WAIKATO DISTRICT COUNCIL

Hearings of Submissions on the Proposed Waikato District Plan

Report and Decisions of Independent Commissioners

Decision Report 13: Infrastructure

17 January 2022

Commissioners

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Mr Dynes Fulton

Ms Linda Te Aho

Ms Janet Gibb

Contents

1 Introduction

1. Hearing 22 related to all the submissions received by the Waikato District Council (Council) on infrastructure provisions within the Waikato Proposed District Plan (PDP). This hearing specifically related to objectives, policies, land use activities, land use effects, building and subdivision in Chapters 6 and 14 Infrastructure and Energy.

2. Infrastructure comprises the physical services and facilities needed for a community to function. Infrastructure covers the services provided by the physical networks associated with energy, water supply, telecommunications, sanitation and waste facilities, and drainage. The Resource Management Act 1991 (RMA) provides a definition for infrastructure as follows:

    a. pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy:

    b. a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001:

    c. a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989:

    d. facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person—

        (i) uses them in connection with the generation of electricity for the person's use; and

        (ii) does not use them to generate any electricity for supply to any other person:

    e. a water supply distribution system, including a system for irrigation:

    f. a drainage or sewerage system:

    g. structures for transport on land by cycleways, rail, roads, walkways, or any other means:

    h. facilities for the loading or unloading of cargo or passengers transported on land by any means:

    i. an airport as defined in section 2 of the Airport Authorities Act 1966:

    j. a navigation installation as defined in section 2 of the Civil Aviation Act 1990:

k. facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988:

l. anything described as a network utility operation in regulations made for the purposes of the definition of network utility operator in section 166

3. We are aware that the approach of the PDP for infrastructure departs significantly from the Operative District Plan (both Franklin and Waikato sections) in that the infrastructure provisions have been extracted from the zones and combined into two standalone chapters: Chapter 6 contains the objectives and policies, and Chapter 14 contains the rules, comprising activities, standards and matters of control and discretion. The Infrastructure and Energy provisions apply across all zones and roads. Both chapters are structured by the particular infrastructure e.g., National Grid, transport, electricity generation, telecommunications etc., although there are objectives, policies and rules which apply to all infrastructure.

1 Hearing Arrangement

4. The hearing was held on Tuesday 20 October and Wednesday 21 October 2020 via Zoom. All of the relevant information pertaining to this hearing (i.e., section 42A report, legal submissions and evidence) is contained on Council's website.

5. We heard from the following parties on the infrastructure provisions of the PDP:

Submitter organisation	Attendee at the hearing
Council	Trevor Mackie (author of section 42A report)
Colette Hanraham	In person
Simon Dromgool	In person
Brendhan Greaney	In person
Kane Ongley	In person
The Surveying Company	Leigh Shaw and Vanessa Addy
Parkmere Farms, Cindy and Tony Young	Nick Grala

Phillip Barrett	In person
Waikato Regional Council	Miffy Foley
First Gas	Hywel Edwards
Watercare Services	Ilze Gotelli (corporate) Chris Scrafton (planning) Warren Bangma (legal counsel)
Genesis Energy Limited	Richard Matthews
WEL Networks	Sara Brown
Department of Conservation	Maggie Burns and Tertia Thurley Troy Urlich (legal counsel)
New Zealand Transport Agency Waka Kotahi	Mike Wood (planning) Stephen Chiles (acoustic) Robert Swears (transportation) Christina Sheard (legal counsel)
Kiwi Rail	Pam Butler (planning) Stephen Chiles (acoustic) Tom Atkins (legal counsel)
NZ Association of Radio Transmitters Inc	Douglas Birt
Counties Power Limited	Shravan Miryala Rachel Bilbe

Te Kauwhata Land Limited	Ian McAlley Joan Forret (legal counsel)
Chorus New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand Limited	Chris Horne Graeme McCarrison Andrew Kantor Colin Clune
Transpower New Zealand Ltd	Dougall Campbell (corporate evidence) Pauline Whitney (planning) Andrew Renton (transmission engineering)
Horticulture NZ	Lynette Wharfe
Ports of Auckland	Mark Arbuthnot
Kainga Ora	Douglas Allan (legal counsel) Brendon Liggett (corporate) Phil Stickney (planning) Matt Lindenberg (planning and urban design) Jon Styles (acoustic)

6. Although they did not attend the hearing, written material and/or evidence was filed by the following parties:

    a. PowerCo;

    b. Christine Foster on behalf of Meridian Energy;

    c. Birch Surveyors on behalf of Annie Chen;

    d. Carolyn McAlley on behalf Heritage New Zealand Pouhere Taonga;

    e. Hilary Walker on behalf of Federated Farmers of New Zealand;

f. Alec Duncan on behalf of the Ministry of Education; and

g. Alec Duncan on behalf of Fire and Emergency New Zealand.

2 Overview of issues raised in Submissions

7. In the section 42A report, Mr Trevor Mackie set out the full list of submissions received pertaining to the infrastructure provisions. In brief, the key matters of relief sought by the submitters included:[1]

    a. Infrastructure and Energy Overall:

        i. More enabling of infrastructure with less stringent activity status and standards;

        ii. Better integration of planning (live zoning) and infrastructure;

        iii. Consistent approach to managing infrastructure in Identified Area identification;

        iv. Relocation of rules from the Infrastructure and Energy chapters into Zone Chapters;

        v. Minor amendments to Definitions;

        vi. Management of noise-sensitive activities in close proximity to the rail corridor and State Highway / Waikato Expressway; and

    b. Objectives and policies:

        i. Support for retaining many of the objectives and policies as notified;

        ii. Minor wording adjustments and amendments;

        iii. New objectives/policies to give effect to Waikato Regional Policy Statement (RPS) and take into account the Regional Land Transport Plan;

        iv. Additional clauses to policies to add specific matters (e.g., Crime Prevention Through Environmental Design, sustainability, renewable energy, reverse sensitivity, emergency services);

        v. More enabling policies relating to primary production/farming activities; and

[1] Section 42A Report Hearing 12: Country Living Zones, Paragraph 31, dated 3 March 2020.

c. Chapter 14 Introduction:
    i. Advice note on the requirements of the Heritage New Zealand Pouhere Taonga Act 2014;
    ii. Distinguishing on-site farming infrastructure from facilities and structures of network utility operators;
    iii. The relationship between PDP provisions and National Environmental Standards; and
d. Rules applying to all infrastructure:
    i. Increasing area and height controls;
    ii. Default activity status for unspecified infrastructure;
    iii. More enabling provisions for line support structures and overhead lines;
    iv. Noise limits;
    v. Ensure sufficient protection of Identified Area values;
    vi. Clarify relationship between 14.3 General Infrastructure and the specialist section provisions 14.4 to 14.12;
    vii. Increasing the duration of temporary network utilities;
    viii. Protect all natural areas against infrastructure effects;
    ix. Clarifying tree trimming related to electricity and telecommunication lines;
    x. Ensuring there is sufficient water for firefighting;
    xi. Clarification of water supply, wastewater and stormwater management in Rural and Country Living Zones;
    xii. Requirement to ensue appropriate service connections and vehicle access upon subdivision, while recognising that changing technology means there are different ways of providing services; and
e. National Grid:
    i. Transposition error in the definitions – National Grid Yard versus National Grid Corridor;
    ii. Creating a more enabling approach for private land, housing, farming and horticulture near the National Grid;

iii. Ensuring the provisions give effect to National Policy Statement on Electricity Transmission;

iv. Location of National Grid Yard rules for sensitive land uses, structure setbacks, earthworks setbacks in terms of their position in the Plan;

v. Management of sensitive activities near or beneath the National Grid;

vi. Activities status of structures and activities within National Grid Yard; and

f. Electrical Distribution:

i. More enabling area and height controls, including for support structures, switch-rooms and pole-mounted transformers;

ii. Approach to requiring undergrounding of new and existing electricity distribution lines;

iii. Increased flexibility for substations and transformer location in the Rural Zone;

iv. Protection of electricity distribution network against reverse sensitivity of sensitive land uses; and

g. Electricity generation:

i. More enabling area and height controls;

ii. Explicit recognition of Huntly Power station electricity generation activity;

iii. Manage electricity generation activity effects on roads and within identified Areas;

iv. Increased flexibility for research and exploratory scale equipment;

v. Ensuring there is a complete activity status cascade; and

h. Liquid fuels and gas:

i. Recognition and protection of gas transmission and distribution network pipelines and associated equipment;

ii. Clarification of whether the rules apply to on-site fuel and gas storage; and

i. Meteorological:

i. Increasing the permitted height and area to match the size of wind turbines; and

j. Amateur radio:

i. Enabling amateur radio configurations, their aerials/antennas and support structures; and

k. Telecommunications and radiocommunications:

i. Increasing the area and height controls for structures;

ii. Enabling connections to historic heritage buildings;

iii. Control of the underground infrastructure in Identified Areas versus focusing on earthworks provisions; and

l. Water, wastewater and stormwater:

i. Clarifying the different approaches to low impact and treatment train stormwater management;

ii. Reference to Waikato Regional Council (WRC) stormwater guidelines;

iii. Re-locate impervious area rules into the zone chapters;

iv. Wastewater disposal alternatives;

v. Water supply options, rain harvesting and firefighting water supplies;

vi. Enabling bulk water and wastewater infrastructure in Identified Areas; and

m. Transportation:

i. Safety and sightline provisions;

ii. Vehicle access design requirements, including access by emergency services vehicles;

iii. Traffic generation / vehicle movement controls;

iv. Car parking requirements;

v. Consistency of technical rules with latest transport standards, manuals and guidance;

vi. Specific activity and development standards including for transport for new zones;

vii. Road hierarchy classifications; and

viii. Adding or deleting new cycle/walkways that are in Council's walking, cycling and bridle trails strategies to the planning maps.

3 Overview of evidence

8. Ms Colette Hanraham attended the hearing and spoke of her concerns about the identification of an indicative walkway, bridleway, cycleway on the planning maps for her property at 126B Woodcock Road, Tamahere where it borders the Mangaharakeke Stream. She expressed concern about the use of her private land for public purposes, the lack of consultation and no thought being given to her privacy, safety or ownership. Ms Hanraham sought to delete the walkway, bridleway, cycleway from her property and Fuschia Lane. She considered there are risks with a walkway being next to a waterbody, especially when it is located in a floodplain. She considered that construction of a walkway is likely to cause loss of habitat due to removal of riparian vegetation and increased stream bank instability.

9. Mr Simon Dromgool attended the hearing and spoke of his desire to have an approved wastewater treatment system classified as a controlled activity. He discussed the different onsite wastewater treatment systems currently available, particularly the advanced enviro septic system which only requires a small amount of land. He considered that Tuakau sites in the order of quarter of an acre (i.e., approximately 1,000m2) should be able to be built on and serviced via an on-site wastewater system.

10. Mr Brendhan Greaney prepared a presentation supporting his submission to remove the Redwood Grove indicative road notation from the PDP maps. He considered that the original purpose of the indicative road was to provide access to 264 Newell Road, Tamahere but this has already been achieved from Newell Road. He considered there is no practical need to retain or extend the Redwood Grove indicative road to access Elmwood Lane properties. He outlined the advantages to focusing on Elmwood Lane as being:

    a. It currently services the undeveloped lots;

    b. Offers greater development options, with more properties being able to develop and not needing to be reliant on each other for access;

    c. Minimal impact on existing residential properties;

    d. Potentially enables access to a further undeveloped lot;

    e. Provides a superior traffic outcome;

    f. Is widely supported by the local neighbourhood as the preferred option;

g. Is technically feasible as assessed by CKL Planning Surveying Engineering and that report has been provided; and

h. Supports the transport objectives and policies of the PDP.

11. In response to our questions, Mr Greaney acknowledged that Elmwood Lane would need to be upgraded to accommodate the expected level of traffic.

12. Mr Kane Ongley attended the hearing to discuss the walkway and cycleway at Raglan between Lorenzen Bay and Cox's Bay. While he supported the concept of walkways and cycleways, he considered that the topography of that area is not suitable, and a better location would be down the bottom of the cliff but sited so the path does not get blocked or damaged by rockfalls. He had particular concerns that the rock is unstable.

13. Mr Leigh Shaw presented joint evidence on behalf of The Surveying Company, prepared by himself and Ms Vanessa Addy, which addressed four transport tables being:

a. Table 14.12.5.3 - Minimum sight distances from a vehicle entrance;

b. Table 14.12.5.1 – Separation distances of an access onto a road from an intersection or between accesses;

c. Table 14.12.5.14 – Access and road conditions (Residential, Village, Business, Business Town Centre and Industrial Zones); and

d. Table 14.12.5.15 – Access and road conditions (Rural and Country Living Zones).

14. Mr Shaw sought to remove onerous transportation standards from the PDP such as sight distances and access standards and instead rely on the Regional Infrastructure Technical Specifications (RITS). He considered this to be a "living" document that can easily be updated without the need to go through a complex plan change process.2 In particular, he sought deletion of Table 14.12.5.3 - Minimum sight distances from a vehicle entrance and Table 14.12.5.15 – Access and road conditions (Rural and Country Living Zones) and reliance instead on the RITS.

15. He considered that Table 14.12.5.1 contradicts Rule 16.4.11 Subdivision - Road frontage, as the table requires vehicle access for new subdivision to be separated by 20 metres, while Rule 16.4.11 Subdivision requires a minimum road frontage of only 15 metres. He observed that either a restricted discretionary activity resource consent is required as part of the subdivision consenting process, or an inefficient lot yield and

[2] Joint Statement of evidence by Leigh Shaw and Vanessa Addy on behalf of The Surveying Company Ltd, paragraph 9, dated September 2020.

unnecessary impermeable areas will result. He considered that deletion of the separation distances would encourage innovation and self-expression.3

16. Mr Shaw considered that Table 14.12.5.14 Access and road conditions would very much restrict and limit future potential Residential and Village zone Subdivisions, and in particular the requirement for an 8-metre legal right of way (ROW) width and 5-metre carriageway width. He considered that an 8-metre width simply cannot be obtained in most in-fill residential situations and is not an efficient use of the residential land resource.4 He supported increasing the potential number of users of a private way or ROW from 8 to 20 dwellings in accordance with NZS 4404:2010 Land Development and Subdivision Infrastructure - Table 3.2 Roading Design Standards.

17. Mr Phillip Barrett expressed similar concerns about Table 14.12.5.14 Access and roads, and the 8-metre width requirement. He did not consider this to be an efficient use of the residential land and supported it being reduced to three metres for a single lot and scaled up from there.

18. Ms Miffy Foley appeared on behalf of WRC and expressed her support for a number of the recommendations in the section 42A report. She focused on the following three particular areas which she considered to be problematic:

    a. Low impact approach to stormwater, where she considered there was a gap in the rule framework if an activity did not meet the permitted activity standards. She sought an additional matter of discretion to enable best practice low impact stormwater design to be considered;

    b. Inconsistency of the provisions for identified areas, particularly in significant natural areas; and

    c. Policy and rules needed to enable the maintenance, repair, replacement and upgrade of WRC's flood protection infrastructure which is critical for protecting life and property. The proposed definition of "infrastructure" includes drainage systems but not flood protection. The consequence of this is that rules in Chapter 14 do not apply to WRC flood protection infrastructure and its maintenance, repair, replacement and upgrade would thus be a non-complying activity.

19. Mr Hywel Edwards presented evidence on behalf of First Gas. He outlined the location and nature of First Gas's infrastructure within Waikato District and focused on the gas infrastructure in the Rural Zone. He sought inclusion of a definition for "gas

---

[3] Joint Statement of evidence by Leigh Shaw and Vanessa Addy on behalf of The Surveying Company Ltd, September 2020, paragraph 13

[4] Joint Statement of evidence by Leigh Shaw and Vanessa Addy on behalf of The Surveying Company Ltd, September 2020, paragraph 17

transmission network" and, in addition to the gas pipeline itself, sought that the ten aboveground gas stations be included on the planning maps. He also made the point that not all of the infrastructure is underground.

