



**NOTICE OF SUBMISSION BY POWERCO LIMITED ON PROPOSED PLAN CHANGE
39 (ARCHAEOLOGICAL AND OTHER SITES) TO THE WANGANUI DISTRICT PLAN**

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A. INTRODUCTION

1. Powerco Limited (*Powerco*) is New Zealand's second largest gas and electricity distribution company and has experience with energy distribution in New Zealand spanning more than a century. The Powerco network spreads across the upper and lower central North Island servicing over 400,000 consumers. This represents 46% of the gas connections and 16% of the electricity connections in New Zealand. These consumers are served through Powerco assets including nearly 8,500 kilometres of electricity lines (including overhead lines and underground cables) and 850 kilometres of gas pipelines.
2. Powerco supplies electricity to the whole of the Wanganui district by way of its electricity sub-transmission and distribution network. The extent of Powerco's network is illustrated on the asset map included as **Attachment 1**.
3. Powerco's electricity sub-transmission and distribution assets are recognised as being physical resources of national or regional importance in accordance with Policy 3-1 of the Manawatu – Wanganui One Plan.

The Resource Management Act 1991

4. Under the Resource Management Act 1991 (*RMA*), Powerco's electricity infrastructure is a significant physical resource that must be sustainably managed, and any adverse effects on that infrastructure must be avoided, remedied or mitigated.

B. GENERAL SUBMISSION ON PLAN CHANGE 39 ARCHAEOLOGICAL SITES:

5. Reliable and constant energy supply is critical to sustaining New Zealand's economy, population and way of life and demand for energy is constantly increasing. Powerco faces an increasing number of constraints, in terms of providing a secure and reliable supply of energy (both gas and electricity) to meet increasing demand and population growth.
6. It is critical that the planning documents that guide development within the Wanganui district adequately provide for the core strategic infrastructure that is required to support growth and which contributes to the social, economic and cultural wellbeing of communities. Unless these issues are appropriately addressed the sustainable management purpose of the RMA will not

be achieved, Powerco, therefore, seeks to ensure that the provisions of Plan Change 39 Archaeological Sites (PC39):

- (a) Recognise and provide for the ongoing operation, maintenance, upgrade and development of Powerco's electricity networks
- (b) Address the relevant provisions in section 5-8 of the RMA, including with respect to the sustainable management of Powerco's assets as a physical resource;
- (c) Give effect to the relevant provisions of the Manawatu-Wanganui One Plan;
- (d) Assist the Council to carry out its statutory functions of achieving the integrated management of the effect of the use, development or protection of land;
- (e) Implement the statutory tests in section 32 and the requirements in the First Schedule of the RMA;
- (f) Address as relevant the considerations identified by the Environment Court for planning instruments in decisions such as Long Bay-Okura Great Park Society Inc v North Shore City Council (and subsequent case law);
- (g) Avoid, remedy or mitigate the relevant and identified environmental effects; and
- (h) Make any alternative or consequential relief as required to give effect to the issues raised in this submission.

C. SPECIFIC REASONS FOR SUBMISSION:

7. PC 39 seeks to considerably expand the list of archaeological sites currently in the Heritage Inventory of the Operative Wanganui District Plan (*the District Plan*). The current 159 sites listed in the District Plan will increase to almost 1000 sites.
8. The purpose of PC 39 is to clarify requirements for development where archaeological sites are or may be present, and to list all known sites for protection. Information about known archaeological sites has been refined, the location of some sites has been corrected and new sites have been identified in the district. PC 39 proposes to update these findings respectively and introduce a new policy and rule package to manage subdivision, use and development at and in close proximity to these sites to reduce the risk of damage. PC 39 places emphasis on improving community protection of these sites and seeks to better enable community access to information regarding the district's archaeological resources.
9. In summary PC39 proposes to:

