

## Recommendations to Council from the Statutory Management Committee

Date: 11 May 2016

Councillors

### WHANGANUI DISTRICT COUNCIL

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**Subject:** Plan Change 39 Archaeological and Other Sites  
Decisions on Submissions

**Meeting Date:** 16 March 2016

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#### 1.0 INTRODUCTION

- 1.1 Council is presently reviewing the District Plan in phases. This Plan Change is part of Phase 5 and relates to every part of the District.
- 1.2 This report records the public notification and hearing process in relation to Plan Change 39 (PC39). 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 16 March 2016. Four submitters attended. The Committee reviewed tabled evidence from submitters and listened to the reporting officer's recommendations before deliberating on submissions on 16 March 2016.
- 2.2 The Committee members were: Councillors Hamish McDouall, (Chair), Martin Visser, Jenny Duncan, and Independent Commissioner Ramari Te Uamairangi.
- 2.3 Submitters who appeared to support their submissions were:
  - Mr Bill Simmons
  - Tim Mathews for Federated Farmers
  - Karen Blair for Powerco
  - Jillian Kennemore and Kathrine Hurrin for Heritage New Zealand Pouhere Taonga
- 2.4 PC39 was publicly notified in accordance with Clause 5 of the 1st Schedule of the Resource Management Act 1991 (the Act) on 10 October 2015, with the period for submissions closing on Wednesday 11 November 2015.
- 2.5 A total of 5 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 Wednesday 16 December 2015. One further submission was 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 5 of the wider District Plan review.
- 3.2 Since the operative District Plan was drafted in the 1990s, a significant number of additional archaeological sites have been identified in the District.
- 3.3 PC 39 sought to considerably expand on the list of archaeological sites in the Heritage Inventory of the Plan. The current 159 sites listed in the Plan will increase to almost 1000 sites. The Plan Change also explained the significance of archaeology and introduced performance standards for them.
- 3.4 The purpose of Proposed Plan Change 39 is to clarify requirements for development where archaeological sites are or may be present, and to list all known sites for protection. This is to fulfil the requirements of the RMA, especially section 6 which requires the protection of historic heritage, which includes archaeological sites.

### **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....*

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, PC39 has been developed with a focus on providing for the community's social, economic and cultural wellbeing whilst avoiding or mitigating any adverse effects of activities on the environment.

Further guidance and direction on the way in which resources are to be managed is provided in Part II of the Act as follows:

Section 6 of the RMA specifically identifies historic heritage and the relationship of Maori to physical resources amongst matters of national importance that must be recognised and provided for. Section 6 states:

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development.*

Under the RMA 'historic heritage' is defined as:

*(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:*

- (i) archaeological:*
- (ii) architectural:*
- (iii) cultural:*
- (iv) historic:*
- (v) scientific:*
- (vi) technological; and*

*(b) includes—*

- (i) historic sites, structures, places, and areas; and*
- (ii) archaeological sites; and*
- (iii) sites of significance to Māori, including wāhi tapu; and*
- (iv) surroundings associated with the natural and physical resources.*

The protection of archaeological sites is a component in fulfilling 6(e) and 6(f), as a matter of national importance.

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

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

(a) *kaitiakitanga*:

(aa) *the ethic of stewardship*:

(b) *the efficient use and development of natural and physical resources*:

(c) *the maintenance and enhancement of amenity values*:

(f) *maintenance and enhancement of the quality of the environment*:

(g) *any finite characteristics of natural and physical resources*.

Providing adequate information on archaeological sites assists *kaitiakitanga* and stewardship. The proposed Plan change is therefore considered consistent with section 7 of the RMA.

Section 8 states:

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

The extensive consultation, discussion and consequent agreement with Iwi has taken into account the principles of the Treaty of Waitangi, and is considered to be consistent with the principles.

To achieve the purpose of the RMA in accordance with the stated functions, any proposed District Plan provisions must be the most appropriate method of providing for any future use of land within the district whilst avoiding, mitigating or remedying the effects of that development on the environment.

In this case, it is considered that the proposal is the most appropriate method for the protection of historic heritage and to recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, *waahi tapu*, and other *taonga* in order to achieve the purposes of the RMA.

## **5.0 RELEVANT POLICY STATEMENTS AND PLAN PROVISIONS**

### **5.1 National Policy Statements and Environmental Standards**

There are no relevant statements or standards.

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

The Act requires that the District Plan 'gives effect' to the Regional Policy Statement (section 75(3)). The Regional Policy Statement (RPS) is the main vehicle for interpreting and applying the sustainable management requirements of the Act in a local context, and in this regard, guides the development of lower tier plans, including the District Plan.

The One Plan is relevant to PC39 as it includes requirements relating to historic heritage and requires the Council to be consistent with the One Plan.

An assessment of how the provisions in proposed PC39 compare with the objectives and policies of the Operative One Plan are considered in Table 1 below.

