Wellington City Council

Hearing of Submissions and Further Submissions

on

Proposed District Plan

Report and Recommendations of Independent Commissioners

Hearing Stream 9

Report 9

Infrastructure
Transport
Renewable Electricity Generation
Contaminated Land and Hazardous Substances

Commissioners

Trevor Robinson (Chair)
Jane Black
David McMahon
Miria Pomare

Table of Contents

1. INTRODUCTION

1.1 Topics of Hearing

1. This Report addresses the matters heard as part of Stream 9 of the PDP process.

2. The subject matter of Stream 9 was a number of district wide chapters, as follows:

   (a) Infrastructure (**INF**), including the associated Infrastructure Sub-Chapters;

   (b) Transport (**TR**);

   (c) Renewable Electricity Generation (**REG**);

   (d) Contaminated Land (**CL**); and

   (e) Hazardous Substances (**HS**).

3. The relevant Council Reporting Officers were Mr Tom Anderson, (Infrastructure), Mr Andrew Wharton (Transport), Mr Joe Jeffries (REG) and Ms Hannah van Haren-Giles (Contaminated Land and Hazardous Substances).

4. Mr Anderson provided separate Section 42A Reports addressing the Infrastructure chapter and the Infrastructure Sub-Chapters respectively. Each of the other reporting officers provided a single Section 42A Report on the topics they were responsible for.

5. Some Stream 9 issues were also addressed in the subsequent wrap-up hearing, the reporting officer for which was Mr Jamie Sirl. We have noted the matters re-addressed in the wrap-up hearing in this report where relevant.

6. Each hearing topic is addressed in a separate section of our Report. Each section generally follows the structure of the relevant Section 42A Report(s). In the case of Infrastructure, we deal first with the matters the subject of Mr Anderson's Infrastructure Report before turning to the matters covered in his separate Infrastructure Sub-Chapter Report.

1.2 Statutory Background

7. The topics before us were heard pursuant to Part 1 of the First Schedule to the RMA. We refer readers to Report 1A for a discussion of the background to this Report, noting that matters discussed in Report 1A specific to the Intensification Streamlined Planning Process (ISPP) are not relevant to this hearing stream. In particular, Report 1A sets out relevant background on:

(a) Appointment of Commissioners;

(b) Notification and submissions;

(c) Procedural directions;

(d) Conflict management;

(e) General approach taken in Reports; and

(f) Abbreviations used.

8. As foreshadowed in Report 1A, we have adopted an exceptions approach to the matters before us, focussing principally on matters put in contention by the parties who appeared before us and aspects of the relevant Section 42A Reports we felt required closer examination. If we have not addressed a submission point in our Report, it is because we agree with the recommendations of the relevant Section 42A Reporting Officer.

9. Report 1B, which addresses strategic objectives, together with the Council's decisions on our recommendations in that Report, also provides relevant background to this Report.

10. We note that the provisions of the National Policy Statement for Electricity Transmission 2008 (**NPSET**) and the National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**) assume particular importance in our consideration of the Infrastructure and REG chapters respectively. We discuss the relevant provisions of those national instruments that appear relevant to the matters we had to consider in the Report that follows.

1.3 Hearing Arrangements

11. The Commissioners who sat on Hearing Stream 9 were:

(a) Trevor Robinson (Barrister) as Chair;

(b) Jane Black (Urban Planner and Designer);

(c) David McMahon (Planner); and

(d) Miria Pomare (Resource Management Consultant).

12. At the hearing, Commissioner Black requested that her personal conflict in relation to the rules governing infrastructure within heritage areas be recorded, arising from the

fact that she lives in one such area. She took no part in the Panel's deliberations on that aspect of the Infrastructure Other Overlays Sub-Chapter.

13. The Stream 9 hearing commenced on 10 June 2024. We sat for all five days of that week, with the hearing concluding approximately 2:30pm on 14 June. Over the course of the hearing, we heard from the following parties:

(a) For Council:

- Hannah van Haren-Giles (Planning);
- Tom Anderson (Planning);
- Andrew Wharton (Planning);
- Patricia Wood (Transport);
- James Lieswyn (Transport)
- Joe Jeffries (Planning).

(b) For Meridian Energy Limited (**Meridian**)[1]:

- Andrew Feierabend;
- Christine Foster (Planning).

(c) For BP Oil New Zealand, Mobil Oil New Zealand Limited, and Z Energy Limited (**the Oil Companies**)[2]:

- Georgina McPherson (Planning).

(d) For Mount Victoria Residents' Association[3]:

- Ellen Blake;
- Angela Rothwell.

(e) For Enviro NZ (formerly Environwaste Services Ltd)[4]:

[1] Submission #228, Further Submission #101
[2] Submission #372
[3] Submission #342
[4] Submission #373

- Lawrence Dolan[5].

(f) For Wellington Heritage Professionals (**WHP**)[6]:

- Amanda Mulligan;
- Michael Kelly (Heritage).

(g) For M & P Makara Family Trust[7]:

- Ruth Paul.

(h) For Stratum Management Limited (**Stratum**)[8]:

- Craig Stewart;
- Gary Clark (Transport);
- Mitch Lewandowski (Planning).

(i) For Johnsonville Community Association (**JCA**)[9]:

- Warren Taylor;
- Mary Therese.

(j) For Firstgas Limited (**Firstgas**)[10]:

- Lauren Wallace (Counsel);
- Pam Unkovich (Planning).

(k) For Transpower Limited (**Transpower**)[11]:

- Pauline Whitney (Planning);
- Sarah Shand.

(l) For Living Streets Aotearoa[12]:

[5] Mr Dolan adopted the pre-circulated evidence of Ms Kaaren Rosser
[6] Submission #412
[7] Submission #159
[8] Submission #249
[9] Submission #429
[10] Submission #304, Further Submission #97
[11] Submission #315, Further Submission #29
[12] Submission #482, Further Submission #130

- Ellen Blake;
- Chris Horne.

(m) For WCC Environmental Reference Group[13]:

- Shannon Wallace.

(n) For Powerco Limited (**Powerco**)[14]:

- Gary Schofield;
- Chris Horne (Planning).

(o) Andrew Hodge[15].

(p) For Chorus New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand Limited (**Telcos**)[16]:

- Graeme McCarrison:
- Andrew Kantor;
- Chris Horne (Planning).

(q) For Guardians of the Bays Inc[17]:

- Yvonne Weeber.

(r) For Wellington International Airport Limited (**WIAL**)[18]:

- Amanda Dewar (Counsel);
- Jo Lester;
- Kirsty O'Sullivan (Planning).

(s) For Kāinga Ora – Homes and Communities (**Kāinga Ora**)[19]:

- Matthew Lindenberg (Planning);

[13] Submission #377, Further Submission #112
[14] Submission #127, Further Submission #61
[15] Submission #8
[16] Submission #99
[17] Submission #452
[18] Submission #406, Further Submission #36
[19] Submission #381, Further Submission #89

- Megan Taylor (Transport Engineering);
- Julie Cook;
- Brendon Liggett.

14. We record that when Mr Anderson commenced his presentation on Infrastructure Topics for the Council, he noted that although both he and the planning witness for Powerco Limited and the Telcos (Mr Horne) are marketed as employees of Incite, this is a branding exercise, and that they are in fact employed by separate companies.

15. Following the hearing, we received additional information from the parties, as follows:

(a) Mr Gary Clark, the Transport expert for Stratum Management Limited, provided us with the survey results that he had referred to in his evidence in tabular form;

(b) Mr Horne for Living Streets Aotearoa provided us with commentary on suitable native species to be planted as street trees. Ms Blake also supplied additional commentary on issues that she had run out of time to address as part of her presentation;

(c) Ms Christine Foster, giving planning evidence for Meridian, provided us with commentary on proposed amendments to the Introduction to the Infrastructure Chapter that Ms O'Sullivan has suggested (for WIAL) and Mr Anderson supported pursuant to leave we reserved in our Minute 51;

(d) Ms O'Sullivan provided us with an analysis of the amendments she had suggested be made to the Introduction to the Infrastructure Chapter pursuant to leave reserved in Minute 51, together with further analysis of changes she had proposed to notified INF-CE-P61 at our request;

(e) Council provided us with a statement of supplementary evidence from Ms Harriet Fraser on the genesis of provisions in the Transport Chapter pursuant to leave reserved in Minute 51; and

(f) Mr Clark responded to Ms Fraser's Supplementary evidence again pursuant to leave reserved in Minute 51.

16. We note that the representatives of JCA also supplied us with additional commentary. They did not seek leave to do so, but this was more in the nature of filling out verbal responses that they had already provided to us and thus, we have accepted it into the record.

17. We also received tabled statements for KiwiRail Holdings Ltd[20] and oOh! Street Furniture New Zealand Ltd[21].

18. We received a comprehensive set of statements in Reply from the Council Reporting Officers on 19 July 2024.

19. As already noted, some Stream 9 topics were addressed in the subsequent wrap-up hearing that was held on 7 and 8 November 2024.

20. Relevant to Stream 9 matters, the following parties appeared:

    (a) For Council:

    - Jamie Sirl (Planning);
    - Dr Rachel McClellan (Ecology).

    (b) For Enviro NZ[22]:

    - Kaaren Rosser.

    (c) For WIAL:

    - Amanda Dewar (Counsel);
    - Dr Michael Anderson (Ecology);
    - Jack Howarth;
    - Kirsty O'Sullivan (Planning).

    (d) For Airways Corporation of New Zealand Ltd (ACNZ)[23]:

    - Michael Connolly.

21. Transpower (Ms Whitney and Ms Shand) and Meridian (Ms Foster) pre-circulated evidence but in the event did not seek to be heard. We also received tabled statements from the Telcos (Mr Horne).

22. Following the conclusion of the wrap-up hearing, and at our request, we received supplementary evidence from Mr Howarth, together with replacement rule text and a

[20] Submission #408
[21] Submission #316
[22] Submission #373
[23] Submission #100

rule analysis from Ms O'Sullivan for WIAL, and two Joint Witness Statements from planning witnesses in relation to certain definitions.

23. Mr Sirl delivered his reply on 29 November 2024[24].

2. INFRASTRUCTURE:

2.1 Background

24. The Stream 9 hearing addressed submissions on the Infrastructure Chapter and four of the five notified Infrastructure Sub-Chapters. Mr Tom Anderson was the Reporting Officer on this hearing topic.

25. The starting point to understand the matters at issue is the definition of 'infrastructure' in the Act:

> *(a) pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy:*
>
> *(b) a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001:*
>
> *(c) a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989: (d) facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person—*
>
> *(d) uses them in connection with the generation of electricity for the person's use; and*
>
> *(e) does not use them to generate any electricity for supply to any other person:*
>
> *(f) a water supply distribution system, including a system for irrigation:*
>
> *(g) a drainage or sewerage system:*
>
> *(h) structures for transport on land by cycleways, rail, roads, walkways, or any other means:*
>
> *(i) facilities for the loading or unloading of cargo or passengers transported on land by any means:*
>
> *(j) an airport as defined in section 2 of the Airport Authorities Act 1966:*

[24] Mr Sirl provided an Erratum to his Reply on 3 December 2024

(k) a navigation installation as defined in section 2 of the Civil Aviation Act 1990:

(l) facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988:

(m) anything described as a network utility operation in regulations made for the purposes of the definition of network utility operator in section 166.

