

Report to Statutory Management Committee

Date: 05 October 2016

Councillors

WHANGANUI DISTRICT COUNCIL

Subject: **Section 42a Officers Report**
Proposed Plan Change 51 - Miscellaneous

Meeting Date: **30 November 2016**

Prepared for Chief Executive by: **Alisha Huijs**

1.0 SUMMARY

- 1.1 Council is presently reviewing the District Plan in phases. Proposed Plan change 51 (PC51) addresses a number of miscellaneous provisions in the Plan and these are detailed below.
- 1.2 Chapter 1 – Introduction and Information Requirements
PC51 reviewed the existing Introduction and seeks to update it with a clear and concise introduction to the Plan, and the resource consent process. The existing section on Information Requirements is to be deleted, as it has been replaced by provision of an updated version of that information on council's website which sits alongside but outside of the Plan itself.
- 1.3 Chapter 2 - Definitions
It is important that terms used within the Plan are defined correctly. Existing Plan definitions were reviewed and updated and additional definitions included, as required to ensure terms are clearly explained for Plan users.
- 1.4 Chapter 23 - Assessment Criteria
PC51 seeks to remove duplication between existing assessment criteria and Plan objectives and policies, by relying on or amending the existing objectives and policies to better incorporate any useful components of existing assessment criteria. Chapter 23 is to be deleted.
- 1.5 Chapter 24 - Methods
It is proposed to remove the list of methods (other than rules) from the Plan. Listing of potential or intended methods, both regulatory and non- regulatory is not a mandatory requirement for district plans. Most listed methods became redundant when the Plan took effect and now just adds unnecessary volume to the Plan. Chapter 24 is to be deleted.

RECOMMENDATIONS (Of the Statutory Management Committee)

That the Council:

1. receives the report.
2. adopts the Decisions Report including the evaluation required under section 32 of the Resource Management Act 1991.
3. accepts, accepts in part or rejects the submissions as set out in Section 7 of the Report for the reasons given.
4. adopts Proposed Plan Change 51 to the Whanganui District Plan.

Appendices:

- 1. Copy of the Public Notice**
- 2. Submissions Received**
- 3. Proposed provisions**
- 4. Section 32 Evaluation**

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2.0 INTRODUCTION

- 2.1 This Plan Change is one of a series of changes proposed as part of Phase 8 of the wider District Plan review which address District wide matters.
- 2.2 A review of existing Chapters 1, 2, 23 and 24 of the Plan will result in more an updated Plan introduction, more efficient assessment of consent applications as all assessment information will be located within the objectives and policies of the Zone and topic chapters, deletion of the Methods Chapter and an update of key definitions along with new definitions inserted.
- 2.3 A new website tool replaces the existing section in Chapter 1 which previously guided Plan users, especially through development of a one-stop shop section on 'How to apply for a resource consent'.

3.0 PROPOSED PLAN CHANGE

3.1 Purpose

The purpose of PC51 is to update the introduction, information requirements, definitions chapters of the Plan and remove assessment criteria and methods chapters from the Plan.

- 3.2 This plan change will provide a clear and concise introduction to the Plan, and the resource consent process. It will also provide links to current resources relating to lodging resource consent applications, and the information requirements of such applications
- 3.3 The proposed changes to Chapter 2 Definitions ensure that terms used align with best practice terminology. Where relevant, definitions have been aligned with their respective legislative interpretations. Changes have also been made to ensure the definitions are clear and concise.
- 3.4 The existing assessment criteria in the Plan are largely duplications of objectives and policies within the operative District Plan. Such duplications can cause confusion and diminish the intent of the objective and policies. PC51 seeks to remove these duplications and rely on or amend the existing objectives and policies to incorporate any useful components of existing assessment criteria.
- 3.5 The RMA does not require inclusion of a list of methods in the Plan. Like Issue statements it is at council's discretion whether they be included. Many existing Plan methods in the Whanganui Plan are already covered in other strategic Council documents and are rarely referred to for guidance. Removing Chapter 24 methods from the Plan creates clarity and simplifies the District Plan without any consequences.

