

Report to Statutory Management Committee

Date: 29 February 2016

Councillors

WHANGANUI DISTRICT COUNCIL

Subject: **Section 42a Officers Report**
Proposed Plan Change 45 – Natural Environment

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 the provisions for Indigenous Forestry, Riparian Margins and the Urban River Landscape Overlay. These provisions are collectively known as the Natural Environment for the purposes of this Plan change.
- 1.2 The purpose of Proposed Plan Change 45 (PC45) is to review the provisions relating to Indigenous Forestry, Riparian Margins and the Urban River Landscape Overlay to take into account changes to legalisation, regional documents 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 45 to the Whanganui District Plan.

Appendices

1. **Copy of the Public Notice**
2. **Submissions Received**
3. **Proposed Natural Environment provisions**
4. **Proposed Maps**
5. **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 6 of the wider District Plan review which address district wide matters.
- 2.2 Since the operative District Plan was drafted in the 1990s, there have been significant changes to how the natural environment of Whanganui is managed. Indigenous forestry is now managed by central and regional government. The ecology values of riparian margins are managed by Horizons Regional Council.
- 2.3 This is reflected in the documents that shape these rules. Development of new national policy statements, the Regional Plan, a new Council direction and greater Iwi representation since the first District Plan was developed have shaped the direction of this proposed Plan change.

3.0 PROPOSED PLAN CHANGE

3.1 Purpose

The purpose of PC45 is to review the provisions relating to Indigenous Forestry, Riparian Margins and the Urban River Landscape Overlay to take into account changes to legalisation, regional documents and community expectations.

- 3.2 Provisions relating to indigenous forestry are proposed to be removed because the environmental effects of discharge to water and sustainability are already handled at the regional and national government level. No submissions were received opposing this.
- 3.3 The proposed provisions for riparian margins are reduced to only those waterways that the community deem significant in terms of amenity and/or spiritual/cultural values. This is due to the Plan not needing to cover ecological issues which are handled by Horizons Regional Council. The simplification of the policies relating to riparian margins will result in the esplanade section in Chapter 13 (Subdivision and Infrastructure) being slightly re-worded to incorporate the purpose of taking esplanade reserves, which was previously covered by reference to the riparian margin policy. There will be no change in implementation of the esplanade provisions as a result of this format change.
- 3.4 The Urban River Landscape Overlay (formally the River Margin Landscape Conservation Overlay) is proposed to be extended and the existing objectives and policies clarified. The Overlay exists to enhance the link between the town and the Whanganui River, and to visually enhance the views of the urban area across the water. It is proposed to extend the area to include land adjoining the national cycle route and popular walkways within the urban boundary. This will require activities adjoining the cycle route and footpaths to consider the visual effects (and possible physical access if the activity is open to the public) of their activity on areas of high amenity value, on and adjoining the Whanganui River. The limits of the Overlay are the extent of the cycleway and footpath (which is where the

majority of public access and amenity value is enjoyed) and the urban boundary (where the majority of people enjoy the River landscape).

3.5 Background Research

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

- 3.6 Approximately 5% of all resource consents currently relate to natural environment provisions (excluding protected trees). This is a reasonable number when the majority of these consents were required anyway for other breaches of the Plan. No consents in the last 6 years were received or issued for Indigenous Forestry. The success of these provisions is supported by a lack of complaints received for related issues. Council typically receives 28 complaints per year relating to the Act (excluding noise). Of those, only 2% relate to the issues above.

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:

- 3 September 2014 a background document and survey on the current Phase 6 provisions were posted online. This link was promoted at the Home and Living Show, in newspapers, newsletters, twitter, Council website and in emails to identified stakeholders.
- 27 March 2015 A draft version of the district wide provisions were put online for comment. This was advertised to identified stakeholders, property holders, and businesses at the Rivertraders Market on 28 March 2015 and via email and letter as part of the Clause 3 requirements. Comments closed on 14 April 2015.
- A letter and email was sent to stakeholders, property holders and businesses affected by PC45 advising that Council would be notifying PC45 on 30 May 2015.
- Notification of all parties required by clause 5, 1st Schedule RMA following Council's decision to notify.

4.2 Key Statistics

PC45 was publicly notified in accordance with Clause 5 of the 1st Schedule of the RMA 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 10 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 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 –*
 - iii. *the maintenance of indigenous biological diversity:*
 - f. *any other functions specified in this Act.*
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, PC45 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.

