal plan provisions, network utilities would remain subject to those provisions

111. In essence, this means the approach taken to utilities within the MEP would be more traditional, in the sense of retaining separate district, regional and coastal plan provisions, rather than these provisions being integrated. However, I consider this to be the most appropriate approach in the circumstances, and in particular because for many network utilities, the designation pathway will most likely be used, rather than reliance on the district plan provisions. The approach therefore makes it clear for network utilities operating under their designations, what regional or coastal plan provisions apply. (Note, the recommended change to the introduction to the Network Utility rules set out earlier reflects the above approach.)
112. Transpower (1198.67) also seek that Rule 2.38.1 is amended to include “*National Grid transmission lines, substations, telecommunications cables and associated access tracks*”. They further seek that (c) is amended to refer to “*an electricity distribution line or facility*”. This is stated as being to clearly link the Rule to definitions in the MEP and to reflect Transpower’s assets and activities, including those provided for by the NESETA. A further change is sought to the related permitted activity standards to amend standard 2.39.1.9 (1198.75), which requires new lines to be located underground in various (predominantly urban) zones, so that this standard would not apply to a new National Grid transmission line. They consider that this requirement would be contrary to the NPSET, inconsistent with the NESETA and inefficient in terms of the associated costs and benefits. They further seek (1198.76) that standard 2.39.1.14 be deleted, as it is contrary to the NPSET and does not reflect the linear nature of many network utilities, including the National Grid, which necessarily cross a number of rivers and significant wetlands.¹⁶
113. In a further submission, Chorus and Spark raise concerns with having telecommunication cables referred to in (a) and telecommunication lines and facilities referred to in (b). My understanding is that the reference to telecommunication cables sought by Transpower relates only to National Grid telecommunication cables.
114. In a discussion with the submitter, I sought clarity as to how the rule sought would relate to the NESETA, given that under s44A of the RMA, duplication or conflict with an NES is to be removed. My understanding from that discussion is that what is sought is not intended to cover those aspects of the National Grid that are covered by the NES, but rather, that it is hard to draft a rule in such a way that it accurately identifies only those matters relating to the National Grid that sit outside the NESETA. It was agreed that one way to address this might be to word any rule by adding “*Excluding those activities covered by the NESETA*” (or similar) to make it clear that it only applies in circumstances where the NESETA does not.
115. I note that the MEP does not define electricity line or facility, but my assumption is that the National Grid lines and substations would already be covered by this (Rule 2.38.1.(a)). Similarly, telecommunication cables associated with the National Grid would, as I understand it, be covered by 2.38.1.(b). This being the case, I am not sure what is achieved by separating out those activities that relate to the National Grid. I am therefore somewhat neutral on this change as my understanding is that it would have no practical effect, except in relation to access tracks (refer further below). If the Hearing Panel consider that the addition is appropriate, then as noted above, I recommend wording is drafted similar to the following: “*Excluding those activities covered by the NESETA, National Grid transmission lines, substations...*”
116. Notwithstanding this, my concern lies with the changes sought to the permitted activity standards, which would apply to the development of new transmission lines and substations and related activities (i.e. anything not covered by the NESETA). While I accept that new National Grid infrastructure of this type is likely to be applied for by way of designation, in my view, providing an

¹⁶ Note that the submission point as it relates to significant wetlands has also been considered in the Section 42A report for Significant Wetlands.

overly permissive rule framework which could allow for significant adverse effects is not appropriate. This is because the rule framework can either be relied on during the designation and outline plan process as a type of permitted baseline, in order to argue that the effects are anticipated by the MEP and avoidance or mitigation is not required, or, the infrastructure can be established without using the designation process and without a resource consent process for consideration of effects. In my view, this goes beyond the direction in the NPSET, and in particular, its objective, which includes reference to managing the adverse environmental effects of the network. By way of example, while I accept that standard 2.39.1.14 would mean National Grid lines and utility structures could not be located within the specified proximity to Significant Wetlands, the Drainage Channel Network, or farm airstrips, as a permitted activity, this simply means that the effects of any encroachment would need to be considered through a resource consent process (and likely would also be considered through any designation process as well). Similarly, while I accept that the undergrounding of new National Grid lines may not be practical or efficient, the standard in question simply means that new overhead lines cannot be established within urban areas without consent. In my view, this ensures that the lines and utility structures and their potential effects on these areas are adequately assessed, and in my view, does not mean that technical, operational or locational requirements of utilities are not provided for, simply that these need to be assessed, alongside effects, through a consent (or designation) process.

117. My understanding of what is sought in relation to access tracks, is that where related to the National Grid, these would be permitted, subject to the standards in 2.39.1, rather than access tracks related to utilities being managed under the relevant zone rules. Given that the standards in 2.39.1.13 includes a requirement to comply with the relevant zone rules for excavation, filling and vegetation clearance, I am not clear how the change sought would have any practical difference.
118. DOC support standard 2.39.1.13, which requires compliance with the relevant zone rules for excavation, filling, vegetation clearance (indigenous and non-indigenous), noise and discharge. Spark & Chorus, in response to my request to identify any changes to their position as a result of the NESTF coming into effect, seek that the standard is amended to state that the rules identified do not apply if they are provided for under the NESTF, for example, under the NESTF, some excavation and clearance or trimming of vegetation is permitted. While outside the scope of their original submission, it is my view that the amendment can be made under Section 44A, because it ensures that the rule does not duplicate or conflict with the NESTF.
119. Chorus (464.40) & Spark (1158.42) seek that Standard 2.39.1.14 be amended so that it only applies to new lines outside of legal roads. This standard places restrictions on the proximity of lines, structures and other specified network utility facilities from Significant Wetlands¹⁷, the Drainage Channel Network and farm airstrips. They consider that new lines within legal road are an efficient use of infrastructure, and *“will not give rise to any noticeable effects on a significant wetland, drainage channel network, or a farm airstrip over and above those effects caused by a legal road”*. They also seek removal of the reference to *“a building or depot”* on the basis that the definition of telecommunication and radiocommunication facility covers such activities. My understanding is that the reference to *“building or depot”* applies to the standard as a whole, rather than only to telecommunication and radiocommunication facilities, and I therefore recommend a slight change to the wording order to make this clearer. Following further consideration as a result of the 2016 NESTF, they seek that the exclusion apply only to where the legal road is formed, or where it is provided for under the NESTF 2016. As noted earlier, I agree that the standards should be clarified to make it clear when the NESTF prevails. However, I note that the NESTF does provide for district plan rules to apply in the circumstances set out in Regulations 44-52, and my understanding of this is that the setback from Significant Wetlands would fall within Regulations 48 and 49 (significant habitats for indigenous vegetation/fauna). As such, the change would contradict the recommendation in the Section 42A report on Significant Wetlands. My view is that therefore, the clarification pertaining to NESTF should only apply to parts (b) and (c) of the standard.

Recommendation

120. Amend Rule 2.38.1 as follows:

¹⁷ Note this aspect of the standard was addressed in the Section 42A report on Significant Wetlands.

[R,-D]¹⁸

2.38.1. Network utility infrastructure listed as follows:

- (a) **an electricity line or facility;**
- (b) **a telecommunication line or facility;**
- (c) **a radio communication ~~apparatus~~ or facility¹⁹;**
- (d) **a meteorological service apparatus or facility;**
- (e) **a navigational aid, lighthouses or beacon;**
- (f) **a reservoir, well or supply intake for the reticulation or provision of public water supply;**
- (g) **a speed camera installation and associated structures, facility, plant or equipment for traffic purposes;**
- (h) **a water or sewerage treatment facility, underground pipe network for the conveyance and drainage of water or sewage, and any ancillary equipment;**
- (i) **a telecommunication kiosk ~~telephone call box~~²⁰ or the erection and use of a postal box.**

121. Amend Standard 2.39.1 as follows:

2.39.1. Network utility infrastructure listed as follows:

- (a) **an electricity line or facility;**
- (b) **a telecommunication line or facility;**
- (c) **a radio communication ~~apparatus~~ or facility²¹;**
- (d) **a meteorological service apparatus or facility;**
- (e) **a navigational aid, lighthouses or beacon;**
- (f) **a reservoir, well or supply intake for the reticulation or provision of public water supply;**
- (g) **a speed camera installation and associated structures, facility, plant or equipment for traffic purposes;**
- (h) **a water or sewerage treatment facility, underground pipe network for the conveyance and drainage of water or sewage, and any ancillary equipment;**
- (i) **a telecommunication kiosk ~~telephone call box~~²² or the erection and use of a postal box.**

2.39.1.1. *The utility must not be in the Coastal Marine Zone.*

¹⁸ 1198.67 - Transpower

¹⁹ 464.32 – Chorus; Spark – 1158.30.

²⁰ Relates to 464.32 – Chorus; Spark – 1158.30.

²¹ 464.32 – Chorus; Spark – 1158.30.

²² Relates to 464.32 – Chorus; Spark – 1158.30.

- 2.39.1.2. *The utility must not be in the White Bluffs Outstanding Feature and Landscape.*
- 2.39.1.3. *The maximum height of a building must not exceed 5m.*
- 2.39.1.4. *The maximum gross floor area of a building must not exceed 65m².*
- 2.39.1.5. *The maximum height of a facility or network utility structure, aerial or antenna for a telecommunication, radiocommunication or meteorological facility must not exceed 25m above ground level, except that where a telecommunication facility is used by two or more providers, this height may be exceeded by up to 5m²³.*
- 2.39.1.6. *On land within the Wairau Dry Hills Landscape the maximum height of a utility structure (including any associated aerial, antennae mounting or aerial antennae, mast tower, pole cable or line) must not exceed 15m above the associated building platform.*
- 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.*²⁴
- 2.39.1.8. *The maximum diameter of a dish antenna must not exceed 3m and the maximum width of a non-dish antenna must not exceed 0.7m²⁵.*
- 2.39.1.9. *A new line, including a cable television line, must be located underground within any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3, Business 1, Business 2, Industrial 1, Industrial 2, Open Space 1 or Open Space 2.*
- 2.39.1.10. *A network utility structure for a line within the Rural Environment Zone or Coastal Environment Zone must be set back a minimum distance of 15m from any road intersection and must be measured parallel from the centreline of the carriageways, at the point where the roads intersect.*
- 2.39.1.11. *A building larger than 15m² in ground floor area or over 2m in height must be setback from the road boundary by a distance of not less than half the height of the building.*
- 2.39.1.12. *On any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3, a building larger than 1m² in ground floor area or 2m in height must be set back from the property boundaries by a distance of not less than half the height of the structure.*
- 2.39.1.13. *Excavation, filling, earthworks within the National Grid Yard,²⁶ vegetation clearance (indigenous and non-indigenous), and noise and discharge²⁷ rules for the relevant zone in which the network utility is located must be complied with (except where those activities are managed under the NESTF 2016).²⁸*
- 2.39.1.14. *A building, depot, line or network utility structure, or a telecommunication, radio communication or meteorological facility, ~~or a building or depot~~²⁹ must not be located:*
- (a) *in, or within 8m of, a Significant Wetland;*
 - (b) *within 8m of a river or the Drainage Channel Network;*

²³ 464.39 – Chorus; Spark - 1158.37.

²⁴ 464.40 – Chorus; 1158.38 - Spark

²⁵ 464.41 – Chorus; 1158.39 - Spark

²⁶ Consequential change relating to 1198.89, 1198.100, 1198.112, 1198.120, 1198.121, 1198.128, 1198.135 - Transpower.

²⁷ Relates to 1198.67 - Transpower

²⁸ Relates to 464 – Chorus and 1158 – Spark, and to meet the requirements of Section 44A of the RMA.

²⁹ 464.40 – Chorus, 1158.42 - Spark

- (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.*

Note: Standards 2.39.1.5, 2.39.1.7, 2.39.1.8, 2.39.1.13 and 2.39.1.14(b) and (c) do not apply to activities, or those aspect of activities, that are provided for under the National Environmental Standards for Telecommunication Facilities 2016.³⁰

Lines and cables over the beds of lakes and rivers – Rule 2.38.2

122. Rule 2.38.2 is a regional and district plan rules that provides a permitted activity status for a “*Telecommunication line or cable over the bed of a lake or river*”. There are no permitted standards associated with this activity.
123. Chorus (464.33) and Spark (1158.31) seek that Rule 2.38.2 is amended to remove reference to a telecommunication “*cable*”, retaining only reference to a line, on the basis that a telecommunication cable is not defined in the MEP and the definition of telecommunication line is considered sufficient.
124. Transpower (1198.68), while supportive of Rule 2.38.2, consider it is potentially confusing and overly confined, on the basis that it is not clear why it applies to telecommunication lines and cables only and not electricity transmission; nor is it clear why it is distinct from rules in 2.7, nor why it is a district plan rule. As a result, they seek that it is amended such that it is only a regional rule, is applied to the National Grid in a way that gives effect to the NPSET, and rationalises and consolidates in either Rule 2.38 or 2.7.
125. Related to the above submissions, MDC (91.133) seeks that Rule 2.38.2 is amended to also include reference to an electricity line, stating that this is intended to correct an error in drafting.
126. Section 2.7 in the General Rules chapter (which apply to utilities) provides rules relating to activities in, on, over or under the bed of a lake or river. Rule 2.7.8 provides a specific permitted activity for the following, subject to standards in 2.9.8 being met:

Minor upgrading in, on, or under the bed of a lake or river of the following utilities:

(a) *Transmission line existing at 9 June 2016;*

(b) *Telecommunication or radio communication facility existing at 9 June 2016.*

127. In my view, amending the rule to apply to electricity lines and cables is appropriate, because the effects of a line or cable over the bed of a lake or river are likely to be of the same or similar scale regardless of whether it is for telecommunications or electricity. My understanding is that this will apply to the National Grid, as well as other electricity lines and cables, thus addressing this aspect of Transpower’s concern, while not limiting its application to the National Grid alone. I also recommend that the rule be amended to remove reference to cables in relation to telecommunications, as sought by Chorus and Spark. I further agree with Transpower, that the rule relates to the functions of regional councils. I do not consider that the rule relates to any function of territorial authorities, including, that it does not relate to the control of effects of activities in relation to the *surface of water* in rivers and lakes (Section 31(1)(e)). Therefore, I agree with it being amended so that it is not referred to as a district rule. I also agree with amending the standard to refer to lines and cables, in, on, under, as well as over the bed, as this is consistent with the wording used in Section 13 of the RMA. As noted earlier, because this would mean it would be the only regional plan rule left in this section, I consider it more appropriate to move the rule to Section 2.7, which addresses Transpower’s request to consolidate the utility rules that relate to activities in, on, or under the bed of a lake or river.
128. P. Rene (1023.13) seeks that Rule 2.38.2 is amended to include wetlands³¹. No reason is given for why this addition is sought. My understanding is that the rule relates to Section 13 of the RMA which relates to “*Restriction on certain uses of beds of lakes and rivers*”. This section means that in

³⁰ Relates to 464 – Chorus and 1158 – Spark, and to meet the requirements of Section 44A of the RMA.

³¹ The submissions refers to Rule 2.38.3, but as it references “...*the bed of a lake or river*” and this phrase does not appear in Rule 2.38.3, it is assumed the rule referred to is 2.38.2.

absence of a rule allowing it, the activities identified in Rule 2.38.2 would require consent. I note that Section 13 only pertains to the beds of lakes and rivers, and not to wetlands. Therefore, I do not agree with the addition sought.

Recommendation

129. Delete Rule 2.38.2.³²
130. Insert the following rule in Section 2.7:

IR³³

2.7.X. Telecommunication line or electricity line or³⁴ cable in, on, under or³⁵ over the bed of a lake or river.

Trenching for cable laying - Rule 2.38.3 and Standard 2.39.2

131. Rule 2.38.3 is a district rule that provides a permitted activity status for “*trenching for cable laying*”, subject to meeting the various standards set out in Standard 2.39.2.
132. Chorus (464.34) and Spark (1158.32) seek to amend Rule 2.28.3 (and consequentially various standards in Rule 2.39.2) to provide for earthworks for the provision of underground lines, but without limiting this only to “*trenching for cable laying*” as there are other methods available for the undergrounding of lines that have similar or lesser effects. However, the phrase sought for the wording of the rule is “*Earthworks for underground network utilities*”. In my view, this could potentially allow for a wider range of activities (i.e. beyond lines) than that anticipated by the submitter. I also note that the MEP does not include a definition for ‘earthworks’. My preference is to address the submitters’ concerns by amending the rules and related standards to refer to “*Undergrounding of network utility lines*”. If the Hearings Panel consider that it needs to be more explicit that this relates to the earthworks associated with the undergrounding, it could be further amended to read: “*Earthworks associated with the undergrounding of network utility lines*”, however consideration would need to be given to whether a definition of ‘earthworks’ would then be required, given that this is not a term currently used or defined in the MEP.³⁶
133. Aside from consequential amendments to Standard 2.39.2 relating to the above request, Chorus (464.47) and Spark (1158.45) also seek amendments such that standard 2.39.2.2 only applies to earthworks undertaken outside of legal road. Currently the standard is drafted to restrict the trenching/earthworks from occurring in, or within 8m of, a Significant Wetland or Water Resource Unit with a Natural State water quality classification. While this point, in relation to Significant Wetlands was not explicitly addressed in the Section 42A report for Topic 6: Significant Wetlands, I note that the recommendation made in that report in relation to the similar standard in 2.39.1.14 applies equally to this submission point. In relation to the other aspects of this submission point, I note that there are only two Water Resource Units with a Natural State water quality classification: Goulter (22) and Pelorus/ Te Hoiere Upper (37). My understanding is that there is limited development in these areas, and the purpose of the standard is to ensure that earthworks do not give rise to effects on the rivers in these areas. I also understand that the roads located within these Water Resource Units are not in particularly close proximity to the rivers. Therefore, from a principle point of view, I can see merit in making an exception for undergrounding of lines where within formed roads. However I query whether from a practical point of view, such an exemption is actually necessary, as it seems somewhat pointless including an exception for an activity that is unlikely to occur in these areas. Subject to confirmation from the submitters that such an exception is necessary, I would be comfortable recommending the exception.
134. Chorus and Spark also seek that Standard 2.39.2.3 is amended to specify a setback distance from abstraction points for community drinking water supplies rather than referring to “*such proximity*”.