26. As Mr Anderson noted, the Infrastructure Chapter does not purport to address all infrastructure matters. In particular, the PDP identifies Special Purpose Zones for Port and Airport facilities with their own chapters, which was addressed in Hearing Stream 6. Those chapters provide for Airport and Port facilities within their respective zones. Airport and Port-related activities outside those zones are, however, addressed by the Infrastructure Chapter, as is any non-Airport and non-Port infrastructure within the respective zones.

27. Renewable Electricity Generation (**REG**) is similarly dealt with separately from infrastructure in its own chapter. The manner in which REG is referenced in the Infrastructure Chapter, and the extent of any overlay between the two chapters was the subject of considerable discussion at the hearing (and indeed in the subsequent wrap-up hearing). We will address that further below.

28. As already noted, as well as the Infrastructure Chapter, the notified plan provided five sub-chapters, as follows:

(a) INF-CE (Coastal Environment);

(b) INF-ECO (Ecosystems and Indigenous Biodiversity);

(c) INF-NFL (Natural Features and Landscapes);

(d) INF-NH (Natural Hazards); and

(e) INF-OL (Other Overlays).[25]

29. The INF-ECO Sub-Chapter was not heard as part of the Stream 9 hearing. Rather, it was deferred to be heard alongside the ECO Chapter, in Stream 11, and the Hearing Panel's recommendations in relation to it are contained in Report 11. We do not therefore discuss it further here.

[25] The other overlays in question were Historic Heritage, Notable Trees, Sites and Areas of Significance to Māori, and Viewshafts

30. Further, as we will discuss shortly, Mr Anderson recommended that an additional sub-chapter be added (INF-NG), in relation to the National Grid.

31. As notified, the Infrastructure Chapter identified six objectives:

(a) INF-O1 identifying the benefits of infrastructure;

(b) INF-O2 seeking management of infrastructure's adverse effects;

(c) INF-O3 seeking to manage adverse effects of activities on infrastructure;

(d) INF-O4 related to the availability of infrastructure;

(e) INF-O5 related specifically to the transport network; and

(f) INF-O6 related to amateur radio configurations.

32. These objectives were supported by 13 notified policies, 26 rules and 18 standards.

33. The notified INF-CE Sub-Chapter contained a further 19 policies (INF-CE-P14-P32) and 14 rules (INF-CE-R27-R40).

34. The INF-NFL Sub-Chapter contained 23 policies (INF-NFL-P38-P60) and 10 Rules (INF-NFL-R48-R57), together with a single standard (INF-NFL-S21).

35. The INF-NH Sub-Chapter contained a single policy (INF-NH-P61) and three rules (INF-NH-R58-R60).

36. The INF-OL Sub-Chapter contained a single policy (INF-OL-P62) and six rules (INF-OL-R61-R66).

37. In Mr Anderson's Section 42A Report, he recorded that some 820 submission points and 295 further submission points were received on infrastructure provisions.

38. In his Section 42A Report, Mr Anderson also summarised what he regarded as the key issues in contention in the Chapter, as follows:

(a) How the National Grid is provided for, in accordance with the National Policy Statement on Electricity Transmission 2008 (NPSET) and the Resource Management (National Environmental Standards for Electricity Transmission Activities (Regulations) 2009) (NESETA);

(b) Clarification of the proposed sub-chapter approach;

(c) Clarification of how the Infrastructure Chapters inter-related with the Port, Airport, and Renewable Electricity Generation Chapters; and

(d) How the Infrastructure Chapters relate to private property rights and notification.

39. By the opening of the hearing, Mr Anderson recorded that in his view, the issues in contention had narrowed significantly with the matters remaining:

(a) Whether the infrastructure chapter should consider Wellington International Airport Limited's seawall renewal project (Wellington International Airport Limited's submission point, raised in Ms O'Sullivan's evidence);

(b) Whether the infrastructure chapter should provide for district or regional resource recovery or waste disposal facilities (Enviro NZ's submission point, raised in Ms Rosser's evidence);

(c) Definitions and mapping of the National Grid Subdivision Corridor and National Grid Yard on planning maps (Transpower's submission point raised in Ms Whitney's evidence);

(d) Clarification in the introduction of the Infrastructure Chapter regarding cross reference to the REG Chapter (Meridian's submission point, raised in Ms Foster's evidence);

(e) INF-S7 – Whether trenchless methods are appropriate in riparian margins (Telcos' submission point, raised in Mr Horne's evidence);

(f) Whether rules INF-NFL-R41 and INF-NFL-R44 (notified rules INF-NFL-R49 and INF-NFL-R52) should include rail reserve alongside road reserve, when considering what should be a Permitted Activity (KiwiRail's submission point, raised in Ms Grinlinton-Hancock's evidence);

(g) INF-OL-R52 (notified rule INF-OL-R61)- Whether allowing infrastructure works over piped awa is appropriately provided for (Powerco Limited submission point, raised in Mr Horne's evidence);

(h) Rule INF-OL-R54 (notified rule INF-OL-R63)- activity status for customer connections to buildings in heritage areas, and the scale of infrastructure within heritage areas;

(i) Rule INF-NG-R58 (now rule INF-NG-R1)- to provide clarity concerning what, if any, works within the National Grid Yard should be notified to Transpower (Kāinga Ora's submission point, raised in Mr Lindenberg's evidence); and

(j) Rule INF-NG-R61[26]– concerning if the rule should use the wording "*reverse sensitivity*" or "*incompatible subdivision, use and development"* (Kāinga Ora's submission point raised in Mr Lindenberg's evidence, and Transpower's submission point raised in Ms Whitney's evidence).

40. Mr Anderson commenced his Section 42A Report addressing general submission points and structuring issues before moving on to definitions and then, sequentially, the provisions of the Infrastructure Chapter.

41. Mr Anderson addressed the four notified sub-chapters in a separate Section 42A Report.

42. We will follow that same general ordering of issues after a brief outline of the higher order direction that is particularly relevant to our recommendations on this topic.

43. We note as a preliminary point that we found the sequential numbering system applied across the Infrastructure Chapter and its Sub-Chapters that we have described above extremely unwieldy. Any numbering change resulting from the addition or deletion of provisions produces a cascade of further changes, including to internal cross-referencing. Tracking all of the consequential changes is a laborious process with significant potential for error. We have identified some errors as a result in the Reporting Officer's recommendations. We foresee that if retained, the numbering across the Infrastructure Sub-Chapters will cause issues in the appeal process, both to the parties and the Environment Court.

44. We have determined that a simpler numbering approach is required that will assist with plan legibility and usability, with each Infrastructure Sub-Chapter having its own numbering of provisions (i.e. starting at #1). Appendix 1 reflects that recommended change. Parties with an interest in these provisions will immediately observe the difference this makes, but if correctly applied, the change has no substantive effect. Accordingly, in our view, it falls within the jurisdiction provided by Clause 16 of the First Schedule.

[26] This reference appears to be an error as the subject of the Kāinga Ora and Transpower submissions was the policy numbered INF-NG-P61 in Mr Anderson's Section 42A Report, and numbered INF-NG-P3

45. To avoid confusion, we have discussed submissions with reference to the number a provision had when notified, because that is the basis on which submissions were framed.

2.2 Statutory Framework

46. As above, the extent of provisions for the National Grid was a key issue canvassed through the hearing. Accordingly, the NPSET and NESETA are important considerations that we need to give effect to.

47. The inter-relationship between infrastructure and REG means that the National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**) is similarly an important reference point.

48. To the extent that infrastructure is located in the Coastal Environment, the New Zealand Coastal Policy Statement 2010 (**NSCPS**) requires careful consideration.

49. The Operative Regional Policy Statement also requires consideration in this context. Specifically Objective 10 directs that the "*social, economic, cultural and environmental, benefits of regionally significant infrastructure are recognised and protected.*"

50. This objective is supported by Policy 8 which directs:

> "*District and Regional Plans shall include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure.*"

51. Regionally Significant Infrastructure is defined for this purpose as including:

> *• pipelines for the distribution or transmission of natural or manufactured gas or petroleum*
> *• strategic telecommunications facilities, as defined in section 5 of the Telecommunications Act 2001*
> *• strategic radio communications facilities, as defined in section 2(1) of the Radio Communications Act 1989*
> *• the national electricity grid, as defined by the Electricity Governance Rules 2003*
> *• facilities for the generation and transmission of electricity where it is supplied to the network, as defined by the Electricity Governance Rules 2003*
> *• the local authority water supply network and water treatment plants*
> *• the local authority wastewater and stormwater networks, systems and wastewater treatment plants*
> *• the Strategic Transport Network, as defined in the Wellington Regional Land Transport Strategy 2007-2016*

• Wellington City bus terminal and Wellington Railway Station terminus
• Wellington International Airport
• Masterton Hood Aerodrome
• Paraparaumu Airport
• Commercial Port Areas within Wellington Harbour and adjacent land used in association with the movement of cargo and passengers and including bulk fuel supply infrastructure, and storage tanks for bulk liquids, and associated wharflines.

52. The Operative Regional Policy Statement was the subject of Change 1, hearing of which proceeded in parallel with our own hearings. Decisions of GWRC on Change 1 were publicly notified on 4 October 2024. While that was well after the conclusion of the Stream 9 hearing, we were able to note a potentially significant change to the part of the above definition related to Wellington Airport, which we discuss further below.

53. Lastly in terms of framing the discussion, we note that the now operative strategic objectives of the Plan provide direction, including:

> *SCA-O1:*
>
> *The social, economic, cultural, and environmental benefits of infrastructure are recognised by enabling its establishment, operation, maintenance and upgrading in Wellington City so that:*
>
> 1. *The City is able to function safely, efficiently and effectively;*
> 2. *The infrastructure network is resilient in the long term;*
> 3. *Infrastructure, including renewable electricity generation facilities, contribute to the transition away from dependence on fossil fuels; and*
> 4. *Future growth and development is supported and can be sufficiently serviced.*
>
> *SCA-O2:*
>
> *New urban development occurs in locations that are supported by sufficient development capacity, or where this is not the case the development:*
>
> 1. *Can meet the infrastructure costs associated with the development, and*
> 2. *Supports a significant increase in development capacity for the City.*

SCA-O4:

New regionally significant infrastructure is provided for in appropriate locations and the social, cultural, economic, and environmental benefits of this infrastructure are recognised and provided for.

SCA-O5:

The adverse effects of infrastructure are managed having regard to the economic, social, environmental and cultural benefits, and the functional and operational needs of infrastructure.