Section 7:

Matters of national importance:

- a. the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- b. ...*
- c. the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- d. the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- e. the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga*

The preservation of the coastal environment, the margins of waterways and public access is provided for in the proposed riparian margin changes. The protection of indigenous vegetation is handled under the One Plan and the proposed changes will emphasise this in the definition of 'Forestry'. The relationship of Maori and their ancestral lands and water is also provided for in the riparian margin policies.

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 NPS to ensure that the same standards are enforced by each Council. The national environmental statements relevant to this plan change are:

- The New Zealand Coastal Policy Statement (2010)
- The National Policy Statement for Renewable Electricity Generation (2001)
- The National Policy Statement on Electricity Transmission (2008)

New Zealand Coastal Policy Statement

The New Zealand Coastal Policy Statement (NZCPS) has been considered and given effect to in relation to the coastline being identified as a riparian margin. The NZCPS's purpose is to state policies in order to achieve the purpose of the Act in relation to the coastal environment of New Zealand. This was also considered during the reviews of the Reserves and Open Spaces Zone (PC28) and the Rural Zones (PC36), which are zones within the coastline. The proposed

identification of the coast as a riparian margin will be considered against the NZCPS.

Relevant sections include:

New Zealand Coastal Policy Statement 2010		Proposed Plan Change 45
Objectives	Policy	Evaluation
Objective 3 To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by: <ul style="list-style-type: none"> •recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources; •promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act; •incorporating mātauranga Māori into sustainable management practices; and •recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua. 	Policy 2: The Treaty of Waitangi, tangata whenua and Māori	The riparian margin provisions recognise the cultural values of the west coast by providing for development within 20 metres of the coast subject to cultural and amenity values being preserved.
Objective 4 To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by: <ul style="list-style-type: none"> •recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy; •maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and •recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland. 	Policy 4: Integration Policy 18: Public open space Policy 19: Walking access Policy 20: Vehicle access	The riparian margin provisions recognise the amenity values of the west coast by providing for development within 20 metres of the coast subject to cultural and amenity values being preserved. Access is a recognised part of the amenity values in this area.
Objective 6 To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that: <ul style="list-style-type: none"> •the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits; •some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the 	Policy 6: Activities in the coastal environment Policy 9: Ports Policy 17: Historic heritage identification and protection Policy 23:	The riparian margin provisions provide for development within 20 metres of the coast by making the activity status restricted discretionary which will protect the values of the coast while allowing activities to occur that enhance the area.

<p>social, economic and cultural wellbeing of people and communities;</p> <ul style="list-style-type: none"> •functionally some uses and developments can only be located on the coast or in the coastal marine area; •the coastal environment contains renewable energy resources of significant value; •the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities; •the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land; •the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and •historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development. 	<p>Discharge of contaminants</p>	
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National Policy Statement on Renewable Electricity Generation

The National Policy Statement for Renewable Electricity Generation (NPSREG) is part of the New Zealand Energy Strategy. This purpose is to strengthen the policy framework relating to renewable energy.

This Plan Change gives effect to the NPSREG by providing for tidal and ocean energy production within the riparian margin as a network utility with a functional requirement to be in the area.

National Policy Statement on Electricity Transmission

The National Policy Statement on Electricity Transmission (NPSET) sets out objectives and policies to standardise through the country the approach to managing the localised effects caused by the national grid. This recognises that it is a matter of national importance the need to operate, maintain, develop and upgrade the electricity transmission network.

This Plan change gives effect to the NPSET by allowing network utilities within the riparian margin and Overlay as a permitted activity due to their importance to the community.

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

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

The One Plan is relevant to Plan Change 45 as it includes requirements relating to the implementation of the National Policy Statements as well as requiring the Council to be consistent with the document.

An assessment of how the provisions in Plan Change 45 compare with the Objectives and Policies of the One Plan are considered in Table 1 below.

