

D3 14.3 General infrastructure

1. This report section is D3 of Part D Submissions Analysis of the section 42A report on the Infrastructure and Energy topic, Proposed Waikato District Plan. The report provides consideration of submissions on section 14.11, which contains the rules for General Infrastructure. The general infrastructure activity covers the operation, maintenance, repair and removal, and minor upgrading of all types of existing infrastructure, temporary infrastructure, earthworks and works on and around trees. It also covers other specified activities generally associated with infrastructure works, including service connections, minor structures, signage, CCTV, and cable and pipe bridges.

1 Introduction

2. The main themes in submissions on the general Infrastructure section are:
 - a. Clarify relationship between 14.3 General Infrastructure and the specialist section provisions 14.4 to 14.12
 - b. Definition of minor upgrading, and fine-tuning of activity-specific conditions
 - c. Definition of minor infrastructure structure
 - d. Constrain rural infrastructure and enable farming activity
 - e. Temporary activity duration
 - f. Protect Identified Area values
 - g. Protect all natural areas against infrastructure effects
 - h. Tree trimming related to electricity and telecommunication lines
 - i. Height and connections to electric vehicle chargers
 - j. Fire-fighting water supply
 - k. Water supply, wastewater and stormwater management in Rural and Country Living Zones
 - l. Subdivision service connections and vehicle access.

2 General

3. Watercare Services Limited is a further submitter on many of the original submission points. As well as supporting or opposing submissions, Watercare proposes to re-draft the provisions. Watercare's general further submissions are not addressed directly and should be accepted or rejected in accordance with the treatment of the original submission points. They are shown in Appendix I, along with recommendations.

| Submission point | Submitter | Decision requested |
|-------------------|---|---|
| 924.26 | Genesis Energy | Retain rules in Section 14.3- General Infrastructure in the same or similar form. |
| <i>FSI 198.67</i> | <i>Bathurst Resources Limited and BT Mining Limited</i> | <i>Supports 924.26</i> |

2.1 Analysis

4. **Genesis Energy** [924.26] is generally supportive of the proposed rule framework in section 14.3 of the Proposed District Plan.

5. [FS1 198.67] Bathurst Resources Limited and BT Mining Limited supports: For the reasons set out in the Bathurst Resources Group Submission, it is appropriate to make provision to ensure that mineral extraction and industry is not sterilised by sensitive activities. To provide for this, a definition of regionally significant industry that includes mineral extraction needs to be added to the plan as follows: "Regionally Significant Industry: means an economic activity based on the use of natural or physical resources in the region which have benefits that are significant at a regional and/or national scale. These may include social economic benefits. Regionally significant industry includes: Dairy manufacturing; Meat Processing; Pulp and paper processing; Mineral extraction." This further submission does not appear to be addressing the General Infrastructure topic.
6. The submission [924.26] is generally supportive of the proposed rule framework in section 14.3, and should be accepted in part, to the extent that the provisions may be amended in response to other submissions. The notified provisions are supported by the s.32 evaluation. I recommend that the further submission be accepted in part only, to the extent that it states support for the original submission.

2.2 Recommendations

7. For the reasons above, I recommend accepting in part Genesis Energy [924.26] and Bathurst Resources Limited and BT Mining Limited [FS1 198.67].

3 14.3.1 General Permitted Activities

| Submission point | Submitter | Decision requested |
|------------------|------------|--|
| 836.75 | Powerco | Retain Activity Table 14.3.1 relating to all infrastructure as notified except where rules are specifically addressed elsewhere in the submission. |
| 576.25 | Transpower | Retain Section 14.3.1 Permitted Activities AND Amend to clarify the relationship between the rules within Section 14.3 and those in the subsequent sections. |
| FS1211.46 | First Gas | Supports 576.25 |
| 749.70 | HNZC | Retain Rule 14.3.1 Permitted Activities as notified. |

3.1 Analysis

8. **Powerco** [836.75] seeks to retain Activity Table 14.3.1 relating to all infrastructure as notified, except where rules are specifically addressed elsewhere in the submission.
9. **HNZC** [749.70] seeks to retain Rule 14.3.1 Permitted Activities as notified. The submitter supports the activities listed under 14.3.1.
10. **Transpower** [576.25] seeks to retain Section 14.3.1 and to amend it to clarify the relationship between the rules within Section 14.3 and those in the subsequent sections. The submitter supports the provision of permitted activity rules. With respect to the amendment sought, the submitter presumes that the rules apply in addition to the National Grid provisions within Section 14.4. The submitter considers clarification as to the relationship between the rules

within Section 14.3 and the subsequent sections would be beneficial to assist plan users. The submitter also presumes that only limited provisions within Section 14.2 apply to the National Grid, in that the more specific provisions within Section 14.4 apply.

11. *First Gas [FS1211.46]: supports the submission which seeks to amend the rule as notified to provide clarification as to the relationship between rules within Section 14.3 and those within 14.4 (National Grid), noting that First Gas has sought an amendment seeking that those provisions referencing the National Grid be amended to also include reference to the gas transmission line.*
12. On the issue of clarifying the relationship between Sections 14.2 Rules applying to All Infrastructure, 14.3 General Infrastructure, and the specific infrastructure-type sections, I agree it would be useful to have an introductory statement in the All infrastructure and General infrastructure sections, clarifying that they apply to all infrastructure, except where a provision in the specific infrastructure-type sections deal with the same matter, in which case the specific infrastructure-type provision will apply. The 14.2 All Infrastructure section is intended to provide a permitted activity baseline and consenting framework for height in relation to boundary, operational noise, construction noise, electric and magnetic field emission and radio frequency field emissions, which are common standards applicable to most infrastructure. The 14.3 General infrastructure section is intended to provide for activities common to many or all infrastructure, such as operation, maintenance, repair and removal, minor upgrading, temporary infrastructure, associated earthworks, vegetation management, pipe and cable bridges, service connections, minor structures and CCTV in relation to Heritage Items, signage and utility allotment subdivision.
13. There is no general opposition to 14.3 General Permitted Activities. I recommend accepting in part Powerco [836.75], HNZN [749.70], Transpower [576.25] and *First Gas [FS1211.46]*, to the extent that the provisions may be amended in response to other submissions, and clarifying statements are added to 14.2 and 14.3 as to which provisions take precedence.

3.2 Recommendations

14. For the reasons above, I recommend accepting in part Powerco [836.75]; HNZN [749.70]; Transpower [576.25] and *First Gas [FS1211.46]*.

3.3 Recommended amendments

15. The following amendments are recommended:

14.3.1 Permitted Activities

- (a) The following activities are permitted activities if they meet the activity specific conditions set out in this table. These rules apply throughout the District.
- (b) The Activity and activity specific conditions in Section 14.3 apply to all infrastructure except where a provision in the specific infrastructure type section 14.4 to 14.12 deals with the same matter, in which case the specific infrastructure type provision shall prevail.

3.4 Section 32AA evaluation

16. As this amendment is clarification that specific infrastructure-type rules shall prevail over general rules, a s32AA evaluation is not required.

¹ 576.25 Transpower

4 14.3.1 PI Operation, maintenance, repair and removal of existing infrastructure

| Submission point | Submitter | Decision requested |
|------------------|------------------------|--|
| 742.87 | NZTA | Retain Rule 14.3.1 PI The operation, maintenance, repair and removal of existing infrastructure, as notified. |
| 945.48 | First Gas | Retain Rule 14.3.1 (a) PI Permitted Activities. |
| 986.78 | KiwiRail | Retain Rule 14.3.1 PI Permitted activities as notified. |
| 576.26 | Transpower | Retain Rule 14.3.1 PI Permitted Activities, as notified. |
| 692.5 | WEL Networks | Retain Rule 14.3.1 PI Permitted Activities relating to the operation, maintenance, repair and removal of existing infrastructure. |
| 405.23 | Counties Power | Add the following clauses to Rule 14.3.1 PI The operation, maintenance, repair and removal of existing infrastructure: <u>(1) The maintenance and repair of existing infrastructure that meet the following condition:</u> <u>(a) Does not increase the capacity, efficiency or security of existing infrastructure.</u> |
| FS1176.73 | Watercare Services Ltd | Supports 405.23 |
| 827.21 | NZ Steel | Amend Chapter 14: Infrastructure and Energy by moving the permitted activity contained in General Infrastructure (Rule 14.3.1 PI The operation, maintenance, repair and removal of existing infrastructure) to Rule 14.2 applying to all infrastructure. |
| FS1323.122 | HeritageNZPT | Opposes 827.21 |

4.1 Analysis

17. **NZTA** [742.87], **First Gas** [945.48], **KiwiRail** [986.78], **Transpower** [576.26] and **WEL Networks** [692.5] seek that PI be retained, as the rule provides for operation, maintenance, repair and removal of infrastructure as a permitted activity. The submitters consider that the provision enables the district to meet its requirements for effective and efficient land transport network systems, and that a permitted activity status reflects the NESETA. The submitters also state that the rule would ensure existing use rights on any existing lawfully-established activity.
18. The RPS Objective 3.12 Built Environment states: "Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by: c) integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors." The purpose of the rule is to give effect

to the RPS, clearly identifying that day-to-day work such as the operation, maintenance, repair and removal of existing infrastructure is an efficient permitted activity. For that reason, the reasons that the provision is in the PVDP, and for the reasons provided by the submitters, I recommend accepting NZTA [742.87], First Gas [945.48], KiwiRail [986.78], Transpower [576.26] and WEL Networks [692.5].

19. **Counties Power** [405.23] seeks to add clauses to Rule 14.3.1 PI requiring that the operation, maintenance, repair and removal of existing infrastructure does not increase the capacity, efficiency or security of existing infrastructure. This is for clarification of the differences between “repair of existing” and “minor upgrade of existing” infrastructure, to make it easier to read the plan.
20. *Watercare* [FS1176.73] supports because it adds clarity/assists with the implementation of the rules.
21. I disagree that clarification is required. Repair and maintenance do not include minor upgrading, and in my opinion do not require activity-specific conditions. There is a definition of ‘minor infrastructure upgrading’ in Chapter 13, which makes the distinction clear. I recommend rejecting Counties Power [405.23] and *Watercare* [FS1176.73].
22. **NZ Steel** [827.21] seeks to amend Chapter 14 by moving the permitted activity contained in General Infrastructure (Rule 14.3.1 PI) to Rule 14.2 applying to all infrastructure. The submitter considers that the rules in section 14 are generally appropriate, however amendments are required to provide certainty for existing infrastructure, particularly infrastructure that is subject to identified areas. The submitter also considers that the provisions for the maintenance, repair, replacement, upgrading or removal of existing infrastructure are duplicated and should be streamlined for clarity.
23. *Heritage NZPT* [FS1323.122] opposes 827.21: *Heritage NZPT is concerned about the unintended consequences that these amendments may have by causing adverse effects on historic heritage at the time of works, particularly the "Identified areas", which include historic heritage and subject to the acceptance of Heritage NZPT submission points Maaori sites and areas of Significance.*
24. I consider that the “operation, maintenance, repair and removal of existing infrastructure” is appropriately located in the General Infrastructure section. There is some duplication of activities, and I recommend in response to other submissions, that notes be added to 14.2 All Infrastructure and 14.3 General Infrastructure, advising that the specific infrastructure-type sections may have provisions overriding those of 14.2 and 14.3. Rule 14.3.1 PI specifically addresses the operation, maintenance, repair and removal of existing infrastructure, which has nil activity-specific conditions and extends existing use rights to allow maintenance/repair and removal. It is separate from the various rules relating to upgrading and minor upgrading, which do have activity-specific conditions. In relation to Identified Areas, I support “operation, maintenance, repair and removal” being a permitted activity within section 14.3. There may be limited value in keeping sections 14.2 and 14.3 separate, as they deal with similar types of matters, and both have parts that can be overridden by the specific infrastructure-type sections 14.4 to 14.12, but there is no significant duplication. I recommend rejecting NZ Steel [827.21], and accepting in part *Heritage NZPT* [FS1323.122], to the extent that the amendments requested by NZ Steel are not accepted.

4.2 Recommendations

25. For the reasons above I recommend that the Hearings Panel:

- a. Accept NZTA [742.87], First Gas [945.48], KiwiRail [986.78], Transpower [576.26] and WEL Networks [692.5].
- b. Reject Counties Power [405.23] and Watercare [FS1176.73]
- c. Reject NZ Steel [827.21], and accept in part *Heritage NZPT* [FS1323.122].

5 14.3.1 P2 Minor upgrading of existing infrastructure

| Submission point | Submitter | Decision requested |
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| 742.88 | NZTA | Retain Rule 14.3.1.P2 Minor upgrading of existing infrastructure as notified, subject to relief sought on Rule 14.3.1.3 and Schedule 30.2. |
| 945.49 | First Gas | Retain Rule 14.3.1 (a) P2 Permitted Activities. |
| 986.79 | KiwiRail | Retain Rule 14.3.1 P2 Permitted activities as notified. |
| 576.27 | Transpower | Retain Rule 14.3.1 P2 Permitted Activities, as notified. |
| 405.25 | Counties Power | Retain Rule 14.3.1.1 (2) (a-k) Permitted Activities relating to P2 Minor upgrading of existing infrastructure (particularly clauses (f) and (j)), except for the amendments outlined below AND Amend Rule 14.3.1.1 (2)(f) Permitted Activities as follows: (f) The addition, replacement or relocation of transformers <u>or visually similar fixtures</u> ; |
| 697.529 | Waikato District Council | Add to Rule 14.3.1 P2 Permitted Activity Minor upgrading of existing infrastructure as follows: <u>(7) The conditions in Rule 14.3.1.1(1) do not apply to road network activities or other lineal transport networks.</u> |
| 423.17 | Watercare Services Limited | Amend Activity specific condition 14.3.1.1(1) Permitted Activities relating to PI [actually P2] Minor Upgrading of existing infrastructure as follows: (1) The realignment, configuration, relocation or replacement of infrastructure and associated structures that meet all of the following conditions: (a) Are within 15m of the existing alignment or location; ... (d) Do not increase the diameter of any existing above-ground pipe by more than 1550% and (e) Do not increase the area of any existing above-ground structure by more than 1550% . |
| FS1342.115 | FFNZ | Opposes 423.17 |
| FS1134.45 | Counties Power | Supports 423.17 |

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| 405.24 | Counties Power | <p>Amend Rule 14.3.1.1 Permitted Activities relating to P2 Minor upgrading of existing infrastructure, as follows:</p> <p>(1) The realignment, configuration, relocation or replacement of infrastructure and associated structures that meet all of the following conditions:</p> <p>(a) Are within 5<u>10</u>m of the existing alignment or location;</p> <p>(b) Do not increase the height of any existing pole or support structure by more than +5<u>40</u>% to a maximum height of 15m in all zones except the Rural Zone;</p> <p>(c) Do not increase the diameter (width) of any existing pole or support structure by more than +5<u>50</u> or <u>100% increase in the case of a double pole in ALL zones</u>;</p> <p>(d) Do not increase the diameter of any existing aboveground pipe by more than +5<u>20</u>%;</p> <p>(e) Do not increase the area of any existing aboveground structure by more than +5<u>25</u>% to a maximum of 10m² as per Rule 14.2.1.1 (1) (a)</p> <p><u>(f) Do not increase the height of cabinet or box-like structures to more than 2.5m as per Rule 14.2.1.1 (1) (b).</u></p> |
| <i>FSI 342.72</i> | <i>FFNZ</i> | <i>Opposes 405.24</i> |
| 580.4 | Meridian Energy | <p>Retain the permitted activity provision for minor upgrading in Rule 14.3.1 P2, except for the amendments sought below</p> <p>AND Amend the activity specific conditions in Rule 14.3.1.1(1) as follows: The realignment, configuration, relocation or replacement of infrastructure and associated structures that meet all of the following conditions:</p> <p>(a) Are within 100m<u>5m</u> of the existing alignment or location;</p> <p>(b) Do not increase the height of any existing pole or support structure by more than 50%<u>+5%</u>;</p> <p>(c) Do not increase the diameter (width) of any existing pole or support structure by more than 50%<u>+5%</u>...</p> |
| <i>FSI 134.47</i> | <i>Counties Power</i> | <i>Supports 580.4</i> |
| 419.81 | Hort NZ | <p>Amend activity specific conditions 14.3.1.1 (2) in Rule 14.3.1 Permitted Activities, relating to P2 Minor upgrading of existing infrastructure, as follows:</p> <p>(2) Alterations and additions to overhead electricity and telecommunication lines on</p> |

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| | | existing poles or support structures involving any of the following: ... (b) The reconductoring of the line with higher capacity conductors <u>if the line was previously designed to operate at the higher capacity</u> ; ... (i) The increase in voltage of electric lines up to 110kV <u>if the line was previously designed to operate at the higher capacity</u> ; or |
| FS1342.106 | FFNZ | Supports 419.81 |
| FS1258.19 | Meridian Energy | Opposes 419.81 |
| 692.6 | WEL Networks | Amend Rule 14.3.1.1 P2 Permitted Activities, relating to P2 Minor upgrading of existing infrastructure as follows (or other amendments to give effect to the concerns raised): 14.3.1.1 (1) The realignment, configuration, relocation or replacement of infrastructure and associated structures that meet all of the following conditions: (a) Are within 5 <u>10</u> m of the existing alignment or location; (b) Do not increase the height of any existing pole or support structure by more than +5 <u>25</u> %; (c) Do not increase the diameter (width) of any existing pole or support structure by more than 15%; (d) Do not increase the diameter of any existing above ground pipe by more than 15%; and (e) Do not increase the area of any existing above-ground structure by by more than 15% <u>up to 10m²</u> |
| FS1134.51 | Counties Power | Supports 692.6 |
| 648.33; 644.33 | Chorus; Vodafone; Spark | Amend activity-specific conditions (1)(b) and (c) and (3)(a) and (b) in Rule 14.3.1.1 which relate to P2 Minor upgrading of existing infrastructure, as follows: (1) The realignment, configuration, relocation or replacement of infrastructure and associated structures that meet all of the following conditions: ... (b) Do not increase the height of any existing pole or support structure by more than 15% <u>the lesser of 25m or 30%</u> ; (c) Do not increase the diameter (width) of any existing pole or support structure by more than 15% <u>by more than twice the width of the existing pole at the widest point, unless a double pole is required to replace a single pole where the permitted pole or support structure width required is three times the</u> |

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| | | <p><u>width of the existing pole at the widest point (double poles may be required for electricity networks...</u></p> <p>(3) The addition, replacement or relocation of existing antennas where:</p> <p>(a) The antennas shall not increase in the face area by more than 20% of the relevant permitted standard for new <u>panel</u> antennas and shall not increase <u>the diameter of dish antenna by more than 20% of the relevant permitted standard for a new dish antenna</u>; and</p> <p>(b) The antennas shall not increase in height by more than 20% of the relevant permitted standard for <u>new dish and panel</u> antennas. <u>Note that the area controls are not applied to other antenna types such as those made up of rods and tubes, which are controlled by standard (3)(b).</u></p> |
| FSI 134.48 FSI 134.49 FSI 134.50 | Counties Power | Supports 644.33; 646.33; 648.33 |
| 680.280 | FFNZ | <p>Amend Activity specific condition 14.3.1.1 P2 (1) Minor upgrading of existing infrastructure as follows:...</p> <p>(e) Do not increase the area of any existing aboveground structure by more than 15%; <u>and</u></p> <p><u>(f) Shall be contained within an appropriate infrastructure easement or, if part of the National Grid, within the National Grid Yard</u></p> |
| FSI 266.22 | WEL Networks | Opposes 680.280 |
| FSI 350.57 | Transpower | Opposes 680.280. |
| FSI 258.80 | Meridian Energy | Opposes 680.280 |

5.1 Analysis

26. I note that there are submissions requesting amendments to the definition of “minor upgrading of existing infrastructure”, reported in section 14.0 Infrastructure Overall, of this s.42a report.
27. **NZTA** [742.88], **First Gas** [945.49], **KiwiRail** [986.79] and **Transpower** [576.27] all seek to retain Rule P2, as it provides for minor upgrading of infrastructure as a permitted activity, and appropriately recognises existing infrastructure and enables its ongoing use. Specific to the National Grid, the submitters note that the NESETA provides for various ‘upgrade’ works as permitted activities; and that while there are some inconsistencies with the conditions within Rule P2 and the NESETA, given that the NESETA prevails over the Proposed District Plan provisions, Rule P2 is of limited relevance to the National Grid.
28. For the reasons that the provision is in the PWDP as an efficient and effective method, and for the reasons provided by the submitters, I recommend accepting in part NZTA [742.88],

First Gas [945.49], KiwiRail [986.79] and Transpower [576.27], to the extent that the provision be amended in response to other submissions.