Background Research

3.6 Chapter 1 - Introduction and Information Requirements

The existing introduction provides information on a wide range of topics including:

- the Act
- the structure of the District Plan
- relationships between the District Plan and other Whanganui Plans
- District Plan process

- Tangata Whenua and the District Plan
- the District's population
- the District's landscape
- Plan monitoring and
- information requirements for resource consent applications.

Much of this information is outdated, and overly complex. The content and format of this chapter is such that it is rarely used.

To make this section more user friendly, and understandable, a complete rewrite of the content was considered appropriate. Information contained within the Tangata Whenua of Whanganui section will be moved to Chapter 15, as an interim measure and will be reviewed as part of Plan Change 50 which is soon to be notified.

3.7 Chapter 2 - Definitions

Definitions play an important supporting role in insuring the objectives, policies and rules of the District Plan achieve their desired outcome. It is important to ensure that definitions align with other legislative and national guidance where appropriate.

For the purpose of proposed PC51 higher order definitions from legislation have been referenced and duplicated. Such legislation includes:

- The Resource Management Act 1991.
- Heritage New Zealand Pouhere Taonga Act 2014.
- Reserves Act 1977.

Definitions relating to separate topics yet to be reviewed are excluded from PC51 and are shaded grey in the marked up text. These will be addressed in subsequent topic plan changes.

3.8 Chapter 23 - Assessment Criteria

The purpose of assessment criteria is to provide guidance and clarification for both decision makers and other users' of the District Plan, in addition to objectives and policies. Assessment criteria should relate to an environmental effect that is to be managed and should be a point of clarification rather than a generalised statement. It is important to keep the purpose of the criteria in mind when considering the appropriateness of assessment criteria.

Duplication of assessment criteria and objectives and policies should be avoided. Assessment criteria can easily morph into rules. It is important that this does not happen as the benefit of the assessment criteria is lost.

Some criteria in the existing Plan currently read as rules or policies outside the normal framework. The intent of existing criteria was reviewed to determine whether it duplicated policy.

Assessment criteria can be a useful method to aid decision making. However they can also be easily overdone adding a layer of complexity rather than easing it. When it comes to assessment criteria less is more.

The Act only requires district plans to comprise objectives, policies and methods to achieve the purpose of the Act, being sustainable management of natural and physical resources.

Our review of best practice and existing provisions concluded that assessment criteria are only required to highlight particular environmental effects not easily covered through objectives and policies alone, or as a tool within a policy framework. A standalone suite of assessment criteria adds little value.

The Whanganui District Plan does not require assessment criteria to enable full consideration of the effects of any specific activity. All relevant matters are, or via PC51 will be, identified through proper consideration of the relevant objectives and policies of the Plan.

3.9 Chapter 24 - Methods

Best practice principles and common practice within reviewed the District Plan have been taken into account when reviewing existing methods in the Plan. The use of methods is not required under the Act but may be used within a Plan at Council's discretion.

Methods can be broken up into two categories, regulatory and non-regulatory. Regulatory methods include zones, overlays and rules. Non-regulatory methods may include the Plan's intent to give effect to the One Plan, management plans, by-laws, education.

Many of the existing methods are now redundant or no longer follow best practice principles. It is important that methods are only included to achieve a specific desired outcome.

To simplify the Plan, no list of potential or current methods will be included. The key method for implementing the objectives and policies is in fact 'rules'. These are clearly laid out in the Plan as required by the Act. Other methods may be recorded in a section 32 evaluation or other document perhaps to assist funding prioritisation discussion. They would sit outside the Plan and RMA process.

4.2 Key Statistics

PC51 was publicly notified in accordance with Clause 5 of the 1st Schedule of the RMA on 25 July 2016, with the period for submissions closing on 23 August 2016. A copy of the public notice is included as Appendix 1.

