

Report to Statutory Management Committee

Date: 29 February 2016

Councillors

WHANGANUI DISTRICT COUNCIL

Subject: **Section 42a Officers Report**
Proposed Plan Change 43 – District Wide

Meeting Date: **17 March 2016**

Prepared for Chief Executive by: **Rachael Pull**

1.0 SUMMARY

- 1.1 Council is presently reviewing the District Plan in phases. This Plan Change relates to multiple standalone provisions from the former District Wide chapter.
- 1.2 The purpose of Proposed Plan Change 43 (PC43) is to update certain district wide activities to provide for case law and community expectations. A clarification of the objectives, policies and rules are also considered.

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 43 to the Whanganui District Plan.

Appendices:

1. **Copy of the Public Notice**
2. **Submissions Received**
3. **Proposed District Wide provisions**
4. **Section 32 Evaluation**
5. **Keeping of Animals, Poultry and Bees By-law 2015**

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2.0 INTRODUCTION

- 2.1 This Plan Change is one of a series of changes proposed as part of Phase 6 of the wider District Plan review which collectively address district wide matters.
- 2.2 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.

3.0 PROPOSED PLAN CHANGE

3.1 Purpose

The purpose of PC43 is to update provisions relating to certain district wide activities based on changes to case law and community expectations.

- 3.2 Verandah provisions, which are currently within Chapter 19-Relocated Buildings and Temporary Military 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.

3.6 Background Research

The background research identified that since the District Plan was developed in the 1990s changes to relevant documents and community expectations have changed.

- 3.7 Approximately 18% of all resource consents currently relate to relocated buildings. It is a popular development option that needs to be provided for. Also significant case law has to be taken into account with any review of these rules.

- 3.8 Temporary military training activities and verandahs are activities that do not often require consent as the performance standards are usually complied with. The existing standards remain appropriate and reasonable given the low number of complaints.
- 3.9 Beekeeping generates a number of complaints that are handled both under the Resource Management Act (the Act) and the Keeping of Animals, Poultry and Bees By-law. Currently the District Plan allows bee-keeping only within the rural zones, with no consideration of flight path or other sensitive activities in the area. This generates adverse effects
- 3.10 Earthwork provisions became operative December 2013. Since then it has been noted that consents are required for matters already dealt with under the Building Act. These provisions are reviewed to prevent a double up of consents and unnecessary costs to the community.

4.0 PROCEDURAL MATTERS

4.1 Consultation Summary

Consultation with a range of stake holders, in accordance with the requirements of Schedule 1, was undertaken as part of formulating the proposed Plan change.

Consultation undertaken:

- 27 August 2014 A meeting with a representative of the National Bee Association to discuss the status of bee-keeping within the District Plan occurred.
- 3 September 2014 a background document and survey on the current Phase 6 provisions were posted on Council's Shaping Whanganui website. This link was promoted at the Home and Living Show, in newspapers and newsletters, and in email to identified stakeholders.
- 27 March 2015 A draft version of the district wide provisions was posted online for comment. This was advertised via email and letter to the identified stakeholders and at the Rivertraders Market on 28 March 2015. Comments closed on 14 April 2015.
- A letter and email were sent to stakeholders affected by PC43 advising that Council would be notifying PC43 on 30 May 2015.
- Notification of all parties required by Clause 5, 1st Schedule the Act following Council's decision to notify.

4.2 Key Statistics

PC43 was publicly notified in accordance with Clause 5 of the 1st Schedule of the Act on 30 May 2015, with the period for submissions closing on Tuesday 30 June 2015. A copy of the public notice is included as Appendix 1.

A total of 11 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 1st Schedule of the Act. The further submission process closed on Friday 31 July 2015. Four further submissions were 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, 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:

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.

5.2 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. 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.

5.3 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.

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.

Defence Act 1990

This legislation provides for the defence of New Zealand including maritime resource protection, disaster relief and contributing to the forces of the United Nations. To achieve this, training exercises need to be able to be held in a variety of environments.