29. **Counties Power** [405.25] seeks to retain Rule 14.3.1.1 (2) (a-k) Permitted Activities relating to P2 (particularly clauses (f) and (j)), but to amend clause (f) to include visually similar fixtures.
30. Amendment of 14.3.1.1 (2) (f) relates to comments made by the submitter regarding what should be covered under the definition of Infrastructure and Minor Infrastructure structures.
31. I agree that the reference to “transformers” is too rigid, and that there are visually similar fixtures required within the electricity distribution networks, such as switchgear, voltage generators, connectivity cabinetry, insulator arrays and control equipment, which should be provided for. I recommend accepting Counties Power [405.25].
32. **Waikato District Council** [697.529] seeks to amend Rule 14.3.1 P2 to exempt road network activities or other lineal transport networks.
33. The submitter considers that the standards are too constraining for roads, given the length and width of roads (particularly new roads), and that they are not the most efficient approach to managing structures and activities associated with the road and transport network.
34. I agree that road network activities and other lineal transport networks, such as rail and off-road walkway/cycleways, and their associated structures, are not managed appropriately or efficiently by 14.3.1.1 (1) and they should be exempted. Road network activities are a permitted activity within Section 14.12.1. I recommend accepting Waikato District Council [697.529].

Variations on Permitted Activity Minor Upgrading of Existing Infrastructure

35. The infrastructure providers have differing operational and functional needs for their infrastructure, and are concerned about the permitted activity allowances for parts of their networks, for example pipe diameter, pole height, or pipeline routing. For that reason the submissions are addressed separately rather than bundled together.
36. **Watercare** [423.17] seeks to amend Activity-specific conditions for 14.3.1.1(1) Permitted Activities, to increase 5m to 15m in condition (a) and increase 15% to 50% in conditions (d) and (e).
37. Watercare states that the condition does not appropriately enable provision of infrastructure or recognise the technical or operational needs of infrastructure. Rule 14.3.1.1 sets the permitted standards for the minor upgrading of existing infrastructure, and Watercare considers that these standards are overly restrictive. I note that Watercare has lodged many further submissions stating that it intends to provide alternative provisions for infrastructure, similar to E26 in the Auckland Unitary Plan.
38. **FFNZ** [FS1342.115] opposes: *The proposed amendments seeking 50% increases could not be considered 'minor' upgrading. Retain the permitted activity as notified. [FS1134.45] Counties Power Limited supports: agrees that the permitted standards for minor upgrading are overly restricted.*
39. I agree that the Minor Upgrading of Existing Infrastructure provisions are overly restrictive, particularly since upgrading a pipe would need working clearance space and there may be little point in increasing the diameter of a smaller pipe by only 15%. However, there should be limits where a potential effect may require resource consent assessment or where a landowner may

be affected, particularly where changing the location of infrastructure or increasing the area of a structure. The minor upgrading provision applies to small structures or cabinets as well as much larger pump stations and reservoirs. Within the scope of the amendments requested by the submission, I recommend as follows:

- (a) Are within 5m of the existing alignment or location; ...
- (d) Do not increase the diameter of any existing above-ground pipe by more than ~~15~~ 50% ~~300mm~~ and
- (e) Do not increase the area of any existing above-ground structure by more than ~~15~~ 50% ~~25%~~.

40. The recommended limits are in my opinion more appropriate than the notified provisions, as they allow for practical day-to-day minor upgrading of that type of infrastructure. For the reasons the provisions are in the notified PWDP and to provide additional flexibility, and for the reasons above, I recommend accepting in part Watercare [423.17], FFNZ [FS1342.115] and Counties Power [FS1134.45], to the extent that the provision be partly amended.

41. **Counties Power** [405.24] also seeks to amend Rule 14.3.1.1 Permitted Activities to increase the parameters for minor upgrading, and better accommodate double poles and cabinet structures.

42. Counties Power considers that there is a need to allow for up to 40% increase in pole height to a maximum of 15m in all zones except the Rural Zone, where Rule 14.5.1.1 (a) (ii) & (iii) should apply, as this will allow for the use of modern equipment. The submitter states that the height restrictions apply to poles, and there should be a similar permitted percentage increase in height for the upgrade of pad/ground-mounted equipment; and considers that a percentage increase in area should not apply to ground/pad-mounted equipment. The submitter further notes that the area of an autotransformer is for the footprint of the pad, not the autotransformer itself, which is smaller.

43. *FFNZ [FS1342.72] opposes: The proposed amendments could not be considered 'minor' upgrading, retain the permitted activity as notified.*

44. I agree that the Minor Upgrading of Existing Infrastructure provisions are overly restrictive, particularly since there may be little point in increasing the diameter of a smaller pipe by only 15%, and poles require adequate area for strength. However, there should be limits where a potential effect may require resource consent assessment or where a landowner may be affected, particularly for moving the location of infrastructure or increasing the area of a structure. I do not consider that there is a need for the suggested (f), as height of cabinets is already controlled. Within the scope of the amendments requested by these submissions, I recommend as follows:

- (a) Are within 5m of the existing alignment or location;
- (b) Do not increase the height of any existing pole or support structure by more than ~~15-40%~~ to a maximum height of 20m in all zones except the Rural Zone, Industrial Zone, Industrial Zone Heavy and Motor Sport and Recreation Zone;
- (c) Do not increase the diameter (width) of any existing pole or support structure by more than ~~15-50%~~ or 100% increase in the case of a double pole in all zones;

- (d) Do not increase the diameter of any existing aboveground pipe by more than ~~15-20%~~ 300mm;
- (e) Do not increase the area of any existing aboveground structure by more than ~~15%~~ 25% to a maximum of 10m² as per Rule 14.2.1.1 (1) (a) [This latter part of the rule is recommended to be replaced with infrastructure-specific area limits]
45. **Meridian Energy** [580.4] seeks to amend the activity-specific conditions in Rule 14.3.1.1(1) by increasing 5m to 100m in condition (a) and increasing 15% to 50% (for pole dimensions) in conditions (b) and (c).
46. Meridian considers that the proposed limits do not allow flexibility to enable re-powering and upgrading of existing facilities, and the consequential location changes that result from upgrading wind electricity generation componentry.
47. *Counties Power* [FS1134.47] supports the increase of (c) and (d), as it aligns with their original submission. *Counties Power* does not support the proposed increase for (a), as 100m movement from an existing alignment or configuration may have an entirely different receptor and may result in adverse effects. It would be more appropriate to increase the scope to 10m rather than 100m.
48. I agree that the Minor Upgrading of Existing Infrastructure provisions are overly restrictive, particularly since there may be little point in increasing the diameter of a smaller pipe by only 15%, and poles require adequate area for strength. However, there should be limits where a potential effect may require resource consent assessment or where a landowner may be affected, and particularly for moving the location of infrastructure or increasing the area of a structure. Within the scope of the amendments requested by the submission, I recommend no change to the location/alignment flexibility, but support allowances for poles as follows:
- (a) Are within 5m of the existing alignment or location;
- (b) Do not increase the height of any existing pole or support structure by more than ~~15%~~ 40% to a maximum height of 20m in all zones except the Rural Zone, Industrial Zone, Industrial Zone Heavy and Motor Sport and Recreation Zone;
- (c) Do not increase the diameter (width) of any existing pole or support structure by more than ~~15%~~ 50% or 100% increase in the case of a double pole in all zones;...
49. **Hort NZ** [419.81] seeks to amend activity-specific conditions 14.3.1.1 (2) in Rule 14.3.1 to permit reconductoring and increases in voltage, only if the line was previously designed to operate at the higher capacity.
50. The submitter seeks to ensure that reconductoring of lines at higher capacity does not affect landowners. The submitter states that the rules permit minor upgrading of existing infrastructure, which includes reconductoring lines at a higher capacity and any increase in voltage up to 110kV. If the lines are on private property, the distances in the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) will apply, meaning that the greater the voltage, the greater the clearance distance required for buildings and structures below the lines. Hort NZ states that the increase in voltage can affect landowners and should not be able to be carried out as a permitted activity.
51. *FFNZ* [FS1342.106] supports for the same reasons. *Meridian Energy* [FS1258.19] opposes: The requested amendments unnecessarily constrain the efficient use and development of existing renewable electricity generation and transmission assets.

52. I disagree that the line capacity should be limited to earlier designs. In my opinion, electricity distribution lines should be able to be upgraded. The requested amendments unnecessarily constrain the efficient use and development of existing electricity distribution lines and renewable electricity generation and transmission assets. The RPS objectives and policies propose a corridor management approach for infrastructure corridors and support infrastructure and upgrading to support growth. I recommend that Hort NZ [419.81]; FFNZ [FSI 342.106] be rejected, Meridian Energy [FSI 258.19] be accepted.
53. **WEL Networks** [692.6] seeks to amend Rule 14.3.1.1 P2 to increase the parameters to allow a 10m distance from the existing location, allow a 25% increase in height, and allow increase in area of above ground structures by up to 10m² instead of 15%.
54. The submitter's reasoning is to enable continuation of small-scale day-to-day activities. The submitter states that a significant amount of relocations will be more than 5m outside the existing alignment or location, particularly in residential locations where space is limited. Further, WEL states that a 25% increase in pole height will enable WEL to install poles with increased heights to address clearance issues where a mid-span pole is not appropriate, such as over roads. WEL submits that 1(d) should be deleted – WEL and other utilities may occasionally run cables up poles where underground infrastructure meets overhead. The submitter states that any increase in capacity triggered by development may require increased cables sizes where the difference is 25mm versus 100mm respectively, which is greater than a 15% increase, and considers that 1(e) should be amended to refer to the permitted new infrastructure activity volume rule.
55. *Counties Power [FSI 134.51] supports in part. Counties Power's original submission requests (b) to be increased by no more than 40%, therefore opposes WEL Networks' increase of no more than 25%.*
56. I agree that the Minor Upgrading of Existing Infrastructure provisions are overly restrictive, particularly since there may be little point in increasing the diameter of a smaller pipe by only 15% - cables piped up poles require more than a 15% increase, water/wastewater/stormwater pipe bridges require a reasonable increase in diameter, and poles require adequate area for strength. However, there should be limits where a potential effect may require resource consent assessment or a landowner may be affected, particularly for moving the location of infrastructure or increasing the area of a structure. Within the scope of the amendments requested by the submission, I recommend no change to the location/alignment flexibility, but support allowances for poles as follows:
- (a) Are within 5m of the existing alignment or location;
 - (b) Do not increase the height of any existing pole or support structure by more than ~~50%~~ ~~15%~~ ~~40%~~ to a maximum height of 20m in all zones except the Rural Zone, Industrial Zone, Industrial Zone Heavy and Motor Sport and Recreation Zone;
 - (c) Do not increase the diameter (width) of any existing pole or support structure by more than ~~15%~~ ~~50%~~ or 100% increase in the case of a double pole in all zones;
 - (d) Do not increase the diameter of any existing above-ground pipe by more than ~~15%~~ 300mm; and
 - (e) Do not increase the area of any existing above-ground structure by more than ~~15%~~ 25%.
57. **Chorus** [648.33], **Vodafone** [646.33] and **Spark** [644.33] seek to amend activity-specific conditions (1)(b) and (c) and (3)(a) and (b) in Rule 14.3.1.1 to allow height increase to the

lesser of 25m or 30%, allow a greater diameter increase particularly for double poles, and refine the criteria for antennas.

58. The submitters state that a number of proposed conditions relevant to telecommunications are impractical to support rapid technical changes or maintenance requirements, and consider that the conditions are not aligned with the draft National Planning Standard for Network Utilities. The submitters seek alignment with the National Planning Standard that is currently under development, to provide practical means for typical infrastructure upgrading activity to respond with rapidly changing technology requirements.
59. *Counties Power [FS1134.48], [FS1134.49] and [FS1134.50] support: The amendments will provide a practical envelope for infrastructure upgrading activity.*
60. I agree that the Minor Upgrading of Existing Infrastructure provisions are overly restrictive, particularly since cables piped up poles require more than 15% increase, and poles require adequate area for strength and height to support spans, although I do not support trebling pole widths, or increasing pole heights by 25m. In my opinion, there should be limits where a potential effect may require resource consent assessment or a landowner may be affected, particularly for moving the location of infrastructure or increasing the area of a structure. The suggested additional text: "Note that the area controls are not applied to other antenna types such as those made up of rods and tubes, which are controlled by standard (3)(b)." does not appear to make sense after the amendments are made to (3)(b). Within the scope of the amendments requested by the submission and others above, I recommend no change to the location/alignment flexibility, but support allowances as follows:
- (1)...(a) Are within 5m of the existing alignment or location;
 - (b) Do not increase the height of any existing pole or support structure by more than ~~50% 15% 40%~~ to a maximum height of 20m in all zones except the Rural Zone, Industrial Zone, Industrial Zone Heavy and Motor Sport and Recreation Zone;
 - (c) Do not increase the diameter (width) of any existing pole or support structure by more than ~~15-50% or 100%~~ increase in the case of a double pole in all zones:...
 - (3) The addition, replacement or relocation of existing antennas where:
 - (a) The antennas shall not increase ~~in the face~~ area by more than 20% ~~of the relevant permitted standard~~ for new panel antennas and shall not increase the diameter of dish antenna by more than 20% of the relevant permitted standard for a new dish antenna; and
 - (b) The antennas shall not increase in height by more than 20% of the relevant permitted standard for new dish and panel antennas.
61. For the reasons the provisions are in the notified PWDP, for greater flexibility and certainty, and for the reasons provided by the submitters, I recommend accepting in part Counties Power [405.24], Meridian Energy [580.4] and [FS1134.47] *Counties Power on [580.4]*; WEL Networks [692.6] and [FS1134.51] *Counties Power on 69.6*; Chorus [648.33], Vodafone [646.33], Spark [644.33] and *Counties Power [FS1134.48, FS1134.49 and FS1134.50] on [648.33], [646.33] and [644.33]*, to the extent that the provision be amended, and *rejecting FFNZ [FS1342.72] on [405.24], Hort NZ [419.81] and FFNZ [FS1342.106] on [419.81]*, and accepting *Meridian Energy [FS1258.19] on [419.81]*.

62. **FFNZ** [680.280] seeks to add an activity-specific condition 14.3.1.1 P2 (1) to require that minor upgrading of existing infrastructure be contained within an appropriate infrastructure easement or, if part of the National Grid, within the National Grid Yard.
63. The submitter conditionally supports Rule 14.3.1, provided that appropriate provision is made to reflect infrastructure requirements within the Rural Zone, and/or exemption from urban-scale standards within this rule. FFNZ considers that any 'minor upgrading' to network utilities should either be contained within an appropriate easement, or if related to the National Grid, within the existing National Grid Yard. FFNZ states that farmers often experience disruption to farming activities from activities associated with maintenance, upgrading or replacement of network utilities. The submitter wishes to ensure that certain parameters are provided around the ability to undertake such upgrading, in order to limit disruptions associated with incremental creeping of intrusion into landowners' ability to manage their farms arising from network utilities seeking allowances for upgrades. FFNZ further states that among other things, farmers are concerned about occupational health and safety implications of incremental infrastructure upgrading activity intruding in private farmland and farming operations, such as droving, lambing, calving, fodder cropping, irrigator/effluent disperser operation, and land cultivation. The submitter considers that rural land uses such as farming do not present the same issues vis-à-vis infrastructure provision, that urban patterns of development present. As rural land use is characterised by low density development and population density, with wide open spaces and relative sparsity of built form, the submitter considers that infrastructure in these areas should be enabled by appropriate standards that reflect rural amenity character, intensity and scale, whilst being limited in order to avoid disruption to farming landowners.
64. **WEL Networks** [FS1266.22] opposes: *This submission seeks to include a new clause to condition 14.3.1.1 P2 requiring infrastructure to be located within easements. It is noted that easements are only required on infrastructure installed after December 1992, as infrastructure installed prior to this date is protected by section 22 of the Electricity Act 1992.*
65. *Transpower* [FS1350.57] opposes: *The submission point is opposed on the basis that minor upgrading works to the National Grid are governed by the NESETA, which prevails over the district plan provisions. The insertion sought by the submitter adds confusion to the rule and is seeking to address matters such as property and access rights which are outside the scope of the district plan.*
66. *[Meridian Energy FS1258.80] opposes: The proposed amendments conflict with Meridian's own requested amendments to the definition of 'minor upgrading of infrastructure' (in submission number 580).*
67. Minor upgrading works to the existing National Grid are governed by the NESETA, which prevails over the district plan provisions. The insertion sought by the submitter adds confusion to the rule and is seeking to address matters such as property and access rights which are outside the scope of the district plan. For the reasons provided by the further submitters, I recommend rejecting FFNZ [680.280] and accepting WEL Networks [FS1266.22], Transpower [FS1350.57] and Meridian Energy [FS1258.80].