A total of two submissions, were received at the close of submissions. Copies of submissions received are included in Appendix 2.

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 RMA. The further submission process closed on Friday 23 September 2016. One further submission was received.

5.0 STATUTORY AND LEGISLATIVE FRAMEWORK

5.1 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...*
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:

- 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, PC51 has been developed with a focus on avoiding, remedying or mitigating adverse effects of activities and reducing the bureaucratic process associated with this requirement.

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.

5.2 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. There is no NES that relate specifically to Plan Change 51 (PC51).

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

In addition, the Act requires District Plan provisions give 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 Manawatu-Whanganui Regional Council (Horizons) combined the Regional Policy Statement and six regional plans into one document called the One Plan. The One Plan became operative on 19 December 2014.

Chapter 2 - Definitions ensure terms used within the Plan are consistent with their intentions. While there are no cross over with One Plan definitions. They ensure the District Plan is consistent with the One Plan through their use in Objectives, Policies and Rules.

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

5.4 Other Plans & Strategies

Another matter to which Council must have particular regard is other management plans and strategies. Those which are relevant to the District's District Wide provisions are discussed below. They have informed the preparation of this section 32 analysis.

Leading Edge Strategy 2015

Whanganui District Council adopted the Leading Edge Strategy at the end of 2015 as an overarching document to guide the work undertaken by Council. Plan change 51 meets the new direction of Council by ensuring the Definitions are consistent with best practice terminology.

Updating the definitions and information requirements, removing methods and duplicate assessment criteria ensure the Plan is working efficient and effectively. Streamlining Chapters 2, 3, 23, 24 will help internal and external plan users to use the Plan faster and smarter.

6.0 Section 32 Evaluation

- 6.1 The Act requires that when a Council undertakes a plan change that it produce a report evaluating the costs and benefits of primary options considered. This is known as a Section 32 evaluation. (Refer to Appendix 4)
- 6.2 As there have been no fundamental changes to Proposed Plan Change 51, the S32 has not been re-evaluated.

7.0 SUBMISSION ANALYSIS

The following are the assessment of submissions and further submissions with recommendations by the Planning Officer. These have broadly been ordered by topic for ease of analysis.

7.1 Submissions

Submitter Name: [Transpower New Zealand](#)

Submission No: 1

Summary:

As notified, the definition of 'structure' would have the effect of making fences, walls and retaining walls below the heights listed in the definition exempt from the National Grid Yard controls in Chapter 3, Rural Environment. In addition to other matters, the National Grid Yard rules seek to control structures relative to their horizontal distance from National Grid support structures, including fences less than 1.8 metres in height. If not appropriately managed, the location of some structures can compromise the safe and efficient operation, maintenance, upgrading and development of the National Grid. This would undermine the District Plan's implementation of the NPSET in relation to structures.

Decision Sought:

Relief requested is shown in **bold underline**.

Structure: means any building, equipment, device or other facility made by people and which is fixed to land and includes any raft. Excluding **(other than within the National Grid Yard):** ~~any fence or wall (other than a retaining wall) located within 1 metre of a property boundary;~~

- a. Any retaining wall less than 1.5m in height measured from the lowest adjoining ground level.
- b. Any fence or wall (other than a retaining wall) less than 1.8 metres in height measured from the lowest adjoining ground level within 1 metre of a property boundary.
- c. Any pool or tank which is less than 1.0m in height measured from the lowest adjoining ground level.
- d. Play equipment and letterboxes.

