

Recommendations to Council from the Statutory Management Committee

Date: 1 June 2016

Councillors

WHANGANUI DISTRICT COUNCIL

Subject:	Plan Change 43 – District Wide
	Decisions on Submissions
Meeting Date:	17 March 2016

1.0 INTRODUCTION

- 1.1 Council is presently reviewing the District Plan in phases. This Plan Change is part of Phase 6 District Wide as it relates to every part of the District.
- 1.2 This report records the public notification and hearing process in relation to Plan Change 43. It records the Statutory Management Committee's recommendations and Council's decisions on submissions.
- 1.3 For details of the deliberations discussion refer to the formal Council Minutes of the meeting.

2.0 PROCEDURAL MATTERS

- 2.1 The Committee was convened to hear submissions on 17 March 2016. Two submitters attended. The Committee reviewed tabled evidence from submitters and listened to the reporting officer's recommendations before deliberating on submissions.
- 2.2 The Committee members were: Independent Commissioner Alan Taylor (Chair), Councillors, Jenny Duncan, Martin Visser and Independent Commissioner Jill Sheehy.
- 2.3 Submitters who tabled information to support their submissions were:
 - Horizons Regional Council
 - Burton Consultants on behalf of Powerco Limited
 - Beca Ltd on behalf of Transpower New Zealand Limited
 - KTB Planning Consultants Ltd on behalf of Rayonier Matariki Forests Ltd
- 2.4 PC43 was publicly notified in accordance with Clause 5 of the 1st Schedule of the Resource Management Act 1991 (the Act) on 30 May 2015, with the period for submissions closing on Tuesday 30 June 2015.
- 2.5 A total of 11 submissions, were received at the close of submissions.
- 2.6 All submissions received were summarised and the decisions requested by submitters were publicly notified in accordance with Clause 7 of the First Schedule of the Act. The further submission process closed on Friday 31st July 2015. Four further submissions were received.

3.0 SCOPE OF THE PROPOSED PLAN CHANGE

- 3.1 This Plan Change is one of a series of changes proposed as part of Phase 6 of the wider District Plan review which address district wide matters. This Plan change covers a group of small activities that can occur across the District. These are verandahs, relocated buildings, temporary military training activities, earthworks and beekeeping.
- 3.2 Verandah provisions, which are currently within Chapter 19-Relocated Buildings and Temporary Activities, will be moved to the Commercial Environment Chapter at section 5.9.7(f) as this is the only zone within the Plan to have a verandah requirement. Verandahs in other zones will be subject to the existing structure rules which require consent as a structure over the boundary (except within the Riverfront and Arts and Commerce zones). No submissions were received regarding these provisions.
- 3.3 Relocated buildings and temporary military training activities were grouped together in one chapter at notification as they are specific permitted activities that have detailed requirements across all zones. These requirements have been updated to reflect case law and be consistent with neighbouring Councils.
- 3.4 Earthworks provisions and beekeeping have been updated in order to reflect the local issues raised by the public and relevant documents.
- 3.5 New objectives and policies relating directly to each of the general provisions will be specifically identified under headings. The zone provisions and assessment criteria affected by this Plan change will also be altered to reflect the new provisions.

4.0 STATUTORY AND LEGISLATIVE FRAMEWORK

4.1 Resource Management Act 1991

Section 74 of the Act requires the Council to change the District Plan in accordance with its functions under Section 31, the purpose of the Act in section 5 and the other matters under sections 6, 7 and 8.

Territorial authorities have the following functions under the Act:

31 Functions of territorial authorities under this Act

1. *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
 - a. *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources.*
 - b. *The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of –*
 - i. *the avoidance or mitigation of natural hazards*
2. *The methods used to carry out any of the functions under subsection (1) may include the control of subdivision.*

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined as:

- 5(2) *In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at*

a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:

- a. Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b. Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- c. Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In accordance with section 5 of the RMA, PC43 has been developed with a focus on avoiding, remedying or mitigating adverse effects of activities.

Further guidance and direction on the way in which resources are to be managed is provided in sections 6, 7 and 8 of the RMA.

5.0 RELEVANT POLICY STATEMENTS AND PLAN PROVISIONS

5.1 National Policy Statements and Environmental Standards

The Act requires that district plans give effect to any relevant national environmental standards (NES). A NES is a document prepared under the Act and national policy statement (NPS) to ensure that the same standards are enforced by each Council. The national environmental standard relevant to this Plan change is:

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011)

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed.

The requirements of this National Environmental Standard were incorporated into the District Plan via Plan Change 27. A reference to this NES will be added to the introduction for the Earthworks chapter for ease of use.

5.2 Regional Policy Statement and Regional Plan (the One Plan)

The One Plan is relevant to PC 43 as it includes requirements relating to the implementation of the National Environmental Standard as well as the need to protect the land from inappropriate earthworks.

An assessment of how the provisions in PC 43 compare with the objectives and policies of the One Plan is considered in Table 1 below.

One Plan – Earthworks		Proposed Plan Change 43
Objectives	Policy	Evaluation
Objective 13-1: Accelerated erosion – regulation of vegetation clearance, land disturbance, forestry and cultivation	Policy 13-1: Regional rules for vegetation clearance, land disturbance, forestry and cultivation Policy 13-2: Consent decision-making for vegetation clearance, land disturbance, forestry and cultivation	The One Plan was developed subject to the same National Environmental Standard. Therefore the proposed changes are in accordance with the One Plan in terms of earthworks.

There are no other relevant sections of the One Plan to consider as part of this Plan change.

6.0 SUMMARY OF SUBMISSIONS

- 6.1 Refer to Appendix 1 to this report for a summary of each submission and Council's decision and reasons for each decision.

7.0 PRINCIPAL ISSUES IN CONTENTION

- 7.1 Submitters identified the following concerns in relation to PC43:

- Rural activities exemption from earthwork provisions.
- The location of the TMTA provisions within the Plan.
- The length of a TMTA.
- The activity status of TMTA that did not comply with the performance standards.

8.0 SUMMARY OF EVIDENCE HEARD

- 8.1 Key evidence presented by submitters is summarised below:

Federated Farmers (Sub 11)

- Submitter requested that rural activities be exempt from earthwork provisions as these matters are handled by Horizons Regional Council. While Federated Farmers would like a nationwide alignment of rules, they would be happy with different rules as long as they are justifiable.

New Zealand Defence Force (NZDF) (Sub 10)

- The submitter was focused on TMTA and offered an option for defining how long 'temporary' might be, by allowing up to 31 days with a week either side for set up/take down. A minor correction to their submitted noise limits, and the results of their discussion with Transpower regarding the National Grid was also presented.
- The submitter's only outstanding concern was the activity status of TMTA where they do not comply with the performance standards. The Defence Force requested that this be retained as Controlled, rather than change to Restricted Discretionary as proposed in the notified Plan change.

- 8.2 Officer's Right of Reply is summarised below:

- Several minor corrections are required to the marked up version of the provisions.
- Transpower recommended a minor addition to the temporary activities provisions to make sure that the national Grid provisions would apply. This is reasonable and it is recommended that this be adopted.
- Federated Farmers have requested that the earthworks provisions not apply to Rural Activities as the One Plan covers this adequately. The Officer agreed that such a double up be avoided. Therefore only rules 14.5.2(g) (discharge of dust – nuisance) and (f) (infiltration of sediments) should be retained, as they relate to avoiding effects on adjoining activities. This would place no additional burden on the rural sector and avoids any double up of consent processes.