³² 1198.68 – Transpower.

³³ 1198.68 – Transpower.

³⁴ 91.133 – MDC; also relates to 464.33 – Chorus; 1158.31 - Spark; 1198.68 - Transpower.

³⁵ 1198.68 – Transpower.

³⁶ For completeness I note that I am recommending that a new definition be added to the MEP in relation to earthworks, but it is specific to earthworks relating to the National Grid and would not apply more widely.

They consider it necessary to specify a parameter, as the current wording, in their view, is too subjective for a permitted activity standard. While I understand the concern of the submitter, I note that the reference to proximity is inherently linked to causing contamination of that water supply. My understanding is that this will also depend on the extent and specifics of the earthworks. Specifying a particular setback while potentially clearer, may introduce a more stringent limit than necessary for the majority of cases. My preference is therefore to retain the current wording.

Recommendation

135. Amend Rule 2.38.3 as follows:

[D]

2.38.3. ~~Trenching for cable laying~~ Undergrounding of network utility lines³⁷.

136. Amend Standard 2.39.2 as follows:

2.39.2. ~~Trenching for cable laying~~ Undergrounding of network utility lines³⁸.

- 2.39.2.1. ~~Any earth not placed back in the trench~~ moved in the process of undergrounding³⁹ must be re-located in a stable location.
- 2.39.2.2. ~~Trenching~~ Undergrounding⁴⁰ must not occur in, or within 8m of, a Significant Wetland or Water Resource Unit with a Natural State water quality classification.
- 2.39.2.3. ~~Trenching~~ Undergrounding⁴¹ 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.
- 2.39.2.4. ~~The~~ Any vegetation cover of a trench site affected by the undergrounding⁴² must be restored within 6 months of the end of the operation.
- 2.39.2.5. Woody material greater than 100mm in diameter or soil debris must:
- (a) not be left within 8m of, or deposited in, a river (excluding an ephemeral river or intermittently flowing river, when not flowing), lake, Significant Wetland or the coastal marine area;
 - (b) not be left in a position where it can enter, or be carried into, a river (excluding an ephemeral river), lake, Significant Wetland or the coastal marine area;
 - (c) be stored on stable ground;
 - (d) be managed to avoid accumulation to levels that could cause erosion or instability of the land.
- 2.39.2.6. ~~Trenching~~ Undergrounding⁴³ 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:
- (a) hue must not be changed by more than 10 points on the Munsell scale;

³⁷ 464.34 – Chorus; Spark – 1158.32.

³⁸ 464.47 – Chorus; 1158.45 - Spark

³⁹ 464.47 – Chorus; 1158.45 - Spark

⁴⁰ 464.47 – Chorus; 1158.45 - Spark

⁴¹ 464.47 – Chorus; 1158.45 - Spark

⁴² 464.47 – Chorus; 1158.45 - Spark

⁴³ 464.47 – Chorus; 1158.45 - Spark

- (b) *the natural clarity must not be conspicuously changed due to sediment or sediment laden discharge originating from the trenching site;*
- (c) *the change in reflectance must be <50%.*

Maintenance, replacement and minor upgrading of network utility infrastructure – Rules 2.38.4 and 2.38.5

137. Rule 2.38.4 is a district rule that provides a permitted activity status for the maintenance and replacement of the types of network utility infrastructure listed within the rule, where the infrastructure existed at 9 June 2016. Rule 2.38.5 provides the same, in relation to minor upgrading. The listed infrastructure is:
- (a) *an electricity line or facility;*
 - (b) *a telecommunication line or facility*
 - (c) *a radio communication apparatus or facility;*
 - (d) *a meteorological service apparatus or facility.*
138. There are no permitted standards associated with these activities, although the definitions of “*maintenance and replacement*” and “*minor upgrading*” restrict what these activities encompass. Chorus (464.35 and 464.36) and Spark (1158.33 and 1158.34) support Rules 2.38.4 and 2.38.5 and seek their retention.
139. Federated Farmers (425.493), while supporting the maintenance aspect of Rule 2.38.4, consider that replacement is of a different scale and can create significant adverse effects on land owners and neighbours, and as such consider permitted status for replacement is inappropriate. They note that the NESETA does provide permitted status for replacement of transmission line support structures, but within conditions. As such, they seek that the rule is amended to remove reference to “*replacement*” of network utility infrastructure, and reference to electricity line or facility is removed and replaced with a separate standard for “*Maintenance and replacement of an electricity line or facility existing at 9 June 2016 in accordance with the National Environmental Standards for Electricity Transmission Activities*”. As a consequence, they seek (425.494) that a new discretionary activity rule is added for “*The replacement of telecommunication lines, radio communication apparatus, and meteorological service apparatus and facilities*”.
140. In my view, the permitted status for replacement activities does not provide for significant adverse effects, as the level of effects is limited by the definition of what constitutes “*maintenance and replacement*” which is as follows:
- means any work, including foundation work, or activity necessary to continue the operation and or functioning of an existing line, building, structure or (for the purpose of utilities) other facility with another of the same or similar height, size or scale, within the same or similar position and for the same or similar purpose.*
141. In essence, any replacement has to be of the same or similar size, scale, location and purpose. In my view, this means the permitted activity only allows for adverse effects at a scale commensurate with those currently existing. I also consider that there are further difficulties with what is sought by the submitter. Firstly, the proposed amendments would consequently remove the permitted status for maintenance (and replacement) for local electricity lines and facilities, which does not seem to have been contemplated by the submitter. Secondly, the proposed new standard effectively duplicates the NESETA, and under Section 44A of the RMA, local authorities are directed to remove rules that duplicate a national environmental standard. Therefore I do not recommend a change.
142. Related to this, Chorus (464.77), KiwiRail (873.176) and Spark (1158.69) support the definition of ‘*maintenance and replacement*’. Federated Farmers (425.409) also support the definition, but seek that it is amended as follows:
- means any work, including foundation work, or activity necessary to continue the operation and or functioning of an existing line, building, structure or (for the purpose of utilities) other facility with another of the same or similar character, intensity, height, size or scale, within the same or similar position and for the same or similar purpose.*

143. It is my view that this addition is not necessary, as the current wording makes it quite clear what is encompassed by the definition, and effectively limits any change in character or intensity in a clear way.
144. Heritage NZ (768.68) raise concerns that the relationship between the definition of '*maintenance and replacement*' and '*maintenance of a building or structure*' is unclear. As such they seek that reference to maintenance is removed and the definition only relates to replacement. My understanding is that the definitions relate to the specific use of these phrases within rules and therefore it is clear what definition applies in each case. As a result, to the extent that these definitions overlap, no actual issue arises from this overlap. Therefore I do not agree that the definition needs to be amended.
145. Federated Farmers (425.495) similarly oppose the permitted status provided to the minor upgrading of specifically identified network utility infrastructure, under Rule 2.38.5, as they consider this status to be inappropriate. They note that such utilities could be located on private land, with the minor upgrading having the potential to adversely affect existing land uses. They seek that a new standard is added to the rule, requiring that "*the minor upgrading must not cause any injurious affection to land not owned by the network utility operator conducting the upgrading*". The submitter cites the Electricity Act 1992 requirements as requiring this, and consider it needs to be included within the MEP for not only electricity transmission but also for the other network utilities covered by this rule. They further seek (425.411) that the definition for '*minor upgrading*' is amended to also refer to not resulting in injurious affection. Transpower further submit in opposition, on the basis that "injurious affection" has a particular meaning under the Electricity Act 1992 and it is not appropriate to apply that in an RMA context for a different purpose and across a wider range of utilities that are not governed by the Electricity Act.
146. I note that minor upgrading is not subject to meeting any specific permitted activity standards. However, the scale of what constitutes '*minor upgrading*' is restricted by its definition. Notably, the definition allows for an increase in the carrying capacity, efficiency or security of the identified facilities and lines, "*using the existing support structures or structures of a similar scale and character*". Examples given within the definition includes the addition of circuits, conductors, lightning rods, earthwires and longer or more efficient insulators, re-conductoring of lines, re-sagging of conductors, and associated earthworks. My view is that the limitations on what is provided for as a permitted activity are such that the effects on landowners are minimal, and appropriate to include as a permitted activity. In my view, adding the standard sought by the submitter is therefore unnecessary. For completeness I note that the standard sought could also add an element of subjectivity to determination of whether minor upgrading is permitted or not. On the same basis, I do not consider the additions to the definition to be appropriate.
147. Transpower (1198.69 and 1198.70) support Rules 2.38.4 and 2.38.5, but consider that they are unduly constrained to existing transmission lines and therefore inappropriately duplicate activities provided for by the NESETA and are therefore contrary to Section 44A of the RMA. They seek that reference to 9 June 2016 is deleted, and further amendments are made to add "*National Grid transmission lines, substations, telecommunications cables and associated access tracks*". They consider that these changes will clearly link to definitions within the MEP, and will reflect Transpower's assets and activities, including those provided for by the NESETA.
148. In relation to deleting the restriction in the rule to only network utilities existing at 9 June 2016, my view is that this is appropriate. In my view, the effects of maintaining and replacing such infrastructure is the same, regardless of when the infrastructure was established. The change would also reflect the changes recommended to Policy 4.2.1 (Topic 3: Natural and Physical Resources). I have some concerns that the amendments sought would, in effect, duplicate matters covered by the NESETA, which is contrary to Section 44A of the RMA. As set out earlier, following a discussion with the submitter, my understanding is that it is not intended that the rule duplicate the NESETA, rather, that it should capture those National Grid activities not covered by the NESETA, and from a drafting point of view, it is difficult to list those activities. My recommendation is to address this by drafting the rule to include "*that are not covered by the NESETA*". As noted earlier, I am neutral on the request to separate out National Grid transmission lines, substations, and telecommunications cables as a separate sub-clause, on the basis that these are already covered by (a) and (b) and therefore I consider the change makes no practical difference.
149. In relation to access tracks, it my view that in principle, it is appropriate to permit the maintenance of existing tracks associated with network utilities. However, I do not consider that the actual change

- sought by Transpower will achieve this, due to the narrow definitions of maintenance and replacement, and minor upgrading (which Rules 2.38.4 and 2.38.5 apply to). I do not consider that “*associated access tracks*” align with the definitions and therefore should not be included within these rules. In considering whether a separate rule and standard should be included for the maintenance of access tracks, my understanding is that the MEP would permit this in any case, including taking into account the changes recommended to the indigenous biodiversity clearance rules to provide an exemption for clearance associated with utilities.
150. Related to this, MLL (232.37) state that there is no definition in the MEP for “*maintenance*”. They note that this term is defined in the Electricity Act 1992 and consider the MEP should be consistent with that act, seeking that a definition is added for “*Maintenance, as it relates to electricity network utility infrastructure*” that in turn refers to Section 23(3) of the Electricity Act 1992. I note that Rule 2.38.4 applies to “*maintenance and replacement*” which is a defined term in the MEP. In my view an additional definition relating just to maintenance would duplicate this and is not necessary.
151. Transpower also seek (1198.155) that the definition of “*minor upgrading*” is amended to remove the following exception “*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*”. They state concern that on the one hand the definition provides for increased carrying capacity and efficiency, but on the other hand does not provide for an increase in voltage. They note that the NESETA enables an increase in voltage and current rating as a permitted activity. Horticulture NZ oppose this in a further submission on the basis that the effects of an increase in voltage have implications for landowners over whose property the line passes. In their primary submission, Horticulture NZ (769.126) seek instead that the final sentence is added to part (b) of the definition, to make it clear that addition of higher capacity conductors is limited. Transpower (1198.154) also consider that there is overlap between this definition and maintenance and replacement and may be some merit in either combining, or better distinguishing between the two. MLL (232.38) also raise concerns with the exception, stating that it is in conflict with “*what MLL can undertake under legislation in terms of upgrading to 110kV*”. They also state that in the WARMP and MSRMP, lines for conveying electricity at a voltage up to and including 110kV is permitted in all zones. They seek that 110kV lines are catered for in the MEP and the “*restrictive clause*” in the definition either be removed or modified to allow up to 110kV.
152. I firstly note that where the NESETA applies, it will take precedence over the MEP rules. As noted earlier, an amendment to the rule or addition of an advice note in relation to Rules 2.38.4 and 2.38.5 can address this, in terms of making it clear that the rule does not apply when the activity is covered by the NESETA (and for completeness, the NESTF). In terms of deletion or retention of restrictions on increasing line voltage, I can see merit in aligning what is allowed under the MEP with what is anticipated under the NESETA, noting that the NESTA only covers National Grid assets. However, I expect that the restriction may relate to addressing potential visual adverse effects of voltage increases, and any potential consequential effects of the change. For example, it is not clear to me if in permitting the voltage increase, the rules that might apply with respect to the National Grid Yard would change, thereby increasing the restrictions applicable to the land the lines traverse, without the parties affected by those restrictions being able to participate in that process. Therefore, it would be helpful if Transpower can clarify if there are any consequential effects of permitting the voltage increase, and both submitters can provide any details about the visual effects that arise from this, for example, photographs showing the difference in effects. As such, at this stage I am not in a position to make a recommendation on the changes sought.
153. Chorus (464.78) and Spark (1158.70) seek a range of amendments to the definition of minor upgrading “*in order to provide absolute clarity as to what the parameters of minor upgrading are*”. They consider that it should include the replacement, reconfiguration and relocation of existing telecommunication lines, as well as the addition of new lines, and should allow for the replacement of a support structure (pole). They further seek that it provides for the replacement of antennas. They state that these changes will remove any ambiguity as to what is deemed “*same or similar*” under the definition of “*maintenance and replacement*”. I understand the sentiment behind what is sought, being that it provides specific parameters for the replacement of poles. Given the changes sought generally relate to replacement, my view is to the extent that any specific parameters might be appropriate, they would better sit within the maintenance and replacement definition. However, I have concerns that the specific changes do not align with the intent of either definition. Namely, I do not agree that allowing for a 25m high pole to replace an existing pole (regardless of the height of the existing pole) would be of similar scale or character. Likewise, a 50% increase in pole diameter is not, in my view, of a similar scale and character. As noted earlier, I also had discussions with these

submitters regarding the alignment between the MEP with the new NESTF. This did not extend to considering the changes sought to this definition, and so the submitters may wish to advise to what extent the changes sought align with what is provided for under the MEP.

Recommendation

154. Amend Rule 2.38.4 as follows:

[D]

2.38.4 Maintenance and replacement of the following network utility infrastructure existing at 9 June 2016⁴⁴:

- (a) an electricity line or facility;
- (b) a telecommunication line or facility
- (c) a radio communication ~~apparatus or facility~~⁴⁵;
- (d) a meteorological service apparatus or facility.

Except that this rule does not apply to activities, or those aspect of activities, that are provided for under the National Environmental Standards for Electricity Transmission Activities or the National Environmental Standards for Telecommunication Facilities 2016.⁴⁶

155. Amend Rule 2.38.5 as follows:

[D]

2.38.5 Minor upgrading of the following network utility infrastructure existing at 9 June 2016:

- (a) an electricity line or facility;
- (b) a telecommunication line or facility;
- (c) a radio communication ~~apparatus or facility~~⁴⁷;
- (d) a meteorological service apparatus or facility.

Except that this rule does not apply to activities, or those aspect of activities, that are provided for under the National Environmental Standards for Electricity Transmission Activities or the National Environmental Standards for Telecommunication Facilities 2016.⁴⁸

Vegetation trimming or clearance – Rule 2.38.6 and Standard 2.39.3

156. Rule 2.38.6 is a district rule that provides a permitted activity status for:

Vegetation trimming or clearance associated with the maintenance, replacement and minor upgrading of a network utility existing at 9 June 2016.

157. The permitted status is subject to the standards in 2.39.3 being met.

⁴⁴ 1198.69 – Transpower.

⁴⁵ 464.32 – Chorus; Spark – 1158.30.

⁴⁶ 1198.66 – Transpower. Also relates to requirements under Section 44A of the RMA.

⁴⁷ 464.32 – Chorus; Spark – 1158.30.

⁴⁸ 1198.66 – Transpower. Also relates to requirements under Section 44A of the RMA.

158. DOC (479.187, 479.188) support Rule 2.38.6 and Standard 2.39.3 as they consider that vegetation trimming around sites of existing structures is appropriate as a permitted activity as it is unlikely to have effects on biodiversity.
159. NZTA (1002.173) seek that Rule 2.38.6 is amended to remove reference to only network utilities "*existing at 9 June 2016*". They agree with the permitted status for clearance associated with maintenance, replacement and minor upgrading of network utilities, including roads, but consider it appropriate to permit the same in relation to any future infrastructure, to ensure the ongoing safe, and efficient operation of the road network. I agree with this, on the basis that the effects of the activity are the same regardless of when the road (or any other network utility) was established. For completeness I note that the change would only allow for maintenance, repair and minor upgrading of any new utility established; it does not permit vegetation trimming or clearance associated with the establishment of any new utility.
160. Transpower (1198.71) similarly seek that Rule 2.38.6 is amended to remove reference to only network utilities "*existing at 9 June 2016*". Further, they seek that it is amended to provide a regional rule for vegetation clearance. They also seek that it is extended, to add "*including their associated access tracks*", and to explicitly state that no other rules in the MEP apply. No specific reasons are given for these changes. My understanding, following a discussion with the submitter, is that the regional rule is sought so that it covers vegetation trimming or clearance within the bed of any lake or river. I am comfortable with this addition, on the basis that such clearance is limited to that associated with the maintenance, repair or minor upgrading of a network utility, which in turn, is limited by the definitions of those activities. However, given that the MEP includes regional rules for vegetation clearance (indigenous and non-indigenous), the submitter may wish to clarify the extent to which an additional, separate, rule is necessary, including the extent to which the current rules do not achieve the outcome sought. My preliminary view is that a separate rule may be more complicated than necessary. This does not preclude that it may be appropriate to amend the relevant vegetation clearance rules to specifically refer to maintenance, replacement and minor upgrading of a network utility, if the current rules and standards are considered too onerous. If the Hearings Panel does agree with including a specific separate regional rule as sought, then in line with earlier recommendations, my view is that as a regional rule, it would be better to include such a rule within Section 2.7, rather than amend Rule 2.38.6 to be a regional rule.
161. In my view, the additional note that no other rules apply is not required, because of the changes recommended elsewhere to clarify what rules apply and what do not. As set out above, my concern with extending the standard to refer to "*associated access tracks*" is that this would not actually provide for clearance associated with the maintenance of the tracks themselves, but only where it related to something that fell within the narrow definition of maintenance, replacement or minor upgrading. As noted above, my understanding is that vegetation clearance associated with the maintenance of access tracks has been recommended to be a permitted activity in Topic 6, and if accepted by the Hearings Panel, would have the same effect as what I understand the submitter to ultimately be seeking.
162. Chorus (464.53) and Spark (1158.46) seek an amendment to standard 2.39.3.2 so that it restricts only clearance by a bulldozer on slopes greater than 34°. They consider that the current wording is somewhat confusing and has potential implications for the "*routine clearing of access tracks to remote radio sites*". Further, they consider the slope angle is unnecessarily restrictive and should be increased. I note that these standards reflect those zone-based standards for non-indigenous vegetation clearance (for example, Standard 3.3.12.1). In my view, in order to ensure consistency across the MEP, any changes made to 2.39.3.2 should align with those zone-based standards, and therefore these standards should be considered as part of Topic 13.