20. A key concern for Mr Edwards was to protect infrastructure from reverse sensitivity effects in accordance with Objective 6.16 of the PDP. He outlined the differing risk profile for the aboveground versus belowground gas infrastructure. He provided examples of where the gas transmission line is located close to a sensitive activity and the difficulties that causes for First Gas's day-to-day operation of the network.

21. Mr Chris Scrafton, Ms Ilze Gotelli and Mr Warren Bangma represented Watercare Services Ltd ("Watercare"). Ms Gotelli described the key water and wastewater infrastructure owned and operated by Watercare which includes wastewater treatment plants, water takes, and water storage dams and lakes. We understand that Watercare manages Council's water, wastewater, and stormwater assets under an agreement signed in October 2019. Ms Gotelli and Mr Scrafton outlined the difficulties that the PDP provisions are likely to cause. Ms Gotelli described that water and wastewater infrastructure often has a functional need to locate next to rivers, lakes, the coastal marine area or in forested catchments.[5]

22. These are areas which the PDP has often delineated as Identified Areas, but the management of these in the PDP means that water treatment plants, wastewater treatment plants and aboveground reservoirs within Identified Areas require resource consent as non-complying activities (Rule 14.11.4). Mr Scrafton considered that the policy framework for infrastructure in Identified Areas means that infrastructure will generally struggle to pass either of the gateway tests for non-complying activities in section 104D of the RMA.6 He considered that in order to give effect to the National Policy Statement for Urban Development 2020 (NPS-UD) and RPS, water treatment plants, wastewater treatment plants and aboveground reservoirs (all as defined regionally significant infrastructure) within Identified Areas should be discretionary activities rather than non-complying activities. He observed that the only difference between a discretionary and non-complying activity status from a resource consent perspective is the gateway tests in s104D of the RMA that are applied to a non-complying activity.7

23. In addition, Mr Scrafton considered that the PDP should be amended to include:

---

[5] Evidence in Chief of Ilze Gotelli on behalf of Watercare Services Limited, Paragraph 4.5, dated 29 September 2020.

[6] Summary statement of Christopher Scrafton on behalf of Watercare Services Limited, Paragraph 3.1., dated 29 September 2020.

[7] Summary statement of Christopher Scrafton on behalf of Watercare Services Limited, Paragraph 3.4., dated 29 September 2020.

a. Specific guidance making it clear that the relevant objectives and policies of Chapters 2, 3 and 7 are to be applied in addition to the objectives and policies contained in Chapter 6;

b. An additional policy within Chapter 6 enabling infrastructure within Identified Areas where first, there is a demonstrated functional and/or operational need, and then that any adverse effects on the values of the Identified Area be avoided, mitigated and remedied to the greatest extent practicable; and

c. Additional policy support for the functional and operational needs of infrastructure within the policy framework for each of the Identified Areas.[8]

In response to our questioning, Mr Scrafton considered that the concept of best practicable option could be included in the policies.

24. Mr Richard Matthews attended the hearing on behalf of Genesis Energy Limited and his evidence focused on the areas where he disagreed with the recommendations of Mr Mackie in his section 42A report. Mr Matthews supported including a definition for "energy corridor" in the PDP, but sought a further amendment to include "coal" to ensure that the definition includes the activities that the energy corridor shown in the Huntly planning maps provides for. He sought the following amendments:[9]

a. Policy 6.1.3 Technological advances to include the word "enable" the efficient use of infrastructure. He considered that this policy does not contemplate situations where new technologies enable better use of infrastructure;

b. Policy 6.1.9 – Environmental effects, community health, safety and amenity to avoid any implication that Council may "require" the "operation, maintenance, repair, replacement, upgrading and removal of infrastructure";

c. Objective 6.3.6 – Non-renewable energy to include explicit reference to electricity generation;

d. Policy 6.1.17 – Regionally Significant Infrastructure to include construction, operation, maintenance, repair, replacement and upgrading of infrastructure, not just development and use. He supports the inclusion of a policy addressing Regionally Significant Infrastructure; and

[8] Summary statement of Christopher Scrafton on behalf of Watercare Services Limited, Paragraph 2.2, dated 29 September 2020.

[9] Summary statement of Richard Matthews on behalf of Genesis Energy Limited, Paragraphs 7-10, dated 15 October 2020.

25. Recognition in Rule 14.12.1.4(1)(d) to include specific provision for up to 85 heavy vehicle movements per day for transport of ash away from the ash management area within the Rural Zone.

26. Ms Sara Brown presented evidence on behalf of WEL Networks and whilst she was generally supportive of the overall intent of the PDP, she sought amendments to recognise the importance of electricity and telecommunication infrastructure as provided in Part 2 of the RMA. Ms Brown helpfully set out the PDP provisions which she supported, but focused her evidence on four outstanding matters. WEL's submission sought the inclusion of a new rule that:

    a. applies to the design and location of infrastructure services; and

    b. requires all new subdivision and development to provide utilities corridors in the road reserve free of tree plantings in accordance with Tables 14.12.5.14 and 14.12.5.15.

27. The reason for this was to ensure sufficient space is available for WEL to install its network utility equipment, and for vegetation and utilities to co-locate in berms without damaging each other. Non-compliance with this standard would cascade to a discretionary activity status.

28. The second issue was an amendment to Rule 14.3.1.1 P2 Minor upgrading of existing infrastructure, relating to condition (a) to allow existing poles to be relocated within 10 metres of the existing location rather than the 5-metre condition recommended by Mr Mackie in his section 42A report. Ms Brown explained that WEL will generally only move poles if there is an ongoing occurrence of car versus pole accidents or the ground is found unstable or unsuitable for such infrastructure. In both instances, a restriction of five metres is unlikely to be enough and has the potential to delay necessary safety works.[10]

29. The third matter was the deletion of a condition associated with Rules 14.6.1 P1 and P2 which provides for small-scale and community-scale distributed renewable energy generation as a permitted activity. Specifically, WEL requested the deletion of condition (b) which would require resource consent for all electricity generation activities within a road, or unformed road. Ms Brown considered that the concerns raised by Mr Mackie regarding streetscape amenity when electricity generation activities are undertaken within the road reserve can be adequately regulated through the other conditions which limit size of any structures. She was concerned that solar panels installed on light poles or on other structures within the road reserve, such as bus stops, would be captured by this rule. She considered that electricity generation

[10] Evidence in Chief of Sara Brown on behalf of WEL Networks Limited, Paragraph 5.12, dated 29 September 2020.

activities in the road reserve or road not otherwise utilised would be an efficient use of land.[11]

30. The fourth matter was the limit of a 20kW threshold with respect to community scale generation. Ms Brown considered that the 20kW limit was unreasonable and provided an example of the solar panels on the rooftop of WEL's headquarters in Hamilton which has the potential to generate electricity in excess of 20kW. She pointed out that these solar panels have no adverse effects as they are black and do not reflect light and do not produce noise. Condition (j) requires solar panels on roofs of buildings not to exceed one and a half metres in height above the existing roof which will capture any potential visual effects.[12]

31. Ms Maggie Burns and Ms Tertia Thurley represented the Director General of Conservation ("DOC"). Ms Thurley's evidence focused primarily on long-tailed bats, particularly as the Waikato District holds several populations of long-tailed bats. Her area of concern was the effect of wind farms on bats. She observed that internationally large numbers of bats are killed by wind farms using large turbines. She explained that knowledge of the impact of small wind turbines is limited, however studies show that despite bats generally avoiding small wind turbines, they do kill bats.[13]

32. She considered that the best approach to minimise risk to bats is by not allowing wind turbines in a known bat habitat and, in the absence of information, requiring bat surveys to determine bat presence/absence prior to installation.[14] She also considered that the matters of discretion for small-scale and community wind farm applications need to be applied to all the habitats that bat populations require to function, not just to significant natural areas.

33. The evidence of Ms Burns focused on the rules for wind farms (of all scales) and DOC's further submission on Powerco's submissions relating to infrastructure in Identified Areas. Ms Burns sought the inclusion of additional matters of discretion to address any potential adverse effects associated with the construction, operation and decommissioning of small-scale and community-scale electricity generation projects, particularly on avifauna and bats. She considered that wind farms, even those of small and community scale, have the potential to have significant ecological effects

[11] Evidence in Chief of Sara Brown on behalf of WEL Networks Limited, Paragraphs 5.21-5.22, dated 29 September 2020.

[12] Evidence in Chief of Sara Brown on behalf of WEL Networks Limited, Paragraph 5.23, dated 29 September 2020.

[13] Summary statement of evidence of Tertia Thurley for the Director General of Conservation, Paragraph 10, dated 15 October 2020.

[14] Summary statement of evidence of Tertia Thurley for the Director General of Conservation, Paragraph 15, dated 15 October 2020.

particularly on bats.[15] She supported the discretionary activity status for large-scale wind farms in the rural zone, and the non-complying activity status for large scale wind farms outside of the rural zone and within identified areas. Ms Burns opposed the amendments to Policy 6.1.10 and Rule 14.2.3 as sought by Powerco on the basis that they would be excessively permissive for infrastructure in identified areas. She considered that the current policy and rule wording is appropriate and allows consideration of significant adverse effects on identified areas.

34. Mr Michael Wood presented evidence on behalf of Waka Kotahi New Zealand Transport Agency (Waka Kotahi) seeking an approach to trip generation thresholds based on "Equivalent Car Movement" (ECM), and the type of road (i.e., arterial, collector or local road). Mr Wood sought a restricted discretionary activity where an activity does not comply with the relevant ECM, and either a "simple integrated transport assessment" or "broad integrated transport assessment" depending on the specific ECM. He considered that the requirements for simple and broad integrated transport assessments can be included in advice notes. He also considered that integrated transport assessments ("ITA") enable Waka Kotahi and Council to consider the proposed impact of a development on the transport system and the effectiveness of any mitigation measures that are proposed to address adverse impacts and/or opportunities to achieve wider transport outcomes such as road safety and mode shift, consistent with Council and Government priorities. He considered ITAs address a range of initiatives to mitigate effects by influencing behaviour change including opportunities for walking, cycling, new technology, parking or an alternative land use approach if considered necessary (this could be in cases where the operating performance of the network is poor).[16]

35. Mr Robert Swears presented evidence on behalf of Waka Kotahi. Mr Swears focused on the trip generation rules and the need for ITAs to accompany resource consent applications involving traffic generating activities where those activities may result in adverse effects on the transport network. He proposed amendments to the notified version of the PDP that set appropriate ECM limits for new land use activities, which clearly specify what level of information would be required for any application for resource consent and put in place relevant assessment criteria. Mr Swears addressed the evidence of Mr Arbuthnot on behalf of Ports of Auckland Limited and partly agreed that while the PDP provides a mechanism to enable the traffic effects to be considered, the varying rates and thresholds of Rule 14.12.1.4 P4 do not adequately allow for the effects associated with heavy vehicles.17

---

[15] Summary statement of evidence of Maggie Burns for the Director General of Conservation, Paragraph 7, dated 15 October 2020.

[16] Summary statement of evidence of Michael Wood on behalf of Waka Kotahi, Paragraph 3.3, dated 15 October 2020.

[17] Summary statement of evidence of Robert Swears on behalf of Waka Kotahi, Paragraph 3.3, dated 15 October 2020.

36. Ms Butler on behalf of KiwiRail expressed concern that controls designed to protect landscape and natural character areas do not provide for necessary works associated with regionally significant infrastructure. She considered that Rule 14.3.1.3(3)(b) and Rule 14.3.1.3(3)(c)-(e) will restrict KiwiRail's ability to carry essential works to enable the safe and efficient operation of the rail network.

37. Mr Douglas Birt presented evidence on behalf of New Zealand Association of Radio Transmitters Incorporated. Mr Birt explained what Amateur Radio is and the value it provides to the community. He expressed concern at Mr Mackie's recommendation to reject the definition of Amateur Radio Configurations, as Mr Birt considered without the definition there is a risk of unlicenced operators establishing. He then helpfully outlined all the other amendments and explanations provided by Mr Mackie which he agreed with.

38. Mr Shravan Miryala presented evidence on behalf of Counties Power Limited and focused on three issues:

    a. Provisions that enable overhead distribution lines in Village Zone; Country Living Zone; Industrial and Heavy Industrial Zones and within formed and unformed roads adjacent to these Zones. He advised that most new subdivisions in urban areas will incorporate underground power cables as space/area for ducting is provided for in the subdivision layout within roads and as required by the Territorial Authority's engineering standards. He considered overhead power cables were acceptable in in the industrial areas due to the reduced level of amenity, and the semi-rural low density character of the Village Zone and the Rural Lifestyle Zone;[18]

    b. Subdivision within proximity of existing lines should be protected from subdivision, use and development in a manner similar to Transpower's National Grid; and

    c. The permitted size of a switch room should be increased, or a less onerous activity status imposed such as a controlled activity. Mr Miryala provided examples of the size of existing switch rooms which range from 187m² in Tuakau to 480m² in Pokeno.

39. Ms Rachel Bilbe spoke about the advantages of having overhead electricity distribution lines, and the ability to find and fix faults more rapidly than if the cables are underground. She also described the standard dimensions of support structures for electricity distribution.

[18] Evidence in Chief of Shravan Miryala on behalf of Counties Power Limited, Paragraph 21, dated 29 September 2020.

40. Dr Joan Forret presented legal submissions on behalf of Ian McAlley and expressed concern that the PDP retains references to Te Kauwhata West in Chapter 14. Mr McAlley considered that the Structure Plan should be removed and Te Kauwhata West should now be fully integrated into the general Residential Zone, negating the need for such references in the infrastructure provisions.

41. Dr Forret also addressed Policy 6.5.2 and the inclusion of a new clause (ix) that acknowledges the relationship of the long-term goals and advantages of an efficient, effective and integrated land transport network, whilst noting the likelihood of adverse effects on the environment which changes in construction will bring.[19]

42. Mr Chris Horne presented evidence on behalf of Chorus New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand Limited. He considered that the section 42A report recommendations adequately address many of the matters raised in the submissions by these telecommunications companies. Accordingly, Mr Horne's evidence focussed only on three outstanding matters being:

    a. Service connections to heritage buildings which he said should be a controlled activity. He considered this supports the ongoing, adaptive use of these buildings and contributes to their long-term upkeep, whilst ensuring any service connections are appropriately designed and positioned via a controlled activity resource consent;

    b. Below ground telecommunications facilities in Identified Areas should have no standards, as once the infrastructure is in place there are no ongoing adverse effects on the values and attributes of Identified Areas. He noted that there are separate rules for earthworks for infrastructure in Identified Areas which would be triggered by the installation of underground infrastructure in Identified Areas; and

    c. Changes to the description of Rule 14.1.10 P7 and the standards in Rule 14.10.1.5 to provide improved clarity that the rule applies to antennas that are not dish and panel antennas and to make the standards more workable. Mr Horne illustrated that these antennas have limited bulk and visual impact and are only enabled by the rule to the extent they would be attached to other buildings or structures that in themselves would need to be existing, and comply with District Plan rules.[20]

[19] Legal submissions on behalf of Ian McAlley, Paragraphs 28-29, dated 14 October 2020.

[20] Summary statement of evidence of Chris Horne on behalf of the telecommunications companies, Paragraph 10, dated 21 October 2020.

43. Mr Graeme McCarrison, Mr Andrew Kantor and Mr Colin Clune also presented joint evidence on behalf of the three telecommunications companies. Their evidence addressed three main issues being:

    a. An explanation of the provision of telecommunication connections for new lot subdivisions and how compliance with the provisions can be achieved. The evidence considered that compliance with Rule 14.3.1 P12 should be via formal confirmation from the relevant telecommunication network operator but not retail telecommunication service providers;

    b. Support for the inclusion of a controlled activity rule for service connections to the façade or item specifically listed in Schedule 30.1; and

    c. Outlining the importance of the National Environmental Standards for Telecommunications Facilities 2016 (NES-TF).