5.2 Recommendations

68. For the reasons above I recommend that the Hearings Panel:
- a. Accept in part NZTA [742.88], First Gas [945.49], KiwiRail [986.79], Transpower [576.27]
 - b. Accept Counties Power [405.25]

- c. Accept Waikato District Council [697.529]
- d. Accept in part Watercare [423.17], FFNZ [FS1342.115] and Counties Power [FS1134.45]
- e. Accept in part Counties Power [405.24], Meridian Energy [580.4], Counties Power [FS1134.47] on [580.4]; WEL Networks [692.6] and Counties Power [FS1134.51] on [692.6]; Chorus [648.33], Vodafone [646.33], Spark [644.33], Counties Power [FS1134.48, FS1134.49, FS1134.50] on [648.33, 646.33, 644.33], to the extent that the provision is amended, and reject FFNZ [FS1342.72] on [405.24]; Hort NZ [419.81], FFNZ [FS1342.106] on [419.81]; accept [FS1258.19] Meridian Energy on [419.81]
- f. Reject FFNZ [680.280], and accept WEL Networks [FS1266.22], Transpower [FS1350.57] and Meridian Energy [FS1258.80].

5.3 Recommended amendments

69. The following amendments are recommended:

| | | |
|----|--|---|
| P2 | Minor upgrading of existing infrastructure | <p>14.3.1.1</p> <p>(1) The realignment, configuration, relocation or replacement of infrastructure and associated structures that meet all of the following conditions:</p> <ul style="list-style-type: none"> (a) Are within 5m of the existing alignment or location; (b) Do not increase the height of any existing pole or support structure by more than 15% <u>40% to a maximum height of 20m in all zones except the Rural Zone, Industrial Zone, Industrial Zone Heavy² and Motor Sport and Recreation Zone;</u>³ (c) Do not increase the diameter (width) of any existing pole or support structure by more than 15-50% <u>or 100% increase in the case of a double pole in ALL zones;</u>⁴ (d) Do not increase the diameter of any existing above-ground pipe by more than 15% <u>300mm;</u> and⁵ (e) Do not increase the area of any existing above-ground structure by more than 15% <u>25%.</u>⁶ <p>(2) Alterations and additions to overhead electricity and telecommunication lines on existing poles or support structures involving any of the following:</p> <ul style="list-style-type: none"> (a) The addition of conductors to form a twinned or duplex-pairing; (b) The reconductoring of the line with higher capacity conductors; (c) The resagging of conductors; (d) The addition of longer, more efficient insulators; (e) The addition of earth wires (which may contain telecommunication lines), earthpeaks and lightning rods; (f) The addition, replacement or relocation of transformers <u>or visually similar fixtures;</u>⁷ (g) The addition, replacement or relocation of circuits and conductors; |
|----|--|---|

² 697.518 Waikato District Council

³ 580.4 Meridian Energy; 692.6 WEL Networks; 648.33 Chorus; 646.33; Vodafone; 644.33 Spark

⁴ 580.4 Meridian Energy; 692.6 WEL Networks; 648.33 Chorus; 646.33; Vodafone; 644.33 Spark

⁵ 423.17 Watercare; 405.24 Counties Power

⁶ 423.17 Watercare; 405.24 Counties Power; 692.6 WEL Networks

⁷ 405.25 Counties Power

| | | |
|--|--|---|
| | | <p>(h) The addition or replacement of telecommunication lines and fittings;</p> <p>(i) The replacement of existing crossarms with crossarms of an alternative design;</p> <p>(j) The increase in voltage of electric lines up to 110kV; or</p> <p>(k) The installation of mid-span electricity poles in existing networks to address clearances in New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 (NZECP34:2001).</p> <p>(3) The addition, replacement or relocation of existing antennas where:</p> <p>(a) The antennas shall not increase in the face area by more than 20% of the relevant permitted standard for new panel antennas and shall not increase the diameter of dish antenna by more than 20% of the relevant permitted standard for a new dish antenna; and ⁸</p> <p>(b) The antennas shall not increase in height by more than 20% of the relevant permitted standard for new dish and panel antennas. ⁹</p> <p>Earthworks activities associated with the minor upgrading of existing infrastructure must comply with the conditions of Rule 14.3.1.3.</p> <p>(4) The minor upgrading of existing infrastructure must not remove any tree identified in Schedule 30.2.</p> <p>(5) Any trimming of a tree identified in Schedule 30.2 associated with the minor upgrading of existing infrastructure must be undertaken in accordance with the conditions of Rule 14.3.1.4.</p> <p>(7) The conditions in Rule 14.3.1.1(1) do not apply to road network activities or other lineal transport networks. ¹⁰</p> |
|--|--|---|

5.4 Section 32AA evaluation

70. Minor adjustments are made to permitted activity dimensional controls to reflect actual practice and functional needs. Road network activities and other lineal transport networks are already exempted from these activity-specific conditions, which are not relevant to transport networks.

Other reasonably-practicable options

71. The reasonably-practicable options include the PWDP provisions as notified, the recommended amendments, and the variations proposed by the submitters, in relation to the characteristics of their infrastructure. The provisions as notified do not align with the practical day-to-day minor upgrading undertaken by the submitters. Some of the amendments the submitters are requesting amount to more than minor upgrading, in my opinion, such as for example a 15m relocation of a water supply or drainage pipeline.

⁸ 648.33 Chorus; 646.33; Vodafone; 644.33 Spark

⁹ 648.33 Chorus; 646.33; Vodafone; 644.33 Spark

¹⁰ 697.529 Waikato District Council

Effectiveness and efficiency

72. The recommended amendments will more efficiently and effectively enable minor upgrading of infrastructure, and therefore better achieve the infrastructure-enabling objective of the PWDP.

Costs and benefits

73. There are environmental costs when allowing infrastructure upgrading that has more than minor effects, but I do not consider that that is what is proposed by the recommended amendments. There are significant economic and social benefits in allowing appropriate levels of upgrading across the network utility types.

Risk of acting or not acting

74. There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the rule.

Decision about most appropriate option

75. The amendment gives effect to the PWDP infrastructure-enabling objective. It is considered to be more appropriate in achieving the objective than the notified version of Rule P2 14.3.1.1 Minor Infrastructure Upgrading.

6 14.3.1 P3 Temporary infrastructure

| Submission point | Submitter | Decision requested |
|------------------|----------------|---|
| 576.28 | Transpower | Retain Rule 14.3.1 P3 Permitted Activities, as notified. |
| 986.80 | KiwiRail | Retain Rule 14.3.1 P3 Permitted activities as notified. |
| 692.7 | WEL Networks | Retain Rule 14.3.1 P3 Permitted Activities relating to Temporary Infrastructure. |
| 405.26 | Counties Power | Amend Rule 14.3.1.2 (1) (c) Permitted Activities relating to P3 Temporary infrastructure as follows: (c) The activity, including the requirements of Rule 14.3.1.2 (1) (a) and (b), must not exceed 12 <u>24</u> months in total. |

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6.1 Analysis

76. **Counties Power** [405.26] seek to extend the duration for temporary works from 12 to 24 months because infrastructure, as opposed to other land uses, is generally in place for a much longer period of time and a temporary solution for infrastructure may be required for longer than anticipated. The submitter considers that in many cases temporary infrastructure is required before a long-term solution is put in place; or projects such as road widening which may require a temporary diversion of an overhead line, can be delayed, meaning that the infrastructure is in place for longer than anticipated.

77. I consider that 24 months cannot be considered temporary, and there should not be an incentive to locate temporary infrastructure for a 24 month period. A resource consent for extension of time should be straightforward if third parties or other unforeseen circumstances cause delays. Therefore, I recommend rejecting Counties Power [405.26].
78. **Transpower** [576.28] supports a permitted activity status for temporary activities, as it recognises that in some circumstances, temporary infrastructure is required to either support existing infrastructure or facilitate the development of new infrastructure. Transpower considers a permitted activity status reflects Regulation 17 of the NESETA. **KiwiRail** [986.80] supports provision for Temporary infrastructure activities in the plan subject to criteria. **WEL Networks** [692.7] supports this rule, as it would provide for temporary activities, provided they do not exceed 12 months.
79. For the reasons the provision is in the notified PWDP - to effectively and efficiently provide clear parameters around allowing temporary infrastructure while managing reinstatement when it is removed - and for the reasons provided by the submitters, I recommend accepting Transpower [576.28], KiwiRail [986.80] and WEL Networks [692.7].

6.2 Recommendations

80. For the reasons above I recommend that the Hearings Panel:
- Reject Counties Power [405.26]
 - Accept Transpower [576.28], KiwiRail [986.80] and WEL Networks [692.7].

7 14.3.1 P4 Earthworks activities associated with infrastructure

| Submission point | Submitter | Decision requested |
|------------------|--------------|---|
| 836.67 | Powerco | Retain Rule 14.3.1.3- Permitted Activities particularly clause 3 (b) and 3 (c) as notified. |
| 692.8 | WEL Networks | Retain Rule 14.3.1 P4 Permitted Activities, relating to earthworks associated with infrastructure. |
| 742.89 | NZTA | Amend Rule 14.3.1.3((1)(c) Earthworks activities associated with infrastructure as follows: Within 10m of a watercourse <u>(excluding artificial watercourses)</u> ... OR Add a definition of "watercourse" to Chapter 13: Definitions that excludes artificial watercourses, including roadside swales and other stormwater devices; AND Amend the maximum volume of earthworks in Rule 14.3.1.3 (1(c), dependent on the definition of "watercourse". |

| | | |
|--------------------|--------------------------|--|
| 405.27 | Counties Power | <p>Retain Rule 14.3.1.3 (1) (a) and (b) Permitted Activities relating to P4 Earthworks activities associated with infrastructure, except for the amendments outlined below. AND Amend Rule 14.3.1.3 (g) Permitted Activities relating to P4 Earthworks activities associated with infrastructure as follows:</p> <p>(g) Earthworks shall not obstruct or divert any stormwater overland flow path or in <u>such a way as to</u> result in changed stormwater drainage patterns on another site.</p> <p>AND</p> <p>Amend Rule 14.3.1.3 (1) (h) Permitted Activities relating to P4 Earthworks activities associated with infrastructure to confirm earthworks does not include drilling, therefore allowing trenchless construction within a Historic Heritage site.</p> |
| 644.34646.34648.34 | Spark, Vodafone, Chorus | <p>Amend Rule 14.3.1.3 Earthworks associated with infrastructure- Activity Specific Conditions and the related rules cascade so that it is clear what the activity status is in all Identified Areas where earthworks either exceed the permitted volumes in Rule 14.3.1.3, are restricted by a clause in Rule 14.3.1.3 (e.g. scheduled historic heritage site), or where the rule is silent (e.g. Significant Natural Area)</p> <p>AND</p> <p>Amend Rule 14.2.3 NC3 Non-Complying Activities so that earthworks ancillary to infrastructure do not cascade by default to non-complying status under the rule 14.2.3 NC3</p> |
| 697.531 | Waikato District Council | <p>Amend Rule 14.3.1.3(1)(h) Permitted Activities Earthworks activities associated with infrastructure to hyperlink the references to Appendix 30.1.</p> |
| 559.150 | Heritage NZPT | <p>Retain Rule 14.3.1 P4, condition (1)(h), except for the amendments sought below AND Amend Rule 14.3.1 P4 condition (1)(h) Permitted Activities as follows:</p> <p>(h) Earthworks are not located within any Historic Heritage sites identified within Appendix 30.1, <u>or any Maaori Sites or areas of Significance as identified in Appendix 30.3 and 30.4.</u></p> |
| 697.530 | Waikato District Council | <p>Add to Rule 14.3.1.3 P4 Earthworks activities associated with infrastructure as follows:</p> |

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| | | <p><u>(i) Earthworks are not located within any Maaori Sites of Significance or Maaori Areas of Significance identified within Appendix 30.3 or 30.4.</u></p> <p><u>(j) Earthworks are not located within the dripline of a notable tree listed in Appendix 30.2.</u></p> |
| FSI 139.19 | Turangawaewae Trust Board | Supports 697.530 |
| FSI 108.20 | Waikato-Tainui | Supports 697.530 |
| 945.1 | First Gas | <u>Retain activity specific condition 14.3.1.3(3)(a) relating to Permitted Activities.</u> |
| 986.81986.82986.83 | KiwiRail | <p>Amend Activity specific conditions 14.3.1.3(1)(a) and (b) relating to P4 Permitted activities as follows (or similar amendments to achieve the requested relief):</p> <p>(1) Any earthworks associated with infrastructure must comply with all of the following conditions:</p> <p>(a) Do not exceed a volume of more than 2,500m³ for any single activity <u>(with the exception of works associated with Regionally Significant Infrastructure);</u></p> <p>(b) Do not exceed an area of more than 2,500m² for any single activity <u>(with the exception of works associated with Regionally Significant Infrastructure);</u></p> <p>Amend Activity specific condition 14.3.1.3(3) relating to P4 Permitted activities as follows (or similar amendments to achieve the requested relief):</p> <p>(3) Earthworks associated with infrastructure in Landscape and Natural Character Areas must not:</p> <p>(a) Exceed 1.5m in height in relation to the cut or fill batter face; and</p> <p>(b) Use imported soil, other than the placement of aggregate/metal on any access track or in association with laying underground infrastructure <u>and cleanfill associated with Regionally Significant Infrastructure;</u> and</p> <p>(c) Disturb or move more than 50m³ or exceed an area of 250m² in a Significant Amenity Landscape sand dune over any consecutive 12 month time period; and</p> |

| | | |
|--|---------------------------------------|--|
| | | <p>(d) Disturb or move more than 50m³ or exceed an area of 250m² in a High or Outstanding Natural Character Area of the coastal environment over any consecutive 12 month time period; and (e) Disturb or move more than 50m³ or exceed an area of 250m² in an Outstanding Natural Feature or Outstanding Natural Landscapes over any consecutive 12 month time period (<u>except for Regionally Significant Infrastructure works</u>);</p> <p>Delete Activity specific condition 14.3.1.3(1)(c) relating to P4 Permitted activities (or similar amendments to achieve the requested relief) OR Amend Activity specific condition 14.3.1.3(1)(c) relating to P4 Permitted activities as follows (or similar amendments to achieve the requested relief):</p> <p>(1) Any earthworks associated with infrastructure must comply with all of the following conditions: ...</p> <p>(c) Within 10m of a watercourse or 20m of mean high water springs do not exceed a volume of more than 5m³ and an area of more than 5m² for any single activity (<u>excluding existing rail infrastructure</u>);</p> |
| FS1323.119 FS1323.120 FS1323.121 | Heritage NZPT | Opposes 986.81, 986.82, 986.83 |
| 831.45 | Gabrielle Parson for Raglan Naturally | Amend condition for P4 Earthworks in Rule 14.3.1 Permitted Activities, to recognise that that new development should not encroach on nature and that all natural character areas (not just those of higher value) be protected through tools such as cat free covenants and similar rules imposed by the Palmerston North District Plan. |
| 576.29 | Transpower | Retain Rule 14.3.1.3 P4 Permitted Activities, except for the amendments sought below AND Amend Activity specific condition 14.3.1.3 P4 Permitted Activities, as follows: (1) Any earthworks associated with infrastructure, <u>including formation and maintenance of access tracks</u> , must comply with all of the following conditions: |
| FS1134.46 | Counties Power | Supports 576.29 |

7.1 Analysis

81. Powerco [836.67] seeks to retain Rule 14.3.1.3 - Permitted Activities, particularly clauses 3 (b) and 3 (c), for earthworks associated with infrastructure in Significant Amenity Landscape

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(SAL) permitting 50m3/250m2 and allowing aggregate/metal to be used in association with underground infrastructure. [First Gas \[945.1\] seeks to Retain activity specific condition 14.3.1.3\(3\)\(a\) relating to Permitted Activities, to allow earthworks associated with gas infrastructure.](#)

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81. —

83. For the reasons that the provision is in the notified PWDP, and for the reasons provided by the submitters, I recommend accepting in part Powerco [836.67], [First Gas \[945.1\]](#) and WEL Networks [692.8], to the extent the provision be amended in response to other submissions.
84. **NZTA** [742.89] seeks to amend Rule 14.3.1.3(1)(c) or the definitions section so that artificial watercourses are excluded from the rule.
85. I agree that protection is not required for roadside swales or ditches, and recommend accepting NZTA [742.89] by amending the rule to exclude artificial watercourses.
86. **Counties Power** [405.27] seeks to retain Rule 14.3.1.3 (1) (a) and (b), amend Rule 14.3.1.3 (g) to refocus on changed stormwater drainage patterns on other sites, and amend Rule 14.3.1.3 (1) (h) to confirm that earthworks do not include drilling, therefore allowing trenchless construction within a Historic Heritage site.
87. The submitter supports this rule with the exception of (g), as they believe that where there is no other alternative, it should be permitted to install equipment (at their own risk), within a stormwater overland flow path, as long as it does not result in flooding or altered drainage patterns on any other sites.
88. I agree that the rule's concern is with cross-boundary changes to overland flow paths, and not surface effects within sites, and that the rule is recommended to be changed to reflect that. As for the second part of the relief sought, I do not consider that horizontal drilling beneath a Heritage Item should be a permitted activity, particularly as it may be an archaeological site if beneath an older building. I recommend accepting in part Counties Power [405.27], to the extent that overland flow path changes do not affect drainage patterns on another site ((g) Earthworks shall not obstruct or divert any stormwater overland flow path, or in such a way as to result in changed stormwater drainage patterns on another site).
89. **Spark** [644.34], **Vodafone** [646.34] and **Chorus** [648.34] seek to amend Rule 14.3.1.3 and the related rules cascade so that it is clear what the activity status is in all Identified Areas where earthworks either exceed the permitted volumes in Rule 14.3.1.3, are restricted by a clause in Rule 14.3.1.3 (e.g. scheduled historic heritage site), or where the rule is silent (e.g. Significant Natural Area). They also seek to amend Rule 14.2.3 NC3 so that earthworks ancillary to infrastructure do not cascade by default to non-complying status under the rule.
90. The submitters point out that these standards include earthworks thresholds in many Identified Areas, including Significant Natural Areas, and include a standard not allowing earthworks on scheduled historic heritage sites. The submitters consider that it is unclear whether earthworks not subject to a specific threshold in an overlay, or subject to a rule that does not allow any earthworks as a permitted activity, would then default to a non-complying activity, regardless of scale, under Rule 14.2.3, NC3.
91. 14.3.1.3 Earthworks identifies earthworks within Heritage Items (Schedule 30.1), Landscape and Natural Character Areas (including Significant Amenity Landscapes, High or Outstanding

Natural Character areas, Outstanding Natural Features and Outstanding Natural Landscapes). Heritage New Zealand and Waikato District Council request adding Maaori Sites and Areas of Significance and Scheduled Notable Trees. The only other Identified Areas of concern, which exclude the Urban Expansion Area, are Significant Natural Areas and Heritage Precincts. These submissions provide scope to add in those Identified Areas, to ensure that infrastructure earthworks will not default to non-complying, but to RD2. I recommend accepting in part Spark [644.34], Vodafone [646.34] and Chorus [648.34], to the extent that the important Identified Areas are included within earthworks provision 14.3.1.3, and that earthworks will not unintentionally default to 14.2.3 NC3.