New Zealand Heavy Haulage Association Inc v. The Central Otago District Council (Environment Court C45/2004)

In 2004 the Environment Court concluded that relocated buildings have no long term effects greater than a new dwelling. This decision has been taken into account when developing performance standards for relocated buildings.

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 43 meets the new direction of Council by recognising the changing expectations of the community and providing for development.

Keeping of Animals, Poultry and Bees By-law 2014

The Keeping of Animals, Poultry and Bees By-law became operative on 25 February 2015. It manages the effects of beekeeping. The By-law is the most appropriate tool to manage beekeeping due to the potential for nuisance effects caused by specific topographical issues. Therefore reference to beekeeping needs to be removed from the District Plan to prevent a conflict of documents.

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 A re-evaluation has been completed as required by s32AA of the RMA to assess amendments that were proposed as a result of submissions.

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 relating to Definitions

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.

7.2 Officer Comments:

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 proposed to be retained, except where commented on below:
 - Transpower has 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. 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 should be considered.
 - It is 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 I accept 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 this needs to be reflected in the new definition.

- 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**’ should not be altered beyond what is recommended by this 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. This results in enforcement action that does not achieve what the community wants.
- Submission 2 has requested a minor change to the note excluding certain activities from **rule 14.5.1(a)**. This change is minor and will improve clarity. It is recommended that it is adopted.

7.3 Officer Recommendations:

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 submission 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 recommended 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.

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.

...

7.4 Submissions relating to Chapter 14 (Earthworks)

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.

7.5 Officer Comments:

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 provisions that were notified are proposed to be retained, except where commented on below:
3. The Introduction
 - Submissions 5 and 11 have requested that the first sentence of the introduction to Chapter 14 be altered to clarify that these rules do not apply to all activities. Submission 5 sought that Chapter 14 not apply to **Network Utilities**, which have their own earthworks rules contained within Chapter 22. This is reasonable and will improve clarity, provided it is noted that this does not exclude Temporary Military Training Activities. This also addresses 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. Currently the only rules in Chapter 14 that relate to rural activities are intended to prevent adverse effects

on adjoining properties or activities (Rule 14.5.2(f-h)). This is not a double up with the One Plan as suggested, that would result in additional consents, rather it is an outline of a person's duty under section 17 of the Act and is related to amenity and the operation of infrastructure which is a territorial authority function. Therefore it is reasonable that these provisions continue to apply to rural activities, and the proposed statement to the introduction of Chapter 14 excluding rural activities is rejected.

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 recommended expanding the issue to identify adverse effects on the physical environment and significant infrastructure. This relates to the proposed objectives, policies and rules and should be accepted. 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 recommended adding an extra point to objective 14.2.1(a) regarding the stability and safe operation of infrastructure. Infrastructure is 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 I recommend that this part of the submission is adopted.

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** is supported by the submissions. Minor alteration to the wording is proposed by Submission 5 to better convey that a consent from the Regional Council isn't always required. This is consistent with the intent of submission 7.
- Submitter 7 has also 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 agrees that the wording is good, but that it is not necessary to repeat this throughout the Plan. As nearly every chapter (apart from the zones) in the Plan already references the need to consult the Regional Council, the need to additional advice notes is unnecessary and I do not recommend that this is adopted.

- Submission 1 has recommended minor changes to the advice note regarding **archaeological** sites to reflect the Heritage New Zealand Pouhere Taonga Act 2014. This should be accepted as it will reduce confusion for the public.
- Submission 5 has also recommended moving the advice note regarding **quarrying and network utilities** from under the non-complying activities section to the start of section 14.4. This is reasonable as it groups the advice notes together which makes 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, there is no need to repeat it in this advice note and it is recommended that it is removed.
- Submission 6 has 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 is reasonable as it can apply to any activity, but is specific as it only applies near the electrical infrastructure. It is recommended that this note is moved to the start of the rules section like the rest of the advice notes for consistency.