SCA-O6:

Infrastructure is protected from incompatible development and activities that may create reverse sensitivity effects that would compromise its efficient and safe operation.

2.3 General Submission Points

54. Under this heading, Mr Anderson noted a series of submissions seeking a wide range of relief, as follows:

(a) ACNZ[27] sought an overlay around two of its facilities on Hawkins Hill, requiring third parties to consult with it before undertaking development of infrastructure within the overlay;

(b) CentrePort[28] sought that all natural hazard requirements be included in one chapter;

(c) Envirowaste[29] sought that waste facilities are suitably provided for;

(d) Firstgas[30] sought that the Regional Policy Statement be given effect and that the provisions of the PDP should recognise and provide for the gas transmission network. Firstgas also sought[31] that it be identified as an affected party in respect of potential effects on its assets and that[32] the gas transmission pipe corridor and above ground infrastructure be addressed on the planning maps;

(e) Forest and Bird[33] sought clarification of the scope of the Infrastructure Chapter and direction for the chapter to be as protective of biodiversity, natural character

[27] Submissions #100.3-4
[28] Submissions #402.42-43
[29] Submissions #373.7-8
[30] Submissions #304.2-3
[31] Submisison #304.4
[32] Submission #304.5
[33] Submission #345.38

and natural landscapes as possible. In a related submission[34], Forest and Bird sought either that the relevant overlay chapters apply or that the Infrastructure Chapter mirror the objectives of those overlay chapters;

(f) Horokiwi Quarries[35] sought recognition of the benefits of quarrying activities and the functional constraints associated with those activities;

(g) Jane Szentivanyi and Ben Briggs[36] sought that the District Plan provisions provide adequate infrastructure planning and development;

(h) Kāinga Ora[37] sought to preclude notification for restricted discretionary activities in the Infrastructure Rules;

(i) Living Streets[38] sought that new infrastructure and vehicle accessories not be located on footpaths;

(j) Tawa Community Board[39] sought that the Council prioritise infrastructure development in Tawa;

(k) Mount Victoria Residents Association[40] sought that urban infrastructure take account the needs of all age groups and abilities; and

(l) WIAL[41] sought that the objectives and policies of the Infrastructure Chapter apply to Airport and Airport Related Activities within the Airport Zone.

55. Mr Anderson considered separately a series of submissions from Kāinga Ora[42] seeking that transport-related provisions in the Infrastructure Chapter be shifted to the Transport Chapter.

56. In his assessment of these general submissions, Mr Anderson did not consider that any amendment was required to respond to the ACNZ submission. The submitter did not appear at the hearing, but reflecting on the matter at the conclusion of both the Stream 9 and Stream 10 hearings, we formed the view that the respective Reporting Officers had misunderstood the nature of the submission. In the infrastructure context in particular, Mr Anderson had based his view on the way that Airport

[34] Submission #345.39
[35] Submission #271.17
[36] Submission #369.11
[37] Submissions #391.103-104
[38] Submissions #482.28 and #482.30
[39] Submission #294.8
[40] Submission #342.21
[41] Submission #406.85
[42] Submissions #391.136-147

Activities and Airport Related Activities are addressed in the Airport Zone. The overlay ACNZ was seeking, however, would not apply in the Airport Zone as the facilities the submission focusses on are on Hawkins Hill, over 6 km distant from the Airport within the Natural Open Space Zone. We therefore requested that the issue be readdressed in the wrap-up hearing.

57. In that hearing, Mr Sirl's initial reaction (in his Section 42A Report) was that while an overlay/simple rule framework could perhaps work if it regulated structures over a certain height, ACNZ needed to supply suggested wording for the District Plan provisions it was seeking so that it might be properly assessed.

58. In response, Mr Michael Connolly gave evidence for ACNZ, providing background on ACNZ, the role its radar and communication equipment on Hawkins Hill Road play in the management of aircraft movements and the potential for structures in their vicinity to pose a danger to safe operation of aircraft. The remedy he proposed was an amendment to the rules in the Natural Open Space and General Rural Zones, which manage land uses in the immediate vicinity of the ACNZ facility. Accordingly, the matter is addressed in Report 7.

59. As regards CentrePort's submission, Mr Anderson referred us to the National Planning Standards, which require that matters relating to infrastructure are dealt with in a specific infrastructure chapter. He also considered that the way in which infrastructure had been addressed in the Plan, with sub-chapters containing a comprehensive set of objectives and policies for each sub-topic addressed in Forest and Bird's submission. We did not hear from either CentrePort or Forest and Bird at the hearing and we have no reason to differ from Mr Anderson's view.

60. Mr Anderson responded to both Envirowaste and Horokiwi Quarries by noting that waste facilities and quarries are not provided for in the definition of infrastructure. In his view, measures to address those matters were best located in other sections of the PDP.

61. We did not hear from Horokiwi Quarries, but we did hear from Mr Dolan on behalf of Enviro NZ (formerly Envirowaste). Mr Dolan emphasised to us the importance of waste management as part of the economy, noting its recognition in the New Zealand Infrastructure Strategy and the Waste Strategy published by Ministry for the Environment in 2023.

62. Mr Anderson did not alter his view on the matter.

63. For our part, we consider that there was merit in Mr Dolan's position. We note that Council owned and operated waste management facilities are typically designated. Privately operated waste management facilities, however, are not and, in our view, fulfil a similar role to other infrastructure. The fact remains, however, that waste management facilities are not defined as infrastructure in the RMA.

64. Nor are they defined as Regionally Significant Infrastructure in the Operative Regional Policy Statement, and while the Regional Policy Statement Change 1 decisions inserted reference to the Southern Landfill, they did not recognise waste management facilities more broadly as 'Infrastructure'.

65. Equally, however, they also share many of the same attributes as industry and Mr Dolan acknowledged that the General Industrial Zone provided for them at least to some extent.

66. While Mr Sirl agreed with Mr Anderson's recommendation that the definition of 'infrastructure' not be expanded to cover waste disposal facilities, the Regional Policy Statement Change 1 decisions on this point prompted Mr Sirl to recommend in his Section 42A Report for the Wrap-Up hearing that the definition of 'regionally significant infrastructure' in the Plan be amended to include the Southern Landfill.

67. Bouncing off that recommendation, Ms Kaaren Rosser appeared for the submitter in the wrap-up hearing and suggested that its submission might be granted in part by adding 'municipal landfills' to the definition of 'infrastructure' in the Plan, with a consequential note in the Infrastructure Chapter stating that the rules in that Chapter do not apply to municipal landfills.

68. In his Wrap-Up reply, Mr Sirl returned to the issue, advising that he had sought legal advice, and that as a result, he considered his earlier recommendation (to add reference to the Southern Landfill in the definition of 'regionally significant infrastructure') out of scope. He observed that in his view, consistency between the Regional Policy Statement and the Plan in this regard was best addressed in a future Change to the Plan, once any appeals on GWRC's Regional Policy Statement Change 1 decisions are resolved.

69. We agree with that view. That leaves Enviro NZ's submission, seeking recognition of (now) municipal landfills as 'infrastructure'. We identify a number of problems with the more limited relief Ms Rosser sought. Firstly, as we have noted, municipal landfills are typically designated. That is certainly the case with the only municipal

landfill in Wellington City. If they were classified as 'infrastructure' that would not alter how they are consented.

70. Moreover, Ms Rosser told us that she was seeking that municipal landfills not be managed by provisions in the Infrastructure Chapter. That was a pragmatic stance, given that Ms Rosser had not provided evidence as to what amendments might be required to the Infrastructure Chapter if landfills were classed as infrastructure. However, it left us wondering what the point was of the change to the definition she supported.

71. Against that background, we do not consider it would be appropriate to categorise municipal landfills as infrastructure. We recommend rejection of Enviro NZ's submission (as refined). We observe more generally that if waste treatment and disposal are to be treated as a form of 'infrastructure' (as above, a view that we have some sympathy for), this needs to be driven by higher order policy direction.

72. We note that, for consistency, we take the same view in relation to quarries[43] which, while forming an important role in the district economy, are in our view best addressed as a form of industry with its own special purpose zone.

73. In relation to Firstgas's submission, Mr Anderson considered that the notified provisions already gave effect to the relevant Act provisions of the Regional Policy Statement and to Firstgas's requests for recognition of the gas transmission network. Mr Anderson did, however, accept that effective implementation of the notified rule requiring resource consent for sensitive activities in the gas transmission pipeline corridor (INF-R23) requires that the corridor is mapped. He did not consider that additional provisions were required in relation to notification.

74. When they appeared, Firstgas's representatives did not suggest to us that Mr Anderson's recommendation did not provide properly for its network other than in certain minor respects that we will discuss further below. While Ms Unkovich did suggest that the gas network might be placed on the same footing as the National Grid, we do not think that that view is sustainable given the recognition and support given to the latter by the NPSET.

75. We accept Mr Anderson's recommendation that the planning maps be updated to include the gas transmission network, but otherwise that no amendment is required, certainly at a high level, to address Firstgas's submissions. However, we identify a

[43] Raised in the submission of Horokiwi Quarries Limited [#271.13], which did not seek specific relief.

practical problem mapping the gas transmission corridor, as Mr Anderson proposes. In Section 2.8 of our report below, we discuss the need to provide separately for residential activities occurring near the gas transmission pipeline, from other activities, with different buffer distances for different activities. That means that there is no single corridor to map. It follows that what needs to be mapped is the natural gas pipeline. We accept that this is sub-optimal, for the reasons discussed in Section 2.7 related to the National Grid Subdivision Corridor, but we see no way around the problem we have identified.

76. Mr Anderson also considered that existing Plan provisions address the Szentivanyi/Briggs submission. We concur.

77. Mr Anderson did not consider that a general notification preclusion was appropriate given the potential for infrastructure to have adverse effects on the environment. Mr Lindenberg did not pursue this matter when he appeared on behalf of Kāinga Ora and we agree with Mr Anderson's reasoning.

78. Mr Anderson did not support Living Streets' submission precluding use of footpaths for infrastructure. In his view, while infrastructure should where practical be located within a legal road, the legal road includes the entire width of the roading corridor. He pointed out to us also the National Code of Practice for Utility Operators' Access to Transport Corridors 2019.

79. While Living Streets appeared at the hearing, its representatives did not address this particular issue, and in any event, we agree with Mr Anderson's reasoning.

80. As regards the Tawa Community Board's submission point, Mr Anderson's view was that prioritisation of infrastructure is not a matter for the District Plan but rather, needs to be provided through other means, recognising that infrastructure is provided by a range of entities. We agree. In our view, similar reasoning applies to the Mount Victoria Residents Association's submission.

81. Mr Anderson did not specifically address WIAL's submission in this context. We will return to it later in this Report.