Operative Regional Policy Statement (RPS)		Proposed PC39 Evaluation
<p><b>Objective 6-3:</b> <i>Historic heritage</i><sup>^</sup> Protect <i>historic heritage</i><sup>^</sup> from activities that would significantly reduce heritage qualities.</p> <p><b>Whāinga 6-3:</b> <i>Ngā taonga tuku iho o mua</i> <i>Ka whakamarumaruru i ngā taonga tuku iho o mua i ngā ngohe whakaiti i ngā kairangi taonga tuku iho.</i></p>	<p><b>Policy 6-11: <i>Historic heritage</i><sup>^</sup></b> The <i>Regional Coastal Plan</i><sup>^</sup> and <i>district plans</i><sup>^</sup> must, without limiting the responsibilities of local authorities to address <i>historic heritage</i><sup>^</sup> under the RMA, include provisions to protect from inappropriate subdivision, use and development <i>historic heritage</i><sup>^</sup> of national significance, which may include places of special or outstanding heritage value registered as Category 1 historic places, wāhi tapu, and wāhi tapu areas under the Historic Places Act 1993 and give due consideration to the implementation of a management framework for other places of historic heritage.</p> <p><b>Policy 6-12: <i>Historic heritage</i><sup>^</sup> identification</b> (a) <i>Territorial Authorities</i><sup>^</sup> must develop and maintain a schedule of known <i>historic heritage</i><sup>^</sup> for their district to be included in their <i>district plan</i><sup>^</sup>..... (c) <i>Historic heritage</i><sup>^</sup> schedules must include a statement of the qualities that contribute to each <i>site</i><sup>*</sup>.</p>	<p>PC 39 gives partial effect to this objective and these policies but in relation to archaeological items only.</p> <p>District Plan Change 29 addressed built heritage items and is operative.</p> <p>Together these plan changes give effect to the RPS.</p>

## **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 PC39:

- Duplication between the proposed Plan rules and the functions of Heritage New Zealand Pouhere Taonga.
- The constraints created by the identification of buffers around known archaeological sites.
- The need for further work to differentiate sites by their relative importance.
- A need for greater liaison with site owners.

## **8.0 SUMMARY OF EVIDENCE HEARD**

8.1 Key evidence presented by submitters is summarised below:

### ***Bill Simmons (Sub 3)***

- Mr Simmons believed the buffers were unworkable and unreasonable, and would result in unintended consequences.
- If owners do not trust the system they may remove sites.
- The list is incomplete.
- Some sites will have too much protection and others not enough.

### ***Tim Mathews for Federated Farmers (Sub 5)***

- Many site owners contribute to heritage protection but unknown costs can create a perception of heritage as a burden.
- There should be a peer review and differentiation of sites, with those of little value removed.
- The use of buffers and associated rules was of concern as they significantly increase the impact of sites on rural activities.
- Any move to assist with the costs associated with archaeology were to be encouraged.

### ***Karen Blair for Powerco (Sub 2 and FS1)***

- Protection of sites lies with Heritage NZPT and duplication of their role should be avoided, in line with Government policy.
- Sites should be differentiated in accordance with the Regional Policy Statement, with varying degrees of protection.
- More certainty is needed regarding fees and other Plan related costs.
- The potential exists for contradiction between an archaeological authority and a resource consent.

- The buffer rules would require excessive costs and processing time.
- The National Code of Practice for Utility Operators' Access to Transport Corridors contains provisions for necessary caution around archaeological sites.
- Clarification is needed that under the Accidental Discovery Protocol, work would need to cease only in the immediate vicinity of the discovery, not the whole work site.

***Jillian Kennemore and Kathryn Hurrin for Heritage New Zealand Pouhere Taonga (Sub 4)***

- The requirement for a resource consent under rule 9.10. 3 duplicates the need for an archaeological authority from Heritage NZPT.
- Duplication and over regulation should be avoided, in line with Government policy.
- If retained, the rules should apply only to identified significant sites. This could include some post-1900 sites, not covered under the Heritage NZPT Act.
- Appendix K acts as a useful alert layer and as such should include all known sites.
- An archaeological advice note should be included when issuing consents where disturbance of an archaeological site is possible.

8.2 Officer's Right of Reply is summarised below:

- The Officer stands by the comments and recommendations of the S42A report except where stated below.
- Council considered a number of options including starting with the option not to map or regulate.
- All sites have the protection of Heritage NZ regardless of whether they are mapped in the District Plan or not. Buffer areas were added to assist Plan users to appreciate the potential extent of sites. It is an indicative tool only. The intention was to regulate within buffer areas to manage risk to archaeological site material close to the identified site. Otherwise it becomes a risk whether the owner, those who know the site and Heritage NZ will be aware of the site.
- It is acknowledged that the distinction between known archaeological sites and the proposed buffers creates an ambiguous situation and the potential for duplication. Significant improvement of protection of sites would still be achieved if the mapping of sites and/ or buffers was retained, and the rules deleted. The mapping of all known sites for the District in the District Plan will significantly improve the community's ability to protect archaeological sites. The location of sites will be readily accessible for everyone. The inclusion of buffer areas will also provide some additional guidance to landowners and

developers about the likelihood or potential that archaeological sites may be present in the specified area but also the wider vicinity.

- In my opinion the most important protective gains are achieved by mapping the sites and defining the buffer areas and these should be retained. Certainly it is essential that sites themselves be mapped in the District Plan. If the buffers are not defined, then Planners end up with vague statements to try to capture the extent of sites such as ‘in the vicinity of’ which is less helpful for Plan users.

