

BEFORE THE PROPOSED KAPITI COAST DISTRICT PLAN HEARINGS PANEL

IN THE MATTER OF **The Resource Management Act 1991**

AND

IN THE MATTER OF **The Proposed Kapiti Coast District Plan**

CLOSING STATEMENT BY REPORTING OFFICERS TO MATTERS RAISED DURING
CHAPTER 11:
INFRASTRUCTURE, SERVICES AND RESOURCE USE HEARING
15 AND 16 AUGUST 2016

1.0 Introduction

- 1.1 We, being Gina Sweetman and Rebecca Lloyd, have considered the evidence, summary statements and submissions of submitters during the course of this hearing and make the following comments in response.
- 1.2 Section 2.0 of this response focuses on the specific issues raised by submitters in relation to Chapter 11 provisions. Section 3.0 of this response responds to specific questions raised by the Panel that are not addressed in the responses under Section 2.0. Appended to this closing statement is an updated version of Chapters 1 and 11 which sets out our further recommended amendments in response to evidence. Where we recommend further changes, these are in green text. Changes recommended in our opening statement are shown in red text.
- 1.3 The following submitters tabled evidence, summary statements, letters/emails which we addressed (in full or part) as part of our opening statement:
- Z Energy (#87/FS131)
 - New Zealand Fire Service (#404/FS174)
 - NZ Transport Agency (#457)
 - Greater Wellington Regional Council (#441)
 - New Zealand Wind Energy Association (#136)
 - Go Underground Waikanae (#220/FS107)
 - Transpower (#208/FS64)
 - Chorus (#442/FS87)
 - Spark (Telecom) (#444/FS88)
 - KiwiRail (#447)
 - Coastlands Shoppingtown (#218/FS55)
- 1.4 We note that **submitter 250/FS63 Federated Farmers** also tabled evidence in advance of the hearing. However, we did not address this in the opening statement as we did not agree to any amendments sought by the submitter. We address their evidence in this statement.
- 1.5 We note that we mentioned in our opening statement that **submitter 460/FS175 Heritage New Zealand Pouhere Taonga** had sent a letter supporting the recommendations contained in respect of **submissions 460.49, 460.50, 460.51 and 460.52** and **further submission 175**. The letter also rightfully acknowledges that we had incorrectly included the submitter as having made a further submission on submission 447.24 KiwiRail. We apologise for this error.
- 1.6 In order of appearance, submitters or their representatives who attended the hearing were:
- Chorus and Telecom (#442/FS87 and 444/FS88)
 - New Zealand Transport Agency (#457)
 - Transpower (#208/FS64)
 - Coastlands Shoppingtown (#218/FS55)
 - Peter and Dian Kiernan (#116/FS33)
 - Ferial Falconer (#135/FS143)
 - John Baldwin (#608)
 - KiwiRail Holdings Ltd (#447)
 - Juergen Jenkner and Kapiti High Voltage Coalition Inc (#338 and 540)
 - Michael Alexander (#393/FS14)
 - Lowell Manning (#453/FS241)

- John Le Harivel (#166/FS11)
- Mari Housiaux and Friends of Te Hapua Dune and Wetlands Society Inc. (#511 and 341)

1.7 A statement from **submitter 264/FS125 Maypole Environmental Ltd** was tabled at the hearing. We address that statement in this closing statement.

1.8 In our opening statement presented at the hearing, we solely focussed on any further changes we recommended in response to matters raised by the above submitters, where we agreed with those matters. In this closing statement, we focus on matters raised by the above submitters where we do not agree with the submitters evidence and on matters raised by submitters at the hearing or in tabled evidence. We and our experts do not introduce any new evidence. Both our opening and closing statements should be considered together, noting that in places we have amended our recommendations in response to further evidence presented or tabled at the hearing.

2.0 Issues Raised by Submitters

2.1 This section deals with the specific issues raised by submitters, both at the hearing and through tabled evidence.

General Provisions

2.2 In response to our Section 42A report recommendation for submission points **457.48 NZ Transport Agency**, Mr Harris commented that he still thought that ‘inappropriate’ needs further definition. In our opinion, what is appropriate or not is addressed through the relevant rules which relate to this policy and no further definition is required.

Network Utility Provisions

2.3 **Submitter 442 Chorus and 444 Telecom/Spark** prepared detailed evidence for the hearing. Both Chorus and Spark provided planning evidence from Louise Miles, Director MilesPlanning. As directed by the Panel we have communicated with Ms Miles further about the changes requested in her evidence and any refinements required to our suggested amendments proposed in our opening statement.

2.4 In regard to the evidence of Chorus and Telecom/Spark in reference to Policy 11.4 and the request for the addition of the words ‘*as far as reasonably practicable*’ to the policy, nothing presented in the evidence has lead us to change our recommendation in our s42A report; which is that these words are unnecessary. We do, however note that one of the changes recommended to Policy 11.4 in the text of our s42A report was not transferred to our recommended changes to Chapter 9. Therefore, as noted in our section 42A report (paragraph 180) we recommend that the word ‘significant’ should be added to clause a) of Policy 11.4 as shown below (additional changes are shown in green):

Policy 11.4 – Managing adverse effects

Any adverse environmental effects arising from the establishment, operation, maintenance and upgrading of infrastructure will be avoided, remedied or mitigated managed by:

- ~~a) ensuring infrastructure design is driven by an efficient resource use framework thus reducing natural resource demand;~~
- a) ~~b)~~ ensuring **significant** adverse effects are avoided, remedied or mitigated ~~minimised~~ through route, site and method selection;
 - b) ~~c)~~ minimising the effects of infrastructure on the amenity values of the surrounding area and areas of outstanding or high natural character, in particular visual effects with respect to scale, and the sensitivity of the environment in which they are located;
 - c) ~~d)~~ considering all water bodies to be valued assets and protecting the mauri of fresh and coastal water resources;
 - d) ~~e)~~ where appropriate, ensuring opportunities to enhance indigenous biodiversity as part of infrastructure design are identified and implemented;
 - e) ~~f)~~ requiring adaptive management measures (including monitoring and remediation) where uncertainty may exist around impacts over time;
 - f) ~~g)~~ requiring considering the use of offsetting measures or environmental compensation (including measures or compensation which benefit the local environment and community affected) where a 'residual effect' cannot be avoided, remedied or mitigated; and
 - g) ~~h)~~ ensuring the above considerations are provided to accomplish best practice at the time of application and construction.

2.5 The submitter stated in their evidence that there was no scope to add areas of high natural character to policy 11.9 and we agreed in our opening statement and proposed that they be deleted. When further considering this policy it has become apparent that scope does exist to include areas these areas in the policy. This is because we have made Chapter 11 a standalone Chapter which means that the policies and rules of Chapter 3 – Natural Environment no longer apply. Therefore, we consider that there is scope and it is appropriate to include high natural character in both the policy and rule framework as previously network utilities would have been subject to all of the policies of Chapter 3 including those relating to areas of high natural character. We recommend that the term high natural character should not be deleted in policy 11.9 or throughout the chapter as suggested in our opening statement.

2.6 In our opening we addressed the request by Ms Miles to add a definition for Telecommunications, but missed the request for the addition of a definition of Radiocommunications. We consider the addition is appropriate, as it is proposed that the definition of building exclude telecommunications and radiocommunications and it makes sense to define these terms. Therefore, we recommend that the Panel considers adding the definition of Radiocommunications below:

[Radiocommunications means the same as defined in section 2\(1\) of the Radiocommunications Act 1989.](#)

2.7 The submitters' request in regard to regionally significant infrastructure was covered in our s42A report and nothing presented in the evidence has changed our recommendation. We continue to assert that a plan change is needed so that the plan can give effect to the requirements of the Regional Policy Statement for the Wellington Region in regard to Regionally Significant Infrastructure.