- The Defence Force have requested that the 31 days for a temporary activity exclude the set up and pack out time. The Officer concluded that this was reasonable and preserves the intention of defining the term 'temporary'.
- Permitted activity performance standard 19.6.1 for TMTA refers to Chapter 14 - Earthworks and specifically the earthworks provisions in relation to the National Grid. This reference is a repeat of the rule 19.7(b) and should be removed for clarity. Now that the Defence Force have had discussions with Transpower and come to an agreement, the Officer supports Transpower's and the Defence Force's terms and the removal of the reference under 19.6.1.
- The Officer recommended adopting the minor changes to the TMTA noise provisions. Having the most up to date version is practical.
- The Defence Force are the main user of the TMTA provisions. The Officer's S42A report recommended moving those provisions to Chapter 22- Network Utilities which contains other provisions relating to Defence Facilities. The Defence Force provided evidence that would prefer the TMTA provisions be located in Chapter 19 – Relocated Buildings and Temporary Activities. The Officer had no objection to this.
- In response to the Defence Force's written evidence, the Officer has recommended that the wording 'avoid' be changed to 'manage' for Policy 19.3.2, in recognition of recent case law which clarified that the word 'avoid' means just that. In this case, 'manage' is a more appropriate term, given that the main area TMTA occurs is in the Whanganui National Park, which also has an agreement with DOC that activities must comply with the Whanganui National Park Management Plan.
- The Officer did not support any change to the activity status of TMTA that does not comply with the Performance Standards. The ability to decline consent if the effects are unreasonable is necessary, particularly given the broad scope of the definition of TMTA. However it was noted that the chances of a TMTA activity breaching a Performance Standard is low based on history.
- The Officer confirmed that the rest of her S42A report recommendations were unchanged as a result of hearing submitter's evidence.

9.0 MAIN FINDINGS ON PRINCIPAL ISSUES

9.1 The Committee considered each submission and confirmed a decision for each.

Refer to Appendix 1 for the decisions on individual submissions.

- The Committee accepted the recommendations of the reporting officer in respect to the majority of the issues raised in relation to PC43 and the evidence tabled and officer's reply.
- The Committee considered Federated Farmers comments regarding earthworks over the three Plan changes being deliberated that day (PC43-45). The comments are recorded with this Plan change decision as it is the most appropriate. The Committee agreed that the earthwork performance standards should be further refined in relation to the rural zones to prevent any duplication with the One Plan. It was concluded that only rules 14.5.2(g) (discharge of dust – nuisance) and 14.5.2(f) (infiltration of

sediments) should apply as they relate to avoiding effects on adjoining activities which is a district function.

- The Committee accepted the rationale in Transpower's tabled evidence that the proposed 'Temporary Activities' performance standards should reference the National Grid criteria.
- The Committee also accepted the evidence by the New Zealand Defence Force following discussion with Transpower New Zealand Ltd, that the appropriate performance standard for controlling Temporary Military Training Activities near the National Grid as agreed by the parties, be adopted by the Plan.
- The Committee accepted the Defence Force reasoning that the performance standard limiting TMTA to a duration of 31 days be changed to 31 days plus 7 days prior to set up and 7 days after to take down. Amendments to performance standards relating to the National Grid and noise, as requested by the Defence Force in evidence, were also agreed.
- The Committee considered where Temporary Military Training Activities should be located within the Plan and concluded that the Defence Force carried out an infrastructure function as a Defence Facility, but also carried out Temporary Military Training Activities as a separate function. The Committee acknowledged and accepted the Defence Force's stated preference that the TMTA provisions be contained in Chapter 19 – Relocated Buildings and Temporary Activities.
- New Zealand Defence Force requested that when their TMTAs do not comply with the performance standards, that they be assessed as Controlled Activities under the District Plan. The Committee noted that the format of this District Plan is to move away from use of Controlled Activity status in favour of Restricted Discretionary to better manage activities and provide the option to decline approval where the effects cannot be appropriately avoided or mitigated. To stay with controlled activity status would be inconsistent with the approach taken with the rest of the Plan, as reviewed. The Committee considered that the restrictions on Council's discretion in this matter, provide sufficient certainty to the Defence Force as to the requirements to achieve consent approval. The Committee preferred a Restricted Discretionary activity status.
- The Committee accepted the evidence that the word 'avoid' be replaced with 'manage' for the reasons given in section 10.2 of the New Zealand Defence Force submission.
- The Committee accepted the Officer's assessment that the S.32 evaluation was appropriate.

10.0 SECTION 32 REPORT EVALUATION

No further evaluation for the S.32 report (apart from minor corrections as a result of the submissions to the text) was required as no significant amendments were made to the Plan change as a result of Council's Decision on Submissions. The S32 report is attached as Appendix 3.

11.0 STATEMENT OF DECISIONS AND REASONS

Refer to Appendix 1 to this report for the Council's decision and reasons relating to each submission. Refer to Appendix 2 for the complete version of the Plan change maps and text.

12.0 APPENDICES

- 1: Decisions on Submissions and Reasons for Decisions
- 2: Marked- Up Version of Plan Change 43 following Decisions on Submissions
- 3: Section 32AA Evaluation

Signature of Chairman



Independent Commissioner Alan Taylor

Dated: 2/6/2016

APPENDIX 1 – Decisions on Submissions and Reasons for Decisions

The following are the summary of submissions received and decisions of Council on each submission following consideration of the evidence.

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Submitter Name: Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ
Limits (*the Oil Companies*)
Submission No: 2.1pc43

Summary:

Opposed to the definitions of 'earthworks' and 'earthworks and/land modification'. Having both definitions is confusing for Plan users and the terms are not used often enough to require separate definitions. The amendment to the definition of earthworks will address a number of deficiencies in the current definition.

Decision Sought:

1. That the definition of 'earthworks' is modified and the definition of 'earthworks and/ land modification' is deleted.

Submitter Name: Wanganui Federated Farmers of New Zealand
Further Submission No: 2.1pc43

Summary:

Support in part submission 2.1 in relation to the multiple definitions of earthworks. Multiple definitions is confusing and Federated Farmers supports the relief to amend the definition. However, as stated in submission 11, the earthworks rules should be amended to exclude the Rural Zones and direct Plan users to the Regional Council.

Submitter Name: New Zealand Defence Force
Further Submission No: 3.1pc43

Summary:

Support submission 2.1 in relation to the multiple definitions of earthworks. Multiple definitions is confusing and the terms not used often enough to require separate definitions.

Submitter Name: Transpower New Zealand Limited
Further Submission No: 4.1pc43

Summary:

Opposed to submission 2.1 in relation to amending the definition of earthworks. This includes excluding 'rural activities' from the definition. Earthworks associated with rural activities have a real potential to adversely impact the functioning of the National Grid as well as create potential health and safety issues, and therefore need to be regulated carefully in this context.

Irrespective of the above, Transpower understands that the definition of earthworks is not within the scope of the proposed Plan change, but rather subject to Plan Change 36 – Rural Zones which remains under appeal.

Submitter Name: Wanganui Federated Farmers of New Zealand
Submission No: 11.1pc43

Summary:

Opposed to proposed Plan change, in respect to the definition of 'Rural Activities'.

1. Supports the inclusion of artificial crop protection structures and rural airstrips as these are integral to rural activities.
2. Oppose to the removal of beekeeping as it is a legitimate rural activity and should be covered in the definition.
3. The definition of 'Rural Activities' does not include rural industry or intensive farming. Definitions of these terms should be provided for and properly consulted on or the exclusion of these activities deleted.

Decision Sought:

1. Retain the inclusion of artificial crop protection structures and rural airstrips in the definition.
2. Reinstate beekeeping as part of the definition.
3. The definition of 'Rural Activities' does not include rural industry or intensive farming. Definitions of rural industry and intensive farming should be provided for and properly consulted on or the exclusion of these activities deleted from the definition of 'Rural Activities'.

Submitter Name: Transpower New Zealand Limited
Further Submission No: 4.7pc43

Summary:

Neutral to submission 11.1 in relation to the definition of 'rural activities'. The definition of 'rural activities' has implications in respect of Plan Change 36 which is under appeal. Transpower has appealed the Plan Change 36 decisions, inclusive of seeking to remove the term artificial crop structures and replacing it with 'protective canopies' – refer Rules 3.4.1(k) and 3.8.1(k) as sought to be amended under ENV-2015-WLG.