- amend most District Plan maps to identify the location of archaeological sites within the District;
 - amend Appendix A (Heritage Items) of the District Plan by removing currently listed archaeological sites and geological items;
 - insert a new Appendix (Appendix K – Archaeological and Other Sites) to identify the expanded and updated list of archaeological items and include the existing list of geological items; and
 - amend Chapter 9 (Cultural Heritage) by inserting new objectives, policies and rules to protect archaeological items.
10. Powerco supports the general intent of PC 39 to more accurately map the location and extent of archaeological sites within the Wanganui District and to incorporate provisions that seek to protect these sites from subdivision, use and development. However, the plan change needs to ensure an appropriate balance is achieved between recognising and providing for the safety of archaeological sites and the timely, efficient, effective and affordable provision and operation of infrastructure.
11. As currently drafted the provisions are of concern as they do not balance the protection of archaeological and other sites against the need to provide and operate infrastructure networks. Of particular concern is that the provisions will require utility operators to undertake archaeological reporting for earthworks associated with routine maintenance and upgrading of existing network utilities within a buffer area of up to 400m, in some cases, from identified archaeological sites. This is neither necessary nor desirable and will lead to delays and costs for no corresponding benefit.
12. Infrastructure (including roading, stormwater, wastewater, water supply, electricity and telecommunication networks) plays a significant role in enabling the social economic and cultural wellbeing of communities. The section 32 report for PC 39 does not consider the costs of the provisions in relation to infrastructure networks and the need to ensure the sustainable management of infrastructure as a physical resource, and in this respect, it is considered to be deficient. Nor is it considered that PC 39 promotes the sustainable management purpose of the RMA, with respect to managing the use, development and protection of physical resources.

Extent of Powerco Assets Affected by PC 39

13. Powerco has electricity assets traversing the district. While the Council has mapped the location of the nearly 1000 identified archaeological sites, the associated buffer areas have not been mapped. It is, therefore, difficult to fully understand the spatial extent of land affected by PC 39 and this is complicated by the fact that the size of the buffer area, as listed in Appendix K, varies for many of the sites. In order to get a better understanding of the extent of Powerco's network affected by PC 39, Powerco has undertaken a mapping exercise using a nominal buffer of 50m around all sites as a basis for identifying overlaps with Powerco assets. While this approach does not take into account variations in the size of the buffers, it provides a general indication of the extent to which PC 39 will affect Powerco assets across the district, noting that it is not Powerco's role to undertake this mapping for the Council. A nominal 50m buffer has been selected for all sites on the basis that this is the most common buffer area identified in Appendix K. As shown in **Attachment 1**, the archaeological buffer areas are expected to capture a significant number of Powerco assets, including both high and low voltage underground cables and overhead lines, sub transmission overhead lines and underground cables, distribution transformers, support poles, ducts and an electricity substation.

Land Disturbance (general)

14. Rules 9.10.2 and 9.10.3 relate to land disturbance within an identified buffer area of an archaeological site/s shown on the planning maps and listed in Appendix K. The rules require that where land disturbance is proposed, a report must be prepared by a qualified archaeologist identifying whether the land disturbance will damage, modify or destroy the archaeological site/s or area. Where no damage, modification or destruction will occur the disturbance is permitted (rule 9.10.2). Where the disturbance is expected to damage, modify or destroy the archaeological site, a discretionary activity consent will be required (rule 9.10.3).
15. The proposed provisions apply generally to the disturbance of land for any reason. As such, it appears that routine maintenance or upgrading of existing network utilities involving the disturbance of land (e.g. replacing electricity support structures or transformer boxes and / or carrying out earthworks required to access underground utilities) will trigger a requirement for archaeological reporting. Work involving the upgrade and maintenance of existing infrastructure will generally have limited effect on archaeological sites as any features or values associated with the site are likely to have been destroyed by the initial works

undertaken at the time the infrastructure was first installed. It is acknowledged that, in some cases, further features may be found in previously disturbed areas. However, these will typically be unexpected and are unlikely to be identified by way of an archaeological report undertaken before the works commence. In this situation the delays and costs of undertaking archaeological reporting are not justified. It is considered that a more efficient and effective way of addressing this issue and of protecting unknown features would be by way of a permitted activity rule and conditions which require adherence to an accidental discovery protocol within a previously disturbed site.

16. Powerco seeks amendments to PC 39 to provide for the operation, maintenance and upgrading of existing network utilities within the buffer areas of identified sites and areas as a permitted activity in all parts of the district, subject to compliance with an accidental discovery protocol.