Recommendation

163. Amend Rule 2.38.6 as follows:

[D]

2.38.6 Vegetation trimming or clearance associated with the maintenance, replacement and minor upgrading of a network utility existing at 9 June 2016⁴⁹.

160. Amend Standard 2.39.3 as follows:

2.39.3. Vegetation trimming or clearance associated with the maintenance, replacement and minor upgrading of a network utility existing at 9 June 2016⁵⁰.

- 2.39.3.1. *Vegetation (except noxious plants under the Noxious Plants Act) must not be removed by chemical, fire or mechanical means within 8m of a river (excluding an ephemeral river, or intermittently flowing river when not flowing) or the coastal marine area.*
- 2.39.3.2. *Where clearance is by hand or mechanical means, blading or root-raking by a bulldozer must not be used on slopes greater than 20°.*
- 2.39.3.3. *All trees must be felled away from a river (excluding an ephemeral river, or intermittently flowing river, when not flowing), Significant Wetland or the coastal marine area.*
- 2.39.3.4. *No tree or log may be dragged through the bed of a river (excluding an ephemeral river or intermittently flowing river when not flowing), Significant Wetland or the coastal marine area.*
- 2.39.3.5. *Wheeled or tracked machinery must not be operated in or within 8m of a river (excluding an ephemeral river or intermittently flowing river, when not flowing), Significant Wetland or the coastal marine area.*
- 2.39.3.6. *Woody material greater than 100mm in diameter or soil debris must:*
 - (a) *not be left within 8m of, or deposited in, a river (excluding an ephemeral river or intermittently flowing river when not flowing), Significant Wetland or the coastal marine area;*
 - (b) *not be left in a position where it can enter, or be carried into, a river (excluding an ephemeral river), Significant Wetland or the coastal marine area;*
 - (c) *be stored on stable ground;*
 - (d) *be managed to avoid accumulation to levels that could cause erosion or instability of the land.*

New provisions

164. Chorus and Spark sought a new permitted activity for: “telecommunication customer connections” (464.45 and 1158.43); new permitted and controlled activities for “small-cell units on structures” (464.46 and 1158.44); and a new controlled activity for telecommunications cabinets within legal road (464.54 and 1158.47). Following a discussion with the submitter, these new rules are no longer being sought, because the NESTF permits each of these activities, within defined standards including size limits. Where the standards are not met, consent will be required and the activity status will be determined by reference to the MEP, which would essentially default to discretionary as these activities are not otherwise covered by the rules. The submitters have indicated that this acceptable, and in practise, it is likely that telecommunications providers will design small-cell units and cabinets to meet the standards prescribed in the NESTF, for all but unusual situations, where the requirement to obtain a discretionary consent is accepted.
165. Transpower (1198.72, 1198.73, 1198.74) seek that an additional rule and related permitted activity standards are included within this section. This would generally provide for network utilities within the

⁴⁹ 1002.173 – NZTA.

⁵⁰ 1002.173 – NZTA.

National Grid Yard as a permitted activity, subject to their compliance with NZECP34:2001, except that the reticulation and storage of water within the Yard would require consent as a non-complying activity (as would failure to comply with NZECP34:2001). They state that this is necessary in order to appropriately give effect to Policy 10 of the NPSET. I note that the provisions sought are consistent with those in two recent plans that I am familiar with (Hurunui District and Christchurch City) and am therefore generally comfortable that they have been accepted as being necessary to give effect to Policy 10 within those jurisdictions. However, as expanded on later in this report (in relation to zone-based National Grid provisions), it would be preferable if the submitter can expand on why this particular activity needs to be managed to ensure that the operation, maintenance, upgrading, and development of the network is not compromised (i.e. how it relates to Policy 10) and to confirm that they have considered the applicability of the standards in the context of irrigation in Marlborough (i.e. it is actually necessary). My provisional recommendation therefore only includes the standard relating to NZECP34:2001.

166. Chorus (464.56 and 464.57) and Spark (1158.48 and 1158.49) also seek that any permitted network utility that does not meet a permitted activity standard should be considered as a restricted discretionary activity, rather than a fully discretionary activity, *“with Council’s discretion restricted to the specific permitted standard not complied with”*. They consider the discretionary status to be too high, and consider that the only matter that should be considered is the parameter that has not been complied with. My understanding is that the only difference between restricted discretionary and discretionary activities, is that with the former, the Council’s discretion is limited to specified matters, whereas with the latter, the discretion is not limited. For both, a resource consent is required, the application may be granted or declined by the Council, and neither are subject to the additional requirements of Section 104D of the RMA (applying to non-complying activities). In my experience, restricted discretionary activities are generally used, and appropriate, where the effects that a council consider need to be managed are narrow and easy to identify and define. A discretionary status is then more appropriate where the effects are less well known (and therefore not easy to identify or define) or are so numerous or broad that there is no real limit to the discretion. On this basis, I do not necessarily agree that the discretionary status is too ‘high’ – it is more a question of whether the effects intended to be managed are narrow and easy to identify and define.
167. My concern with what is sought, is that limiting discretion to the permitted standard not complied with still does not necessarily identify what *effects* are intended to be managed by the standard. By way of example, if the standard not met is 2.39.1.2 (because the utility will be located within the White Bluffs Outstanding Feature and Landscape), the rule does not identify what particular effects of being located within this area the discretion is limited to and therefore anything relating to the location could be considered. However, I am aware that this is the approach taken in the NESTF. Overall, I am essentially neutral on the change sought, because I do not think it actually assists the submitter in terms of limiting the effects considered, but conversely accept that it is an approach taken in other statutory documents.
168. M. Batchelor (263.2) seeks, in relation to the whole of Volume 2, that new rules are added in each zone, broadly relating to landscape quality, urban design and public safety. There are a range of new rules sought, but of relevance to the utility provisions is the request that:
1. *Any trees removed for the purpose of protecting existing lines shall be replaced by new trees.*
 2. *Where any telecommunication or lines for similar purpose and electricity lines are being installed or replaced these shall be installed underground.*
 3. *Equipment, structures and containers associated with services and utilities located within roadways shall be screened by vegetation and coloured in low reflectivity colours*
169. It is my view that, in a general sense, controls relating to landscape quality and urban design need to be balanced against practicality and functioning of utilities. My understanding of electricity infrastructure is that there are requirements under the Electricity (Hazards from Trees) Regulations 2003, that manage vegetation near lines, which are aimed at addressing potential adverse effects on the safety and functionality of the infrastructure. Therefore, in my view, where vegetation is removed for the purpose of protecting existing lines, it is entirely inappropriate to replace such vegetation (as sought in (1) above), as it is likely to conflict with the regulations and would effectively replicate the issue that has been addressed. In relation to (2) above, I note that Standard 2.39.1.9 includes a

requirement for new lines to be located underground within various urban zones.⁵¹ In my view, this is an appropriate requirement for urban environments, and balances practicality with urban amenity. In my view, it would not be appropriate to require this in relation to lines in other zones, particularly given the likely costs associated with such undergrounding. In addition, my view is that overhead lines are an anticipated part of rural environments and do not conflict with their character and amenity. I therefore do not agree that lines should be required to be underground in these non-urban zones.

170. In relation to (3), my view is that such requirements go too far. The permitted activity standards are aimed at minimising the visual effects of utilities, while accepting that there are a level of effects that are appropriate when taking into account the necessity for such infrastructure. For example, there are height limits on utility buildings and masts and size limits and setback requirements on utility buildings and antenna etc. There are also additional controls in more sensitive environments (the Coastal Marine Zone and White Bluffs ONF/L) whereby utilities in those areas are not permitted. In my view, requiring that all utility equipment, structures and containers within roadways be screened and painted in low reflectivity colours goes too far in terms of mitigating or avoiding any adverse visual effect associated with such infrastructure in the road reserve. With particular regard to telecommunications infrastructure, I also note that under the NESTF some facilities are in any case permitted within road reserve and not subject to screening or colour limitations.⁵² As such I do not recommend the utility provisions are amended as sought in this submission.

Recommendation

171. Insert a new Rule into Section 2.38 Permitted Activities as follows:

[D]

2.38.X. Network utilities within the National Grid Yard⁵³

172. Insert a new Standard into Section 2.39 Standards that apply to specific permitted activities, as follows:

2.39.4 Network utilities within the National Grid Yard

2.39.4.1 Utility buildings and structures shall comply with NZECP34:2001.⁵⁴

Related Definitions

173. This section addresses any related submission on definitions that have not been considered above.
174. Chorus and Spark⁵⁵ support the definitions for 'antenna', 'network utility structure', 'radiocommunication facility', 'telecommunication facility' and 'telecommunication line' and seek that they are retained as proposed. KiwiRail (873.183) support the definition of 'utility'. No submissions have sought changes to these definitions, therefore I recommend that they are retained.
175. KiwiRail (873.177, 873.178) support the definitions for 'network utility' and 'network utility operator' but seek that they are amended to refer to Section 166 of the RMA, rather than Section 2. I agree that as Section 2 refers to Section 166 in any case, the change has no practical effect but avoids unnecessary complexity.
176. MLL (232.39) note that NZECP34:2001 is specifically referenced in a number of rules and is defined in the MEP. They seek that reference to this is followed with "...or subsequent amendments" to "ensure that the most up to date practice is immediately effective rather than having to go through a plan change process." My concern with this is that the rules rely on the specific requirements within the NZECP34:2001, for example "ground to conductor clearance distances as required in Table 4".

⁵¹ Urban Residential 1, 2 and 3, Business 1 and 2, Industrial 1 and 2, and Open Space 1 and 2.

⁵² For example, cabinets in road reserve and poles for telecommunication facilities.

⁵³ 1198.72, 1198.73, 1198.74 - Transpower

⁵⁴ 1198.72, 1198.73, 1198.74 - Transpower

⁵⁵ 464.75, 464.79, 464.80, 464.82, 464.83, 1158.67, 1158.71, 1158.72, 1158.74, 1158.75.

Any revision of that code of practise could mean that the rules in the MEP no longer make sense. I therefore do not recommend a change.

Recommendation

177. Amend the definition of 'Network utility' as follows:

has the same meaning as network utility operator in Section 2 166 of the Act⁵⁶

178. Amend the definition of 'Network utility operator' as follows:

has the same meaning as in Section 2 166 of the Act⁵⁷

Matter 5 – Changes sought to zone provisions (plan-wide) that relate to utilities

Submissions and Assessment

Railways

179. KiwiRail (873.127 and 873.122) seek an addition to the restrictions on woodlot forestry plantings in the Rural Environment Zone (Rule 3.3.8.2) and Coastal Environment Zone (4.3.7.2), such that an additional permitted standard would be included to restrict planting within 10m of the rail corridor. They state that such planting has the potential to raise safety concerns where adjacent to the rail corridor (examples are provided within the submission) and therefore a setback is required. While I agree in principle that if there are safety issues with planting in this area, a setback could be an appropriate way to manage it, I note that the additional standard is likely to be of limited effect. This is because the planting setback requirement will only apply to what falls within the definition of woodlot forestry planting. My understanding is that the MEP does not include restrictions on other planting, which could be located within the 10m setback, for example, shelterbelt planting alongside the boundary with the rail corridor. In relation to other forestry planting that is managed under the NESPF, I do note that this includes a requirement for afforestation (i.e. planting) to be setback 10m from adjoining properties, which would include the boundary with the rail corridor.
180. Overall, while I therefore agree that the setback may be appropriate to ensure potential effects of woodlot forestry planting on this type of infrastructure is appropriately managed, I am not convinced that the rule will be particularly effective at addressing the issues in the submission, that would apply to all planting. Before recommending that such a standard is included, it would therefore be helpful if the submitter can comment further on whether there is a need for the rule, given other planting could still create the issues of concern. If the standard is included, I also reiterate the comments in the Section 42A report for Topic 7: Public Access and Open Space – that further consideration needs to be given to the wording used, as “*rail corridor*” is not defined in the MEP and it is not clear what is intended by it. Again, it would be helpful if the submitter can address this point before I can make a recommendation.

Electricity distribution network

181. MLL⁵⁸ seek that the permitted activity standards in the Rural Environment, Coastal Environment and Rural Living zones, that relate to woodlot forestry planting and conservation planting, (Rural Environment 3.3.8.2 and 3.3.10, Coastal Environment 4.3.7.2 and 4.3.9, and Rural Living 8.3.7.2 and 8.3.9,) are amended to require a 40m wide setback from their distribution circuit.⁵⁹ They

⁵⁶ 873.177 - KiwiRail

⁵⁷ 873.178 - KiwiRail

⁵⁸ 232.3, 232.4, 232.5, 232.6, 232.7 and 232.8.

⁵⁹ This request is also made in relation to commercial forestry planting and replanting, and carbon sequestration forestry planting. Because of the potential overlap of these with the NESPF, these will be addressed in Topic 22.

consider that planting within this setback should require consultation with MLL, with the intention being to restrict the establishment of species that at maturity would be within the “*fall distance*” of the distribution circuit and will not compromise the requirements of the Electricity (Hazards from Trees) Regulations 2003. They consider that vegetation management in proximity to the distribution circuit is essential because of the potential risks to public safety and reliability of supply that are exacerbated by vegetation in proximity to lines. Nelson Forest Limited and Nelson Management Limited further submit (in relation to the Rural Environment Zone) that as the Electricity Regulations determine setback distances from power lines, it is not appropriate to impose these in RMA Plans.

182. Transpower (1198.86, 1198.97, 1198.137) also seek that an advice note is added to standards 3.3.8, 4.3.7 and 19.3.2 that “*Planting in the vicinity of 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*”. My understanding is that these regulations apply to the local distribution network as well the National Grid. My preference would therefore be to amend the note proposed by Transpower to reflect this, and rely on the regulations, while ensuring (through the advice note) that parties are aware of the additional obligations. Notwithstanding this, if a standard within the MEP is preferred, my view is that the permitted standard be drafted as follows, which in my view will achieve the same intent as sought by MLL, while not resulting in additional and unnecessary costs:

Planting must not be in, or within:

...

(g) 40m of the electricity distribution network, unless the species, at maturity, will not be within the fall distance of the distribution circuit”.

183. MLL also seek that a similar 40m setback be applied to non-indigenous vegetation clearance⁶⁰ and harvesting.⁶¹ In relation to harvesting, I note that the rules are regional rules. In my view, proximity to the distribution circuit does not relate to a regional council function and is not appropriate. While the non-indigenous vegetation clearance rule is both a regional and district rule, it is my view that the majority of standards relate to management associated with the potential effects arising from soil disturbance and the implementation of policies relating to that. As such, it is my view that the addition does not fit comfortably within the rule, and if it is a matter managed under the Electricity Regulations, then an advice note referring to that might be more appropriate. If it is not managed under the Regulations, then I consider further detail is required around the exact standard that is sought, as simply not permitting vegetation clearance within 40m is likely to be inefficient. For example, where the vegetation is of a low height and will not affect the distribution circuit.
184. Related to this, MLL (232.1) seek that the Marlborough Lines Limited electricity network and distribution circuit is added to the Zoning Maps. This is stated as being of assistance in “*raising awareness of the importance of the MLL electricity network or distribution circuit*” and to identify when landowners or developers need to consider MLL assets. My understanding from the submission is that this would include 230v, 400v, 11kV, 22kV, 33kV and 66kV lines, although the map provided with the submission only includes 33kV lines. It is my view that information contained on planning maps should relate to the provisions within a plan, and therefore included if it assists with the implementation of the plan. For example, if rules or advice notes are provided that refer to the electricity network or distribution circuit, mapping of these would assist with implementation of the MEP. My understanding is that the notified MEP did not include such rules or advice notes and therefore my recommendation would not be to include the network/circuit on the maps, unless the Hearings Panel agrees to include standards or advice notes relating to the network/circuit.
185. In several zones there are permitted activity standards relating to filling that require that the fill “*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 (NZECP34:2001)*”.⁶² MLL (232.40, 232.41, 232.42, 232.43) consider that Figure 1 from the NZECP34:2001 is an appropriate document to include in the MEP, as the figure addresses the minimum safe distances for excavation and construction near poles or stay wires. It is not clear to me how the diagram and Table 4 relate, as my understanding is that the

⁶⁰ 232.10, 232.12, 232.13, 232.14, 232.15, 232.16, 232.17, 232.18, 232.19, 232.20, 232.21.

⁶¹ 232.22, 232.23, 232.24.

⁶² 3.3.15.5 Rural Environment, 4.3.14.5 Coastal Environment, 7.3.10.5 Coastal Living and 12.3.19.5 Industrial 1 & 2 zones.

diagram relates to much wider requirements than filling. In my view its inclusion is therefore not related to the standard and if that is the case, could be misleading.