Submitter Name: Rayonier Matariki Forests
Submission No: 3.1pc43

Summary:

Support the proposed plan change. The proposed provisions exclude forestry earthworks as this is handled under the Regional Council's Plan. Minor changes to the proposed provisions are requested to be consistent with the One Plan and for clarity of Plan users.

Decision Sought:

1. That the current approach that excludes forestry earthworks from the definition of earthworks is retained.
2. Amend the advice note (i) in section 14.5.1 to specifically refer to 'Forestry'.
3. Amend the definition of 'Forestry' to be consistent with the Horizons One Plan.

Submitter Name: Transpower New Zealand Limited
Further Submission No: 4.3pc43

Summary:

Opposed to submission 4.3 in relation to excluding forestry from the definition of earthworks. Irrespective of the above, Transpower understands that the definition of earthworks is not within the scope of the proposed Plan change.

Transpower notes that earthworks associated with forestry activities have the potential to adversely impact the function of the National Grid, as well as create potential health and safety issues. Transpower seeks that forestry activities in close proximity to the National Grid are regulated – refer to the Electricity (Hazard from Trees) Regulations 2003.

Council Decision:

That submission 2.1 from the Oil Companies and further submissions 2.1, 3.1, 4.1 and 4.3 from Federated Farmers, the NZDF and Transpower NZ Ltd be **accepted in part**.

That submissions 11.1 and 3.1 from Federated Farmers and Rayonier Matariki Forests Limited be **rejected** and further submission 4.7 from Transpower NZ Ltd be **accepted**.

The following amendments are made as a result of these submissions:

Earthworks: means any modification to land associated with development, and includes the digging, cutting, trenching, levelling, filling, blading, boring, cultivation, drilling, excavation, ripping, moving, placing, removing, replacing, thrusting or re-contouring of land and associated vegetation removal, and includes other activities normally associated with excavation. Apart from activities within the National Grid Yard, this but excludes domestic gardening, farming rural activities, quarrying or forestry activities.

Earthworks and/ land modification: means modification of land surfaces by blading, contouring, ripping, moving, removing, placing or replacing soil or earth, or by excavation, or by cutting or filling operations, including the importation of fill.

Excavation: Has the same meaning as ‘Earthworks’.

14.5 PERFORMANCE STANDARDS - Earthworks

14.5.1 Scale of earthworks.

Note: This rule excludes the following:

1. *Earthworks associated with forestry or rural activities including tilling, harvesting, planting, ploughing, regrassing, or similar activity in the Rural Zones are exempt from the above provisions.*

Council Reasons for Decision:

1. The comments of the Oil Companies, Federated Farmers, the NZDF, Transpower and Rayonier Matariki Forests are noted and appreciated.

2. The definitions that were notified are accepted by the Committee, except where commented on below:
 - Transpower suggested that the alteration of the **definition of earthworks** is outside the scope of the Plan Change, as it was subject to Plan change 36. The Committee concluded that earthworks as an activity, was not a part of Plan change 36, it was only commented on in relation to activities near the National Grid in the rural zones. Earthworks was reviewed as part of Plan change 27, however it was determined that since the provisions came in, that they required alteration as stated in the Section 32 report. The definitions were shaded grey in the marked up text, indicating that they were not part of the review, however as stated by the Oil Companies, the definitions are fundamental to the Plan change and the submission was therefore accepted.
 - The Committee accepted that the definitions of **'Earthwork'** and **'Earthwork and/land modification'** should be combined in order to reduce confusion in the Plan and minor amendments to the definition of 'earthwork' made to achieve this. However, while the Committee accepted the exemptions of activities in rural zones (as suggested by Federated Farmers) and Forestry (as suggested by Rayonier) should apply in most cases, they need to be included in the definition of earthworks when assessing effects on the National Grid and therefore amended the definition to reflect this.
 - The Committee concluded that the definition of **'Forestry'** goes beyond the scope of Plan Change 43. However the idea of being consistent with the One Plan in regards to this definition is something to be considered as part of Plan Change 45.
 - The definition of **'Rural Activities'** was not be altered beyond the notified Plan Change. The references to 'artificial crop protection structures', 'rural industry' and 'intensive farming' were all considered during Plan Change 36 and are beyond the scope of this Plan Change. This Plan Change is limited to removing 'beekeeping' as a specific 'Rural Activity' in order to prevent conflict with the dominant set of rules which in this instance is The Keeping of Animals, Bees and Poultry By-Law 2015. The By-law allows beekeeping throughout the District, subject to controls. If 'beekeeping' remains in the District Plan definition of a 'Rural Activity', then beekeeping will only be allowed in the Rural Zones.
 - Submission 2 requested a minor change to the note excluding certain activities from **rule 14.5.1(a)**. The Committee concluded that the change was minor and would improve clarity.

Submitter Name: Heritage New Zealand
Submission No: 1.1pc43

Summary:

Supports in part the proposed plan change. The proposed note in rule 14.4 (earthworks) relating to the archaeology authority needs to be amended to reflect the Heritage New Zealand Pouhere Taonga Act 2014.

Decision Sought:

1. That the advice note under Rule 14.4 replace the word 'disturb' with 'modify or destroy'.

Submitter Name: Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Limits (*the Oil Companies*)
Submission No: 2.2pc43

Summary:

Supportive in part to the proposed changes to Chapter 14 (Earthworks). The specific parts of Chapter 14 that are part of this submission include:

1. Support for the introduction to Chapter 14 referencing the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) regulation 2009.
2. Support for Issue 14.1.1 as it removes unnecessary examples.
3. Support for Objective 14.2.1 and Policies 14.3.1, 14.3.2 and 14.3.3 as they provide an appropriate framework for the assessment of proposed earthworks.
4. Supportive in part for Permitted Activity Rule 14.4.1, but questions the need for formal documentation for fuel storage system of the backfill compaction.
5. Support for Restricted Discretionary Activity Rule 14.4.2 as the default as it allows for the consideration of the effects that solely relate to earthworks.
6. Opposed to Non-Complying Rule 14.4.3 as the pathway to this status is not clear and the intent of the rule is already met under Rule 14.5.2(h) and the Restricted Discretionary Status.
7. Supportive in part of Performance Standard 14.5.1. The term 'cleared' could be better articulated and Council may also wish to consider providing a maximum area as a ratio of allotments area to recognise that more extensive earthworks may be acceptable as a permitted activity on larger sites.
8. Support for Performance Standard 14.5.2 as they are acceptable.

Decision Sought:

1. Retain the introduction to Chapter 14 as drafted.
2. Retain Issue 14.1.1 as drafted.
3. Retain Objective 14.2.1 and Policies 14.3.1, 14.3.2 and 14.3.3 as drafted.
4. Retain Permitted Activity Rule 14.4.1, but look at the reasoning behind singling out fuel storage systems as requiring backfill documentation.
5. Retain Restricted Discretionary Activity Rule 14.4.2 as drafted.
6. Remove Non-Complying Rule 14.4.3 and use Restricted Discretionary Activity Rule 14.4.2 for protecting infrastructure from the infiltration of sediments.

7. Retain Performance Standard 14.5.1, with amendments to the maximum area of earthworks and the term 'cleared'.
8. Retain Performance Standard 14.5.2 as drafted and with amendments suggested in this submission.

Submitter Name: Transpower New Zealand Limited
Further Submission No: 4.2pc43

Summary:

Supportive in part to submission 2.2 in relation to issue 14.1.1, objective 14.2.1, policy 14.3.2 and rule 14.4.1. Amends to the above provisions are recommended to relate the provisions to infrastructure and the National Grid.

Submitter Name: KiwiRail Holdings Limited
Submission No: 4.1pc43

Summary:

Support the proposed plan change. The proposed note under Rule 14.4.3 and Performance Standard 14.5.2(h) are supported as they provide for the installation, maintenance and protection of infrastructure in relation to earthworks.

