

DI 14.1 Introduction

This report section is DI of Part D Submissions Analysis of the section 42A report on the Infrastructure and Energy topic in the Proposed Waikato District Plan. The report provides the consideration of submissions on the Introduction to Chapter 14 Infrastructure and Energy.

I s.42A Introduction

1. The main themes in submissions on the 14.1 Introduction section of chapter 14 Infrastructure and energy are:
 - a. advice note on archaeology
 - b. farming activities distinguished from infrastructure
 - c. NES to prevail over PWDP provisions.
2. *Watercare Services Limited* has further submissions on many submission points, however is intending to provide a new set of provisions. The Watercare further submissions are generally not shown against individual submission points or addressed directly, unless specific to the topic rather than proposing a full new set of provisions, and should be accepted or rejected in accordance with the responses to the original submission points. The Watercare further submissions are shown in Appendix I with recommendations.

2 General on Introduction

Submission point	Submitter	Decision requested
559.147	Heritage NZPT	Amend Chapter 14 Infrastructure and Energy to make the activities subject to the relevant zone rules as they apply to Heritage Precincts, Heritage Items, Maaori Sites and Areas of Significance.
FS1258.29	Meridian Energy	Opposes 559.147
FS1176.106	Watercare Services Ltd	Opposes 559.147
559.148	Heritage NZPT	Add the following advice note to Chapter 14.1 Introduction: <u>The New Zealand Archaeological Association Archaeological sites are included on the planning maps for District Plan information purposes only. However, these sites are subject to the requirements of the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga must be contacted regarding development on or in proximity to these sites and the need to undertake an archaeological authority. The Heritage New Zealand Pouhere Taonga Act 2014 protects both recorded and unrecorded archaeological sites.</u>
680.274	FFNZ	Add to Section 14.1 Introduction a new paragraph as follows: <u>Rural land uses, such as farming, do not present the same threats to the efficient functioning of infrastructure networks that urban patterns of development present. Rural land use is</u>

		<p><u>characterised by low density development and low population density, with wide open spaces and relative sparsity of built form. Many aspects of farming activity, such as pasture maintenance, animal grazing, land cultivation, pest and weed control, maintenance of farm access and farm infrastructure such as fences, stock bridges and culverts, water pipelines, troughs and stock drinking water storage tanks are not sensitive to network utility and energy infrastructure operation.</u></p> <p><u>Where such land use is not incompatible with infrastructure networks, then it presents an efficient use of resources to enable their coexistence in order to maximise benefits and minimise costs. Such activity should be provided for in order to ensure efficient allocation of resources in a way that ensures farmers and rural communities can provide for their social, cultural and economic well-being, without adversely impacting on the functioning of infrastructure networks.</u></p>
<i>FSI 168.180</i>	<i>Hort NZ</i>	<i>Supports 680.274</i>
<i>FSI 350.54</i>	<i>Transpower</i>	<i>Opposes 680.274</i>

2.1 Analysis

3. **FFNZ [680.274]** seeks the decision directly above in the table. The submitter conditionally supports this introductory statement, provided it is amended to take rural land use into consideration when analysing resource management issues for infrastructure services and networks. The submitter considers the compatibility of many aspects of rural land use, particularly as these relate to farming, should be recognised in the introductory statement.
4. *FSI 168.180 Hort NZ Supports 680.274: The submitter seeks a new paragraph that recognises the importance of rural land uses and interface with infrastructure.*
5. *FSI 350.54 Transpower Opposes 680.274: The submission point is opposed on the basis that the focus of section 14.1 is on Infrastructure and not rural land uses. On this basis, the sought text is out of context with the introductory text. Furthermore, the sought text does not recognise that some rural land uses can compromise infrastructure and that coexistence is not always possible or appropriate.*
6. Chapter 14 is about infrastructure. I am recommending that the definition of ‘farming’ or ‘farming activities’ be clarified to be largely excluded from the definition of infrastructure, and particularly for on-farm services. Alternatively or in addition, the introduction to the Infrastructure Chapter could identify that much farming activity is not infrastructure, as part of the relief sought in this submission. I note the advice in the Transpower further submission, that some rural land uses can compromise infrastructure and that co-existence is not always possible or appropriate. That can also be identified within the introduction, and also within the specific infrastructure sections, for example 14.4 National Grid. In my opinion, the proposed text is too long and should be made a briefer statement of the rural context. The definitions of ‘farming’ and/or ‘infrastructure’ may be amended to distinguish them from each other, or the Introduction can be amended to include rural activity, I recommend accepting in part FFNZ [680.274]; *FSI 168.180 Hort NZ; FSI 350.54 Transpower.*