One Plan – Indigenous Forestry (called Production Forestry in the One Plan)		Proposed Plan Change 45
Objectives	Policy	Evaluation
Objective 12-2: Regulation of activities affecting indigenous biological diversity	Policy 12-5A: Regional rules for activities affecting indigenous biological diversity.	The proposed removal of the Indigenous Forestry rules will have no effect on the implementation of the One Plan. There are no identified effects for the Council to consider, as the regional council already covers them.
One Plan – Riparian Margins		Proposed Plan Change 45
Objectives	Policy	Evaluation
Objective 16-1: Regulation of structures and activities in artificial watercourses and in the beds of rivers and lakes and damming.	Policy 16-1: Consent decision-making for activities in, on, under or over the beds of rivers and lakes	<p>The One Plan takes care of ecological effects and water quality of development within the riparian margin. Therefore the proposed removal of provisions relating to ecology from the District Plan is reasonable as any ecology effects will be managed under the One Plan.</p> <p>The One Plan does not address the local amenity, cultural and spiritual values of land adjoining waterways. District councils are best placed to assess these localised effects.</p> <p>PC45 removes the existing blanket rule affecting all waterways. Instead only those waterways of local amenity or cultural value are required to be considered. These are listed in the Plan to provide clarity and certainty.</p> <p>The Plan change complies with the Objective and Policy as it does not interfere with Regional Council commitments, yet provides for local input on the waterways considered important to the community.</p>

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.

Iwi Settlement Process

Schedule 11 of the Act requires Councils to consider any Treaty Settlements within their District. Relevant settlements include:

- Ngati Apa Claims Settlement Act 2010
- Whanganui River Deed of Settlement

Both these settlements are within riparian margins. As development in this area must take into account the cultural values of these areas, reference to these documents and the standards within will be recognised.

National Cycleway Project/ New Zealand Cycle Trail

Mid 2009 the government established the national cycleway project. The Mountains to Sea Cycleway follows the Whanganui River to the sea. The River Margin Landscape Conservation Overlay has been extended to cover this route within urban limits. This will protect the scenic route undertaken by cyclists and tourists and encourage adjoining businesses to interact with this recreational frontage and the River.

Forestry Amendment Act 1993

The Ministry of Primary Industries issues permits and manages the long term sustainability of indigenous forestry under the Forestry Act. The operative rules for indigenous forestry did not add any benefit to the environment or the process beyond the work that the Ministry or Horizons do. The Plan change proposes removal of the indigenous forestry provisions for this reason.

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 45 meets the new direction of Council by recognising the cultural values of the riparian margins, improving the walkways/cycleways along the Whanganui River and providing for development.

Castlecliff Reserve Management Plan (2005)

The proposed riparian margin and Overlay for the West Coast has the same values as the Reserve Management Plan for Castlecliff. The amenity and cultural values are important to both documents.

Parks and Open Spaces Strategy (2007)

Under this strategy the Castlecliff Coastal Reserve is considered a premier park. This means that it is iconic, tourist focused and of economic benefit. Many of the other parks adjoin waterways identified as significant by the proposed Plan Change in terms of riparian margins and the Overlay. The goals and proposed outcomes of the Strategy all focus towards recreation and preservation of the landscape. This is in line with the proposed Plan change.

Healthy Streams Whanganui

The Healthy Streams Whanganui is a community project lead by the Council. The aim of the project is to clean up the waterways in the District. The proposed Plan change will work with this project as it promotes high amenity near waterways that have significant value to the community.

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 5)
- 6.2 A re-evaluation has been completed as required by s32AA of the Act 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.

Several submissions have pointed out the numbering errors within Chapter 10. The chapter has been re-numbered, but in order to prevent confusion while assessing the submissions, the notified numbers have remained and the new numbers are in [brackets].

7.1 Permitted Activities

Submitter Name: KiwiRail Holdings Limited

Submission No: [2.1pc45](#)

Summary:

Support the proposed Plan change, in respect to the provisions for River Margins and the Urban River Landscape Overlay as they recognise existing infrastructure and the occasionally limited options for location.

Decision Sought:

1. That Rules 10.6.1(i) and (iii) (Permitted Activities for Riparian Margins) is retained as notified.
2. That Rule 10.6.1(a) (Permitted Activities for the Urban River Landscape Overlay) is retained as notified.

Submitter Name: Transpower New Zealand Limited

Further Submission No: [4.1pc45](#)

Summary:

Support submission 2.1 in regards to retaining Rule 10.6.1. This is consistent with Transpower's submission.

Submitter Name: Powerco Limited

Submission No: [3.1pc45](#)

Summary:

Supportive of the proposed Plan change, as described below:

1. Rule 10.6.1 (Permitted Activities Riparian Margins) is intended to permit existing and new network crossings of waterways, but needs to be amended to correct typographical errors in numbering and to more accurately explain the relationship between this chapter and the rest of the Plan by amending the opening statement.
2. Rule 10.6.3 provides a default to restricted discretionary activity status for activities in the riparian margins that are not otherwise permitted, and is supported.
3. Rule 10.6.1 (Permitted Activities Urban River Landscape Overlay) is intended to permit existing and new network crossings of waterways, but needs to be amended to correct typographical errors in numbering and to more accurately

explain the relationship between this chapter and the rest of the Plan by amending the opening statement.