- 2.8 The submitters request amendments to Rule 11A.0 Applicability of Rules. We consider the amendments requested to be generally acceptable (with some slight amendments) this is because:
- the reference to "such as" gives no certainty as to which district wide rules apply.
 - there is a double up in the provisions that apply to notable trees and historic heritage. There are rules that trigger consents in Chapter 11 as a result of the rules exempting scheduled heritage item, there are also rules for notable trees in Chapter 10 (not Chapter 3 - as specified), and in Chapter 10 for other heritage items.
 - there is no need to apply the zone earthwork rules as all earthworks rules are contained in Chapter 3 .
 - The reference to noise rules being "zone" rules is incorrect as there are district wide rules for noise in Chapter 12. Therefore, the chapter should be referred to specifically.
 - There are no longer any rules from other chapters specifically referenced in the rules of Chapter 11.
- 2.9 Therefore, we recommend that the Panel amends Rule 11A.0. Applicability of Rules 11A.1 – 11A.5 as follows (additional amendments show in green):

Rule 11A.0. Applicability of Rules 11A.1 – 11A.5

The provisions in this section of the Chapter apply to network utilities throughout all zones of the District. The underlying zone policies and rules do not apply to network utilities, including roads, unless specifically referred to in the relevant rule. The district wide rules, such as relating for notable trees (Chapter 10 3), and historic heritage (Chapter 10) earthworks and indigenous vegetation (Chapter 3) and zone specific rules relating to noise (Chapter 12.4) and earthworks still also do apply. Rules 11A.1 to 11A.5 shall apply to all land and activities in all Zones unless otherwise specified. ~~Where there is a conflict between any rule or standard in this chapter and any other chapter, the more stringent rule or standard shall apply.~~

Notes: [1] ~~Notwithstanding the activity category defined by Rules 11A.1 to 11A.5 for any activity, attention is also drawn to the rules:~~

[a] ~~in Chapters 3, 9, and 12 which apply to matters which apply across all zones in the District — for example, transport; and~~

[b] ~~in Chapters 5, 6, 7 and 8 that apply to specific land use Zones in the District — for example the Rural Plains Zone and the Open Space (Recreation) Zone.~~

~~The rules in these chapters may identify the activity as (or result in the activity being) a different activity category than expressed below. Additional clarity on activity category determination is provided in Chapter 1 (Section 1.1).~~

- 2.10 Within their evidence and during communication after the hearing the submitters requested the deletion of numerous standards, notes and matters of discretion within the network utilities rules of the Chapter. We consider that the submitter is correct that the majority of these notes and standards are repetitious and unnecessary. We therefore recommend that the Panel not add to the PDP notes that note the relevance of the NES, as we agree with the submitter that this only needs to be mentioned once.
- 2.11 With regard to the standards we recommend that the Panel delete these where they are repetitious of the amended applicability of rules section above, or of permitted activity standards that apply. These deletions are all shown in the attached version of the Chapter 1 and 11 amendments proposed. The number of these amendments means it is impractical to show each one within this closing statement.
- 2.12 The matters of discretion that we recommend the Panel deletes are also repetitious of other matters of discretion within the same rule.
- 2.13 We also recommend that the Panel amends the standards and rules that refer to areas where utilities are excluded. These standards and rules have been amended to provide consistent terminology and formatting to allow these to be more easily comparable and consistent.
- 2.14 We do not consider it appropriate to add standards that relate to noise into existing rules (11A.1.0 Cabinets and 11A.1.11 utilities in buildings) as requested by the submitter. This is because we consider that this is repetitious and unnecessary as the applicability of rules sections has been amended to specifically note that noise rules are to be complied with.
- 2.15 As noted in our opening statement we consider that it is appropriate to allow for masts in all flood hazard areas apart from the river and stream corridor, as masts are unlikely to trap debris. At the hearing the submitter noted that they would also like for cabinets to be permitted in these areas.
- 2.16 On further reflection we note that Chapter 9 only restricts buildings within these areas. The definition of building within the PDP as notified excludes "*Detached structures (including temporary structures) not exceeding 2.4 metres in height and not exceeding 8m² in gross floor area where they are located at least 1 metre from any adjoining property boundary.*" As far as we are aware this exclusion or, something very similar is intended to remain within the definition of building within the PDP going forward. Therefore, as this size of building will be permitted in these areas we consider it appropriate that telecommunications and radiocommunications cabinets which have a maximum height of 2m and a maximum footprint of 3m² within the road reserve and a maximum height of 3m and a maximum footprint of 8m² outside of road reserve also be permitted as the effects on the flow of flood waters will be similar.
- 2.17 In paragraphs 5.21- 5.23 of their evidence the submitters request amendments to the standards of Rule 11A.1.4 to make it clearer what kind of upgrading is allowed when adding antenna to masts. We agree with the request and consider that the amendments proposed below make the intentions of the rule clearer. Therefore, we recommend that the Panel amend Rule 11A.1.6 as follows (additional amendments show in green and amendments from the opening statement shown in red):

11A.1. Permitted Activities

The following activities are **permitted** activities, provided that they comply with all corresponding permitted activity standards (unless otherwise specified).

Permitted Activities	Standards	Reference
<p>4. 5. For any existing network utility:</p> <ul style="list-style-type: none"> a. <i>Minor upgrading</i> of any electricity and telecommunication line; b. The upgrading of all other <i>network utilities</i>, excluding: <ul style="list-style-type: none"> i. Electricity transmission lines above 110kV (100MVA capacity); ii. Gas distribution pipelines at a pressure exceeding 2000 kilopascals. 	<p>1. The network utility is in existence as at 29 November 2012.</p> <ul style="list-style-type: none"> 1. 2-Upgrading shall <u>must</u> comply with any permitted activity standard applicable to that <i>network utility</i> under rules 11A.1.23- (Radiofrequency or Electromagnetic Fields); 11A.1.98. (Masts utilised for network utility purposes); 11A.1.199. (<i>Antenna</i> attached to building for <i>network utility</i> purposes); and 11A.1.110. (Ccabinets). 2. 3-<u>Poles and support structures shall</u> <u>must</u> comply with the maximum height of 12 m and diameter of 300 millimetres. 3. <u>Any additional antenna attached to existing masts must comply with the diameter and height requirements in Rule 11A.1.89 (freestanding masts), and must not exceed either the maximum height requirements in Rule 11A.1.9.2 or the maximum height and diameter of the existing mast, whichever is greater. The additional antenna must not exceed either the maximum diameter requirements in Rule 11A.1.9 or the existing diameter of antenna attached to the mast, whichever is greater.</u> 4. <u>Any minor upgrading or upgrading must comply with rules 3A.1.2 relating to Locally indigenous vegetation and vegetation within ecological sites are provided for in rules 3A.1.2 and 3A.1.3.</u> <p>Note: The Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009 applies to the existing <u>N</u>ational Grid and applies to all transmission lines that were operational, or able to be operated, in <u>existence</u> on 14 January 2010.</p> <p>Compliance with the Electricity (Hazards from Trees) Regulations 2003 is mandatory for tree trimming and planting. The modification of notable trees identified in Schedule 10.1 is provided for in rule 10A.3.4.</p>	<p>Policies 11.1 and 11.12.</p>

2.18 During conferencing the submitter noted that there was an issue with the usability of permitted activity Rule 11A.1.5 as standard 2 of the rule actually seemed to be the substance of the rule. The submitter commented that the rule would be easier to understand if standard 2 of the rule was added to the wording of the rule. We agree with this and consider that this rule can be amended as shown below under Clause 16(2) as the meaning of the rule does not

change. Therefore, we recommend that the Panel amends Rule 11A.1.6 as follows (additional amendments show in green and amendments from the opening statement shown in red):

11A.1. Permitted Activities

The following activities are **permitted** activities, provided that they comply with all corresponding permitted activity standards (unless otherwise specified).