82. Lastly, Mr Anderson recommended that a distinction be drawn between provisions related to connections to roads, from other transport infrastructure provisions. He did not consider it appropriate to differentiate the latter from other infrastructure. However, in his view, connections to roads as an activity are more closely related to other transport provisions such as trip generation and site access. We concur with

Mr Anderson's reasoning and note that Mr Lindenberg did not disagree in his planning evidence for Kāinga Ora.

83. Mr Anderson recommended that INF-P11, INF-R24, INF-S16 and INF-S17 should be shifted to the Transport Chapter with associated numbering changes to reflect the deletions. With one exception, we agree and adopt Mr Anderson's recommendation. The exception is notified INF-S17. This standard was referenced in notified INF-R24 (Connections to roads). INF-S17, however, relates to the design of intersections and reference to it in INF-R24 appears to be an error. As we will discuss below in Section 2.8 of our report, Survey & Spatial[44] sought that INF-R24 reference INF-S15 and INF-S16, which do relate to connections to roads. Accepting that submission (which we recommend) would leave INF-S17 an orphan, not referenced in any rule. It is apparent to us that INF-S17 should have been referenced in INF-R25 (New roads). We recommend in Section 2.8 that it be referenced in that rule. That means in turn that renumbered INF-S17 (now INF-S14) should stay in the Infrastructure Chapter along with the Table and Figure it refers to.

2.4 Definitions

84. Mr Anderson noted submissions from Transpower[45] seeking to amend the definition of 'maintenance and repair' to clarify that the initial part of the definition does not apply to infrastructure and from Firstgas[46] seeking new definitions for 'gas transmission pipeline corridor', 'gas transmission network' and 'gas transmission pipeline'.

85. As regards the latter, Mr Anderson did not consider that the definitions were required, given his earlier recommendation for the mapping of the gas transmission pipeline corridor. Ms Unkovich did not pursue the matter further when in her planning evidence for Firstgas. While we have not accepted Mr Anderson's recommendation in that regard, we agree with the outcome. Given the way the rules discussed in Section 2.8 below are framed, and the fact that the gas transmission pipeline will be mapped, we do not consider the proposed definitions are required.

86. Mr Anderson did, however, consider that there was merit in Transpower's submission and recommended insertion of clarification that clauses (a) and (b) in the first part of

[44] Submission #439.21
[45] Submissions #315.23-24
[46] Submissions #304.6-8

the definition do not apply to non-infrastructure buildings and structures. We agree that this is a helpful clarification and adopt Mr Anderson's recommendation.

87. In the wrap up hearing, Mr Sirl noted submissions from Meridian[47], WIAL[48] and Yvonne Weeber[49] and Guardians of the Bays[50] on the definition of 'upgrading'.

88. As notified that definition read:

> *"as it applies to infrastructure, means the improvement or increase in carrying capacity, operational efficiency, security or safety of existing infrastructure, but excludes maintenance, repair and renewal"*

89. Meridian sought that reference be added to increasing output to reflect the fact that the definition applied to REG. WIAL sought amendment to refer to bringing existing structures or facilities "*up to current standards*", combined with an environmental effects test. Ms Weeber and Guardians of the Bays sought deletion of reference to increasing carrying capacity.

90. Mr Sirl agreed with Meridian and disagreed with the other submitters. While WIAL's relief was based on the desirability of consistency with the NRP, Mr Sirl noted that the NRP differed in its approach, distinguishing upgrades and extensions, in a way that the Plan does not. In relation to Ms Weeber's concerns about the application of the definition in the Airport Zone, he noted that airport activities within the Airport Zone are subject to zone standards.

91. Mr Sirl also recommended an amendment to make it clear that 'upgrade' and 'upgrades' were to be read similarly.

92. In her wrap-up evidence, Ms O'Sullivan acknowledged Mr Sirl's reasoning and focussed on the exclusion of renewals in the notified definition. She was concerned that that would leave WIAL's seawall upgrade project, which involved replacement and enlargement of the existing seawall in a consenting limbo. She suggested, as alternative relief, deletion of reference to 'renewals' in the definition.

93. Mr Sirl agreed with that alternative relief in his rebuttal evidence, accepting that the effect of the exclusion in the notified definition would be that renewals/replacements would be treated as new works.

[47] Submissions #228.14-15
[48] Submission #406.45
[49] Submission #340.4
[50] Submission #452.3

94. We remained unclear about the distinctions being drawn between maintenance and repair (which as defined, includes identical replacements), and renewals and upgrades, so we directed that the planners with an interest in the matter conference. We therefore had the benefit of a useful Joint Witness Statement authored by Mr Sirl, Ms O'Sullivan and Ms Foster. They considered that the scale of upgrades is best managed by rules and standards rather than definitions, and accordingly recommended acceptance of the revised relief Ms O'Sullivan has suggested, and Mr Sirl had accepted. We concur with their reasoning and therefore adopt Mr Sirl's recommendation. We return to the issue in the context of the rules and standards governing infrastructure upgrades later in this report[51].

95. The fact that the definition of 'maintenance and repair' includes only identical replacement caused us to wonder if that was unnecessarily restrictive. We therefore asked Mr Sirl to consider the potential that it might be amended to include replacements with something smaller. His answer was that smaller replacements might rely on existing use rights, but in any event, we had no scope to amend that definition in that manner. We are not at all sure his first reason is correct. Replacement with smaller facilities will at the very least have construction effects that are different in character intensity and scale to the ongoing operation of an existing facility. However, the second reason is decisive. We recommend that Council consider whether there might be merit in expanding the scope of maintenance and repair via a future Plan Change.

96. Mr Sirl drew our attention to submissions related to other infrastructure-related definitions in his Wrap-Up Reply.

97. We have already discussed the definition of 'Infrastructure' as it relates to Waste treatment and disposal, and quarries. Mr Sirl noted a submission from NZ Defence Force[52] seeking that the definition include "*defence facilities*"". Mr Sirl did not recommend acceptance of that submission and we did not have any evidence addressing the point from the submitter. We therefore had no basis on which to disagree with Mr Sirl.

98. We have already discussed the potential amendment of the definition of 'regionally significant infrastructure' to cover the Southern Landfill or to expand the scope of facilities coming within Wellington International Airport.

[51] We are comfortable that the rules and standards in the REG Chapter appropriately manage REG upgrades.
[52] Submissions #423.1-2

99. Mr Sirl noted submissions on the definition as follows:

(a) KiwiRail[53] sought that the "*Interislander Ferry Terminal*" be added to reference to the Strategic Transport Network in (h);

(b) NZ Defence Force[54] sought that "*defence facilities*" be added;

(c) CentrePort[55] sought that reference in point (j) to Commercial Port Areas include Burnham and Miramar Wharves;

(d) Powerco[56] sought that reference in point (a) to gas or petroleum pipelines be expanded to include "*any associated fittings, appurtenances, fixtures or equipment*". Firstgas[57] sought a similar but expanded addition;

(e) Wellington Electricity[58] sought inclusion of the electricity network 11kV and above; and

(f) Forest and Bird[59] sought refinement of the reference in point (j) to Commercial Port Areas.

100. Mr Sirl accepted in principle the desire for consistency with the Regional Policy Statement Change 1 definition of the same term. He did not, however, support filling out each definition to pick up sub-components unless necessary to provide clarity.

101. This approach, which we agree with, prompted him to recommend rejection of the KiwiRail and CentrePort submissions. In those cases, the additional elements were already included in the definition. He also disagreed with NZ Defence Force, on the basis that defence facilities are not 'infrastructure', as defined in the RMA. He also noted that defence facilities in Wellington are designated.

102. Mr Sirl agreed with Powerco and Firstgas that amendment was required. He preferred Powerco's wording on the basis that it was consistent with Regional Policy Statement Change 1. He also agreed with Wellington Electricity on the basis that this would align with Regional Policy Statement Change 1.

[53] Submission #408.14
[54] Submission #423.3
[55] Submissions #402.22 and 402.26
[56] Submission #127.1
[57] Submissions #304.9-10
[58] Submissions #355.15-16
[59] Submission 345.10

103. Lastly Mr Sirl disagreed with Forest and Bird. He considered the existing definition accurately described where port activities occur.

104. We did not hear from any of these submitters in the Wrap-Up hearing and we agree with Mr Sirl's reasoning on all of these points.

105. Mr Sirl noted and agreed with a Wellington Electricity submission[60] suggesting that the definition of 'Cabinet' include reference to "*storage batteries*", as do we.

106. Mr Sirl noted DoC[61] as seeking a definition of 'temporary infrastructure'. He agreed with a Telco Further Submission[62] that there was no need for a definition as the relevant rule already constrains the ambit of such infrastructure. We concur.

107. Rod Halliday on behalf of Lincolnshire Farm Ltd and others[63] sought a definition of 'Gas Transmission Pipeline Corridor'. Mr Sirl considered that the submission had been effectively overtaken by a recommendation in Stream 9 to use a different term, and map its location. As discussed above, in the context of Firstgas' submission to similar effect, while we have not recommended that the gas transmission corridor be mapped, we do not consider a definition of it is required.

108. Lastly, we note a Waka Kotahi submission[64] seeking that references in the Plan to 'Network Utility Operator' be replaced with "*Network Utility Operator and State Highway Network Operator*". Mr Sirl considered that the definition already makes it clear that that it includes the operator of the State Highway Network. We agree with his reasoning and recommend the submission be rejected. Other issues about definitions arose in the context of submissions on Plan provisions and we address them in that context.

2.5 Infrastructure Chapter Introduction

109. Under this heading, Mr Anderson noted submissions from Meridian[65], seeking that the Introduction be amended to state that the provisions of the INF Chapter do not apply to REG activities, and from WIAL[66], seeking clarification that the rules within the INF Chapter do not apply to Airport Activities or Airport Related Activities located within

[60] Submission #355.9-10
[61] Submission #385.9
[62] Further Submission FS25.1
[63] Submission 25.18
[64] Submission #370.2
[65] Submissions #228.23-24
[66] Submission #406.82

the Airport Zone, and that that is also the case in relation to the Infrastructure sub-chapters.

110. Separately, Taranaki Whānui[67] and WIAL[68] sought that the section of the Introduction entitled 'Other relevant District Plan provisions' reference the Sites and Areas of Significance to Māori Chapter and the Designations Chapter respectively.

111. Mr Anderson accepted the thrust of the Meridian and WIAL submissions seeking clarification of the inter-relationship between the Infrastructure Chapter, the Infrastructure Sub-chapters, the Airport and Port Special Purpose Zones and the REG Chapter. Accordingly, he recommended amendments to the Introduction to:

- Insert reference to REG as being included within the definition of Infrastructure;
- Add reference to the Infrastructure sub-chapters as not applying to Airport or Airport Related Activities, Port or Operational Port activities, or to REG; and
- Adding reference to REG as a topic that the Infrastructure Chapter does not apply to.