4. Rule 10.8.2 provides a default to restricted discretionary activity status for activities in the Urban River Landscape Overlay that are not otherwise permitted, and is supported.

Decision Sought:

1. That Rule 10.6.1 (Permitted Activities Riparian Margins) is amended to clarify the relationship between this chapter and the rest of the Plan and to fix typographical errors.
2. Retain Rule 10.6.3 as drafted.
3. That Rule 10.6.1 (Permitted Activities Urban River Landscape Overlay) is amended to clarify the relationship between this chapter and the rest of the Plan and to fix typographical errors.
4. Retain Rule 10.8.2 as drafted.

Submitter Name: Chorus New Zealand Limited

Submission No: [4.1pc45](#)

Summary:

Support the proposed Plan change, in respect to the provisions for existing and new cables and lines within riparian margins, as it is appropriate in view of the minimal potential for adverse effects associated with these works.

Decision Sought:

That Rules 10.6.1(b)(iii) (Permitted Activities for Riparian Margins) is retained as notified.

Submitter Name: Spark New Zealand Trading Limited

Submission No: [5.1pc45](#)

Summary:

Support the proposed Plan change, in respect to the provisions for existing and new cables and lines within riparian margins, as it is appropriate in view of the minimal potential for adverse effects associated with these works.

Decision Sought:

That Rules 10.6.1(b)(iii) (Permitted Activities for Riparian Margins) is retained as notified.

Submitter Name: NZ Transport Agency

Submission No: [6.1pc45](#)

Summary:

Support the proposed Plan change, in respect to the provisions for existing and new network utilities, or fences, bridges, culverts, fords or flood protection structures.

Decision Sought:

That Rules 10.6.1(b)(i) (Permitted Activities for Riparian Margins) is retained as notified.

Submitter Name: Transpower New Zealand Limited

Further Submission No: [4.2pc45](#)

Summary:

Support submission 6.1 in regards to retaining Rule 10.6.1.

This is consistent with Transpower's submission.

Submitter Name: New Zealand Defence Force

Submission No: [9.1pc45](#)

Summary:

Opposed to the current wording of Rule 10.6.1 (Permitted Activities Riparian Margins). The activities provided for are very restrictive. It is not clear if the rule applies on the waterway. Also there are a broad range of activities that could be undertaken within the river margin that would result in negligible effects, however it is not clear if these are provided for.

Decision Sought:

1. Amend Rule 10.6.1 to clarify its application.
2. Confirm if the rules apply on waterways.

Submitter Name: Wanganui Federated Farmers of New Zealand

Submission No: [10.2pc45](#)

Summary:

Not opposed to intent of Plan change, but would like to make the following changes in regards to the Riparian Margin Rules:

1. It is assumed that if fences are Permitted Activities that 'floodgates' would be too. However, clarification of this for Plan users to requested.
2. Landowners need to be able to manage their land when there is no effect on the riparian margin without interference from the Council. Therefore new Permitted Activities to cover Rural Activities is requested.
3. That sub section vi) of the operative District Plan rules for Riparian Margins is re-instated as it would allow for the wider objectives of the margins to be met without triggering a resource consent process and would allow Regional Council and Environment Grant works to proceed.
4. The riparian margin rules create an imposition of landowners for the benefit of the public and therefore consent fees should be waived.

Decision Sought:

1. That 'floodgates' is added to Rule 10.6.1(b)(i) as a Permitted Activity.
2. That a new Permitted Activity is included providing for replacement, maintenance, upgrade or removal of an existing or new structure, road, track, earthwork, fence

or trees that are located within 20 metres of a key waterway, or within a riparian margin.

3. That a new Permitted Activity is included providing for the installation of a new fence, bridge, culvert, ford or flood protection structure, where that structure will enhance, or protect the natural character of the key waterway.
4. That a Permitted Activity is reinstated that provides for the planting, tending, harvesting or clearing any vegetation including non-indigenous trees, for conservation, river management or habitat purposes.
5. That where an activity requires Resource Consent because of the Riparian Margin rules, that Council waives the Resource Consent fees and this is noted under Rule 10.6.3.