92. **Waikato District Council** [697.531] seeks to amend Rule 14.3.1.3(1)(h) Permitted Activities to hyperlink the references to Appendix 30.1, stating that Appendix 30.1 requires highlighting and a hyperlink for clarity and consistency.
93. I recommend accepting Waikato District Council [697.531] as a correction.
94. **Heritage NZPT** [559.150] seeks to amend Rule 14.3.1 P4 condition (1)(h) to require earthworks to also not be located within any Maaori Sites or Areas of Significance, as identified in Appendix 30.3 and 30.4.
95. The submitter supports in part only permitted activity-specific condition (h), as the reference to only Appendix 30.1 does not cover the identified items of both Historic Heritage and cultural importance. The submitter considers that the activity-specific condition needs to be amended to include the other appendices, so as to provide protection as required under section 6 of the Resource Management Act 1991.
96. **Waikato District Council** [697.530] also seeks to add to Rule 14.3.1.3 P4 a requirement to not be located within any Maaori Sites of Significance or Maaori Areas of Significance identified within Appendix 30.3 or 30.4, as well as to not be located within the dripline of a notable tree listed in Appendix 30.2.
97. *Turangawaewae Trust Board [FS1139.19] and Waikato-Tainui [FS1108.20] support: Appropriate wording change.*
98. For the submitters' reasons above, including those of Spark, Vodafone and Chorus, I recommend accepting Heritage NZPT [559.150], Waikato District Council [697.530], *Turangawaewae Trust Board [FS1139.19]* and *Waikato-Tainui [FS1108.20]*, and adding the appropriate Identified Areas to the earthworks Permitted Activity rule for example:

“any Historic Heritage sites identified within Schedule 30.1; any Maaori Sites or Areas of Significance within Schedule 30.3 or 30.4; the dripline of any Notable Tree within Schedule 30.2; any Heritage Precinct; or any Significant Natural Area”.
99. **KiwiRail** [986.83] seeks to either delete Activity-specific Condition 14.3.1.3(1)(c) relating to P4 or amend it to exclude existing rail infrastructure.
100. KiwiRail considers that this clause is unreasonably restrictive for linear land transport networks like KiwiRail. KiwiRail supports Council in requiring activities to be set back from rivers, lakes and the coastal marine area, however states that this policy, as worded, gives no recognition to existing encroachments or existing activities already located in these areas. KiwiRail states that the rail network is not able to be easily relocated, and given the function

it provides for the district, the region and the country, the rail network often crosses over watercourses. It is therefore likely that works exceeding the limit in (c) would not be capable of being set back in most cases by more than 20m from the rivers, lakes or the coastal marine area. Further, the submitter states that there is limited scope to relocate the rail network away from watercourses so that no river crossings are ever required. Parts of the railway corridor lie either within Landscape and Natural Character Areas, Significant Amenity Landscape (SAL), High or Outstanding Natural Character areas of the coastal environment, Outstanding Natural Feature (ONF) or Outstanding Natural Landscapes (ONLs). The submitter considers that the thresholds in (c) are unreasonably low when considering long linear land transport operations like railways, where parts of the corridor are on embankments, in cuttings or in remote and topographically-challenging areas. KiwiRail seeks that the rule be deleted, as the effects of any works are adequately addressed in the remaining rule criteria, e.g. control of sedimentation and overall works limits.

101. *Heritage NZPT [FS1323.121] opposes: Heritage NZPT is concerned about the unintended consequences that these amendments may have by causing adverse effects on historic heritage at the time of earthworks.*
102. I agree with the submitter that the existing rail network is in some places close to watercourses, and the plan rules should facilitate any necessary earthworks in those locations, but only in relation to the existing rail network. I recommend accepting KiwiRail [986.83], and rejecting *Heritage NZPT [FS1323.121]*. For example:
- Within 10m of a watercourse (excluding artificial watercourses) or 20m of Mean High Water Springs do not exceed a volume of more than 5m³ and an area of more than 5m² for any single activity, excluding existing rail infrastructure.
103. **KiwiRail [986.82]** seeks to amend Activity-specific Condition 14.3.1.3(3) to allow imported cleanfill associated with Regionally-Significant Infrastructure and exclude Regionally-Significant Infrastructure works from condition (e).
104. KiwiRail's reasons are that parts of the railway corridor lie either within Landscape and Natural Character Areas, Significant Amenity Landscapes (SAL), High or Outstanding Natural Character areas of the coastal environment, Outstanding Natural Features (ONF) or Outstanding Natural Landscapes (ONLs). The submitter states that works associated with Regionally-Significant Infrastructure often require the use of cleanfill. As these works cannot be carried out elsewhere, KiwiRail seeks that the plan appropriately provide for the use of cleanfill in limited circumstances, where necessary, to carry out required works on the rail corridor.
105. *Heritage NZPT [FS1323.120] opposes 986.82: Heritage NZPT is concerned about the unintended consequences that these amendments may have by causing adverse effects on historic heritage at the time of earthworks.*
106. The activity-specific conditions are designed to facilitate permitted activities with no or minimal effects. The restricted discretionary activities and the matters of discretion are designed to manage effects, including silt and sediment and dust, and protection of Identified Area values, which could be affected by clean-fill deposited above scheduled sites. I recommend rejecting KiwiRail [986.82]; and accepting *Heritage NZPT [FS1323.120]*.

107. **KiwiRail [986.81]** seeks to amend Activity-specific conditions 14.3.1.3(1)(a) and (b) to provide an exception for works associated with Regionally-Significant Infrastructure.
108. KiwiRail's reasons are that parts of the railway corridor lie either within Landscape and Natural Character Areas, SALs, High or Outstanding Natural Character areas of the coastal environment, or ONFs or ONLs. As the operator of a linear transport network, KiwiRail carries out linear project works within the railway corridor; these projects are usually carried out either during operations, or during blocks of line - when as much work is done as possible. KiwiRail considers that the small limits applying to any works undertaken for the operation, maintenance or upgrading of the railway corridor would create significant difficulties where for instance work sites may need to set-up, only a small amount of the works completed, then the site(s) has to be broken down and await another 'activity' period. KiwiRail notes that linear projects on the railway corridor tend to be relatively narrow in extent.
109. *Heritage NZPT [FS1323.119] opposes 986.81: Heritage NZPT is concerned at the unintended consequences that these amendments may have by causing adverse effects on historic heritage at the time of earthworks.*
110. The activity-specific conditions are designed to facilitate permitted activities with no or minimal effects. The restricted discretionary activities and the matters of discretion are designed to manage effects, including silt and sediment and dust, and protection of Identified Area values. I consider that the volume and area limits are appropriate for the threshold of a restricted discretionary activity assessment of effects to be undertaken. I recommend rejecting KiwiRail [986.81] and accepting *Heritage NZPT [FS1323.119]*.
111. **Gabrielle Parson for Raglan Naturally [831.45]** seeks to amend the condition for P4 Earthworks in Rule 14.3.1 Permitted Activities, to recognise that new development should not encroach on nature, and that all natural character areas (not just those of higher value) be protected through tools such as cat-free covenants and similar rules imposed by the Palmerston North District Plan. The submitter states that the natural character has been lost in most of the district, so it is important that any new development shows environmental awareness and does not encroach on nature. The submitter considers that cats are major predators of native wildlife, so new developments close to natural character area should be cat free.
112. Earthworks in P4 are to facilitate required infrastructure, while protecting the values of Identified Areas. This rule is not the place for a cat-free covenant, even if one were to be applied. Cats will be permitted or prevented in accordance with Zone or Identified Area rules, or possibly by subdivision covenants, and not in relation to infrastructure earthworks projects. I recommend rejecting Gabrielle Parson for Raglan Naturally [831.45].
113. **Transpower [576.29]** seeks to amend Activity-specific condition 14.3.1.3 P4 to include formation and maintenance of access tracks.
114. Transpower states that earthworks are often required to provide access to, and enable the ongoing operation, maintenance, repair and removal of infrastructure. Specific to the National Grid, the submitter regularly undertakes earthworks to either access existing National Grid assets (such as for the formation and maintenance of suitable access tracks) or to undertake routine maintenance or upgrade works such as structure replacements, tower strengthening, foundation works, or reconductoring. Transpower notes that the NESETA provides for earthworks as a permitted activity, subject to conditions where the earthworks are within a

natural area (being an Outstanding natural feature or landscape or Significant Natural area in the Proposed District Plan). The 50m³ within Rule P4 matches that within NESETA Regulation 33. While the submitter largely supports Rule P4, a minor amendment is sought to provide clarity for plan users that the permitted earthworks rule also applies to access tracks. The submitter considers that the insertion would fit within the proposed condition framework, in that proposed limits relate to an activity, as opposed to a site.

115. *Counties Power [FS1134.46] supports: Access to infrastructure assets and the formation of any access track specifically required for installation, operation or maintenance should be included within the permitted rule.*
116. I agree that access tracks should be explicitly included, as otherwise one could argue that they are not part of the network utility. I recommend accepting Transpower [576.29], *Counties Power [FS1134.46]*, and allowing for earthworks for access tracks as a permitted activity, as requested (see recommended amendments table below).

7.2 Recommendations

117. For the reasons above I recommend that the Hearings Panel:
- Accept in part Powerco [836.67], [First gas \[945.1\]](#) and WEL Networks [692.8]
 - Accept NZTA [742.89]
 - Accept in part Counties Power [405.27] on overland flow path changes, but not on horizontal drilling beneath Heritage Items
 - Accept in part Spark [644.34], Vodafone [646.34] and Chorus [648.34]
 - Accept Waikato District Council [697.531]
 - Accept Heritage NZPT [559.150]; Waikato District Council [697.530], *Turangawaewae Trust Board [FS1139.19]* and *Waikato-Tainui [FS1108.20]*
 - Accept KiwiRail [986.83], reject *Heritage NZPT [FS1323.121]*
 - Reject KiwiRail [986.82], accept *Heritage NZPT [FS1323.120]*
 - Reject KiwiRail [986.81], accept *Heritage NZPT [FS1323.119]*
 - Reject Gabrielle Parson for Raglan Naturally [831.45]
 - Accept Transpower [576.29] and *Counties Power [FS1134.46]*.

7.3 Recommended amendments

118. The following amendments are recommended to P4 14.3.1.3:

| | | |
|----|---|---|
| P4 | Earthworks activities associated with infrastructure Any earthworks associated with infrastructure, <u>including formation and maintenance of access tracks</u> , must comply with | 14.3.1.3 (1) Any earthworks associated with infrastructure, <u>including formation and maintenance of access tracks</u> , ¹¹ must comply with all of the following conditions: (a) Do not exceed a volume of more than 2,500m ³ for any single activity; (b) Do not exceed an area of more than 2,500m ² for any single activity; (c) Within 10m of a watercourse (<u>excluding artificial watercourses</u>) ¹² or 20m of Mean High Water |
|----|---|---|

¹¹ 576.29 Transpower

¹² 742.89 NZTA

| | |
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| all of the following conditions | <p>Springs do not exceed a volume of more than 5m³ and an area of more than 5m² for any single activity, <u>excluding existing rail infrastructure</u>; ¹³</p> <p>(d) Erosion and sediment controls are implemented and maintained to retain sediment on the site of the earthworks activity;</p> <p>(e) All fill material used must be cleanfill;</p> <p>(f) Areas exposed by earthworks activities are to be recontoured and replanted within 6 months of the commencement of the earthworks;</p> <p>(g) Earthworks shall not obstruct or divert any stormwater overland flow path or in such a way as to ¹⁴ result in changed stormwater drainage patterns on another site.</p> <p>(h) Earthworks are not located within: any Historic Heritage sites identified within Appendix <u>Schedule 30.1</u>; <u>any Maaori Sites or Areas of Significance within Schedule 30.3 or 30.4</u>; <u>the dripline of any Notable Tree within Schedule 30.2</u>; <u>any Heritage Precinct</u>; or <u>any Significant Natural Area</u>. ¹⁵</p> <p>(2) Rule 14.3.1.3(1)(f) does not apply to earthworks required to establish a foundation or surface that will ultimately be sealed or constructed upon.</p> <p>(3) Earthworks associated with infrastructure in Landscape and Natural Character Areas must not:</p> <p>(a) Exceed 1.5m in height in relation to the cut or fill batter face; and</p> <p>(b) Use imported soil, other than the placement of aggregate/metal on any access track or in association with laying underground infrastructure; and</p> <p>(c) Disturb or move more than 50m³ or exceed an area of 250m² in a Significant Amenity Landscape sand dune over any consecutive 12 month time period; and</p> <p>(d) Disturb or move more than 50m³ or exceed an area of 250m² in a High or Outstanding Natural Character area of the coastal environment over any consecutive 12 month time period; and</p> <p>(e) Disturb or move more than 50m³ or exceed an area of 250m² in an Outstanding Natural Feature or Outstanding Natural Landscapes over any consecutive 12 month time period.</p> |
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7.4 Section 32AA evaluation

119. These are minor adjustments to allow earthworks for road swales and ditches, earthworks for overland flow paths where there are no cross-boundary changes, earthworks for existing

¹³ 986.83 KiwiRail

¹⁴ 405.27 Counties Power

¹⁵ 559.150 Heritage NZPT; 697.530 & 697.531 Waikato District Council; 644.34 Spark & 646.34 Vodafone & 648.34 Chorus

rail infrastructure in close proximity to a watercourse or the coast, and to list the Identified Areas so that earthworks will not default to non-complying activity status, for efficiency and a complete cascade of activities.

Other reasonably-practicable options

120. The reasonably-practicable options include the PWDP provisions as notified, the recommended amendments, and the variations proposed by the submitters in relation to the characteristics of their infrastructure. The provisions as notified do not align with the practical earthworks undertaken by the submitters - to create and maintain access tracks, in relation to swales and road drainage ditches, and overland flow paths. The notified provisions and proposed amended provisions also need to ensure protection of values of Identified Areas.

Effectiveness and efficiency

121. As a reasonably-practicable proposal, the recommended amendments will more efficiently and effectively enable the earthworks required, and therefore the achievement of the infrastructure-enabling objective. They will also provide protection for the specified Identified Areas, including Heritage Items, Sites and Areas of Significance to Maaori, and Significant Natural Areas.

Costs and benefits

122. There are environmental costs of allowing infrastructure-related earthworks that have more than minor effects, but I do not consider that is what is proposed by the recommended amendments. There are significant economic and social benefits in allowing appropriate levels of earthworks across the network utility types, and the associated particular operational and functional needs. Where adverse effects on Identified Areas need to be managed, an appropriate restricted discretionary or discretionary activity status is preferred. That can have a cost - in process costs - and also the uncertainty about whether works will be able to proceed, and under what conditions.

Risk of acting or not acting

123. There are no additional risks in acting not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the rule. There may be further information needed where major infrastructure corridors traverse Identified Areas and the maps are not accurate to the edge of the corridor.

Decision about most appropriate option

124. The amendments give effect to the infrastructure-enabling objective, and the objectives to protect historic and cultural heritage, and Significant Natural Areas. They are considered to be more appropriate in achieving the objectives than the notified version of Rule P4 Earthworks.