## **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 PC39 and the evidence tabled and officer’s reply.
- The Committee noted that although Mr Simmons felt that his trust has been breached, in reality the sites on his property were easily identified and obvious on 1940’s aerial photography and on that basis would have been included in the Plan regardless of any information provided by the submitter.
- The Committee acknowledged also that this project to identify and confirm archaeological sites occurred over a number of years. This has created a positive effect as the work and options for regulation were ‘socialised’ over a long period. This in turn has resulted in a relatively high level of comfort amongst land owners.
- However, the Committee felt the evidence presented by Heritage NZPT was compelling, as was evidence presented by Powerco NZ Ltd, in relation to whether the introduction of regulation to the Plan was necessary. The Committee explored in some detail the established process for obtaining an Archaeological Authority with the Planner and Archaeologist who attended the Hearing on behalf of Heritage NZPT. The Committee was persuaded by the advice of the Heritage NZPT Planner that any activity affecting an archaeological site would require an Authority from Heritage NZPT, unless an archaeologist confirmed that the specific works would not affect the site. On this basis the Committee decided the proposed rules should be deleted from the Plan Change as the Heritage New Zealand Pouhere Taonga Act 2014 could be relied on to ensure protection.
- The Committee accepted the view of submitters and the reporting officer that significant protective benefits are achieved with the mapping of the sites and defining their buffer areas in the District Plan, as this is the information resource most commonly referred to at the commencement of development processes.
- The Committee did also want to acknowledge the potential benefits for the community of further investigation to identify and regulate, through the District Plan, any sites of such local significance that additional protection may be warranted, for example to prevent destruction.

## **10.0 SECTION 32 REPORT EVALUATION**

A further evaluation for the S.32 report was required to incorporate the amendments made to the Plan change as a result of Council’s Decision on Submissions. The S32AA 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 text.

## **12.0 APPENDICES**

- 1: Decisions on Submissions and Reasons for Decisions
- 2: Marked- Up Version of Plan Change 39 following Decisions on Submissions
- 3: Section 32AA Evaluation

Signature of Chairman

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Councillor Hamish McDouall

Dated:

## APPENDIX 1 – Decisions on Submissions and Reasons for Decisions

The Decisions on Submissions and Reasons for Decisions are set out in the order of the Hearing Report and Chapter 9 Cultural Heritage.

### 1 Legislation and Site Identification

**Submitter Name:** Heritage New Zealand Taonga Pouhere

**Submission No:** 4.1pc39

Summary:

Inclusion of relevant legislation references is supported.

Decision Sought:

Retain references to relevant legislation.

**Submitter Name:** Heritage New Zealand Taonga Pouhere

**Submission No:** 4.2pc39

Summary:

Provisions for identification and listing of archaeological sites is supported in part.

Decision Sought:

Retain provisions for identification and listing of archaeological sites but record Appendix K sites with the New Zealand Archaeological Association (NZAA) Site Recording Scheme, and identify appropriate buffers for all sites.

### Council Decision

That submission 4.1 and 4.2 by Heritage NZPT be **accepted** and **accepted in part** respectively, and the need for future NZAA recording, and identification of buffers to be noted and implemented as resources permit.

### Council Reasons for Decision

1. The support of Heritage New Zealand Pouhere Taonga is noted and appreciated.

**2 Objective 9.2.5 Archaeological Management**

**Submitter Name: Wanganui Federated Farmers of NZ**  
**Submission No: PC39 Sub 5.2.6; 5.3.10 – 12**

**“9.2.5 Archaeological management**

Manage subdivision, use and development to ensure that adverse effects on the archaeological resource are avoided, remedied or mitigated.”

Summary:

Add “inappropriate” subdivision.

Decisions Sought:

Add the word ‘inappropriate’ before subdivision.

**Submitter Name: Powerco Limited**  
**Further Submission No: 1.1 pc39**

Supports Federated Farmers submission.

**Council Decision**

That submission 4.2 by Heritage NZPT and further submission 1.1 by Powerco Limited be **accepted**.

The following amendment to Objective 9.2.5 is made:

*Manage inappropriate subdivision, use and development to ensure that adverse effects on the archaeological resource are avoided, remedied or mitigated.*

**Council Reason for Decision**

1. The primary legislation uses this term, RMA Sec 6 (f). Heritage NZPT support the change.

### 3 Objective 9.2.6 Archaeological risk reduction

**Submitter Name:** Heritage New Zealand Taonga Pouhere  
**Submission No:** 4.3pc39

#### **“9.2.6 Archaeological risk reduction**

Reduce the risk of damage to archaeological sites and areas by identifying the known archaeological resource and avoid activities that may damage, modify or destroy that resource, including activities close to the identified site.”

Summary:

Retain the Objective.

Decision Sought:

Retain the Objective.

**Submitter name: Powerco Limited**  
**Further Submission No: 1.2pc39**

Supports in part.

Summary:

Requests provision for management, as well as avoidance, of activities that may damage, modify or destroy.

Decision Sought:

Addition of “... avoid or manage activities ...”

#### **Council Decision**

That submission 4.3 by Heritage NZPT be **accepted in part** and further submission 1.2 by Powerco Limited be **accepted**.

The following amendment to Objective 9.2.6 is made:

*Reduce the risk of damage to archaeological sites and areas by identifying the known archaeological resource and avoid or manage activities that may damage, modify or destroy that resource, including activities close to the identified site.*

#### **Reason for Council Decision**

1. It is possible to obtain an Authority from Heritage NZPT to modify or destroy a site, subject to conditions, which is a means of managing activities. The addition of “or manage” is therefore appropriate. Heritage NZPT support the change.

**4 Objective 9.2.7 Archaeological community protection**

**Submitter Name:** Wanganui Federated Farmers of NZ  
**Submission No:** 5.2.11pc39 and 5.3.15 to 5.3.19pc39

**“9.2.7 Archaeological community protection**

Recognise and protect the archaeological resource by encouraging close co-operation with hapu, iwi, landowners and the community.”

Summary:

Retain provision with additional clarification that routine activities can continue.

Decision Sought:

Retention of the provision, with addition of “... community, including enabling hapu, landowners and the wider community to continue to undertake their day to day activities where these activities are compatible with the protection and retention of the resource.”