Permitted Activities	Standards	Reference
<p>5.6- The development and installation of any new <i>network utility</i>, except for a- electricity transmission lines above 110kV (100MVA capacity); or b- gas distribution and transmission pipelines at a pressure exceeding 2000 kilopascals, <u>provided that they are not located within:</u></p> <ul style="list-style-type: none"> <u>a) an ecological site</u> <u>b) a well defined fault avoidance area</u> <u>c) a well defined extension fault avoidance area</u> <u>d) an open space (conservation and scenic) zone</u> <u>e) an outstanding natural landscape</u> <u>f) a river corridor</u> <u>g) a- stream corridor and</u> <u>h) a ponding area</u> <u>i) a shallow surface flow area</u> <u>j) an overflow path</u> <u>k) a residual overflow path; or;</u> <u>l) a site containing a historic heritage area, building, structure or place identified in Schedule 10.1 - Historic Heritage.</u> <p><u>Unless otherwise provided for under permitted activity Rules 11A.1.6, 11A.1.8, 11A.1.9, 11A.1.10 and 11A.1.11</u></p>	<p>1. Any new network utility shall must comply with any permitted activity standard applicable to that network utility under rules 11A.1.23. (Radiofrequency or Electromagnetic Fields); 11A.1.98. (Masts utilised for network utility purposes); 11A.1.910. (Antenna attached to building for network utility purposes); and 11A.1.101. (cabinets).</p> <p>2. -Poles and support structures shall must comply with the maximum height of 12 m and diameter of 300 millimetres.</p> <p>1. 3- Compliance with the clearance distances specified in NZECP34:2001, and section 6.4.4 External Interference Prevention of NNZAS 2885 Pipelines – Gas and Liquid Petroleum.</p> <p>2. <u>4. Unless otherwise provided for any network utility under permitted activity Rules 11A.1.6, 11A.1.8, 11A.1.9, any new network utility shall must nNot be located in the following areas as identified on District Plan maps:</u></p> <ul style="list-style-type: none"> <u>• well defined fault avoidance area</u> <u>• well defined extension fault avoidance area</u> <u>• open space (conservation and scenic) zone</u> <u>• river corridor, stream corridor, and overflow path and residual overflow path</u> <u>• outstanding natural landscape</u> <u>• ecological site</u> <u>• historic heritage feature identified in Schedule 10.1 – Historic Heritage, an area identified in policy 11.9.</u> 	<p>Policies 11.1, 11.9, 11.12 and 11.19.</p>

2.19 In paragraphs 5.27-5.30 of Ms Miles’ evidence the submitter requests amendments to the rule proposed for undergrounding within some flood hazard areas. We agree with the submitter that it is more appropriate to amend this rule to apply to undergrounding in all areas, as it makes it clearer that undergrounding of such utilities is permitted. We also agree that it is appropriate delete standard 1 as it is unnecessary. Therefore, we recommend that the Panel amends Rule 11A.1.6 as follows (additional amendments show in green and amendments from the opening statement shown in red):

11A.1. Permitted Activities

The following activities are **permitted** activities, provided that they comply with all corresponding permitted activity standards (unless otherwise specified).

Permitted Activities	Standards	Reference
6. <u>New underground telecommunications and radiocommunications facilities located within any ponding area, overflow path or residual overflow path.</u>	<p>4. Any new network utility must comply with any permitted activity standard applicable to that network utility under rules 11A.1.2. (Radiofrequency or Electromagnetic Fields); and 11A.1.11. (cabinets).</p> <p>Note: Compliance with the clearance distances specified in NZECP34:2001, and section 6.4.4 External Interference Prevention of NNZAS 2885 Pipelines – Gas and Liquid Petroleum will be required by other regulations.</p> <p>The Resource Management (National Environmental Standard for Telecommunication Facilities) Regulations 2008 applies to the installation and operation of telecommunication facilities within road.</p>	Policies 9.1, 9.2, 9.3, 9.4, 9.8, 9.9, 9.1, 9.12, 11.1, 11.9, 11.12 and 11.18 9

2.20 The submitter reiterated in their evidence the request to increase the diameter of antenna attached to masts in the District Centre Zone to 5m. We have not changed our recommendation that 5m is too large; however, on reflection we consider that a diameter of 2m is appropriate. This diameter is in line with the recent Porirua City Council network utilities plan change.

2.21 We consider that the District Centre Zone has the ability to absorb bigger antenna than most Rural and Residential Zones; however, we do not consider it has the same capacity as the Airport Zone or Industrial Zone as purported by the evidence of the submitter. We consider that these areas are more industrial in nature and have a different level of visual amenity than that expected within the District Centre zone. Therefore, we recommend that the panel amends the diameter of antenna table under rule 11A.1.8 standard 4 as follows (additional changes shown in green):

Zone	Horizontal circle within which <i>antenna</i> located
Residential, Beach Residential, Ngarara, Waikanae North Development	0.75 metres

Rural Plains, Rural Dunes, Rural Residential, Rural Eco-hamlet	0.75 <u>2</u> metres
Rural Dunes, Rural Residential, Rural Eco-hamlet	<u>1.2</u> meters
Industrial	5 metres
<u>District Centre Zone</u>	<u>2</u> metres
Local Centre, Town Centre, Outer Business Centre, <u>District Centre Zone</u>	0.75 metres
All Open Space zones, Private Recreation and Leisure	0.75 metres
Airport (subject to designation)	0.75 <u>5</u> metres

2.22 The submitter requests in evidence that all of the standards from rule 11A.3.4 be deleted. We agree that two of these standards are not necessary for the reasons noted above; however, we consider that standard two is important as it notes the areas where masts are not restricted discretionary, but are discretionary. We do not accept this request and consider that it is appropriate that standard 2 of 11A.3.4 remain. Therefore, we recommend that rule 11A.3.4 be amended as follows (additional amendments show in green and amendments from the opening statement shown in red):

11A.3 Restricted Discretionary Activities

The following activities are **restricted discretionary** activities, provided that they comply with all corresponding restricted discretionary activity standards (unless otherwise specified).

Restricted Discretionary Activities	Standards	Matters over which Council will restrict its discretion	Reference
<p>4. 8.Any</p> <ul style="list-style-type: none"> <i>freestanding mast, with or without antenna,</i> <i>antennae attached to a building, domestic satellite dish; or</i> <i>meteorological facility</i> <p>that does not comply with one or more of the permitted activity standards under rules 11A.1.7 (standards 1 & 2), 11A.1.8 (standards 2-</p>	<p>1. Any mast, antennae, domestic satellite or meteorological facility shall must comply with permitted activity standards under rule 11A.1.32.</p> <p>2. Any freestanding mast or meteorological facility shall must not be located within; an area of natural hazard risk identified in Policy 11.9 a well defined fault avoidance area, well defined extension fault avoidance area, river corridor, stream corridor, overflow path, a Historic Heritage, outstanding natural</p>	<p>1. Any positive effects to be derived for the activity</p> <p>2. Any opportunities to reduce existing adverse effects on sensitive activities</p> <p>3. Health and safety</p> <p>4. Layout, design and location of proposed structure</p> <p>5. Colour and materials of proposed structure</p> <p>6. Visual, character and amenity effects</p> <p>7. Public safety</p> <p>8. Effects on a geological site, special amenity landscape, or area of outstanding or high natural character sensitive natural</p>	<p>Policies 11.1, 11.2, 11.4, 11.11 and 11.15.</p>

11A.3 Restricted Discretionary Activities

The following activities are **restricted discretionary** activities, provided that they comply with all corresponding restricted discretionary activity standards (unless otherwise specified).

Restricted Discretionary Activities	Standards	Matters over which Council will restrict its discretion	Reference
5) and, 11A.1.9 (standards 2-4) and 11A.1.10.	landscape, or an ecological site. 3. Any antenna attached to a building must not be located on a building located within an outstanding natural landscape, an area of outstanding natural character or on a building which is identified as a historic heritage feature.	features. 9. Effect on natural character 9. Effects on historic heritage 10. Natural hazard risk management 8. 42. Adequacy of the methods of mitigation/remediation or ongoing management. 9. 43. Imposition of conditions accordance with section 402 and 108 of RMA.	