8 14.3.1 P5 Trimming, maintenance or removal of vegetation or trees associated with infrastructure

| Submission point | Submitter | Decision requested |
|--------------------|----------------------------|--|
| 405.28 | Counties Power | Retain Rule 14.3.1.4 (1) Permitted Activities relating to P5 Trimming, maintenance or removal of vegetation or trees associated with infrastructure as notified. |
| FS1286.9 | Horotiu Properties Limited | Opposes 405.28 |
| 419.82; 419.142 | Hort NZ | <p>419.82-Amend activity specific conditions 14.3.1.4 in Rule 14.3.1 Permitted Activities, relating to P5 Trimming, maintenance or removal of vegetation or trees associated with infrastructure, by adding "or" at the end of 2) (ii).</p> <p>419.142-Delete the note in 14.3.1.4 relating to P5 Trimming or removal of vegetation or trees associated with infrastructure AND Add a new activity specific condition 14.3.1.4 in Rule 14.3.1 Permitted Activities, relating to P5 Trimming or removal of vegetation or trees associated with infrastructure, as follows:</p> <p><u>(2) Trimming, maintenance or removal of vegetation or trees in and around electrical assets shall be managed in accordance with the Electricity (Hazards from Trees) Regulations 2003.</u></p> |
| FS1342.105 | FFNZ | Supports 419.142 |
| FS1350.56 | Transpower | Opposes 419.142 |
| 836.17 | Powerco | <p>Retain Activity specific conditions 14.3.1.4 Permitted Activities relating to P5, except for the amendments sought below</p> <p>AND Amend Activity-specific conditions 14.3.1.4 Permitted Activities relating to P5 as follows:</p> <p>(1) Any trimming, maintenance or removal of vegetation or trees associated with infrastructure that meet all of the following conditions:</p> <p>(a) No tree identified in Schedule 30.2 is removed;</p> <p>(b) Any required trimming of a tree identified in Schedule 30.2 is either: (i) To remove dead, dying or diseased branches and the tree work is undertaken by a works <u>and Utilities Approved arborist and/</u>; or ... Note: Trees in and around electrical assets are required to be in accordance with the Electricity (Hazards from</p> |

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| | | Trees) Regulations 2003 and be undertaken by a Utilities Approved Arborist. |
| 692.9 | WEL Networks | Add a new clause (1) to Rule 14.3.1.4 Permitted Activities, relating to P5 Trimming, maintenance or removal of vegetation or trees associated with Infrastructure as follows (or other amendments to give effect to the concerns raised): <u>14.3.1.4 (1) Trimming and pruning of trees and vegetation necessary to protect all overhead electric lines or telecommunication lines; or (2) Any trimming, maintenance...</u> |
| <i>FSI 134.54</i> | <i>Counties Power</i> | <i>Supports 692.9</i> |
| 576.30 | Transpower | Retain Rule 14.3.1.4 P5 Permitted Activities, except for the amendments sought below AND Amend Activity Specific Condition 14.3.1.4 P5 Permitted Activities, as follows: (1) Any trimming, maintenance or removal of vegetation or trees associated with infrastructure, including access tracks, that meet all of the following conditions: ... (2) <u>Any trimming, maintenance or removal of vegetation where required for the safe operation or maintenance of the National Grid or to remove a potential fire risk associated with the National Grid</u> |
| <i>FSI 114.21</i> | <i>FENZ</i> | <i>Supports 576.30</i> |

8.1 Analysis

125. **Counties Power** [405.28] seeks to retain Rule 14.3.1.4 (1) relating to P5.
126. *Horotiu Properties Limited* [FSI 286.9] opposes: As *Horotiu Properties Limited* wants an amendment to this provision.
127. The rule provides clarity on trimming, maintenance and removal of vegetation associated with infrastructure activities. For the reasons the provision is in the notified PWDP, and with the support of the submitter, I recommend accepting in part **Counties Power** [405.28], to the extent that the provision be amended in response to other submissions, and accepting in part *Horotiu Properties Limited* [FSI 286.9].
128. **Hort NZ** [419.82] seeks a minor amendment to amend activity-specific conditions 14.3.1.4 in Rule 14.3.1. **Hort NZ** [419.142] seeks to delete the note in 14.3.1.4 relating to P5 and to add a new activity-specific condition 14.3.1.4 requiring accordance with the Electricity (Hazards from Trees) Regulations 2003.
129. *FFNZ* [FSI 342.105] supports 419.142 for the same reasons.
130. *Transpower* [FSI 350.56] opposes: While *Transpower* does not oppose reference to the Tree Regulations, the reformatting of the note as a rule as sought in this submission point is opposed, on the basis that an activity would no longer be permitted if any trimming were not undertaken in

accordance with the Tree Regulations. There are other reasons for Transpower to trim trees that are not only undertaken under the Tree Regulations.

131. It appears that this submission seeks to make the Trees Regulations a rule in the PWDP, and allow trimming of Notable Trees as well as other trees as a permitted activity if they are affected by the Trees regulations. The rule as currently proposed in the PWDP only protects Notable Trees. There should not be Notable Trees in proximity to overhead lines, and if there are, they should probably have the lines undergrounded and armoured to avoid conflict, as underground lines may affect tree roots and the roots can affect lines. Partly for the reasons that Transpower provided in their further submission, and partly to clarify the rule, I recommend that the Trees Regulations remain as a note rather than be part of the rule, but that additional clarification be provided in relation to non-notable trees, and additional trimming enabled, in response to other submissions. I recommend rejecting Hort NZ [419.82], accepting in part Hort NZ [419.142], FFNZ [FS1342.105] and Transpower [FS1350.56], to the extent that the Trees Regulations remain an Advice Note, but with additional information. (For example: Note: Trimming, maintenance or removal of vegetation or non-notable trees in and around electrical assets shall be managed ¹⁶ in accordance with the Electricity (Hazards from Trees) Regulations 2003).
132. **Powerco** [836.17] seeks to amend Activity-specific conditions 14.3.1.4 (1)(b) to refer to Utilities-Approved arborists. No reasons were provided.
133. I do not agree that only a Utilities-Approved Arborist can carry out this work. The PWDP defines a 'Works Arborist', as being qualified and experienced. I understand that the power companies and Transpower use Utilities-Approved Arborists for their tree-works. I recommend rejecting Powerco [836.17].
134. **WEL Networks** [692.9] seeks to add a new clause (1) to Rule 14.3.1.4 allowing trimming and pruning of trees and vegetation necessary to protect all overhead electric lines or telecommunication lines.
135. *Counties Power [FS1134.54] supports: This would give Counties Power the ability to trim and prune trees where they pose a risk or are currently affecting the electricity network.*
136. There should not be Notable Trees in proximity to overhead lines, and if they are, they should probably have the lines undergrounded and armoured to avoid conflict, as underground lines may affect tree roots and the roots can affect lines. If the intention of the suggested amendment is to clarify that tree-works on non-notable trees is a permitted activity, then I agree with the submission. There are other submissions seeking broadened or more specific permitted activity tree-works. I recommend accepting in part WEL Networks Limited [692.9] and *Counties Power [FS1134.54]*, to the extent that the provision should be clarified, but not to allow larger-scale works on Notable Trees (Schedule 30.2). (For example: "Trimming and pruning of trees and vegetation, except for Notable trees in Schedule 30.2, necessary to protect all overhead electric lines or telecommunication lines";¹⁷ No tree identified in Schedule 30.2 is removed; Any required trimming of a tree...").
137. **Transpower** [576.30] seeks to amend Activity-Specific Condition 14.3.1.4 P5 to allow for any trimming, maintenance or removal of vegetation where required for the safe operation or

¹⁶ 419.142 Hort NZ

¹⁷ 692.9 WEL Networks

maintenance of the National Grid, or to remove a potential fire risk associated with the National Grid.

138. The reasons are that it is important for the submitter to be able to trim, maintain or remove any vegetation that could affect the safe operation, maintenance or upgrade of its lines. The submitter considers that where tree branches are close to or in contact with a transmission line, they can create a flashover from the conductor to the tree which may cause a circuit fault that affects the operation and supply of the National Grid; injury or death to anyone who may be near the tree at the time of the fault; and damage to the tree, land or property. The submitter states that if a tree causes a flashover, dangerous voltages may arise in the tree itself or in the ground around the tree; that these voltages have the potential to cause severe injury or death; that flashover to a tree where high voltages are involved can cause the tree to ignite and cause a wider fire hazard if the tree is near buildings. As such, the submitter considers it is vital that trees and all other vegetation are able to be trimmed, maintained or removed; the NESETA provides for trimming, felling or removal of any trees or vegetation as permitted activities subject to conditions. Resource consent is required if the tree or vegetation is in a natural area, or a rule prohibits or restricts the works, however P5 restricts works to scheduled trees only. The submitter states that the NESETA restriction to 'natural areas' still applies, a restricted discretionary activity status would apply, and the provision of a permitted activity rule specific to the National Grid would reflect the permitted activity status within the NESETA. The submitter supports Rule P5, but a minor amendment is sought to provide clarity for plan users that the permitted tree and vegetation rule also applies to access tracks, and that a new condition specific to the National Grid be inserted.
139. *FENZ [FS1 I 14.21] supports 576.30: FENZ supports the amendment proposed to Rule 14.3.1.4 P5 allowing for any trimming, maintenance or removal of vegetation where required for the safe operation or maintenance of the National Grid, as this will safeguard the wellbeing of communities in accordance with the purpose of the RMA. This includes enabling people and communities to provide for their health and safety, and the purpose of FENZ in the effective protection of lives, property and the surrounding environment.*
140. I agree that the tree-works required to protect the National Grid and for safety reasons justifies allowing tree-works within natural areas and access tracks as a permitted activity. Notable Trees rules allow limited tree-works. The rule needs to be clarified so that tree-works on trees that are not notable and are not in natural areas are also permitted activities, in response to WEL Networks [692.9], Counties Power [FS1 I 34.54] and Transpower [576.30], as follows:
- (1) Trimming and pruning of trees and vegetation necessary to protect all overhead electric lines or telecommunication lines;
 - (2) Any trimming, maintenance or removal of vegetation or trees associated with infrastructure, including access tracks, that meet all of the following conditions: ...
 - (3) Any trimming, maintenance or removal of vegetation, where required for the safe operation or maintenance of the National Grid or to remove a potential fire risk associated with the National Grid.

Note: Trees in and around electrical assets are required to be in accordance with the Electricity (Hazards from Trees) Regulations 2003.

141. I recommend accepting Transpower [576.30] and FENZ [FS114.21], to the extent that the tree provisions be amended as requested, but otherwise retained unchanged.

8.2 Recommendations

142. For the reasons above I recommend that the Hearings Panel:
- a. Accept in part Counties Power [405.28] and Horotiu Properties Limited [FS1286.9]
 - b. Reject Hort NZ [419.82], accept in part Hort NZ [419.142], FFNZ [FS1342.105] and Transpower [FS1350.56]
 - c. Reject Powerco [836.17]
 - d. Accept in part WEL Networks [692.9] and Counties Power [FS1134.54]
 - e. Accept Transpower [576.30] and FENZ [FS114.21].

8.3 Recommended amendments

143. The following amendments are recommended:

| | | |
|----|--|---|
| P5 | Trimming, maintenance or removal of vegetation or trees associated with infrastructure | <p>14.3.1.4</p> <p><u>(1) Trimming and pruning of trees and vegetation necessary to protect all overhead electric lines or telecommunication lines; and</u>¹⁸ Any trimming, maintenance or removal of vegetation or trees associated with infrastructure, <u>including access tracks,</u>¹⁹ that meet all of the following conditions:</p> <ul style="list-style-type: none"> (a) No tree identified in Schedule 30.2 is removed; (b) Any required trimming of a tree identified in Schedule 30.2 is either: <ul style="list-style-type: none"> (i) To remove dead, dying, or diseased branches and the tree work is undertaken by a works arborist; or <p>The maximum branch diameter does not exceed 50mm at severance and no more than 10% of live foliage growth is removed over any consecutive 12 month time period.</p> <p><u>(2) Any trimming, maintenance or removal of vegetation, where required for the safe operation or maintenance of the National Grid or to remove a potential fire risk associated with the National Grid.</u>²⁰</p> <p>Note: <u>Trimming, maintenance or removal of vegetation or non-notable trees in and around electrical assets are required to be shall be managed</u>²¹ in accordance with the Electricity (Hazards from Trees) Regulations 2003.</p> |
|----|--|---|

¹⁸ 692.9 WEL Networks
¹⁹ 576.30 Transpower
²⁰ 576.30 Transpower
²¹ 419.142 Hort NZ

8.4 Section 32AA evaluation

144. The change is a clarification of rule and advice note, in relation to telecommunication lines, non-notable trees, access tracks, trees in close proximity to the National Grid, and Electricity (Hazards from Trees) Regulations 2003.

Other reasonably-practicable options

145. The reasonably-practicable options include the PWDP provisions as notified, the recommended amendments, and the variations proposed by the submitters, in relation to the characteristics of their infrastructure. The provisions as notified do not sufficiently respond to tree-works requirements of the electricity transmission and distribution network utilities.

Effectiveness and efficiency

146. As a reasonably practicable proposal, the recommended amendments will more efficiently and effectively enable the tree-works required (although constrained in relation to Notable Trees), and therefore better achieve the PWDP infrastructure-enabling objective, and the National Grid recognition and protection objective.

Costs and benefits

147. There are environmental costs, if allowing infrastructure-related tree-works that have more than minor effects, but I do not consider that that is what is proposed by the recommended amendments. There are significant economic and social benefits in allowing appropriate levels of tree-works in relation to protection of infrastructure and infrastructure corridors.

Risk of acting or not acting

148. There are no additional risks in acting or not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the rule.

Decision about most appropriate option

149. The amendments give effect to the infrastructure-enabling objective of the PWDP, and the objectives to protect the National Grid. They are considered to be more appropriate in achieving the objectives than the notified version of Rule P5 Tree-works.

9 14.3.1 P6 Pipe and cable bridge structures for the conveyance of electricity, telecommunications, water, wastewater, stormwater and gas

| Submission point | Submitter | Decision requested |
|------------------|--------------|---|
| 692.10 | WEL Networks | Retain Rule 14.3.1 P6 Permitted Activities, relating to pipe and cable bridges. |

9.1 Analysis / Recommendation

150. **WEL Networks** [692.10] supports this rule, as it would provide for the installation of electricity cables on bridge structures as a permitted activity.
151. The rule provides an appropriate level of certainty on pipe and cable bridges as a permitted activity. For the reasons the provision is in the notified PWDP, and for the reason provided by the submitter, I recommend accepting WEL Networks [692.10].

10 14.3.1 P7 Electric vehicle chargers

| Submission point | Submitter | Decision requested |
|------------------|----------------|---|
| 742.90 | NZTA | Retain Rule 14.3.1 P7 Electric vehicle chargers, as notified. |
| 405.29 | Counties Power | Amend Rule 14.3.1.6 (1) (a) Permitted Activities relating to P7 Electric vehicle chargers, to increase the height of EV chargers to 2m (total height allowed not to include concrete pad). |
| 692.11 | WEL Networks | Amend Rule 14.3.1.6 Permitted Activities relating to P7 Electric vehicle chargers as follows (or other amendments to give effect to the concerns raised): 14.3.1.6 (1) Electric vehicle chargers that meet all of the following conditions: (a) Do not exceed maximum height of 1.9m <u>4m</u> each; (b) Do not exceed a maximum area of 1.5m ² each; (c) Have a socket connection, or a fitted cable management accessory; (d) Have at least one formed car park (in accordance with the relevant requirements of Table 14.12.5.11) per connection or charging cable if the site is located outside the road; (e) Are not located in an Identified Area. |
| FS1134.52 | Counties Power | Supports 692.11 |

10.1 Analysis

152. **WEL Networks** [692.11] seeks the changes to Rule 14.3.1.6 P7 in the table directly above, including a height limit of 4m and deletion of conditions (c) and (d). The submitter states that this height of 4m would be consistent with the new infrastructure rules and will enable the installation of high-powered chargers, which are slightly larger than electric vehicle chargers and bus chargers, which are almost double the height of vehicle chargers. The submitter considers that it should be noted that the height of a standard electric vehicle charger is 2.5m. WEL are unsure why Council would want to apply point (c), as this rule would limit technologies such as inductive charging. WEL also seeks to remove (d), as a carpark is not always appropriate, particularly if the charger is located on private property.
153. *Counties Power* [FS1134.52] supports the removal of (c), as being able to relay charge to vehicles is fundamental to the role of an electric vehicle charger, but how it does this should not be prescriptive.

Counties Power opposes the deletion of 9(d) and suggests that instead it should read "Have a dedicated parking bay per charger. Where a charger is located on a road, it must be constructed in accordance with the relevant requirements of Table 14.12.5.11."

154. The road-controlling authority will have some control over electric vehicle chargers locating in the road, for example for road safety and sightlines, and for avoiding use of arterial roads. I expect they would also wish to prevent electric vehicle chargers located on private property being able to extend cables across the footpath to a vehicle on the road. I do not consider it particularly useful to have a height control for electric vehicle chargers for cars, as they will be of the size needed to provide an efficient service. Requiring a resource consent for infringing the height control within the road would so no more assessment than what would occur with a Corridor Access Request. Within the zones the height limit will apply. Counties Power's submission advises that they have a number of EV chargers which are 2m in height, and some require a concrete pad up to 0.2m high. The larger bus chargers may have effects requiring assessment and management, whether on or off the road. For those reasons, I recommend a height limit of 2.5m for EV chargers. I agree with the deletion of the requirement for a socket connection or fitted cable management accessory, for the reason provided by the submitter that other technologies may, for example, use inductive charging in the ground beneath. I agree with the deletion of the requirement for a formed carpark. I do not consider that a dedicated parking bay should be required to be allocated to each charger. Initially on private land and on the road, that allocation will occur with signage to ensure access for electric vehicles, but as the chargers increase in number they should not be allowed exclusive access to an unreasonable proportion of the available public parking resource. I recommend accepting in part WEL Networks [692.11] and Counties Power [FS1134.52], as follows:

14.3.1.6 (1) Electric vehicle chargers that meet all of the following conditions:

- (a) Do not exceed maximum height of ~~4.8m~~ 2.5m each;
- (b) Do not exceed a maximum area of 1.5m² each;
- (c) ~~Have a socket connection, or a fitted cable management accessory;~~
- (d) ~~Have at least one formed car park (in accordance with the relevant requirements of Table 14.12.5.11) per connection or charging cable if the site is located outside the road;~~
- (e) (c) Are not located in an Identified Area.