7. Activity Status

- Submission 11 requests that the **rural zones** is removed from the areas where earthworks are a permitted activity in rule 14.4.1(a). This is 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. While the majority of earthworks issues in the rural zones are handled by the One Plan, there is the potential for effects outside the property boundaries affecting adjoining properties or infrastructure and therefore general earthworks rules for these types of effects need to apply to rural activities. Therefore it is recommended that the submission is rejected.
- Submission 11 has 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. Hence why (a) lists the zones that have been reviewed and therefore the rules apply too, and the intention was that (b) covered the zones that had not been 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, I recommend that (a) and (b) are combined into one Permitted Activity statement.

- Submission 2 requests that 14.4.1(c) is altered to remove the requirement to **lodge backfill compaction** at Council. While this is normally an issue dealt with at the Building Consent stage, it is cheaper, more efficient and more attractive to future users of a site to document it during the demolition/removal stage.

As it is not directly a RMA issue or limited to fuel storage systems, it is recommended that it is removed from the rules and provided as an advice note in the Introduction to the chapter. Keeping a reference to it in the Plan (while not enforceable) will allow the Plan and staff to give the best possible advice to developers.

- It is accepted that as stated by Submission 2 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 not necessary.

8. Rules

- Submission 6 raises 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. I do not recommend any changes as a result of this submission.
- Submitter 6 has requested that earthwork rules for the National Grid is inserted into the **Residential Zone**. This is beyond the scope of the Plan Change as the earthworks chapter which is reviewed as part of PC43 excludes the National Grid provisions which were handled during the zone plan changes.
- Submission 2 recommends a slight change in wording to rule **14.5.1(a)** in order to be more accurate. This alteration is supported.

- Submission 2 has requested a minor change to the note excluding certain activities from rule **14.5.1(a)**. This change is minor and will improve clarity. It is recommended that it is adopted.

7.6 Officer Recommendations:

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 recommended 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 (apart from Temporary Military Training Activities) are excluded.
2. The earthworks provisions in Chapter 22 Network Utilities apply to all network utilities except Temporary Military Training Activities.
3. 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, National and Regional 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 ability 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.
- c. 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:

2. 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.

...

7.7 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.

7.8 Officer Comments:

1. The comments of Transpower New Zealand Limited, The New Zealand Defence Force and Whanganui District Council are noted and appreciated.
2. The provisions as notified are proposed to be retained, except where commented on below:
3. Formatting
 - Submitter 6 has requested that Temporary Relocated Buildings be added to the list of Permitted Activities for each zone. This is to be consistent with the other activities listed in each chapter. Submitter 10 has requested that references to Relocated buildings, Temporary Relocated Buildings, Temporary Military Training Activities and Network Utilities are removed to prevent confusion. Further submission 4 raises the issue that if this occurs, how would it affect the need to comply with the National Grid.
 - I do not believe there is a confusion issue with listing the activities in the Permitted Activities. At most, it is a repeat of the start of Chapters 19 and 22 which state the zone rules may apply to these activities. It also makes people looking at these zones aware of other potential activities that could occur. Therefore I recommend keeping the activities in the zone rules and adding Temporary Relocated Buildings in order to be consistent.
4. National Grid
 - Submission 6 is concerned that relocates and TMTA may not have clear requirements to adhere to the provisions for the National Grid and which

rules take precedence. Currently there is references to needing to comply with the zone rules (which is where the National Grid provisions are located) at the start of the chapter and under the headings of each activity. The stricter rules always take precedence, so if there is a non-compliance with the National Grid provisions, it will be essential to take that into account.

However, this information to regard the provisions in the zone chapters is just a note it does not have any particular formal status in the Plan. It is recommended that the notes that appears at the start of the sections be deleted and the following amendments be made to create an obligation to comply and thus a clear precedence that compliance with the National Grid rules in the zone chapters will determine the status as follows:

Relocated Buildings

19.4.1 Permitted Activities.

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

Temporary Military Training Activities.