Decision Sought:

1. That the note under Rule 14.4.3 and Performance Standard 14.5.2(h) be retained as drafted.

Submitter Name: Powerco Limited
Submission No: 5.1pc43

Summary:

Support in part to the proposed plan change. The introduction to Chapter 14 is supported, however clarification that the chapter does not apply to network utilities would provide consistency throughout the Plan. The references to infrastructure in the Objective and Policy are supported as it will protect strategic assets.

Decision Sought:

1. That the introduction to Chapter 14, paragraph 1 is amended to confirm that network utilities are excluded from the earthwork provisions.
2. That Objective 14.2.1 and Policy 14.3.2 are retained without modification.

Submitter Name: Transpower New Zealand Limited
Further Submission No: 4.4pc43

Summary:

Supportive in part to submission 5.1 in relation to objective 14.2.1 and policy 14.3.2. Transpower generally supports the relief sought by the submitter, subject to additions as sought by Transpower in its submission which seeks to include reference to the need to maintain the structural stability of infrastructure.

Submitter Name: Powerco Limited
Submission No: 5.2pc43

Summary:

Support in part the intention behind proposed plan change in relation to the advice notes for Rule 14.4. Advice note 1 relates to the potential to require Regional consent. The wording of the advice note potentially overstates the need to consult with the Regional Council. The advice note at the end of Rule 14.4 should be relocated to the top of the rule, with the other advice notes and re-numbered '3' for formatting consistency.

Decision Sought:

1. That the advice note 1 of Rule 14.4 is re-worded as to not overstate the need to consult the Regional Council.
2. That the advice note at the end of Rule 14.4 is moved to the top of the rule with the other advice notes and re-numbered '3'.

Submitter Name: Transpower New Zealand Limited
Submission No: 6.3pc43

Summary:

Supports the proposed plan change. The proposed Issue 14.1.1, Objective 14.2.1 and Policy 14.3.2 understand that earthworks could affect the safe and efficient operation of the National Grid. Rules 14.4.1 and 14.5 outline the standards for earthworks, but do not mention the relationship to the zone rules for the National Grid.

Amendments to these provisions are requested to be more specific about the requirement to protect infrastructure from these effects and the precedence of rules is required.

Decision Sought:

1. That Issue 14.1.1 and Objective 14.2.1 are amended to include reference to infrastructure.
2. That an advice note under Rule 14.4.1 referring to earthwork activities in proximity to the National Grid to check the zone rules and give them precedence over the general earthworks rules.

Submitter Name: Powerco Limited
Further Submission No: 1.1pc43

Summary:

Support submission 6.3 in relation to amending issue 14.1.1 and objective 14.2.1 to include a reference to infrastructure.

Submitter Name: Horizons
Submission No: 7.1pc43

Summary:

Support the proposed plan change. The proposed provisions for earthworks contains advice notes referring Plan users to the One Plan for discharge, land disturbance and vegetation clearance.

Decision Sought:

1. That the advice notes under Rules 14.4 and 14.4.2 be retained as drafted.
2. That the advice note under Performance Standard 4.7.12 be retained as drafted and the advice note is repeated wherever the District Plan references earthworks and vegetation clearance.

Submitter Name: Powerco Limited
Further Submission No: 1.2pc43

Summary:

Support in part submission 7.1 in relation to the advice note under performance standard 14.7.12. An advice note to this effect is not considered necessary as all activities will be subject to any relevant provisions of both the district and regional plans in any case. However, if such a note is to be included, the proposed wording is supported.

Submitter Name: Wanganui Federated Farmers of New Zealand
Submission No: 11.2pc43

Summary:

Opposed to proposed Plan change, in respect to Chapter 14 (Earthworks) applying in the Rural Zones. Earthworks on rural properties is controlled via the One Plan, and unless special provisions apply, no other control is required.

Decision Sought:

The Introduction of Chapter 14 (Earthworks) and the associated Rules section should be amended to exclude the Rural Zones and direct Plan users of these areas to refer to the Regional Council.

Submitter Name: Transpower New Zealand Limited
Further Submission No: 4.8pc43

Summary:

Opposed to submission 11.2 excluding the Rural Zones from the earthworks rules and instead direct Plan users to the Regional Council. Transpower notes that the One Plan rules do not include rules pertaining to earthworks within the National Grid Yard and/ or corridors. It is therefore appropriate for the District Plan to manage earthworks in close proximity to the National Grid and afford the National Grid protection, as required by the NPSET (Policy 11).

Submitter Name: Transpower New Zealand Limited
Submission No: 6.2pc43

Summary:

Opposed in part to the proposed plan change. The proposed provisions for earthworks in the Rural Production, Rural Lifestyle, Rural General and Residential Zones have the potential to affect the National Grid. Relief is requested to ensure that the National Grid is not affected by these activities.

Decision Sought:

1. That the earthwork rules for the National Grid is inserted into the Residential Zone.

Council Decision:

That submission 1.1 from Heritage New Zealand be **accepted**.

And that submissions 2.2, 4.1, 5.1, 5.2, 6.2, 6.3, 7.1 from the Oil Companies, KiwiRail Holdings Limited, Powerco Limited, Transpower New Zealand Limited, Horizons Regional Council and further submissions 1.1, 1.2, 4.1, and 4.4 from Powerco Limited and Transpower New Zealand Limited be **accepted in part**.

And submission 11.2 from Wanganui Federated Farmers of New Zealand be **rejected** and further submission 4.8 from Transpower New Zealand Limited be accepted.

The following amendments are made as a result of these submissions:

Chapter 14 Earthworks
Note:

1. The objectives, policies and rules in this chapter apply to all activities across the District except that network utilities are excluded. The earthworks provisions in Chapter 22 – Network Utilities apply to all network utilities.
2. It is advised that for significant earthworks that any compaction and fill is documented at the time it is carried out, in order to reduce the potential for future issues under the Building Act or the National Environmental Standard for Assessing and Managing Contaminants on Soil to Protect Human Health.

Issue 14.1.1 Poorly managed earthworks.

Poorly managed earthworks can create a range of adverse effects on amenity values, the physical environment, nationally and regionally significant infrastructure and cultural values.

Objective 14.2.1 Quality earthworks development.

Earthworks and land modification in Whanganui that:

- a. *Maintains or enhances:*
 - i. *Amenity values.*
 - ii. *Landforms and natural processes.*
 - iii. *The efficiency and effectiveness of infrastructure.*
 - iv. *The safety of people and property.*
 - v. *The stability of soils; and*

- vi. The structural stability of infrastructure and the ability for that infrastructure to safely operate and be maintained; and
- b. Has appropriate regard to cultural heritage sites and values.

14.4 Rules

Notes:

1. Certain activities involving disturbance to land will also require regional consent. Applicants are encouraged to consult the Manawatu-Whanganui Regional Council ~~should be consulted regarding any activity which results in disturbance to land~~ to identify any Regional Council requirements.
2. Heritage New Zealand should be consulted regarding any activity that has the potential to disturb modify or destroy an archaeological site in relation to the possible need for an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014.
3. Quarrying is excluded from the provisions of this section.
4. Works in close proximity to any electricity line or support structure can be dangerous. The Electrical Code of Practice for Electrical Safe Distances 34: 2001 may apply and should be referred to. This Code is enforced by the Ministry of Business, Innovation and Employment, and compliance is mandatory.

Rules regulating earthworks in close proximity to the National Grid in the respective zone chapters apply to all activities in addition to these requirements.

14.4.1 Permitted Activities.

The following are permitted activities:

- a. Earthworks in the Residential and Rural zones and Neighbourhood Commercial, Reserves and Open Spaces and Airport Enterprise zones, subject to meeting the Performance Standards.
- b. Earthworks in all other zones, unless otherwise stated.
 - a. Earthworks that meet the Performance Standards.
 - b. Earthworks for the replacement and/or removal of a fuel storage system as defined by the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 and the documentation of the backfill compaction is lodged at Council. The performance standards for earthworks do not apply to these activities.

Note: Works in close proximity to any electricity line or support structure can be dangerous. The Electrical Code of Practice for Electrical Safe Distances 34: 2001 may apply and should be referred to. This Code is enforced by the Ministry of Business, Innovation and Employment, and compliance is mandatory.