Land Disturbance (road reserve)

17. Powerco considers this approach could also be appropriately applied to the development of new network utilities within the road corridor. The road corridor is previously disturbed land that contains a variety of utilities (stormwater, wastewater, electricity networks etc.). For this reason, the likelihood of uncovering or damaging an undiscovered archaeological site or area is considered to be low. Any remaining features discovered within the road corridor will typically be unexpected and unlikely to be identified by way of an archaeological report undertaken prior to the commencement of works, noting that there are also practical difficulties with undertaking preliminary investigation work in an operational road corridor. In this regard, Powerco considers the implementation of an accidental discovery protocol, as a permitted activity condition, is a more efficient and effective way of managing the potential adverse effects of developing new network utilities in the road on the identified archaeological sites. Within the Council road corridor, such controls could also be triggered by way of the 'before you dig' process.

Accidental Discovery Protocol

18. As part of the amendments sought, Power seeks to implement an 'accidental discovery protocol' as a permitted activity standard for land disturbance associated with the upgrade and maintenance of existing network utilities and the installation of new network utilities in the road where the land has been previously disturbed. Powerco considers this to be a sensible and pragmatic way of addressing potential adverse effects of such works on

archaeological features and notes that this type of approach has been adopted by Councils in other parts of the country.

19. By way of example, the provisions relating to earthworks on Sites and Places of Significance and Value to Mana Whenua in the Proposed Auckland Unitary Plan provide for earthworks for maintenance and repair of network utilities and road networks and minor infrastructure upgrading as a permitted activity subject to general controls. These permitted activity controls include a requirement to comply with an accidental discovery protocol (refer to **Attachment 2**) and that the area and depth of excavation is consistent with the area and depth of earth previously disturbed. If the conditions of the permitted activity controls cannot be met then the works are assessed as a restricted discretionary activity. A similar protocol is proposed for PC 39.

Buffer Areas

20. Appendix K – Archaeological and other items, identifies the extent of the buffer area that applies to each site. For a significant number of the sites an estimated buffer of 50m has been applied. The note at the beginning of Appendix K indicates that the reason for the default 50m buffer is that *'these rural sites have not been specifically researched.'* The s32 report does not provide any further reason or rationale to identify how the buffer distances for each site have been set or comment on the level of research undertaken into the rural sites that have been allocated a default buffer of 50m. Furthermore it is unclear as to how the buffer areas listed in Appendix K are measured. PC 39 does not indicate anywhere whether these buffer areas represents a diameter or a radius of a circle area, or if the buffer area is in fact measured as a different shape – some archaeological items listed in Appendix K (such as number 1, 18 and 25) include a '100 x 50' buffer (for example).
21. This is a concern, particularly for any sites that may not have been specifically researched, as it is not clear that there is any effects based reason to justify the extent of the buffers or to demonstrate that the costs to land owners and other parties seeking to undertake earthworks within the buffer areas, of obtaining an archaeological report are warranted.
22. Further, the buffer areas are not identified on the planning maps and so without reviewing the buffer areas applicable to each individual site in Appendix K, it will be difficult to tell if an area is or is not affected by the rule, particularly where works are proposed on an adjoining

property. All archaeological and other sites should be ground truthed and individually defined on the planning maps by an appropriate 'circle', which incorporates any necessary buffer area around the site. Further, mapping of the buffer areas will assist network utility operators, such as Powerco, to avoid or minimise effects on identified archaeological sites when undertaking a route selection process for new assets.

RELIEF SOUGHT – RULES: ARCHAEOLOGICAL AND OTHER SITES

(Additions underlined; deletions in strikethrough)

(R1) Amend Rule 9.10.2 to provide for land disturbance for the operation, maintenance and upgrading of existing network utilities and for the development of new network utilities within the established road corridor within the buffer areas identified in the planning maps and Appendix K, as follows:

9.10.2 Permitted Activities

The following activities shall be permitted activities:

(a) Any activity that requires land disturbance and is located or undertaken within the buffer area of a site shown on the planning maps and listed in Appendix K where it has been determined by a qualified archaeologist referred to in performance standard 9.11.1 that the land disturbance shall not damage, modify or destroy the archaeological site/s or area, unless otherwise permitted by Rule 9.10.2(b) or (c).

(b) Land disturbance for the operation, maintenance and upgrading of existing network utilities within the buffer area of a site shown on the planning maps and listed in Appendix K provided compliance with performance standards 9.11.1 and 9.11.2 is achieved.

(c) Land disturbance in the road corridor for the development of new network utilities provided compliance with performance standards 9.11.1 and 9.11.2 is achieved.