Recommendation

186. Amend Standard 3.3.8.2, 4.3.7.2 and 8.3.7.2 too add the following note at the end of the standard:

X.3.X.2 Planting must not be in, or within:

...

*Note: Planting in the vicinity of electricity lines should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.*⁶³

187. Add the following note at the end of Standards 3.3.10, 4.3.9, 8.3.9, 19.3.2 (Conservation planting) as follows:

*Note: Planting in the vicinity of the electricity lines should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.*⁶⁴

National Grid provisions

188. The MEP contains provisions, within the Zone chapters, relating to activities in proximity to National Grid infrastructure. These include:

- a permitted activity rule for “*Excavation or filling within the National Grid Yard*”⁶⁵, subject to a number of permitted activity standards⁶⁶;
- a requirement (standards applicable to all permitted activities) to be setback 90m from the designation boundary or secured yard of the Blenheim substation⁶⁷;
- limits on buildings or structures that can be located under National Grid conductors (wires) within the National Grid Yard⁶⁸, or within a certain proximity to Support Structures⁶⁹.

Limits on buildings or structures in proximity to the National Grid

189. The following assessment applies to Standards 3.2.1.17; 3.2.1.18; 4.2.1.15; 4.2.1.16; 12.2.1.9; 12.2.1.10; 7.2.1.10; and 7.2.1.11.

190. These Standards are those that apply to all permitted activities, meaning that any activity listed as permitted in Rule 3.1, 4.1, 7.1 or 12.1, is required to also comply with any standards specified in 3.2, 4.2, 7.2 and 12.2 respectively. As noted above, the standards limit what buildings or structures can be located under National Grid conductors (wires) within the National Grid Yard⁷⁰, or within a specified proximity from any Support Structure⁷¹.

191. While Transpower state that they generally support the inclusion of standards that restrict activities in the vicinity of the National Grid, they are concerned that the current drafting is such that it only addresses buildings and structures in this vicinity, and not activities more generally. They consider

⁶³ 232.6, 2.3.7, 232.8 – MLL; 1198.86, 1198.97, 1198.137 - Transpower

⁶⁴ 232.3, 232.4, 232.5 – MLL, 1198.137 – Transpower

⁶⁵ Rules 3.1.15, 4.1.14, 7.1.12, 12.1.30.

⁶⁶ Standards 3.3.15, 4.3.14, 7.3.10, 12.3.19.

⁶⁷ Standards 3.2.1.8, 5.2.1.18.

⁶⁸ Standards 3.2.1.17, 4.2.1.15, 7.2.1.10, 12.2.1.9.

⁶⁹ Standards 3.2.1.18, 4.2.1.16, 7.2.1.11, 12.2.1.10.

⁷⁰ Standards 3.2.1.17, 4.2.1.15, 7.2.1.10, 12.2.1.9.

⁷¹ Standards 3.2.1.18, 4.2.1.16, 7.2.1.11, 12.2.1.10.

this to be inconsistent with Policy 11 of the NPSET which directs local authorities to identify appropriate buffer corridors within which “*sensitive activities*” are generally not provided for. They also raise concerns that the standards apply only to permitted activities, and as such do not apply to controlled, restricted discretionary or discretionary activities. They seek⁷² that the standards are deleted and replaced with a standalone permitted activity rule for “*Buildings, structures and activities within the National Grid Yard*”, with specific permitted activity standards, and with non-compliance defaulting to a non-complying activity status.

192. The wording of the Standard sought is:

“X.3.x. Buildings, structures and activities in the vicinity of the National Grid

X.3.x.1 *Sensitive activities and buildings for the storage of hazardous substances 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, milking/dairy sheds, structures associated with the reticulation and storage of water for irrigation purposes).*

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 are located at least 6m from the foundation of a National Grid transmission line support structure; or*

(b) *artificial crop protection structures or crop support structures located within 12 metres of a National Grid transmission line support structures that meet requirements of clause 2.4.1 of NZECP34:2001.*

X.3.x.4 *All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor or otherwise meet the safe electrical clearance distances required by of NZECP34:2001 under all transmission operating conditions.*

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) Regulation 2003.

193. My understanding of the changes sought are that they are largely consistent with the standards notified in the MEP, except that they explicitly ensure that any sensitive activity or hazardous substance storage are captured by the rule, and they will apply to any building, structure or activity in proximity to the National Grid (rather than only to permitted activities). In my view, this is appropriate, and better aligns with the policy direction in both the NPSET and the MEP. I note that Federated Farmers (425.513, 425.636) support Standards 3.2.1.18 and 4.2.1.16, but note that the changes sought by Transpower do not affect the substance of the standard.

194. In a further submission, Timberlink oppose the standards sought (in relation to the Industrial 1 & 2 zones) as they consider that these affect existing structures and activities and their continuing use and investment in property. They consider this unreasonable, because they relate to an infrastructure activity that serves the activities that they affect. They also consider that Transpower have greater flexibility in location. They state that effects on existing activities and structures and property interests should be avoided and included in the rule, for example new wires and support structures that can adversely affect utilisation of the full extent of development on a site. I note that the standards sought by Transpower will only apply to new activities. I also note that these standards do not control (and are not intended to control) Transpower’s activities, which are addressed under other rules and through the designation provisions of the RMA. I consider that in any case, it is outside the scope of the further submission to seek additional controls which do not relate to the activity that the primary submission relates to. In my view, the standards are reasonable, necessary to give effect to the NPSET and RPS-level provisions in the MEP, and consistent with the restrictions commonly found in other district plans.

⁷² 1198.78, 1198.79, 1198.80, 1198.81, 1198.82 (Rural Environment) 1198.91, 1198.92, 1198.93, 1198.94, 1198.95 (Coastal Environment) 1198.104, 1198.105, 1198.106, 1198.107, 1198.108 (Coastal Living Zone) 1198.114, 1198.115, 1198.116, 1198.117, 1198.118 (Industrial 1 and 2 Zones).

195. The standards, as sought by Transpower, would also apply to a larger range of uninhabited farming/horticultural buildings, including irrigation storage and reticulation, and to those used for the storage of hazardous substances. Related to this, Federated Farmers (425.512, 425.635) generally support the proposed permitted activity standards within the National Grid Yard, but seek that any uninhabitable building used for farming or horticulture should be permitted. As such, they seek that 3.2.1.17(b) and 4.2.1.15(b) are amended to delete *“but must not be used as a dairy shed, intensive farming building or commercial greenhouse”*. Horticulture NZ, in a further submission, opposes the application of the standard to the storage of water for irrigation, on the basis that it is not a sensitive activity and that as it singles out the storage of water for irrigation (rather than all water storage) it is not effects based. My understanding is that the standards, as sought by Transpower and including their application to commercial greenhouses, wintering barns, produce packing facilities, milking/dairy sheds, structures associated with the reticulation and storage of water for irrigation purposes, and buildings used for the storage of hazardous substances, are consistent with recent plan provisions in other jurisdictions, namely Hurunui District and Christchurch District. Therefore, I am generally comfortable with the changes sought by Transpower, except where identified below, and do not agree with Federated Farmers that an exemption should be applied to the larger farming or horticulture buildings specified.
196. There are two areas where I consider further justification, particularly taking into account the relevant context applicable to the Marlborough District, would assist, before making a final recommendation. The first relates to the proposed restriction on *“structures associated with the reticulation and storage of water for irrigation purposes”*. While I appreciate that this has been imposed in other jurisdictions, it would be helpful if the submitter can expand on what aspects of this activity require management so as to ensure that the operation, maintenance, upgrading, and development of the network is not compromised (i.e. how it relates to Policy 10) and to confirm that such a standard is necessary in the context of the type of irrigation used in Marlborough. This may also address the concerns raised in Horticulture NZ’s further submission as to why the rule would apply only to the storage of water for irrigation purposes. My preliminary recommendation (as set out below) therefore excludes this aspect, pending further explanation being provided by Transpower.
197. The second area relates to application of the rule to *“buildings for the storage of hazardous substances”*. Within the MEP, and as directed in Policy 15.5.1, the approach taken is to rely on the Hazardous Substances and New Organisms Act 1996 (HSNO) to manage the use of hazardous substances. There are only two areas (relating to groundwater protection zones and discharge of hazardous waste) that the MEP imposes controls relating to hazardous substances. In my experience, and consistent with recent amendments made to the RMA, it is becoming increasingly common for district plans to rely on HSNO to manage hazardous substances, with rules only imposed where they are considered necessary to manage the effects associated with hazardous substances in particular instances where HSNO is not considered sufficient. As such, it would be useful for the submitter to confirm if HSNO controls alone are not sufficient to manage the issue, and to address the alignment of what is sought with Policy 15.5.1.
198. Horticulture NZ (769.93) state that together with Transpower, they have considered the requirements of the NPSET and how they interface with horticultural activities, particularly structures. They note that provision has been made for such structures so that horticultural activities are able to continue in the vicinity off the National Grid, under specific conditions, and seek that such provision is made in the MEP. They seek that Standard 3.2.1.18 is amended to add additional clauses as follows:
- (c) *Artificial crop protection structures and crop support structures between 8-12 metres from a pole support structure that:*
- *Meet the requirements of NZECP34:2001*
 - *Are no more than 2.5 metres in height*
 - *Are removable or temporary to allow a clear working space 12 metres from the pole where necessary for maintenance purposes*
 - *Allow all weather access to the pole and a sufficient area for maintenance equipment, including a crane.*
- (d) *An artificial crop support structure or crop support structure located within 12 metres of a tower support structure that meets the requirements of Clause 2.4.1 of NZECP34:2001.*
199. I note that proposed clause (d) is consistent with the amended provisions sought by Transpower and I am comfortable with its inclusion on the basis that the exemption it provides is acceptable to the

infrastructure owner. My understanding of clause (c), is that it would apply to “pole” support structures (whereas (d) would apply to “tower” support structures), and would place more stringent requirements (in addition to compliance with NZECP34:2001) on the identified structures, than that proposed in Transpower’s submission. (This assumes that reference to “*National Grid transmission line support structures*” in Transpower’s submission would cover both “pole” and “tower” structures.) The submitter may wish to clarify this, but based on my current understanding, I consider it unnecessary to add the substance of what is sought in clause (c).

200. In addition to the above, Transpower seek⁷³ that the National Grid zone provisions, (as they are sought to be amended through the submission,) are included within the Open Space 2, Open Space 3 and Open Space 4 zones. This includes both a permitted activity rule and related standards for “*Buildings, structures and activities within the National Grid Yard*” and “*Earthworks within the National Grid Yard*”. They state that as the National Grid transmission lines traverse these zones, in absence of such rules, the zone rules in relation to these chapters do not give effect to Policy 10 or 11 of the NPSET or achieve the purpose of the RMA. As a result of discussions, Transpower has since confirmed that there are no assets located, or likely to be located, within the Open Space 4 Zone, there is no need for the National Grid provisions to be included in the MEP rules for this zone. On the basis that the National Grid Yard traverses the Open Space 2 and 3 zones, and the provisions in relation to Open Space 4 are no longer being pursued by Transpower, I agree that the same provisions should be included in the Open Space 2 and 3 Zone provisions, in order to give effect to the NPSET, and achieve the MEP’s objectives. This also ensures a consistent approach is taken in all relevant zones. In my view, the drafting should be consistent with any amendments made to the drafting of these rules and standards in other zones.

Related definitions

201. Transpower (1198.162) seek that a definition is included for ‘sensitive activities’, as follows: “*means those activities that are particularly sensitive to National Grid transmission lines. Such activities are residential activities, retirement accommodation, visitor accommodation, worker accommodation, Marae activity, camping grounds, schools, childcare and preschool facilities, and health care activities.*”
202. Similarly, Horticulture NZ (769.128) note that the MEP has a definition for noise sensitive activities, but not a separate definition for ‘sensitive activity’. They consider that there are situations where sensitivity will exist for reasons other than noise and as such there should be a definition for sensitive activities. They seek a new definition for this that would include: habitable buildings; educational facilities; correctional facilities; public places and amenity areas where people congregate; and public roads. In a further submission, Transpower support the principle of including a definition but raise concerns with the specific definition sought, and the application it would have to activities in the vicinity of the National Grid, noting that it is not consistent with the NPSET definition. Fonterra also support a definition for sensitive activities but prefer the list of activities in the Transpower submission, minus the reference to these being limited to those that are particularly sensitive to the National Grid transmission lines.
203. It is my view that if the amended standards which refer to “*sensitive activities*” are included as sought by Transpower (and recommended in this report), it is appropriate to include a definition for what this encompasses. This definition should be targeted to the activities which the rule is intended to manage, rather than a broader definition (which appears to be what is sought by Horticulture NZ). I therefore have concerns regarding the applicability of the specific definition sought by Horticulture NZ, and in particular, it is not clear how public places and roads would apply. Conversely, I have concerns that the definition sought by Transpower is not sufficiently certain because it requires a case-by-case assessment of whether an activity is “*particularly sensitive to National Grid transmission lines*”. I therefore agree with the further submission of Fonterra. The submitters may wish to comment on this further, but my preference would be to either use the list of activities in Transpower’s definition (but remove the first sentence of their proposed definition), or consistent with Horticulture NZ’s submission refer to “habitable buildings”, as well as camping grounds, schools, childcare and preschool facilities, and health care activities.
204. Transpower (1198.156) seeks that an additional definition is added for “*National Grid*”. This is sought to align with the NPSET and the NESETA and to clarify and confine relevant provisions of the MEP. I

⁷³ 1198.125, 1198.126, 1198.127, 1198.129 (Open Space 2 Zone), 1198.132, 1198.133, 1198.134, 1198.136 (Open Space 3 Zone), 1198.140, 1198.141, 1198.142, 1198.144

am comfortable with the addition of this definition. Transpower (1198.159 and 1198.161) also support the definitions of 'National Grid Blenheim substation' and 'NZECP34:2001'. As no changes have been sought to these definitions I recommend that they are retained.

205. Transpower (1198.158) also seeks minor changes to the definition of National Grid Yard, essentially to delete reference to 110kV National Grid lines on single poles. This is so as to reflect the types of structures location within Marlborough. I agree with the amendment on this basis. Federated Farmers (425.413) seek changes to the National Grid Yard definition so that the first part of the definition reads:

the area located 12m in any direction from the outer edge of a pylon or tower National Grid support structure and 8m from a pole;

206. They state that the distance from a single pole should be only 8m to be consistent with Section 2.4.1 of NZECP34:2001, as while a 12m distance is acceptable for towers and pi-poles, it is not for single poles. My understanding is that the 12m distance is consistent with the distance used in other district plans and the submitter has not provided examples of other district plans where a reduced distance has been agreed. I therefore consider the current distances in the definition are more appropriate.
207. Transpower (1198.160) supports the inclusion of a definition for 'National Grid Transmission Lines' but seeks amendments to better reflect definitions in the NPSET and NESETA. Essentially this change deletes reference to the lines being those identified on the planning maps and refers to "has the same meaning as 'transmission line' in the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations, 2009". My understanding is that the change would no have practical effect at this time, but would provide for a situation where new lines are established that fall within the NESETA definition and prior to mapping updates to the MEP being made to reflect these. In my view, this is appropriate and reflects recommendations made elsewhere in this report and in Topic 3 to treat infrastructure the same, regardless of the date when it was established.
208. Transpower (1198.157) also seek that a new definition is included for "National Grid corridor" which they state is necessary for the interpretation of Rule 24.4.4. Given the rule refers to the corridor, I agree that a definition is appropriate.
209. Finally, Transpower (1198.166) seek that the Zoning Maps are amended to indicate the voltage of the National Grid transmission lines, and the legend amended to refer to "National Grid Transmission Lines", rather than "National HVDC Transmission Lines", as the latter only applies to one of the transmission lines that traverse the district. I agree that these changes are appropriate as they will assist with the administration of the MEP and avoid potential for any confusion. They further seek (1198.167) that the overlay maps are amended to show the National Grid transmission lines. My understanding is that the rules to which the National Grid lines apply are zone-based rules rather than overlay rules. As such, I am not sure that mapping the transmission lines in the overlay maps is necessary to assist in the administration of the plan. However, the submitter may wish to elaborate on this.

Recommendation

210. Delete 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 12.2.1.10.⁷⁴
211. Add the following permitted activity rule into Section 3.1, 4.1, 7.1, 12.1, 18.1 and 19.1:

[D]

X.1.x. Buildings, structures and activities in the vicinity of the National Grid⁷⁵

212. Add the following permitted activity standards into Sections 3.3, 4.3, 7.3, 12.3, 18.3 and 19.3 (Standards that apply to specific permitted activities):

X.3.x. Buildings, structures and activities in the vicinity of the National Grid

X.3.x.1 Sensitive activities must not be located within the National Grid Yard.

⁷⁴ 1198.78, 1198.79, 1198.91, 1198.92, 1198.104, 1198.105, 1198.114, 1198.115 - Transpower.

⁷⁵ 1198.80, 1198.93, 1198.106, 1198.116, 1198.126, 1198.132.

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).

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 are located at least 6m from the foundation of a National Grid transmission line support structure; or

(b) artificial crop protection structures or crop support structures located within 12 metres of a National Grid transmission line support structures that meet requirements of clause 2.4.1 of NZECP34:2001.

X.3.x.4 All buildings and structures must have a minimum vertical clearance of 10m below the lowest point of a conductor or otherwise meet the safe electrical clearance distances required by of NZECP34:2001 under all transmission operating conditions.