7. **Heritage NZPT [559.147]** seeks to amend Chapter 14 Infrastructure and Energy to make the activities subject to the relevant zone rules as they apply to Heritage Precincts, Heritage Items, Maaori Sites and Areas of Significance.
8. The submitter is concerned with the statement at (i). Provision has been made within this Infrastructure and Energy Chapter for the assessment of activities on Identified Areas, as outlined in section (3) of the introduction, that includes:
 - h. Heritage Precincts;
 - i. Heritage Items;
 - j. Maaori sites of significance;
 - k. Maaori areas of significance.
9. The submitter states that this level of assessment is not as robust as the assessments that would take place as if the actual rules related to Heritage Precincts, Heritage Items, Maaori Sites of Significance and Maaori Areas of Significance. The submitter considers that such assessment would provide greater protection as required under s6 of the Resource Management Act.
10. *FSI 258.29 Meridian Energy Opposes 559.147: The submitter mentions that Policy 6.2.5 requires consideration of potential adverse effects on heritage values. The proposed amendments are not necessary.*
11. *FSI 176.106 Watercare Services Ltd Opposes 559.147: Watercare opposes this submission as there are rules/matters in place within Chapter 14, which control earthworks within heritage sites identified in Appendix 30.1. Watercare is proposing changes to this section in terms of "identified areas" and Maaori sites of significance, and will supply a track change version of Chapter 14 in evidence to the hearings.*
12. The introduction identifies the term Identified Areas and its constituent parts, and within the Chapter 14 sections the term is used generally to refer to all of those parts, or specifically in relation to a sub-group, such as Schedule 30.1 Heritage Items. In response to this submission point (and other submissions by Heritage NZPT), and to ensure that the appropriate Identified Areas are noted as affecting activity status or activity specific conditions, there are a number of amendments recommended to be made to provisions where it is appropriate to specifically identify an overlay or feature. Those recommendations are listed against the individual provisions which are amended. Where the activity status for an infrastructure activity is less stringent than for an activity within a Zone, that is due to the focus on the effects of infrastructure, and also in some cases the functional and operational needs of linear or location-constrained infrastructure, while noting that resource consent will be required. I recommend accepting in part Heritage NZPT [559.147] to the extent that the Identified Areas are included in the definitions, and infrastructure provisions are amended in other PWDP sections, in particular to take account of Heritage Precincts, Heritage Items, Maaori Sites and Areas of Significance. I recommend rejecting *FSI 258.29 Meridian Energy; FSI 176.106 Watercare Services Ltd.*
13. **Heritage NZPT [559.148]** seeks to add an advice note, relating to the obligations and requirements of the Heritage NZPT Act 2014.
14. *FSI 176.107 Watercare Services Ltd Supports 559.148: Watercare supports this submission in principle however notes that the Heritage NZPT Act 2014 applies regardless of this advice note.*
15. I agree that an advice note would be useful in the introduction to Chapter 14. I recommend accepting Heritage NZPT [559.148]; *FSI 176.107 Watercare Services Ltd.*

2.2 Recommendations

16. For the reasons above, I recommend the Hearings Panel:

- a. Accept in part FFNZ [680.274]; *FSI 168.180 Hort NZ*; *FSI 350.54 Transpower*.
- b. Accept in part Heritage NZPT [559.147], and reject *FSI 258.29 Meridian Energy*; *FSI 176.106 Watercare Services Ltd*.
- c. Accept Heritage NZPT [559.148]; *FSI 176.107 Watercare Services Ltd*.

2.3 Recommended amendments

17. The following amendments are recommended, adding advice notes to the introduction:

(8) The New Zealand Archaeological Association Archaeological sites are included on the planning maps for District Plan information purposes only. However, these sites are subject to the requirements of the Heritage NZPT Act 2014. Heritage New Zealand Pouhere Taonga must be contacted regarding development on or in proximity to these sites and the need to undertake an archaeological authority. The Heritage New Zealand Pouhere Taonga Act 2014 protects both recorded and unrecorded archaeological sites. [Heritage NZPT 559.148]

(9) Rural land uses, such as farming activities, are generally not infrastructure when they are on-farm services and do not have a public or group infrastructure purpose. In most cases, they can co-exist with infrastructure, subject to activity-specific conditions and any necessary protection of the infrastructure against adverse effects. Many aspects of farming activity, such as pasture maintenance, animal grazing, land cultivation, pest and weed control, maintenance of farm access and farm infrastructure such as fences, stock bridges and culverts, water pipelines, troughs and stock drinking water storage tanks are not sensitive to network utility and energy infrastructure operation. Where such land use is not incompatible with infrastructure networks, then it presents an efficient use of resources to enable their coexistence in order to maximise benefits and minimise costs. [FFNZ 680.274]

2.4 Section 32AA evaluation

18. The recommended amendments are more efficient and effective in achieving the objectives for infrastructure and for rural land use. The focus on archaeological protection advice recognises a RMA s.6 matter. The rural acknowledgement is efficient and effective in distinguishing farming from infrastructure, and will reduce costs of resource consents.