Submitter Name: Horizons

Further Submission No: [1.1pc45](#)

Summary:

Support in part submission 10.2 paragraphs 1.14, 1.15 and 2.23-2.25. Federated Farmers seeks to include two new provisions in the riparian margin rules.

Horizons supports the inclusion of provisions to allow as permitted activities the fencing of waterways, planting of riparian margins and installation of stock crossings for the purpose of improving water quality and enhancing riparian and in-stream indigenous biodiversity habitat. Such provisions will enhance the continuation of Horizon's freshwater and biodiversity programmes.

7.2 Officer Comments:

- 1 The comments of KiwiRail Holdings Limited, Transpower New Zealand Limited, Powerco Limited, Chorus New Zealand Limited, Spark New Zealand Trading Limited, NZ Transport Agency, the New Zealand Defence Force, Wanganui Federated Farmers of New Zealand and Horizons are noted and appreciated.
- 2 The submission remedies sought are supported, except where commented on below:
- 3 Correction of numbering errors in Rules 10.6.1(a) and (b) and Rule 10.6.3(a) in referencing **Policy 10.3.18**, as identified by Powerco is supported.
- 4 Powerco proposed revisions to simplify the **statements under Rules 10.6.1 and Rule 10.7.1** that explain the relationship with the other parts of the Plan. After reviewing the wording proposed by Powerco, it is concluded that the notified version (less the word 'shall') is simpler and easier to read than what was proposed by Powerco and consistent with the rest of the Plan.

Notified version:

The following are permitted activities provided they shall comply with the Performance Standards of the underlying zone as well as any other relevant chapters:

Powerco's version:

The following are permitted activities in Riparian Margins provided that the Rules and Performance Standards to which these activities are otherwise subject to in the remainder of the District Plan continue to apply:

- 5 The NZDF consider the Permitted Activities for riparian margins **too restrictive** and they do not cover the broad range of activities that could occur with limited effects. The NZDF have not stated how this is too restrictive. The proposed plan provisions will be less restrictive than the existing provisions which covered a wider range of waterbodies and required additional consideration of the ecological impacts. Therefore without further evidence, the NZDF submission is not supported.
- 6 The NZDF have also expressed concern about whether the riparian margin rules **apply on waterways**. The proposed definition of riparian margin specifically states:

*“**Riparian Margin**: means the strip of land along the edge of a waterway including streams, lakes and wetlands. The riparian margin starts at the mean high spring water level.*

This definition only applies to waterways identified in Policy 10.3.18.”

Therefore it does not apply on the waterway itself.

- 7 Federated Farmers have suggested adding **floodgates** as a permitted activity. This is not necessary as it would be considered a flood protection structure, which is already specified as permitted.
- 8 Federated Farmers have suggested that **existing and new** structures, roads, tracks, earthworks, fences and trees should be added to the Permitted Activities list. This would essentially remove all restrictions from this zone, allowing anything without consideration of the amenity or cultural effects.

The permitted activity proposed by Federated Farmers also contradicts itself by stating that it only applies to areas outside the riparian margin (which is 20 metres wide) but within 20 metres of the waterway. Therefore no changes are recommended.

- 9 Two **new activities** allowing for new fences, bridges, culverts, fords or flood protection structures and vegetation activities is proposed by Federated Farmers and supported by Horizons. The limitation to the proposed rule is that they must enhance or protect the natural character of the waterway. The intention of submission and further submission is useful but the wording proposed is not enforceable as a rule. Revised wording is proposed to enable the activities described to be permitted. This is a more enforceable requirement.

10 Federated Farmers have requested a statement that Council would **waive resource consent fees** for activities that do not comply with riparian margin rules. Council's fee structure is determined in the Annual Plan and not in this forum. No changes are recommended as a result of this part of the submission.

7.3 Officer Recommendations:

That submissions 2.1, 3.1, 4.1, 5.1, 6.1, 9.1 and 10.2 from KiwiRail Holdings Limited, Powerco Limited, Chorus New Zealand Limited, Spark New Zealand Trading Limited, NZ Transport Agency, New Zealand Defence Force and Wanganui Federated Farmers of New Zealand and further submissions 1.1, 4.1 and 4.2 from Horizons and Transpower New Zealand Limited be **accepted in part**.

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

[10.4] 10.6 RULES – RIPARIAN MARGINS

[10.4.1] 10.6.1 Permitted activities.