14.4.3 Non-Complying Activities:

The following activities are non-complying activities:

a. Earthworks that result in the discharge of any material into reticulated infrastructure or onto roads when no measures have been undertaken to avoid or limit the issue.

Note: Quarrying and works associated with the installation and maintenance of network utilities are excluded from the provisions of this section.

14.5 PERFORMANCE STANDARDS - Earthworks

14.5.1 Scale of earthworks.

Earthworks in the Airport Enterprise, Residential, ~~any Rural~~, and Neighbourhood Commercial Zones shall not exceed the following:

a. Earthworks up to and including 50% of the area of any allotment up to a maximum area of 500m² ~~of land disturbance cleared~~. Where there is more than one allotment area subject to works as part of a development project, the area of works shall be calculated cumulatively across those allotments affected.

Note: This rule excludes the following:

1. Earthworks associated with forestry or rural activities including tilling, harvesting, planting, ploughing, regrassing, or similar activity in the Rural Zones are exempt from the above provisions.

Council Reasons for Decision:

1. The support of the Heritage New Zealand, the Oil Companies, Transpower New Zealand Limited, KiwiRail Holdings Limited, Powerco Limited, Horizons Regional Council and Wanganui Federated Farmers of New Zealand is noted and appreciated.
2. The Committee has adopted the submission remedies sought, except where commented on below:
3. The Introduction
 - Submissions 5 and 11 have requested that the first sentence of the introduction to Chapter 14 - Earthworks be altered to clarify that these rules do not apply to all activities. Submission 5 sought that Chapter 14 - Earthworks not apply to Network Utilities, which have their own earthworks rules contained within Chapter 22 – Network Utilities. This was considered reasonable by the Committee and will improve clarity, as well as address the concern raised in Submission 6 about which rules apply to network utilities.
 - Submission 11 has requested that all rural activities are excluded as these are covered by the One Plan. The Committee agreed that the earthwork performance standards should be further refined in relation to the rural zones to prevent double up with the One Plan and it was concluded that only rules 14.5.2(g) (discharge of dust – nuisance) and 14.5.2 (f) (infiltration of sediments) need to apply as they relate to avoiding effects on adjoining activities.

- The proposed changes to the Introduction are in line with the retention of the notified provisions requested by submitter 2.

4. The Issue

- Submission 6 has requested expanding the issue to identify adverse effects on the physical environment and significant infrastructure. This relates to the proposed objectives, policies and rules and was accepted by the Committee. The specific reference to the National Grid is not needed in this chapter as the issues, objectives, policies and rules relating to the National Grid are in the zone chapters.
- The proposed changes to the Issue are in line with the retention of the notified provisions requested by submitters 2 and 5.

5. The Objective

- Submission 6 has requested adding an extra point to objective 14.2.1(a) regarding the stability and safe operation of infrastructure. Infrastructure was already partly addressed in 14.2.1(a)(iii), however the wording proposed in submission 6 is more specifically worded towards the technical requirements of infrastructure. Therefore the Committee adopted this part of submission 6.

6. The Advice Notes (at the start of section 14.4)

- An advice note at the start of the chapter outlining the potential need to consult the Regional Council was accepted by the Committee, along with a minor alteration to the wording that was proposed by Submission 5 to better convey that a consent from the Regional Council isn't always required. This was also consistent with the intent of submission 7.
- Submitter 7 requested that the advice note under Rule 4.7.12 (Coastal Residential vegetation removal) is repeated wherever earthworks and vegetation clearance is mentioned. Further submitter 1 supported the wording, but considered it unnecessary to repeat this throughout the Plan. The Committee concluded that as nearly every chapter (apart from the zones) in the Plan already references the need to consult the Regional Council, the need to provide additional advice notes is unnecessary.
- Submission 1 recommended minor changes to the advice note regarding archaeological sites to reflect the Heritage New Zealand Pouhere Taonga Act 2014. The Committee adopted this recommendation as it reduces confusion for the public.
- Submission 5 requested moving the advice note regarding quarrying and network utilities from under the non-complying activities section to the start of section 14.4. This was considered reasonable by the Committee as it groups the advice notes together making it easier for the Plan user. Submission 4 requests that the network utilities exclusion remain in the advice note, however given the additional statement added to the introduction regarding network utilities and the notes in Chapter 22 – Network Utilities, it was considered unnecessary to repeat it in this advice note.
- Submission 6 requested that the advice note at the end of the Permitted Activities is retained and an additional sentence linking the user to the rules in the zone

regarding the National Grid is added. This was considered reasonable as it can apply to any activity, but is specific as it only applies near the electrical infrastructure. The note was moved to the start of the rules section like the rest of the advice notes for consistency.

7. Activity Status

- Submission 11 requested that the rural zones are removed from the areas where earthworks are a permitted activity in rule 14.4.1(a). Questioning during the hearing by the Committee confirmed that this was part of the wider submission to have rural activities excluded from needing to comply with Chapter 14. Specifically removing the rural zones from the areas where earthworks are a permitted activity would result in requiring a consent for any earthworks in the rural zones, which is not the intent of the submission, nor would it achieve any environmental benefit. Therefore the Committee rejected this part of the submission.
- Submission 11 emphasised via their comments above an issue with rules (a) and (b) for Permitted Activities, that it is difficult to understand the difference between the two rules. They currently read:
 - a. *Earthworks in the Residential, Rural zones, Reserves and Open Spaces, Airport Enterprise and Neighbourhood Commercial zones, subject to meeting the Performance Standards.*
 - b. *Earthworks in all other zones, unless otherwise stated.*

When Plan change 27 introduced earthworks rules, it could only apply to zones that had been reviewed. This is why (a) lists the zones that have been reviewed and therefore the rules apply too, and the intention was that (b) covered the zones not yet reviewed by stating that they were still a Permitted Activity. The performance standards state they only applies to the reviewed zones, therefore it is unnecessary to separate (a) and (b) in the Permitted Activities list, as the separation already occurs elsewhere in the chapter. Therefore as a formatting issue to improve clarity, the Committee combined (a) and (b) into one Permitted Activity statement.

- Submission 2 requested that 14.4.1(c) is altered to remove the requirement to lodge backfill compaction at Council.
The Committee concluded that it was not a RMA issue or limited to fuel storage systems, and therefore it will be removed from the rules and provided as an advice note in the Introduction to the chapter. Keeping a reference in the Plan (while not enforceable) will allow the Plan and staff to give the best possible advice to developers.
- The Committee accepted Submission 2 comments that the pathway for non-compliance with rule 14.5.2(h) relating to the protection of infrastructure during earthworks, is to default to restricted discretionary status and that rule 14.4.3(a) (non-complying activity default) is confusing and not necessary.

8. Rules

- Submission 6 raised the concern that section 14.5 (Performance Standards) is unclear about which rules apply to earthworks – Chapter 14 or the National Grid provisions in the zones. The start of the chapter and the advice note makes it clear that both sets of rules apply except when dealing with network utility activities. Therefore a new activity requiring earthworks would need to comply with the National Grid rules and the performance standards of Chapter 14. Therefore the Committee decided not to change any rules as a result of this submission.
- Submitter 6 requested that earthwork rules for the National Grid be inserted into the Residential Zone. The Committee concluded that the request was beyond the scope of the Plan Change as the Chapter 14 - Earthworks that is reviewed as part of PC43 excludes the National Grid provisions already reviewed during the various Phase 2 zone plan changes. It is noted that a Plan change at the end of the rolling review will likely address these types of inconsistencies.
- Submission 2 recommended a slight change in wording to rule 14.5.1(a) in order to be more accurate. This alteration was adopted by the Committee.
- Submission 2 requested a minor change to the note excluding certain activities from rule 14.5.1(a). The change was minor and improved clarity. The alteration was adopted by the Committee.