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) Regulation 2003.⁷⁶

213. Insert new definition of “sensitive activity” as follows:

Means any habitable building, camping grounds, schools, childcare and preschool facilities, and health care activities.⁷⁷

214. Insert new definition of National Grid as follows:

means the network that transmits high-voltage electricity in New Zealand and that is owned and operated by Transpower New Zealand Limited.⁷⁸

215. Insert new definition of “National Grid Corridor” as follows”

Means the area located either side of the centreline of any National Grid transmission line as follows:

- 16m for the 110kV lines on pi poles
- 32m for the 110kV lines on towers
- 37m for the 220kV transmission lines
- 39m for the 350kV transmission lines⁷⁹

216. Amend the definition of ‘National Grid Yard’ as follows:

means:

- the area located 12m in any direction from the outer edge of a National Grid support structure; and-or
- ~~the area located 10m either side of the centreline of an overhead 110kV National Grid line on single poles; or~~
- the area located 12m either side of the centreline of any overhead National Grid transmission line on pi poles or towers⁸⁰

217. Amend the definition of ‘National Grid Transmission Lines’ as follows:

~~as identified on the Zone Maps.~~ has the same meaning as ‘transmission line’ in the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations, 2009.⁸¹

⁷⁶ 1198.81, 1198.82, 1198.94, 1198.95, 1198.107, 1198.108, 1198.117, 1198.118, 1198.127 , 1198.34 - Transpower.

⁷⁷ 1198.162 – Transpower; 769.128 – Horticulture NZ

⁷⁸ 1198.156 - Transpower

⁷⁹ 1198.157 – Transpower

⁸⁰ 1198.158 - Transpower

⁸¹ 1198.160 - Transpower

218. Amend the Zoning Maps to indicate the voltage of the National Grid Transmission Lines and amend the legend to refer to "*National HVDC Grid Transmission Lines*"⁸²

Additional standards

219. Transpower (1198.146, 1198.147) opposes the standards that apply to all permitted activities in the Floodway Zone (Chapter 21), on the basis that they "*do not contemplate the potential adverse effects on the National Grid of works in the Floodway Zone, including stopbank works; stockpiling, rock or gabion protection works, land disturbance and vegetation planting*". As such, they seek that an additional standard, applicable to all permitted activities, is added, for activities within the National Grid Yard, as follows:
- (a) *the activity, and associated works must maintain compliance with the New Zealand Electrical Code of Practice (NZECP34:2001) at all times; and*
 - (b) *vegetation planting shall be undertaken to ensure that plants are selected and managed to achieve compliance with the New Zealand Electricity (Hazards from Trees) Regulations 2003.*
220. Further, they seek that any activity that does not meet these standards is a non-complying activity.
221. I agree in principle with Transpower's concerns, as in my opinion, some controls to address potential adverse effects on the National Grid of works in the Floodway Zone are necessary to achieve the MEP's objectives relating to infrastructure, and to give effect to the NPSET. I also note that the standards sought do not, in effect, add restrictions that do not otherwise apply. However I have some concerns regarding the wording of (b). Firstly, I note that in other rules this is generally included as an advice note (rather than a standard) and secondly, I have concerns about whether or not, as a permitted activity, the District Plan can require ongoing management of vegetation planting. My preference is therefore to include clause (a) but amend (b) so that it is an advice note.

Recommendation

222. Insert the following standard into Section 21.2 (Standards that apply to all permitted activities)

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) Regulation 2003.⁸³

90m setback from the designation boundary or secured yard of the Blenheim substation

223. Standard 5.2.1.18, which applies to all permitted activities in the Urban Residential 1 and 2 Zones, and Standard 3.2.1.8, which applies to all permitted activities in the Rural Environment Zone, restricts any building or structure from being constructed or sited within 90m of the designation boundary (or secured yard) of the National Grid Blenheim substation. K. & J. Wills (66.1) raise concerns with the standard applicable to the Urban Residential 1 & 2 Zones, as well as with the related subdivision standards, which are addressed in the Topic 17 (Subdivision) Section 42A report. They consider that the restrictions "*are more than is required to provide the protections needed by the National Grid Blenheim Substation*". In their view, as the land is zoned for a residential use, this provides a direction about how the land is expected to be used, and retaining discretion to determine residential use is not appropriate is, in their view, unreasonable. They consider that there are other means to manage risks between the substation and residential activities that "*do not require exclusion of residential activities, development and subdivision*". They seek that the 90m restriction is removed, but failing that, if it is retained, that it is done in a manner that accommodates residential

⁸² 1198.166 – Transpower

⁸³ 1198.146, 1198.147 – Transpower

activities, development and subdivision. In particular, they seek that any restrictions applied to these activities are not such that their practical effect is to prevent or prohibit these activities from being carried out. They consider that a controlled activity status for such activities could address what is sought by the restriction, in a manner “*that does not prevent or make it impracticable for residential use, development or subdivision of residential zoned land.*”

224. Transpower (1198.79, 1198.83, 119.84, 1198.102, 1198.103) support the inclusion of Standards restricting activities in the vicinity of the substation, but as with other rules, are concerned that as drafted the standards only partially give effect to the NPSET, as they only address buildings and structures and not activities more generally. The original submission sought that the standards be deleted and replaced with a standalone restricted discretionary activity rule. Following consideration of the Section 42A for Topic 17, they have revised their position to seeking a controlled activity rule that would apply to buildings, structures or sensitive activities within 90m of the substation designation boundary, with a requirement for any such activities to be located more than 15m from the boundary.
225. For completeness, I note that the WAMRP includes (Rule 32.1.9.3) a larger 150m buffer for new buildings, building additions and sensitive activities, from the substation, but this only applies to land on the northern side of Old Renwick Road or on Thomsons Ford Road. As I understand it, this rule was introduced when the Urban Residential 2 – Greenfields land was zoned as such, but does not apply to the land on the southern side of Old Renwick Road (i.e. the Urban Residential 2 Zone). Therefore, while the buffer proposed of 90m is a reduced setback, it would apply as proposed under the MEP, to a number of properties where there are currently no such restrictions.
226. I can sympathise with the position of the Wills, as the land has been zoned for residential use (and without buffer restrictions). To then require applications to be made for that purpose, which can be declined, does not align with what the zoning anticipates (and in a general sense, the policy direction for those residential areas). However, this needs to be balanced with the direction in Policy 10 of the NPSET for decision-makers (to the extent reasonably possible) to manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that the network is not compromised. In my view, the amended controlled activity rule sought by Transpower (applying between 15m and 90m) is an appropriate balance between these considerations. I also agree with Transpower that the rule should be drafted to apply to sensitive activities, as well as buildings.
227. Overall, I therefore recommend that Standards 3.2.1.8 and 5.2.1.18 are deleted and replaced with the proposed controlled activity rule.

Recommendation

228. Delete Standards 3.2.1.8 and 5.2.1.18.
229. Insert the following controlled activity into Section 3.4 and a controlled activity section, with the following controlled activity, into Chapter 5:

X.X.X Buildings, structures or sensitive activities within 90m of the designation boundary of the National Grid Blenheim substation.

Standards and terms:

x.x.x.1. Any building, structure or sensitive activity must be located more than 15m from the designation boundary of the National Grid Blenheim substation.

Matters over which the Council has reserved its control:

x.x.x.2 The extent to which the proposed development design and layout enables appropriate separation distances between activities sensitive to National Grid lines and the substation.

x.x.x.3 The risk of electrical hazards affecting public or individual safety, and the risk of property damage.

Excavation and filling standards

230. The following assessment applies to Rules 3.1.15, 4.1.14, 7.1.12, 12.1.30 and Standards 3.3.15, 4.3.14, 7.3.10, 12.3.19. The rules provide a permitted activity status for “*Excavation or filling within the National Grid Yard*”, subject to compliance with the Standards.
231. Transpower⁸⁵, while supporting the permitted activity rules, raises concerns that limiting the rule to “*excavation*” constrains its effect such that it “*does not give effect to Policy 10 of the NPSET and is inconsistent with the approach to managing the disturbance of land in NZECP34:2001 and section 237 of the Public Works Act 1981.*” They also note that as excavation is currently defined, a number of the standards proposed are actually irrelevant to the activity. They seek that the permitted activity rules are amended to remove reference to “*Excavation and filling*” and replaced with “*Earthworks*”. Related to this, Transpower (1198.153) then seek the inclusion of a new definition for earthworks, which would apply only to earthworks within the National Grid Yard.
232. In my view, limitation of the rule (and related standards) to only where the surface contour of the land is permanently altered (being the definition of excavation) would not fully give effect to the NPSET nor be consistent with the direction in the MEP, because it would not cover a number of situations where land is disturbed in the vicinity of the National Grid, and where such disturbance could affect the safe and efficient operation of this infrastructure. I therefore recommend that the rules and standards are amended as sought in relation to replacing “*excavation and filling*” with “*earthworks*” and defining the latter term. I note that the MEP does not (to my knowledge), currently include rules or references to “*earthworks*”, rather, it manages excavation and filling, as those are defined within the MEP. Because the rules and standards relating to these activities within the National Grid Yard are a standalone set of provisions, the use of a separate term and separate definition would not have wider consequences across the MEP. I have recommended slight changes to the definition proposed by Transpower which are intended to provide greater clarity and certainty.
233. The changes sought to the related permitted activity standards are largely consequential changes relating to the use of the term “*earthworks*”, or are to otherwise refine the terminology used. Two further changes relate to the exemptions to the standard, which currently read as follows:
- 3.3.15.1. *Excavation within the National Grid Yard in the following circumstances is exempt from the remaining standards under this rule:*
- (a) *Excavation that is undertaken as part of agricultural 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*
234. The first change sought is to add “*horticultural*”, to exemption (a), such that the other standards would not apply to the horticultural cultivation. Given this is an additional exemption sought by Transpower I am comfortable with the addition and note the effects associated with horticultural cultivation are likely to be the same or similar to those associated with agricultural cultivation. I note that Horticulture NZ (769.102) support Standard 3.3.15 on the basis that it is consistent with NZECP34:2001.
235. The more substantial changes sought by Transpower to these standards relate to deleting the current exceptions (b) and (c), such that these activities are no longer exempt. Transpower also seek that these are replaced with an additional exemption for “*earthworks that are undertaken by a network utility operator (excluding buildings or structures associated with the reticulation and storage of water for irrigation purposes).*” In terms of the additional exemption, I am satisfied, that as this

⁸⁴ 1198.79, 1198.83, 119.84, 1198.102, 1198.103 – Transpower.

⁸⁵ 1198.85, 1198.89, 1198.96, 1198.100, 1198.119, 1198.120, 1198.109, 1198.112, 1198.121.

reduces the effect of the rule, and is sought by Transpower, it is appropriate. As noted earlier, it would be helpful if the submitter can provide further clarity regarding why the exemption is not also applied to irrigation water storage and reticulation. In terms of the deletions, my understanding is that this request relates to reflecting Transpower's current nationwide approach and/or to reflect the regulations in NZECP34:2001. In my view further detail is required in relation to deleting these exemptions, such as how these types of activities might compromise the efficient, effective and safe operation of the National Grid such that they should not be permitted. For example, I am aware that the exemption in (b) has been included in the proposed Hurunui District Plan (the relevant provisions are beyond appeal).

236. Transpower also seek⁸⁶ that the above National Grid zone excavation/earthworks provisions, (as they are sought to be amended through the submission,) are included within the Open Space 2, 3 and 4 zones. As noted earlier, following discussion, they no longer seek that these be included in relation to the Open Space 4 zone. I agree that this is appropriate and necessary to achieve the MEP's outcomes in relation to the safe and efficient operation of infrastructure and to give effect to the NPSET.
237. As with other rules, Transpower also seeks that non-compliances with these standards default to non-complying, which they consider necessary to give effect to Policy 10 of the NPSE "in the most appropriate, effective and efficient manner and to reflect the mandatory compliance necessary under NZECP34:2001." This matter is addressed later in this report.

Recommendation

238. Amend Rules 3.1.15, 4.1.14, 7.1.12 and 12.1.30 as follows, and insert the following standards (as amended) into Sections 18.1 and 19.1:

[D]

X.1.X. Excavation or filling Earthworks within the National Grid Yard.⁸⁷

239. Amend Standards 3.3.15, 4.3.14, 7.3.10, 12.3.19 as follows, and insert the following standards (as amended) into Sections 18.3 and 19.3:

X.3.X Excavation or filling 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) Earthworks that are undertaken by a network utility operator (excluding buildings or structures associated with the reticulation and storage of water for irrigation purposes).

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.~~

⁸⁶ 1198.128, 1198.129 (Open Space 2 Zone), 1198.135, 1198.136 (Open Space 3 Zone), 1198.143, 1198.144 (Open Space 4 Zone).

⁸⁷ 1198.85, 1198.96, 1198.109, 1198.119, 1198.125, 1198.133 - Transpower.

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 (NZECP34:2001).⁸⁸*

240. Insert new definition of “earthworks” as follows:
*Earthworks (when within the National Grid Yard) means any filling, excavation, deposition of or other disturbance of earth, rock or soil on a site. This includes the raising of the ground level or changes to the profile of the landform, the installation of services or utilities, the construction of tracks, firebreaks and landings, and root raking and blading.*⁸⁹

Cook Strait Cable

241. Within Chapter 16 (Coastal Marine Zone), a permitted activity (16.1.9) is provided for the “*Repair, maintenance or replacement of the existing subsurface Cook Strait cable*”. This is subject to the permitted activity standards set out in 16.3.7. Transpower (1198.122), while supporting these, seek that the rule is expanded to provide for new and upgraded cables within the Cook Strait Cable Protection Zone, as they consider that the use of this zone for such cables is clearly anticipated (noting a range of other activities are prohibited), and they consider that the potential adverse effects of such cables have been tested in previous resource consent application and found to be minor and able to be managed through consent conditions. Such conditions, they argue, could be translated into permitted activity standards in the MEP. They consider this approach gives effect to the NPSET and Policy 6(1)(A) of the NZCPS. They seek changes to Standard 16.3.7 (1198.124) to align with the changes sought to Rule 16.1.9, such that both would apply to the following:

Installation, operation, maintenance, repair and upgrade of National Grid Cook Strait submarine cables including the follows:

- (a) occupation of the coastal marine area;*
- (b) disturbance of the foreshore or seabed and associated discharges;*
- (c) the discharge of heat to coastal water; and*
- (d) associated lighting, navigational aids and signs.*

242. Transpower also seek that Standard 16.3.7.1, which restricts the disturbance of materials associated with the activity to no more than 500m³ in any calendar year, be deleted. This is on the basis that the general standard for disturbance under 16.2.1 applies in any case and that this is not constrained by a volume limit. I am comfortable with the change sought on this basis.

243. I note that in the report for Topic 11 (The Use of the Coastal Environment), the policy direction in relation to permitted activities for new structures within the Coastal Marine Area was considered⁹⁰. This indicated that if a new cable was proposed within the CMA “*it would be subject to the resource consent process, as outlined within Policy 13.10.2.*” Given that no changes are commended to the related policies (13.10.1 and 13.10.2) my view is that the permitted activity sought for new and upgraded cables would not align with the policy direction. If the Hearings Panel agree to amend the policy direction, then a permitted activity might be appropriate, but in my view consideration would need to be given as to whether additional permitted activity standards are required.

244. In addition to the above, Transpower seek (1198.123) that an additional standard is added into 16.2 (standards that apply to all permitted activities) for “*Activities in the vicinity of the of National Grid Cook Strait submarine cables*”, as follows:

⁸⁸ 1198.89, 1198.100, 1198.112, 1198.120, 1198.121, 1198.128, 1198.135 - Transpower.

⁸⁹ 1198.153 - Transpower

⁹⁰ Refer paragraphs 621 – 626.

16.2.x.1 *Except for works associated with the National Grid Cook Strait submarine cables there shall be no disturbance, anchoring, mooring or occupation of the foreshore immediately adjacent to Transpower New Zealand Limited's Fighting Bay Terminal Station.*

Advice Note: *The Submarine Cables and Pipelines Protection Act 1996, the associated Submarine Cables and Pipeline Protection Order 1992, and Submarine Cables and Pipelines Protection Amendment Order 1999 contain further restrictions on fishing and anchoring within the Cook Strait Cable Protection Zone.*

245. They consider this standard necessary to address what they consider to be a gap in protection between the Fighting Bay Terminal Station designation (which extends to the mean high water springs) and the Cook Strait Cable Protection Zone (which commences at the low-water mark). They consider this to better give effect to the NPSET. My understanding, from a discussion with the submitter, is that the area within which the rule would apply is a relatively small area, but one which is potentially vulnerable to harm from the activities identified. On this basis, I consider that the rule is appropriate and necessary to achieve the MEP's provisions relating to infrastructure.

246. Related to the above, Transpower (1198.163) seek an amendment to the definition of "*Subsurface Cook Strait Cable*" to "*align with the terminology normally used to refer to the cables and to indicate that there are a number of cables*". The definition would be amended to read:

Subsurface National Grid Cook Strait Submarine Cables means the power and telecommunications cables owned and operated by Transpower New Zealand Limited and protected by the Submarine Cables and Pipelines Protection Act 1996 that are within the Cook Strait Cable Protection Zone established under the Submarine Cables and Pipelines Protection Order 2009.

247. My understanding, from a discussion with the submitter, is that the cables in question only relate to National Grid assets (i.e. there are not telecommunications cables owned by other parties in the Cable Protection Zone). On this basis, I consider that these changes are appropriate, because they provide greater clarity.

Recommendation

248. Insert the following standard into Section 16.2 (standards that apply to all permitted activities):

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, mooring or occupation of the foreshore immediately adjacent to Transpower New Zealand Limited's Fighting Bay Terminal Station.*⁹¹

249. Delete Standard 16.3.7.1.⁹²

250. Amend the definition of '*Subsurface Cook Strait Cable*' as follows:
*Subsurface National Grid Cook Strait Submarine Cables means the power and telecommunications cables owned and operated by Transpower New Zealand Limited and protected by the Submarine Cables and Pipelines Protection Act 1996 that are within the Cook Strait Cable Protection Zone established under the Submarine Cables and Pipelines Protection Order 2009.*⁹³

Non-complying rule

251. Transpower (1198.36) generally seek that the Rules throughout Volume 2 are amended to include non-complying activities in a manner that gives effect to Policies 10 and 11 of the NPSET. As identified throughout this report, in a number of submission points, Transpower identify those specific rules where they seek that non-compliance with various standards which pertain to the National Grid, default to a non-complying activity status, as they consider this to be the most appropriate, effective

⁹¹ 1198.123 - Transpower

⁹² 1198.122 - Transpower

⁹³ 1198.163 - Transpower

and efficient way to give effect to the NPSET and (where relevant) to reflect the mandatory compliance under NZECP34:2001.