22.6.1 Permitted Activities.

The following are permitted activities throughout the District provided they comply with the performance standards in section 19.7[22.7]

- a. Temporary Military Training Activities provided that:
 - i. the activity also complies with performance standards chapter 14 – Earthworks; and
 - ii. any structures or earthworks shall comply with the underlying zone performance standards
- Further submission 3 is opposed to this submission as it believes that the potential for TMTA to impact the National Grid is extremely low and there is no requirement to address this in the District Plan. The potential for adverse effects may be low, but should adverse effects occur, the magnitude of them would be significant. I have asked the Defence Force and Transpower to consider how both activities co-operate throughout the country, however at the time of this report a conclusion has yet to be reached. Therefore based on the information I have to date, I recommend that the TMTA should take into account the performance standards in the zone rules relating to the National Grid for the reasons outlined below:

- Council has a legal obligation to implement the National Policy Statement for Electricity Transmission Activities (2009). Policy 10 is about managing activities ensure that the operation of the electricity transmission network is not compromised. Because there is a risk that TMTA could impact the National Grid, there should be performance standards to avoid the chance.
 - The Defence Force have submitted that ‘defence facilities’ are defined as an ‘Infrastructure Facility’ and specifically referenced as being of regional or national importance in Policy 22.3.2 in the District Plan. Even taking this into account, ‘Defence Facilities’ are not the same as TMTA, and therefore do not have the same status as the National Grid.
- The first sentence to the TMTA rules states that the zone rules apply only to permanent structures. Submitter 6 has requested that this apply to all structures and there is a further submission against this request. It is recommended that it apply to all structures for the same reason as the point above.

5. Temporary Activities

- A new activity and framework for ‘Temporary Activities’ should be adopted. These events occur regularly in our District, however they seem to have been handled on an ad hoc basis in the past. Having a clear statement on what the community expects will allow organisers of these events to plan with certainty and give the Council the ability to consider temporary activities on their merits should they exceed these parameters. However more than just the performance standards proposed by the submitter should be inserted, as creating performance standards without an objective or policy to back it up will not help decision makers.
- Minor changes to the definition and performance standards are required to make sure that the new temporary activities classification picks up all our regular events, most particularly the Masters Games.

7.9 Officer Recommendations:

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 recommended as a result of these submissions.

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:

22.6 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.~~

22.6.1 Permitted Activities.

The following are permitted activities throughout the District provided they comply with the performance standards in section ~~19.7~~ 22.7:

- a. Temporary Military Training Activities provided that:
 - i. the activity also complies with performance standards chapter 14 – Earthworks; and
 - ii. any structures or earthworks shall comply with the underlying zone performance standards

19.8 RULES – Temporary Activities

19.8.1 Permitted Activities.

The following are permitted activities throughout the District.

- a. Temporary Activities provided that they comply with the performance standards in 19.9.

19.8.2 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 19.9.

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.

19.9 PERFORMAMNCE STANDARDS – Temporary Activities

19.9.1 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.

Add 'Temporary Relocatable Buildings' as a Permitted Activity to each zone.

7.10 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 users 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.

7.11 Officer Comments:

1. The comments of Horizons Regional Council, Transpower New Zealand Limited and the New Zealand Defence Force are noted and appreciated.
2. The provisions that were notified are proposed to be retained, 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**.

I do not believe there is a confusion issue with listing the activities in the Permitted Activities. At most, it is a repeat of the start of Chapter 19 which states the zone rules may comply with these activities. It also makes people looking at these zones aware of other potential activities that could occur. It also needs to be provided for in the zone otherwise they will default to a discretionary activity. Therefore I recommend keeping the activities in the zone rules and adding Temporary Relocated Buildings in order to be consistent.

- Submitter 10 has requested a minor change to the wording of the **opening sentence to Chapter 19** for clarity. I support this minor change to the text.
- Submitter 10 has requested that **Chapter 19 is restructured**, as it recommends all the TMTA provisions are grouped together. Plan Change 44 has classified Defence Facilities as significant infrastructure and the Defence Force operates as a network utility operator under the RMA. Therefore it is recommended that all the TMTA provisions are moved to

Chapter 22 (Network Utilities) so that all the relevant provisions for Defence Activities are in the same chapter.