155. **NZTA** [742.90] seeks that the rule be retained to support the provision of facilities for electric vehicles.
156. I recommend accepting in part NZTA [742.90], to the extent that provision of facilities for electric vehicles is supported, with amendments to the activity specific conditions.
157. **Counties Power** [405.29] original submission was to allow for a 2m which is the average height of EV chargers. Counties Power has a number of EV chargers which are 2m in height, installed in carparks with dedicated parking bays. In accordance with the response to WEL Networks [692.11] above, I am recommending a maximum permitted activity height of 2.5m, which would be measured from ground level and include any required pad or plinth. I recommend accepting Counties Power [405.29].

10.2 Recommendations

158. For the reasons above I recommend that the Hearings Panel:
- a. Accept in part WEL Networks [692.11] and Counties Power [FS1134.52]

- b. Accept in part NZTA [742.90]
- c. Accept Counties Power [405.29].

10.3 Recommended amendments

159. The following amendments are recommended:

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| P7 | Electric vehicle chargers | 14.3.1.6 (1) Electric vehicle chargers that meet all of the following conditions: (a) Do not exceed maximum height of 1.8m 2.5m each; ²² (b) Do not exceed a maximum area of 1.5m ² each; (c) Have a socket connection, or a fitted cable management accessory; (d) Have at least one formed car park (in accordance with the relevant requirements of Table 14.12.5.11) per connection or charging cable if the site is located outside the road; ²³ (e) (c) Are not located in an Identified Area. ²⁴ |
|----|---------------------------|--|

10.4 Section 32AA evaluation

160. These changes are minor adjustments to recognise actual heights of electric vehicle chargers, and to not limit the technologies available. They improve efficiency and better achieve objective 6.4.1 for integration of infrastructure with subdivision, land use and development.

11 14.3.1 P8 Service connections

| Submission point | Submitter | Decision requested |
|------------------|---------------|---|
| 692.12 | WEL Networks | Retain Rule 14.3.1 P8 Permitted Activities, relating to service connections. |
| 559.151 | Heritage NZPT | Retain activity specific condition 14.3.1.7 relating to P8 Service Connections. |

11.1 Analysis / Recommendations

- 161. **WEL Networks** [692.12] supports this rule, as it would ensure that service connections are a permitted activity.
- 162. **Heritage NZPT** [559.151] supports this rule, as the activity-specific condition ensures that the activity will provide protection, as required under section 6 of the Resource Management Act 1991.

²² 692.11 WEL Networks

²³ 692.11 WEL Networks

²⁴ 692.11 WEL Networks

163. The rule provides clarity that service connections are a permitted activity, while protecting Heritage Item values. For the reasons the provision is in the notified PWDP, and for the reasons provided by the submitters, I recommend accepting WEL Networks [692.12] and Heritage NZPT [559.151].

12 14.3.1 P9 Minor infrastructure structure

| Submission point | Submitter | Decision requested |
|------------------|---------------|--|
| 836.68 | Powerco | Retain Rule 14.3.1.1 Permitted Activities relating to P9 as notified. |
| 692.13 | WEL Networks | Retain Rule 14.3.1 P9 Permitted Activities, relating to minor infrastructure services. |
| 559.152 | Heritage NZPT | Retain activity specific condition 14.3.1.7 relating to P9 Minor infrastructure structure. |

12.1 Analysis / Recommendations

164. **Powerco** [836.68] supports Rule 14.3.1.7 P9, as drafted, which allows for minor infrastructure structures, provided there is no connection to an area, façade or item specifically listed in Schedule 30.1.
165. WEL Networks [692.13] supports this rule, as it would ensure that network utility equipment such as pillar boxes, service pillars and ring main units (which are small but essential and a common part of WEL's electricity network) are permitted.
166. **Heritage NZPT** [559.152] supports this rule, as the activity-specific condition ensures that the activity will provide protection as required under section 6 of the Resource Management Act 1991.
167. I note that there are submissions requesting changes to the definition of "minor infrastructure structure", and these are addressed in the 14.0 Infrastructure Overall section of this s.42A report. For the reasons the provision is in the notified PWDP to clarify scale and extent of permitted activity infrastructure, and for the reasons provided by the submitters, I recommend accepting Powerco [836.68], WEL Networks [692.13] and Heritage NZPT [559.152].

13 14.3.1 P10 Closed-circuit television (CCTV) systems attached to existing buildings and structures

| Submission point | Submitter | Decision requested |
|------------------|---------------|---|
| 559.153 | Heritage NZPT | Retain activity specific condition 14.3.1.7 relating to P10 Closed-circuit television (CCTV) systems attached to existing buildings and structures. |

13.1 Analysis / Recommendations

168. **Heritage NZPT** [559.153] supports this activity-specific condition, as it ensures that the activity will provide protection as required under section 6 of the Resource Management Act 1991.
169. For the reasons the provision is in the notified PWDP and for the reason provided by the submitter, I recommend accepting Heritage NZPT [559.153].

14 14.3.1 P11 Signage associated with infrastructure required for health and safety or asset identification purposes and/or required by legislation

| Submission point | Submitter | Decision requested |
|------------------|------------------|--|
| 692.14 | WEL Networks | Retain Rule 14.3.1 P11 Permitted Activities, relating to signage. |
| 836.69 | Powerco | Retain Rule 14.3.1.7 Permitted Activities relating to P11 as notified. |
| <i>FS1211.47</i> | <i>First Gas</i> | <i>Supports 836.69</i> |

14.1 Analysis / Recommendations

170. **WEL Networks** [692.14] supports this rule, as it would ensure that signage associated with infrastructure required for health and safety or asset identification purposes and/or required by legislation would be a permitted activity.
171. **Powerco** [836.69] supports Rule 14.3.1.7 P11 as drafted, allowing signage associated with infrastructure that is required for health and safety or asset identification purposes and/or required by legislation. Powerco uses signs on its electricity assets for the purposes of asset identification and warning people of health and safety hazards, as required by other legislation, and notes that such signs are important for the identification of assets and to warn the public of health and safety risk associated with utilities (such as high voltage electricity) or safety requirements for temporary works within the vicinity of the assets. *First Gas* [FS1211.47] supports this for same reasons.
172. For the reasons the provision is in the notified PWDP and for the reasons provided by the submitters, I recommend accepting WEL Networks [692.14], Powerco [836.69] and *First Gas* [FS1211.47].

15 14.3.1 P12 Service connections for subdivision

| Submission point | Submitter | Decision requested |
|-------------------|---|--|
| 405.30 | Counties Power | Retain Rule 14.3.1.8 Permitted Activities relating to P12 Service connections for subdivision as notified. |
| 692.15 | WEL Networks | Retain Rule 14.3.1 P12 Permitted Activities, relating to service connections for subdivision. |
| 836.70 | Powerco | Retain Rule 14.3.1.8 Permitted Activities relating to P12 as notified. |
| 378.15 | FENZ | Retain the standards for subdivision in Section 14.3 General infrastructure, particularly Rule 14.3.1.8 relating to service connections for subdivision AND Amend Rule 14.3.1.8 relating to P12 Permitted Activities as follows: 14.3.1.8 (3) Within all zones, except the Rural and Country Living Zones, the water supply required under Rule 14.3.1.8 (1)(b) must be adequate for firefighting purposes <u>in accordance with New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008. Compliance with this Code of Practice can typically be achieved through connection to a Council reticulated water supply.</u> 14.3.1.8 (4) Within the <u>Rural and Country Living Zones, provision shall be made for an adequate supply of water and access to water supplies for firefighting purposes in accordance with New Zealand Fire Service Firefighting Water Services Code of Practice SNZ PAS 4509:2008.</u> |
| <i>FS1035.121</i> | <i>Pareoranga Te Kata</i> | <i>Supports 378.15</i> |
| 697.533 | Waikato District Council | Amend Rule 14.3.1.8(3) Permitted Activity Service connections for subdivision to include more specific standards for what constitutes adequate supply for fire-fighting purposes. |
| <i>FS1114.29</i> | <i>FENZ</i> | <i>Supports 697.533</i> |
| 397.4602.38 | Horotiu Properties Limited and Greig Metcalfe | Amend Rule 14.3.1.8 relating to P12 Service connections for subdivision, as follows: (2) Rule 14.3.1.8 (1)(a) does not apply to any allotment that is serviced by a site-contained wastewater system in accordance with Rule 14.1.1.3; <u>and Rule 14.3.1.8(1)(b) does not apply where reticulated water supply is unavailable.</u> (3) Within all zones, except the Rural, <u>Village</u> and Country Living Zones, the water supply required under Rule 14.3.1.8(1)(b) must be adequate for fire-fighting purposes. |

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| 697.535 | Waikato District Council | Amend Rule 14.3.1(P12)(1)(d) Permitted Activity Service connections for subdivision to reconsider the District Plan's electricity requirements for subdivision and are further investigated, with amendments to this rule and policies to address the issue. |
| 697.534 | Waikato District Council | Amend Rule 14.3.1(P12)(1)(e) Permitted Activity Service connections for subdivision to reconsider the District Plan's telecommunications requirements for subdivision are further investigated, with amendments to this rule and policies to address the issue. |
| <i>FS1031.5FS1032.5 FS1033.5</i> | <i>Chorus, Vodafone and Spark</i> | <i>Oppose 697.534</i> |
| 697.532 | Waikato District Council | Add to Rule 14.3.1.8 Permitted Activities Service connections for subdivision a new clause (4) as follows: <u>(4) Rule 14.3.1.8(1)(b) and (c) do not apply to any Rural or Country Living Zone site.</u> |
| <i>FS1114.28</i> | <i>FENZ</i> | <i>Supports 697.532</i> |
| 680.281 | FFNZ | Amend Rule P12 Service connections for subdivision and activity specific conditions 14.3.1.8 as follows: P12 Service connections for subdivision except within the Rural Zone Activity-specific conditions 14.3.1.8 (1) All new lots created as part of... (a) Wastewater, <u>except within the Rural Zone;</u> (b) <u>Except within the Rural Zone, a water-supply connection;</u> (c) <u>Except within the Rural Zone, a stormwater Stormwater</u> (a management system that complies with Rule 14.11.1.1), (d) <u>Except where unavailable adjacent to the lot boundary within the Rural Zone, an electricity supply connection;</u> (e) <u>Except where unavailable adjacent to the lot boundary within the Rural, a telecommunications connection that is hardwired or wireless; and</u> (f) Vehicle access that complies with Rule 14.12.1.1 |
| <i>FS1139.72</i> | <i>Turangawaewae Trust Board</i> | <i>Opposes 680.281</i> |
| <i>FS1108.81</i> | <i>Waikato-Tainui</i> | <i>Opposes 680.281</i> |
| <i>FS1114.25</i> | <i>FENZ</i> | <i>Opposes 680.281</i> |
| 831.6 | Gabrielle Parson for Raglan Naturally | Delete Rule 14.3.1.8 (3) relating to P12 Service connections for subdivision AND Amend Plan to consider extending town water supplies to coastal developments, in particular provision of fire-fighting water |

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| | | OR Amend Plan to ensure storage tanks are provided at strategic points for fire-fighting. |
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15.1 Analysis

173. **Counties Power** [405.30], **WEL Networks** [692.15] and **Powerco** [836.70] seek to retain Rule 14.3.1.8 P12. While provision is made for connection to the network, in private ROW (right-of-ways) and private subdivisions where there is no vested road, the submitters may not own the service cables or lines from the network connection point to the boundary of each lot. The submitters consider that this rule would ensure that service connections for subdivision would be a permitted activity, and ensure that network utility operators have early involvement in the development of land in order to provide adequate servicing.
174. For the reasons this rule is in the notified PWDP - to clearly state the obligations to provide service connections at subdivision stage - and for the reasons provided by the submitters, I recommend accepting in part Counties Power [405.30], WEL Networks [692.15] and Powerco [836.70], to the extent that the rule be amended in response to other submissions.
175. **FENZ** [378.15] seeks to retain the standards for subdivision in Section 14.3, particularly Rule 14.3.1.8, but to amend Rule 14.3.1.8 relating to P12 to refer to the New Zealand Fire Service Firefighting Water Services Code of Practice SNZ PAS 4509:2008.
176. FENZ generally supports 14.3.1.8, as it requires all new lots created as part of a subdivision to be designed and located so that provision is made for access and service connections up to the boundary of the lot, including water supply and vehicle access. FENZ considers its amendments will require provision for water supply in the Rural and Country Living Zones that is adequate for fire-fighting purposes; and is consistent with the priority given to fire-fighting water supply in section 14(3) of the RMA. Further, FENZ states that its amendments better enable FENZ to achieve their statutory obligations under the FSA, better give effect to the RPS and achieve the purpose of the RMA by enabling people and communities to provide for their health, safety and well-being by managing a potential adverse effect of relatively low probability but high consequence.
177. *Pareoranga Te Kata [FS1035.121] supports 378.15: Fire safety and fire prevention to undertake training activities for fire-fighters within the region.*
178. I agree with the suggested amendment, which describes how compliance with the activity-specific condition can be achieved, and that fire-fighting water supply will be required for (some) rural subdivisions. However, further amendment is needed, as some Village Zones may not have a reticulated water supply, and some rural subdivisions are not for additional houses or workplace buildings, being for example boundary adjustments or creation of grazing run-offs. These rural and large-lot fire-fighting water supplies, in association with dwellings or work-places, will be a portion of the tank-water held on those sites, and the water pressure required by the emergency services will need to be provided by their pumps. I understand that the s42A reports for zones such as Country Living have not recommended a fire-fighting water supply, but for new development I consider there should be sufficient water supply provided. I recommend accepting in part FENZ [378.15] and *Pareoranga Te Kata [FS1035.121]*, to the extent that the amendments be made but in modified form, as follows:

14.3.1.8 (3) Within all zones, except the Rural, and Country Living and Village Zones where there is no reticulated water supply, the water supply required under Rule 14.3.1.8 (1)(b) must be adequate for fire-fighting purposes in accordance with New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008. Compliance with this Code of Practice can typically be achieved through connection to a Council reticulated water supply.

14.3.1.8 (4) Within the Rural, Country Living and non-reticulated Village Zones, where a subdivision is for the purposes of an additional house or workplace building, provision shall be made for an adequate supply of water and access to water supplies for fire-fighting purposes in accordance with New Zealand Fire Service Firefighting Water Services Code of Practice SNZ PAS 4509:2008.

179. **Waikato District Council** [697.533] seeks to amend Rule 14.3.1.8(3) to include more specific standards as to what constitutes adequate supply for fire-fighting purposes. The submitter states that more clarity is required as to what standards are required for fire-fighting water supply.
180. *FENZ* [FS1114.29] supports and requests that this provision be amended as per its submission number 378.15.
181. As in response to FENZ [378.15] above, I agree to more specific standards on fire-fighting water supplies. I recommend accepting Waikato District Council [697.533] and [FS1114.29] FENZ.
182. **Horotiu Properties Limited** [397.4] and **Greig Metcalfe** [602.38] seek to amend Rule 14.3.1.8 P12 to state that Rule 14.3.1.8(1)(b) does not apply where reticulated water supply is unavailable and also exclude the Village zone from clause (3).
183. The submitters' reason is that in some situations, water supply for an allotment will be from roof water harvesting or bore and will not be provided by a service connection at the boundary; and like the Rural and Country Living Zones, water supply in the Village Zone may not be pressurised.
184. I agree in part with the suggested amendments, as water supply to the site boundary is not practicable if there is no reticulated water supply, and some Village Zones have no reticulated water supply. I go further in my recommendations in response to FENZ [378.15] above, and recommend that a fire-fighting water supply be required in Rural, Village and Country Living Zones, even though it is unlikely to be a reticulated supply. I recommend accepting in part Horotiu Properties Limited [397.4] and Greig Metcalfe [602.38], to the extent that unreticulated areas do not require a water supply to the boundary of a new lot, but all zones require fire-fighting water supply in some form, to houses and any work-places requiring fire protection.
185. **Waikato District Council** [697.535] seeks to amend Rule 14.3.1(P12)(1)(d) to reconsider the District Plan's electricity requirements for subdivision and that they are further investigated, with amendments to this rule and policies to address the issue. The submitter states that this rule currently requires an electricity supply, but with technology changing so quickly, connecting to an electricity distribution network may not be needed. The submitter further states that subdivision consent applications require a third party electricity provider to verify that a connection is possible; and one option is to require a physical electricity connection in the plan, as currently required by Rule 14.3.1(P12)(1)(d), however technology

is changing so quickly that this may become obsolete. Another option stated by the submitter is that the plan does not require an electricity connection up to the boundary.

186. There is a possibility that a new owner of a lot may wish to generate electricity off-grid, for example by solar or wind devices, particularly where distance from a distribution network makes electricity supply expensive. Likewise, a new rural lot created as a stock run-off may only need a battery to power an electric fence. However, the rules are designed to ensure that subdivision includes the provision of available services to the boundary of a new lot, at the cost of the subdivider, rather than leaving such arrangements to the new owner. These services, including electricity, telecommunications and vehicle access, are still considered appropriate to be ensured at the time of subdivision, although they may become obsolete in future. However, as part of the restricted discretionary subdivision resource consent, alternatives can be considered, particularly for remote sites where there is a high cost to extending the distribution networks, or where an electricity supply is not required. I recommend that the PWDP provisions remain, and Waikato District Council [697.535] be rejected.
187. **Waikato District Council** [697.534] also seeks to amend Rule 14.3.1(P12)(1)(e) so that the District Plan's telecommunications requirements for subdivision are further investigated, with amendments to this rule and policies to address the issue. The submitter states that a subdivision consent was issued on the basis of advice from a telecommunications provider that there was capacity for a connection, the property was subsequently subdivided and sold but the telecommunications provider can no longer supply an adequate connection due to latent capacity being taken up in the meantime. One option suggested by the submitter is to require a hard wire connection in the plan, however technology is changing so quickly that this will quickly become obsolete. Another option suggested is that the plan does not require a telecommunications connection.
188. *Chorus, Vodafone and Spark [FS1031.5, FS1032.5 and FS1033.5] oppose: The submission does not request specific relief upon which we are able to form a position.*
189. There is a possibility that a new owner of a lot may wish to rely on cellphone or satellite broadband for telecommunications, rather than a wired connection, or that telecommunications service is not required. However, the rules are designed to ensure that subdivision includes the provision of available services to the boundary of a new lot, at the cost of the subdivider, rather than leaving such arrangements to the new owner. The ability to provide these services, including electricity, telecommunications and vehicle access, is still considered appropriate at the time of subdivision, although they may become obsolete in future. However, as part of the restricted discretionary subdivision resource consent, alternatives can be considered, particularly for remote sites where there is a high cost to extending the wired or fibre distribution networks, or where a telecommunications service is not required. I recommend that the PWDP provision remain, rejecting Waikato District Council [697.535], and accepting *Chorus, Vodafone and Spark [FS1031.5, FS1032.5 and FS1033.5]*.
190. **Waikato District Council** [697.532] seeks to add a new clause (4) to Rule 14.3.1.8 stating that Rules 14.3.1.8(1)(b) and (c) do not apply to any Rural or Country Living Zone site.
191. This is in recognition that Rural and Country Living Zone site water supply will be provided on-site, and stormwater will be managed on-site.