44. Transpower New Zealand Ltd ("Transpower") was represented by Mr Dougall Campbell, Ms Pauline Whitney and Mr Andrew Renton. Mr Campbell explained that Transpower is responsible for maintaining, upgrading and development of the National Grid as well as the operational requirements and engineering constraints that both dictate and constrain the way it is managed. He summarised the National Policy Statement on Electricity Transmission 2008 (NPS-ET) and the need for the PDP to give effect to that document, in terms of managing the effects of land use and development on the National Grid. He stated that the PDP needs to manage land use, subdivision and earthworks activities around the National Grid.21

45. Mr Renton described the National Grid assets in the Waikato District and the typical operation, maintenance and upgrade works required as well as the safety issues and reserve sensitivity effects Transpower needs to manage. He helpfully described the impacts of third-party activities on Transpower's assets and operations. The planning approach adopted by Transpower is to have a National Grid corridor comprising a National Grid Yard and National Grid Subdivision Corridor. Mr Renton explained that the yard and corridor widths are the bare minimum necessary to ensure that Transpower's maintenance, repair, upgrade and operation activities are not compromised. He explained the relationship between the National Grid yard and the New Zealand Electrical Code of Practice for Electrical Safe Distances:2001 (NZECP34:2001) and considered that while NZECP34:2001 may adequately provide for the minimum safe electrical distances for smaller buildings and structures around transmission lines, it does not prevent underbuilds nor does it ensure that the

[21] Summary statement of evidence of Dougall Campbell on behalf of Transpower New Zealand Limited, Paragraph 8, dated 15 October 2020.

operation, maintenance, upgrade and development of the National Grid is not compromised.22

46. Ms Whitney's evidence focused on the wording changes she sought to specific provisions including:[23]

    a. Policy 6.2.5 National Grid to clarify the application and relationship of the policy to other PDP provisions;

    b. Activity status for new National Grid substations/switching stations within Identified Areas where a discretionary activity status is supported rather than non-complying;

    c. National Grid specific Earthworks Rule 14.4.2. RD3 and Rule 14.4.4. NC11 where two minor amendments are sought to clarify the application of and relationship between the rules;

    d. National Grid Yard Rule 14.4.1.2 P2 to delete the recommended prescriptive list of permitted farming related activities (clause (g)) (on the basis such activities are already permitted under other rules);

    e. An amendment is also sought to Rule 14.4.4 NC5 and Rule 14.4.4 NC9 to clarify the relationship to the permitted rules and the insertion of a 'catch all' non-complying rule to capture buildings and structures not included within the permitted rules; and

    f. Advice Notes for 14.1 Introduction to clarify that Transpower will be considered an affected party should the National Grid corridor rules not be complied with.

47. Ms Lynette Wharfe presented evidence on behalf of Horticulture New Zealand and focused on the provisions of concern, being:

    a. Policy 6.1.2 "Development, operation and maintenance" where she did not support the addition of the words 'the need to access infrastructure';

    b. Policy 6.1.4 "Infrastructure benefits" where she sought deletion of clause iv) 'Managing adverse effects on the environment' as it is not a 'benefit';

    c. Objective 6.1.6 and Policy 6.1.7 "Reverse sensitivity" where she was concerned that the provisions are being driven by the need to give effect to the NPS-ET,

---

[22] Summary statement of evidence of Andrew Renton on behalf of Transpower New Zealand Limited, paragraph 10, dated 15 October 2020.

[23] Evidence in chief of Pauline Whitney on behalf of Transpower New Zealand Limited, paragraph 13, dated 29 September 2020.

whereas Policy 6.2.6 applies specifically to reverse sensitivity and the National Grid, essentially resulting in duplication. She also expressed concern about the words "protected" and "avoid" in those provisions;

d. Policy 6.1.12 "Co-location of compatible facilities" where she supported a minor change to include specific reference to reverse sensitivity;

e. Policy 6.1.17 "Regionally significant infrastructure" where she supported the addition of a specific policy for regionally significant infrastructure but was concerned with the section 42A recommended wording;

f. She opposed reference to the gas network being added to the National Grid provisions;

g. Objective 6.2.1 "National Grid" where she sought amendments to ensure consistency with the NPS-ET;

h. Policy 6.2.5 "Environmental effects" where she sought amendments to avoid, remedy or mitigate adverse effects on areas other than overlays which reflect section 6 of the RMA;

i. Policy 6.2.6 "Reverse sensitivity" where amendments were sought to better articulate the management of reverse sensitivity near the National Grid;

j. National Grid rules in section 14.4 to ensure that there is consistency with NZECP34:2001 where appropriate; and

k. Definition of minor upgrading to acknowledge an increase in voltage.

48. Mr Mark Arbuthnot presented evidence on behalf of Ports of Auckland and addressed amendments to Rule 14.12.1.4 P4 to reinstate the permitted traffic generation thresholds of the Operative District Plan as they relate to the Horotiu Industrial Park. He opposed the evidence from Mr Wood on behalf of Waka Kotahi which had the effect of significantly reducing the permitted activity traffic generation "thresholds" of Rule 14.12.1.4 P4 in relation to the Horotiu Industrial Park. He expressed concern that Mr Wood had not considered the effect of the proposed rule on the ongoing development of the Horotiu Industrial Park as a strategic industrial node and how a requirement to prepare an ITA could be incorporated into the existing rule framework of the PDP.[24] As the rule deems one heavy vehicle to be equivalent to three cars, he considered Waka Kotahi's approach will have the effect of reducing the permitted traffic generation of the Horotiu Industrial Park by one third.

[24] Summary statement of evidence of Mark Arbuthnot for Ports of Auckland Limited, Paragraph 2.5, dated 15 October 2020.

49. Kāinga Ora was represented by Mr Douglas Allan, Dr Alex Devine, Mr Brendan Liggett, Mr Phil Stickney, Mr Matt Lindenberg and Mr Jon Styles.

50. Mr Allan outlined the three matters which concern Kāinga Ora, being:

    a. The National Grid Subdivision Corridor;

    b. Noise and vibration generated by state highways; and

    c. Noise and vibration generated by the trunk railway network.

51. He explained that in each case the key issue is whether and to what extent owners of land adjacent to those networks should be constrained in their activities or be expected to mitigate potential adverse effects generated by the infrastructure.[25] He advised that Kāinga Ora opposes the extent and nature of controls proposed with respect to all three categories of infrastructure networks.

52. Mr Lindenberg focused on the National Grid Corridor which controls subdivision in close proximity to the National Grid. He considered that the spatial extent of the National Grid Subdivision Corridor should better reflect the actual spatial extent of the effects which may be generated. He considered that a more fulsome assessment of the costs and broader impacts of imposing the PDP National Grid Overlay package of provisions is required to be undertaken, particularly in relation to urban land.26

53. In addition to addressing the corridor around state highways and rail, Mr Stickney also addressed changes to Table 14.12.5.7 and Table 14.12.5.14., which regulate minimum parking standards and accessway and road corridor widths. He observed that the NPS-UD requires the removal of minimum parking standards. In relation to accessways, he considered that Table 14.12.5.14 should be amended so that where more than eight lots are created, a narrower legal width of 16 metres should be enabled instead of the standard 20-metre width in the Village and Residential Zones. Alternatively, the trigger point for the number of allotments could be adjusted upwards to enable to greater number to be serviced without a 20-metre road being required.

54. Although Mr Gary Schofield did not attend the hearing, he filed evidence on behalf of Powerco. He addressed the following provisions:

    a. The definition of minor infrastructure structure and sought the inclusion of transformers, regulator stations and pumping stations;

---

[25] Legal submissions on behalf of Kainga Ora, Paragraph 1.4, dated 15 October 2020.

[26] Summary statement of evidence of Matt Lindenberg on behalf of Kainga Ora, Paragraph 4.1, dated 15 October 2020.

b. Inclusion of support structures for the distribution of electricity as a permitted activity in Rule 14.2.1 P1, and exemption of the height in relation to boundary rules for support poles associated with service connections

c. Amendments to Rule 14.3.1 P5 for works to be undertaken by a "works arborist";

d. Inclusion of the requirement for compliance with NZCEP34:2001 in Rule 14.5.1.3 P5;

e. Including additional matters of discretion in Rule 14.5.2 RD2 addressing safety;

f. Inclusion of "regionally significant infrastructure" in Objective 6.1.6; and

g. Amendments to Policy 6.1.9 to recognise that network utilities cannot always be located to avoid all adverse effects on communities, and focussing on avoiding significant adverse effects as well as what is reasonably practicable to achieve in Policy 6.1.9.

55. Ms Christine Foster filed evidence on behalf of Meridian Energy Limited and addressed the following provisions where she disagreed with Mr Mackie's section 42A report recommendations:

a. Definition of "infrastructure" to include large scale wind farms and clarity as to whether the word "facilities" in that definition would include wind farms;

b. Definition of "minor upgrading" to include all ancillary structures of a wind farm;

c. Include reference to having particular regard to the benefits of use and development of renewable energy in Policy 6.1.4, given section 7 (j) of the RMA;

d. Amend Policy 6.1.7 to give effect to Policy D of the National Policy Statement for Renewable Electricity Generation to manage activities to avoid reverse sensitivity effects on existing and consented renewable electricity generation facilities;

e. Increase the distance for relocation and height of +50% in Rule 14.3.1.1 (1) (a), (b) and (c): Minor Upgrading Thresholds;

f. Increase the permitted height for Rules 14.6.1.2, 14.8.1.1 (a) (ii) and 14.8.1.2 (a) Provision for Wind Investigation Structures to enable measurements to be made at a similar height to that occupied by wind farm structures (e.g., 80 metres);

g. To acknowledge widely accepted NZS6808:2010 as the appropriate methodology for assessing wind turbine noise, in Rule 14.6.3 (a) D1: Discretionary Activity Provision for Large-Scale Wind Farms;

h. Improve clarity in Rule 14.6.4 NC1 and Rule NC2; and

i. Meteorological facilities that do not meet the permitted standards should cascade to restricted discretionary rather than discretionary activity status.

56. Sir William Birch filed evidence on behalf of Annie Chen opposing some of the section 42A report recommendations. Sir William did not support the replacement of "discourage" with "avoid" in Policy 6.4.4, particularly given recent case law on the impact of avoid provisions and that it represents an absolute policy position. He outlined an alternative approach whereby Policy 6.4.4 contains a qualifier as to the scale of effects that should be avoided, such as "significant", or "manage" is used instead. He helpfully provided examples of policies from other plans.

57. Ms Carolyn McAlley filed evidence on behalf Heritage New Zealand Pouhere Taonga ("Heritage NZPT") and expressed support for Mr Mackie's recommended amendments to Policy 6.1.10 and Policy 6.2.5 (a) (v) (although she did not support the inclusion of the words "where practicable"). She considered these policies provide a clearer expectation of the outcomes expected in relation to the finite section 6 resources and better supports the non-complying status of some of the activities.

58. Ms Hilary Walker filed evidence on behalf of Federated Farmers of New Zealand and expressed general support for the recommended changes by Mr Mackie in his section 42A report, except for the parameters used for upgrading in the National Environmental Standard for Electricity Transmission, which Ms Walker preferred instead of those recommended by Mr Mackie.27 Ms Walker also clarified that the submission from Federated Farmers on Policy 6.1.11(a) was to limit undergrounding of new infrastructure to residential and urban areas.

59. Ms Alec Duncan filed evidence on behalf of the Ministry of Education which focused on carparking for educational facilities. She noted that the NPS-UD requires deletion of car park requirements from district plans and supported deleting the carparking table and related objectives and policies now rather than in a later plan change. Ms Duncan also addressed traffic movement rates for education facilities.

60. Ms Duncan also filed evidence on behalf of Fire and Emergency New Zealand and expressed support for the recommendations made by Mr Mackie:

a. To retain policy 6.4.3 and replace the word "supply" with "management";

b. Largely retain Policy 6.5.2 i as drafted;

c. Amend Rule 14.12.1.1 Vehicle access for all activities to ensure sufficient access for firefighting purposes;

---

[27] Evidence in chief of Hilary Walker on behalf of Federated Farmers of New Zealand, Paragraph 10, dated 28 September 2020.

d. Include access clearance requirements for firefighting purposes as a matter of discretion in Rule 14.12.2; and

e. Amend Tables 14.12.5.14 and 14.12.5.15 to provide clarity and certainty ensuring that accesses are appropriately designed to facilitate access to sites by fire appliances.

61. Ms Duncan did not support Mr Mackie's recommended amendments to Rule 14.3.1.8 which excluded the requirement to have an adequate supply of water and access to water supplies for firefighting purposes in the Rural and Country Living Zone. Ms Duncan considered that despite not having reticulated water supplies in these zones, there are a range of possible solutions to ensure a firefighting water supply in such circumstances.

Sensitive land uses in close proximity to state highways and rail corridors

62. Mr Mike Wood on behalf of Waka Kotahi sought new rules for managing sensitive activities adjacent to existing or planned state highways, including modifications to existing sensitive activities. His new rules are intended to be in addition to the notified "no build" setbacks within the PDP. In essence, Mr Woods sought amendments to require new or altered buildings within 100 metres of a state highway that contain noise sensitive activities to comply with specified standards for noise and vibration.

63. Dr Stephen Chiles considered that due to the nature of their operations, KiwiRail and Waka Kotahi are unable to internalise all noise and vibration effects associated with their activities. He considered that adverse effects on new and altered buildings containing sensitive activities can be avoided and managed through well understood controls in district plans. He considered it is critical that the PDP includes appropriate land use controls to manage the location of sensitive activities near road and rail corridors, to protect these users from adverse effects and in turn to manage potential reverse sensitivity effects on KiwiRail and Waka Kotahi. Given the well accepted health effects of noise and vibration from roads, he considered it is illogical and inconsistent from the perspective of protecting human health for the PDP to contain land use controls for sensitive activities near a range of other sources but to largely omit controls near road and rail networks. He supported:

a. An "effects" area of 100 metres from the state highway carriageway or railway for noise sensitive activities, and an "effects" area of 40 metres from the state highway carriageway, and 60 metres from the railway, for vibration sensitive activities; and

b. Noise and vibration standards for new or altered buildings containing sensitive activities within the relevant "effects" areas.

64. Ms Pam Butler presented evidence on this matter on behalf of KiwiRail and referenced KiwiRail's noise complaints database as showing a correlation between urban

development near the rail corridor and the number of noise complaints received.[28] Ms Butler considered that requiring new buildings or alterations to existing buildings for a sensitive land use within 100 metres of the railway corridor boundary to be mitigated against the effects of rail noise and vibration would strike the appropriate balance between the onus on existing lawful emitters to manage their effects and the onus on new sensitive activities to protect themselves against such effects.[29]

65. Mr Nick Grala appeared on behalf of Cindy and Tony Young and Parkmere Farms and explained his concerns with the submission made by Waka Kotahi. He expressed concern at the restrictions that would be imposed by the introduction of a Noise Sensitive Overlay applying to:

    a. The construction of all buildings for a sensitive land use within 100 metres of a state highway carriageway or legal boundary of a railway corridor;

    b. The alteration of all buildings for a sensitive land use within 100 metres of a state highway carriageway or legal boundary of a railway corridor; and

    c. All subdivision having to locate building platforms further than 100 metres from a state highway carriageway or legal boundary of a railway corridor (irrespective of intended use).

66. He observed that the PDP already contains large setback requirements for sensitive activities in relation to a state highway in various rules within the different zones.30

67. Mr Grala stated that hearing panels in both Auckland and Whangarei have rejected similar Noise Sensitive Overlay rule frameworks in their District Plans and outlined the reasons for those decisions. He expressed concern at the absence of a robust s32AA evaluation to support the request for a Noise Sensitive Overlay, and in particular, the absence of calculations showing the number of properties that would be affected throughout the district and costs for both existing dwellings and new builds.