252. The MEP as notified does not include the use of non-complying activity status. This has been raised in some submissions, and was addressed (in a general sense) in the Section 42A Report for Topic 1 (General). This stated (page 17):

The plan utilises all activity classifications except for non-complying activities... There is nothing in the RMA that precludes such an approach and this approach simplifies interpretation and layout. It is noted that Council retains the discretion to refuse applications under a discretionary activity status and in particular highlights the importance of the objectives and policies in the plan when determining applications.

253. It is my view that that the request for a non-complying activity status needs to be considered alongside the general approach taken in the MEP, from the point of view of drafting and style across the MEP. If the Hearing Panel agree to continue with the notified approach to not include any non-complying activities within the MEP, then my view is that in order to ensure that the NPSET is given effect to, the Panel will need to be satisfied that there are sufficiently directive policies for the consideration of discretionary activity applications. At present, I have recommended that Policy 4.2.2 is also a district, regional and coastal plan policy, which as such, would mean it would be the most relevant policy for consideration of the activities in question. The recommended wording is:

Protect regionally significant infrastructure from the adverse effects of other subdivision, use and development activities that may compromise its operation, and in addition, in relation to the National Grid, that may compromise its maintenance, upgrading and development.

254. While, in my view, this is reasonably directive, and is in parts specific to the National Grid, it may be appropriate to also include a separate policy that relates to breaches of the National Grid standards that is explicitly directed towards the consideration of any such applications. For example: “*Avoid granting applications that relate to setbacks from the National Grid, unless it can be demonstrated in the circumstances that the operation, maintenance, upgrading and development of the National Grid is not compromised.*”
255. If the Hearing Panel determine that there are circumstances where it is appropriate for the MEP to include non-complying activities (i.e. if that category is to be included within the MEP), my view is that the National Grid provisions would best fit into that category, because of the strong direction in the NPSET, and as reflected in the objectives and policies within the MEP itself that give effect to that direction.

Matter 6 - Designations

Provisions

256. Appendix 14 of Volume 3 of the MEP contains a Schedule of Designated Land. The designations are ordered by Requiring Authority, with a table for each authority listing the details of each of their designations. The identification number for each designation relates to the letter that each authority has been assigned (for example, A = Minister of Defence, B = Marlborough District Council, C = Minister of Education and so on), and then sequential numbering of each designation (for example, A1, A2 and so on). Where a designation is subject to conditions or any further explanation, this is contained at the end of each authority's designation table.

Submissions and Assessment

257. Submissions on the proposed designations have been ordered as follows:
- Submissions in support
 - Submissions by Requiring Authorities seeking changes
 - Submissions by other parties seeking changes

Submission in Support

258. I note that several submissions have been made in support of various designations, and no changes to those designations have been sought by them or by other submitters. As such I recommend these submissions are accepted⁹⁴.

Submissions by Requiring Authorities seeking changes

259. KiwiRail (873.203) seek that the requiring authority name for Designation K1 be updated and a minor change made to the description of the designation. Similarly, Transpower (1198.164) seek that for their designations, their name is listed in full, i.e. Transpower New Zealand Limited. NZDF (992.96) seek a typographical error is corrected in the conditions relating to Designation A2. MLL (232.36) seek a range of minor amendments to the descriptions of their designations, to make them more identifiable. These generally include more specific address details and corrected legal descriptions. The latter includes, in two cases (E9 & E29), adding to the legal descriptions where part of legal description has not been included in the designation schedule, but where this portion of a site has been included in the planning maps (and is part of an existing designation being rolled over). As such the change sought does not 'extend' the designation beyond the current designated area but instead ensures that the planning maps and descriptions are aligned. MLL (232.35) also seek that E29 is labelled on Map 135. I consider that all these changes are appropriate as they provide greater clarity, and do not change the effect of the proposed designations.
260. NZTA (1002.275) seek that the planning maps are amended to "*correct*" their designations, and in particular to differentiate designations which abut or intersect with each other. They note that the RMA provides a process for requiring authorities to modify their existing designations, for inclusion in a proposed plan, and that as part of this process for the MEP, they and the Council agreed on a number of minor amendments to correct the footprint of their designations. They are concerned that some mapping errors remain, and in particular that a number of designations run alongside or intersect with KiwiRail's designation, which they consider is difficult to differentiate in the maps. They include the specific amendments sought in Annexure 3 to their submission. In a general sense, I agree with amending boundaries of designations to more accurately reflect the area to which the designation pertains, for example, updating the boundary shown on maps so that it follows the boundary of the land parcel to which it pertains/ legal road reserve. However, where such a change means that the designation is extended from its current position into private land, I have some concerns about this being treated as a 'correction'. Before being able to make a recommendation, it would be helpful if the submitter can provide more details of the land ownership and specific changes sought. My preliminary comments (using the site ID's from the submission) are set out in the following table:

Site IDs (from submission)	Comment
23	Agree with change as reduces current land area and excludes portion zoned Rural Environment
26 & 27	Confirmation required as to land ownership/rationale for why additional portion is required
72	Unclear where the boundary requires change, and if in some places this would extend into privately owned land. Agree in principle with aligning the designation with the legal road reserve boundary.
95	Agree with change as very small portion of land within the designation is not required to be zoned Rural Environment
96, 167, 168, 184	Unclear what the change sought is (and whether it extends designation into privately owned land). Agree in principle with changes that relate to designation following legal road boundary.

⁹⁴ 474.12 - Marlborough Aero Club; 967.13 - Marlborough Roads; 992.97 – NZDF; 1002.268 – NZTA; 1045.6 and 1045.7 - Pukematai Farm Ltd; 1201.165 - Trustpower.

129	Clarify exact change sought. Agree in principle with designation following legal road boundary, but need to confirm if this is what is sought, or if the zoning (i.e, unzoned road) is incorrect.
138	Agree with excluding car park area
181	Agree with aligning designation with legal road boundary (and with boundaries of land that is 'unzoned')

261. The Minister for Education (974.22) seeks, in relation to Designation C32 for Whitney School, that part of the designation (relating to Section 229 Omaka District) be removed as it is part of a private driveway. Given the submitter is the requiring authority and has identified that the land in question is not required for the designated purposes, and given the land shown on the planning maps as within the designation is not included within the text of the designation schedule, I recommend this portion of the designation is removed from the planning maps.

262. MLL (232.34) seek that the following is added to the designation schedule:

Map	Site Description	Legal Description	Designation
159	287 Hammerichs Road	Lot 1 DP 2323	Substation

263. The designation sought is currently a designated site – 168 – under the MSRMP. Following some enquiries I made to MDC staff, it appears that when MLL were asked which designations should be included within the new MEP, the site had not at that point been designated. The response received from MLL therefore did not include reference to this site, which was designated in the MSRWP through a subsequent process. Although this is unfortunate, my understanding is that as the MEP was notified without this designation, there is no ability through a submission for it to be added, and that this will need to occur as a separate process, through MLL lodging a notice of requirement.

Submissions by other parties seeking changes

264. NMDHB (280.211) seek changes throughout Appendix 14 that to relate to changes sought to various designation conditions that relate to noise. For example, they seek that reference to “*Leq dBA*” is replaced with “*db LAeq*” and that it is explicitly stated that noise be measures in accordance with NZS6801:2008 and assessed in accordance with NZS 6802:2008. They also seek that reference to “*at a notional boundary 20m from the façade of any dwelling, or the site boundary, whichever is the close to the dwelling*” is replaced with “*at any point within the notional dwelling of a dwelling outside the scheduled area*”. While I see some benefit in making changes to better align terminology used across the MEP, I note that these particular provisions are conditions attached to an existing designation that will have been considered as part of the original designation process. While, in a general sense, I can see benefit in aligning provisions across the MEP, designations and their associated conditions are separate in that they are ‘contained’ in the MEP, but are governed through a separate mechanism under the RMA to the general framework of the MEP. I am therefore reluctant to recommend changes that alter the existing conditions. For completeness I note that the alternate wording for the notional boundary, in my view, does not make sense, in particular it is unclear what the “*notional dwelling of a dwelling*” is, and reference to the “*Scheduled area*” is unclear, although presumably intended to mean the designated area. Overall, I do not recommend the changes be made.

265. V. Peters (466.1) generally supports the designation of Whitney Street School (C32) by the Minister of Education and seeks a range of things relating to the management of the site, for example, seeking to be advised of changes to entrances, and matters relating to car parking. In my view, no changes are required to the designation in relation to these, and any changes proposed to the school property, including those that may affect car parking, can be adequately dealt with through the outline plan process provided under the RMA. With regard to on-street parking (the painting of yellow lines), I note that this is not something that is managed under the RMA.

266. V. Orman (463.1) opposes designation B38, which is a designation to MDC for “*Floodway Purposes and River Control Works*” for the Taylor River. Ms Orman identifies a number of values associated with the river and is concerned that the designation would leave it open to destructive operations by heavy machinery which can destroy the characteristics of the river. She raises concerns with this having occurred in relation to the “*area above Wither Road beyond the Resource Centre*”. She seeks that the river bed is not controlled with works, but rather that a decision is made that the banks and adjacent land be sympathetically adjusted with stop banks and groynes to prevent high flows negatively affecting nearby properties.
267. Under s171 of the RMA, when considering a requirement, consideration is subject to Part 2, the effects on the environment of allowing the requirement, the relevant plan provisions, consideration of alternatives sites or methods of undertaking the work if “*it is likely that the work will have a significant adverse effect on the environment*”. Consideration must also be given to whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought. I note in this case, that the designation is a roll-over of an existing designation (100) in the WARMP. This means that consideration of effects of allowing the requirement and whether the work is necessary has previously been addressed. My understanding of the submission is that the submitter does not disagree with the purpose of the designation, i.e. the need to undertake works to provide flood protection, but rather the concern appears to be in relation to how these works are undertaken and ultimately the effects of this. In my view, consideration of the type of works that are appropriate needs to be informed by technical input. For example, adjustment to the banks and groynes may not be sufficient to adequately control potentially flood flows. As such, I do not consider that it is appropriate to place limitations on the designation that may mean that its purpose may not be able to be achieved. I note that in terms of how the works are undertaken, where a new project is proposed within this designation, such as additional river protection works (as opposed to maintenance of the existing measures) an outline plan will be required for the works. This plan will need to demonstrate matters that avoid, remedy or mitigate any adverse effects on the environment (s176A(3)(f)). In my view, this should include consideration of the values identified by Ms Orman and how any effects on these values have been addressed. Overall, my recommendation is therefore to confirm the requirement, noting that the effects of any specific works undertaken in accordance with the designation will still need to be considered through the outline plan process.
268. Lee Street Residents (905.1) also oppose B38 being over residential properties at 4, 18, 20, 24, 26, 28, 30 and 32 Lee Street and seek that a more appropriate boundary is chosen between the floodway, recreation and residential properties, such that the designation is outside residential properties. They also raise concerns in relation to the Floodway Zone located on parts of these properties, which is addressed in the Section 42A Report for Topic 9: Natural Hazards. My understanding is that the proposed designation boundary itself does not extend into these residential properties and therefore no change is required in relation to the designation to address the submitters’ concerns.
269. Hall Family Farms Ltd (141.8) oppose Designation B42 for the Wairau River Floodway, and seek that the Council be made to apply for resource consent and ask for “*affected party approval*” to carry out any river protection work. This is based on their experience of the people owning land around these works being negatively affected. I note that the designation is a roll-over of an existing designation (88) in the WARMP. As such, consideration of effects of allowing the requirement and whether the work is necessary has previously been addressed. I accept that works associated with designations can have adverse effects on nearby land owners. However, I note that where a new project is proposed within this designation, such as additional river protection works (as opposed to maintenance of the existing measures) an outline plan will be required for the works. This plan will need to demonstrate matters that avoid, remedy or mitigate any adverse effects on the environment (under Section 176A(3)(f) of the RMA). In my view, withdrawing the designation and requiring consent for any works would be an inefficient way of achieving the ultimate outcome sought; namely the protection of property from possible flooding effects. The advantage of the designation is that the works can be reasonably anticipated, while the effects of any specific works undertaken for the designated purpose can be considered and addressed through the outline plan process.
270. The New Zealand Fire Services Commission (993.94) opposes proposed Designation B16 for a “Fire Station” at Richmond Street, Seddon. The requiring authority for the designation is the Council, and the designation is opposed on the basis that the subject property is owned by the New Zealand Fire Service and accommodates a fire station. The submitter’s view is that the Council is not able to designate the fire station because it does not have financial responsibility for the fire station as required by section 168 of the RMA. Further, as the submitter is not a requiring authority the

responsibility for the designation cannot be transferred under section 180 of the RMA. I note that s168(1) provides that a local authority must have “financial responsibility for a public work”. The comments by the Commission suggest that this is not the case. I therefore recommend that the designation is withdrawn.

271. NZTA (1002.268) raise concerns that there is no apparent logic behind the ordering and numbering of designations, and state that this increases the difficulty in finding relevant designations within the Appendix. They seek that a table of contents is added at the beginning of the Appendix, ordering and numbering the designations by requiring authority. Given that the appendix is already ordered by requiring authority and numbered according to each authority’s ID I am not sure what a table of contents would achieve apart from duplication. If the Panel is of the view that some sort of contents table is required, by view is that a list could be included stating what ID each requiring authority has, for example:

Minister of Defence – A

Marlborough District Council – B

Minister of Education - C

272. NZTA (1002.268) also raise concerns that in four instances (P7, P8, P12 and P14) parts of the road have been designated for road widening purposes with both Council and the Transport Agency specified as requiring authorities. They seek that these are amended to New Zealand Transport Agency only. I note that the four examples referred to are within the “*Marlborough District Council – Schedule of Road Widening*” designations, and as such the Council is the stated requiring authority. There is a separate designation schedule for NZTA which contains the designations for “State Highway Purposes”. In my view, the references in the designation column to “Marlborough District Council & New Zealand Transport Agency” are confusing, because this column in all other cases does not relate to the requiring authority or party undertaking the work, but to the purpose of the designation. As such, my recommendation is to remove references to both parties, i.e. retain only “Road Widening”. In terms of who the correct requiring authority is, I note that this would appear to be the NZTA given that they are on State Highway roads and shown in the road widening diagrams on Pages 14-28 to 14-30 of Appendix 14 as NZTA designations. I therefore recommend that they are moved to the NZTA table and given an ‘L’ ID number.
273. Te Atiawa o Te Waka-a-Maui (1186.35) oppose the designation of the Picton Police Station. As no reasons have been given for this opposition I am not in a position to recommend that it is withdrawn.
274. A number of submitters also support various zoning maps, as they pertain to the identification of designations.⁹⁵ As no submitters have sought changes in relation to these submissions, I recommend these are accepted.
275. KiwiRail (873.194 - 873.199) identify three sites that are designated as rail corridor but which include an underlying zoning. They seek that these underlying zonings are removed (i.e. unzoned) to be consistent with other areas of rail corridor. However, with respect to the designated facilities within the Port Zone (the Interislander terminal and rail depot facility), KiwiRail support the underlying Port Zoning of these designations. Within the MEP, roads and rail corridors are “unzoned”. The effect of this, from my understanding, is that there are no zone rules applicable to such land, and therefore, (unless a district-wide rule applies), land use activities are not restricted (i.e. The presumption in Section 9 of the RMA is that any use of land is allowed as of right, unless that use is specifically restricted in a district plan or a regional plan). In my view, consideration of whether additional areas should be unzoned, should not be based on whether the land falls within a designation, but whether it is appropriate to allow for essentially unrestricted activities in these areas. I discuss each below:
- (873.194 & 873.195) To the north of Wharanui Beach Road (underlying Open Space 3 and Rural zoning) – I note that the portion of the designation that is zoned Open Space 3 is adjacent to the coastline (refer red star), and that all of the coastline in this area is zoned as such. It appears to be vacant land and there is nothing to distinguish it from the surrounding area. In my view, the

⁹⁵ Robinson Construction Ltd (1095.1 – Map 19 and Designation P16); Trustpower (1201.166, 1201.167; 1207.168; 1201.169 – Maps 172, 175, 190 and 191 in relation to removal of previous designations 71, 72 and 73).

- (873.198 & 873.199) To the north of the Elevation in Picton (underlying Rural zoning) – I have confirmed with the submitter that there are two areas of land to which this relates, shown in the following figures. The first (refer red arrow in Figure 3) is a small portion of rural-zoned land adjacent to the rail, where the State Highway and railway cross. In my view, due to its shape and size, it is unlikely to be utilised for any other purpose and to include it within the unzoned rail corridor is appropriate. The second area (refer red star in Figure 4) is zoned Coastal Environment and located at the southern entrance to Picton. It is a much larger portion of land that is adjacent to Urban Residential 2 zoned land. Aside from the railway line itself, it does not appear to currently contain any activity, and in my view, it would not generally be appropriate to allow for any land use activity within the area to occur without regulation (which is the effect the un-zoning would have). I do consider that this is finely balanced however, as I note that there are other relatively wide portions of the rail corridor in the vicinity (and adjacent to urban-zoned land) that are unzoned and also currently undeveloped aside from the railway line itself. I agree that the area containing the railway tracks should be unzoned as it is an anomaly for this area to be zoned. My recommendation is therefore to ‘unzone’ the railway line (and the area beyond this to the south, that is within the designation), but retain the Coastal Environment zoning for the portion of vacant land beyond this to the north, that is adjacent to the Urban Residential 2 Zone (refer red line in Figure 4).