112. Mr Anderson agreed that reference to designations should be added to the 'Other relevant District Plan provisions' list but did not consider that Sites and Areas of Significance to Māori should be referenced as this overlay is addressed in the INF-OL sub-chapter. We did not hear from Taranaki Whānui and we agree with Mr Anderson's reasoning on the latter point.

113. Addressing Mr Anderson's recommendations, Ms Foster for Meridian supported the suggested amendments, suggesting only clarification of the reference to Infrastructure Sub-Chapters.

114. In her planning evidence for WIAL, Ms O'Sullivan sought additional amendments, which would have the effect of:

- The reference to the rules in the Zone Chapters, the Earthworks Chapter and Overlay Chapters not applying to infrastructure be broadened to reference, in each case, objectives, policies and methods; and

[67] Submission #389.55
[68] Submission #406.83-84

- Clarifying the exclusion of activities within the Airport and Port Zones be clarified to refer to "*activities"* rather than "*purposes*" and limiting the application of the Infrastructure Chapter specifically to rules.

115. Mr Anderson did not consider that the clarification Ms Foster had suggested was required. In his view, the amendments he had suggested already clearly included all Sub-Chapters. We agree with that view and note that it is reinforced in the Introduction to each Sub-Chapter.

116. Mr Anderson did, however, consider there to be merit in Ms O'Sullivan's suggested amendments to make it clear that it is the rules within the Infrastructure Chapter that do not apply to Airport activities or Airport related activities in the Airport Zone, or Port or operational Port activities in the Port Zone. He agreed with Ms O'Sullivan's reasoning that the Airport should benefit from the objectives and policies of the Infrastructure Chapter, noting in particular the reverse sensitivity provisions.

117. Mr Anderson noted that the same logic applied to the Notable Trees Chapter, and he therefore recommended its deletion as a minor/consequential change.

118. When he appeared, we asked Mr Anderson about the terminology in the paragraph which sought to clarify the inter-relationship between the various chapters insofar as he had referred to infrastructure in the Port or Airport Zones "*that is inconsistent with"* the definitions of Airport Activity, Airport Related Activity, Port Activity and Operational Port Activity. He agreed that 'inconsistent' was not the right term and undertook to review it further in reply.

119. Also at the hearing, we discussed with Ms O'Sullivan whether there was any downside to having the objectives and policies apply in the Special Zones. She did not think so but accepted that hers had been a reasonably high-level evaluation. We gave Ms O'Sullivan leave to provide a more detailed evaluation.

120. Following the hearing, it occurred to us that we might have asked that same question of Ms Foster, for Meridian, given that Meridian was the other affected party who had appeared before us. We therefore gave Ms Foster leave to address the issue also.

121. That prompted a discussion between Ms Foster, Ms O'Sullivan and Mr Anderson who all agreed that, whereas it was appropriate for the objectives and policies of the Infrastructure Chapter to apply to Airport Activity, Airport Related Activity, Port Activity and Operational Port Activity within the respective special zones, the same was not the case for REG, the chapter for which was intended to be a stand-alone set of

provisions. Ms Foster, Ms O'Sullivan and Mr Anderson also agreed how this might appropriately be dealt with, and we adopt their joint recommendation as to how it might be addressed.

122. There is one aspect of Mr Anderson's Reply version of the paragraph the Planners were discussing that we consider requires further amendment. This is the sentence that reads:

> "*Any infrastructure in the Airport or Port Zones that does not meet those definitions is managed by the provisions in this Infrastructure Chapter…".*

123. We think that it would be phrased better if it referred to infrastructure that "*does not fall within"* the relevant definitions.

124. Mr Anderson recommended an additional amendment to refer specifically to the seawalls adjacent to the Airport. We will return to that issue.

125. We asked Mr Anderson to consider in his Reply a scenario where objectives and policies of the Infrastructure Chapter overlap and are potentially inconsistent with those sub-chapters, querying whether the Introduction should provide clarification as to how such a situation should be addressed. Mr Anderson referred us to a statement in the notified Introduction that already provides that clarification. We accept that nothing further is required.

126. There is another aspect of the Introduction that we consider needs amendment. This is the paragraph that as amended in Mr Anderson's Reply, would read:

> ***"****The provisions within this chapter apply on a City-wide basis. As such the rules in the zone chapters ~~and earthworks chapter~~ do not apply to infrastructure unless specifically stated within an infrastructure rule or standard. Likewise, the rules in the <u>following</u> overlay chapters do not apply to infrastructure <u>unless specifically stated in an infrastructure rule or standard:</u>*
>
> - *<u>Three Waters</u>*
> - *<u>Renewable Electricity Generation</u>*
> - *<u>Natural Hazards</u>*
> - *<u>Historic Heritage</u>*
> - *<u>Notable Trees</u>*
> - *<u>Sites and Areas of Significance to Māori</u>*
> - *<u>Viewshafts</u>*
> - *<u>Ecosystems and Indigenous Biodiversity</u>*
> - *<u>Natural Character</u>*
> - *<u>Natural Features and Landscapes</u>*

- *Public Access*
- *Coastal Environment*
- *Earthworks.*

Instead, these matters are addressed within the Infrastructure chapter and the following Infrastructure sub-chapters ~~address the requirements particular to the overlays as follows~~:".

127. The problem we foresee is that we understand the intention to be that these overlays would apply to Airport Activities and Airport Related Activities within the Airport Zone, and Port and Operational Port Activities within the Port Zone. Further, REG is defined to be an aspect of infrastructure. While, as we understand it, the specified Overlays Chapters are not intended to apply to REG, the exception will be if the REG Chapter rules or standards state otherwise (rather than the Infrastructure rules or standards).

128. These issues were the subject of discussion in the wrap up hearing and we asked Mr Sirl to give further thought to the provisions clarifying the inter-relationship between the Infrastructure Chapter, the Infrastructure Sub-chapters, the Airport and Port Special Purpose Zones and the REG Chapter.

129. Mr Sirl's Reply addressed both this issue, and other questions we had had about how these various Plan provisions inter-relate comprehensively. He recommended amendments to the "General Approach Section', the Infrastructure Chapter Introduction, and the Introduction to each Sub-Chapter. We discuss the latter in Section 2.11 of our report below.

130. When Mr Sirl first tabled recommended amendments to the General Approach section of the Plan (with his Section 42A Report), we had an initial concern that that section was the subject of our Report 1A recommendations, and Council decisions thereon. It is therefore now operative, and we queried our jurisdiction to recommend further amendments to it. In his Reply, Mr Sirl advised that he had taken legal advice, which indicated that so long as we did not touch provisions related to matters heard and determined in the ISPP phase of hearings, we had jurisdiction to recommend further amendments.

131. This advice prompted Mr Sirl to recommend a different approach, extracting existing references to Infrastructure and REG and inserting a new section only addressing those topics. We agree with that approach which, in our view, works round the jurisdictional hurdles rather neatly.

132. As regards the substance of Mr Sirl's recommended changes to the General Approach section, the suggested addition would read as follows:

> ***Operation of the Infrastructure, Infrastructure sub-chapters and Renewable Electricity Generation chapters***
>
> *The Infrastructure, Infrastructure sub-chapters and Renewable Electricity Generation chapters operate as standalone chapters containing all relevant objectives (with the exception of the strategic objectives that apply), policies, rules and standards applying to these activities unless otherwise specified in a rule or standard.*
>
> *Further, the Resource Management Act, and therefore the District Plan, share the same broad definition of 'infrastructure', which includes airport and port facilities, and renewable electricity generation. Notwithstanding that the rules within the Infrastructure Chapter (including the infrastructure sub chapters) do not apply to activities that fall under the definition of airport activities or airport related activities (and are located within the Airport Zone), or the definition of port or operational port activities (and are located within the Port Zone). Any infrastructure in the airport or port zones that does not meet those definitions is managed by the provisions in this Infrastructure Chapter, which also apply to the management the Moa Point Seawall, as mapped in the ePlan.*
>
> *The Infrastructure Chapter (including the infrastructure sub chapters) also does not apply to activities that fall within the definition of Renewable Electricity Generation Activity (which are dealt with in the Renewable Electricity Generation chapter).*

133. We agree with the general direction of the proposed amendments. The only issue we had was in the detail. Firstly, we recommend a grammatical change (insertion of a comma), to make the second sentence of the second paragraph read in the manner we think is intended, so it would start, "*Notwithstanding that, the rules*…."

134. Secondly, we consider the reference to the Moa Point Seawall requires amendment. The Plan maps do not map the seawall. They map an area, within which the seawall is located. The rationale for Mr Sirl's recommendation (in his Wrap-Up Section 42A Report) that provisions related to the Moa Point Road Seawall Area remain in the Coastal Environment Chapter is that there are (or may be) activities occurring in that area that do not fall within the definition of 'infrastructure'.

135. It follows, in our view, that the final words of the second paragraph need to talk about "*management of infrastructure within the Moa Point Road Seawall Area, as mapped in the ePlan.*"

136. Turning to the Infrastructure Chapter, we agree with the general direction of Mr Sirl's recommended further amendments, and we have only a few points of detail which we consider require revision to the combination of Mr Sirl's recommendations overlayed on those of Mr Anderson.

137. The first relates to the sentence:

> *"Where an infrastructure activity is within more than one overlay, the provisions of each infrastructure sub-chapter apply"*

138. The reference to overlays is problematic. The Infrastructure Sub-Chapters do not address all of the overlays listed further up the page, and one of the Sub-Chapters (INF-NG) does not address an overlay at all.

139. Further, the statement is not correct in every instance. The INF-NG Sub-Chapter applies to the exclusion of some of the other Sub-Chapters. We discuss that point further in Section 2.15 below.

140. We recommend that this sentence be amended to read:

> *"Where more than one infrastructure chapter applies to an infrastructure activity, the provisions of each infrastructure sub-chapter apply unless otherwise stated.*

141. The second point relates to the following sentence, which formerly read, "*In the case of conflict with any provisions of this chapter and a sub-chapter, the provisions of the sub-chapter will prevail*". Mr Sirl recommended that that sentence be deleted, but did not explain his reasons.

142. As above, Mr Anderson relied on this sentence when explaining what would happen if the provisions of the Infrastructure Chapter conflicted with those of a Sub-Chapter, and we recommend it be retained. If that poses a problem in the practical implementation of the infrastructure provisions of the PDP, Council will need to address it through a future Plan Change.

143. Lastly, the revised Infrastructure Introduction contained the same wording in relation to the Moa Point seawall as in the recommended change to the General Approach

section discussed above. We recommend the same amendment as in that context for the same reasons.

2.6 Infrastructure Objectives

INF-O1

144. As notified, the first objective in the Infrastructure Chapter was framed as follows:

> "*The national, regional and local benefits of infrastructure are recognised and provided for."*

145. The only submissions Mr Anderson noted seeking substantive change to this objective were from the Ministry of Education[69] seeking that it refer to 'additional infrastructure'.

146. As Mr Anderson noted, the concept of 'additional infrastructure' is derived from the NPSUD and includes social infrastructure such as schools and healthcare facilities.