3 Section 14.1(1)

Submission point	Submitter	Decision requested
945.47	First Gas	Retain section 14.1(1)
<i>FSI 273.69</i>	<i>Auckland Transport</i>	<i>Supports 945.47</i>
<i>FSI 176.284</i>	<i>Watercare Services Ltd</i>	<i>Supports 945.47</i>
836.14	Powerco	Retain section 14.1(1) Introduction as notified.
<i>FSI 176.263</i>	<i>Watercare Services Ltd</i>	<i>Supports 836.14</i>
<i>FSI 211.41</i>	<i>First Gas</i>	<i>Supports 836.14</i>
576.23	Transpower	Retain Section 14.1 (1) Introduction as notified.
<i>FSI 273.70</i>	<i>Auckland Transport</i>	<i>Supports 576.23</i>
<i>FSI 176.123</i>	<i>Watercare Services Ltd</i>	<i>Supports 576.23</i>

3.1 Analysis

First Gas [945.47]; **Powerco** [836.14]; **Transpower** [576.23] all support the retention of section 14.1(1).

19. First Gas supports the approach that the Infrastructure and Energy chapter shall apply across the district in all zones and overlays. Powerco and Transpower support the introductory statement within Section 14.1 that clarifies the relationship between Chapter 14, and other plan provisions; and consider that the statement provides clarity to plan users and will assist in plan interpretation and application.
20. *FSI 273.69 Auckland Transport supports 945.47 and 576.23, and FSI 211.41 First Gas Supports 836.14, for the same reasons stated above.*
21. *FSI 176.284 Watercare Services Ltd Supports 945.47, 836.14 and 576.23, agreeing that more clarity should be provided on whether other plan provisions apply. I am recommending no further changes to provision 14.1(1). However, the other substantive sections of Chapter 14 have amendments recommended for clarification.*

3.2 Recommendations

22. For the reasons the provisions are in the notified PWDP, and for the reasons provided by the submitters above, and that there is no opposition providing scope to change the provision, I recommend the Hearings Panel:
 - a. Accept First Gas [945.47]; *FSI 273.69 Auckland Transport; FSI 176.284 Watercare*
 - b. Accept Powerco [836.14]; *FSI 176.263 Watercare; FSI 211.41 First Gas*
 - c. Accept Transpower [576.23]; *FSI 273.70 Auckland Transport; FSI 176.123 Watercare.*

No amendments are recommended to 14.1(1).

4 Section 14.1(2)

Submission point	Submitter	Decision requested
697.522	Waikato District Council	<p>Amend from 14.1 Introduction by relocating Rules 14.1.5, 14.1.6, 14.1.7 under the heading 14.2 Rules applying to all infrastructure as follows:</p> <p>14.2 Rules applying to all Infrastructure <u>(1) Where relevant, the requirements of the National Code of Practice for Utility Operators' Access to Transport Corridors will apply to the placement, maintenance, improvement and removal of utility structures in roads (or unformed roads).</u></p> <p><u>(2) The requirements of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 ("NESETA") apply directly to the operation, maintenance, upgrading, relocation or removal of transmission line(s) that were operating or able to be operated on or before 14 January 2010 and remain part of the National Grid. In the case of conflict with any other provision</u></p>

		<p><u>of this plan, including any provision in the activity rules in this section, the NESETA provisions shall prevail.</u></p> <p><u>(3) The Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 ("NESTF") provides national consistency in the rules surrounding the deployment of telecommunications infrastructure across New Zealand. This means that many telecommunications facilities may potentially be deployed as a permitted activity. However, telecommunications facilities which do not comply with the conditions within the NESTF, or are not covered by the regulations of the NESTF, will have the activity status specified in this plan. In the case of conflict with any other provision of this plan, the NESTF provisions shall prevail</u></p>
FSI 273.74	Auckland Transport	Supports 697.522
FSI 350.55	Transpower	Supports 697.522
FSI 176.247	Watercare Services Ltd	Supports 697.522