192. FENZ [FS1114.28] supports: as it enhances the clarity of the provision for properties within the Rural and Country Living Zone.
193. I accept that Rural and Country Living zoned sites and some (un-reticulated) Village zoned sites will have on-site water supply and stormwater management. I note that, in response to FENZ [378.15] above, I recommend there be a fire-fighting water supply in Rural, Country Living and Village zoned sites if a house or workplace building will occur on the new lot. I recommend accepting Waikato District Council [697.532] and FENZ [FS1114.28], as a clarification.
194. **FFNZ** [680.281] seeks to amend Rule 14.3.1 P12 to exempt the Rural Zone.
195. *Turangawaewae Trust Board* [FS1139.72] and *Waikato-Tainui* [FS1108.81] oppose: *Inappropriate addition. FENZ* [FS1114.25] opposes: *FENZ opposes this submission to exclude the Rural Zone from this requirement for service connections for subdivision under P12 Rule 14.3.18. FENZ considers that the current structure of this provision is adequate, subject to the amendment requested by FENZ in its submission number 378.15. FENZ wishes to reiterate the importance, as set out in its submission, of having appropriate levels of water supply for fire-fighting purposes (whether reticulated or non-reticulated) and that the provision or allowance of alternative methods of water supply as sought by this submission should not replace that requirement. It is considered that the standard: Is consistent with the priority given to fire-fighting water supply in section 14(3) of the RMA; Better enables FENZ to achieve its statutory obligations under the FSA; Better gives effect to the RPS; and Achieves the purpose of the RMA by enabling people and communities to provide for their health, safety and well-being by managing a potential adverse effect of relatively low probability but high consequence.*
196. Rural zoned sites, which will have a site-contained wastewater system, are exempted from Rule 14.3.1.8(1)(a) by Rule 14.3.1.8(2). Likewise, I am recommending an amendment in response to other submissions exempting Rural zoned sites from requirements for a water supply and stormwater connection, however water supply will need to be adequate for fire-fighting purposes if a house or workplace building will occur on a new lot, and stormwater management will occur on-site. I do not agree with exempting new lots from electricity and telecommunications service connections, however I accept that the restricted discretionary subdivision consent can manage alternative provisions where those services are unavailable adjacent to the boundary or are not required. I note that “adjacent to the boundary”, if the term were used, would include a location across the road from the boundary. I recommend accepting in part **FFNZ** [680.281], *Turangawaewae Trust Board* [FS1139.72], *Waikato-Tainui* [FS1108.81] and *FENZ* [FS1114.25], to the extent that Rural Zone servicing conditions are recognised, much of the servicing will be site-contained, and fire-fighting water supplies are required where a house or workplace building will occur on a new lot.
197. **Gabrielle Parson for Raglan Naturally** [831.6] seeks to delete Rule 14.3.1.8 (3) relating to P12 and amend the plan to consider extending town water supplies to coastal developments, in particular provision of fire-fighting water, or to amend the plan to ensure that storage tanks are provided at strategic points for fire-fighting. The submitter states that fire hydrants should be required in wooded areas, especially if developments are distant from the main supply; and notes that most of the Whaanga Coast is wooded, but has no mains supply. The submitter states that a lot of housing has been permitted in the area and the Proposed District Plan allows for more, and that this is a safety issue.
198. The PWDP, as amended in response to other submissions, will require fire-fighting water supply for all new lots which will have a house or workplace building. However, where there

is no mains reticulated supply, that would need to be on-site from tank, pond or pool, or very nearby from a permanent watercourse. My understanding, but not verified, is that rural fire authorities are also required to have plans for managing fires in rural locations, including identifying water sources, emergency fire-breaks and air and land transport accessibility. I recommend accepting in part Gabrielle Parson for Raglan Naturally [831.6], to the extent that fire-fighting water supplies will be required, but not to the extent requested in the submission.

15.2 Recommendations

199. For the reasons above I recommend that the Hearings Panel:
- Accept in part Counties Power [405.30], WEL Networks [692.15] and Powerco [836.70]
 - Accept in part FENZ [378.15], Pareoranga Te Kata [FS1035.121]
 - Accept Waikato District Council [697.533] and FENZ [FS1114.29]
 - Accept in part Horotiu Properties Limited [397.4] and Greig Metcalfe [602.38], to the extent that connection is only required if reticulated water is available, but fire-fighting water supplies are required
 - Reject Waikato District Council [697.535]
 - Reject Waikato District Council [697.534], accept Chorus, Vodafone and Spark [FS1031.5, FS1032.5 and FS1033.5]
 - Accept Waikato District Council [697.532] and FENZ [FS1114.28]
 - Accept in part FFNZ [680.281], Turangawaewae Trust Board [FS1139.72], Waikato-Tainui [FS1108.81] and FENZ [FS1114.25]
 - Accept in part Gabrielle Parson for Raglan Naturally [831.6], as partial relief provided.

15.3 Recommended amendments

200. The following amendments are recommended:

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|-----|-------------------------------------|---|
| P12 | Service connections for subdivision | <p>14.3.1.8</p> <p>(1) All new lots created as part of a subdivision other than a utility allotment, access allotment or reserve allotment, must be designed and located so that provision is made for access and service connections up to the boundary of the lot for:</p> <ol style="list-style-type: none"> Wastewater; Water supply; Stormwater (a management system that complies with Rule 14.11.1.1); Electricity supply; Telecommunications that is hard-wired or wireless; and Vehicle access that complies with Rule 14.12.1.1. <p>(2) Rule 14.3.1.8(1)(a) does not apply to any allotment that is served by a site-contained wastewater system in accordance with Rule 14.11.1.3.</p> <p>(3) Within all zones, except the Rural, and Country Living and Village Zones where there is no reticulated water supply,²⁵ the water supply required under Rule 14.3.1.8 (1)(b)</p> |
|-----|-------------------------------------|---|

²⁵ 397.4 Horotiu Properties Limited; 602.38 Greig Metcalfe

| | | |
|--|--|---|
| | | <p>must be adequate for fire-fighting purposes <u>in accordance with New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008. Compliance with this Code of Practice can typically be achieved through connection to a Council reticulated water supply.</u>²⁶</p> <p><u>(4) Within the Rural, Country Living and non-reticulated Village Zones, where a subdivision is for the purposes of an additional house or workplace building, provision shall be made for an adequate supply of water and access to water supplies for fire-fighting purposes in accordance with New Zealand Fire Service Firefighting Water Services Code of Practice SNZ PAS 4509:2008.</u>²⁷</p> <p><u>(5) Rule 14.3.1.8(1)(b) and (c) do not apply to any Rural or Country Living Zone site.</u>²⁸</p> |
|--|--|---|

15.4 Section 32AA evaluation

201. Non-reticulated areas will provide water supply on-site, for example by rain tank or bore, as well as wastewater and stormwater management being on-site. Guidance will be given on required fire-fighting water supplies. There may be a cost, in some locations, for required water storage for fire-fighting purposes, for example an additional water tank.

Other reasonably practicable options

202. The reasonably-practicable options include the PWDP provisions for subdivision service connections as notified, the recommended amendments to include a fire-fighting water supply, and variants of supplementary water supply arrangements, such as community tanks or ponds.

Effectiveness and efficiency

203. The efficiency and effectiveness of water supply in meeting the objective of infrastructure integration (6.4.1) will depend on whether it can be provided as an incremental part of new development and subdivision, without requiring large scale or remotely located water-tanks which may never be used. Fire-fighting water supply should be provided to work-places, to meet health and safety requirements and the Building Act requirements. For dwellings it is a matter of personal and property safety, but not to the extent of excessive water storage. Rural subdivisions only need to identify how a fire-fighting water supply can be provided by subsequent development, and not actually provide it with the subdivision.

Costs and benefits

204. There is a cost to providing a fire-fighting water supply. There will be some additional storage or retention quantity that requires funding, but it is primarily to allow first reaction to a fire, and to allow a supplementary supply when emergency services arrive. I consider that the costs would be significantly greater if applied more broadly to, for example, bush areas without dwellings, or extensive rural countryside, and those areas require a different kind of fire management plan.

Risk of acting or not acting

²⁶ 378.15 FENZ

²⁷ 378.15 FENZ

²⁸ 697.532 Waikato District Council

205. There are no additional risks in acting or not acting. There is sufficient information on the social costs of inadequate fire-fighting water supply, and benefits to people and communities, to justify the amendment to the policy.

Decision about most appropriate option

206. The amendment is considered to be more appropriate in achieving the objective for provision of adequate infrastructure and implementing Policy 6.1.9 on environmental effects, community health, safety and amenity, than the notified version of Rule P12 Service connections for subdivision.

16 14.3.2 Controlled Activities General

| Submission point | Submitter | Decision requested |
|----------------------------|---------------------------------|--|
| 646.35 648.35 644.35 | Vodafone,Chorus and Spark | Add a new controlled activity rule under Rule 14.3.2 Controlled activities, as follows, or wording to like effect: <u>C2 A service connection to an area façade or item specifically listed in Schedule 30.1. Matters of Control:</u> <ul style="list-style-type: none"> <u>Design and placement of the service connection to minimise impacts on the values and attributes of the listed area, façade or item.</u> |

16.1 Analysis / Recommendations

207. The reasoning of the submitters for the above addition is that Rule P8 under General Infrastructure provides for service connection as a permitted activity, other than where connected to an area, façade or item specifically listed in Schedule 30.1. The submitters state that there has been ongoing discussion between telecommunications operators and Heritage NZPT over how service connection to heritage-listed buildings should be addressed and agreement on other plans that decided that they were appropriately dealt with as a controlled activity.

208. I note that the Auckland Unitary Plan has a permitted activity rule: "E26.8.5.1(7) Service connections must be not affixed or attached to a primary feature of a historic heritage place (other than if it is a noted exclusion in Schedule 14.1 Schedule of Historic Heritage) or a contributing property or feature in a historic heritage area." The PWDP does not include details of the primary features or contributing features of Heritage Items, except, for example, "exterior", which would have provided some flexibility in locating service connection attachments (on the building away from the primary feature). I accept that capability of adaptive re-use is crucial to the conservation of Heritage Items, and that ways need to be found to ensure services can be provided to them. The PWDP provides for service connections to a scheduled Heritage Item as a restricted discretionary activity (RD6). Further on in this report, on RD6, Heritage NZPT has a submission supporting the restricted discretionary activity

status. Heritage NZPT generally supports a consent status for activities with potential effects on heritage and cultural values as a RMA s.6 matter.

209. For the reasons above, I recommend rejecting Spark [644.35], Vodafone [646.35] and Chorus [648.35].

17 14.3.2 CI Subdivision to create a utility allotment for accommodating infrastructure

| Submission point | Submitter | Decision requested |
|------------------|--------------------------|--|
| 692.16 | WEL Networks | Retain Rule 14.3.2 CI Controlled Activities, relating to subdivision to create a utility allotment for accommodating infrastructure. |
| 405.31 | Counties Power | Retain Rule 14.3.2 CI Controlled Activities as notified. |
| 697.536 | Waikato District Council | Amend Rule 14.3.2.1 CI Controlled Activities Subdivision to create a utility allotment for accommodating infrastructure by deleting clauses (2) and (3). |

17.1 Analysis / Recommendations

210. **WEL Networks** [692.16] supports Rule 14.3.2 CI, as it would provide for subdivision to create a utility allotment for accommodating infrastructure as a controlled activity. Counties Power [405.31] also supports this rule (no reasons provided).
211. I recommend accepting in part WEL Networks [692.16], to the extent that the provision be amended in response to another submission.
212. **Waikato District Council** [697.536] seek to remove unnecessary standards, as it is irrelevant whether the infrastructure is permitted or consents granted. The submitter states that the description of the activity is sufficient.
213. I recommend accepting Waikato District Council [697.536] and consider it appropriate to remove unnecessary standards.
214. For the reasons above I recommend that the Hearings Panel:
- Accept WEL Networks [692.16] and Counties Power [405.31]
 - Accept Waikato District Council [697.536].

17.2 Recommended amendments

215. The following amendments are recommended:

| Activity | | Activity specific conditions | Matters of control |
|----------|---|------------------------------|---------------------------|
| CI | Subdivision to create a utility allotment for | 14.3.2.1 | Control is reserved over: |

| | | | |
|--|------------------------------|---|--|
| | accommodating infrastructure | (1) Is undertaken by a network utility operator as defined by the Resource Management Act 1991; and (2) Is for infrastructure permitted under Chapter 14; or (3) Is for infrastructure that has all necessary resource consents granted or notices of requirement confirmed. ²⁹ | (a) The adequacy of the allotment for its intended use; (b) Whether any easement is required. |
|--|------------------------------|---|--|

17.3 Section 32AA evaluation

216. This change is the deletion of unnecessary standards. No s.32AA re-evaluation is required.

18 14.3.3 Restricted Discretionary Activities general

| Submission point | Submitter | Decision requested |
|------------------|-----------|---|
| 945.2 | First Gas | Retain the Restricted Discretionary activity status of Rule 14.3.3 Restricted Discretionary Activities. |
| 749.71 | HNZC | Retain Rule 14.3.3 Restricted Discretionary Activities as notified. |

18.1 Analysis / Recommendations

217. **First Gas** [945.2] supports the restricted discretionary status under Rule 14.3.3. **HNZC** [749.71] supports the activities listed under 14.3.3, in particular RD1, RD2 and RD3 with respective matters of discretion.
218. For the reasons the provisions are in the PWDP - that restricted discretionary activity status is appropriate to manage the effects of activities which do not comply with the standards - and the reasons provided by the submitters, I recommend accepting in part First Gas [945.2] and HNZA [749.71], to the extent that the restricted discretionary provisions be retained but amended in response to other submissions.

19 14.3.3 RDI Minor upgrading of existing infrastructure that does not comply with one or more of the conditions of Rule 14.3.1.1

| Submission point | Submitter | Decision requested |
|------------------|------------|--|
| 576.31 | Transpower | Retain Rule 14.3.3 RDI Restricted Discretionary Activities, as notified. |

²⁹ 697.536 Waikato District Council

| | | |
|-------------------|--------------------------|---|
| 419.83 | Hort NZ | Add a new matter of discretion to Rule 14.3.3 RDI Restricted Discretionary Activities, as follows: <u>x. effects on affected landowners.</u> |
| <i>FS1342.107</i> | <i>FFNZ</i> | <i>Supports 419.83</i> |
| <i>FS1350.58</i> | <i>Transpower</i> | <i>Opposes 419.83</i> |
| <i>FS1258.20</i> | <i>Meridian Energy</i> | <i>Opposes 419.83</i> |
| 697.1 | Waikato District Council | Amend Rule 14.3.3 RDI Restricted Discretionary Activities by deleting clauses (v) and (vii). |
| 697.537 | Waikato District Council | Amend Rule 14.3.3 RDI Restricted Discretionary Activities by deleting clause (viii). |
| 742.91 | NZTA | Amend Rule 14.3.3 RDI (iii) Minor upgrading of existing infrastructure as follows: <u>Transport road-network safety and efficiency;...</u> |

19.1 Analysis

219. **Transpower** [576.31] seeks to retain Rule 14.3.3 RDI as notified. The submitter supports a restricted discretionary activity status for minor upgrades which do not meet the permitted activity conditions; as such an activity status enables a full assessment of effects.
220. For the reasons the provisions are in the PWDP, that restricted discretionary activity status is appropriate to manage the effects of activities which do not comply with the standards, and for the reasons provided by the submitter, I recommend accepting in part Transpower [576.31], to the extent that the provision be amended in response to other submissions.
221. **Hort NZ** [419.83] seeks to add a new matter of discretion to Rule 14.3.3 RDI regarding effects on affected landowners.
222. The submitter states that it is important that the effects on owners of land, where infrastructure is to be located, is a matter of discretion for restricted discretionary activities.
223. *FFNZ [FS1342.107] supports for the same reasons; [FS1350.58] Transpower opposes as it is not clear from the submission what effect on landowners the submitter is concerned about that are not already included in the matters of discretion; Meridian Energy [FS1258.20] opposes, as the listed restricted discretionary matters already comprehensively address the relevant actual and potential effects. The requested amendment does not address a legitimate resource management effect.*
224. The matters of discretion list amenity effects, which will include amenity effects on the landowner. A number of other effects will need to be managed outside the District Plan, for example access, compensation, repair of damage, and proximity to buildings and structures and trees. For the reasons provided by the further submitters Meridian Energy and Transpower, I recommend rejecting Hort NZ [419.83] and *FFNZ [FS1342.107]*, and accepting *Transpower [FS1350.58]* and *Meridian Energy [FS1258.20]*.
225. **Waikato District Council** [697.1] seeks to amend Rule 14.3.3 RDI by deleting clauses (v) and (vii). These matters of discretion relate to earthworks, and the submitter considers they are more appropriately covered in RD2.