147. Mr Anderson noted that widening the scope of the chapter to include 'additional infrastructure' would potentially conflict with other chapters in the PDP that seek to manage such 'infrastructure'. Mr Anderson also noted that in practice the Ministry of Education utilises its Minister's power as a requiring authority to issue notices of requirement for schools.

148. We did not hear from the Ministry as to why Mr Anderson's reasoning was unfounded and we agree with it. Accordingly, we recommend that Objective INF-O1 remain without change.

INF-O2

149. The second objective in the Infrastructure Chapter is framed as follows:

> *"The adverse effects of infrastructure on the environment are managed, while recognising:*
>
> 1. *The functional and operational need of infrastructure; and*
> 2. *That positive effects of infrastructure may be realised locally, regionally or nationally."*

[69] Submissions #400.17-18

150. Mr Anderson noted two sets of submissions seeking substantive change to this objective. The first from CentrePort[70] sought to remove the word 'managed' and substitute 'avoided, remedied or mitigated'. CentrePort also sought to amend the reference to functional and operational need to align with the proposed Natural Resources Plan that refers to 'functional need' and 'operational requirements'.

151. Kāinga Ora[71] sought that the objective refer to mitigation and management of adverse effects.

152. Mr Anderson did not agree. He considered that the term 'managed' is a common RMA term which allows for the full range of management responses in line with the general duties under Section 17 of the Act. He also noted that the terminology utilised by the objective in relation to 'functional and operational need' reflected the definitions in the National Planning Standards. He did not therefore consider they should be altered.

153. We did not hear from CentrePort and Mr Lindenberg did not pursue the matter in his planning evidence for Kāinga Ora.

154. At our request, Mr Anderson provided further commentary in his Reply statement on the merits of CentrePort's suggested alternative wording. There, he observed that the terminology in this objective is similar to that in a number of objectives in the Plan.

155. Ultimately, we consider that CentrePort has a point when it observes that the term 'managed' is open to interpretation, and gives limited assistance to its decision-makers. However, we consider its alternative relief to be no better in this regard, and thus do not recommend any change.

156. We agree also that it is preferable to use the terms defined in the National Planning Standards. Accordingly, we adopt Mr Anderson's recommendation that this objective remain without change.

INF-O3

157. Objective INF-O3 as notified read as follows:

[70] Submissions #402.45-46
[71] Submissions #391.108-109

"Manage the adverse effects, including reverse sensitivity effects of subdivision, use and development on the function and operation of infrastructure."

158. Mr Anderson noted Kāinga Ora submissions[72] seeking that reference to reverse sensitivity effects be deleted. Other substantive submissions seeking amendment were received from WIAL[73]. WIAL sought amendment to protect infrastructure from incompatible subdivision, use and development, including reverse sensitivity effects. Mr Anderson also noted a submission from Heidi Snelson and others[74] expressing the view that 'well functioning urban environment' does not apply to this objective. The submission did not, however, seek specific relief. Lastly, as Mr Anderson recorded, a number of submitters identified a typographical error that he recommended be corrected.

159. As regards the substantive submissions, Mr Anderson noted the alignment of this objective with Regional Policy Statement Policy 8. He considered that a complete answer to the submissions seeking deletion of reference to reverse sensitivity. He also considered that avoidance of incompatible subdivision is a method to manage reverse sensitivity effects and that, to that extent, the objective already addresses WIAL's requested relief. In his planning evidence for Kāinga Ora, Mr Lindenberg accepted Mr Anderson's reasoning. Ms O'Sullivan, however, took issue with that reasoning in her planning evidence for WIAL. She emphasised that WIAL's concerns were broader than just reverse sensitivity and reflected the issues that establishment of incompatible land use and development near the Airport would have. She also pointed out that Policy 8 of the Regional Policy Statement references incompatible new subdivision, use and development occurring under, over or adjacent to infrastructure.

160. She supported an objective that would read:

"*Protect infrastructure from incompatible subdivision, use and development, that may compromise its efficient and safe operation."*

161. Considering Ms O'Sullivan's evidence in rebuttal, Mr Anderson recorded that he had formed the view that reverse sensitivity, as defined, provides some, but not comprehensive protection for Regionally Significant Infrastructure from incompatible subdivision, use and development.

[72] Submissions #391.110-111
[73] Submissions #406.90-92
[74] Submission #276.12

162. He therefore accepted that to give effect to the Regional Policy Statement, he should adopt Ms O'Sullivan's revised wording, but limited to Regionally Significant Infrastructure. As regards infrastructure which is not regionally significant, he considered that this still needed to be provided for, but at the lower level proposed in the existing objective. Accordingly, he suggested that be retained for 'other' infrastructure.

163. Ms O'Sullivan confirmed her support for the revised approach recommended by Mr Anderson, and we adopt that recommendation also. We consider that Mr Anderson is right to seek a two-tiered outcome in INF-O3 that gives effect to the Regional Policy Statement in relation to Regionally Significant Infrastructure, while still providing some protection for other infrastructure.

INF-O4

164. As notified, INF-O4 read as follows:

> "*Safe, effective and resilient infrastructure is available for, and integrated with, existing and planned subdivision, use and development."*

165. Mr Anderson noted only two substantive submissions on this objective. The first from Heidi Snelson and others[75] made the same point as their submission in relation to INF-O3. As with that submission, however, no relief was sought. In addition, Ministry of Education[76] sought that reference be made to 'additional infrastructure'.

166. Mr Anderson had the same view in relation to the latter as discussed above in relation to INF-O1. We agree with that reasoning in this context also.

167. Similarly, he considered that a 'well functioning urban environment' needs to be supported by infrastructure, drawing attention to the specific elements of Policy 1 of the NPSUD that are linked to infrastructure. We also note that Policy 1 is inclusive. We share Mr Anderson's view that well functioning infrastructure is a necessary part of a well functioning urban environment.

168. It follows that we agree with Mr Anderson's recommendation that this objective remain without change.

[75] Submission #276.13
[76] Submissions #400.19-20

INF-O5

169. As notified, this objective read as follows:

> *"The transport network:*
>
> *1 Improves connectivity, enabling people of all ages and abilities, and goods to move safely and effectively regardless of transport mode;*
>
> *2 Supports well-functioning urban environments;*
>
> *3 Supports the health and wellbeing of people; and*
>
> *4 Supports development infrastructure, additional infrastructure and green infrastructure."*

170. Mr Anderson noted a similar submission from Heidi Snelson and others[77] as that made above.

171. He also noted submissions from Tawa Business Group[78] seeking an integrated transport strategy enabling improved accessibility to public transport and provision of shared paths, and clarification of the Council's role of the active upgrading and development of the existing transport network.

172. We observe that this objective was also the subject of Kāinga Ora's general submission[79] seeking that transport provisions be shifted to the Transport Chapter which we have already discussed.

173. Mr Anderson had the same response to the Snelson and others' submission as discussed above. We concur with his reasoning.

174. As regards the Tawa Business Group's submissions, Mr Anderson's view was that upgrading of the existing transport networks was not a function of the PDP and that the provisions of the PDP already seek to enable and provide space for an integrated transport network. The Tawa Business Group did not appear at the hearing and in the absence of any reason otherwise, we agree with Mr Anderson's reasoning. We therefore adopt his recommendation that this objective remain without change.

[77] Submission #276.14
[78] Submissions #107.12-13
[79] Submissions #391.113

INF-O6

175. This objective relates to amateur radio configurations. Mr Anderson did not draw our attention to any submission seeking that it be changed. As such we need not consider it further.

2.7 Infrastructure Chapter Policies

INF- P1: Recognising and providing for infrastructure

176. Mr Anderson noted two substantive submissions seeking amendment to this policy. The first, from Ministry of Education[80], sought that reference be made to 'additional infrastructure'.

177. The second, from Transpower[81], sought that the Plan provide a new national grid specific policy, or in the alternative, that this policy be amended to make reference to the benefits being 'provided for' in addition to being 'recognised' in order to be consistent with the NPSET.

178. Mr Anderson did not recommend acceptance of the Ministry's submissions. We agree for the same reasons as set out above in relation to INF-O1.

179. As regards Transpower's submission, Mr Anderson considered that its primary relief (of a new National Grid specific policy) was the preferable approach. He recommended insertion of a new National Grid Sub-Chapter. We agree, in principle, with Mr Anderson's reasoning. The NPSET puts the National Grid in a more favourable position than other significant infrastructure, and in our view, it would be inappropriate to try and address and provide for the National Grid through a more general infrastructure policy. We address the content of the proposed Sub-Chapter below in Section 2.15 of our Report.

180. Mr Anderson noted also that to give effect to the proposed provisions of the new Sub-Chapter, it was necessary to map the National Grid Subdivision Corridor and Yard, but he recorded the need for additional information to enable this to be done accurately, since yard and corridor distances vary according to the type of electricity transmission asset.

[80] Submissions #400.22-23
[81] Submissions #315.60-61

181. In her evidence, Ms Whitney for Transpower suggested that mapping the corridor and yard was not appropriate, but rather, the National Grid lines should be mapped. With certainty as to the location of the line, the definitions in the Plan would enable accurate calculation of the yard and corridor. She noted specifically the potential for National Grid assets such as a pole or tower to change in location when upgraded (causing the boundary of the subdivision corridor/yard to shift) and observed that the National Planning Standards require use of symbols to show the National Grid line. She also expressed concern about the potential for errors in mapping.

182. Having said that, however, Ms Whitney indicated that while not preferred, if the Panel were minded to map the yard and corridor, notation should be added to indicate that the boundaries are indicative measures based on the identified line.

183. Addressing Ms Whitney's evidence in rebuttal, Mr Anderson drew attention to the potential for National Grid lines to be located on one property, with the National Grid yard to extend onto an adjacent property. As he observed, the ePlan is designed to identify all relevant provisions applying to a property and the failure to identify that the National Grid Yard (but not a National Grid line) is on a property might mislead Plan users.

184. Discussing these issues with Ms Whitney, she emphasised issues that Transpower had already had where its assets were not correctly mapped. She accepted that as the planning maps get better, there would be less room for error. However, her concern was that people would rely solely on the mapping. Transpower would prefer that they talked to it.

185. That said, she saw merit in what she termed a ghost overlay that would still refer to the definitions.

186. Mr Anderson picked up on that discussion in his Reply. He considered that there was merit in mapping the National Grid corridor in a way that would work in conjunction with the definitions of National Grid Yard and National Grid Subdivision Corridor utilising an advice note to confirm with Transpower the extent to which these defined areas infringe onto a property.