2.23 The submitter requests in the box at the end of paragraphs 5.73 & 5.74 of their evidence that the reference to transformers, substations and switching stations distributing electricity and ancillary buildings in rule 11A.4.5 be deleted. They do not give any reason for this deletion. We do not agree with this request and consider that it is appropriate that these utilities are captured under rule 11A.4.5.

2.24 The submitter requests in paragraphs 5.56 & 5.57 of their evidence that a discretionary rule be added for network utilities within buildings where the standards are not met. We consider this unnecessary as network utilities within buildings where the standards are not met would come under the default discretionary rule. We consider that this is appropriate.

2.25 The submitter requested in their submission point 442.26 Chorus and 445.15 Telecom/ Spark and in post hearing communications that the rules relating to fault avoidance areas not apply to Telecommunications and Radiocommunications. On further consideration we agree that Telecommunications and Radiocommunications should be allowed in these areas for the following reasons:

- The Civil Defence Emergency Management Act 2002 (CDEMA) requires that telecommunications and radiocommunications companies plan for and manage emergency impacts on the networks. Under section 59 of CDEMA a lifeline utility is required to take “*all necessary steps to undertake civil defence emergency management*” and be able, under section 60 to function during and after an emergency. These CDEMA obligations help to ensure that telecommunications are designed appropriately in fault hazard areas. We consider that this is an effective

means of ensuring that policy 11.9 of this Chapter is met with respect to telecommunications, without adding another layer of rules in a District Plan.

- There is no evidence of masts failing structurally and causing a risk to people, including in the Canterbury Earthquakes (as noted by Mr McCarrison when questioned by the panel).
- The well-defined and well defined fault extension areas within the plan are almost exclusively located within Rural Zones. Under the building Importance Categories on which the rules of the plan are based, 'Towers' are a Category 1 in the Rural area (which means that they should be permitted).
- The Ministry for the Environment document, "*Planning for Development of Land on or Close to Active Faults- A guideline to assist resource management planners in New Zealand*" includes 'masts' as Category 1 structures which are stated as "*structures presenting a low degree of hazard to life and other property*".
- There is little, or no risk, to people and property from masts in rural areas due to isolation.

2.26 Therefore, we recommend that the Panel amends the Chapter to allow for telecommunication and radio communications within fault avoidance areas. These amendments require the deletion of the references to fault avoidance areas in rules 11A.1.8 Freestanding Masts, 11A.3.3 Above ground lines and 11A.3.4 Freestanding masts, antenna attached to a building and meteorological. These changes are shown in amended chapter which is attached.

2.27 We agree with the submitter that further amendments are necessary to make the application of rule 11A.4.3 clearer (evidence paragraphs 5.69 & 5.70). Therefore, we recommend that specific rules that are exceptions to this rule be mentioned in the rule. The changes to the rule also include ensuring that the areas of exclusions are formatted in a way consistent with other rules and standards within the chapter and using consistent terminology. Therefore, we recommend that the Panel amends Rule 11A.4.3 as shown below (additional amendments shown in green):

11A.4 Discretionary Activities

The following activities are **discretionary** activities.

Discretionary Activities	Assessment Criteria	Reference
<p>1. <u>Any new above ground network utility not provided for under Rules 11A.1.6, 11A.1.8, 11A.1.9, 11A.1.10, 11A.1.11, 11A.3.2, 11A.3.3 and 11A.3.4 located within:</u></p> <ul style="list-style-type: none"> a) <u>the well defined fault avoidance area</u> b) <u>the well defined extension fault avoidance area</u> c) <u>an ecological site</u> d) <u>the open space (conservation and scenic) zone</u> e) <u>an outstanding natural landscape</u> f) <u>an ecological site</u> g) <u>a riverStream Corridor</u> h) <u>a streamRiver Corridor; or</u> f) <u>a site containingwith a historic heritage feature area, building, structure or place identified in Schedule 10.1 - Historic Heritage.</u> 		<p><u>Policies 9.2, 9.4, 11.1 and 11.4.</u></p>

2.28 In paragraph 5.79 the submitter re-iterates their disagreement with rule 11A.5.2 which makes network utility structures over 13m in height within an outstanding natural landscape a non-complying activity. We consider that the submitter has not introduced any new reasoning as to why they disagree with this rule and therefore, we have not changed our recommendation and continue to consider Rule 11A.5.2 appropriate for the reasons given in our s42A report and do not recommend any changes to this rule in regard to radiocommunications and telecommunications. An amendment is proposed to this rule below in regard to the National Grid.

2.29 The submitter in evidence and during conferencing re-iterated their belief that the plan should be amended to be in line with the proposed amendments to the National Environmental Standards for Telecommunications Facilities. We consider that as the amended NES is only in a confidential draft form at this point in time it would not be appropriate to take it into consideration as it may still be amended. Indeed, it is not publicly accessible to even be considered at this stage, beyond a September 2015 recommendations on proposed amendments document. When the NES is amended and operative the Council will be required to take it into account. If the NES is amended before a decision on the PDP is recommended by the Panel, then we consider that the Panel could take the amended NES into account and amend this Chapter accordingly (noting that amendments to reflect a NES need not go through a Schedule 1 process).

Federated Farmers

2.30 In response to **submission 250.60** and the evidence tabled by **Submitter 250/FS 63 Federated Farmers**, we consider the matters raised by the submitter relate more to other legislation in respect of property access for the purpose of infrastructure maintenance and upgrades rather than the District Plan. No rule in a District Plan can override the requirements set out in the other legislation. That is secondary legislation, such as rules in plans, cannot override primary legislation, that is, Acts of Parliament. The landowner does not need to participate in a resource consent process to address the matters that the submitter has set out in 4.5 of the tabled evidence; these matters relating to the right of an infrastructure provider to access and

occupy private land are already addressed through other legislation. We disagree entirely with the submitters statement in 4.8 that permitted activity status enables activities to occur without consideration of the needs of and affects [sic] on landowners. Yes, permitted activity status enables activities but it does not override in anyway other legislative requirements. Our recommendation does not change.

- 2.31 In response to **submission 250.61** and the evidence tabled by **Submitter 250/FS 63 Federated Farmers**, in respect to minor upgrading, we do not support the inclusion of the words “injuriously affected” into the definition of minor upgrading. We consider that this term is subjective and requires a degree of assessment and therefore could not meet the legal requirements for what constitutes a permitted activity. That is, a permitted activity rule, and its standards, need to be certain and can not include any element of discretion. What one person considers is injuriously affected will most likely differ to that of another person. The submitter also raises the same property ownership issues as to why they consider there should be a different activity status. Our same response to submission 250.60 applies.

Access and Transport

- 2.32 We have not addressed the evidence presented at the hearing by Coastlands. We will address the Coastlands submissions within the closing evidence to Chapter 6.
- 2.33 In respect of **submission 457.50 NZ Transport Agency** to delete the reference to the Crime Prevention through Environmental Design (CPTED) principles. Mr Harris for NZTA argues that it is a course planning mechanism and that the argument used in the s42A for not referencing the NZTA Policy Manual equally applies. In response, firstly, the RMA is clear in respect to referencing external documents; that any reference has to be to a specific version and date of a document; it does not provide for a loose reference to a document which is what was sought by NZTA. In respect to Mr Harris’s concerns about the reference to CPTED principles in Policy 11.34, his concern that the same argument should apply to the CPTED principles as to the NZTA Manual is not valid, as the CPTED principles are actually contained within Appendix 5.5 of the PDP and are therefore not externally referenced documents. In respect of Mr Harris’s concern that not all of the CPTED principles are necessarily compatible with operating a transport network, we note that this is a policy to be assessed and not a standard to comply with, which provides flexibility if some of the guidelines are not as relevant to particular matter. We maintain our recommendation that the reference to CPTED should not be deleted.
- 2.34 **Submitter 116/FS33 Peter Kiernan** presented evidence as to why he considered that Waterfall Road, Emerald Glen and Valley Road should be identified as a major connector road in the PDP (submission 116.4). He also requested that Paekakariki Hill Road should also be identified as major community corrector in the PDP, while also acknowledging that this was not relief sought in his submission.
- 2.35 Mr Trotter advises in respect of the matters raised by Mr Kiernan that:

“NZTA has an expectation that road hierarchies in District Plans will eventually be altered to fall in line with the ONRC (One Network Road Classification) in the future, sometime during the 2018-2021 NLTP period. Kapiti Coast District Council has already carried out the classification of roads under the ONRC as required by NZTA in time for the 2015-2017 NLTP period. Under the ONRC classification system Waterfall Road has been assigned the status of Secondary Collector Road, in terms of the hierarchy of the ONRC this classification sits one level above the lowest category of local access road. In view of this I consider it appropriate that the

classification of Waterfall Road under the PDP classification should be changed from a Neighbourhood Access Route to a Local Community Connector. This more accurately matches the status of the road under the ONRC. In the submission Mr Kiernan talked about making the road a Major Community Connector road, in my opinion this would not be appropriate as this classification would align with an Arterial Road (ONRC) which has only been assigned to the busiest and most critical roads in the district. Mr Kiernan points to Otaki Gorge Road, Reikorangi Road and Akatarawa Hill Road as being Major Community Connectors and their similarities (with the exception of Otaki Gorge Road) to Waterfall Road. However under the ONRC these are classified as follows:

- Akatarawa Hill Road – Primary Collector
- Reikorangi Road – Primary Collector
- Otaki Gorge Road – Secondary Collector

Under the ONRC classification there is discretion to lift roads up one level if there is a need to do this for critical connectivity (no alternative route). This factor has been applied to both Akatarawa Hill Road and Reikorangi Road which have been lifted from the default category of Secondary to Primary Collector. Otaki Gorge Road is classified as Secondary Collector due to the level of traffic flow on the road setting the classification. In summary all three roads (Akatarawa Hill, Reikorangi and Otaki Gorge Roads) referred to by Mr Kiernan under the default ONRC classification fall into the secondary collector class based on traffic flow and as such align with the Local Community Connector status in the Proposed District Plan. On this basis I am satisfied that amending the classification of Waterfall Road to local community connector is consistent with the approach taken to road classification for similar roads under the ONRC.

The other issue of Paekakariki Hill Road not being shown on the PDP road hierarchy maps was addressed at the Hearing by me in that I agreed that this road should be included on the maps and would be classed as a Major Community Connector. Under the ONRC the Paekakariki Hill Road default classification was a secondary collector road and was lifted to primary collector on the basis of critical connectivity and to align with the Porirua City Council status for their portion of the road.'

- 2.36 We adopt Mr Trotter's expert advice, and therefore recommend that:
- a. Waterfall Road be re-classified as a local community connector road, and that the Transport Hierarchy Map contained in Volume 3 of the PDP be amended accordingly.
 - b. That part of Paekakariki Hill Road that falls within Kapiti Coast District be re-classified as a major community connector, and that the Transport Hierarchy Map contained in Volume 3 of the PDP be amended accordingly.
- 2.37 In respect of the latter point, we note that Paekakariki Hill Road is not shown on the maps, which is clearly an error. We consider that clause 16(2) would be appropriately used to fix this oversight.
- 2.38 **Submitter 135/FS143 Feriel Falconer** expressed that there needed to be a separate policy providing for bridleways, and that the existing policies focused more on other forms of transport. In response, we note that Policy 11.36 – Cycling, walking and bridleway links and safety, expressly refers to bridleways in its heading. However, we acknowledge that the wording of the policy itself does not refer to bridleways.

- 2.39 On discussion with Mr Trotter, we consider that it would be unwise and not feasible to incorporate bridleways into every new subdivision. However, we also recognise the importance of providing for all modes of travel especially in areas where development does provide an opportunity to link to existing CWB. Accordingly, we recommend amended wording to Policy 11.36, while recognising that the bridleways are a more restricted form of transport, due to health and safety implications for riders and practicality.

Policy 11.36 – Cycling, walking and bridleway links and safety

Subdivision, use and development will be as far as practicable, located and designed to make walking, and cycling and the use of bridleways safer, more enjoyable and convenient in accordance with the Crime Prevention Through Environmental Design (CPTED) Guidelines set out in Schedule 5.5 and the following principles:

- a) new street linkages will provide safe pedestrian access to shops and services and public transport nodes;
- b) subdivision and development will:
 - i. enable cycle and pedestrian routes, both on and off road, that which offer good continuity; and
 - ii. avoid large blocks that sever connectivity; and
 - iii. consider opportunities to provide bridleways in suitable locations;
- c) development will provide for convenient cycle parking facilities in centres; and
- d) pedestrian and cycle routes will have well designed and built facilities including surface conditions, lighting, signage and passive surveillance from adjacent development.

- 2.40 We note that there are no rules within Chapter 11 that would provide for the consideration of opportunities to provide bridleways in suitable locations; rather, such provisions would be more appropriate in the Rural Environments where bridleways are more likely to be suitable. We note that the matters of discretion relating to Rules 7A.3.2 and 7A.3.8 already do (or are recommended to) include the provision of walking, cycle pathways and bridleways. We therefore consider that this policy, as recommended to be amended, is appropriately reflected through the rule framework.

- 2.41 **Submitter 608 John Baldwin** sought that:

- existing footpaths be converted to shared pathways
- there should be shared pathways
- the rules should include standards around shared pathways and cycleways.

- 2.42 In respect of the first point, we note and agree with Commissioner McMahon's explanation at the hearing that the RMA, and District Plan rules, cannot apply retrospectively; that is, a rule in a Plan cannot require conversion of existing footpaths to shared pathways. It is only when development occurs that the rules in the District Plan can apply. Rather, the conversion of footpaths to share pathways could only occur through a different process, such as the Council through its Long Term Plan and Annual Plan processes budgeting for and

implementing such a change. Mr Trotter concurs that it would be nice to be able to provide wider footpaths in more locations; however, the Council has limited funds and is following a strategic direction with regard to the approach to current cycleway provision through the Stride and Ride project and has set locations for providing these facilities.

- 2.43 In respect of the second point, we note that Rule 11E.2.1, new roads, includes standard 2 requiring cyclepaths to be provided either as on-street cycle lanes, off-street shared paths or off-street dedicated cycle paths. Standard 1 only requires foot paths on both sides of the road carriageway in the centres zones. We consider that it is appropriate that standard 2 provides for different approaches to the provision of cyclepaths, as a shared path will not always be an appropriate option.
- 2.44 In respect of the third point, we note that in response to **submission 52.7 Kapiti Cycling Incorporated**, we have recommended the addition of the need to consider a range of documents for any new road under Rule 11E.2.1. These include the AUSTRROADS guide to traffic engineering practice Part 14 Bicycles and Part 6A Guide to Road Design – Pedestrian and Cycle Paths and the New Zealand Transport Agency Cycle Network and Route Planning Guide 2004. We consider that Mr Baldwin’s concerns are adequately addressed by the PDP as proposed and recommended to be amended and do not recommend any further amendments.
- 2.45 In response to our Section 42A report recommendations for submission points **447.22 and 447.23 KiwiRail Holdings Ltd**, the submitter seeks some further additional wording to Rule 11P.18, Vehicle Access across a railway level crossing. The submitter specifically sought that standard 2 specifically referred to no new vehicle crossings and considered our recommended wording was obtuse.
- 2.46 We have considered this request and we concur that there could be clarity. We had recommended a wider reference to access way as it is not just vehicle crossings that can create a potential health and safety effect. However, on reflection, there is an issue of scope insofar as the Rule itself expressly just relates to vehicle crossings. In response to the submitter’s concern, we recommend the following amendment:
- ~~There shall be no new vehicle crossing access way shall be located created~~ within 30m of a level crossing.
- 2.47 **Submitter 447** also sought assurance that the existing KiwiRail designations contained in the Operative District Plan were being rolled over. We can confirm this is the case. The issue is, as explained in our Section 42A report, with the modifications sought to the existing designation, which were not lawfully included within the public notice at the time that the PDP was notified. We can confirm that it is the Council’s intention to prioritise reflecting this error with the submitter and progressing the necessary s181 of the Resource Management Act 1991 process.
- National Grid**
- 2.48 In response to our Section 42A report recommendations for **submission points 208.58, 208.59 and FS64** in response to **submission 440.76 Kapiti Coast District Council, Submitter 208/FS64 Transpower** set out further argument in their statement to the Panel. After further consideration of the evidence presented, we recommend the following.