Submissions relating to Chapter 19 Temporary Activities (as a whole)

Submitter Name: Transpower New Zealand Limited
Submission No: 6.1pc43

Summary:

Opposed in part to the proposed plan change. The proposed provisions for temporary military training activities and relocated buildings (temporary or permanent) in the Rural Production, Rural Lifestyle, Rural General and Residential Zones have the potential to affect the National Grid. Relief to ensure that the National Grid is not affected by these activities is requested by this submission.

Decision Sought:

1. That the zone rules for the National Grid apply to temporary military training activities and relocated buildings (temporary or permanent) and that this is clear in the Plan format.

Submitter Name: New Zealand Defence Force
Further Submission No: 3.2pc43

Summary:

Opposed to submission 6.1 in relation to applying the zone rules to Temporary Military Training Activities (TMTA). Due to their nature, the potential for TMTA to impact on, or adversely affect the National Grid is extremely low and does not need to be specifically addressed through the rule framework. NZDF has been undertaking TMTA throughout New Zealand over many years without affecting the National Grid. This further suggests there is no requirement now to specifically address this in Plan rules.

Submitter Name: Transpower New Zealand Limited
Submission No: 6.4pc43

Summary:

Support in part the proposed plan change in relation to relocated buildings and temporary military training activities. The submission seeks clarification for both activities that it is the zone based rules that take precedence and determine activity status. Also amendment of Rule 19.6 (Temporary Military Training Activities) to remove the word 'permanent' from the first sentence so that all structures are subject to the zone rules.

Decision Sought:

1. Retain the sentence under Rule 19.4 (Relocated Buildings) about complying with the underlying zone rules.
2. Clarify that the zone bases rules take precedence and determine activity status.
3. Amend the sentence for Rule 19.6 (Temporary Military Training Activities) so that all structures are subject to the zone rules.

Submitter Name: New Zealand Defence Force
Further Submission No: 3.3pc43

Summary:

Opposed to submission 6.4 in relation to applying the zone rules to Temporary Military Training Activities (TMTA) and deletion of the word ‘permanent’. Due to their nature, the potential for TMTA to impact on, or adversely affect the National Grid is extremely low and does not need to be specifically addressed through the rule framework. NZDF has been undertaking TMTA throughout New Zealand over many years without affecting the National Grid. This further suggests there is no requirement now to specifically address this in Plan rules.

The deletion of the word ‘permanent’ would have a broader effect on TMTA activities than just in relation to the National Grid. In NZDF’s opinion this cannot be supported on an effects basis, and would result in unnecessary resource consent requirements which could not be supported with reference to Section 32 of the RMA.

Submitter Name: Whanganui District Council
Submission No: 9.1pc43

Summary:

Supportive of Chapter 19, but request an addition to the activities chapter to include general Temporary Activities such as galas, sports/cultural events and filming. These activities already occur, however there is not specific provision for them in the District Plan.

Decision Sought:

1. That a definition for ‘Temporary Activities’ is inserted into the Plan and a rule permitting temporary activities subject to performance standards is inserted into Chapter 19.

Council Decision:

That submissions 6.1, 6.4 and 9.1 from Transpower New Zealand Limited, Whanganui District Council and further submissions 3.2 from Transpower New Zealand Limited and The New Zealand Defence Force be **accepted in part**

And that further submissions 3.2 and 3.3 from the New Zealand Defence Force be **rejected**.

The following amendments are made as a result of these submissions.

Add ‘Temporary relocatable buildings’ as a Permitted Activity to each zone.

Chapter 2 Definitions

Temporary Activities means any activity undertaken for a short term duration, either as an isolated event, or as a series of events, where the cumulative period of operation is generally less than one month, and where the activity is undertaken on a site, including any gala, sport event, festival or other community activity and does not result in any permanent structures.

Chapter 19 – Temporary Activities

Temporary Activities are a part of a community’s vitality and are a regular occurrence. As they are usually short term, the adverse effects of these types of activities are usually minor, but they have multiple positive effects for the overall environment and amenity.

19.1.2 ISSUE

Temporary activities can produce short term adverse effects.

19.2.2 OBJECTIVE

To enable temporary activities within the District which do not adversely affect community wellbeing.

19.3.2 POLICY

To provide for temporary activities throughout the District, where adverse effects on amenity values are avoided, remedied or mitigated.

19.4 Rules for Relocated Buildings

~~All activities shall comply with the Performance Standards within this chapter and the underlying zone, overlay as well as other relevant chapters.~~

19.4.1 Permitted Activities.

The following are permitted activities throughout the District provided they comply with the performance standards in chapters 3-10:

19.4 RULES for Relocated Buildings

~~All activities shall comply with the Performance Standards within this chapter and the underlying zone, overlay as well as other relevant chapters.~~

19.4.1 Permitted Activities.

The following are permitted activities throughout the District provided they comply with the performance standards in chapters 3-10.

19.6 RULES – Temporary Activities

19.6.1 Permitted Activities.

The following are permitted activities throughout the District.

- a. Temporary Activities provided that they comply with the performance standards in 19.7.

19.6.2 Restricted Discretionary Activities.

The following are restricted discretionary activities throughout the District where the Council will restrict the exercise of its discretion:

- a. Any activity which does not comply with any of the above performance standards in 19.7.

Council restricts its discretion to the following matters:

- i. The effect of the particular non-compliance on the environment, including the cumulative or combined effect of non-compliances.

19.7 PERFORMANCE STANDARDS – Temporary Activities

19.7.1 Temporary Activities.

All Temporary Activities shall comply with the following:

- a) Activities incidental to construction or demolition:
 - i. Shall comply with construction noise standard NZS6803:1999 and Chapter 14 - Earthworks.

- ii. All demolition materials and debris shall be removed from the site within two months of the demolition being completed.
- b) Sporting events, public meetings, galas, market days, and other recreational and festive events:
 - i. Hours of operation 7am - 10pm, excluding the Masters Games.
 - ii. Duration: not exceeding two days, excluding the Masters Games.
- c) All temporary activities shall comply with Chapter 17 - Noise.
- d) Any structure or earthworks shall comply with the underlying zone performance standards relating to the National Grid.

19.8 Temporary Military Training Activities.

~~Temporary Military Training Activities are not required to comply with the requirements of any other part of the Plan except earthworks and permanent structures which are subject to the zone rules.~~

19.8.1 Permitted Activities.

The following are permitted activities throughout the District provided they comply with the performance standards in section 19.9:

- a. Temporary military training activities ~~which comply with the following Performance Standards in 19.9.~~

Council Reasons for Decision:

1. The comments of Transpower New Zealand Limited, New Zealand Defence Force and Whanganui District Council are noted and appreciated.
2. The Committee has adopted the submission remedies sought, except where commented on below:
3. Formatting
 - Submitter 6 requested that Temporary Relocated Buildings be added to the list of Permitted Activities for each zone. This was to be consistent with the other activities listed in each chapter. Submitter 10 requested that references to Relocated Buildings, Temporary Relocated Buildings, Temporary Military Training Activities and Network Utilities are removed from each chapter to prevent confusion. Further submitter 4 raised the issue that if this occurs, how would it affect the need to comply with the National Grid.

The Committee did not accept that confusion was created by listing the activities in the Permitted Activities in each zone. At most, it repeats the start of Chapters 19- Relocated Buildings and Temporary Activities and Chapter 22 – Network Utilities which state the zone rules may apply to these activities. It also makes Plan users aware of other potential activities that could occur in the relevant zones. Therefore the Committee determined that keeping the activities in the zone rules and adding Temporary Relocated Buildings to the list would provide the most clarity.

4. National Grid

- Submission 6 was concerned that the requirement for relocates and TMTA to adhere to the provisions for the National Grid and which rules take precedence, lacked clarity. The Committee adopted the Officer's recommendation that the advice notes that appear at the start of each section be deleted, as they did not hold legal weight.
- Further submission 3 opposed this, however at the hearing, they presented evidence stating that they had consulted with Transpower (as the owner of the National Grid), and had come to an agreement regarding how TMTA should operate around the National Grid. The Committee chose to adopt the wording put forward by the submitter.
- The first sentence to the TMTA rules state that the zone rules apply only to permanent structures. Submitter 6 requested that this apply to all structures. This was also covered by the agreement between the NZ Defence Force and Transpower and the Committee adopted their recommendations put forward in evidence at the hearing.
- An addition to the text outlining Permitted Activities for relocates in rule 19.4.1 ensures that the National Grid provisions will be enforced as they are part of the zone rules referenced.