(R2) Amend Rule 9.10.3 to exempt land disturbance for the operation, maintenance and upgrading of existing network utilities within the buffer areas identified in the planning maps and Appendix K and to ensure consistency with the wording used in Rule 9.10.2(a), as follows:

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

- (R3) Include two new performance standards relating to the proposed new permitted activity rules for land disturbance associated with the operation, maintenance and upgrading of existing network utilities and for the development of new network utilities within the established road corridor requiring (1) adherence to an accidental discovery protocol and (2) that the works must relate to previously disturbed land. As an example, the accidental discovery protocol could be worded along similar lines to that used in the Proposed Auckland Unitary Plan, as follows:**

9.11.2 Accidental Discovery Protocol

In the event of an accidental discovery of an archaeological site, archaeological material, artefacts or potential human remains (kōiwi), the project manager or representative shall ensure that the following steps are taken:

1. Cease work:

Within 10 metres of any part of the discovery, all earth disturbing machinery must immediately shut down and earth moving work must cease. The immediate vicinity of the discovery must be secured to restrict access and ensure remains and/or cultural material remains in situ (undisturbed); and

2. Inform:

The following parties are to be immediately informed of the discovery:

- a. the council's heritage manager; and*
- b. the Heritage New Zealand area manager; and*
- c. the NZ Police if the discovery is of potential human remains; and*
- d. the appropriate Mana Whenua representatives (the council can assist in contacting Mana Whenua representatives).*

3. Inspect site:

A site inspection for the purpose of initial assessment and response is to be arranged in consultation with the council, and all parties that have expressed an interest to attend will be invited. A minimum of 24 hours notice will be given. Mana

Whenua may decide whether they wish to attend the initial site inspection, based on the information available at this stage.

The NZ Police are required to investigate human remains to determine whether they are those of a missing person or are a crime scene. The remainder of this process (with the exception of tikanga) will not apply until the Police confirm that they have no further interest.

4. Tikanga:

From the time of the first site inspection Mana Whenua will have an opportunity to commence with tikanga as required.

5. Assessment and response

Following site inspection and consultation between all parties, the council and Heritage NZ will determine the statutory requirements and Mana Whenua will identify the cultural requirements. Any recommended revisions to the spatial area within which work must cease shall be identified at the time of site inspection.

Mana Whenua may undertake a preliminary assessment of the Māori cultural values associated with the discovery to determine whether it is likely to be extensive, whether a more detailed site assessment is required, and whether restricted access should be maintained for an extended period pending such assessment.

6. Recommence work:

Earth moving work and other activities within the area of the discovery must not recommence until:

- a. Heritage New Zealand has confirmed that an archaeological authority has been approved for the work, or that none is required; and
- b. any required notification under the Protected Objects Act 1975 has been made to the Ministry for Culture and Heritage; and
- c. where the site is of Māori origin and an authority is not required the council will confirm in consultation with Mana Whenua that:
 - i. any kōiwi have either been retained in situ or removed in accordance with the appropriate tikanga; and
 - ii. any agreed revisions to the planned works have been made in order to address adverse effects on Māori cultural values.
- d. the council has confirmed that there are no requirements in the case of archaeological sites that are not of Maori origin and are not covered by

Heritage New Zealand Pouhere Taonga Act 2014**9.11.3 Previously Disturbed Land**

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

- (R4) Amend the planning maps to illustrate the buffer area that applies to each site in order to clearly identify the area within which the rules in Section 9.10 will apply.
- (R5) Amend Appendix K and / or the planning maps to clearly identify how the buffer areas are measured e.g. as the diameter or radius of a circle or another alternative.
- (R6) Amend Appendix K and the planning maps to remove those sites and/or buffer areas that have not been specifically researched and where there is insufficient information to justify the control of land disturbance activities as an effective and efficient means of managing actual and potential adverse effects on archaeological sites.

- D. POWERCO WISHES TO BE HEARD IN SUPPORT OF THIS SUBMISSION
- E. IF OTHERS MAKE A SIMILAR SUBMISSION, POWERCO WOULD BE PREPARED TO CONSIDER PRESENTING A JOINT CASE AT ANY HEARING.
- F. POWERCO COULD NOT GAIN AN ADVANTAGE IN TRADE COMPETITION THROUGH THIS SUBMISSION.
- G. POWERCO IS DIRECTLY AFFECTED BY AN EFFECT OF THE SUBJECT MATTER OF THE SUBMISSION THAT—
- (i) ADVERSELY AFFECTS THE ENVIRONMENT; AND
 - (ii) DOES NOT RELATE TO TRADE COMPETITION OR THE EFFECTS OF TRADE COMPETITION.