- 2.49 In respect of **submission point 208.58**, we agree that Policy 11.9 does not accurately give effect to the NPSET, insofar as policy 8 of the NPSET does use the term “seek to avoid”. In response, having considered this further, we recommend that a new Policy is created which is specific to the National Grid’s proximity to planning features, and Policy 11.9 is amended so that it does not apply to the National Grid. We do however recommend more expansive wording than recommended by Transpower at the hearing, which we have done in conjunction with Transpower. Through this exercise, we have identified that the Policy as notified does not accurately reflect Policy 7 of the NPSET which requires that adverse effects on areas of high recreational value or amenity and existing sensitive activities are to be avoided in urban areas. The policy is more lenient than is set out in the NPSET. However, we do not consider that there is scope within the submissions to make the policy more stringent as to reflect policy 7 of the NPSET. We recommend a future plan change to address this. We set out below our recommended amendments, this includes amendments recommended in our opening statement (additional amendments show in green and amendments from the opening statement shown in red):

Policy 11.9 – Proximity to planning features (excluding the National Grid)

New network infrastructure will be managed to:

- a) ~~avoid inappropriate aboveground new works areas of hazard risk and adverse effects on sensitive natural features and historic heritage features~~ in the following areas as identified on District Plan maps:

 - i. outstanding natural landscapes;
 - ii. areas of outstanding **or high** natural character;
 - iii. well defined fault avoidance area;
 - iv. well defined extension fault avoidance area; and
 - v. river corridor, stream corridor and overflow path**

and

- b) avoid, remedy or mitigate adverse effects on the following features and areas identified on District Plan maps:
 - iii. open space (conservation and scenic) zone;
 - iv. ecological sites;
 - v. geological sites; **and**
 - vi. **special amenity landscapes; and**
 - ~~v.~~ historic heritage features.**

- ~~a) well defined fault avoidance area~~
- ~~b) well defined extension fault avoidance area~~
- ~~c) open space (conservation and scenic) zone~~
- ~~e) river corridor, stream corridor and overflow path~~
- ~~f) open space (conservation and scenic) zone~~
- ~~g) an outstanding natural landscape~~
- ~~h) an ecological site~~
- ~~i) historic heritage item identified in Schedule 10.1 – Historic Heritage.~~

New policy:

Policy 11.X – Proximity to planning features - the National Grid

New National Grid infrastructure:

- a) should seek to avoid adverse effects on outstanding natural landscapes and areas of outstanding or high natural character, while:
 - i. considering the constraints imposed on achieving measures to manage environmental effects of National Grid infrastructure by the technical, locational and operational requirements of the network; and
 - ii. having regard to the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection.
- b) will be managed to avoid inappropriate aboveground new works in the following areas as identified on District Plan maps:
 - i. well defined fault avoidance area;
 - ii. well defined extension fault avoidance area; and
 - iii. river corridor, stream corridor and overflow path

and

- c) avoid, remedy or mitigate adverse effects on the following features and areas identified on District Plan maps:
 - i. open space (conservation and scenic) zone;
 - ii. ecological sites;
 - iii. geological sites; and
 - iv. historic heritage features.

2.50 In respect of **further submission 64** and the activity status of network utility structures in outstanding natural landscapes, we consider that with the amendment to Policy 11.9 as set out above, that it is appropriate and more reflective of the direction given through the NPS for a discretionary activity status to apply to the National Grid. We therefore recommend the following amendment to our recommended non-complying activity Rule 11A.5.2 as sought by Transpower:

Excluding the National Grid, N network utility structures over 13 metres in height within outstanding natural landscapes.

2.51 We note here that there is a disjoint between Policy 11.9 and this new non-complying activity rules sought by **submission 440.76 Kapiti Coast District Council**. In particular, the submission from the Council did not seek that this also apply to areas of high natural character, areas of high recreation value and amenity and existing sensitive activities, and therefore creates an inconsistency with the NPS. This is another matter which we recommend requires consideration through a subsequent plan change.

2.52 In respect of **submission point 208.59**, Transpower wishes to include reference to economic practicalities when considering the placement of network utilities underground, and also that this policy only applies to new network utilities. In our opening statement, we recommend that reference to 'new' is included within Policy 11.13, which addresses this aspect of the submission. In respect to the request to insert economic practicalities, we have reflected on the wording of the NPSET. We note that policy 3 of the NPS states:

When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision-makers must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network.

- 2.53 We note that there is no reference to economic practicalities within this policy, and neither is there within the rest of the NPS. We also note the following:
- It is more than likely that any new National Grid lines and structures will be designated and this policy would only be one consideration
 - Even if Transpower chose not to designate, this policy would only be one consideration for a decision maker who would need to consider any new lines equally against the NPS, RPS, the effects of the activity and any other matter, and then against Part 2.
 - Irrespective, we maintain our opinion that technical and operational constraints do encompass economic constraints.
- 2.54 We therefore do not recommend any further amendment. This is the last outstanding point of disagreement with Transpower.

Reverse sensitivity

- 2.55 **Submitter 250/FS63 Federated Farmers** raised a number of matters in respect of the National Grid reverse sensitivity provisions in the evidence that they tabled. We address these matters in turn. However, before we address the matters, we want to comment on paragraph 6.10 and the submitter's position that *"people are not a RMA resource but rather a health and safety issue and health and safety issues have no place in a District Plan"*.
- 2.56 Firstly, the definition of the environment in s2 of the RMA includes people and communities in clause (a). Secondly, section 5 of the RMA, its purpose, implicitly includes providing for the health and safety of people and communities within the meaning of sustainable management. In our opinion, it is quite clear that the people are included within the RMA and we are explicitly required to consider health and safety effects on people.
- 2.57 We also note that Gina Sweetman has been involved in other plan changes to give effect to the NPSET. Through this work, and as set out in Transpower's evidence, it is clear that there are potential health and safety effects on people that arise from proximity to transmission lines, particularly in the event of a line fault. The NZECP does not address these health and safety effects and therefore it is entirely appropriate and relevant for District Plans to include rules that do so, and in doing so, give effect to policy 11 of the NPSET. We note that the submitter has not made reference to the requirements of policy 11 in their paragraph 6.5; rather they only specifically address policy 10 requirements. Policy 11 requires that:
- Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its medium to long-term plans for the alteration or upgrading of each affected section of the national grid (so as to facilitate the long-term strategic planning of the grid).*
- 2.58 Sensitive activities are defined in the NPSET as *includes schools, residential buildings and hospitals*. Therefore, we do not agree with 6.10.

Policy 11.2 Reverse Sensitivity

- 2.59 We do not consider that any further amendments are required to this policy. While the PDP was notified prior to the RPS being made operative, this policy largely gives effect to

Objective 10 and Policy 10 of the RPS, regarding the protection of regionally significant infrastructure. The intent of this policy is not just limited to giving effect to the NPSET, but equally recognises that other infrastructure needs to be protected from incompatible land use, subdivision and development. Further, we note that this policy would actually only come into play when a resource consent is required and not for permitted development. We consider that it is appropriate to consider effects on existing infrastructure when development occurs, irrespective of property ownership, given the public benefits that infrastructure brings. Our recommendations do not change. We note that the evidence tabled by Transpower at the hearing states that Transpower largely supports Policy 11.2 as recommended to be amended in our s42A report.