187. We agree with that general approach. It seems to us the best compromise between providing as much information as possible to aid Plan users, while guarding against the potential that the maps may not be completely accurate. We recommend the Advice Note be worded as follows:

> "*The mapped National Grid Yard and National Grid Subdivision Corridor are indicative only. To determine their exact location, contact Transpower New Zealand to identify the specific National Grid structures and their location. The location of the National Grid Yard and Subdivision Corridor are then measured based on the* ***National Grid Yard*** *and* ***National Grid Subdivision Corridor*** *definitions in the Definitions chapter."*

188. To work properly, this approach requires good definitions of the key concepts of 'National Grid Subdivision Corridor' and 'National Grid Yard'. Ms Whitney had a number of suggestions on how the notified definitions of these terms should be amended in order to better reflect the range of National Grid assets within the district. Mr Anderson agreed with the suggested definition revisions. For our part, we do not have a problem in substance with the suggested amendments but, in our view, some of the amendments could be more clearly framed.

189. Thus, Ms Whitney recommended that the definition of 'National Grid Subdivision Corridor' be amended so that point (a) would read:

> "*14m of a 110kV transmission line on single poles or a cable*".

190. The concept of a transmission line "*on a cable"* does not make sense to us. We recommend that it be reframed as:

> "*14m of a 110kV transmission cable, or a 110kV transmission line on single poles ~~or a cable~~."*

191. The definition of 'National Grid Yard' as Ms Whitney proposed it be amended has a similar reference at (a). We recommend it be amended as follows:

> "*the area located within 10m of either side of the centreline of an above ground transmission cable, or a transmission line ~~up to and including 110kV~~ on single poles, ~~or a cable~~ that in either case is up to and including 110kV*."

192. That same definition refers to:

> "*c. The area located within 12m either side of the centreline of an above ground transmission line on pi-poles or towers that is up to 110kV or greater."*

193. The description of the capacity of the line seems to serve no purpose. In addition, Ms Whitney recommended a new 'b' that specifies a different distance for a specific transmission line on pi-poles and towers. To address these issues, we recommend that it be amended to read:

"c. *The area located within 12m either side of the centreline of an above ground transmission line on pi-poles or towers <u>other than the Te Hikowehenua - Deviation A (THW-DEV-A) – Single Circuit transmission line</u> ~~that is up to 110kV or greater~~."*

194. We also observe that with the amendments recommended to the definition of 'National Grid Yard', the diagram illustrating its effect, which is reproduced in the definition of 'National Grid Subdivision Corridor' is misleading. It shows only a distance of 12 metres stepping out from the various grid structures, whereas the revised definition specifies 10 metres in some instances, and 12 metres in others. The definition of 'National Grid Subdivision Yard' has a separate and varying set of distances that are not shown on the diagram either. We recommend deletion of the diagram in both definitions as a consequential change.

195. We recommend acceptance of the revised definitions proposed by Ms Whitney and Mr Anderson with those amendments.

196. Before leaving INF-P1, there are two other issues that we should address. The first relates to the reference in INF-P1-2 to 'navigation activities'. We wondered whether this might be clearer if it referred to navigation 'aids' and sought Mr Anderson's feedback on that possible amendment. Mr Anderson noted that this provision relates to the navigation of aircraft and shipping. He considered it significant that WIAL, Board of Airline Representatives and CentrePort all supported the existing wording, and he considered that navigation aids were a form of navigation activity.

197. Mr Anderson makes valid points, but we note that INF-R9 refers to monitoring 'equipment' and navigation 'aids'. It seems to us that the policy should do the same, for consistency, and we recommend that as a minor change.

198. The following sub-policy (INF-P1-3) refers to:

> "*Providing for significant upgrades to, and the development of new infrastructure…".*

199. This appears to us to exclude the potential benefits of upgrading of existing infrastructure. We asked Mr Anderson about that at the hearing and he confirmed that that was not the intention. Unfortunately, our Minute seeking to follow up on the point incorrectly directed Mr Anderson to the following policy and he was understandably somewhat confused as to what point we were seeking to make.

200. Proceeding on the basis of his verbal confirmation, however, it seems that the existing text does not state what was intended. We consider this a minor error that we recommend be resolved by amending INF-P1-3 to read:

> "*Providing for significant upgrades to infrastructure, and the development of new infrastructure…".*

INF-P2: Co-ordinating infrastructure with land use, subdivision, development and urban growth

201. Mr Anderson noted three sets of substantive submissions. The first, from the Ministry of Education[82], sought amendment to refer to 'additional infrastructure'. The second, from the Tawa Business Group[83], sought to clarify the Council's role in the active upgrading and development of the existing transport network. The third, from Wellington Electricity[84], sought to amend the policy to include infrastructure renewal and replacement.

202. Mr Anderson did not recommend acceptance of the Ministry's submission. We agree, for the reasons set out above in relation to INF-O1.

203. Mr Anderson did not specifically address the Tawa Business Group's submission, presumably because he had already addressed the substance of the submission in relation to INF-O5. We do not recommend acceptance of the submission for the reasons set out above, in that context.

204. Mr Anderson considered that there was merit in the Wellington Electricity submission points. We agree with both the amendments recommended in his Section 42A Report and in his Reply to emphasise that integration of infrastructure with land uses needs to occur continuously over time.

INF-P3: Technological advances

205. There were no substantive submissions seeking amendment to this policy and accordingly, we need not address it further.

[82] Submissions #400.24-25
[83] Submission #107.14
[84] Submissions #355.27-28

INF-P4: Undergrounding of infrastructure

206. The only substantive submissions seeking amendment to this policy were from Wellington Electricity[85], seeking amendments to include reference to both economic and technical feasibility.

207. Mr Anderson did not consider that amendment was required to the policy. In his view, it already recognised both economic and technical feasibility. We concur. On that basis, we do not recommend any change to the notified policy.

INF-P5: Adverse effects of infrastructure

208. Mr Anderson noted two sets of submissions seeking substantive amendments to this policy. The first, from CentrePort[86], sought to amend the policy to replace the word 'manage' with 'avoid, remedy or mitigate'.

209. The second submission, from Forest and Bird[87], sought to include direction that certain areas, including overlays, need to be protected, that the policy should apply to the operation, maintenance, repair and removal of infrastructure, and that it should not refer to 'identified' values.

210. Mr Anderson had the same response to CentrePort's submission as in the context of INF-O2, which we discussed above. He did not recommend the requested amendment. We agree.

211. As regards Forest and Bird's submission, he noted that there was policy direction within the Infrastructure Sub-Chapters as to how infrastructure is to be specifically addressed within the overlays. He noted that values are identified in the schedules to the Plan and that this is the reason why a piece of land is identified as an overlay.

212. We accept Mr Anderson's reasoning as far as it goes, but it did appear to us that INF-P5 was very vague as to how adverse effects were to be managed. We asked him about that, and he told us that it needed to be read together with INF-P6. We accept that when the two policies are read together, they do give more direction. Accordingly, we adopt Mr Anderson's recommendation that INF-P5 remain without change.

[85] Submissions #355.30-31
[86] Submissions #402.52-53
[87] Submission #345.40

INF-P6 – Consideration of the adverse effects of infrastructure

213. Mr Anderson noted two sets of submissions seeking substantive amendment to this policy. The first was from Transpower[88] seeking to amend the policy to give effect to the NPSET. Those submissions have been addressed by Mr Anderson's recommendation of a new National Grid Sub-Chapter and thus, we do not need to discuss them further.

214. The second set of submissions was from WIAL[89], seeking to qualify the stated requirement to avoid, remedy or mitigate all adverse effects irrespective of their significance.

215. Further, Forest and Bird[90] sought deletion of the policy on the basis that it conflicted with the Sub-Chapters.

216. In response, Mr Anderson noted the parallels between the policy and Section 17 of the Act, noting that its intent is to assist Plan users as to how effects can be avoided, remedied or mitigated in the context of the RMA not being a 'no effects' chapter.

217. Mr Anderson similarly considered that the policy would assist decision-makers with respect to effects in the overlays as per the Sub-Chapters. Accordingly, he did not think that the policy needed to be deleted.

218. We observe that in her planning evidence for WIAL, Ms O'Sullivan accepted Mr Anderson's reasoning, as do we. As regards Forest and Bird's point, we consider that it is answered by the specific direction in the Chapter Introduction that in the event of conflict between the Chapter and any Sub-Chapter, the provisions of the latter prevail.

219. It follows, therefore, that we adopt Mr Anderson's recommendation that INF-P6 remain as notified.

INF-P7: Reverse sensitivity

220. Mr Anderson noted a number of submissions seeking substantive amendments to this policy:

[88] Submissions #315.65-66
[89] Submissions #406.96-97
[90] Submission #345.41

- CentrePort[91] sought to amend the policy to discourage new noise sensitive activities without mitigation within the Port Noise and Airport Noise boundaries;

- Firstgas[92] sought more explicit reference to the gas transmission network;

- Powerco[93] sought greater clarity that infrastructure is protected from reverse sensitivity effects;

- Transpower[94] sought amendments to give effect to the NPSET should its primary relief of a National Grid specific policy not be provided;

- Wellington Electricity[95] sought to include reference to industry codes of practice. The submitter suggested that requirements for setbacks should include scaffolding which encroaches on prescribed electrical safety distances; and

- WIAL[96] suggested that the title of the policy be altered to be specific to the National Grid and gas transmission network.

221. In addition, Kāinga Ora[97] sought to delete the policy in its entirety.

222. Addressing the latter, Mr Anderson noted that the Regional Policy Statement requires that reverse sensitivity in relation to Regionally Significant Infrastructure be addressed. He considered, therefore, that it was appropriate to have a general reverse sensitivity policy.

223. In his planning evidence for Kāinga Ora, Mr Lindenberg did not maintain opposition in principle to the policy, but did suggest the heading be amended to 'Incompatible Subdivision, Use and Development'.

224. Ms O'Sullivan made a similar suggestion in her evidence for WIAL, and we return to it in that context.

225. Responding to CentrePort, Mr Anderson noted that there are existing mechanisms in the PDP addressing activities within the Port and Airport Noise boundaries. He

[91] Submissions #402.55-56
[92] Submissions #304.27-28
[93] Submission #127.14
[94] Submission #315.67
[95] Submissions #355.33-34
[96] Submissions #406.98-99
[97] Submission #391.120

similarly did not consider the issue of scaffolding raised by Wellington Electricity to warrant specific policy direction, noting the applicability of health and safety requirements in this regard.

226. Mr Anderson considered that his recommendation of a separate National Grid Sub-Chapter addressed Transpower's submission.

227. Mr Anderson also considered that rules in the Earthworks Chapter provide the protection that Powerco sought.

228. Accordingly, he did not recommend any change to this policy other than to amend the reference to 'gas transmission pipeline' to refer to the 'gas transmission network'. Ms Unkovich supported that change in her planning evidence for Firstgas.

229. Mr Horne similarly did not seek to advance any issues in his planning evidence for Powerco.

230. Ms Whitney also supported Mr Anderson's recommendations in her planning evidence for Transpower.

231. In her evidence for WIAL, Ms O'Sullivan supported the slightly revised version of INF-P7 Mr Anderson recommended, but sought an additional policy be added to provide either avoidance or management of activities compromising Regionally Significant Infrastructure. She also noted that Mr Anderson had not specifically addressed WIAL's submissions seeking inclusion of new provisions relating to specifically identified incompatible land use in development in proximity to the Airport. She suggested that the latter might be addressed in the wrap-up hearing.