68. Mr Grala considered that Waka Kotahi and KiwiRail's approach transfers the obligation (and cost) of managing noise to the landowners and community rather than the manager of the infrastructure generating the noise.[31] He expressed concern that both KiwiRail and Waka Kotahi cite reverse sensitivity as the justification for the rules they

---

[28] Summary statement of evidence of Pam Butler on behalf of KiwiRail, paragraph 2.2, dated 15 October 2020.

[29] Summary statement of evidence of Pam Butler on behalf of KiwiRail, Paragraph 2.3, dated 15 October 2020.

[30] Summary statement of evidence of Nicholas Grala on behalf of Cindy and Tony Young and Parkmere Farms, Paragraph 3, dated 15 October 2020.

[31] Summary of Nicholas Grala on behalf of Cindy and Tony Young and Parkmere Farms, Paragraph 13, dated 15 October 2020.

propose. However, Mr Grala also observed that no evidence has been provided by Waka Kotahi or KiwiRail to demonstrate that reverse sensitivity issues are manifesting within the Waikato District. He provided a useful example of how the rule would apply to alterations to an existing dwelling, which, regardless of the scale or nature of those alterations, would be required to be designed and constructed with acoustic insulation. He considered that the potential for reverse sensitivity effects simply does not exist in situations where the sensitive land uses are lawfully established in their current locations prior to the establishment of the adjoining transport infrastructure.[32]

69. Mr Phil Stickney presented evidence on behalf of Kāinga Ora and opposed the relief sought by KiwiRail and Waka Kotahi as he considered that including acoustic and vibration controls for a distance of 100 metres each side of the outer boundary of a state highway or rail designation was an inappropriate and unjustified planning response. He considered that the analysis does not signal that there is indeed a significant reverse sensitivity effect that is manifesting itself through the curtailing of road or rail movements, nor that the particular noise environment within the Waikato District justifies their introduction. He opposed the inclusion of outdoor noise controls in terms of their practicalities (being onerous and unduly complicated) and costs for the landowner.33

70. Mr Jon Styles presented acoustic evidence on behalf of Kāinga Ora and considered that the management of the issue requires an integrated approach where the noise and vibration generators are required to mitigate their effects at the source and as far as is practicable. Any controls in the receiving environment should deal with the effects that cannot be internalised following the adoption of the best practicable option. He addressed noise and vibration generated by both state highways and rail by drawing on examples and measurements, then concluded that the controls are unnecessary and inappropriate.

4 Panel Decisions

71. We note that 1316 primary submission points were received on the Infrastructure and Energy provisions and these were considered in a comprehensive section 42A report, rebuttal and closing statement prepared by Mr Mackie who recommended a number of changes. This is a substantive section of the PDP, so we have structured our decision into sections which largely reflect the structure of Chapter 14 with a separate section for the objectives and policies in Chapter 6. Given the sheer volume of submissions, we do not attempt to address every submission point individually and instead focus on them thematically by reference to the key changes sought by submitters.

---

[32] Summary of Nicholas Grala on behalf of Cindy and Tony Young and Parkmere Farms, Paragraph 16, dated 15 October 2020.

[33] Summary statement of evidence of Phil Stickney on behalf of Kainga Ora, Paragraph 3.3-3.4, dated 15 October 2020.

4.1 Overall approach to infrastructure

72. The key overarching general themes emerging from broad submissions applicable to infrastructure and energy relate to:

    a. Better integration between zone and infrastructure provisions;

    b. Energy efficiency;

    c. Definitions; and

    d. Mapping of potential sites for infrastructure and energy-related facilities.

73. While a number of submitters sought amendments to the infrastructure provisions to better integrate them with land use planning, we are satisfied that integration is already embedded in the objectives and policies in Section 4.7 Urban Environment and Section 6.4 Infrastructure, Subdivision and Development. The rules in Chapter 14 also ensure that subdivision and development is appropriately serviced. We do not consider that any specific amendments are required in the infrastructure provisions to address these submission points.

74. Similarly, a number of submitters sought that the PDP actively enables energy efficiency initiatives and the implementation of solar power. We consider that the PDP already addresses this by virtue of the objectives and policies in Section 6.3 and the rules in section 14.6.1. We consider this approach gives effect to the NPS-REG and the relevant RPS provisions, such that no specific initiatives are required.

75. Definitions were the focus of a number of submissions, and we have outlined our findings on each as follows:

    a. Minor infrastructure structure – while submitters sought to include specific structures in this definition, we have not made any changes to avoid an extensive list of structures that may be read as being all-inclusive. Some of the concerns are addressed by the height and area standards in the rule for minor infrastructure structures.

    b. Minor upgrading of existing infrastructure – we have not made any amendments to this definition as we do not consider it is appropriate to limit increases in voltage to existing lines as sought by Horticulture New Zealand nor include ancillary activities as sought by Meridian Energy.

    c. National Grid terms – we note that the definitions for National Grid Yard and National Grid Corridor were unfortunately transposed in the PDP and have corrected this. We have largely adopted the submission of Transpower and consider that the amendments provide additional clarity.

d. Infrastructure – we have not made any changes to this definition to avoid inconsistency with the RMA definition.

e. Regionally Significant Infrastructure – we have added a definition for this term, for the reasons set out in Decision Report 5: Strategic Directions.

f. Road network activities – we consider it appropriate to recognise that wastewater and water supply management structures are routinely located in the road corridor, and that rail activities are to be treated in the same way as road network activities where they are located within the road corridor.

g. Design speed – a new definition is inserted to provide clarity regarding the tables in Chapter 14.12.

h. Energy corridor – we agree that amendments are appropriate to clarify that it provides for activities associated with the Huntly power station.

i. Land transport network – we agree that inclusion of this definition will appropriately recognise the whole transport system and the functions that road, rail, cycling and walking facilities have.

j. Limited access road – we agree that amending the definition will better describe their legal status.

76. We have not made any other changes to definitions as we consider they are either not necessary or are addressed by other provisions in the PDP (e.g., height and area). We have set out the amendments to the Definitions in Decision Report: 30 Definitions.

77. A number of submission points relating to a variety of discrete issues were addressed in section 19 of Mr Mackie's section 42A report. We agree with his analysis and have not made any changes to the provisions as a result.

4.2 Infrastructure in Identified Areas

78. This matter was the focus of a number of submitters. Many sought a more enabling approach to significant infrastructure in Identified Areas, while others, such as Tainui o Tainui and Heritage NZPT, sought protection of the Identified Areas.

79. Mr Scrafton's evidence on behalf of Watercare Services Ltd (Watercare) drew to our attention that around 20 percent of the Waikato District is included within the Identified Areas. Mr Scrafton observed that this includes areas next to rivers, lakes, and water storage lakes where their water and wastewater assets are already located, and where

there may be a functional or operational need to locate further water and wastewater assets in the future.[34]

80. We agree that the management of key infrastructure within Identified Areas needs to be carefully managed as the infrastructure is often needed to provide for the health and safety of the community and there can be operational constraints as to where the infrastructure can be located. This obviously needs to be balanced against the requirements of section 6 of the RMA and policy directives in the relevant national policy statements and the RPS. Overall, we agree with Mr Scrafton that there needs to be explicit recognition of the operational and functional needs of infrastructure, particularly for regionally significant infrastructure, and have included a new clause (b) in Policy 6.1.10.

81. Turning to the activity status for water treatment plants and aboveground reservoirs in Identified Areas, we agree with Mr Scrafton and Mr Bangma that a discretionary activity status is more appropriate than non-complying. With the interpretation of the rules, these activities are informed by objectives and policies which primarily serve to protect the values of the Identified Areas but recognise the operational and functional needs of infrastructure. We consider this approach is the most appropriate way to achieve the objectives in Chapter 3, 6, and 7 of the PDP.

4.3 Objectives and Policies

82. All of the objectives and policies relating to infrastructure are contained in Chapter 6 Infrastructure and Energy. In our consideration of the submissions on the objectives and policies we have been cognisant of the policy directions set out in the RPS, New Zealand Coastal Policy Statement, NPS-ET, NPS-REG and NPS-UD. We have also had regard to the relevant provisions of the Waikato-Tainui Environmental Plan and Maniapoto Environmental Management Plan.

83. We have addressed every submission in our deliberations. However, where we have rejected a submission that sought amendments to the objectives or policies, we have not necessarily addressed them individually, but record here that they have been rejected for one or more of the following reasons:

    a. It is not the most appropriate way to achieve the purpose of the Act (in the case of objectives);

    b. It is not the most appropriate way to achieve the objectives (in the case of policies); or

[34] Evidence in Chief of Chris Scrafton on behalf of Watercare Services Ltd, Paragraph 4.3, dated 29 September 2020.

c. It does not give effect to the relevant national policy statements and/or RPS.

General submissions

84. Powerco sought inclusion of a statement to the effect that the underlying zone and overlay objectives and policies do not apply to infrastructure activities unless specifically referred to within the Infrastructure chapter. Given that we have restructured the PDP completely to implement the National Planning Standards, we consider that inclusion of such a statement would be helpful to clarify that the objectives and policies in the zone chapters do not apply. The objectives and policies relating to District Wide Matters (e.g., Historical Heritage, Ecosystems and Indigenous Biodiversity) will be relevant where infrastructure is located within those overlays, and we consider that a statement alerting users to this would be useful.

85. On behalf of WRC, Ms Foley sought the inclusion of a policy framework to support new rules enabling the ongoing maintenance, repair, replacement and upgrade of flood and drainage scheme infrastructure and waterway protection. We agree that it is appropriate to recognise the importance of flood management infrastructure and have amended Objective 6.4.6 and Policy 6.4.7 accordingly. In accordance with s32AA of the RMA, after considering the options for managing this issue, we consider that the objective is the most appropriate for achieving the purpose of the Act, and the policy is the most appropriate to achieve the objective.

86. Counties Manukau Police sought recognition of Crime Prevention Through Environmental Design (CPTED) in the objectives and policies. We have generally rejected this request, as infrastructure providers including road controlling authorities are aware of the need for CPTED principles to be applied to the design and construction, maintenance and operation of the land transport network, including road design, structures, lighting, signage and vegetation management. It seems to us that should a consent be required for discretionary or non-complying infrastructure, it would be difficult to assess whether the infrastructure conformed with the guidelines. Where infrastructure is in remote rural locations (for example) the CPTED principles are somewhat irrelevant.

Section 6.1 General infrastructure

87. Genesis Energy Ltd sought inclusion of a policy recognising the benefits from the development and use of regionally significant infrastructure. We note this term is not used in the PDP, although it is defined in the RPS. We are mindful of RPS Objective 3.12 Built Environment, Policies 6.1 and 6.6. We agree with Mr Mackie in his section 42A report that there should be a policy for regionally significant infrastructure. We have inserted a new policy 6.1.17 Regionally Significant Infrastructure and consider this is the most effective and efficient way to achieve Objective 6.1.1 as well as the various provisions in the RPS relating to regionally significant infrastructure. In

addition, we have added an objective in Strategic Directions which recognises the important of regionally significant infrastructure.

88. Turning to Objective 6.1.1, we have included reference to "upgrading" and "enhancing" infrastructure. We consider that changing "benefit" to "enhance" will encourage improvement rather than maintaining the status quo, and that there are wider benefits of infrastructure within and beyond the district. We have also deleted reference to "district" at the end of the objective as we consider that this unnecessarily constrains consideration of the benefits associated with infrastructure. We consider upgrading is a necessary part of maintaining an infrastructure network and that this better reflects the language used in the RPS. We consider the amended objective is more appropriate than the notified version in achieving the purpose of the Act.

89. Objective 6.1.1 is achieved by a suite of policies. There were a number of submissions on those policies and we make the following changes for the reasons outlined:

    a. Policy 6.1.2 Development, operation and maintenance – we agree with First Gas that achieving access to infrastructure is a critical component of maintaining it, although the policy cannot impinge on landowner rights to control access across their land.

    b. Policy 6.1.3 Technological advances – we have made a number of changes to this policy to broaden its application to infrastructure, networks and services. We agree with the telecommunications operators that the policy should enable technological advances that increase resilience, safety or reliability, and promote environmentally sustainable outcomes. We consider these amendments better recognise the scope of new technologies as well as their benefits.

    c. Policy 6.1.4 Infrastructure benefits – we have largely retained this policy intact with the addition of a clause that addressed the benefits of renewable energy. We consider this is necessary to ensure the PDP gives effect to the NPS-REG and reflects s7(j) of the RMA.

    d. Policy 6.1.5 Natural hazards and climate change – we agree with the amendments sought to the start of the policy by Federated Farmers and consider these amendments will result in a more meaningful policy.

90. Objective 6.1.6 is focused on reverse sensitivity and is achieved by Policy 6.1.7. We have amended the title of Objective 6.1.6 to make it clearer that it is focussed on the adverse effects on infrastructure rather than reverse sensitivity effects. We have deleted references to the National Grid as the definition of "infrastructure" already includes the National Grid. In any case, the National Grid has its own suite of objectives and policies. We have broadened reference to "efficient operation" to better reflect the different aspects of operating an infrastructure network. We have made similar amendments to Policy 6.1.7. We are aware of the concerns of Ms Wharfe

around the use of "protect" and "avoid" however this language reflects the RPS. We note that "avoid" in the context of Policy 6.1.7 is not absolute and is somewhat softened by the words "as far as reasonably practicable". We consider these amendments will result in a clearer objective that identifies the aspects of infrastructure which can be compromised by adverse effects of other activities, including reverse sensitivity effects.

91. Objective 6.1.8 primarily addresses infrastructure in Identified Areas and the values of the environment surrounding infrastructure proposals. This objective is achieved by Policies 6.1.9 – 6.1.17 which cover a range of matters. We have amended the beginning of Objective 6.1.8 to better reflect the RPS by focusing the objective on the "provision of infrastructure". In terms of the policies, we have made the following decisions, for the reasons stated below.

    a. Policy 6.1.9 Environmental effects, community health, safety and amenity – we have not made any changes to this policy and consider it gives effect to the RPS.

    b. Policy 6.1.10 Infrastructure in identified areas – for consistency reasons, we have expanded the description of the overlays to match those included in "Identified Areas". We have also inserted a new clause (b) in response to the evidence of Mr Scrafton on behalf of Watercare, which we have addressed in detail elsewhere in this decision.

    c. Policy 6.1.11 Undergrounding new infrastructure – we have added explicit recognition of historic heritage as a reason for having infrastructure aboveground. Given the definition of "historic heritage" in the RMA, we consider this will effectively include all aspects of historic heritage without needing to outline each one. We have not limited the application of this policy to any particular zones or environments as requested by submitters such as Counties Power, as the policy position is to "encourage" rather than any requirement to place new infrastructure underground.

    d. Policy 6.1.12 Co-location of compatible facilities – we have expanded the management options to reflect the avoid, remedy or mitigate hierarchy from the RMA.

    e. Policy 6.1.13 Future growth areas – we have adopted the amendments sought by Waka Kotahi and consider that in order to plan and develop urban areas, infrastructure and land use planning need to be integrated. We consider these amendments give effect to the NPS-UD.

    f. Policy 6.1.16 Water conservation – despite a number of submitters seeking explicit recognition of actions such as rain water tanks, we consider that the wording of the policy is broad enough to encourage a range of methods. We have made no changes to the policy.

Section 6.2 National Grid

92. This section of Chapter 6 is primarily intended to give effect to the NPS-ET which recognises, as a matter of national significance, the need to operate, maintain, develop and upgrade the electricity transmission network and the RPS provisions relating to the National Grid. While Kāinga Ora opposed this section, we have largely retained the notified provisions, given that the PDP must give effect to the NPS-ET. First Gas sought inclusion of the gas transmission network in this suite of objectives and policies, however we agree with Transpower that the purpose of these provisions is to give effect to the NPS-ET, and therefore broadening the provisions to the gas network is not appropriate.