- 2.60 We note that this is one policy where there is a disjunction with the rules that relate to it, and in particular in respect of gas transmission lines and telecommunication facilities. The PDP as notified only included a single rule relating to subdivision within 10m of a gas transmission line (Rule 11A.3.1 as notified, recommended Rule 11C.3.1) as a restricted discretionary activity. There is no rule which addresses land use and development in proximity to a gas transmission line. There are no rules or standards which address telecommunication facilities. We do not consider that there is scope within submissions to address this issue. We recommend a future plan change to address this discrepancy.

Notified Policy 11.12 / Recommended Policy 11.22 National Grid and High Pressure Gas Transmission Lines

- 2.61 We support the evidence and reasoning presented at the hearing by Transpower and maintain our position that this policy is required in addition to Policy 11.2, as it provides more explicit direction. We have not changed our recommendation that reference to gas transmission lines is removed. Yes, these are not covered in the NPSET and we never argued that they are. Rather, as stated in paragraphs 808 and 809 of our s42A report, this policy also gives effect to the RPS, and in particular policy 39 of the RPS. To remove reference to gas transmission lines would be inconsistent. However, we do note here that there is a discrepancy between this policy and Rule 11A.3.1 (recommended Rule 11C.3.1), as the policy covers land use, subdivision and development, while the rule only addresses subdivision. We note that there were no submissions received on Rule 11A.3.1 or seeking new rules be introduced, and as such, there was no scope to amend this rule or introduce new rules. We recommend that this is a matter for a future plan change to address.
- 2.62 We note that in response to our Section 42A report recommendation for submission point **263.35 Maypole Environmental Ltd**, also address this policy and seek that combined policy 11.12 be deleted (see paragraphs 11 to 13 of the legal submission tabled at the hearing). We consider that the above discussion on Policy 11.22 addresses our rationale on why this policy should be retained.

National Grid Corridor

- 2.63 As with Transpower, we do not oppose changing the term to “National Grid Subdivision Corridor” as sought by Federated Farmers as a consequential amendment and we have recommended amending the term accordingly.

National Grid Yard

- 2.64 **Submitter 338 Juergen Jenkner**, also representing **Submitter 540 Kapiti High Voltage Coalition Inc**, discussed the decision of the High Court in *Kapiti High Voltage Coalition Inc et al vs Kapiti Coast District Council and Transpower New Zealand Ltd* [CIV-2008-485-2723]. Mr Juergen advised that as a result of that judgement, Transpower was required to remove

some of the MHO-PKK A and B lines in relation to the KHVC properties by a specified timeframe. He sought assurance that the lines be removed from the LIMs of those properties. **Submitter 393/FS104 Michael Alexander** advised that some of the lines are to remain, but are to be transferred over to Electra.

- 2.65 Mr Campbell of Transpower advised at the hearing that the MHO-PKK A and B lines will be removed over the coming summer 16/17. Our advice is that when the lines are removed they will no longer be included on the District Plan Maps and therefore will not appear on the LIMs. The lines that are to remain and transfer to Electra will no longer form part of the National Grid, and therefore will no longer fall within the Rules contained in Section 11.5 – Effects on Infrastructure. There is no scope for the remaining lines which are no longer part of the National Grid to have any similar provisions as applying to the National Grid. However, any works in proximity to these lines will still need to comply with the requirements of the New Zealand Electricity Code of Practice 34; noting that this is not a Council responsibility to enforce.
- 2.66 **Submitter 393 Michael Alexander** addressed the following points:
- The MHO-PKK A and B lines, and that some would be retained and transferred and concern that lines are built out by houses and structures
 - Concern about upgrading of lines in Outstanding Natural Landscapes
 - That controls shouldn't apply under the lines, citing examples where the lines are 100m + above ground level.
- 2.67 We also note that Mr Alexander raised concerns about the accuracy of how Mr Campbell had described the MHO-PKK A and B lines, in particular that the lines are duplex lines, and sought that Mr Campbell's evidence be corrected. We consider there is no relevance to the recommended National Grid provisions as to whether the lines are single or duplex; rather the relevance is the voltage which determines the Yard setback.
- 2.68 We have addressed the first point previously.
- 2.69 In respect of the second point, the existing National Grid lines benefit from the National Environmental Standard for Electricity Transmission Activities, which includes specific provisions around upgrading. Where these provisions are not met, then a resource consent would be required and the effects on Outstanding Natural Landscapes will be considered. We have recommended that any new National Grid lines are a discretionary activity in Outstanding Natural Landscapes.
- 2.70 In respect to the last point, this relates to the difference between the NZECP34 and the NPSET. As has been previously addressed, by Transpower and ourselves, the NZECP34 does not adequately address the health and safety risks that may potentially occur from events such as line breakages. The National Grid Yard provisions are aimed at ensuring that the health and safety of sensitive activities is protected by avoiding structures used for sensitive activities within a defined yard, irrespective of how high the lines are above the structures. That is, if a line breaks, it would fall down.

Water Demand Management

- 2.71 **Submitter 453 Lowell Manning** provided further information expanding on his submission, particularly his relief sought:
- a) To scrap dual feed systems,
 - b) That toilets be mains feed,

- c) That rainwater tanks continue to be supplied to feed outdoor taps and when they run out, that householders buy water,
- d) That Council provide interest free loans
- e) That outside taps be disconnected once rainwater tanks be made available and a higher water rate be charged for excess water use; and
- f) That “and indoor toilets” be deleted from Rule 11A.1.131(a).

2.72 We note that items c), d) and e) are outside of the scope of what can be considered through this hearings process and the PDP. In respect of the other points, we have carefully read through Mr Manning’s further information. We consider that this is all valuable information that would be useful to inform a future review of the proposed recommendations. We note that the Council has already undertaken to review the success of its Water Supply Project, at which time we consider the findings of that review should form part of a review of the water demand provisions. We consider that amending the rules as sought by the submitter at this time before a comprehensive review occurs would not be appropriate.

Notional Roads

2.54 **Submitter 166/FS11 John Le Harivel** sought removal of the notional road from 12-14 Otaihanga Road. Mr Trotter’s view is that this notional road should be retained as it has potential to form an important connection between Otaihanga Road and central Paraparaumu area which provides an alternative route to Paraparaumu avoiding Ratanui Road. The Ratanui Road intersection with Mazengarb Road is under severe pressure in the am and pm peak periods with the Ratanui Road arm of the intersection currently operating at Level of Service F in both peak periods. Providing an alternative route will reduce the pressure on this part of the road network and reduce delays for residents in Otaihanga and other road users that travel to and from Paraparaumu via Otaihanga Road and Ratanui Road. The notional road shown on the plans between The Drive and Otaihanga Road is not a paper road.

2.55 We adopt Mr Trotter’s recommendation, noting the actual legal status of a notional road below.

2.73 **Submitter 511 Mari Housiaux and Submitter 341 Friends of Te Hapua Dune and Wetlands Society Inc.** sought that the notional road shown linking Peka Peka to Te Horo on Map 5B be deleted. Mr Trotter’s advice is that this notional road would connect Peka Peka to Te Horo if constructed in the future – it would be quicker for residents of the western end of Peka Peka to travel to Te Horo via a new road shown in the position of the Notional Road. This is based upon the distance travelled and the speed at which this can be undertaken. The distance if travelling by car from the crossroads intersection at Peka Peka Road/Paetawa Road to Te Horo Beach (Granville Street) via Ruakawa Street in Peka Peka) and then the notional road connecting to Te Hapua Road is approximately 9.7km and would have a travel time of around 12 minutes. The alternative route via Peka Peka Road to SH1 (not expressway) then Te Horo Beach Road to Granville Street is 12.3km and would have a travel time of 15 minutes (allow 2 minutes for delays at intersections on SH1).