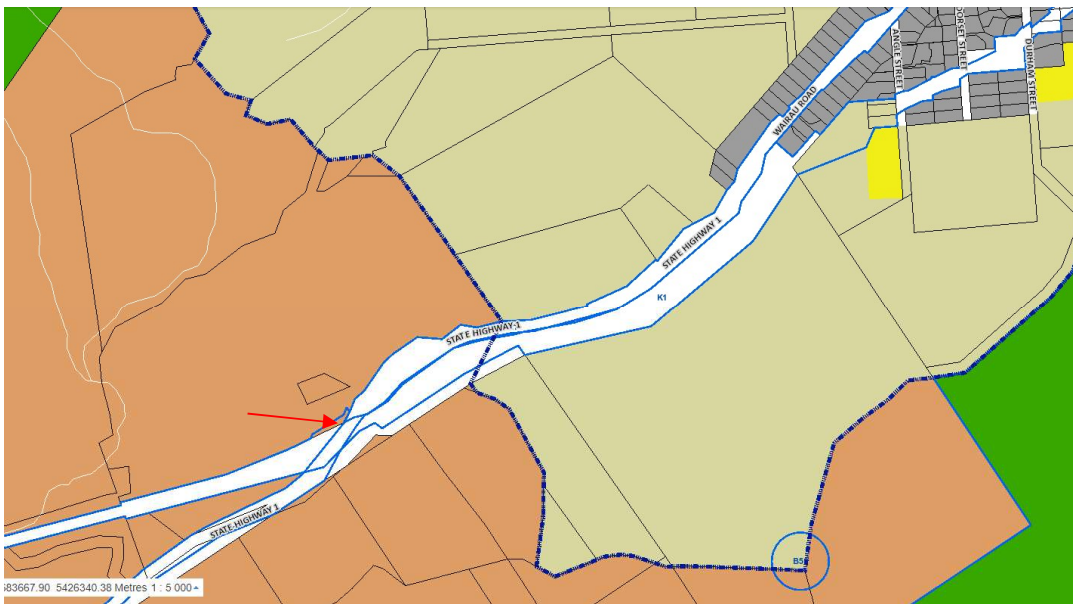


Figure 3: Planning Map - North of the Elevation in Picton

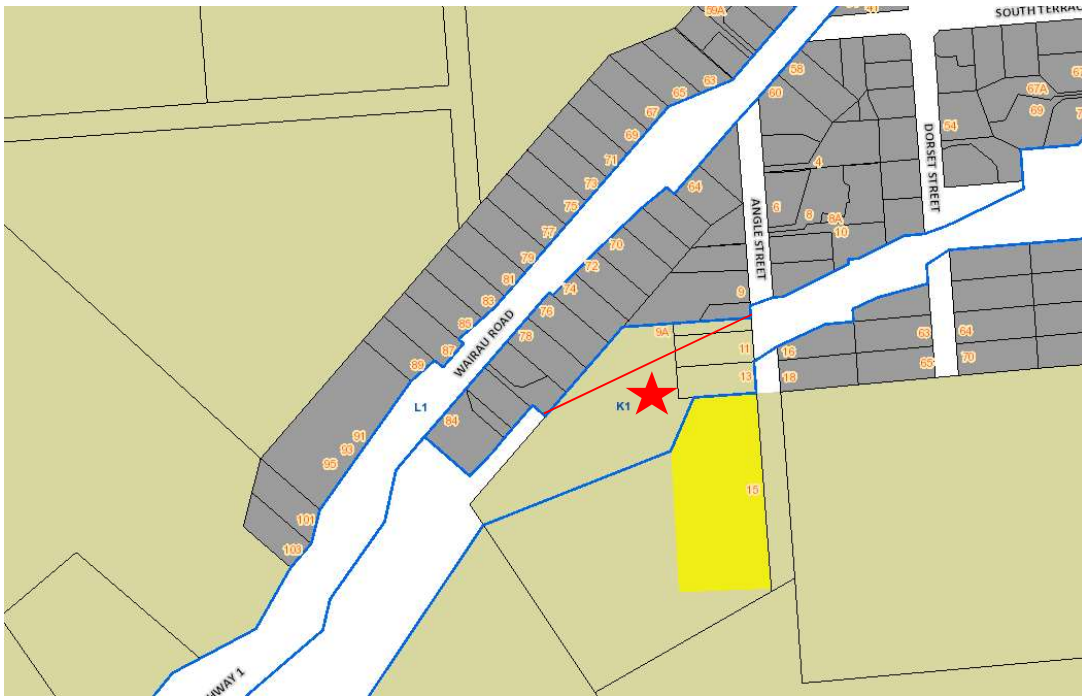


Figure 4: Planning Map – Southwest entrance into Picton

Recommendation

276. Amend Appendix 14, page 14 – 24 in relation to the ‘New Zealand Railways Corporation’ designations as follows:

New Zealand Railways Corporation KiwiRail Holdings Limited⁹⁶

ID No.	Map No.	Site Description	Legal Description	Designation
K1	Numerous	Picton Terminal and Main North Railway Line ⁹⁷	Railway Land	Railway Purposes

277. Amend Appendix 14, page 14 – 25 in relation to the ‘Transpower’ designations as follows:

Transpower New Zealand Limited⁹⁸

ID No.	Map No.	Site Description	Legal Description	Designation
O1	2, 159	Cnr Thomsons Ford Road and Old Renwick Road	Sec 1 So 4246, Pt Sec 1 SO 6959, Lot 1 DP 8572	Substation
O2	140	Fighting Bay	Sec 88 SO 5086, Sec 1 SO 4679	A high voltage direct current cable, Terminal Station

⁹⁶ 873.203 - KiwiRail

⁹⁷ 873.203 - KiwiRail

⁹⁸ 1198.164 - Transpower

278. Delete P7, P8, P12 and P14 from the 'Marlborough District Council – Schedule of Road Widening' designations within Appendix 14, page 14 – 26.⁹⁹

279. Amend Appendix 14, page 14 - 24 as follows:

New Zealand Transport Agency

ID No.	Map No.	Site Description	Legal Description	Designation
L1	Numerous	State Highway 1		State Highway Purposes
L2	Numerous	State Highway 6		State Highway Purposes
L3	158, 159	State Highway 62 (Rapaura Road)		State Highway Purposes
L4	Numerous	State Highway 63		State Highway Purposes
<u>L5</u>	<u>4, 9</u>	<u>79 Grove Road, Blenheim</u>	<u>Lot 44 and Pt Lot 45 Deeds 8</u>	<u>Road Widening</u> ¹⁰⁰
<u>L6</u>	<u>4</u>	<u>81 Grove Road, Blenheim</u>	<u>Lot 2 DP 6215</u>	<u>Road Widening</u> ¹⁰¹
<u>L7</u>	<u>7</u>	<u>172 Middle Renwick Road, Blenheim</u>	<u>Lot 1 DP 1881</u>	<u>Road Widening</u> ¹⁰²
<u>L8</u>	<u>9</u>	<u>9 Nelson Street, Blenheim</u>	<u>Lot 482 DP 309</u>	<u>Road Widening</u> ¹⁰³

280. Amend the road widening diagram in Appendix 14, pages 14 – 28, 14 – 29 and 14 – 30 to relabel 'P7' as 'L5'; 'P8' as 'L6'; 'P12' as 'L7'; and 'P14' as 'L8'¹⁰⁴.

281. Amend Appendix 14, page 14-1, in relation to A2 – Explanation – Height Restrictions, as follows:

A2 – Explanation – Height Restrictions

Woodbourne Airport Height Restrictions:

(a) Main runway 06/24

The main runway is 1425 metres long and 45.7 metres wide and is orientated on a bearing of 86°00 True and has a sealed surface.¹⁰⁵

282. Amend Appendix 14, pages 14-13 to 14-14, in relation to Marlborough Lines Limited designations, as follows:¹⁰⁶

Marlborough Lines Limited

ID No.	Map No.	Site Description	Legal Description	Designation
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⁹⁹ 1002.268 - NZTA

¹⁰⁰ 1002.268 - NZTA

¹⁰¹ 1002.268 - NZTA

¹⁰² 1002.268 - NZTA

¹⁰³ 1002.268 - NZTA

¹⁰⁴ 1002.268 - NZTA

¹⁰⁵ 992.96 - NZDF

¹⁰⁶ 232.36 – MLL

E1	83, 159	1256 Rapaura Road, Spring Creek	Lot 1 DP 2435	Substation
E2	55, 160	17 Vernon Street, Riverlands	Lot 1 DP 10794	Substation & Switch Station
E3	56, 160	23 Cloudy Bay Drive, Wither Hills	Lot 4 DP 404704	Substation
E4	157	872 State Highway 63	Lots 1 & 2 DP 470193	Substation
E5	9, 159	<u>1</u> Alfred Street, Blenheim	Pt Lot 1 DP 2026 7 & Sec 230 Omaka <u>BLK XVI Cloudy Bay SD</u>	Administration Building & ROW Access
E6	9, 159	<u>59</u> Alfred Street, Blenheim	Lot 3 DP 5473	Substation
E7	9, 159	<u>32</u> Alfred Arthur Street, Blenheim	Pt Lot 318 DP 78	Substation
E8	86, 158, 159	Bradleigh Park, Blenheim	Lot 7 DP 375994	Substation
E9	15, 159	Cnr Seymour & Francis Streets, Blenheim	Lot 2 DP 4869 & Sec <u>139 Blk XVI Cloudy Bay SD</u>	Future Substation
E10	51, 158	Cnr SH 63 & Hawkesbury Road, Renwick	Lot 1 & 3 DP 4496	Substation
E11	103	Elaine Bay <u>Road</u>	Lot 1 DP 8465 (<u>NN</u>)	Substation
E12	58, 186	<u>2A</u> Fearon Street, Seddon	Lot 1 DP 3464 & Lot 1 DP 7437	Switch Station, Substation & Depot
E13	9, 159	<u>Cnr First Lane and Second Lane</u> , Blenheim	Pt Lot 6 DP 3027	Substation
E14	21, 159	<u>85</u> Hospital Road, Blenheim	Lot 2 DP 5875	Substation
E15	80, 149	Hunter Road, Tuamarina	Lot 1 DP 4156	Switch Station
E16	97	Kapowai Bay, D'Urville Island	Lot 1 DPP 12208 (<u>NN</u>)	Depot
E17	15, 159	<u>15A</u> Kinross Street, Blenheim	Lot 2 DP 5935	Substation
E18	57, 135	<u>24</u> Lawrence Street, Havelock	Lot 1 DP 8631	Depot
E19	34, 138	<u>15</u> Market Street, Picton	Lot 2 SP 3221	Depot
E20	9, 159	<u>20 & 20A</u> Nelson Street, Blenheim	Lot 1 & 2 DP 5917	Substation
E21	158	Old Renwick Road	Lot 3 DP 5599	Substation
E22	2, 159	Old Renwick <u>Murphys</u> Road, Blenheim	Pt Lots 5 & Lot 6 DP 401	System control and substation

E23	2, 159	Old Renwick Road, Blenheim	DP 1065	Diesel Generation Station
E24	136	Queen Charlotte Drive, Linkwater	Part of Sec 7S, Linkwaterdale Dale Settlement, Blk IX Linkwater SD	Substation
E25	9, 159	Queen Street, Blenheim	Pt DP 453 & Pt DP 557	Substation
E26	33, 138	<u>64</u> Scotland Street, Picton	Lot 1 DP 6309	Substation
E27	59, 203, 219	Seddon Street, Ward	Lot 1 DP 10714	Substation
E28	15, 159	Seymour Street, Blenheim	Pt Lot 582 DP 804 & Pt Lot 1 DP 1727	Substation
E29	135	<u>3867</u> SH 6, Havelock	Lot 1 DP 3649 & Secs 31 & 32 Blk XII Wakamarina SD	Substation
E30	62, 121	SH 6, Rai Valley	Lot 1 DP 3771 (NN)	Substation
E31	19, 20, 25, 159	<u>4</u> Taylor Pass Road, Blenheim	Lot 1 DP 4054, Pt Sec 24, Blk III and Secs 32, & 33 Blk III Taylor Pass SD	Industrial Park
E32	169	Waihopai Valley Road	Lot 1 DP 806	Substation
E33	9, 159	<u>31</u> Wynen Street, Blenheim	Lot 1 DP 5923	Substation

283. Amend Planning Map 135 to identify designation E29.¹⁰⁷
284. Amend Planning Maps 14 and 159 to remove Section 229 Omaka District from Designation C32.¹⁰⁸
285. Delete Designation B16 from the Marlborough District Council designation schedule (page 14-5) and consequentially remove from Planning Maps 58 & 186.¹⁰⁹
286. Amend Planning Maps to unzone portion of land identified with red arrow in Figure 1 above.¹¹⁰
287. Amend Planning Maps to unzone portion of land identified with red arrow in Figure 3 above.¹¹¹
288. Amend Planning Maps to unzone portion of land identified with red star in Figure 4 above, below the red line.¹¹²

¹⁰⁷ 232.35 - MLL

¹⁰⁸ 974.22 – Minister for Education

¹⁰⁹ NZFS – 993.94

¹¹⁰ 873.194 & 873.195 - KiwiRail

¹¹¹ 873.198 & 873.199 - KiwiRail

¹¹² 873.198 & 873.199 - KiwiRail

Appendix 1: Recommended decisions on decisions requested

In some cases the following recommendation may only apply to part of a submission point. This will occur where a single submission point addresses matters covered over multiple topics and therefore the same point will have recommendations against it in two or more Section 42A reports.

Submission Number	Submission Point	Submitter	Volume	Chapter	Provision	Recommendation
464	30	Chorus New Zealand limited	Volume 2	1 Introduction	1.	Accept in part
1158	28	Spark New Zealand Trading Limited	Volume 2	1 Introduction	1.	Accept in part
464	31	Chorus New Zealand limited	Volume 2	2 General Rules	2.	Accept in part
1002	174	New Zealand Transport Agency	Volume 2	2 General Rules	2.	Accept in part
1158	29	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.	Accept in part
464	45	Chorus New Zealand limited	Volume 2	2 General Rules	2.38.	Reject
464	46	Chorus New Zealand limited	Volume 2	2 General Rules	2.38.	Reject
1001	1	NZART Incorporated and Marlborough Amateur Radio Club (Branch 22)	Volume 2	2 General Rules	2.38.	Accept in part
1158	43	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.38.	Reject
1158	44	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.38.	Reject
1198	62	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38.	Accept in part
1198	72	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38.	Accept in part
1201	128	Trustpower Limited	Volume 2	2 General Rules	2.38.	Accept in part
1201	129	Trustpower Limited	Volume 2	2 General Rules	2.38.	Accept in part
1201	132	Trustpower Limited	Volume 2	2 General Rules	2.38.	Reject
425	496	Federated Farmers of New Zealand	Volume 2	2 General Rules	2.38.1.	Reject
464	32	Chorus New Zealand limited	Volume 2	2 General Rules	2.38.1.	Accept
873	112	KiwiRail Holdings Limited	Volume 2	2 General Rules	2.38.1.	Reject
1158	30	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.38.1.	Accept
1198	67	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38.1.	Accept in part
91	133	Marlborough District Council	Volume 2	2 General Rules	2.38.2.	Accept
464	33	Chorus New Zealand limited	Volume 2	2 General Rules	2.38.2.	Accept
1158	31	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.38.2.	Accept
1198	68	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38.2.	Accept in part

464	34	Chorus New Zealand limited	Volume 2	2 General Rules	2.38.3.	Accept in part
1023	13	P Rene	Volume 2	2 General Rules	2.38.3.	Reject
1158	32	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.38.3.	Accept in part
425	493	Federated Farmers of New Zealand	Volume 2	2 General Rules	2.38.4.	Reject
464	35	Chorus New Zealand limited	Volume 2	2 General Rules	2.38.4.	Accept
873	113	KiwiRail Holdings Limited	Volume 2	2 General Rules	2.38.4.	Reject
1158	33	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.38.4.	Accept
1198	69	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38.4.	Accept in part
425	495	Federated Farmers of New Zealand	Volume 2	2 General Rules	2.38.5.	Reject
464	36	Chorus New Zealand limited	Volume 2	2 General Rules	2.38.5.	Accept
873	114	KiwiRail Holdings Limited	Volume 2	2 General Rules	2.38.5.	Reject
1158	34	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.38.5.	Accept
1198	70	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38.5.	Accept in part
479	187	Department of Conservation	Volume 2	2 General Rules	2.38.6.	Accept
1002	173	New Zealand Transport Agency	Volume 2	2 General Rules	2.38.6.	Accept
1198	71	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38.6.	Reject
1198	63	Transpower New Zealand Limited	Volume 2	2 General Rules	2.39.	Accept in part
1198	73	Transpower New Zealand Limited	Volume 2	2 General Rules	2.39.	Accept in part
1201	130	Trustpower Limited	Volume 2	2 General Rules	2.39.	Accept in part
1201	133	Trustpower Limited	Volume 2	2 General Rules	2.39.	Reject
873	115	KiwiRail Holdings Limited	Volume 2	2 General Rules	2.39.1.	Reject
464	37	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.1.3.	Accept
1158	35	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.39.1.3.	Accept
464	38	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.1.4.	Accept
1158	36	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.39.1.4.	Accept
464	39	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.1.5.	Accept
1158	37	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.39.1.5.	Accept
464	40	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.1.7.	Accept in part
1158	38	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.39.1.7.	Accept in part
464	41	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.1.8.	Accept
1158	39	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.39.1.8.	Accept
464	42	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.1.9.	Reject