93. In terms of Objective 6.2.1, we agree with Ms Whitney on behalf of Transpower that the addition of "and provided for" at the end of the objective is more consistent with the terminology used in Policy 2 of the NPS-ET, whereas the wording sought by Federated Farmers is not. Objective 6.2.1 National Grid is achieved by Policies 6.2.2 -6.2.6 and we have set out our amendments to each below:

    a. Policy 6.2.2 Recognise the National Grid – we have amended the title of the policy to recognise the "needs and constraints" of the National Grid to more accurately articulate and convey the content of the policy. We agree with Ms Whitney that the policy appropriately recognises the constraints associated with the National Grid and gives effect to Policy 3 of the NPS-ET and Objective 3.5.h) and Policy 6.6.c) of the RPS.

    b. Policy 6.2.5 Environmental effects – we have largely adopted the evidence of Transpower and Heritage NZPT and consider that the amendments more appropriately give effect to the NPS-ET. Federated Farmers sought the inclusion of a number of specific activities that can occur under the National Grid, but we consider this is more appropriately addressed in the rules.

    c. Policy 6.2.6 Reverse sensitivity and the National Grid – we have largely adopted the amendments sought by Transpower to focus the policy on adverse effects on the National Grid. Federated Farmers sought to include an extensive list of activities that can occur within the National Grid corridor, but consider this is more appropriately addressed in the rules. We have included reference to "to the extent reasonably possible" in clause (i) in response to the submission from Horticulture NZ, and acknowledge the comments from Ms Whitney that she is comfortable with its inclusion on the basis that it reflects Policy 10 of the NPS-ET.

Section 6.3 Energy

94. This section of the PDP is primarily focused on giving effect to the NPS-REG and the RPS objectives and policies addressing renewable electricity generation. The NPS-REG requires decision-makers to recognise and provide for the national significance of

renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities. There are two objectives in this section:

a. Objective 6.3.1 Renewable energy; and

b. Objective 6.3.6 Non-renewable energy.

95. Starting with Objective 6.3.1, we have deleted the reference to “activities are promoted” in response to the submission from Meridian Energy. We agree that the NPS-REG is not confined to simply promoting renewable electricity generation. We also agree that its objective is to achieve an increase in electricity generation from renewable energy sources to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation. Synlait Milk Ltd sought inclusion of an additional clause in the objective and a new policy regarding carbon free energy sources. We are not sure what this would entail and as we received no evidence, we have rejected the submission.

96. We have made changes to Policy 6.3.5 by adding clause (b) to enable non-sensitive rural land use activities where they can co-exist with existing renewable electricity generation facilities. While the submission from Federated Farmers sought inclusion of a number of activities that were compatible with renewable electricity generation facilities, we consider this level of detail is more appropriate in the rules. However, we do see value in acknowledging that some rural land uses will be compatible.

97. Objective 6.3.6 relates to non-renewable energy and we agree with Mr Matthews on behalf of Genesis Energy Ltd that it is appropriate to recognise non-renewable electricity generation explicitly in the objective. We consider this amendment will clarify that this objective applies both to the energy resource and the activity (electricity generation) that converts the non-renewable energy resource into a form of energy that can be utilised by people and communities. Including “electricity generation” within the objective enables a clearer cascade to Policy 6.3.7 which requires the recognition of non-renewable energy resources, including energy production from non-renewable energy resources.

Section 6.4 Infrastructure, Subdivision and Development

98. The purpose of this section of Chapter 6 is to integrate infrastructure with subdivision, use and development. There are two objectives being:

a. Objective 6.4.1 Integration of infrastructure with subdivision, land use and development; and

b. Objective 6.4.6 Stormwater, and drainage and flood management.

99. Starting with Objective 6.4.1, we have not made any amendments to this objective. Although Counties Power sought that protection of existing infrastructure assets be included, we consider there are other objectives which address this issue more comprehensively.

100. Objective 6.4.1 is achieved by Policies 6.4.2 – 6.4.5 and our decisions on each is set out below:

    a. Policy 6.4.2 Provide adequate infrastructure - in response to the submission from Federated Farmers, we have added wording to reflect the scenario where subdivision does not result in additional lots (e.g. boundary adjustments) or subdivision that does not result in a lot that needs servicing (e.g. subdivision to create allotments for infrastructure). We also have amended the policy in response to the submission from Waka Kotahi to acknowledge that a significant change in land use may require an increase in the level of servicing.

    b. Policy 6.4.3 Infrastructure Location and Services – we have changed the three waters from “supply” to “management” as stormwater and wastewater are not supplied.

    c. Policy 6.4.4 Road and rail network – KiwiRail and Waka Kotahi sought a number of changes to this policy and we agree that many of them are necessary to make the policy more relevant to the land transport network, rather than limiting it to “road and rail”. We consider that “avoid, remedy or mitigate” better reflects section 5 of the RMA and the full spectrum of mechanisms available to manage the safety and efficiency of the land transport network. We have also added clause (b) to reflect our decisions on noise sensitive activities establishing in close proximity to existing transport corridors (which we have addressed in detail later in this decision report).

    d. Policy 6.4.5 Land transport network infrastructure – we agree that this policy is more logically located in in section 6.5. We have broadened the application of the policy to encompass the land transport network, instead of limiting it just to roads. We have also added clause (v) in response to the submission of Counties Power Ltd to recognise that network infrastructure is often installed in new roads and the design, alignment and dimension of new roads need to accommodate this.

101. Turning to Objective 6.4.6, we have expanded it to address flood management infrastructure and have addressed this matter in detail elsewhere in our decision. In response to the submission from Federated Farmers, we have expanded clause (a) to clarify that the objective applies where new subdivision, development or land use is proposed. Objective 6.4.6 is achieved by Policy 6.4.7 Stormwater. We have amended this policy to include flood management infrastructure and have addressed this matter in detail elsewhere in our decision. We have amended clause (a)(ii) to focus on at-source management rather than on-site management. We have amended clause (a)(v)

to refer to adjacent properties to broaden the application of the policy in response to the submission from Waka Kotahi. We have added two clauses that recognise the generation of contaminants from urban development and to require preparation of a stormwater management plan. We consider these amendments will more appropriately achieve Objective 6.4.1. We have added clauses (b), (c) and (d) in response to the submissions from Waikato Regional Council regarding flood management infrastructure which we have addressed in detail elsewhere in this decision.

Section 6.5 Transport

102. Objective 6.5.1 is the key objective in this section and is achieved through policies 6.5.2-6.5.7. WRC sought amendments to the provisions in this section to take into account the Regional Land Transport Plan. We appreciate the comparison undertaken by Mr Mackie in his section 42A report and have included two additional clauses to Objective 6.5.1 to recognise the important role that strategic road and rail corridors play in the district by facilitating the movement of inter and intra-regional freight. We have also amended the objective to include upgrading, as this is a key aspect of a land transport network. We have also replaced "managed" with "avoided, remedied or mitigated" to better reflect the RMA.

103. We set out below our decisions on each of the attendant policies:

    a. Policy 6.5.2 Construction and operation of the land transport network – we have broadened this policy to include maintenance and upgrading as these are important components of providing a safe and efficient land transport network. We have included reference to "accessibility" to recognise that accessible transport networks can enable increased levels of physical activity and community connectedness. We have also added two clauses to recognise the importance of the rail networks and freight routes.

    b. Policy 6.5.3 Road hierarchy and function – we have replaced this policy completely to recognise that different roads perform different functions, and that these functions should influence how adjacent land uses are managed. Although clause (c) contains the word "protect", it is the function of the road that is being protected which we consider to be appropriate.

    c. Policy 6.5.4 Road standards – no changes have been made. We do not consider the changes sought by Federated Farmers to be necessary as these matters are addressed by other provisions in Chapter 6.

    d. Policy 6.5.5 Road safety – we have broadened this policy to refer to "land transport network", rather than simply "roads", as well as adding "vehicle access" as a matter which can compromise the safe and efficient operation of the land transport network.

e. Policy 6.5.6 Network utility location – no changes have been made, as we do not consider that the wording changes sought by WEL Networks will improve clarity of the policy.

f. Policy 6.5.7 Vehicle access – we have largely adopted the amendments sought by Waka Kotahi. We consider the amendments will improve clarity and serve to maintain as well as improve the safety of the land transport network.

4.4 Section 14.1 Introduction

104. Unsurprisingly there were a number of submitters seeking inclusion of various advice notes or explanations in the front section of Chapter 14. We have not adopted all of the text sought by Federated Farmers, but we consider it is important to distinguish between on-farm infrastructure and infrastructure as provided by a network utility operator. Accordingly we have included a paragraph clarifying this difference.

105. We have also included a paragraph drawing attention to the Heritage New Zealand Pouhere Taonga Act 2014. In response to Mr Horne's evidence on behalf of the telecommunication companies, we have clarified that the NES-TF provisions are to prevail unless the infrastructure is located within an Identified Area other than the Urban Expansion Area. In response to Ms Whitney's evidence on behalf of Transpower, we have included a paragraph in the Introduction regarding compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZCEP 34:2001) and the Electricity (Hazards from Trees) Regulations 2003. We consider this additional text provides useful context for the rules in the chapter and/or draws attention to relevant National Environmental Standards.

4.5 Section 14.2 and 14.3 All Infrastructure

106. For the purposes of recording our decision, we have combined our discussion of Sections 14.2 and 14.3 as they both apply to all infrastructure and it is not clear to us why they were split into separate sections. We consider that Sections 14.2 and 14.3 can be merged. We agree with Mr Mackie that there is potential for conflict between the "general" rules in these sections and the more specific rules in sections 14.4-14.12. We consider the advice note stating that where there is a conflict or overlap, then the more specific rules in section 14.4-14.12 is a useful clarification.

Section 14.2 Rules applying to all infrastructure

107. While we understand the concerns of WEL Network wanting to have utility corridors in the road reserve free of tree plantings, it seems to us from Figure 14.12.5.16 that there is no intention for utility corridors to be completely free of trees. We therefore reject this submission point.

108. In terms of Rule 14.2.1 P1, a number of submissions expressed concern at the maximum area and height standards, particularly where rules elsewhere in the chapter

allowed larger structures. We agree that the inclusion of these standards is likely to result in conflicting rules and confusing interpretation. We have therefore deleted the area and height standards from this rule and inserted it into all the permitted activity rules in sections 14.4-14.12, but only where there is no specific area or height standard. Powerco sought an exemption from the height standards for support poles associated with service connections and we agree that such an amendment will provide clarity. We have also made changes to how noise is measured as we consider that the notified wording would cause confusion.

109. Federated Farmers sought exclusions in a number of rules for the Rural Zone, on the basis that it is hugely inefficient and presents an onerous and inappropriate burden on farmers who need to install, maintain, repair, replace or upgrade infrastructure, including associated earthworks. It seems to us that this is part of the larger issue as to whether on-site infrastructure associated with farming is captured by Chapter 14 or not. It is our opinion that on-farm infrastructure to assist with the day to day running of a farm should not fall under the definition of "infrastructure" and therefore would not be subject to Chapter 14. We have inserted additional text in the Introduction to make that clear.

4.6 Section 14.3 General Infrastructure

110. The general infrastructure section covers the operation, maintenance, repair and removal, and minor upgrading of all types of existing infrastructure, temporary infrastructure, earthworks and works on and around trees. It also covers other specified activities generally associated with infrastructure works, including service connections, minor structures, signage, CCTV, and cable and pipe bridges.

111. Counties Power Ltd sought the inclusion of standards in Rule 14.3.1 P1 for the operation, maintenance, repair and removal of existing infrastructure, however we do not consider this is necessary. We are aware that the reason for this submission was to distinguish between repair and minor upgrade, but we consider the standards in Rule 14.3.1 P2 to be the more appropriate location to distinguish between the two.

112. A number of submissions addressed Rule 14.3.1 P2 which relates to minor upgrading of infrastructure. While many sought retention of the rule and to provide for minor upgrading of infrastructure as a permitted activity, a number sought amendments to the standards. In response to the submissions seeking more flexibility to increase the dimensions of an existing structure, we agree that the standards are overly restrictive. We consider that the amended standards will enable more flexibility and be more enabling of infrastructure, whilst limiting any adverse effects. We have also inserted text to clarify that the conditions for minor upgrading of infrastructure do not apply to road network activities or other lineal networks. In this regard, we agree with Council; the standards are too constraining noting the length and width of roads (particularly new roads) and they are not the most efficient approach to managing structures and activities associated with the road and transport network.

113. Mr Horne sought clarification of Standard 14.3.1.1 Minor Infrastructure Upgrading, on the 'largest face' of an antenna, the 'diameter of a dish' antenna, and the minor upgrading of height of 20 percent. In response, Mr Mackie recommended amendments to Rule 14.3.1.1 P2 and we agree that these changes provide more clarity.

114. Rule 14.3.1 P3 and Rule 14.3.4 D2 relate to temporary infrastructure. The only submission seeking changes to these rules was from Counties Power Ltd who sought to increase the allowable timeframe from 12 to 24 months. We consider 12 months is an appropriate timeframe for temporary infrastructure.

115. Rule 14.3.1 P4 sets out the standards for permitted earthworks associated with infrastructure. We have made several amendments to this rule in response to matters raised by submissions and in evidence, as follows:

    a. Firstly, we have made it clear that the rule applies to earthworks for the formation and maintenance of access tracks, as this was not clear in the notified version of the rule.

    b. Next, we clarified that the setback requirements for earthworks near a watercourse do not apply to an artificial watercourse.

    c. We have excluded existing rail infrastructure from the waterbody standard in recognition that KiwiRail's network already exists close to or crosses over waterbodies.

    d. We have also excluded the land transport network from needing to comply with the standard for earthworks in an Outstanding Natural Feature or Landscape for similar reasons.

    e. We have expanded the list of areas where earthworks are not able to be undertaken as a permitted activity to include all the Historic Heritage overlays and Significant Natural Areas, which was in response to the submission of Heritage NZPT.

    f. In response to the evidence of Ms Butler on behalf of KiwiRail, we have excluded the land transport network from needing to comply with the aggregate / metal standard. We appreciate that this is necessary to enable operation of the land transport network.

116. Rule 14.3.1 P5 relates to the trimming, maintenance or removal of vegetation or trees associated with infrastructure and we have included a description of the circumstances when clearing vegetation is enabled by this rule. We understand that it is important for infrastructure providers to be able to trim, maintain or remove any vegetation that could affect the safe operation, maintenance or upgrade of its infrastructure. We have also clarified the level of any Significant Natural Area that can be cleared as a permitted activity in response to the concerns raised by Ms Foley on behalf of the

Waikato Regional Council. We consider this appropriately balances the need to protect significant natural areas, while enabling safe operation of infrastructure.

117. Rule 14.3.1 P7 relates to electric vehicle chargers and we have amended the standards to address the concerns raised by WEL Networks. We agree that the amended standards are more reasonable and better reflect the scale and form of electric vehicle chargers.

118. Rule 14.3.1 P12 establishes requirements for servicing of subdivision. Fire and Emergency New Zealand sought that except for Rural and Country Living Zones, all zones must have a water supply sufficient for firefighting purposes. We agree this is necessary for the health and safety of the community, although we have added Village Zone to the excluded zones as most of these areas do not have a reticulated water supply. We have also exempted the Rural, Country Living and Village Zones from the requirement to have wastewater, water supply and stormwater connections up to the boundary. We consider these amendments reflect the general absence of reticulated three water systems in these zones.