5. Temporary Activities

- Submitter 9 requested a new activity and framework for 'Temporary Activities' be adopted. The Committee concurred, but also added objectives, policies and minor changes to the definition and performance standards to provide for the Masters Games and reference the National Grid requirements.

Submissions relating specifically to Temporary Military Training Activities (TMTA)

Submitter Name: Horizons
Submission No: 7.2pc43

Summary:

Support the proposed plan change. The proposed provisions for temporary military training activities contain advice notes for plan uses pointing out the requirement to refer to the One Plan.

Decision Sought:

1. That the advice note under Rule 19.6 be retained as drafted.

Submitter Name: New Zealand Defence Force
Further Submission No: 3.4pc43

Summary:

Supportive of submission 7.2 in relation to the advice note. NZDF notes this is consistent with the approach taken by a number of other territorial authorities within New Zealand.

Submitter Name: New Zealand Defence Force
Submission No: 10.1pc43

Summary:

Not opposed to proposed Plan change, but requests the following formatting changes regarding Temporary Military Training Activities (TMTA):

1. Retain the definition of 'temporary military training activities' as currently proposed.
2. Delete reference to TMTA as a permitted activity in each zone as Chapter 19 states that the zone rules do not apply to TMTA. This causes confusion. This restructure should also apply to other similar activities such as 'Relocated Buildings' and 'Network Utilities'.
3. Correct spelling of 'Temporary' in the Chapter 19 section heading.
4. Retain the first paragraph of Chapter 19 but amend the working to further clarify the application of the provisions.
5. Restructure Chapter 19 so that all the provisions for each activity in the chapter are grouped together.

Decision Sought:

1. Retain the definition of 'temporary military training activities' as currently proposed.
2. Delete reference to TMTA, relocated buildings and network utilities as a permitted activity in each zone.
3. Correct spelling of 'Temporary' in the Chapter 19 section heading.
4. Retain the first paragraph of Chapter 19 but amend the working to further clarify the application of the provisions.
5. Restructure Chapter 19 so that all the provisions for each activity in the chapter are grouped together.

Submitter Name: New Zealand Defence Force
Submission No: 10.2pc43

Summary:

Opposed to proposed Plan change, in respect to Policy 19.3.2. The restriction in proximity to a sensitive noise activity or an identified outstanding natural landscape is not necessary. The noise standards requested by NZDF and proposed by this Plan change require various setbacks from noise sensitive activities. This is sufficient for a temporary activity. The types of TMTA undertaken by the NZDF in outstanding natural landscapes do not result in significantly different effects to other outdoor pursuits.

Decision Sought:

1. That Policy 19.3.2 is amended to delete reference to sensitive noise activities or outstanding natural landscapes and instead states that adverse effects on amenity values are avoided, remedied or mitigated.

Submitter Name: New Zealand Defence Force
Submission No: 10.3pc43

Summary:

Support in part to proposed Plan change, in respect to the rules and performance standards for TMTA in Chapter 19. These are summarised below:

1. Retain the opening statement as drafted as it is not appropriate that TMTA are required to comply with other parts of the Plan except earthworks and permanent buildings.
2. Retain 19.6.1 as providing for TMTA as a permitted activity is appropriate.
3. Amend Rule 19.6.2 to change the status of TMTA that do not comply with the performance standards back to controlled, instead of the restricted discretionary activity that is proposed. Discretion should be limited only to noise related effects, written approval will not be necessary and applications need not be notified.
4. Performance Standard 19.7(b) should be deleted as a limit of 31 days is arbitrary and the effects are similar to other permitted day-to-day activities.
5. Performance Standard 19.7(c) is retained as drafted.

Decision Sought:

1. Retain the opening statement as drafted.
2. Retain 19.6.1 as providing for TMTA as a permitted activity is appropriate.
3. Amend Rule 19.6.2 to change the status of TMTA that do not comply with the performance standards back to controlled. Discretion limited only to noise related effects, with a statement stating that written approval will not be necessary and applications need not be notified.
4. Performance Standard 19.7(b) is deleted.
5. Performance Standard 19.7(c) is retained as drafted.

Submitter Name: Transpower New Zealand Limited
Further Submission No: 4.6pc43

Summary:

Opposed in part to submission 10.3 in relation to the application of rules to Temporary Military Training Activities (TMTA). The submission is based on TMTA not having to apply with underlying zone rules. The effect of this would be that temporary buildings used for TMTA would not have to comply with the provisions relation to the National Grid which requires setbacks from the line support structures. Transpower seeks to apply the zone rules to temporary structures and earthworks used for TMTA. The consequence of a TMTA occurring in close proximity to the Grid and not complying with the performance standards would be that, subject to the relief sought in its original submission, it would be assessed as a non-complying activity. In this context, it would not be appropriate to include a non-notified statement (nor controlled activity status) as sought by the submitter.

Council Decision:

That submission 7.2 from Horizons Regional Council and further submissions 3.4 and 4.6 from the New Zealand Defence Force and Transpower New Zealand Limited are **accepted in part**.

That submission 10.1-10.3 from the New Zealand Defence Force are **accepted in part**.

The following amendments are made as a result of these submissions:

Add 'Temporary relocatable buildings' as a Permitted Activity to each zone.

Chapter 14 Earthworks

Note:

1. *The objectives, policies and rules in this chapter apply to all activities across the District except network utilities. The earthworks provisions in Chapter 22 – Network Utilities apply to all network utilities.*

Temporary Military Training Activity provisions moved back to Chapter 19.

Chapter 19 Relocated Buildings and Temporary Military Training Activities

The objectives, policies and rules in this chapter apply in all zones and areas throughout across the District. They are grouped together to prevent repetition throughout the Plan.

Policy 19.3.3

To provide for temporary military training activities throughout the District, and manage activities in proximity to a sensitive noise activity or on an identified outstanding natural landscape.

~~where adverse effects on amenity values are avoided, remedied or mitigated except in proximity to a sensitive noise activity or on an identified outstanding natural landscape.~~

Council Reasons for Decision:

1. The comments of Horizons Regional Council, Transpower New Zealand Limited and the New Zealand Defence Force are noted and appreciated.
2. The Committee has adopted the submission remedies sought, except where commented on below:
3. Formatting

- Submitter 10 has requested that references to Relocated Buildings, Temporary Relocated Buildings, Temporary Military Training Activities and Network Utilities are removed to prevent confusion in each zone. Further submission 4 raises the issue that if this occurs, how would it affect the need to comply with the **National Grid**.

The Committee did not accept that confusion was created by listing the activities in the Permitted Activities in each zone. At most, it repeats the start of Chapter 19 which states the zone rules may apply to these activities. It also makes Plan users aware of other potential activities that could occur within the zone. It also needs to be provided for in the zone otherwise they will default to a discretionary activity. Therefore no deletions were adopted and Temporary Relocated Buildings was added to the Permitted Activity lists in order to be consistent.

- Submitter 10 has requested a minor change to the wording of the **opening sentence to Chapter 19** for clarity. The Committee agreed and adopted the minor change to the text.
- Submitter 10 requested in its original submission that **Chapter 19 was restructured**, to group the TMTA provisions together. The Officer took it a step further in the S42a report and recommended that the TMTA provisions be moved to Chapter 22 – Network Utilities so that all the relevant provisions for the Defence Force are together. At the hearing the Defence Force asked that TMTA be moved back to Chapter 19. The Committee agreed to move the TMTA back to Chapter 19 as it did not meet the definition of a Network Utility (Chapter 22), but kept the same format as the rest of the Plan with the chapter organised by issues, objectives, policies and then rules and performance standards per activity.