4.1 Analysis

23. **Waikato District Council [697.522]** seeks the decision in the table above, to relocate Rules 14.1.5, 14.1.6, 14.1.7 to under the heading 14.2. The submitter mentions that these are rules, but they have no legal effect when they are included in the Introductory section. In order to have legal effect as rules, they need to be moved under the heading 14.2 Rules Applying to all Infrastructure.
24. *FSI 273.74 Auckland Transport; FSI 350.55 Transpower and FSI 176.247 Watercare support 697.522, as the amendments provide clarity.*
25. I disagree that these three provisions will have no legal effect because they are in the Introduction. I agree with Transpower that they provide clarity on the respective National Environmental Standards. The first clause on the National Code of Practice for Utility Operators' Access to Transport Corridors, refers to an agreed Code of Practice and is not a rule. In some circumstances the PWDP will require a resource consent for an infrastructure activity, and the network utility works in the road are also subject to the Corridor Access Request (CAR) process. The second and third clauses have the status of advice notes, as the NESs are designed to override any conflicting provisions in the PWDP, and it can be stated that the NES will prevail. I recommend rejecting Waikato District Council [697.522]; *FSI 273.74 Auckland Transport; FSI 350.55 Transpower; FSI 176.247 Watercare Services Ltd.*

4.2 Recommendations

26. For the reasons above, I recommend the Hearings Panel:
- Reject Waikato District Council [697.522]; *FSI 273.74 Auckland Transport; FSI 350.55 Transpower; FSI 176.247 Watercare Services Ltd.*

No amendments are recommended to 14.1(2).

5 Section 14.1(3); (4)

Submission point	Submitter	Decision requested
697.520	Waikato District Council	Amend Rule 14.1(3) Introduction as follows: (3) The Identified areas within the activity tables below this chapter cover the following areas and items identified within this plan: ...
FS1273.72	Auckland Transport	Supports 697.520
697.521	Waikato District Council	Amend Rule 14.1(4) Introduction as follows: (4) In the activity tables <u>rules</u> within this chapter, the letters below mean the following: ...
FS1273.73	Auckland Transport	Supports 697.521

5.1 Analysis

27. **Waikato District Council** [697.520 and 697.521] seeks amendments to delete references to activity tables.
28. *FS1273.72 Auckland Transport Supports 697.520: Auckland Transport supports the inclusion of 14.1 generally and is neutral in respect to the proposed amendments. Auckland Transport supports amendments that provide clarity. FS1273.73 Auckland Transport Supports 697.521: Auckland Transport supports the inclusion of 14.1 generally and is neutral in respect to the proposed amendments. Auckland Transport supports amendments that provide clarity.*

5.2 Recommendations

29. For the reasons above, that ‘activity tables’ are no longer used in the PWDP, and for clarity, I recommend the Hearings Panel:
- Accept Waikato District Council [697.520; 697.521]; *FS1273.72; FS1273.73 Auckland Transport.*

5.3 Recommended amendments

30. Amend 14.1(3) and (4) as follows:

- (3) The Identified areas within ~~the activity tables below this chapter~~¹ covers the following areas and items identified within this plan:
- Urban Expansion Area
 - Significant Natural Area
 - Outstanding Natural Feature
 - Outstanding Natural Landscape
 - Significant Amenity Landscape

¹ 697.520 Waikato District Council

- f. Outstanding Natural Character
- g. High Natural Character
- h. Heritage Precinct
- i. Heritage Items
- j. Maaori Sites of Significance
- k. Maaori Areas of Significance
- l. Notable Trees

(4) In the activity ~~table-rules~~² within this chapter, the letters below mean the following:

- a. P = Permitted Activity
- b. C = Controlled Activity
- c. RD = Restricted Discretionary Activity
- d. D = Discretionary Activity
- e. NC = Non-Complying Activity
- f. N/A = Not Applicable

5.4 Section 32AA evaluation

31. As this amendment is for clarification and correction only, a s.32AA re-evaluation is not required.

6 Section 14.1(6)

Submission point	Submitter	Decision requested
576.24	Transpower	Retain Section 14.1 (6) Introduction, as notified.
FS1211.42	First Gas	Supports 576.24
FS1273.71	Auckland Transport	Supports 576.24
697.523	Waikato District Council	Amend Rule 14.1(6) Introduction as follows: In the case of conflict with any other provision of this plan, including any provision in the activity table-rules in this section, the NESETA provisions shall prevail.
FS1273.75	Auckland Transport	Supports 697.523

6.1 Analysis

32. **Transpower** [576.24] seeks to retain Section 14.1 (6) Introduction, as notified. The submitter states that paragraph 6 of Section 14.1 outlines the relationship between the Proposed District Plan and the NESETA and therefore supports the clarification. The submitter also states that it will assist plan users in plan interpretation and application. In particular, Transpower supports the reference to the NESETA provisions 'shall prevail'.