119. Council sought to amend Rule 14.3.1 P12(1)(d) to address the PDP's electricity requirements for subdivision. The proposed amendment sought to acknowledge that new owners may wish to generate electricity off-grid on their lots, for example by solar or wind devices, particularly where distance from a distribution network makes electricity supply expensive. However, given that subdivision is a restricted discretionary activity in most cases, we consider any alternative supplies can be addressed through that process. This also applies to telecommunications.

120. Moving onto Rule 14.3.2 C1, which manages subdivision for the purposes of accommodating infrastructure, we agree with Council that standards (2) and (3) are unnecessary and have deleted them.

121. Rule 14.3.3 RD1 relates to minor upgrading of infrastructure that cannot comply with one or more of the permitted standards in Rule 14.3.1 P2. We have deleted the matter of discretion relating to earthworks and flood risks. We agree that these are more appropriate in Rule 14.3.3 RD2 which relates to earthworks.

122. Rule 14.3.3 RD2 applies to earthworks that cannot comply with the permitted activity standards in Rule 14.3.1 P3. We agree with Heritage NZPT that the values of Maaori Sites and Areas of Significance and any Heritage Items should be included in the matters of discretion.

123. We have included an additional mater of discretion in Rule 14.3.3 RD3 regarding the trimming of trees to ensure the effects on land transport network safety and efficiency are considered. We agree with Waka Kotahi that tree-works near the road can affect land transport network safety and efficiency and that a traffic management plan would likely be required for such works.

124. Planners for the telecommunications companies considered that service connections to a scheduled historic heritage area, façade or item should be a controlled activity to provide certainty rather than a restricted discretionary activity (as currently contained in Rule 14.3.3 RD6). Mr Mackie did not agree, and, on balance, we favour controlled activity status for the reasons advanced by the telecommunications companies and because service connections are critical if heritage assets are able to function and, where necessary, be adaptively re-used.

125. Kāinga Ora sought to replace Rule 14.3.4 D3 with a new restricted discretionary activity rule applicable to subdivisions which cannot comply with one or more of the service connection requirements in Rule P12. We agree that a restricted discretionary activity status is more appropriate, however we have modified the matters of discretion to ensure that they relate directly to the effects of non-compliance with the standards.

4.7 Section 14.4 National Grid

126. Of particular relevance to our decision making on the provisions concerning the National Grid are various higher order statutory documents, specifically the NPS-ET, NESETA and the relevant RPS provisions, including those relating to regionally significant infrastructure. The PDP was notified with the National Grid identified on the planning maps, and a suite of provisions relating to activities within the National Grid Yard and the National Grid Corridor. In terms of Transpower's activities, many of them are regulated under the NESETA, although this only applies to those existing as at 14 January 2010 (when the NESETA regulations commenced).

127. While we note the unfortunate transposition of the National Grid Yard and National Grid Corridor in the notified definitions, it seems to us that there were three areas of concern with the National Grid provisions raised at the hearing, as follows:

    a. The extent of the National Grid Yard and Corridor;

    b. The restriction on activities within these areas; and

    c. Most appropriate location in the PDP for the rules that address activities within the National Grid Yard.

    We address each of these matters in turn.

Extent of the National Grid Yard and Corridor

128. The extent of the National Grid Yard and National Grid Subdivision Corridor was challenged by Mr Lindenberg on behalf of Kāinga Ora, as well as other submitters who did not present evidence. Mr Lindenberg considered that a more tailored and evidence-based approach to the identification of the spatial extent of the National Grid Subdivision Corridor was warranted to better reflect the actual spatial extent of the effects which may be generated. He supported delineation of a more nuanced corridor

which reflected the physical characteristics of each span, i.e. the distance between support structures and the carrying capacity of the line.

129. We asked Kāinga Ora to work with Transpower to see if an agreement could be reached and it was disappointing that this did not result in any additional evidence or a more refined National Grid Corridor. Although Mr Lindenberg held up the Auckland Unitary Plan as an example of a National Grid Subdivision Corridor that varied depending on the characteristics of each span, we are very mindful that the underlying zoning in Waikato District is mostly rural, with a limited potential for underbuild or development. This is clearly a different scenario to urban Auckland.

130. We heard from Ms Whitney on behalf of Transpower that the three primary reasons for restricting activities within the buffer corridor are electrical risk, annoyance caused by transmission lines and reverse sensitivity, as well as restrictions on the ability for Transpower to access, maintain, upgrade and develop the lines, as well as compromising the assets themselves.[35] It is clear to us that the National Grid Corridor and Yard are an effective way to give effect to the NPS-ET and the RPS. We confirm that it is appropriate for the PDP to have a National Grid Subdivision Corridor and National Grid Yard and this approach is consistent with other district plans. In the absence of any accurate and detailed evidence to narrow the extent of these, we retain the spatial extents as set out in the definitions (after correcting the transposed defined terms).

Activities within the National Grid Corridor and Yard

131. The issue which logically flows from the spatial extent of the National Grid Subdivision Corridor and National Grid Yard is the management of activities within them. Federated Farmers considered a controlled activity status for subdivision of land containing the National Grid (at least in the Rural Zone), but we do not agree given that a resource consent application for a controlled activity cannot be declined. Federated Farmers gave the example of boundary adjustments and boundary relocations. Such boundary adjustments have the potential to result in a building platform within each site and increase the risk to both people and the National Grid. We do not consider this approach would give effect to the NPS-ET. Transpower sought the inclusion of additional matters of discretion for subdivision within the National Grid Subdivision Corridor and we agree that this is a more effective way of achieving Objective 6.2.1.

132. Ms Whitney sought a number of additions to the list of permitted activities including fences, additions to existing buildings or structures not for a sensitive use, network utilities, non-habitable horticultural buildings and minor farming structures. We

[35] Evidence in Chief of Pauline Whitney on behalf of Transpower New Zealand Ltd, Paragraph 11.3, dated 29 September 2020.

consider these are appropriate within the National Grid Yard due to their nature and small scale, and because they will not compromise the operation, maintenance or any upgrade of the network itself. We agree that it is appropriate for the standards to ensure vehicular access to a National Grid support structure.

133. While Federated Farmers sought an allowance for farm water infrastructure, we are aware these can be significant structures (such as irrigation systems) and can pose a risk to the National Grid. For this reason, we have excluded them from the permitted activities.

134. There were a number of submissions regarding earthworks in close proximity to the National Grid. We agree with Ms Whitney that the rule should be simplified to improve clarity. We are aware that the National Planning Standards have changed the definition of earthworks and that some consequential amendments are necessary. Federated Farmers sought to expand the list of exempt farming activities to include maintaining non-habitable farm buildings, drinking water pipelines, tanks or troughs, fences, gates or other stock exclusion structures. We support the approach taken by Mr Mackie of focusing the rule on the scale of permitted earthworks, rather than the reason for them. In response to the submission of Heritage NZPT regarding earthworks within both the National Grid Yard and an Identified Area so that it is not a permitted activity, we do not consider this to be necessary and is more appropriately addressed by the Earthworks chapter.

135. Federated Farmers opposed the activity cascade to non-complying status for activities in the Rural Zone that cannot comply with the standards. In our opinion, non-complying activity status is the most effective means of giving effect to the NPS-ET's objective of managing the adverse effects of the transmission network and managing the adverse effects of other activities on the network. In particular, a non-complying activity status:

    a. Most appropriately recognises and provides for the effective operation, maintenance, upgrading and development of the network, as required by Policy 2 of the NPS-ET; and

    b. Is the most appropriate method to manage other activities to ensure the operation, maintenance, upgrading, and development of the network is not compromised, as required by Policy 10 of the NPS-ET.

Location of rules in the Plan

136. Council sought relocation of the rules for buildings, structures and sensitive land uses within the National Grid Yard into each zone chapter to ensure they were not overlooked. Ms Whitney opposed this approach and preferred that all the rules regarding the National Grid were kept together, rather than being duplicated across the Plan. While we can appreciate Ms Whitney’s preference to keep the objectives, policies and rules together in the Infrastructure chapter, we consider from a Plan-

user's perspective that it is more appropriate that the land-use rules are inserted into the relevant zone chapters and the earthworks provisions are inserted into the Earthworks chapter. It seems to us that the Infrastructure chapter is focused primarily on activities undertaken by infrastructure providers. Even with cross-referencing to the Infrastructure chapter, we consider there is a real risk that the National Grid provisions will be overlooked by lay users of the Plan. The National Grid, the National Grid Yard and National Grid Subdivision Corridor sit over the following zones:

a. COMZ - Commercial zone
b. FUZ - Future urban zone
c. GIZ - General industrial zone
d. GRUZ - General rural zone
e. GRZ - General residential zone
f. HIZ - Heavy industrial zone
g. LLRZ - Large lot residential zone
h. OSZ - Open space zone
i. RLZ - Rural lifestyle zone
j. SETZ - Settlement zone
k. TTZ - TaTa Valley zone; and
l. Road.

137. This approach has necessitated the rules being located in all of the zone chapters listed above, the Hazardous Substances chapter, the Subdivision chapter and the Earthworks chapter. We have left the rules in the infrastructure chapter as well to cover the situation where these activities are proposed within a road corridor.

4.8 Section 14.5 Electrical distribution

138. Mr Miryala presented planning evidence for Counties Power on this section of Chapter 14. Starting with the provisions relating to undergrounding, Mr Miryala sought provisions that enable overhead distribution lines in the Village, Country Living, Industrial and Heavy Industrial Zones and within formed and unformed roads adjacent to these Zones. In contrast, Gabrielle Parson on behalf of Raglan Naturally sought that undergrounding lines be a requirement when new line work is undertaken. Existing use rights conferred by section 10 of the RMA means that the PDP cannot require undergrounding of existing overhead lines when maintenance repair and replacement is undertaken. While we understand the operational advantages of overhead lines for the electricity distributor, are aware of the existing approach to undergrounding in the Operative District Plan (both Franklin and Waikato sections) and do not support relaxing this approach. For many reasons including character, amenity, but also road safety, we have retained the approach to enabling electricity distribution lines to be located underground, with overhead networks requiring resource consent (except for the Rural Zone).

139. Federated Farmers sought an increase in the height of electricity distribution support structures, but we are mindful of the evidence from Counties Power that poles rarely exceed 25 metres in height. We therefore consider that the maximum height of support structures as notified at 25 metres is appropriate.

140. Mr Miryala sought provisions to ensure that existing lines should be protected from subdivision, use and development in a manner similar to Transpower's National Grid. Mr Miryala clarified at the hearing that he sought inclusion of matters of control/discretion that address this issue within the subdivision rules of the individual Zone Chapters. We are mindful that the national importance of the National Grid is acknowledged and supported by a National Policy Statement, whereas electricity distribution lines are not afforded such status. We are also aware that the NZECP 34:2001 sets out distances that apply within proximity to electrical distribution lines which will go some way to protecting the lines, and Rule 14.5.1 P5 protects electrical distribution lines in terms of construction or alteration of a sensitive land use. We consider that to be the appropriate approach, and have adopted Mr Mackie's proposal to locate these rules in the individual zone chapters.

141. Powerco sought that non-compliance with Rule 14.5.1 P5 should result in a non-complying activity status, but we consider that potential adverse effects can be adequately managed through a restricted discretionary activity status provided that appropriate matters of discretion are included. Federated Farmers sought an exclusion for the Rural Zone but we consider that the electrical distribution network needs protection against reverse sensitivity effects as well as managing its effects on sensitive land uses, and there should be consistency across the zones.

142. Turning to the permitted size of a switch room, the 100 square metre permitted standard in the notified version of the PDP is rather arbitrary and we consider that a maximum size of 250 square metres is more appropriate is a more appropriate way to give effect to Objective 6.1.1. Counties Power and Powerco sought inclusion for transformers and switching stations in the Rural Zone and we agree that this change gives effect to the RPS by enabling integrated and efficient provision of infrastructure, especially as these structures are not uncommon in the Rural Zone.

4.9 Section 14.6 Electricity generation

143. The main themes arising from evidence and submissions on electricity generation are as follows:

    a. Enable Huntly Power station electricity generation activity;
    b. Permitted electricity generation standards; and
    c. Large-scale wind farms.

144. We address each one of these in turn.

Huntly power station

145. We agree with Mr Matthews' and Mr Mackie's advice that the Huntly power station should have specific rules in this section of the PDP, given that it is a significant electricity generator in the district. Mr Matthews sought inclusion of "coal" in the definition for "energy corridor" to ensure that the definition is consistent with the Huntly planning maps, which depict this activity as shown in the energy corridor. We agree that this more appropriately describes the energy corridor and activities associated with the Huntly power station.

Permitted electricity generation

146. Ms Brown, on behalf of WEL Networks, sought the deletion of condition (b) in Rule 14.6.1 P1 and Rule 14.6.1 P2 to allow electricity generation activities within a road, or unformed road. Her primary concern is that the rule does not allow solar panels installed on lights poles or on other structures within the road reserve, such as bus stops. We agree with Ms Brown and it seems illogical to have rules preventing efficient use of existing structures in such a manner. This is particularly evident when considering the corridor access request process for structures in the road corridor and the need to give effect to the NPS-REG. We can see the value in retaining the limitations on structures in indicative roads. However, Ms Brown also sought an increase in the permitted electricity output on the basis that the 20kW limitation is impractical, unreasonable and would likely discourage this type of generation. We do not share the same concerns as Mr Mackie, and instead agree with Ms Brown that standards limiting the dimensions of the structure are more important in managing effects than limiting the power output.

147. We agree with Mr Mackie's recommended recognition in the standards for solar panels being mounted to a ground frame in response to the submission from Powerco.

148. Federated Farmers sought a permitted activity status for small-scale and community-scale electricity generation in any Identified Area in a Rural Zone, but we consider that such proposals should be subject to a resource consent process given the potential sensitivity of the Identified Areas.

149. Rule 14.6.1.2 P2 sets the height limit for permitted activity research and exploratory scale investigations for renewable electricity generation. On behalf of Meridian Energy Limited, Ms Foster sought an increase to the height to 80 metres to accommodate investigations required for wind generation proposals. WEL Networks sought an increase in height in the Rural Zone to 20 metres. While we can appreciate Ms Foster's concerns, we consider that a blanket permitted height of 80 metres is not appropriate due to the potential for adverse effects in certain locations. We agree that a 20 metre height is appropriate in the Rural Zone given the open character of that zone and the 10 metre maximum height permitted for buildings.

Large-scale wind farms

150. Ms Foster considered that NZS6808:2010 is widely accepted as the appropriate methodology for assessing wind turbine noise and sought inclusion of the following standard in Rule 14.6.3 (a) D1 "Wind turbine noise must be measured and assessed in accordance with NZS6808:2010 Acoustics – Wind Farm Noise". We agree that this is a useful inclusion for both discretionary and non-complying rules for large-scale wind farms.

151. Ms Foster also expressed concern at the lack of clarity around Rule 14.6.4 NC1 and Rule 14.6.4 NC2. We agree it is not clear and have made amendments to clarify that large wind farms in a Rural Zone, but not an Identified Area, are discretionary activities, and that wind farms in any other zone or within an Identified Area are non-complying activities. We consider this is the most appropriate way to efficiently and effectively manage the Identified Areas consistent with section 6 of the RMA, the RPS and the PDP.

152. On behalf of DOC, Ms Burns and Ms Thurley expressed concern as to the effect of wind farms on bats. We have added "ecology and biodiversity effects" to small-scale electricity generation in Rule 14.6.2 RD1, as some of these activities could have the potential to cause bird strike and this will ensure those effects are assessed.

4.10 Section 14.7 Liquid fuels and gas

153. Mr Edwards' evidence on behalf of First Gas sought protection of the gas transmission network in both the planning maps and plan provisions. The gas transmission lines are identified on the PDP maps and we agree that these are appropriate to retain.

154. Mr Mackie advised that all of the compressor stations and delivery point stations are located on the transmission pipeline corridor, and for that reason, we do not consider there needs to be separate identification and mapping of delivery point stations on the PDP maps.