Officer's Comments:

- i. Comments made by Transpower New Zealand Limited in relation to the Structure definitions are acknowledged and supported.
- ii. The proposed definition of “structure” in notified Plan Change 51, would have the effect of making fences, walls and retaining walls below the heights listed in the definition exempt from the National Grid Yard controls in Chapter 3, Rural Environment. This is because retaining walls less than 1.5m in height and fences and walls less than 1.8m in height are not considered to be ‘structures’ under the proposed definition and therefore would be excluded from rules 3.4.1(l) and 3.8.1(l) . This does not give appropriate effect to Policy 10 of the NPSET in Transpower’s submission. Policy 10 states:

“In achieving the purpose of the Act, decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.” (emphasis added)

- iii. Walls, retaining walls and fences even at low heights, should not be allowed to locate too close to National Grid poles and towers because they could compromise access for routine or emergency maintenance work or create electrical hazard risks. This would undermine the District Plan’s implementation of the NPSET in relation to structures.
- iv. This also ensures compliance with the National Policy Statement on Electricity Transmission (NPSET) and Nation Environmental Standard for Electricity Transmissions.
- v. The change requested is considered appropriate for the reasons outlined in this submission.

Officer Recommendations:

- 1. That Submission 1 by Transpower New Zealand Limited be **Accepted**.
- 2. The following amendments are recommended as a result of these submissions:
- 3. **Structure:** means any building, equipment, device or other facility made by people and which is fixed to land and includes any raft. Excluding (other than within the National Grid Yard): any fence or wall (other than a retaining wall) located within 1 metre of a property boundary,
 - a. Any retaining wall less than 1.5m in height measured from the lowest adjoining ground level.

- b. Any fence or wall (other than a retaining wall) less than 1.8 metres in height measured from the lowest adjoining ground level within 1 metre of a property boundary.
- c. Any pool or tank which is less than 1.0m in height measured from the lowest adjoining ground level.
- d. Play equipment and letterboxes.

7.2 Submitter Name: [Powerco Limited](#)

Submission No: 2

Summary:

Definition of Development

Plan Change 51 proposes to amend the definition of 'development' to read as follows:

Development means:

- a. Any erection, reconstruction, placement, alteration, extension, removal, or demolition of any structure in, on, under, or over the land; or*
- b. Any excavation, drilling, tunnelling, or other disturbance of the land; or*
- c. Any destruction of, damage to, or disturbance of, the habitats of plants or animals in, on, or under the land; or*
- d. Any deposit of substance in, on, or under the land; except where these activities are carried out as part of a subdivision which is subject to the rules of the District Plan and the provisions of the Resource Management Act 1991.*

~~In relation to any land, means the development or redevelopment of the land (not being a subdivision of the land) by:~~

- ~~a. Constructing, erecting, or altering a building or buildings. for the purpose of providing a third or more additional household units.~~*
- ~~b. Constructing, erecting, or altering any one or more buildings intended to be used solely or principally for commercial or industrial purposes where the value of the construction, erection or alteration will exceed \$100,000.~~*

- 1.1 Powerco is not necessarily opposed to amending the definition of 'development' currently used in the District Plan. However, it is concerned that the wording proposed may result in unexpected or unintended consequences. This is because the proposed changes

significantly alter the scope of activities that will be covered by the definition and, therefore, subject to plan provisions relating to 'development'.

- 1.2 The current definition applies to activities involving buildings only. However, the proposed new definition would apply to activities associated with any building or structure, earthworks, vegetation clearance and the deposition of substances. Given the term 'development' is widely used throughout the District Plan, the implications of changing the definition are difficult to fully understand but are potentially significant. It is noted that the Council is well advanced in its rolling review of the District Plan and that use of the term 'development' in previous plan changes will have been based on the current definition.
- 1.3 Further, the proposed new definition may result in uncertainty around which provisions are intended to apply to certain activities. For example, there are already specific District Plan provisions relating to earthworks and vegetation clearance. However, under the proposed new definition of 'development', these activities would also be covered by District Plan provisions relating to 'development' creating the potential for confusion around which provisions would prevail.
- 1.4 As a matter of certainty and clarity, Powerco, therefore, considers the definition of 'development' should be amended to apply to buildings only, as per the current definition in the operative District Plan.