- Submitter 10 has also suggested correcting the **spelling mistake** in the heading of Chapter 19. I support this minor change to the text, however I recommend changing the name of the chapter in light of TMTA moving to Chapter 22.

4. Noise Sensitive Activities & Outstanding Natural Landscapes

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

According to the submission, 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.

This reasoning is not supported. A reference to noise sensitive activities is needed in the policy in order to interpret the noise rules for TMTA, which are based on effects on noise sensitive activities. Any breach of these rules will be assessed against this policy and a specific reference to noise sensitive activities will result in a more robust decision.

In relation to the Defence Force view that within Outstanding Natural Landscapes, their activities are no different to hunting or other outdoor pursuits, this is not supported. This is largely because the proposed TMTA noise provisions anticipate explosives and air conditioning systems etc (not typical outdoor pursuits) and the scale of TMTA compared to a hunting party is potentially significantly larger. At present there are no limits to restrict TMTA, as the policy only applies to identified ONLs, of which we currently have none in the operative District Plan. It is intended that during the additional consultation that is occurring for PC48 (Outstanding Natural Landscapes) we can further resolve this issue. However in the interim it is important to note that there are existing TMTA occurring within areas proposed as ONL in PC48, therefore an addition to Policy 19.3.2 is required.

5. Rules

- Submission 10 states 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.

It is recommended that the requirement to comply with the National Grid rules in the zone chapters remains. Council has a legal obligation to implement the National Policy Statement for Electricity Transmission Activities (2009). Policy 10 is about managing activities ensure that the

operation of the electricity transmission network is not compromised. Because there is a risk that TMTA could impact the National Grid, there should be performance standards to avoid the chance.

- Submitter 10 has requested that breaches to the TMTA performance standards should be treated as **Controlled Activities** as well as not needing the written approval of affected parties or notification of the application. This removes the ability for the Council to say no or take into account the effects on any member of the public, as they will not have a say. TMTA can include such a broad range of activities and effects, the community expects Council to assess them against our standards should they exceed the levels in the Plan. Therefore I do not recommend any changes to this section as a result of the submission received.
- Submitter 10 has requested that the **31 day limit** is removed from performance standard 19.7(b) as it is an arbitrary timeframe. This is the limit used in the operative Plan, which did not cause any resource consents for breach of this timeframe. 31 days is the longest month in the year and therefore would allow the Defence Force to operate a single TMTA within a month. The submitter has not indicated that any of their exercises exceed this timeframe in the Whanganui District. By definition to be temporary activities a timeframe is required. Therefore I do not recommend removing the 31 day limit for temporary military training activities.

7.12 Officer Recommendations:

That submission 7 from Horizons Regional Council and further submissions 3 & 4 from the New Zealand Defence Force and Transpower New Zealand Limited are **accepted in part**.

And that submission 10 from the New Zealand Defence Force is **accepted in part**.

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

Chapter 19 Relocated Buildings & Temporary Military Training Activities Temporary 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 19.3.2 [22.3.14]

To provide for temporary military training activities throughout the District, and avoid activities in proximity to a sensitive noise activity or on an identified

outstanding natural landscape where practical or ensure best practice mitigation is implemented.

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.

Add 'Temporary Relocatable Buildings' as a Permitted Activity to each zone.

All references to TMTA moved from Chapter 19 to Chapter 22 and renumbered.

7.13 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.

7.14 Officer Comments:

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 provisions that were notified are proposed to be retained, except where commented on below:
3. Submitter 8 has 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. I concur that this is a good suggestion as long as Heritage listed buildings are specifically excluded as a Permitted Activity.
4. Submitter 8 has 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 is 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 has recommended that Council make available the template attached to their submission for **building inspection reports**. I fully support this recommendation and would like to thank the submitter for making this available for Council to use.
6. Submitter has 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 I recommend it is adopted.

7.15 Officer Recommendations:

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 recommended 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.