155. Federated Farmers of New Zealand were concerned that many farms have aboveground fuel storage and gas tanks, therefore the rules in this section would unintentionally capture those activities. We consider that that the nature and scale of liquid and gas-related storage facilities on farms is best covered by the hazardous substances provisions of the PDP rather than Section 14.7. However, we agree that there could be interpretation issues in the future so we have amended the introduction in Section 14.7 to refer to facilities "operated by a network utility operator".

156. Ports of Auckland also submitted on this topic seeking a restricted discretionary activity for pipelines and storage facilities that do not comply with the permitted activity rule.

We note that Mr Arbuthnot accepted the discretionary activity in his evidence,[36] and we see no reason to depart from this activity status.

4.11 Section 14.8 Meteorological

157. The key issue with regards to this section of Chapter 14 was the maximum height for meteorological measurement masts. Ms Foster sought an increase in the maximum height of wind investigation structures to enable measurements at a similar height to wind farm structures. This request was recommended to be rejected by Mr Mackie on the basis that the effects of a structure of that height are more appropriately addressed through a resource consent application. We agree with Mr Mackie that 80 metres is significantly higher than the permitted height of a building in any zone and a resource consent process is the most appropriate route for assessing any effects of such a structure.

158. We agree that the additional discretionary activity rules (Rule 14.8.3 D3 and D4) sought by Council are required to complete the activity cascade.

4.12 Section 14.9 Amateur radio

159. The Section 14.9 Amateur Radio provisions apply over all zones and allow the associated antennas, aerials and support structures as permitted activities where they meet the activity specific conditions. We consider that having the amateur radio provisions as a separate section of the infrastructure chapter is helpful for both operators and Council. We appreciate the way Mr Birt presented his case for New Zealand Association of Radio Transmitters Incorporated and the helpful way he outlined his support for many of the notified provisions of the PDP relating to amateur radio and the further recommendations of Mr Mackie in his section 42A report. It seems to us that the remaining outstanding issue is the definition of 'Amateur Radio Configurations', particularly the recognition of licenced amateur radio operators. We note that Mr Mackie included in his closing statement a definition for Amateur Radio Configuration which includes the amendments sought by Mr Birt and we agree that this definition will provide more certainty.

160. We agree with Mr Mackie and Mr Birt that the amendments to the amateur radio provisions will make the provisions clearer, which is important given the highly technical nature of the standards. In terms of a section 32AA evaluation, we note that the majority of amendments are intended to simplify the description of dimensional limits, and improve the efficiency and effectiveness of the provisions. Allowing a second pole for 3.6MHz radio configurations as a permitted activity will more appropriately achieve the enabling Objective 6.1.1 Development, operation and maintenance of infrastructure, and is more efficient and effective than requiring a resource consent to be obtained. There may be small adverse amenity effects on

[36] Evidence in Chief of Mark Arbuthnot for Ports of Auckland Limited, Paragraph 4.1, dated 29 September 2020.

neighbours, but their occurrence will be relatively rare and are outweighed by the benefits. Similarly, the amendment to the definition of 'Amateur Radio Configurations' is a more efficient way of achieving the objective than what was notified.

4.13 Section 14.10 Telecommunications and radio-communications

161. While we accept that there was no specific submission addressing the status of the National Environmental Standards for Telecommunications Facilities (NESTF), we agree with Mr Mackie that clarifying that the NESTF will prevail over the PDP except where the rules are specific to an Identified Area is a useful inclusion to the Introduction of Chapter 14.37

162. There are only three remaining areas of disagreement between the planners for the telecommunications companies and Mr Mackie. With regards to Rule 14.10.1 P2, we agree with Mr Horne that there is no point in have rules to manage below ground telecommunications and radiocommunications facilities, lines, cables and ducts in an Identified Area when this can be more effectively managed by the earthworks provisions. Mr Mackie considered that the earthworks provisions may not be sufficient to manage effects, particularly those of maintenance and repair, and minor upgrading of those underground facilities.38 We do not agree. We consider that the infrastructure itself is unlikely to give rise to any ongoing adverse effects as it is the earthworks that will create the effects. In addition, we note that other sections in Chapter 14 enable underground infrastructure in Identified Areas as a permitted activity, such as below ground gas pipelines (Rule 14.7.1 P2).

163. Heritage NZPT sought more restrictive activity status for telecommunication structures in Identified Areas and we agree in most cases that this is an effective approach to managing adverse effects on historic heritage and cultural values and achieving Objective 7.1.1. We have also included effects on the heritage item or area as a matter of discretion where infrastructure is proposed in an Identified Area. For these same reasons we have rejected the submissions from Federated Farmers that sought enabling provisions for telecommunications in identified areas in the Rural Zone.

164. In terms of the other amendments to section 14.10, we make the following observations:

    a. We agree that including dimensions that match the NESTF is helpful;
    b. We agree with the inclusion of 1.6-metre Yagi antenna on an existing pole as a permitted activity in Rule 14.10.1.4 P5; and
    c. We agree with increasing the diameter for externally-mounted telecommunication satellite dishes and ancillary components in less sensitive zones.

---

[37] Section 42A rebuttal evidence of Trevor Mackie, Paragraph 80, dated 13 November 2020.

[38] Section 42A rebuttal evidence of Trevor Mackie, Paragraph 89, dated 13 November 2020.

165. The objectives of Chapter 6 Infrastructure and Energy seek to enable infrastructure (6.1.1 "Development, operation and maintenance of infrastructure: Infrastructure is developed, operated and maintained to benefit the social, economic, cultural and environmental wellbeing of the district."), and to manage adverse effects of infrastructure within the community (Objective 6.1.8). After considering the costs and benefits, we consider the amendments to Section 14.10 will be more efficient and effective in achieving the objectives than the notified provisions.

4.14 Section 14.11 Water, wastewater and stormwater

166. The key matters raised in submissions and evidence on this section of Chapter 14 include:

a. Low impact stormwater management;
b. Water supply;
c. Impervious surface rules;
d. WRC's flood protection infrastructure; and
e. Wastewater servicing.

167. As a general observation, we note that Federated Farmers had concerns that the rules in this section of the Plan would constrain primary production activities in the Rural Zone. Mr Mackie suggested including an advice note to the Introduction of Chapter 14 to clarify that on-farm infrastructure associated with primary production is not intended to be captured by many of the rules in this chapter and we agree that this is a sensible approach to providing clarity.

168. On behalf of Watercare, Mr Scrafton presented evidence on the need for three waters infrastructure to be located in Identified Areas. While his evidence was focused on three waters, this is part of a larger discussion on infrastructure in Identified Areas and we have addressed this elsewhere in our decision.

Low-impact stormwater management

169. A number of submitters supported low-impact stormwater design including John Lawson, Whaingaroa Environmental Defence Incorporated Society, Raglan Naturally and Jade Hyslop. It seems to us that the PDP actively encourages low-impact stormwater design. In order to be a permitted activity under 14.11.1 P1, new subdivision stormwater systems are required to meet standards including low-impact design. These standards are supported by the Regional Infrastructure Technical Specifications and WRC's control of stormwater network discharge consents, which we consider is an appropriate approach. We agree that including the Waikato Stormwater Management Guideline and Waikato Stormwater Runoff Modelling Guidelines as advice notes will assist in managing stormwater and flooding. While Federated Farmers sought exemptions for stormwater management in Rural Zone sites, we agree with Mr Mackie that management of stormwater on Rural Zone sites is

important (albeit that it will be on-site).[39] We do not consider that the stormwater rules duplicate the regional rules as submitted by Synlait Milk Limited and Hynds Pipe Systems Limited. The PDP has a role in the management of stormwater in terms of managing land use and development to meet the requirements of the regional network discharge consents, as well as flood management and land stability.

170. Ms Foley presented evidence on behalf of WRC seeking amendments to better deliver low-impact stormwater management, including additional matters of discretion for stormwater management activities which do not meet the permitted activity standards. We agree with her suggested additions to these and other provisions in this section, and consider these will more efficiently achieve the stormwater Objective 6.4.6.

171. Lakeside 2017 sought recognition of stormwater treatment trains approved in previous consents, but we do not consider this to be necessary as the PDP provisions do not override previous consents to manage stormwater. Hamilton City Council sought various changes to the stormwater provisions, but we consider most of them are unnecessary for the reasons set out in Mr Mackie's section 42A report.

172. While we understand Tainui o Tainui's concerns regarding not locating three waters infrastructure on Maaori land, we are aware that there may be situations where infrastructure is appropriate in a Maaori Area or Site of Significance. We consider it appropriate to assess such proposals through a resource consent process. Tainui o Tainui's submission also sought that stormwater discharges into sandy areas be avoided, but we consider that this is most appropriately managed through the regional plan and, as appropriate, the associated regional resource consent processes.

Water supply

173. We agree with Mr Mackie that it is appropriate to include a new rule for water supply servicing of new development or subdivision, which specifically enables supplementary rainwater harvesting. However, as proposed, this standard does not allow the use of the rainwater for potable uses. This issue causes us some difficulty as we can see no logical reason why a development needs to be constrained in the manner proposed, particularly in the Rural, Country Living and Village Zones where servicing for water and wastewater is on-site.

174. Ms Duncan filed evidence on behalf of Fire and Emergency New Zealand seeking to ensure that sites have adequate supply of water and access to water supplies for firefighting purposes in accordance with New Zealand Fire Service Firefighting Water Services Code of Practice SNZ PAS 4509:2008. Mr Mackie recommended including a new restricted discretionary activity for water supplies that do not comply with these

[39] Section 42A report on Infrastructure and Energy, Trevor Mackie, Paragraphs 33-34, dated 14 September 2020.

requirements, with sufficiency of supply for firefighting as a matter of discretion. We agree that this will more effectively and efficiently meet the objectives and implement the policies for infrastructure, subdivision and development, and for integration of infrastructure with subdivision, land use and development.

Impervious surface rules

175. Council sought relocation of the impervious surface rules into the individual zone chapters and we agree this this is a logical place for them. Lakeside 2017 sought an increased level of impervious surface, but we note that the standard for this area is already 70 percent. We accept that increased impervious surface above 70 percent may be possible, but consider that this should only be if it is authorised by a resource consent.

Waikato Regional Council's flood protection infrastructure

176. Ms Foley sought a policy and rule framework to provide for the ongoing maintenance, repair, replacement and upgrade of flood and drainage scheme infrastructure. We agree that this the inclusion of permitted and restricted discretionary activities is an appropriate addition and will clarify the activity status for this regionally significant infrastructure. We consider that this is the most appropriate way to achieve Objectives 6.1.1 and 6.1.8. We have not included the advice note regarding section 330 of the RMA as we consider this to be an unnecessary addition in a district plan.

Wastewater servicing

177. We heard from Mr Droomgool and his desire for the rules to enable on-site wastewater systems for small sites, while Federated Farmers sought exclusion of sites in the Rural Zone from the wastewater requirements. In response to both of these submitters we note that Rule 14.11.1 P3 allows for site-contained, alternative methods of wastewater disposal as a permitted activity. We consider this rule appropriately requires all new development or subdivision to be serviced for wastewater which is important for health and safety.

Section 14.12 Transportation

178. Section 14.12 contains provisions to manage transport across all zones, including management of roads, the design of sites including access and loading, and the traffic generation arising from activities and this was the subject of a large number of submissions. The main issues were:

    a. Car parking requirements;
    b. Vehicle access design;
    c. Railway crossings;

d. Traffic generation/vehicle movement controls;
e. Corrections and clarifications to wording and terminology;
f. Integrated transport assessments; and
g. Car parking requirements.

179. A large number of submission points were received on Table 14.12.5.7, which sets out the required parking spaces and loading bays as well as Rule 14.12.1 P2, which requires compliance with Table 14.12.5.7. We are aware that Policy 11 of the NPS-UD relates to carparking and provides that district plans of tier 1,2 and 3 territorial authorities do not set minimum car parking rate requirements, other than for accessible car parks. Furthermore, Standard 3.38 (1) in subpart 8 of Part 3: Implementation, provides that tier 1 local authorities must change their district plans (without using the Schedule 1 process) to remove the effect of any objectives, policies, rules or assessment criteria that require a minimum number of carparks, other than accessible car parks. Given this directive we have deleted the parking requirements from Table 14.12.5.7 and all other references to a minimum number of carparks in the objectives, policies and rules. Consequently Rule 14.12.2 RD2 has been amended to focus only on the effects of non-compliance with on-site loading standards. Because the requirements for accessible carparks and cycling spaces were dependent on the number of carparks required, the deletion of the requirements for carpark spaces has necessitated revision of those rules for accessible carparks and cycling spaces.

180. We have added loading bay requirements for supermarkets to Table 14.12.5.7 – Required parking spaces and loading bays as requested by Woolworths NZ Ltd (Woolworths) as this is a reasonable addition.

181. While car parking requirements are required to be removed from the Plan, cycling requirements can be retained. The main submission of note in this regard is from Woolworths NZ Ltd who sought to reduce the number of required cycle spaces on the basis that they are too onerous. We agree with Mr Mackie that the provisions are intended to encourage and enable cycling as an alternative transport mode, particularly in the district's urban areas.

Vehicle access design

182. We received evidence from a number of submitters challenging the vehicle access standards in:

a. Table 14.12.5.1 - Separation distances of an access onto a road from an intersection or between accesses;

b. Table 14.12.5.3 - Minimum sight distances from a vehicle entrance;

c. Table 14.12.5.14 – Access and road conditions (Residential, Village, Business, Business Town Centre and Industrial Zones); and

d. Table 14.12.5.15 (Rural and Country Living Zones).

183. Common concerns included that the standards are excessive and do not constitute an efficient use of the land resource, particularly in the urban zones. Fire and Emergency New Zealand and Counties Manukau Police had a different perspective and sought amendments to ensure that accesses have sufficient room to accommodate emergency services and their vehicles. Hamilton City Council sought that the standards aligned with more onerous provisions of an adjoining plan. We appreciate the comparison that Mr Mackie undertook between the access widths in the PDP, the Auckland Unitary Plan and the Hamilton District Plan. We note that the widths in the PDP are wider than those two other district plans but consider they are not unreasonable and are more appropriate to the Waikato District. We are aware also that there must be sufficient room to easily accommodate emergency service vehicles and for these reasons we retain the access width standards as notified. We have made the following amendments:

a. Increased separation distances for accesses onto National Regional Arterial and Arterial to be consistent with the Transit NZ Policy Planning Manual Table App5B/3;

b. Included design speeds for separation distances for accesses to highlight the difference between the operating and design speeds; and

c. Increased minimum sight distances for vehicle accesses to align with those in Appendix 5b of the Transit NZ Policy Planning Manual.

184. We have looked critically at the matters of discretion in Rule 14.12.2 RD1 for accesses that do not comply with the permitted activity standards and have added matters of discretion to include access for emergency vehicles, and the safety and efficiency of rail and road operations. We consider the amendments to be the most appropriate option to achieve the relevant objectives and policies, specifically Objective 6.5.1 and Policy 6.5.2 to promote an efficient, effective, integrated, safe, resilient and sustainable land transport network.

Railway crossings

185. KiwiRail sought the addition of new provisions to address sightlines for railway level crossings, including a proposed new activity condition specific to Rule 14.12.1.1 P1. The proposed condition would require compliance with the standards for railway level crossing sight triangles that are to be added to Table 14.12.5. We agree that the inclusion of these diagrams and provisions will improve the safety of level rail crossings. We consider the suite of provisions are the most appropriate option for

achieving Policy 6.5.2 by controlling the location of buildings and structures within the sightline areas of rail level crossings.

Traffic generation/vehicle movement controls

186. On-site manoeuvring and queuing are managed by Rule 14.12.1 P3. Waka Kotahi sought amendments to this rule to refer to the largest combination standard configuration for heavy vehicles permitted on roads (i.e., heavy trucks and trailers) to which the site has frontage. We agree that this is an appropriate amendment to ensure that the largest anticipated vehicle type can access the site.