Minor Upgrades

Plan Change 51 proposes to amend the definition of 'minor upgrades' to read as follows:

Minor upgrades: ~~With regard~~

In relation to Chapter 11 – Natural Hazards the provisions for Flood Risk Area A and B, means works to provide for an increase in carrying capacity, efficiency, or security of infrastructure facilities, utilising existing support structures or structures of a similar scale or character and includes the:

- (i) addition of circuits and/or conductors;*
- (ii) reconductoring of the line with higher capacity conductors;*
- (iii) resagging of conductors;*
- (iv) addition of longer more efficient insulators;*
- (v) addition of earthwires (which may contain telecommunication lines, earthpeaks and lightning rods);*

(vi) replacement or alteration of an existing telecommunication antenna.

(vii) widening of existing roads.

(viii) Improvements to existing rail lines and yards.

Minor upgrading does not include an increase in the voltage of the line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage.

In relation to lawfully established network utility structures in a Land Stability

Assessment Area means to expand the capacity of existing structure, where the effects that result from the process are the same or similar in character, scale and intensity as those that existed at the 2nd November 2012 or prior to the commencement of the minor upgrade for activities established after 2nd November 2012.

~~**Minor upgrading:** *In relation to lawfully established network utility structures in a Land Stability Assessment area means to expand the capacity of an existing structure, where the effects that result from the process are the same or similar in character, scale and intensity as those that existed at the 2nd November 2012 or prior to the commencement of the minor upgrading for activities established after 2nd November 2012.*~~

- 1.5 This definition essentially provides for a different range of activities associated with minor upgrading of existing infrastructure to be undertaken in the Flood Risk Area A & B compared to in the Land Stability Assessment Area.
- 1.6 The need to take a different approach in each of these areas is unclear, particularly in relation to the minor upgrading of electricity lines, where the two definitions would appear to cover largely the same types of activities. Further, the inclusion of road widening and improvements to existing rail lines and yards does not sit comfortably within that part of the definition applying to the Flood Risk Area A & B, as that part of the definition essentially relates only to electricity and telecommunication lines i.e. by virtue of the requirement that such minor upgrades must utilise ‘existing support structures or structures of a similar scale or character’.
- 1.7 The definition of ‘minor upgrading’ as it applies to electricity or telecommunication lines should be amended to provide further clarity on the scope of activities that can be undertaken as ‘minor upgrading’. It is noted that the definition states “examples of minor

upgrading may include:...” and therefore it is not “limited to”, however for clarity Powerco seek to include additional examples into the definition. The specific examples sought to be included relate to tower or pole replacement and the increase of the height of a tower or pole.

- 1.8 With respect to Powerco’s proposed activities, the activities referred to will not have an adverse effect on the environment for the following reasons:
- i. Tower or pole replacement does not happen regularly and is likely to be required for foundation reasons. Powerco has few towers on its lines, but a new high voltage line connection to a windfarm could necessitate the need for towers. When the need arises for replacement, support structures will generally be built in the same or similar location as the previous - however in some circumstances this cannot be achieved. In that case, the support structures will be rebuilt as close as practicable to the previous location, in order to minimise outage or line jointing. If Powerco has to modify the alignment of any line, it is required to obtain easements in accordance with the Electricity Act, which in turn is likely to address potentially affected parties (should this arise).
 - ii. The requirement to increase the height of a pole or tower to meet the requirements of NZECP 34:2001 is often driven by building activities under or in close proximity to existing infrastructure. It may also be required where there is more current going down a line, to meet increased demand, and where the resulting increase in sag cannot be addressed on an ongoing basis by resagging the line.
- 1.9 The effects of the activities sought are considered to be less than minor in the context of the existing line.

Decision Sought:

(Additions are underlined with deletions in strikethrough)

- 1.1 **Amend the definition of ‘development’ to apply to buildings only, as per the current definition in the operative District Plan. This could be achieved by making the following changes or changes to the same effect:**

Development means any use of land involving the erection, alteration, addition, repair, maintenance, or relocation of a building or buildings on a site.