The following are permitted activities provided they shall comply with the Performance Standards of the underlying zone as well as any other relevant chapters:

- a. Activities on or near waterways not listed in Policy 10.3.18[10.3.1] as a key waterway.
- b. Activities within 20 metres of a key waterway listed in Policy 10.3.18[10.3.1] and that involve:
 - iv. Installation of a new fence, bridge, culvert, ford or flood protection structure.
 - v. Conservation, river management or habitat restoration activities.

[10.4.2] 10.6.3 Restricted Discretionary Activities.

The following are restricted discretionary activities:

- a. Activities within 20 metres of a key waterway (listed in Policy 10.3.18[10.3.1]) that are not provided for in Rule 10.6.1 [10.4.1].

[10.5] 10.7 RULES – URBAN RIVER LANDSCAPE OVERLAY

[10.5.1] 10.6.1 Permitted activities.

The following are permitted activities provided they shall comply with the Performance Standards of the underlying zone as well as any other relevant chapters:

7.4 Policies and Other Topics

Submitter Name: Horizons

Submission No: [1.1pc45](#)

Summary:

Support the proposed plan change. The plan change will give effect to the One Plan in regards to riparian margins and the proposed provisions for the Urban River Landscape Overlay are in general accordance with the One Plan.

Decision Sought:

1. That proposed policy 10.3.18 be retained as drafted.
2. That the advice note before rule 10.6, outlining the potential for Regional Council consent is retained as drafted.
3. That an advice note above rule 10.6.1 outlining the potential for Regional Council consent is added.

Submitter Name: Wanganui Federated Farmers of New Zealand

Further Submission No: [3.1pc45](#)

Summary:

Support in part submission 1.1 in regards to adding an advice note for rule 10.6.1 outlining the potential for Regional consent to be required. Federated Farmers agrees that where relevant, the District Plan should make reference to the wider rules of the Regional Council to provide greater clarity and understanding to the Plan user.

Submitter Name: Transpower New Zealand Limited

Submission No: [7.1pc45](#)

Summary:

Supportive of the intent of Plan change, but would like to make the following recommendations:

1. Add two new policies to the Natural Environment Chapter to recognise that network utilities are located in natural areas and have a functional and locational need to be there.
2. That Rule 10.6.1(b)(i) (Permitted Activities for Riparian Margins) meets the requirements of the NPSET and is retained as the National Grid crosses the Whanganui River.
3. That Rule 10.9.1(a)(i) is amended to permit the trimming of Protected Trees no matter what the size of the branch in accordance with the NPSET when it is a threat to the safe and efficient operation of the National Grid.

Decision Sought:

1. That two new policies are created that recognise the functional and locational need for network utilities in riparian margins and river environments.
2. That Rule 10.6.1(b)(i) (Permitted Activities for Riparian Margins) is retained.
3. That Rule 10.9.1(a)(i) is amended to permit the trimming of Protected Trees no matter what the size of the branch.

Submitter Name: Powerco Limited

Further Submission No: [2.1pc45](#)

Summary:

Support submission 7.1 in regards to adding additional policies around the operation and maintenance of network utilities in natural areas and amending rule 10.9.1(a)(i) (Protected Trees) to remove the branch size limit.

Submitter Name: Rayonier Matariki Forests Limited

Submission No: [8.1pc45](#)

Summary:

Supportive of the intent of the proposed Plan change, but with the exemption of the following issues:

1. Amend Objective 10.2.5 to reflect the proposed issues with Policy 10.3.18 and Rules 10.6.1 and Rules 10.6.3.
2. Supportive of the approach to identify key waterways, however the inclusion of all tributaries of the Whanganui and Whangaehu Rivers could have significant effects of existing and future production forestry operations. There is no clear definition of tributary in the proposed Plan change and therefore any stream could be considered.
3. The proposed definition of 'Forestry' is different to the One Plan. Making the definitions the same would reduce confusion for Plan users.

Decision Sought:

1. That Objective 10.2.5 is amended to be consistent with any changes to Policy 10.3.18.
2. Amend Policy 10.3.18 so that only tributaries of the Whanganui River greater than 3 metres in width are considered a 'key waterway'.
3. Amend Rule 10.6.1(b)(iv) to provide for existing forestry and its associated activities as a Permitted Activity.
4. Amend the definition of 'Forestry' to be the same as the One Plan.
5. Amend the terminology of the Plan to replace 'waterway' with 'rivers, lakes and waterbodies'.