**Submitter Name:** Powerco Limited  
**Further Submission No:** 1.3pc39

Supports this submission

**Council Decision**

That the word ‘iwi’ should be added and that submission 5.2.11 and 5.3.15 to 5.3.19 by Wanganui Federated Farmers of NZ and further submission 1.3 by Powerco Limited be **accepted**.

The following amendment to Objective 9.2.7 is made:

*Recognise and protect the archaeological resource by encouraging close co-operation with hapu, iwi, landowners and the community, including enabling hapu, iwi, landowners and the wider community to continue to undertake their day to day activities where these activities are compatible with the protection and retention of the resource.*

**Reason for Council Decision**

1. The requested addition provides clarification and reassurance. The Committee noted that when asked Heritage NZPT indicated support for the change.
2. The Committee included the word ‘iwi’ for completeness.

**5 Objective 9.2.8 Archaeological information**

**Submitter Name:** Wanganui Federated Farmers of NZ  
**Submission No:** 5.2.12pc39

**“9.2.8 Archaeological information**

Provide information to the community to encourage the protection and retention of the archaeological resource.”

Summary:

Retain provision, with identification of appropriate activities

Decision Sought:

Retention of the provision, with the addition of “...resource, identifying where relevant, those activities that are consistent with the protection and retention of the resource, and therefore continue to be enabled.”

**Submitter Name:** Powerco Limited  
**Further Submission No:** 1.4pc39

Support the submission.

**Council Decision**

That submission 5.2.12 by Wanganui Federated Farmers of NZ and further submission 1.4 by Powerco Limited be **accepted**.

The following amendment to Objective 9.2.8 is made:

*Provide information to the community to encourage the protection and retention of the archaeological resource, identifying where relevant, those activities that are consistent with the protection and retention of the resource, and therefore continue to be enabled.*

**Reason for Council Decision**

1. While it is not practical to list all appropriate activities, in general light stock grazing, eg sheep rather than cattle, is suitable for most rural sites.
2. Tree planting is not suitable. Information of this nature will be part of providing information to site owners. The Committee noted that when asked Heritage NZPT indicated support for the change.

**6 Policies - 9.3.18, 19 and 20**

**Submitter Name:** Heritage New Zealand Taonga Pouhere  
**Submission No:** 4.4pc39

**“9.3.18 Sustainable archaeological management**

To enable the sustainable management of the archaeological resource for future generations, consideration shall be given to:

- Uniqueness of the site/s or area.
- Representative nature of the site/s or area (i.e. the best example of a particular site type).
- Condition.
- Tradition/historic association
- Alternate methods and locations available to carry out the proposed activity or works.
- The nature, form and extent of the proposed activity and the likelihood and extent of damage to the site/sites or area taking into account the extent to which there has already been land disturbance or damage.
- The findings of an archaeological assessment carried out by a suitably qualified archaeologist and the extent to which adverse effects can be avoided, remedied or mitigated.

**9.3.19 Archaeological buffers**

To enable development within the site-specific buffer area identified around each archaeological site/s or area in Appendix K, only where no adverse effect on the archaeological site/s or area will result.

**9.3.20 Voluntary archaeological protection**

To encourage landowners, the community and tangata whenua to investigate sources of funding and methods of voluntary protection for the management of the archaeological resource including the use of covenants.”

Summary:

Retain the policies.

**Submitter Name:** Powerco Limited  
**Further submission No:** 1.5pc39

Support in part. Request modification of 9.3.19 to provide for remediation and mitigation of adverse effects.

**Council Decision**

That submission 4.4 by Heritage NZPT be **accepted** and further submission 1.5 by Powerco Limited be **rejected**.

No amendment to Policy 9.3.19 is recommended as a result of these submissions.

**Reason for Council Decision**

1. The point is to a degree covered by 9.3.18 final bullet point.

*“The findings of an archaeological assessment carried out by a suitably qualified archaeologist and the extent to which adverse effects can be avoided, remedied or mitigated.”*

2. The Powerco Limited submission goes beyond the remedy sought by the submitter Heritage NZPT. A further submission may only support or oppose an original submission.



**7 9.9 Rules – Special Character Areas: Note:**

**Submitter Name:** Heritage New Zealand Taonga Pouhere  
**Submission No:** 4.5pc39

Supports in part

“Note: Heritage New Zealand Pouhere Taonga should be consulted regarding any activity which would result in damage, destruction or modification of any item registered with Heritage New Zealand Pouhere Taonga. This is in order to determine any Heritage New Zealand Pouhere Taonga Act 2014 requirements which may apply. Also note that it is an offence to destroy, damage or modify any archaeological site without an Authority from Heritage NZPT. The record sheets contained in the Inventory indicate which items are likely to fall within the definition of an archaeological site under the Heritage New Zealand Pouhere Taonga Act 2014.”

Summary:

Retain the provisions, with a minor modification to match wording of the Heritage New Zealand Taonga Pouhere Act 2014.

Decisions Sought:

Amendment of the note as follows:

“Also note that it is an offence to modify or destroy, ~~damage or modify~~ any archaeological site without an Authority from Heritage NZPT”

**Submitter Name:** Powerco Limited  
**Further Submission No:** 1.6pc39

Support in part, subject to the scope of the Plan Change.

**Council Decision**

That submission 4.5 by Heritage NZPT and further submission 1.6 by Powerco Limited be **accepted**.