~~a. Any erection, reconstruction, placement, alteration, extension, removal, or demolition of any structure in, on, under, or over the land; or~~

- ~~b. Any excavation, drilling, tunnelling, or other disturbance of the land; or~~
- ~~c. Any destruction of, damage to, or disturbance of, the habitats of plants or animals in, on, or under the land; or~~
- ~~d. Any deposit of substance in, on, or under the land; except where these activities are carried out as part of a subdivision which is subject to the rules of the District Plan and the provisions of the Resource Management Act 1991.~~

1.2 Amend the definition of ‘minor upgrades’ to remove the distinction between

Flood Risk Area A & B and Land Stability Assessment Area and to include more specific examples of works that do not have an adverse effect on the environment, as follows:

In relation to Chapter 11 – Natural Hazards means increasing the carrying capacity or efficiency of an existing network utility while the effects of that utility remain the same or similar in character, intensity and scale. Examples of minor upgrading may include:

For electricity and telecommunication lines:

- (a) Adding circuits and conductor to electricity and telecommunications lines.
- (b) Reconductoring lines with higher capacity conductors.
- (c) Resagging conductors.
- (d) Bonding of conductors.
- (e) Adding longer or more efficient insulators.
- (f) Adding earthwires to electricity lines, which may contain telecommunication lines, earthpeaks and lightning rods.
- (g) Adding electrical or telecommunication fittings.
- (h) Replacement of cross arms with cross arms of an alternative design.
- (i) Support structure replacement within the existing alignment of the line or within 5m of the existing support structures being replaced.
- (j) An increase in support structure height required to achieve compliance with NZECP34:2001
- (k) An increase in support structure height by no more than 15% of the base height of the support structure, and where the base height is defined as the height of the structure at the date of public notification of the Plan.

Minor upgrading shall not include an increase in the voltage of an electricity line unless the line was originally constructed to operate at the higher voltage but has been to operating at a reduced voltage.

Other infrastructure:

(l) Widening of existing roads

(m) Improvements to existing rail lines and yards.

~~In relation to Chapter 11 – Natural Hazards the provisions for Flood Risk Area A and B, means works to provide for an increase in carrying capacity, efficiency, or security of infrastructure facilities, utilising existing support structures or structures of a similar scale or character and includes the:~~

- ~~(i) addition of circuits and/or conductors;~~
- ~~(ii) reconductoring of the line with higher capacity conductors;~~
- ~~(iii) resagging of conductors;~~
- ~~(iv) addition of longer more efficient insulators;~~
- ~~(v) addition of earthwires (which may contain telecommunication lines, earthpeaks and lightning rods);~~
- ~~(vi) replacement or alteration of an existing telecommunication antenna.~~
- ~~(vii) widening of existing roads.~~
- ~~(viii) Improvements to existing rail lines and yards.~~

~~Minor upgrade does not include an increase in the voltage of the line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage.~~

~~In relation to lawfully established network utility structures in a Land Stability~~

~~Assessment Area means to expand the capacity of existing structure, where the effects that result from the process are the same or similar in character, scale and intensity as those that existed at the 2nd November 2012 or prior to the commencement of the minor upgrade for activities established after 2nd November 2012.~~

2. In giving effect to the specific outcomes set out in the following schedules, the following general relief is sought:

- (a) Achieve the purpose and principles of the Resource Management Act 1991 (RMA) and consistency with the relevant provisions in Sections 6 - 8 RMA;
- (b) Give effect to the relevant provisions of the Horizons One Plan;
- (c) Assist the Council to carry out its functions of achieving the integrated management of the effect of the use, development or protection of land;
- (d) Implement the statutory tests in section 32 and the requirements in the First Schedule RMA;

- (e) Address, as relevant, the considerations identified by the Environment Court for planning instruments in decisions such as Long Bay-Okura Great Park Society Inc v North Shore City Council (and subsequent case law);
- (f) Avoid, remedy or mitigate any relevant and identified environmental effects;
- (g) Make any consequential relief as required to give effect to this submission, including any consequential relief required in any other sections of the District Plan Review that are not specifically subject of this submission but are required to ensure a consistent approach is taken throughout the document; and
- (h) Any other relief required to give effect to the issues raised in this submission.