Submitter Name: Wanganui Federated Farmers of New Zealand

Submission No: [10.1pc45](#)

Summary:

Not opposed to intent of Plan change, but would like to make the following changes in regards to the Riparian Margin Objectives and Policies:

1. That Objective 10.2.5 is amended to recognise the existing production land uses on those margins or adjoining land. The current wording could frustrate a landowner's ability to access water for reasonable uses.
2. That Policies 10.3.2 and 10.3.8 are amended as minor adverse effects can be tolerated by riparian margins and the adjoining landowner is likely to have the largest positive effect on preservation of these waterways.

3. That Policies 10.3.9, 10.3.18 and 10.3.19 are limited to where there is public access only as there is no public right to roam over private land in New Zealand.

Decision Sought:

1. That Objective 10.2.5 is amended to recognise the existing production land uses on those margins or adjoining land.
2. That Policies 10.3.2 and 10.3.8 are amended to limit consideration to effects that are more than minor on riparian margins.
3. That Policies 10.3.9, 10.3.18 and 10.3.19 are limited to where there is public access only.

7.5 Officer Comments:

1. The comments of Horizons, Wanganui Federated Farmers of New Zealand, Transpower New Zealand Limited, Powerco Limited and Rayonier Matariki Forests Limited are noted and appreciated.
2. The submission remedies sought are supported, except where commented on below:
3. Horizons and Federated Farmers support is noted, for the proposed **advice note** under the Permitted Activities for the Urban River Landscape Overlay that details the One Plan requirements.
4. Transpower, supported by Powerco, have requested minor changes to the **Protected Tree** rules. These rules were reviewed as part of Plan change 31 and were not intended to be a part of this Plan change.

The proposed change would remove the 100mm diameter limit but retain the need to maintain the health and shape of the tree. Currently this work is allowed as emergency works to safeguard life or property (Rule 10.9.1(b)), so the proposed change would merely provide more clarity to network utility operators and is minor enough to be included as part of the PC31.

5. Transpower, supported by Powerco, have requested **two new policies** (one in riparian margins and the other in the Urban River Landscape Overlay) to recognise network utilities in these areas. This is supported as there are rules relating to network utilities in this chapter, and additional policy guidance in how to assess these activities is good practice, rather than just relying on Chapter 22.
6. Rayonier have requested an additional permitted activity for riparian margins (Rule 10.6.1(b)) – **Existing Forestry** and its associated activities. Assuming the existing forestry was legally established, it would have existing use rights and there is no need to specifically list it as a permitted activity.
7. Rayonier have suggested an alteration to the **definition of Forestry** to match the One Plan. Having a consistent definition between planning documents makes the process easier for Plan users. However the Horizons definition includes 'soil conservation forestry' as part of a forestry activity whereas this is specifically excluded from the operative District Plan definition.

Soil conservation planting is planting for erosion control to retain landforms. As areas of Whanganui are prone to erosion, this is an important activity – especially near roads and other infrastructure. The 10 metre setback that applies to forestry would reduce the effectiveness of soil conservation forestry. Therefore I recommend that soil conservation planting remain excluded from the definition of forestry.

The existing exclusions in the operative definition should be retained as they provide clarity to rural and lifestyle activities as to when their small scale plantings become ‘forestry activities’. This does not interfere with the submitter’s objective of providing a consistent approach to forestry across the region. Therefore I recommend that the One Plan definition is adopted, but with the exempted activities and the advice note from the existing District Plan definition included.

8. Rayonier have suggested the term ‘**waterways**’ is replaced with ‘rivers, lakes and waterbodies’ to be consistent with the One Plan and RMA. All three terms are not required, as the definition of ‘waterbodies’ in the RMA covers rivers and lakes. As ‘waterbodies’ is a RMA term, it is recommended that all references to waterways is replaced with ‘waterbodies’ in order to provide more clarity to plan uses.
9. Rayonier and Federated Farmers have requested changes to **policy 10.3.18** to limit the areas that the riparian rules would apply to tributaries greater than 3 metres wide on the Whanganui River and only to public land for the Matarawa Stream, Whangaehu and Whanganui Rivers and the West Coast. Our significant waterbodies in this District have cultural/spiritual value that extend for their entire length and include all tributaries. To say the effects on smaller waterbodies or not on public land should not be considered is against the purpose of this Plan change and to narrow the effect of the Treaty of Waitangi settlement in respect of the Whanganui River which is described as a living and indivisible whole from the mountains to the sea (Te Awa Tupua).
10. Federated Farmers have proposed an alteration to **objective 10.2.5** for riparian margins to provide for existing production land uses. Existing legally established activities are protected by existing use rights and do not need to be specifically referenced in the Plan.