33. *FS1211.42 First Gas Supports 576.24: First Gas supports this submission point, which supports the introductory statement clarifying the relationship between Chapter 14 and other plan provisions.*

² 697.521 Waikato District Council

34. *FS1273.71 Auckland Transport Supports 576.24: Auckland Transport supports the inclusion of 14.1 generally and are neutral in respect to clause 14.1(6), which relates specifically to telecommunications infrastructure.*
35. The National Environmental Standards for Electricity Transmission (NESETA) set out a national framework of permissions and consent requirements for activities on existing electricity transmission lines. Activities include the operation, maintenance and upgrading of existing lines. The NESETA specifies that electricity transmission activities are permitted, subject to terms and conditions to ensure that these activities do not have significant adverse effects on the environment; and specifies the resource consent requirements for electricity transmission activities that do not meet the terms and conditions for permitted activities. The NESETA only applies to existing high voltage electricity transmission lines owned and operated by Transpower. It does not apply to the construction of new transmission lines, or to substations. The NESETA does not apply to electricity distribution lines which are the lines carrying electricity from regional substations to electricity users. For the above reasons, I recommend accepting Transpower [576.24]; *FS1211.42 First Gas; FS1273.71 Auckland Transport.*
36. **Waikato District Council [697.523]** seeks to amend Rule 14.1(6) Introduction to replace the reference to “tables”.
37. *FS1273.75 Auckland Transport Supports 697.523: Auckland Transport supports the inclusion of 14.1 generally and is neutral in respect to the proposed amendments. Auckland Transport supports amendments that provide clarity.*
38. For clarity and a correction, I recommend accepting Waikato District Council [697.523]; *FS1273.75 Auckland Transport.*

6.2 Recommendations

39. For the reasons above, I recommend the Hearings Panel:
- Accept Transpower [576.24]; *FS1211.42 First Gas; FS1273.71 Auckland Transport*
 - Accept Waikato District Council [697.523]; *FS1273.75 Auckland Transport.*

6.3 Recommended amendments

40. Amend 14.1(6) as follows:

(6) The requirements of the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (“NESETA”) apply directly to the operation, maintenance, upgrading, relocation or removal of transmission line(s) that were operating or able to be operated on or before 14 January 2010 and remain part of the National Grid. In the case of conflict with any other provision of this plan, including any provision in the activity table rules in this section, the NESETA provisions shall prevail.³

6.4 Section 32AA evaluation

41. As this amendment is for clarification and correction only, a s.32AA re-evaluation is not required.

³ 697.523 Waikato District Council

7 Section 14.1(7)

Submission point	Submitter	Decision requested
697.524	Waikato District Council	Add to Rule 14.1(7) Introduction as follows: <u>In the case of conflict with any other provision of this plan, the NESTF provisions shall prevail.</u>
FS1273.76	Auckland Transport	Supports 697.524

7.1 Analysis

42. **Waikato District Council** [697.524] seeks amendments to clarify that the Proposed District Plan does not override the National Environmental Standards for Telecommunications Facilities.
43. *FS1273.76 Auckland Transport Supports 697.524: Auckland Transport supports the inclusion of 14.1 generally and is neutral in respect to the proposed amendments. Auckland Transport supports amendments that provide clarity.*

7.2 Recommendations

44. For the reasons that the NES should prevail over the provisions of the PWDP, I recommend the Hearings Panel:
- a. Accept Waikato District Council [697.524]; *FS1273.76 Auckland Transport*.

7.3 Recommended amendments

45. Add to Rule 14.1(7) Introduction as follows:

(7) The **Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016** (“NESTF”) provides national consistency in the rules surrounding the deployment of telecommunications **infrastructure** across New Zealand. This means that many telecommunications facilities may potentially be deployed as a permitted activity. However, telecommunications facilities that do not comply with the conditions within the NESTF, or are not covered by the regulations of the NESTF, will have the activity status specified in this plan. In the case of conflict with any other provision of this plan, the NESTF provisions shall prevail.⁴

7.4 Section 32AA evaluation

46. As this amendment provides clarification that the NESTF shall prevail over any conflicting PWDP rules, a s.32AA evaluation is not required.

⁴ 697.524 Waikato District Council