As a result of moving TMTA back to Chapter 19, the numbering for TMTA will change again as it moves to the back of the chapter, and advice notes 1 and 2 at the start of Chapter 14 - Earthworks can be combined as there is no longer any reason to separate TMTA from Network Utility provisions.

- Submitter 10 requested that the **spelling mistake** in the heading of Chapter 19 is corrected. The Committee supported fixing spelling mistakes, but wished to keep the name of Chapter 19 as short as possible. The activities listed in Chapter 19 are:
 - Relocated Buildings

- Temporary Relocatable Buildings
- Temporary Activities
- Temporary Military Training Activities

The Committee resolved to call the Chapter “Relocated Buildings and Temporary Activities” rather than all four activities as the two listed in the title could also apply to the other activities.

4. Noise Sensitive Activities and Outstanding Natural Landscapes (ONL)

- Submitter 10 stated that reference to noise sensitive activities or outstanding natural landscapes are not necessary.

The submitter stated that TMTA are temporary and do not result in permanent effects of sensitive noise activities. And that the TMTA activities in ONL areas do not result in any different effects to hunting, tramping and other outdoor pursuits.

The Committee chose to keep the reference to noise sensitive activities in the policy as there is a direct reference to the term in the noise performance standards for TMTA, which is supported by the Defence Force and the policy is required to interpret how to handle breaches to these provisions.

The Committee noted that TMTA already occur in an Outstanding Natural Landscape – The National Park, and this is an agreement between DOC and the Defence Force. However, this area has only been called an ONL by the One Plan, and because this area is not defined on a map, there is no ability yet to consider these effects.

Consideration on if this is an appropriate activity is something to be determined as part of PC48 (Outstanding Natural Landscapes), which is currently being consulted on and which the Defence Force will continue to be contacted about. Therefore there will be additional ability for the Defence Force to provide evidence on if the activity is appropriate for some or all of the identified areas.

TMTA can include large scale explosives and other activities that could potentially adversely impact the naturalness of the landscapes. Therefore it is appropriate to acknowledge this in the Policy, even though it will not have any weight until PC48 is complete at the ONLs are identified.

5. Rules

- Submission 10 stated that it is inappropriate for **TMTA to comply with other parts of the Plan**, except earthworks and permanent buildings. Further submitter 4 believes that TMTA needs to comply with the National Grid provisions which are located under the zone rules. The Officer requested that these two parties get together before the hearing and work out a reasonable solution. This was done and the Defence Force presented evidence stating that they had consulted with Transpower (as the owner of the National Grid), and had come to an agreement regarding how TMTA should operate around the National Grid. The Committee chose to adopt the wording put forward by the submitter at the hearing.

- Submitter 10 requested that breaches to the TMTA performance standards should be treated as **Controlled Activities** with no requirement for the written approval of affected parties or notification of the application.

This may limit the ability for the Council to make an appropriate assessment as required by the RMA. It may prevent Council declining an application where the effects on the environment are such that they cannot be avoided remedied or mitigated to achieve sustainable management. This is significant as TMTA includes such a broad range of activities and effects. The community expects Council to assess activities against community developed objectives and policies where they exceed performance standards specified in the Plan.

Such an approach would limit Council to making its own assessment of the actual and potential effects of TMTA on potentially affected parties, as parties would not have any formal opportunity to identify concerns or confirm acceptance of any effects. This would necessitate a precautionary approach by Council to assessing effects. This may unreasonably constrain activities.

The Committee noted that this District Plan, as well as other reviewed plans around the country, are moving away from use of the controlled activity status to restricted discretionary. To stay with controlled activity status would be administratively inconsistent with the rest of the reviewed plan chapters.

After consideration of the evidence, the Committee preferred to retain restricted discretionary status for TMTAs that contravene any performance standards, noting that Council's discretion is restricted to consideration of the effects created by non-compliance with one or more standard.

- Submitter 10 requested that the **31 day limit** is removed from performance standard 19.7(b) as it is an arbitrary timeframe. However, at the hearing, the submitter put forward the option of a 31 day limit with a week either side for set up and take down. This was acceptable to the Committee as it defined what 'Temporary' was in relation to TMTA.

Submissions relating specifically to Relocated Buildings

Submitter Name: House Movers Section of New Zealand Heavy Haulage Association (Inc)
Submission No: 8.1pc43

Summary:

Supportive of proposed plan change, but with amendments to improve workability.
 Suggested amendments include:

1. That the restricted discretionary default status be expressly on a non-notified basis. The potential effects of relocation are such they can be appropriately evaluated without public input.
2. The demolition, removal and re-siting of buildings should expressly be provided for as a permitted activity to avoid any uncertainty to the plan users.
3. People relocating buildings should confirm the date of relocation not less than 48 hours before relocation occurs as it is difficult to confirm dates with precision until close to the actual relocation.
4. A pre-inspection report like the version attached to this submission.

Decision Sought:

1. That the restricted discretionary default Rule 19.4.2(a) contain a statement that all applications shall be processes on a non-notified basis.
2. The demolition, removal and re-siting of buildings should expressly be provided for as a permitted activity to avoid any uncertainty to the plan users.
3. Performance Standard 19.5.1(d) is amended so that the date of relocation is confirmed not less than 48 hours before relocation occurs.

Submitter Name: Transpower New Zealand Limited
Further Submission No: 4.5pc43

Summary:

Opposed to submission 8.1 in relation to the requested non-notified statement. Transpower notes that relocated buildings must comply with the underlying zone rules. This mechanism ensures that any relocated buildings in close proximity to National Grid lines are suitably located. In this context, adverse effects may be generated and therefore Transpower does not support a non-notified statement for restricted discretionary activities.

Council Decision:

That further submission 4 from Transpower New Zealand Limited be **accepted**.

And that submission 8 from House Movers Section of New Zealand Heavy Haulage Association (Inc) be **accepted in part**.

The following amendments are made as a result of these submissions:

19.4 RULES FOR RELOCATED BUILDINGS

19.4.1 Permitted Activities.

The following are permitted activities throughout the District.

c. The demolition, removal and re-siting of buildings, except when listed in Appendix A Heritage Items.

19.5 PERFORMANCE STANDARDS – Relocated Buildings

19.5.1 Relocated Buildings.

All Relocated Buildings shall comply with the following:

- a. A building inspection report shall be submitted to Council (usually as part of the Building Consent) prior to the relocation occurring. That report is to identify all reinstatement works that are to be completed to the exterior of the building and an estimate of the cost of the work.

The pre-inspection report template is available on Council's website.

- d. The owner of the site that the building is to be located onto shall certify that the reinstatement work will be completed within the nine month period and confirm the date of the proposed relocation not less than 48 hours before relocation occurs.

Council Reasons for Decision:

1. The comments of House Movers Section of New Zealand Heavy Haulage Association (Inc) and Transpower New Zealand Limited are noted and appreciated.
2. The Committee has adopted the submission remedies sought, except where commented on below:
3. Submitter 8 requested that the demolition, removal and re-siting of buildings should be specifically listed as a **Permitted Activity**. This is to prevent uncertainty for Plan users. The Committee agreed as long as Heritage listed buildings are specifically excluded as a Permitted Activity.
4. Submitter 8 requested that a statement is added to the **Restricted Discretionary Status** stating that all resource consents for relocates that breach the rules shall be non-notified consents. Further submission 4 was opposed this as effects could then be generated that affect their operations. Given that a potential breach could have any number of adverse effects, it is unreasonable to believe that there would be no affected parties in any circumstances that would need to be informed. Decisions on notification need to be made during a pre-application meeting or when the application is received, not during a Plan Change process where there are too many variables.
5. Submitter 8 recommended that Council make available the template attached to their submission for **building inspection reports**. The Committee fully endorses this recommendation and would like to thank the submitter for making this available for Council to use.
6. The Submitter also recommended that the **confirmation date** of the relocated building will occur at least 48 hours prior to relocation. This is more precise than the wording proposed and was adopted by the Committee.