2.74 In summary, Mr Trotter considers that the connection will be desirable for the local communities connecting Peka Peka to Te Horo without the need to use SH1, this may be particularly attractive to non-car modes such as cyclists as the roads will not be as busy as SH1. There are paper roads either side of the land where the notional road is shown connecting to Ruakawa Street in Peka Peka and Te Hapua Road; however, there is no paper road across the land where the notional road is shown.

- 2.75 We adopt Mr Trotter’s recommendation, noting the actual legal status of a notional road and the consents that would be required to create a road below.

Maypole Environmental Ltd

- 2.76 As noted above a statement from **submitter 264 Maypole Environmental Ltd** was tabled at the hearing. The statement addresses policies 11.9, 11.12 and 11.13. We have addressed policy 11.12 above. We do not consider that the statement tabled includes any new information and nothing within the statement has lead us to change the position expressed in our s42A report with regard to these policies.

3.0 Responses to specific questions from the Panel

Is the term Natural Systems used in the RPS?

- 3.1 The term ‘natural systems’ is used in two places in the Operative Regional Policy Statement 2013:

1. On page 7, in the discussion on what promoting sustainable management of natural and physical resources means, as follows:

“Tangata whenua consider that the life force – mauri – of natural systems needs to be protected”.

2. In Policy 25, Identifying outstanding natural features and landscapes – district and regional plans, on page 106, as part of the factors that are to be taken into account, as follows:

“(b)(iii) Naturalness: the feature or landscape appears largely unmodified by human activity and the patterns of landform and land cover appear to be largely the result of intact and healthy natural systems”.

Were the other two existing Iwi Management Plans taken into account in drafting Chapter 11?

- 3.2 We have reviewed the three section 32 reports that were prepared in conjunction with Chapter 11.
- 3.3 The Section 32 reports for Network Utilities and Access and Transport includes discussion on:
- The Proposed Ngāti Raukawa Ōtaki River and Catchment Iwi Management Plan 2000
 - Kakapanui: Te Rūnunga o Āti Awa ki Whakarongotai Inc: Ngā Kōrero mo Te Taiao: Policy Statements Manual
- 3.4 The Section 32 report on community facilities does not include any reference to iwi management plans.

Identify matters that officers recommend subsequent plan changes be promulgated for.

- 3.5 We have identified a number of matters for which we consider the Council should consider promulgating future plan changes to address. These are set out in the following table.

Matter	Comment
Regionally Significant Infrastructure	This chapter of the PDP does not give the level of recognition to Regionally Significant Infrastructure that is required by the Regional Policy Statement for the Wellington Region. We consider that a plan change will be required at a later date to ensure that the plan is in line with the RPS requirements.
Policy 11.9 and proposed Policy 11.X National Grid	Policy 11.X as recommended in response to Transpower’s submission would give effect to Policy 8 of the NPSET. However, it is not consistent with Policy 7 in respect of urban areas, as it does not provide that adverse effects on areas of high recreational value or amenity and existing sensitive activities are to be avoided. We recommend a plan change to amend the wording, as we do not consider there is scope for this amendment. As a consequence, we also recommend a review of the rule framework for new transmission lines (including rule 11A.5.2) to ensure this is consistent.
Policy 11.2 and recommended Rule 11C.3.1	There is a discrepancy between the policy as it relates to gas transmission lines and telecommunication facilities. Rule 11E.3.1 only relates to subdivision near gas transmission lines and does not address land use and development and there are no rules or standards relating to telecommunication facilities. We recommend the policy and rules and standards be reviewed.
Rule 11A.1.5	Rules 11.A.1.5 requires a consent for any new network utility which is not telecommunications or radio communications in certain areas (hazard areas, etc.) even if it is underground. The areas where these utilities are not permitted include the residual overflow path which covers a significant amount of Otaki. This means that the Council itself will require a consent to place new water, stormwater or sewage pipes underground in these areas, even if they are in the road. There is only scope from submissions to exclude telecommunications and radiocommunications from this rule.
Rule 11E.2.2	There are extraneous matters of control contained in this rule, which relates solely to carparking spaces shared by different activities (for example, but not limited to, 6, 10, 13).

What is the purpose of notional roads in the PDP?

3.6 In response to **Submitter 166/FS11 John Le Harivel, Submitter 511 Mari Housiaux and Submitter 341 Friends of Te Hapua Dune and Wetlands Society Inc.** Commissioner McMahon queried what provisions the notional roads shown on the planning maps trigger. Commissioner McMahon also asked what consents would be required for the notional road linking X and Y. We provide the following advice in response:

1. There are no provisions relating to the term “notional roads” within the PDP or the ODP. The only reference to notional roads within the planning text is in Schedule 11.3, the Transport Network Hierarchy, which we recommended be deleted. Council staff advise that they have been used as a tool for negotiation with landowners when subdivision or development occurs and may indicate a route that the Council may be

keen to pursue at a later time by way of designation. As such, they have no legal status within the PDP. We note that there is reference in in some chapters of the PDP to future link roads (see Policy 6.10, noting however that this is supported by a structure plan). We note that there were no submissions seeking that all notional roads in the PDP be deleted.

2. In respect of the proposed notional road to link Te Horo and Peka Peka shown on Map 18B, we sought advice from Matt Muspratt in terms of what consents would be required. His advice is as follows:

a. the route is affected by the following PDP features/ layers:

1. Open Space Zone & Rural Dunes Zone;
2. Coastal Environment; and
3. Significant Amenity Landscape (where it crosses the northernmost stream).

There are no ecological sites near the notional road either within the ODP or PDP.

3.7 On his reading, the following rules apply/may apply for the actual construction of the notional road (note he has excluded any subdivision provisions for this exercise, despite the fact it is likely that the construction of the notional road itself may be part of a subdivision process to vest it with Council):

- Controlled Activity - 11C.2.1 New Roads (recommended Rule 11.E.2.1);
- Potentially RD Rule 11C.3.2 Traffic Generation (recommended Rule 11.E.3.2.)
- Earthworks rules within Chapter 3:
 - PA Standard 3A.1.7.2b) – earthworks shall not be carried out within 20 of a waterbody;
 - PA Standard 3A.1.7.3 – 100m³ and 1m alteration of ground level (potentially);
 - RD Rule 3A.3.7 (only if 3A.1.7.3 is breached);
 - RD Rule 3A.3.8 (earthworks within the part of the site identified as Significant Amenity Landscape, (which is listed within the definition for Sensitive Natural Feature)
- Discretionary Rule 3A.4.3 buildings and development within a SAL;
- Discretionary Rule 3A.4.4 – Earthworks within a SAL (for the part of the site within the SAL);
- Discretionary Activity Rule 9B.4.4 – Earthworks within 20m of a waterbody (with regard to the two streams); and
- Non-Complying Rule 8.5.1 – any activity that is not listed as permitted, controlled, RD or discretionary within the Open Space zone provisions.

3.8 Overall, it appears there would need to be quite a few matters bundled into a discretionary activity consent (or non-complying if rule 8.5.1 applies) to capture all the rules and matters which need to be considered for the construction of the notional road in this area.

Do Designations lapse?

3.9 In response to **Submitter 447 KiwiRail Holdings**, Commissioner Cardiff asked whether designations lapse. We can confirm that once a designation has been given effect to (i.e. built / operational), it does not lapse, and much like a land use consent, is unlimited in duration once it has been given effect to. If a designation has not been given effect to, then it lapses after five years, unless the designation allows a longer lapse period.

3.10 However, a designation will effectively expire if it is not “rolled-over” as part of the plan review process. That is, an existing designation contained in an Operative District Plan which

the requiring authority wants to continue to be in place must formally advise the Council that it wants its designation included in the Proposed Plan, and that forms part of the notification of the Proposed Plan. In the event that an existing designation is not rolled over, then it continues to have effect until the Proposed Plan is made operative.



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Gina Sweetman



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Rebecca Lloyd

28 September 2016