226. For the reasons that the provisions are better located in RD2, I recommend accepting Waikato District Council [697.1] as a correction.
227. **Waikato District Council** [697.537] seeks to amend Rule 14.3.3 RD1 by deleting Clause (viii), as Clause (ii) duplicates (viii). I agree, and recommend accepting Waikato District Council [697.537] as a correction.
228. **NZTA** [742.91] seeks to amend Rule 14.3.3 RD1 (iii). The submitter supports Rule 14.3.3 RD1 generally, but seeks to allow Council's discretion to be restricted to the "transport network", which is broader than the term "road".
229. For consistency in use of terms, I recommend accepting NZTA [742.91] and using the term "Land transport network" rather than "Road network".

19.2 Recommendations

230. For the reasons above I recommend that the Hearings Panel:
- Accept in part Transpower [576.31]
 - Reject Hort NZ [419.83]; FFNZ [FS1342.107], and accept Transpower [FS1350.58] and Meridian Energy [FS1258.20]
 - Accept Waikato District Council [697.1] and Waikato District Council [697.537]
 - Accept NZTA [742.91].

19.3 Recommended amendments

231. The following amendments are recommended:

| Activity | | Matters of Discretion |
|----------|---|--|
| RD1 | Minor upgrading of existing infrastructure that does not comply with one or more of the conditions of Rule 14.3.1.1 which are relevant to the activity proposed | <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> The functional and operational needs of, and benefits derived from, the infrastructure; Visual, streetscape and amenity effects; Transport road³⁰ network safety and efficiency; Management of sediment and dust, including the staging of works; The volume, extent and depth of the earthworks activities;³¹ The location of the earthworks activities, taking into account any effects on the values, qualities and characteristics of the site; Any flood or land stability risks;³² Visual, landscape and amenity effects;³³ Whether alternative methodologies avoiding the need to affect any tree identified in Schedule 30.2 have been adequately considered.³⁴ |

³⁰ 742.91 NZTA

³¹ 697.1 Waikato District Council

³² 697.1 Waikato District Council

³³ 697.537 Waikato District Council

³⁴ 697.1; 697.537 Waikato District Council

19.4 Section 32AA evaluation

232. The recommended amendments are minor, being corrections and removal of duplications, and clarify that the 'road network' is intended to mean 'transport network'. No further s32AA re-evaluation is required.

20 14.3.3 RD2 Earthworks associated with infrastructure

| Submission point | Submitter | Decision requested |
|------------------|---------------|---|
| 576.50 | Transpower | Retain Rule 14.3.3 RD2 Restricted Discretionary Activities, as notified. |
| 742.92 | NZTA | Retain Rule 14.3.3 RD2 Earthworks associated with infrastructure, as notified. |
| 559.154 | Heritage NZPT | Amend Rule 14.3.3 RD2 Earthworks associated with infrastructure that do not comply with one or more of the conditions of Rule 14.3.1.3 as follows: Discretion is restricted to: (a) Management of sediment and dust, including the staging of works; (b) The volume, extent and depth of the earthworks activities; (c) The location of the earthworks activities, taking into account any effects on the values, qualities and characteristics of the site, <u>including Maaori Sites and Areas of Significance and any Heritage Items</u> ; (d) Any flood or land stability risks; and (e) Visual, landscape and amenity effects. |

20.1 Analysis

233. **Heritage NZPT** [559.154] supports in part only the restricted discretionary rule RD2 and the matters of discretion. While the matter of discretion (c) could be applicable in part to heritage items and cultural sites, the submitter considers that the clause should be amended to be readily applicable to heritage items and cultural sites so as to provide protection, as required under section 6 of the Resource Management Act 1991.
234. For the reasons provided by submitter Heritage NZPT, I recommend accepting Heritage NZPT [559.154], and specifying: "including Maaori Sites and Areas of Significance and any Heritage Items" in the rule.
235. **Transpower** [576.50] supports a restricted discretionary activity status for minor upgrades which do not meet the permitted activity conditions. The submitter considers that such an activity status enables a full assessment of effects.
236. For the reasons provided by the submitter Transpower, I recommend accepting Transpower [576.50].

237. **NZTA** [742.92] supports the matters of discretion listed in Rule 14.3.3 RD2.
238. For the reasons the provisions are in the notified PWDP, I recommend accepting in part NZTA [742.92], to the extent that the provision be amended in response to Heritage NZPT [559.154].

20.2 Recommendations

239. For the reasons above I recommend that the Hearings Panel:
- Accept Heritage NZPT [559.154]
 - Accept Transpower [576.50]
 - Accept in part NZTA [742.92].

20.3 Recommended amendments

240. The following amendments are recommended:

| | | |
|-----|--|---|
| RD2 | Earthworks associated with infrastructure that do not comply with one or more of the conditions of Rule 14.3.1.3 | Discretion is restricted to: <ol style="list-style-type: none"> Management of sediment and dust, including the staging of works; The volume, extent and depth of the earthworks activities; The location of the earthworks activities, taking into account any effects on the values, qualities and characteristics of the site, including Maaori Sites and Areas of Significance and any Heritage Items,³⁵ Any flood or land stability risks; and Visual, landscape and amenity effects. |
|-----|--|---|

20.4 Section 32AA evaluation

241. The provision is amended to be applicable to heritage items and cultural sites, to provide protection as required under s.6 of the Resource Management Act 1991, and to better achieve the Objective 7.1.1 "A district that acknowledges its past by: recognising, identifying, protecting and promoting heritage."

21 14.3.3 RD3 Trimming, maintenance or removal of vegetation or trees

| Submission point | Submitter | Decision requested |
|------------------|------------|---|
| 576.51 | Transpower | Retain Rule 14.3.3 RD3 Restricted Discretionary Activities, as notified. |
| 742.93 | NZTA | Retain Rule 14.3.3 Restricted Discretionary Activities, except for the amendments sought below AND Add a new matter of discretion to Rule 14.3.3 RD3 Trimming, maintenance or removal of vegetation or trees, as follows: |

³⁵ 559.154 Heritage NZPT

| | | |
|--|--|---|
| | | <u>(d) land transport network safety and efficiency</u> |
|--|--|---|

21.1 Analysis

242. **Transpower** [576.51] supports a restricted discretionary activity status for minor upgrades which do not meet the permitted activity conditions. Transpower considers that such an activity status enables a full assessment of effects.
243. For the reasons provided by the submitter Transpower, I recommend accepting Transpower [576.51].
244. **NZTA** [742.93] supports Rule 14.3.3 RD3 generally, but seeks an additional restricted discretionary criterion that considers the safety and efficiency of the transport network.
245. For the reasons provided by submitter NZTA - that tree-works near the road can affect land transport network safety and efficiency and would likely require a traffic management plan for such works - I recommend adding: "(d) land transport network safety and efficiency", and recommend accepting NZTA [742.93].

21.2 Recommendations

246. For the reasons above I recommend that the Hearings Panel:
- a. Accept Transpower [576.51]
 - b. Accept NZTA [742.93].

21.3 Recommended amendments

247. The following amendments are recommended to 14.3.3 RD3:

| | | |
|-----|--|--|
| RD3 | Trimming, maintenance or removal of vegetation or trees that does not comply with one or more of the conditions of Rule 14.3.1.4 | Discretion is restricted to: <ol style="list-style-type: none"> (a) The extent of the works required; (b) Effects on the values, qualities and characteristics of any tree identified in Schedule 30.2; (c) Whether alternative methodologies avoiding the need to affect the tree(s)/vegetation have been adequately considered. <u>(d) land transport network safety and efficiency</u>³⁶ |
|-----|--|--|

21.3.1 Section 32AA evaluation

248. Trimming, maintenance and removal of trees where necessary is an important aspect of transport network safety and efficiency. The objectives include to protect Notable Trees, to enable infrastructure (including necessary tree-works), and for an integrated land transport network (6.5.1), all of which will be better met by the amended provision.

³⁶ 742.93 NZTA

22 14.3.3 RD5 Electric vehicle charging stations

| Submission point | Submitter | Decision requested |
|------------------|-----------|---|
| 742.94 | NZTA | Amend Rule 14.3.3 RD5(c) Electric vehicle charging stations, as follows: (c) Road-Land transport network safety and efficiency; |

22.1 Analysis

249. **NZTA** [742.94] supports Rule 14.3.3 RD5 but seeks an amendment to matter (c) to allow Council's discretion to be restricted to the "transport network", which is broader than the term "road".

250. For the reason of consistency of terms used in the PWDP, and that the land transport network includes more than roads, I recommend accepting NZTA [742.94].

22.2 Recommended amendments

251. The following amendments are recommended to 14.3.3 RD5:

| | | |
|-----|---|--|
| RD5 | Electric vehicle charging stations located: (a) That do not comply with one or more of the conditions of Rule 14.3.1.6; or (b) Are located within Identified areas. | Discretion is restricted to: (a) The functional and operational needs of, and benefits derived from, the infrastructure; (b) Visual, streetscape and amenity effects; (c) Road-Land transport network safety and efficiency; ³⁷ (d) Public safety; (a) Effects on the values, qualities and characteristics of any Identified Area. |
|-----|---|--|

22.3 Section 32AA evaluation

252. As this amendment is to achieve consistency of terminology, a s32AA re-evaluation is not required.

23 14.3.3 RD6 CCTV systems, Service connections, Minor infrastructure structures

| Submission point | Submitter | Decision requested |
|------------------|---------------|--|
| 559.155 | Heritage NZPT | Retain Rule 14.3.3 RD6, subject to the acceptance of any related submission points identified elsewhere in the submission. |

³⁷ 742.94 NZTA

23.1 Analysis/recommendations

253. **Heritage NZPT** [559.155] supports Rule 14.3.3 RD6.
254. Heritage NZPT generally supports a consent status for activities with potential effects on heritage and cultural values, providing protection as required under section 6 of the Resource Management Act 1991. To provide the required protection and for the reason that the provision is in the notified PWDP - to provide an efficient enabling of minor infrastructure while protecting heritage items - I recommend accepting Heritage NZPT [559.155].

24 14.3.4 DI Activities and permanent structures or facilities located within road or unformed road not provided as road network activities under Rule 14.12.1

| Submission point | Submitter | Decision requested |
|------------------|--------------------------|--|
| 697.2 | Waikato District Council | Delete Rule 14.3.4 DI Discretionary Activities AND Amend Rule 14.3.4 as a consequential amendment by renumbering (D2) to (D4) and (D1) to (D3). |
| 405.50 | Counties Power | Amend Rule 14.3.4 DI Discretionary Activities, to make provision for overhead lines in Industrial areas and to pass through pockets of non-Rural Zone where the line is built predominantly in a Rural Zone/road adjacent to the Rural Zone. |

24.1 Analysis

255. **Waikato District Council** [697.2] sought changes to capture structures such as power poles, which are more appropriately addressed through the relevant sections of Chapter 14, e.g. Rules 14.5 and 14.10. The submitter considers that, as the road controlling authority, Council or NZTA respectively can determine which structures are appropriate in the road.
256. I am not confident that Council or NZTA does have that much control, as the Corridor Access Request (CAR) process is required to be reasonable, particularly towards network utility operators, and I am aware of the National Code of Practice for Utility Operators' Access to Transport Corridors, compulsory for all road and rail-controlling authorities and utility network operators and their contractors. The CAR is also directed at road safety, sightlines, service access and allocation of road and berm space, but is not well-equipped to manage amenity and other environmental effects. Without Rule 14.3.4 DI, road-controlling authorities could be faced with, for example, potential demands for proliferation of electric vehicle chargers, battery storage for community-scale renewable energy generation facilities, in-road inductive charging and road surface solar generation devices, and any other buildings and structures required for the operation, maintenance and repair, and upgrading of network utilities which are not already identified in the rules of Chapter 14. Having said that, I accept that the road-controlling authorities do have a 'reasonableness' test for controlling non-road

network activities in the road. I recommend that Rule D1 be deleted from 14.3.4, and recommend accepting Waikato District Council [697.2].

257. **Counties Power** [405.50] seeks the above amendments, as the rule does not allow for new poles in roads and unformed roads other than through Rural Zones.
258. The rule framework allows new overhead distribution lines and support structures as a permitted activity only within the Rural Zone and rural roads. In all other zones, and within the Rural Zone that is also within an Identified Area, the activity is restricted discretionary or discretionary, allowing assessment of needs and benefits, alternatives, co-location, amenity values of site and locality, and any difficult conditions which make undergrounding impractical. I support that approach, including for the Industrial Zone and open space zones, and for any pockets of residential zoning in an otherwise predominantly rural or industrial area. I recommend rejecting Counties Power [405.50].

24.2 Recommendations

259. For the reasons above I recommend that the Hearings Panel:
- Accept Waikato District Council [697.2]
 - Reject Counties Power [405.50].

24.3 Recommended amendments

260. The following amendments are recommended to 14.3.4 Discretionary Activities:

| | |
|---------------|---|
| D1 | Activities and permanent structures or facilities located within road or unformed road not provided as road network activities under Rule 14.12.1 ³⁸ [and re-number remaining discretionary activities]. |
| D1 | Temporary infrastructure that does not comply with one or more of the conditions of Rule 14.3.1.2 |
| D2 | Access and service connections for subdivision that do not comply with one or more of the conditions of Rule 14.3.1.8 ³⁹ |
| D2 | Subdivision to create a utility allotment for accommodating infrastructure that does not comply with one or more of the conditions of Rule 14.3.2.1 |

24.4 Section 32AA evaluation

261. Rule D1 Discretionary activities is not required, as the activities are managed by the road-controlling authority, therefore a s32AA evaluation is not required.

- ³⁸ 697.2 Waikato District Council
- ³⁹ 749.72 HNZA

25 14.3.4 D2 Temporary infrastructure that does not comply with one or more of the conditions of Rule 14.3.1.2

| Submission point | Submitter | Decision requested |
|------------------|----------------|--|
| 405.91 | Counties Power | Amend Rule 14.3.4 D2 Discretionary Activities by increasing the temporary period to 24 months or allow for a 12 month extension. |

25.1 Analysis / Recommendations

262. **Counties Power** [405.91] states that it may not be possible to limit temporary activities to 12 months due to delays caused by a third party.
263. For the reason that 24 months cannot be considered temporary, and there should not be an incentive to locate temporary infrastructure for a 24 month period, and that a resource consent for extension of time should be straightforward if third parties cause delays, I recommend rejecting Counties Power [405.91].

26 14.3.4 D3 Access and service connections for subdivision that do not comply with one or more of the conditions of Rule 14.3.1.8

| Submission point | Submitter | Decision requested |
|------------------|----------------|--|
| 749.72 | HNZC | Add a new activity to Rule 14.3.3 Restricted Discretionary Activities and matters of discretion as follows: <u>RD7 Access and service connections for subdivision that do not comply with one or more of the conditions of 14.3.1.8 Discretion is restricted to:</u> <u>a) The adequacy of the service connection;</u> <u>b) The functional and operational needs of, and benefits derived from, the infrastructure;</u> <u>c) Site design, layout and amenity;</u> <u>d) Visual, streetscape and amenity effects; and</u> <u>e) Road network safety and efficiency.</u> AND Delete Rule 14.3.4 D3 Discretionary Activities. |
| FS1134.53 | Counties Power | Supports 749.72 |

26.1 Analysis / Recommendations

- 264. **HNZC** [749.72] does not support the activity ‘Access and service connections for subdivision that do not comply with one or more of the conditions of Rule 14.3.1.8’ to be a discretionary activity. The submitter seeks that the activity be changed to a restricted discretionary activity, with matters of discretion added. HNZC considers that the activity does not need to be subject to a range of matters when it has a number of conditions attached already to Rule 14.3.1.8.
- 265. *Counties Power [FS1134.53] supports: Moving 14.3.4 (D3) to 14.3.3(RD7) will still achieve the purpose of the rule, as there are conditions attached to 14.3.1.8 already which ensure service connections for subdivision are provided for as a restricted discretionary activity.*
- 266. I agree that the activity “Access and service connections for subdivision that do not comply with one or more of the conditions of Rule 14.3.1.8” could be restricted discretionary rather than discretionary, provided the vehicle access matters of discretion are included from 14.12.2 RD1 (as amended in response to submissions).
- 267. For the reasons provided by the submitter and further submitter, and for the reasons the vehicle access matters of discretion are recommended, I recommend accepting in part HNZC [749.72] and *Counties Power [FS1134.53]*, with vehicle access matters of discretion added.

26.2 Recommended amendments

268. The following amendments are recommended:

~~D3 — Access and service connections for subdivision that do not comply with one or more of the conditions of Rule 14.3.1.8~~ [749.72 HNZC]

New Rule 14.3.3 Restricted Discretionary Activities RD7 and matters of discretion as follows:

| | | |
|-----|---|---|
| RD7 | <u>Access and service connections for subdivision that do not comply with one or more of the conditions of 14.3.1.8</u> | <p><u>Discretion is restricted to:</u></p> <ul style="list-style-type: none"> a) <u>The adequacy of the service connection;</u> b) <u>The functional and operational needs of, and benefits derived from, the infrastructure;</u> c) <u>Site design, layout and amenity;</u> d) <u>Visual, streetscape and amenity effects; and for vehicle access;</u> e) <u>Land transport network safety and efficiency;</u> f) <u>The extent to which the safety and efficiency of rail and road operations will be adversely affected, including:</u> <ul style="list-style-type: none"> i. <u>The outcome of any consultation with KiwiRail; NZTA; Waikato District Council, as the rail or road controlling authority;</u> ii. <u>Any characteristics of the proposed use that will make compliance unnecessary;</u> g) <u>Traffic generation by the activities to be served by the vehicle access;</u> h) <u>Mitigation to address safety and/or efficiency of vehicle access, including access clearance requirements for fire-fighting purposes;</u> |
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| | | <p><u>i) The foreseeable needs for access by emergency services and their vehicles;</u></p> <p><u>j) Location, design, construction and materials of the vehicle access;</u></p> <p><u>k) Safety for all users of the vehicle access and/or intersecting road including but not limited to vehicle occupants or riders and pedestrians.</u>⁴⁰</p> |
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26.3 Section 32AA evaluation

269. A discretionary activity is more efficiently made a restricted discretionary activity, where the matters of discretion can be restricted to a known range of issues. No further s.32AA re-evaluation is required.

⁴⁰ 749.72 HN2C and copied from I4.12.2 RDI (as amended in response to other submissions)