The following amendment as appropriate in Chapter 9 is recommended as a result of these submissions:

*Note: Heritage New Zealand Pouhere Taonga should be consulted regarding any activity which would result in damage, destruction or modification of any item registered with Heritage New Zealand Pouhere Taonga. This is in order to determine any Heritage New Zealand Pouhere Taonga Act 2014 requirements which may apply. Also note that it is an offence to modify or destroy, ~~damage or modify~~ any archaeological site without an Authority from Heritage NZ. The record sheets contained in the Inventory indicate which items are likely to fall within the definition of an archaeological site under the Heritage New Zealand Pouhere Taonga Act 2014.*

**Reason for Council Decision**

1. The change is of an administrative nature to bring the Plan wording into line with current legislation.

**8 9.10 Rules – Archaeological and Other Sites – Part One**

**Submitter Name:** Heritage New Zealand Taonga Pouhere  
**Submission No:** 4.6pc39

Oppose in part

Heritage NZPT limit the application of the rules to more important sites. Otherwise listing and mapping sites, along with an Advice Note, would be sufficient, relying on rules in the Plan for subdivision and earthworks to offer sufficient protection, along with the Heritage NZ Pouhere Taonga Act 2014.

Decisions Sought:

Apply the rules to the most significant sites.

**Submitter Name:** Powerco Limited  
**Further Submission No:** 1.7pc39

Supports submission 4.6 in part

**Submitter Name:** Bill Simmons  
**Submission No:** 3pc39

Opposes use of rules, as sites are protected by statute.

Decisions Sought:

Remove the rules, rely of statutory protection.

**Submitter Name:** Wanganui Federated Farmers of NZ  
**Submission No:** 5.3.3 to 5.3.6pc39

Concern that landowners have not been adequately informed of the effects of the proposed rules.

Decisions Sought:

Face to face meetings with property owners to communicate the effect of the proposed rules.

**“9.10 RULES – ARCHAEOLOGICAL and OTHER SITES**

**9.10.2 Permitted Activities**

The following activities shall be permitted activities:

- a. Any activity that requires land disturbance and is located or undertaken within the buffer area of a site shown on the planning maps and listed in Appendix K where it has been determined by a qualified archaeologist referred to in performance standard 9.11.1 that the land disturbance shall not damage, modify or destroy the archaeological site/s or area.

**9.10.3 Discretionary Activities**

The following activities shall be discretionary activities:

- a. Any activity or use that requires land disturbance and is located or undertaken within the buffer area of a site/s or area shown on the planning maps and listed in Appendix K, where it has been determined by a qualified archaeologist referred to in performance standard 9.11.1 that the land disturbance shall damage, modify or destroy the archaeological site.

Where a report of the type described above has been previously received by Council then a further report shall not be required, unless Council deems the proposed works to be materially different from those contemplated in the previous report.”

### **Council Decision**

That submissions 4.6 by Heritage NZPT and 5.3.3 to 5.3.6 by Wanganui Federated Farmers further submission 1.7 by Powerco Limited and Submission 3 by Bill Simmons be **accepted in part**.

The following change is made to the Plan as a result of these submissions:

Delete proposed rules - 9.10.2 and 9.10.3.

Insert the following Advice Note below a new heading ‘9.10 – Performance Standards – Archaeology’:

#### *Advice Note:*

*It is an offence to modify or destroy any archaeological site without an Authority from Heritage New Zealand, under the Heritage New Zealand Pouhere Taonga Act 2014. Where land disturbance is proposed to take place within an archaeological site/s or area mapped and listed in Appendix K (Archaeological and Other Sites) or the buffer area surrounding it, the person undertaking the proposed land disturbance should obtain a report from an archaeologist stating whether the archaeological site will be modified or destroyed.*

### **Reason for Council Decision**

1. Although creating a hierarchy of sites may be desirable, there is no mechanism within the Plan change to do so, other than withdrawing it. At this stage it is prudent to include all known sites, with the potential to carry out a project to refine and differentiate the listings in future.
2. The protection of the sites themselves falls under the Heritage NZ Pouhere Taonga Act 2014. It is considered that the proposed rules, although intended for the buffers beyond known sites, would result in unnecessary duplication of the Heritage NZPT authority processes. For this reason Council has removed the proposed rules and will instead ensure that Heritage New Zealand is advised immediately that Council becomes aware of any activities proposed within a buffer area identified in Appendix K. This will fulfil Council’s function to protect sites without duplication of process.
3. The buffer areas are retained in Appendix K as general guidance of the potential extent of sites. They are intended to be an indicative alert mechanism, to assist land owners and developers to recognise at the earliest possible time the potential extent of any archaeological site.
4. In respect to concerns raised by Federated Farmers, the Council confirms that a number of approaches were made to owners of sites, and site specific information was made available to every owner. Many owners responded and a number of sites were queried and investigated in more detail by the archaeologist. A number of sites were removed or more accurately located as a result. Conveying information to and engaging with archaeological site owners, including face to face meetings, is important to the ongoing protection of sites.

**9 9.10 Rules – Archaeological and Other Sites – Part Two**

**Submitter Name: Powerco Limited**  
**Submission No: 2.R1 and R2pc39**

Oppose

Summary

Amendments to 9.10.2 and 9.10.3 to make better provision for existing and new network utilities.

Decisions Sought

Powerco: Amendments to 9.10.2 and 9.10.3 as follows:

**“9.10.2 Permitted Activities**

The following activities shall be permitted activities:

- a. Any activity that requires land disturbance and is located or undertaken within the buffer area of a site shown on the planning maps and listed in Appendix K where it has been determined by a qualified archaeologist referred to in performance standard 9.11.1 that the land disturbance shall not damage, modify or destroy the archaeological site/s or area, unless otherwise permitted by Rule 9.10.2(b) or (c).
- b. Land disturbance for the operation, maintenance and upgrading of existing network utilities within the buffer area of a site shown on the planning maps and listed in Appendix K provided compliance with performance standards 9.11.1 and 9.11.2 is achieved.
- c. Land disturbance in the road corridor for the development of new network utilities provided compliance with performance standards 9.11.1 and 9.11.2 is achieved.