Rayonier proposed that this objective be amended to be consistent with any changes to policy 10.3.18 and rules 10.6.1 and 10.6.3. Existing Forestry activities do not need a specific mention in the Plan for the same reasons as above.
11. Federated Farmers have proposed alterations to **policies 10.3.2 and 10.3.8** to limit the effects to those that are more than minor. This is not supported as policies assist with understanding how the objective is to be met. Limiting consideration of effects to those that are ‘more than minor’ is against section 17 of the RMA which states “*Every person has a duty to avoid, remedy, or mitigate any adverse effect...*”. The term is subjective and no evidence about why minor effects should not be considered.

12. Federated Farmers have recommended that **policy 10.3.9** is altered to exclude private land with no public access. The policy proposes ‘to maintain or enhance where appropriate public access to or along the coast, rivers or lakes of the District.’ only. Therefore the additions proposed are unnecessary as the policy does not propose to require new areas of public access and only applies where public access already exists.

The policy can be further clarified to apply only to the key waterways listed in Policy 10.3.18.

13. Federated Farmers have requested an addition to **policy 10.3.19** to specify landowner agreement to public access. This policy is intended to help decision makers understand the potential effects and consider them when assessing applications for new activities. It is not about increasing public access over private land. Clarification of the policy is recommended to limit it to existing public access and uses as well as defining the area that is to be considered as the ‘riparian margin’ only. This should resolve the concern raised by Federated Farmers and improve clarity for Plan users.

7.6 Officer Recommendations:

That submission 1.1 and 7.1 from Horizons and Transpower New Zealand Limited and further submissions 2.1 and 3.1 from Powerco Limited and Wanganui Federated Farmers of New Zealand be **accepted**.

And that submissions 8.1 and 10.1 from Rayonier Matariki Forests Limited and Wanganui Federated Farmers of New Zealand be **accepted in part**.

The following amendments are recommended as a result of the submissions.

All references to ‘waterways’ replaced with ‘waterbodies’.

Chapter 2 - Definitions

Forestry: means activities associated with all planting of trees for carbon sequestration purposes or production forestry including associated activities of tracking, earthworks, land preparation, planting, pruning, thinning, clearing understorey (indigenous and exotic species), and harvesting.

~~means all activities associated with the preparation of land and subsequent planting and harvesting of~~ but excludes shelterbelts, planting for soil conservation purposes, and planting to form property boundaries, and excludes milling and other processing activities of the wood product.

Note that forestry of native trees has additional requirements in the Horizons One Plan and the Forest Act 1993.

10.3 POLICIES

Riparian Margins

[10.3.4] 10.3.9 To maintain, or enhance where appropriate, public access to and along the key waterbodies indicated in Policy 10.3.18[10.3.1]. ~~coast, rivers and lakes of the District~~

[10.3.6]10.3.19 To ensure activities adjoining key waterbodies recognise and provide for:

- a. The importance of the waterbody and riparian margin as a traditional food source.
- b. The presence of rare or threatened species.
- c. Existing public access and existing uses of the riparian margin area.
- d. Social and cultural values associated to the area.

To be listed under Riparian Margins and Urban River Landscape Overlay headings:

10.3.7 & 10.3.10 Recognise that some network utilities have a function and locational need to be located in the Districts Natural Areas, including riparian margins and river environments and that their continued operation and maintenance is a functional requirement.

[10.5] 10.7 RULES – URBAN RIVER LANDSCAPE OVERLAY

[10.5.1]10.6.1 Permitted activities.

Note: The Manawatu-Wanganui Regional Council should be consulted regarding any activity within 10 metres of the Whanganui River or within 8 metres of the landward toe of a flood protection structure including stopbanks, to confirm any Regional requirements.

[10.6]10.9 RULES - PROTECTED TREES

The following rules apply to any tree shown as a Protected Tree in Appendix C.

[10.6.1]10.9.1 Permitted activities.

The following are permitted activities throughout the District:

- a. Minor trimming and maintenance to any protected tree. This is limited to:
 - i. trimming and clearance of foliage or branches no greater than 100mm in diameter from existing utility networks which have the potential to compromise the operation of the network utility (or access to), street lights or land boundary encroachments that does not alter the shape or health of the tree;