Signature of person authorised to sign on behalf of Powerco Limited



Georgina McPherson

Principal Planner

Dated this 5th day of November 2015

**Attachment 1: Map of Powerco Assets in the Wanganui District
Expected to be Affected by Plan Change 39**

[Maps submitted as a separate file due to file size]

Attachment 2: Accidental Discovery Protocol

Proposed Auckland Unitary Plan – Topic 037 Mana Whenua Sites

Proposed track changes for council's closing statement 22 July 2015 – Attachment B – Accidental Discovery Protocol

Chapter G: General Provisions

1.X Accidental discovery protocols

This process applies to accidental discovery during land disturbance in Chapter H4.2, and disturbance in the General Coastal Marine zone in Chapter I6. For accidental discovery of contaminated land or landfill material refer to Chapter H4.5 Contaminated Land.

For the avoidance of doubt, the protocol set out below applies only where the site or project is not already operating under:

- a. an archaeological authority issued by Heritage NZ, or;
- b. an accidental discovery protocol imposed as a resource consent condition that addresses historic heritage and Māori cultural heritage effects, or;
- c. an accidental discovery protocol certified by council and endorsed by Mana Whenua and Heritage NZ.

In the event of an accidental discovery of an archaeological site, archaeological material, artefacts or potential human remains (kōiwi), the project manager or representative shall ensure that the following steps are taken:

1. Cease work:

Within 10 metres of any part of the discovery, all earth disturbing machinery must immediately shut down and earth moving work must cease. The immediate vicinity of the discovery must be secured to restrict access and ensure remains and/or cultural material remains in situ (undisturbed); and

2. Inform:

The following parties are to be immediately informed of the discovery:

- a. the council's heritage manager; and
- b. the Heritage New Zealand area manager; and
- c. the NZ Police if the discovery is of potential human remains; and
- d. the appropriate Mana Whenua representatives (the council can assist in contacting Mana Whenua representatives).

3. Inspect site:

A site inspection for the purpose of initial assessment and response is to be arranged in consultation with the council, and all parties that have expressed an interest to attend will be invited. A minimum of 24 hours notice will be given. Mana Whenua may decide whether they wish to attend the initial site inspection, based on the information available at this stage.

The NZ Police are required to investigate human remains to determine whether they are those of a missing person or are a crime scene. The remainder of this process (with the exception of tikanga) will not apply until the Police confirm that they have no further interest.

4. Tikanga:

From the time of the first site inspection Mana Whenua will have an opportunity to commence with tikanga as required.

5. Assessment and response

Following site inspection and consultation between all parties, the council and Heritage NZ will determine the statutory requirements and Mana Whenua will identify the cultural requirements. Any recommended revisions to the spatial area within which work must cease shall be identified at the time of site inspection.

Mana Whenua may undertake a preliminary assessment of the Māori cultural values associated with the discovery to determine whether it is likely to be extensive, whether a more detailed site assessment is required, and whether restricted access should be maintained for an extended period pending such assessment.

6. Recommence work:

Earth moving work and other activities within the area of the discovery must not recommence until:

- a. Heritage New Zealand has confirmed that an archaeological authority has been approved for the work, or that none is required; and
- b. any required notification under the Protected Objects Act 1975 has been made to the Ministry for Culture and Heritage; and
- c. where the site is of Māori origin and an authority is not required the council will confirm in consultation with Mana Whenua that:
 - i. any kōiwi have either been retained in situ or removed in accordance with the appropriate tikanga; and
 - ii. any agreed revisions to the planned works have been made in order to address adverse effects on Māori cultural values.

- d. the council has confirmed that there are no requirements in the case of archaeological sites that are not of Maori origin and are not covered by Heritage New Zealand Pouhere Taonga Act 2014

Notes:

- If the proposal is amended in order to avoid further disturbance this may give rise to additional consent requirements or require a variation to an existing consent.
- The council may undertake further assessment of the site outside the accidental discovery process to determine, in consultation with Mana Whenua for sites of Māori origin. An appropriate management response to the discovery may include recording and/or protecting the site by inclusion in the Mana Whenua overlays or historic heritage overlays pursuant to a plan change process.