**9.10.3 Discretionary Activities**

The following activities shall be discretionary activities:

Any activity or use that requires land disturbance and is located or undertaken within the buffer area of a ~~site/s or area~~ shown on the planning maps and listed in Appendix K, where it has been determined by a qualified archaeologist referred to in performance standard 9.11.1 that the land disturbance shall damage, modify or destroy the archaeological site, unless otherwise permitted by Rule 9.10.2.”

**Council Decision**

That submissions 2.R1 and 2.R2 by Powerco Limited be **accepted in part**

The following changes are made to the Plan as a result of these submissions:

Delete proposed rules 9.10.2 and 9.10.3

**Reason for Council Decision**

1. The protection of the sites themselves falls under the Heritage NZ Pouhere Taonga Act 2014. It is considered that the proposed rules, although intended for the buffers beyond known sites, would result in unnecessary duplication of the

Heritage NZPT authority processes. For this reason Council has removed the proposed rules and will instead ensure that Heritage New Zealand is advised immediately that Council becomes aware of any activities proposed within a buffer area identified in Appendix K. This will fulfil Council's function to protect sites without duplication of process.

2. The buffer areas are retained in Appendix K as general guidance of the potential extent of sites. They are intended to be an indicative alert mechanism, to assist land owners and developers to recognise at the earliest possible time of the potential extent of any archaeological site.

10 9.10 Note

**Submitter Name:** Wanganui Federated Farmers of NZ  
**Submission No:** 5.2.7pc39, 5.3.13pc39 and 14; 5.3.20pc39

“Note: The *Council*\* may waive resource consent fees associated with the use and development of Archaeological or Other Sites.”

Summary:

Waiving of RC fees, and cost sharing for assessments.

Decisions Sought:

Amend the note by changing ‘may’ to ‘will’. Develop a cost-sharing arrangement for archaeological or cultural assessments.

**Submitter Name:** Powerco Limited  
**Further Submission No:** 1.8pc39

Support in part

**Council Decision**

That submissions 5.2.7, 5.3.13 and 14; 5.3.20 by Wanganui Federated Farmers of NZ and the further submission 1.8 by Powerco Limited are **accepted in part**

The following amendment is proposed to the Plan as a result of these submissions:

Delete the Note.

**Reasons for Council Decision**

1. The protection of the sites themselves falls under the Heritage NZ Pouhere Taonga Act 2014. It is considered that the proposed rules, although intended for the buffers beyond known sites, would result in unnecessary duplication of the Heritage NZPT authority processes. For this reason Council has removed the proposed rules and will instead ensure that Heritage New Zealand is advised immediately that Council becomes aware of any activities proposed within a buffer area identified in Appendix K, This will fulfil Council’s function to protect sites without duplication of process.
2. The buffer areas are retained in Appendix K as general guidance of the potential extent of sites. They are intended to be an indicative alert mechanism, to assist land owners and developers to recognise at the earliest possible time the potential extent of any archaeological site.

## 11 9.11 Performance Standards - Archaeology

### 9.11.1 Archaeological Report

**Submitter Name: Heritage New Zealand Taonga Pouhere**  
**Submission No: 4.7pc39**

Support in part

Summary:

A change to the provision, provided the application is limited to the more significant sites. Or this could be included in the Advice note.

Decisions Sought:

As follows:

“Where land disturbance is proposed to take place within ~~the buffer area surrounding~~ an archaeological site/s or area mapped and listed in Appendix K (Archaeological and Other Sites) or a buffer area around it, the person undertaking the proposed land disturbance shall provide the Council with a report from a qualified archaeologist stating whether the archaeological site will be ~~damaged~~ modified\* or destroyed.”

\* For consistency with legislation.

**Submitter Name: Powerco Limited**  
**Further Submission No: 1.9pc39**

Supports in part provided its own submission is accepted (Submission 2.R3pc39).

#### “9.11.1 Archaeological Report

Where land disturbance is proposed to take place within the buffer area surrounding an archaeological site/s or area mapped and listed in Appendix K (Archaeological and Other Sites) the person undertaking the proposed land disturbance shall provide the Council with a report from a qualified archaeologist stating whether the archaeological site will be damaged or destroyed.”

### Council Decision

That submissions 4.7 by Heritage NZPT and further submission 1.9 by Powerco Limited be **accepted in part**

The following amendment is proposed to the Plan as a result of these submissions.

Delete provision 9.11.1

### Reason for Council Decision

1. The protection of sites will occur via the provisions of the Heritage NZPT Act 2104. The Advice Note at 9.10.1 will be used to ensure land users are aware of their obligations under that Act.
2. The protection of the sites themselves falls under the Heritage NZ Pouhere Taonga Act 2014. It is considered that the proposed rules, although intended for the buffers beyond known sites, would result in unnecessary duplication of the Heritage NZPT authority processes. For this reason Council has removed the proposed rules and will instead ensure that Heritage New Zealand is advised immediately that Council becomes aware of any activities proposed within a buffer area identified in Appendix K. This will fulfil Council’s function to protect sites without duplication of process.