187. Woolworths sought amendments to clarify that on-site manoeuvring and queuing space for sites on the listed streets are not precluded, but rather that their provision is optional. We are aware standards need to be certain and that non-compliance with a rule is most appropriately addressed through a resource consent process. We therefore do not support the amendment sought. We do agree with the addition of a standard requiring onsite manoeuvring to not be within an Identified Area, as proposed by WRC. We note that this decision necessitates consequential amendments to avoid inconsistencies with the rules for clearance of indigenous vegetation for parking and manoeuvring areas in a Significant Natural Area.

188. In response to the submission from Waka Kotahi, we have amended the matters of discretion in Rule 14.12.2 RD3 to ensure safety for all users of the vehicle access is achieved.

189. Rule 14.12.1 P4 sets out the maximum traffic generation for permitted activities in each zone. Council and Waka Kotahi sought that the numbers in the rule be measured “per site per day” rather than per activity and we agree. A number of submitters, such as Woolworths, Horticulture NZ and Balle Brothers Group, sought specific traffic generation numbers for their particular activity, while others sought an increase in the number of permitted vehicle movements. Synlait Milk Ltd took an alternative approach and sought an increase to the maximum number of vehicle movements per day and the maximum percentage of heavy vehicle movements or replace the rule with a requirement for developments over 10,000m^2 to prepare an integrated transport assessment.

190. We consider that the zone approach in Rule 14.12.1 P4 is a better approach than by activity classification. We consider that this will also allow anticipated traffic generation to be assessed by zone and be reflected in the design of the roads. We do accept that primary production harvesting activities will cause increased vehicle movements for short periods of time and have reflected this in the rules. We agree with Mr Arbuthnot that Horotiu Industrial Park necessitates a different approach given the heavy reliance on roads and the characteristics of an inland port. We have therefore included a specific traffic generation rule for Horotiu Industrial Park that better reflects the limits in the Operative District Plan. We consider these amendments are the most appropriate

option to achieve the relevant objectives and policies, specifically Objective 6.5.1 and Policy 6.5.2 to promote an efficient, effective, integrated, safe, resilient and sustainable land transport network.

191. We note that Table 14.12.5.1.3 sets out vehicle movement rates by activity and that this can be used to help determine compliance with Rule 14.12.1 P4. Waka Kotahi sought to replace Table 14.12.5.13 with Table 7.4 from Trips and parking related to land use (2011) (NZ Transport Agency research report 453), because it considered that many of the trip generation rates in Table 14.12.5.13 appear to be too low. We appreciate the comparison undertaken by Mr Mackie[40] and are satisfied that Table 14.12.5.13 is consistent with the details cited by Waka Kotahi, with the exception of health facilities, veterinary clinics and personal services, which we have increased. We have also added indicative vehicle movement figures for takeaway food and warehouses and decreased the rate for garden centres because they seem to have been an oversight in the notified PDP.

192. Turning to the scale of traffic generation for each zone, we consider these are consistent and reflect the type and scale of activity in the relevant zone. We are satisfied that the permitted activity thresholds for traffic generation are of a scale that would not have significant adverse effects on the transport network and any activity generating more vehicle movements than this can be assessed through a resource consent process as a restricted discretionary activity.

193. We have also made a number of amendments to the matters of discretion in Rule 14.12.2 RD4 and Rule 14.12.2 RD7. This was in response to the submission from Waka Kotahi, which sought to enable more effective assessments of the effects of non-compliance with the permitted traffic generation rule.

Corrections and clarifications to wording and terminology

194. Waka Kotahi sought amendments to Rule 14.12.1 P5 to better describe permitted activities in the road reserve and we agree that this wording better reflects the activities. There are numerous minor amendments that we have made to the rules in Section 14.12 in response to submissions which are set out in the tracked changes version of the chapter. We consider that each one of these either clarifies the rule or is the most appropriate way of achieving the objectives in Chapter 6.

195. Mr McAlley of Te Kauwhata Land Ltd sought deletion of references to Te Kauwhata West in Section 14.12 including the road cross sections. After undertaking a site visit to Te Kauwhata, we consider that the cross section of roads is appropriate. We were particularly impressed with the form of the road and management of stormwater in Bragato Way. We are aware that the Te Kauwhata Structure Plan has not been

[40] Section 42A report for infrastructure, Trevor Mackie, Paragraph 490, dated 29 September 2020.

brought through into the PDP, which makes the references in Chapter 14.12 to the Te Kauwhata structure plan somewhat redundant. We consider that the connection between Travers Road and Wayside Road (comprising the extension of Bragato Way) should be consistent with the existing road form and cross section of Bragato Way and have reworded the provision accordingly.

196. We agree with the changes to Rule 14.12.1 P8 regarding off-road pedestrian walkways and cycleways as recommended by Mr Mackie. In response to the submission from Heritage NZPT, we have added a matter of discretion to Rule 14.12.2 RD8 for facilities that do not comply with the permitted activity standards. This amendment will enable the consideration of effects on the values, qualities and characteristics of the site or area.

197. We agree to the addition of three collector roads to Table 14.12.5.6 as requested by Hamilton City Council. However, we do not consider it necessary for the classification of roads in the Waikato District to automatically align with the classification of roads in Hamilton City, as their functions may be different. We consider the three additional roads reflect the existing function and are in accordance with Policy 6.5.3 providing a hierarchy of roads, and Policy 6.5.4 ensuring that the construction, maintenance and operation of roads is consistent with their function in the road hierarchy.

198. Lakeside 2017 sought to amend Figures 14.12.5.19 and 14.12.5.20 to be consistent with Plan Change 20 for the Te Kauwhata Lakeside Precinct, which identified a special parking control for sites less than 300 square metres to recognise the lower car ownerships of smaller households and promote affordable housing in recognition of possible future public transport services to Te Kauwhata. We do not consider this to be necessary as alternative configurations can be established by Comprehensive Land Development Consent, subdivision and development resource consents.

Integrated transport assessments

199. On behalf of Waka Kotahi, Mr Wood and Mr Swears sought to include a new rule to require Integrated Transport Assessments for new development based on a combination of traffic thresholds and the function of the road (providing access to the new development) in the roading hierarchy. We consider this approach to be cumbersome and unwieldy and prefer the notified provision. We consider there is no need to specify the information that should be contained in a resource consent application, and it is for the decision maker to determine whether the information provided is sufficient, having considered the scale and significance of the activity.

4.15 Sensitive land uses in close proximity to state highways and rail corridors

200. Of all the topics canvassed in the infrastructure hearing, the management of land (and particularly sensitive land uses) in close proximity to state highways and rail corridors was one of the most contentious. On one hand, we heard from the experts representing Waka Kotahi and KiwiRail who considered that the presence of noise

sensitive activities within 100 metres of a state highway or rail corridor would give rise to reverse sensitivity effects. On the other hand, we heard from the experts representing Kāinga Ora and affected landowners that it was unreasonably onerous, would impose significant additional costs on landowners and that the risk of reverse sensitivity had been overstated by the infrastructure providers.

201. We are aware that the PDP as notified contained setbacks in the individual zone chapters for any new building or alteration to an existing building for a sensitive land uses. These setbacks applied to areas that were 5 metres from the designated boundary of the railway corridor, 15 metres from the boundary of a national route or regional arterial, and 25 metres from the designated boundary of the Waikato Expressway. The evidence from Mr Wood appears to have proposed deleting these setback requirements (although his summary statement retained a 15-metre setback from the boundary of a national route or regional arterial) and instead would require any new building or alteration to an existing building for sensitive land use within 100 metres from the edge of a state highway carriageway or legal boundary of a rail corridor to comply with standards relating to:

    a. Indoor design noise levels;
    b. Mechanical ventilation; and
    c. Indoor vibration.

202. We understand that compliance with the standards in proposed Appendix 1 is required to be demonstrated through the submission of an acoustic design report (submitted to Council as part of a building consent or resource consent application). As explained by Dr Chiles, an alternative means of achieving the required internal design noise levels is to provide either a noise barrier (at least 50 metres from the carriageway of the state highway or rail network) that completely blocks line of sight from all doors and windows to all points 3.8 metres above the carriageway or railway tracks, or design single-story residential buildings with habitable rooms in accordance with the construction schedule provided in proposed Schedule Y.41

203. It seems to us that we have two choices: a spatial setback which would potentially sterilise the land adjoining the rail and state highway; or enable buildings accommodating sensitive activities to be located closer to the transport infrastructure but require them to have significant noise insulation. For both options, it seems to us inherently unfair that the burden of mitigating the noise generated by the railway or state highway would be borne by the adjoining landowners. We are particularly concerned that the evidence presented to us did not assess the costs of either option. It also seems to us that there are variables which affect the noise generation that are entirely beyond the control of the adjoining landowner. These variables include the surface of the road, the frequency and type of traffic (e.g., proportion of heavy

[41] Evidence in Chief of Stephen Chiles on behalf of Waka Kotahi, Paragraph 5.2, dated 29 September 2020.

vehicles), surrounding topography and the width of the berm between the carriageway and the edge of the designation, all of which requiring acoustic insulation.

204. There are also no requirements in the PDP for either Waka Kotahi or KiwiRail to minimise the noise effects from the infrastructure. We remain concerned that Mr Wood applies these rules to alterations to existing buildings as well as new builds. We agree with Mr Grala that this creates a perverse outcome whereby an alteration to a 1940s dwelling that is situated close to a state highway would be required to be designed and constructed with acoustic insulation, regardless of the scale or nature of those alterations.[42] As Mr Lindenberg stated in his evidence on behalf of Kāinga Ora, the extension or alteration of the existing 'sensitive activity' would not create a 'new' sensitive activity, nor a 'new' reverse sensitivity effect – it is merely an alteration of what already exists.

205. Mr Styles, Kāinga Ora's noise consultant, explained it well when he said:[43]

> *In my experience of dealing with rules and standards relating to the management of noise and vibration effects from land transport, there is often a large gap between the simplest rule set and the most effective rule set.*
>
> *For example, the easiest way to specify the extent of the noise or vibration effects areas would be to assume a 'Standard Distance' from the nearest lane or track along the full length of all road and rail in the district. This approach is simple and easy to map.*
>
> *However, this approach is also likely to extend the effects areas onto land that may not be affected by noise or vibration to the extent that any development control is needed…. On other more open sections of road, the effects area could be larger.*
>
> [original paragraph references omitted]

206. Thus, in our assessment both approaches are flawed. We note that Mr Styles' National Land Transport (Road) Noise Map shows that noise levels from the state highway and regionally significant routes in Hamilton (accepting that this is not the Waikato District) are reduced to acceptable levels well within the 100-metre buffer strip that was being

[42] Evidence in Chief of Nick Grala on behalf of Cindy and Tony Young and Parkmere Farms, Paragraph 39, dated 29 September 2020.

[43] Evidence in chief of Jon Styles on behalf of Kainga Ora, Paragraphs 6.6-6.8, dated 29 September 2020.

advocated. Neither Waka Kotahi nor KiwiRail provided us with evidence of the actual noise generated by the state highways or the railway. Mr Styles considered there is an option which explores a set of controls that are tailored to the Waikato District, with careful consideration of the actual and reasonably potential adverse noise and vibration effects on the land surrounding the network after the best practicable option has been adopted to minimise the effects at the source.[44] We agree, but are unfortunately left with only two broad options; both of which are somewhat blunt instruments.

207. We are aware of the scale of properties potentially affected as set out in Mr Grala's evidence, and it is highly unlikely the landowners that would be affected by the provisions were aware of the possible consequences of the submissions. We consider that any land use control needs to strike an appropriate balance between internalisation of effects by the primary effects-generator and the recognition of the economic and social importance of the infrastructure. With this in mind, and considering the evidence before us, we consider the setbacks as contained in the PDP are a more appropriate approach than that promoted by the transport infrastructure providers. The setback approach provides clarity for the community, provides some degree of protection against potential reverse sensitivity for the regionally significant land transport infrastructure and enables efficient use of the land resource.

208. Despite our best efforts to encourage the various government agencies to liaise and develop a consistent, uniform approach, it does not appear that any genuine efforts have been made to adopt our suggestions. As our encouragement was not taken up, we have no choice other than to assume that the government submitters did not progress or conclude their discussions on a uniform approach to sensitive land uses.

4.16 Trails

209. We heard from Mr Mackie that the indicative trails are shown on the planning maps; while some of these are existing trails, many are indicative locations of future trails. We understand that they do not, in all places, align with Council's Trails Strategy which sets out an extensive network of high, medium and low priority trails across the district. After hearing from the submitters such as Ms Hanrahan and Mr Ongley, it became apparent that many submitters had misunderstood the purpose of the indicative walking, cycling and bridle trails on the planning maps. We are aware of concerns that having a trail notated on a property might infer (incorrectly) that the public would be allowed to access private property. We can reassure submitters that this is not the case.

210. It was apparent to us that the submitters opposing the indicative trails being shown on the planning maps were generally landowners, while those submitters supporting them

[44] Evidence in chief of Jon Styles on behalf of Kainga Ora, Paragraph 9.12, dated 29 September 2020.

were community groups who valued having a connected network of trails. After carefully considering all the evidence and submissions, including such matters as:

a. Some trails are not connected in any logical way;
b. Some trails pass through zones or areas not appropriate for development, i.e., Maaori Land;
c. Some trails have been completed or are in the construction phase, but are still shown as being indicative;
d. Not all high priority trails have been included;
e. Many trails are in topographically unsuitable locations; and
f. There are inconsistencies between the trails in Council's Trail Strategy and the PDP.

211. We have deleted all indicative walkways, cycleways and bridleways from the Planning Maps and made consequential amendments to the provisions across the Plan to delete all references to them. Having considered all the options, we consider deletion to be more appropriate in achieving the objectives for integration of land use, transportation and infrastructure.

4.17 Indicative roads

212. Indicative roads are shown on the planning maps as red dashed lines. We understand from Mr Mackie that their principal function is to show how access can be gained to future subdivisions so that land does not become land-locked and unable to be subdivided.[45] There were nine submissions on indicative roads, including one multi-party submission seeking to delete the indicative road off Redwood Grove which Mr Greaney spoke to at the hearing.

213. The Redwood Grove issue is highly complex; the need for the indicative road from Redwood Grove into future subdivisions appears to us to depend on all or part of Elmwood Lane becoming public road, or some other alternative form of public access. We support the removal of the indicative road off Redwood Grove, if the matter can be resolved by Council accepting vesting of Elmwood Lane as public road, with all properties having legal access to it. Advice from Council roading engineers is that Elmwood Road is not yet designed to public road standards.46 We are aware that the owners of properties accessed via Elmwood Lane own individual rights-of-way or easements to access their properties, and those easements would need to be acquired or surrendered to create a public road. As the Elmwood Lane road access has not yet been agreed, we are left having no option but to reject this request.

---

[45] Section 42A report for Infrastructure Section D12A, Trevor Mackie, Paragraph 108, dated 14 September 2020.

[46] Ibid, Paragraph 131.

214. While no other parties presented evidence on the issue of indicative roads, we have carefully considered Mr Mackie's recommendations in his section 42A report. We have retained all the indicative roads that are the subject of submissions for the following reasons:

    a. they will help achieve a highly connected road layout; and
    b. any changes to the roading network can be resolved as part of the subdivision design and consenting process.

215. We consider this approach is the most effective way of achieving Objective 6.5.1.

5 Conclusion

216. We accept and/or reject the section 42A report and the evidence filed by the submitters for the reasons set out in this Decision, collectively forming the section 32AA assessment informing this Decision.

217. Overall, we are satisfied that the infrastructure and energy provisions as amended will provide a suitable framework for managing the development, operation and maintenance of infrastructure whilst managing any adverse effects.

For the Hearings Panel

Dr Phil Mitchell, Chair

Dated: 17 January 2022