1158	40	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.39.1.9.	Reject
1198	75	Transpower New Zealand Limited	Volume 2	2 General Rules	2.39.1.9.	Reject
464	43	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.1.10.	Reject
1158	41	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.39.1.10.	Reject
479	186	Department of Conservation	Volume 2	2 General Rules	2.39.1.13.	Accept
464	47	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.2.	Accept in part
1158	45	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.39.2.	Accept in part
464	53	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.3.	Reject (but reconsider in Topic 13)
479	188	Department of Conservation	Volume 2	2 General Rules	2.39.3.	Accept
1158	46	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.39.3.	Reject (but reconsider in Topic 13)
425	494	Federated Farmers of New Zealand	Volume 2	2 General Rules	2.40.	Reject
464	54	Chorus New Zealand limited	Volume 2	2 General Rules	2.40.	Reject
1158	47	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.40.	Reject
1198	64	Transpower New Zealand Limited	Volume 2	2 General Rules	2.40.	Accept in part
1201	131	Trustpower Limited	Volume 2	2 General Rules	2.40.	Reject
464	56	Chorus New Zealand limited	Volume 2	2 General Rules	2.40.1.	Reject
1158	48	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.40.1.	Reject
464	57	Chorus New Zealand limited	Volume 2	2 General Rules	2.40.2.	Reject
1158	49	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.40.2.	Reject
141	8	Hall Family Farms Ltd	Volume 3	Appendix 14 Schedule of Designated Land		Reject
232	34	Marlborough Lines Limited	Volume 3	Appendix 14 Schedule of Designated Land		Reject
232	36	Marlborough Lines Limited	Volume 3	Appendix 14 Schedule of Designated Land		Accept
280	211	Nelson Marlborough District Health Board	Volume 3	Appendix 14 Schedule of Designated Land		Reject
463	1	Valerie Bridget Orman	Volume 3	Appendix 14 Schedule of Designated Land		Reject
466	1	Vivienne Faye Peters	Volume 3	Appendix 14 Schedule of Designated Land		Reject

474	12	Marlborough Aero Club Incorporated	Volume 3	Appendix 14 Schedule of Designated Land		Accept
873	203	KiwiRail Holdings Limited	Volume 3	Appendix 14 Schedule of Designated Land		Accept
905	1	Lee Street Residents	Volume 3	Appendix 14 Schedule of Designated Land		Reject
967	13	Marlborough Roads	Volume 3	Appendix 14 Schedule of Designated Land		Accept
974	22	Ministry of Education	Volume 3	Appendix 14 Schedule of Designated Land		Accept
992	96	New Zealand Defence Force	Volume 3	Appendix 14 Schedule of Designated Land		Accept
992	97	New Zealand Defence Force	Volume 3	Appendix 14 Schedule of Designated Land		Accept
993	94	New Zealand Fire Service Commission	Volume 3	Appendix 14 Schedule of Designated Land		Accept
1002	268	New Zealand Transport Agency	Volume 3	Appendix 14 Schedule of Designated Land		Accept in part
1045	6	Pukematai Farm Limited	Volume 3	Appendix 14 Schedule of Designated Land		Accept
1045	7	Pukematai Farm Limited	Volume 3	Appendix 14 Schedule of Designated Land		Accept
1186	35	Te Atiawa o Te Waka-a-Maui	Volume 3	Appendix 14 Schedule of Designated Land		Reject
1198	164	Transpower New Zealand Limited	Volume 3	Appendix 14 Schedule of Designated Land		Accept
1201	165	Trustpower Limited	Volume 3	Appendix 14 Schedule of Designated Land		Accept
1198	65	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38.	Accept in part
1198	66	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38	Accept in part
1198	74	Transpower New Zealand Limited	Volume 2	2 General Rules	2.38	Accept in part
1198	36	Transpower New Zealand Limited	Volume 2	1 Introduction	1.	Reject
1198	37	Transpower New Zealand Limited	Volume 2	1 Introduction	1.	Accept in part
1198	167	Transpower New Zealand Limited	Volume 4	Overlay Maps		Reject
1002	275	New Zealand Transport Agency	Volume 4	All		Accept in part
263	2	Mark Batchelor	Volume 2	All	2.39	Reject
232	6	Marlborough Lines Limited	Volume 2	8 Rural Living Zone	8.3.7.2.	Accept in part

232	7	Marlborough Lines Limited	Volume 2	4 Coastal Environment Zone	4.3.7.2.	Accept in part
232	8	Marlborough Lines Limited	Volume 2	3 Rural Environment Zone	3.3.8.2	Accept in part
873	122	KiwiRail Holdings Limited	Volume 2	3 Rural Environment Zone	3.3.8.2	Reject
873	127	KiwiRail Holdings Limited	Volume 2	4 Coastal Environment Zone	4.3.7.2.	Reject
1198	125	Transpower New Zealand Limited	Volume 2	18 Open Space 2 Zone	18.	Accept in part
1198	126	Transpower New Zealand Limited	Volume 2	18 Open Space 2 Zone	18.	Accept in part
1198	127	Transpower New Zealand Limited	Volume 2	18 Open Space 2 Zone	18.	Accept in part
1198	128	Transpower New Zealand Limited	Volume 2	18 Open Space 2 Zone	18.	Accept in part
1198	129	Transpower New Zealand Limited	Volume 2	18 Open Space 2 Zone	18.	Accept in part
1198	132	Transpower New Zealand Limited	Volume 2	19 Open Space 3 Zone	19.	Accept in part
1198	133	Transpower New Zealand Limited	Volume 2	19 Open Space 3 Zone	19.	Accept in part
1198	134	Transpower New Zealand Limited	Volume 2	19 Open Space 3 Zone	19.	Accept in part
1198	135	Transpower New Zealand Limited	Volume 2	19 Open Space 3 Zone	19.	Accept in part
1198	136	Transpower New Zealand Limited	Volume 2	19 Open Space 3 Zone	19.	Accept in part
1198	140	Transpower New Zealand Limited	Volume 2	20 Open Space 4 Zone	20.	Reject
1198	141	Transpower New Zealand Limited	Volume 2	20 Open Space 4 Zone	20.	Reject
1198	142	Transpower New Zealand Limited	Volume 2	20 Open Space 4 Zone	20.	Reject
1198	143	Transpower New Zealand Limited	Volume 2	20 Open Space 4 Zone	20.	Reject
1198	144	Transpower New Zealand Limited	Volume 2	20 Open Space 4 Zone	20.	Reject
1198	147	Transpower New Zealand Limited	Volume 2	21 Floodway Zone	21.	Accept in part
1198	146	Transpower New Zealand Limited	Volume 2	21 Floodway Zone	21.2.	Accept in part
1198	153	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept
1198	154	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept in part
1198	155	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Reject
1198	156	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept
1198	157	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept
1198	158	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept
1198	159	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept
1198	160	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept
1198	161	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept
1198	162	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept in part
1198	163	Transpower New Zealand Limited	Volume 2	25 Definitions	25.	Accept

1198	166	Transpower New Zealand Limited	Volume 4	Zoning Maps		Accept
1198	123	Transpower New Zealand Limited	Volume 2	16 Coastal Marine Zone	16.2.	Accept
425	512	Federated Farmers of New Zealand	Volume 2	3 Rural Environment Zone	3.2.1.17.	Reject
1198	78	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.2.1.17.	Accept in part
425	513	Federated Farmers of New Zealand	Volume 2	3 Rural Environment Zone	3.2.1.18.	Accept in part
769	93	Horticulture New Zealand	Volume 2	3 Rural Environment Zone	3.2.1.18.	Accept in part
1198	79	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.2.1.18.	Accept in part
1198	85	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.1.15.	Accept in part
769	102	Horticulture New Zealand	Volume 2	3 Rural Environment Zone	3.3.15.	Accept in part
1198	89	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.3.15.	Accept in part
425	635	Federated Farmers of New Zealand	Volume 2	4 Coastal Environment Zone	4.2.1.15.	Reject
1198	91	Transpower New Zealand Limited	Volume 2	4 Coastal Environment Zone	4.2.1.15.	Accept in part
425	636	Federated Farmers of New Zealand	Volume 2	4 Coastal Environment Zone	4.2.1.16.	Accept in part
1198	92	Transpower New Zealand Limited	Volume 2	4 Coastal Environment Zone	4.2.1.16.	Accept in part
1198	96	Transpower New Zealand Limited	Volume 2	4 Coastal Environment Zone	4.1.14.	Accept in part
1198	100	Transpower New Zealand Limited	Volume 2	4 Coastal Environment Zone	4.3.14.	Accept in part
1198	114	Transpower New Zealand Limited	Volume 2	12 Industrial 1 and 2 Zones	12.2.1.9.	Accept in part
1198	115	Transpower New Zealand Limited	Volume 2	12 Industrial 1 and 2 Zones	12.2.1.10.	Accept in part
1198	119	Transpower New Zealand Limited	Volume 2	12 Industrial 1 and 2 Zones	12.1.30.	Accept in part
1198	120	Transpower New Zealand Limited	Volume 2	12 Industrial 1 and 2 Zones	12.3.19.	Accept in part
1198	104	Transpower New Zealand Limited	Volume 2	7 Coastal Living Zone	7.2.1.10.	Accept in part
1198	105	Transpower New Zealand Limited	Volume 2	7 Coastal Living Zone	7.2.1.11.	Accept in part
1198	109	Transpower New Zealand Limited	Volume 2	7 Coastal Living Zone	7.1.12.	Accept in part
1198	112	Transpower New Zealand Limited	Volume 2	7 Coastal Living Zone	7.3.10.	Accept in part
66	1	Karen and John Wills	Volume 2	5 Urban Residential 1 and 2 Zone	5.2.1.18.	Accept in part
1198	102	Transpower New Zealand Limited	Volume 2	5 Urban Residential 1 and 2 Zone	5.2.1.18.	Accept in part
1198	122	Transpower New Zealand Limited	Volume 2	16 Coastal Marine Zone	16.1.9.	Reject
1198	124	Transpower New Zealand Limited	Volume 2	16 Coastal Marine Zone	16.3.7.	Reject
1198	103	Transpower New Zealand Limited	Volume 2	5 Urban Residential 1 and 2 Zone	5.	Accept
232	3	Marlborough Lines Limited	Volume 2	8 Rural Living Zone	8.3.9.	Accept in part
232	24	Marlborough Lines Limited	Volume 2	3 Rural Environment Zone	3.3.9.1.	Reject
232	23	Marlborough Lines Limited	Volume 2	4 Coastal Environment Zone	4.3.8.1.	Reject

232	22	Marlborough Lines Limited	Volume 2	8 Rural Living Zone	8.3.8.1.	Reject
232	4	Marlborough Lines Limited	Volume 2	4 Coastal Environment Zone	4.3.9.	Accept in part
232	42	Marlborough Lines Limited	Volume 2	4 Coastal Environment Zone	4.3.14.5.	Reject
232	5	Marlborough Lines Limited	Volume 2	3 Rural Environment Zone	3.3.10.	Accept in part
232	43	Marlborough Lines Limited	Volume 2	3 Rural Environment Zone	3.3.15.5.	Reject
232	41	Marlborough Lines Limited	Volume 2	7 Coastal Living Zone	7.3.10.5.	Reject
232	40	Marlborough Lines Limited	Volume 2	12 Industrial 1 and 2 Zones	12.3.19.5.	Reject
232	12	Marlborough Lines Limited	Volume 2	22 Lake Grassmere Saltworks Zone	22.3.9.	Reject
232	21	Marlborough Lines Limited	Volume 2	3 Rural Environment Zone	3.3.12.	Reject
232	20	Marlborough Lines Limited	Volume 2	4 Coastal Environment Zone	4.3.11.	Reject
232	19	Marlborough Lines Limited	Volume 2	7 Coastal Living Zone	7.3.8.	Reject
232	18	Marlborough Lines Limited	Volume 2	13 Port Zone	13.3.19.	Reject
232	17	Marlborough Lines Limited	Volume 2	14 Port Landing Area Zone	14.3.10.	Reject
232	16	Marlborough Lines Limited	Volume 2	15 Marina Zone	15.3.18.	Reject
232	15	Marlborough Lines Limited	Volume 2	17 Open Space 1 Zone	17.3.3.	Reject
232	14	Marlborough Lines Limited	Volume 2	18 Open Space 2 Zone	18.3.4.	Reject
232	13	Marlborough Lines Limited	Volume 2	19 Open Space 3 Zone	19.3.4.	Reject
232	10	Marlborough Lines Limited	Volume 2	3 Rural Environment Zone	3.3.6.2.	Reject
232	1	Marlborough Lines Limited	Volume 4	Zoning Maps		Reject
1198	116	Transpower New Zealand Limited	Volume 2	12 Industrial 1 and 2 Zones	12.1.	Accept in part
1198	117	Transpower New Zealand Limited	Volume 2	12 Industrial 1 and 2 Zones	12.3.	Accept in part
1198	118	Transpower New Zealand Limited	Volume 2	12 Industrial 1 and 2 Zones	12.	Accept in part
1198	121	Transpower New Zealand Limited	Volume 2	12 Industrial 1 and 2 Zones	12.	Accept in part
1001	4	NZART Incorporated and Marlborough Amateur Radio Club (Branch 22)	Volume 2	5 Urban Residential 1 and 2 Zone	5.1.	Accept in part
1002	244	New Zealand Transport Agency	Volume 2	25 Definitions	25.	Reject
1198	76	Transpower New Zealand Limited	Volume 2	2 General Rules	2.39.1.14.	Reject
464	40	Chorus New Zealand limited	Volume 2	2 General Rules	2.39.1.14.	Accept in part
1158	42	Spark New Zealand Trading Limited	Volume 2	2 General Rules	2.38.1.14.	Accept in part
232	37	Marlborough Lines Limited	Volume 2	25 Definitions	25	Reject
1198	86	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.3.8.	Accept
1198	97	Transpower New Zealand Limited	Volume 2	4 Coastal Environment Zone	4.3.7.	Accept

1198	137	Transpower New Zealand Limited	Volume 2	19 Open Space 3 Zone	19.3.2.	Accept
1198	80	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.1.	Accept
1198	81	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.3.	Accept in part
1198	82	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3	Accept in part
1198	93	Transpower New Zealand Limited	Volume 2	4 Coastal Environment Zone	4.1.	Accept
1198	94	Transpower New Zealand Limited	Volume 2	4 Coastal Environment Zone	4.3.	Accept in part
1198	95	Transpower New Zealand Limited	Volume 2	4 Coastal Environment Zone	4	Accept in part
1198	106	Transpower New Zealand Limited	Volume 2	7 Coastal Living Zone	7.1.	Accept
1198	107	Transpower New Zealand Limited	Volume 2	7 Coastal Living Zone	7.3.	Accept in part
1198	108	Transpower New Zealand Limited	Volume 2	7 Coastal Living Zone	7	Accept in part
232	35	Marlborough Lines Limited	Volume 4	Zoning Maps	Zoning Map 135	Accept
1095	1	Robinsons Construction Ltd	Volume 4	Zoning Maps	Zoning Map 19	Accept
1201	166	Trustpower Limited	Volume 4	Zoning Maps	Zoning Map 172	Accept
1201	167	Trustpower Limited	Volume 4	Zoning Maps	Zoning Map 175	Accept
1201	168	Trustpower Limited	Volume 4	Zoning Maps	Zoning Map 190	Accept
1201	169	Trustpower Limited	Volume 4	Zoning Maps	Zoning Map 191	Accept
873	194	KiwiRail Holdings Limited	Volume 4	Zoning Maps	Zoning Map 218	Accept in part
873	195	KiwiRail Holdings Limited	Volume 4	Zoning Maps	Zoning Map 223	Accept in part
873	196	KiwiRail Holdings Limited	Volume 4	Zoning Maps	Zoning Map 83	Reject
873	197	KiwiRail Holdings Limited	Volume 4	Zoning Maps	Zoning Map 149	Reject
873	198	KiwiRail Holdings Limited	Volume 4	Zoning Maps	Zoning Map 31	Accept in part
873	199	KiwiRail Holdings Limited	Volume 4	Zoning Maps	Zoning Map 138	Accept in part
1198	79	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.2.1.8.	Accept in part
1198	83	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.2.1.8.	Accept in part

1198	84	Transpower New Zealand Limited	Volume 2	3 Rural Environment Zone	3.5.	Accept in part
232	38	Marlborough Lines Limited	Volume 2	25 Definitions	25	Reject
232	39	Marlborough Lines Limited	Volume 2	25 Definitions	25	Reject
425	409	Federated Farmers of New Zealand	Volume 2	25 Definitions	25	Reject
425	411	Federated Farmers of New Zealand	Volume 2	25 Definitions	25	Reject
425	413	Federated Farmers of New Zealand	Volume 2	25 Definitions	25	Reject
464	77	Chorus New Zealand limited	Volume 2	25 Definitions	25	Accept
464	78	Chorus New Zealand limited	Volume 2	25 Definitions	25	Reject
464	79	Chorus New Zealand limited	Volume 2	25 Definitions	25	Accept
464	80	Chorus New Zealand limited	Volume 2	25 Definitions	25	Accept
464	82	Chorus New Zealand limited	Volume 2	25 Definitions	25	Accept
464	83	Chorus New Zealand limited	Volume 2	25 Definitions	25	Accept
464	84	Chorus New Zealand limited	Volume 2	25 Definitions	25	Reject
768	68	Heritage New Zealand Puohere Taonga	Volume 2	25 Definitions	25	Reject
769	126	Horticulture New Zealand	Volume 2	25 Definitions	25	Reject
873	176	KiwiRail Holdings Limited	Volume 2	25 Definitions	25	Accept
873	177	KiwiRail Holdings Limited	Volume 2	25 Definitions	25	Accept
873	178	KiwiRail Holdings Limited	Volume 2	25 Definitions	25	Accept
873	183	KiwiRail Holdings Limited	Volume 2	25 Definitions	25	Accept
992	93	New Zealand Defence Force	Volume 2	25 Definitions	25	Reject
1002	249	New Zealand Transport Agency	Volume 2	25 Definitions	25	Reject
1041	83	Port Clifford Limited	Volume 2	25 Definitions	25	Reject
1158	69	Spark New Zealand Trading Limited	Volume 2	25 Definitions	25	Accept
1158	70	Spark New Zealand Trading Limited	Volume 2	25 Definitions	25	Reject
1158	71	Spark New Zealand Trading Limited	Volume 2	25 Definitions	25	Accept
1158	72	Spark New Zealand Trading Limited	Volume 2	25 Definitions	25	Accept
1158	74	Spark New Zealand Trading Limited	Volume 2	25 Definitions	25	Accept
1158	75	Spark New Zealand Trading Limited	Volume 2	25 Definitions	25	Accept
1158	76	Spark New Zealand Trading Limited	Volume 2	25 Definitions	25	Reject
464	75	Chorus New Zealand limited	Volume 2	25 Definitions	25	Accept
1158	67	Spark New Zealand Trading Limited	Volume 2	25 Definitions	25	Accept