3. The buffer areas are retained in Appendix K as general guidance of the potential extent of sites. They are intended to be an indicative alert mechanism, to assist land owners and developers to recognise at the earliest possible time of the potential extent of any archaeological site.



**12 9.11 Performance Standards - Archaeology**

**Submitter Name: Powerco Limited**  
**Submission No: 2.R3pc39**

Summary:

Additional standard 9.11.3 making provision of activities in previously disturbed land. Submitter favours inclusion of an Accidental Discovery Protocol.

Decisions Sought:

The inclusion of an Accidental Discovery Protocol.  
 The inclusion of an additional performance standard as follows:

**“9.11.3 Previously Disturbed Land**

Land disturbance for the operation, maintenance and upgrading of existing network utilities and for the development of new utilities within the established road corridor within the buffer area of a site shown on the planning maps and listed in Appendix K shall be limited to the area and depth of earth previously disturbed.”

**Submitter Name: Heritage New Zealand Taonga Pouhere**  
**Submission No: 4.7.1pc39**

Summary:

Submitter favours inclusion of an Accidental Discovery Protocol.

Decisions Sought:

The inclusion of an Accidental Discovery Protocol.

**Council Decision**

That submissions 2.R3 by Powerco Limited and 4.7.1 by Heritage NZPT be **Accepted in part.**

The following amendments are proposed to the Plan as a result of these submissions.

Insert the following below a new heading 9.10 – Performance Standards – Archaeology’.

**9.10.1 Accidental Discovery Protocol:**

**Heritage New Zealand Pouhere Taonga Accidental Discovery Protocol**

- a. Where an activity disturbs any archaeological material and no Heritage NZ Authority exists for the work, the Heritage New Zealand Pouhere Taonga Accidental Discovery Protocol must be followed.
- b. In the event that an unidentified archaeological site is located during works, the following applies:
  - i. Work shall cease immediately at that place and within 20m around the site.
  - ii. The contractor must shut down all machinery, secure the area, and advise the Site Manager.
  - iii. The Site Manager shall secure the site and notify the Heritage New Zealand Regional Archaeologist. Further assessment by an archaeologist may be required.
  - iv. 4 If the site is of Maori origin, the Site Manager shall notify the Heritage New Zealand Regional Archaeologist and the appropriate iwi groups or kaitiaki representative of the discovery and ensure site access to enable

appropriate cultural procedures and tikanga to be undertaken, as long as all statutory requirements under legislation are met (Heritage New Zealand Pouhere Taonga Act, Protected Objects Act).

- v. If human remains (koiwi tangata) are uncovered the Site Manager shall advise the Heritage New Zealand Regional Archaeologist, NZ Police and the appropriate iwi groups or kaitiaki representative and the above process under 4 shall apply. Remains are not to be moved until such time as iwi and Heritage New Zealand have responded.
- vi. Works affecting the archaeological site and any human remains (koiwi tangata) shall not resume until Heritage New Zealand gives written approval for work to continue. Further assessment by an archaeologist may be required.
- vii. Where iwi so request, any information recorded as the result of the find such as a description of location and content, is to be provided for their records.
- viii. Heritage New Zealand will determine if an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 is required for works to continue.
- ix. It is an offence under S87 of the Heritage New Zealand Pouhere Taonga Act 2014 to modify or destroy an archaeological site without an authority from Heritage New Zealand irrespective of whether the works are permitted or consent has been issued under the Resource Management Act.

**Reason for Council Decision**

1. Specific provision for previously disturbed ground is not required as all activities will be covered by the Heritage NZPT Archaeological Authority process, if required.
2. The inclusion of an Accidental Discovery Protocol will be helpful in those rare occasions where an unexpected find is made.

13 Appendix K

**Submitter Name:** Heritage New Zealand Taonga Pouhere  
**Submission No:** 4.8pc39

Summary:

Support

Record sites with NZAA, define buffers, retain all Heritage NZ listed sites in Appendix K

Decision Sought

Heritage NZPT requests additional definition of buffers and subsequent recording of sites with NZAA.

**Submitter Name:** Powerco Limited  
**Submission No:** 2.R5pc39 and 2.R6pc39

Summary:

Support Submission 3; support in part submission 4.8 re buffers.

Clarify how buffers are measured. Remove sites and/or buffers which have not been specifically researched.

Decision Sought

Submitter request various degrees of site removal.

**Submitter Name:** Wanganui Federated Farmers of NZ  
**Submission No:** 5.2.5pc39 and 5.3.7pc39

Summary:

Remove sites of limited value.

Decision Sought

Submitter request various degrees of site removal.

**Submitter Name:** Bill Simmons  
**Submission No:** 3pc39

Summary:

Advocates concentrating on the most significant sites. Opposes public listing of sites on private land.

Decision Sought

Submitter request various degrees of site removal.

**Submitter Name:** Whanganui District Council  
**Submission No:** 1pc39

Summary:

Make minor text changes resulting from site checking.

Decision Sought

Submitter request various degrees of site removal.

**Submitter Name:** Powerco Limited  
**Further Submission 1.10pc39**

Summary:

Support 3; and support in part 4.8 re buffers.

Clarify how buffers are measured. Remove sites and/or buffers which have not been specifically researched.

**Council Decision**

That submissions by 4.8 Heritage NZPT, 2.R5 and 2.R6 by Powerco Limited, 5.2.5 and 5.3.7 by Wanganui Federated Farmers of NZ, 3 by Bill Simmons and further submission 1.10 by Powerco Limited, be **accepted in part** and submission 1 by WDC be **accepted**

The following amendment is proposed to the Plan as a result of these submissions.