Further Submitter Name: Transpower New Zealand Limited

Further Submission No: 1

Supports Submission 2 in Part

Summary:

Transpower supports this submission to the extent that the proposed definition is not clear. If a definition for development is included within the District Plan, the definition needs to address all uses of the word within the Plan to ensure its applicability is clearly understood to plan users.

Officer Comments:

1. For the reasons outlined by the submitter, the changes requested to the Development definition by Powerco Limited are considered appropriate.
2. It is acknowledged that Further Submission 1 supports Submission 2 in part.
3. If a definition for development is included within the District Plan, the definition needs to address all uses of the word within the Plan to ensure its applicability is clearly understood to plan users.
4. The definition of 'Development' proposed by Powerco Limited has been checked against the use of term in the District Plan and is considered appropriate for all uses of the word within the Plan.
5. For the reasons outlined in the above submission, the changes requested to the Minor Upgrades definition is considered appropriate with a minor change.
6. In relation to the Minor Upgrades definition, it is recommended the word 'may' not be included as it is superfluous and has the potential to diminish the weight of the rest of the definition:

7. **Minor Upgrades:** *In relation to Chapter 11 – Natural Hazards means increasing the carrying capacity or efficiency of an existing network utility while the effects of that utility remain the same or similar in character, intensity and scale. Examples of minor upgrading may include: . . .*

Officer Recommendations:

1. That Submission 2 by Powerco Limited and Further Submission by Transpower NZ Limited be **Accepted in Part**.
2. The following amendments to definitions are recommended as a result of these submissions:
3. **Development:** *means any use of land involving the erection, alteration, addition, repair, maintenance, or relocation of a building or buildings on a site.*
 - a. ~~Any erection, reconstruction, placement, alteration, extension, removal, or demolition of any structure in, on, under, or over the land; or~~*
 - b. ~~Any excavation, drilling, tunnelling, or other disturbance of the land; or~~*
 - c. ~~Any destruction of, damage to, or disturbance of, the habitats of plants or animals in, on, or under the land; or~~*
 - d. ~~Any deposit of substance in, on, or under the land; except where these activities are carried out as part of a subdivision which is subject to the rules of the District Plan and the provisions of the Resource Management Act 1994~~*
4. **Minor Upgrades:** *In relation to Chapter 11 – Natural Hazards means increasing the carrying capacity or efficiency of an existing network utility while the effects of that utility remain the same or similar in character, intensity and scale. Examples of minor upgrading include:*

For electricity and telecommunication lines:

 - (a) Adding circuits and conductor to electricity and telecommunications lines.*
 - (b) Reconductoring lines with higher capacity conductors.*
 - (c) Resagging conductors.*
 - (d) Bonding of conductors.*
 - (e) Adding longer or more efficient insulators.*

(f) Adding earthwires to electricity lines, which may contain telecommunication lines, earthpeaks and lightning rods.

(g) Adding electrical or telecommunication fittings.

(h) Replacement of cross arms with cross arms of an alternative design.

(i) Support structure replacement within the existing alignment of the line or within 5m of the existing support structures being replaced.

(j) An increase in support structure height required to achieve compliance with NZECP34:2001

(k) An increase in support structure height by no more than 15% of the base height of the support structure, and where the base height is defined as the height of the structure at the date of public notification of the Plan.

Minor upgrading shall not include an increase in the voltage of an electricity line unless the line was originally constructed to operate at the higher voltage but has been to operating at a reduced voltage.

Other infrastructure:

(l) Widening of existing roads

(m) Improvements to existing rail lines and yards.