Minor amendments to Appendix K being text changes, co-ordinate changes and removal of sites as below:

APPENDIX K - ARCHAEOLOGICAL and OTHER ITEMS

Note: To avoid confusion, numbers without items are marked as Blank

List No.	NZAA NO.	Description	Longitude	Latitude	Comments	Buffer	Urban Map No.	Rural Map No.
262		6+ Pits	<u>2687149.27</u>	<u>6139055.98</u>		Refer Note **	Urban 22	Rural 18
268	<u>Blank</u>							
316		Kainga - fishing Kainga (Totarapuku)	<u>2685702.7</u>	<u>6141079.6</u>		Refer Note **	Urban 16	Rural 18
321	<u>Blank</u>							
341	<u>Blank</u>							
378	<u>Blank</u>							
380	<u>Blank</u>							
470		Fishing Kainga (Ohinekura)	<u>2672446.21</u>	<u>6145166.62</u>		Refer Note **		Rural 18
472	<u>Blank</u>							
527	<u>Blank</u>							
578		Kainga / Cultivation / Reserve (Kaipua)	<u>2687587.9</u>	<u>6149204.3</u>				Rural 14
607	<u>Blank</u>							
614	R22/417	Redoubt - possibly part of a redoubt, ditch and bank fences & pits.	2674062.95	6150137.51		50		Rural 14
637	<u>Blank</u>							
671	<u>Blank</u>							
745	R22/425	Pits - group of well preserved pits on spur above Rangitatau Road.	<u>2676018.8</u>	<u>6152896.4</u>		50		Rural 14
752	R22/424	Pits - group of pits on flat farmland.	<u>2675233.9</u>	<u>6152921.7</u>		50		Rural 14
760	R22/413	Pits - over twelve pits on small ridge spread over 50m.	<u>2675503.1</u>	<u>6153266.6</u>		50		Rural 14
772	R22/124	Pa - small headland pa with transverse ditch with three pits.	<u>2674914.1</u>	<u>6153196.8</u>		50		Rural 14

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773	R22/427	Pits - at least five five shallow pits, all ploughed.	<u>2675869</u>	<u>6153196.4</u>		50		Rural 14
782	R22/426	Pits - cluster of six pits on small ridge. More pits across gully to north.	<u>2675214.1</u>	<u>6153186.7</u>		50		Rural 14
811	R22/428	Pits - a line of ploughed pits.	<u>2675924.1</u>	<u>6153516.4</u>		50		Rural 14
835	R22/125	Pits - three - four pits on the south edge of a low gully, to north of the edge of extensive flats.	<u>2675024.4</u>	<u>6153946.7</u>		50		Rural 14
840	R22/423	Pits & terrace - Four pits and a terrace on ridge above and south of Bushy Park.	<u>2675299.4</u>	<u>6154076.6</u>		50		Rural 14

**Reason for Council Decision**

1. Plan Change 39 has significantly increased the number of listed and mapped sites. It is beyond the scope of the Plan Change to systematically remove classes of sites as the work to do so has not been done. It is reasonable and appropriate to remove individual items which prove to not be sites. However, the requests to list sites with the NZAA, and to better define buffers are valid and should be subject to on-going work as resources allow.
2. The public listing of sites or not has been a matter of debate for many years, and there are arguments for and against. On balance, via extensive consultation, the current decision has been reached that listing is preferred, both as a means of avoiding unintended damage, and of protecting information on sites.
3. It is also acknowledged in relation to the submission by Heritage NZPT that recording of sites with NZAA is to be an on-going project, along with the defining of buffers.
4. It is also acknowledged in relation to the submission by Powerco that defining buffers will be part of the NZAA site recording process, as will be the removal of any items found to not be sites.
5. It is also acknowledged in relation to the submission by Federated Farmers that as part of the NZAA site recording process any non-sites will be removed. As all archaeological sites are subject to the Heritage NZPT Act it is not appropriate to remove actual sites.
6. It is also acknowledged in relation to the submission by Simmons that on-going site recording with NZAA and consultation will allow for the differentiation of sites of varying significance.

## 14 Planning Maps

**Submitter Name: Powerco Limited**  
**Submission No: 2.R4pc39**

Summary:

Make minor adjustments resulting from site checking (location changes, removals)

Decisions Sought:

Make minor adjustments resulting from site checking (location changes, removals)

**Submitter Name: Whanganui District Council**  
**Submission No: 1pc39**

Summary:

Make minor adjustments resulting from site checking (location changes, removals)

Decisions Sought:

Make minor adjustments resulting from site checking (location changes, removals)

**Submitter name: Powerco Limited**  
**Further Submission: 1.11pc39**

Supports PC39 Sub 002.R4

Summary:

Map the extent of buffers.

Decisions Sought:

Map the extent of buffers.

### **Council Decision**

That submission 2.R4 by Powerco Limited, 1 by WDC and further submission 1.11 by Powerco Limited be **accepted in part**.

Minor amendments are made to the Plan, being location changes and removal of sites as indicated above – 13.

### **Reason for Council Decision**

1. On hard copy maps the mapping of buffers is not currently possible as the size of the mapping symbol is in most cases greater than the buffer area. The use of zoomable electronic maps, which are not the legal District Plan, while a useful tool, tends to imply an accuracy that is not generally real. Also, because each buffer is unique, and may not be circular, mapping these is problematic. It is agreed that the buffers need to be better defined in Appendix K. This work can be incorporated in addressing the progressive recording of sites with the NZAA.
2. With the removal of the proposed rules via other submissions, the listed buffers are provided in the Plan for guidance only, as a supplement to the Advice Note.