232. Addressing the former, Mr Anderson recorded in rebuttal evidence his agreement with Ms O'Sullivan's suggested relief in substance, but considered that like his revised INF-O3, a single policy should address incompatible land use and development, with specific guidance for Regionally Significant Infrastructure as per his suggested new policy.

233. He also recommended deletion of the specific provisions in notified INF-P7 relating to the National Grid, on the basis that the issues were addressed in his suggested Sub-Chapter, along with a minor wording change to the final sub-policy.

234. Ms Whitney did not express concern about the deletion of National Grid provisions when she appeared for Transpower and Ms O'Sullivan indicated support for Mr Anderson's revision of INF-P7.

235. We likewise support Mr Anderson's recommendations for alterations to INF-P7. They are consistent with the suggested amendment to INF-O3 which we have accepted, and in our view respond appropriately to the submissions we have summarised above.

236. As regards the separate issue raised by WIAL regarding methods to control specific activities with a potential adverse effect on Airport operations, this was addressed in the wrap-up hearing, and we discuss it below in the context of a proposed new rule.

INF-P8: Amateur radio configurations

237. There were no substantive submissions seeking amendment to this policy and therefore we need not consider it further.

INF-P9: Upgrading and development of the transport network

238. Under this heading, Mr Anderson noted the following substantive submissions seeking its amendment:

- FENZ[98] sought to preserve the ability of emergency vehicles to utilise the transport network;
- Kāinga Ora[99] sought to clarify the division of transport related provisions between the Transport infrastructure chapters;
- Living Streets[100] sought to provide support for sustainable active modes of transport rather than upgrades for the purposes of increasing vehicle carrying capacity; and
- Tawa Business Group[101] sought clarification of the Council's role in the active upgrading and development of the existing transport network.

239. For his part, Mr Anderson pointed to existing direction within INF-P9 which in his view addressed FENZ's submissions points.

[98] Submissions #273.32-33
[99] Submission #391.121
[100] Submission #482.31
[101] Submission #107.15

240. He similarly considered that the Introduction to the Infrastructure Chapter already provided the clarification Kāinga Ora sought.

241. Mr Anderson did not agree with Living Streets' submission. In his view, the Plan should provide for all modes of transport without prioritisation.

242. Lastly, he referred to previous discussion of similar submissions from the Tawa Business Group.

243. In summary, Mr Anderson did not recommend any change to Policy INF-P9.

244. We concur. We agree in particular that support for active transport modes needs to occur in parallel with support for other transport modes.

INF-P10: Classification of roads

245. The only submissions on this policy Mr Anderson noted were from Kāinga Ora[102], seeking similar clarification as in relation to INF-P9. Mr Anderson had the same response in this context. We agree, with the result that other than a minor change to recognise the revised nomenclature of New Zealand Transport Agency Waka Kotahi, we do not recommend any change to the policy.

INF-P11: Connections to Roads

246. The only submission on this policy was from Kāinga Ora[103]. As above, this was one of the policies that Mr Anderson identified as appropriately sitting within the Transport Chapter. He therefore recommended it be deleted from the Infrastructure Chapter and transferred, unamended in substance, to the Transport Chapter. As above, we agree with that reasoning and therefore with his recommendation. Deletion of this policy creates the need to renumber subsequent policies, and cross references to them.

[102] Submission #391.122
[103] Submission #391.123

INF-P12: Infrastructure within roads

247. This provision was not the subject of any substantive submissions seeking amendment to it and accordingly, we need not consider it further.

INF-P13: Infrastructure within riparian margins

248. Mr Anderson noted a submission from Forest and Bird[104], seeking to delete the provision in this policy for infrastructure within riparian margins where it is designed to minimise the adverse effects on natural character. Mr Anderson pointed out that this clause is cumulative on the requirement within the policy to maintain natural character. Accordingly, he recommended rejection of this submission. We agree with his reasoning. We therefore recommend that notified INF-P13 remain within amendment.

2.8 Infrastructure Rules

General Submissions

249. Mr Anderson noted two submissions that span a number of rules. The first, from Avryl Bramley[105], sought that rules be amended so that consent is required (i.e. they are not Permitted Activities) and notification is mandatory to affected landowners.

250. Secondly, Mr Anderson noted a number of WIAL submissions seeking amendments to rules to include reference to the submitter's new objectives and policies within relevant matters of discretion. As regards the latter, as he had not recommended WIAL's proposed new objectives and policies, the submission fell away. We have reached the same conclusion.

251. As regards Ms Bramley's submission, Mr Anderson's view was that Permitted Activity status for infrastructure is essential, and that it would be both inefficient and unnecessarily expensive to require a resource consent for activities that do not result in noticeable environmental effects. We concur. Ms Bramley did not provide a Section 32AA evaluation, but it is obvious that the relief she seeks would involve significant additional expense that would ultimately be borne by infrastructure users.

[104] Submission #345.42
[105] Submitter 202

Nor do we agree that notification should be mandatory to affected landowners. The Act already sets out tests as to when notification of affected landowners is required, based on the extent of the effect. We consider that to be appropriate unless the scale of effect can be identified in advance.

252. We therefore agree with Mr Anderson's recommendations on both of these points.

INF-R1: Operation, maintenance and repair, or removal of existing above and underground infrastructure and ancillary vehicle access tracks

253. Mr Anderson noted submissions from Telcos[106] and Powerco[107] seeking to delete the requirement for compliance with INF-S2 in relation to existing underground infrastructure as a condition of Permitted Activity status. Mr Anderson disagreed with the suggested relief. In his view, compliance with INF-S2 is a necessary component.

254. Mr Horne did not pursue the matter in his planning evidence for either submitter, and accordingly, we concur with Mr Anderson's recommendation that the rule remain substantively without change. We note, however, the need for minor changes in the form of a consequential cross reference to the INF-NG Sub-Chapter standard, together with amendments to the way INF-R1.2.a and INF-R1.3.a are framed (changing "*cannot be achieved*" to "*is not achieved*") as recommended by Mr Sirl in the wrap-up hearing. Mr Sirl recommended parallel minor changes to the subsequent rules, which we also adopt.

INF-R2: New underground infrastructure (including customer connections), and upgrading of existing underground infrastructure

255. Mr Anderson noted a Powerco submission[108] seeking to amend this rule to provide that above ground components of an underground gas customer connection is a Permitted Activity, or alternatively to address the point in the context of INF-R5.

256. Mr Anderson picked up on the latter point, recording his view that the issue was more appropriately addressed in the context of INF-R5, so as to preserve the role of INF-R2 in addressing underground infrastructure (and INF-R5 addressing overground

[106] Submission #99.24
[107] Submission #127.17
[108] Submission #127.18

infrastructure). Accordingly, in his Section 42A Report, Mr Anderson did not recommend any change to the rule. We note that in his planning evidence for Powerco, Mr Horne did not take issue with this position.

257. Mr Anderson did draw our attention to the definition of 'customer connection'. As notified, this is restricted to telecommunication, electricity and gas networks. He recommended a minor change to generalise the definition to apply to all infrastructure. We agree with that approach.

258. At the hearing, we asked Mr Anderson to comment on a broader issue that we perceived with this rule. This is that it appears to be premised on underground infrastructure being relatively small in scale, with a similarly limited range of potential effects. This did not seem to us to necessarily follow. We asked him, for instance, whether a second Mount Victoria tunnel would be a Permitted Activity under this rule. His immediate reaction was that new roads require consent, wherever they are located, but he accepted that there was a point of principle underlying our question. He also needed to consider whether there was scope to address it.

259. Mr Anderson returned to the issue in Reply, drawing our attention to the standard restricting trenching to 120m of continuous trench length open at any one time. Having said that, he accepted that tunnels can be bored rather than trenched. He also pointed out that regional consents would likely be required under the Greater Wellington Natural Resources Plan.

260. Mr Anderson concluded that neither the rule nor the standards needed to be amended, and there was no scope to make substantive amendments to them in any event.

261. We accept the latter point, but we do consider that there is an issue with the way the Plan leaves open the potential for large-scale earthworks associated with tunnelling operations as a permitted activity with relatively scant controls. We accept, as Mr Anderson has pointed out, that other Plans appear to have done the same, but in our view, the potential for large-scale tunnelling is much greater in the Wellington urban environment than in many other districts. We therefore recommend that the Council consider afresh whether additional standards are required to control the magnitude of any underground infrastructure provided for as a Permitted Activity. This would necessarily need to be by way of a future Plan Change for the reasons that Mr Anderson identified.

262. In summary, therefore, we recommend that INF-R2 remain as notified save for consequential changes to address the separation of National Grid matters into their own sub-chapter, the need for which Mr Anderson identified in his Reply (accepting Ms Whitney's evidence in that regard) and the additional minor changes Mr Sirl recommended. We note that the NG Sub-Chapter provisions referenced have changed in Appendix 1 consequent on the broader numbering changes discussed above in Section 2.1.

INF-R3: Upgrading of existing above ground infrastructure

263. Mr Anderson did not identify any substantive submissions seeking amendment to this rule that we have not already addressed.

264. We note and accept his recommendation in Reply that one of the standards cross referenced should be altered consequential on separation of National Grid matters into their own sub-chapter. We note that the NG Sub-Chapter provisions referenced have changed in Appendix 1 consequent on the broader numbering changes discussed above in Section 2.1. We also adopt Mr Sirl's recommended minor changes. Otherwise, we recommend that the rule remain without change.

INF-R4: New vehicle access tracks for infrastructure

265. Mr Anderson did not identify any substantive submissions seeking amendment to this rule that we have not already identified. As with INF-R2, he recommended changes to the policies cross referenced consequent on separation of National Grid matters into their own sub-chapter. We note that the NG Sub-Chapter provisions referenced have changed in Appendix 1 consequent on the broader numbering changes discussed above in Section 2.1. With that exception, and the minor changes Mr Sirl recommended, we recommend that the rule remain as notified.

INF-R5: New above ground customer connection line

266. Under this heading, Mr Anderson noted Powerco's submission[109] raising the same point as we have discussed above in relation to INF-R2. In this context, Mr Anderson

[109] Submission #127.21

considered that Powerco had a point because the activity permitted by the rule is a connection 'line'. Powerco supplies gas through pipes. Accordingly, he recommended that the heading of the rule be amended to refer to 'customer connections'. We agree with that reasoning and recommend that, along with the minor changes Mr Sirl recommended, be the only changes to the notified rule.

INF-R6: Temporary infrastructure

267. Mr Anderson did not identify any substantive submissions raising issues that have not already been addressed above in relation to this rule. The only amendments he recommended were to cross references to relevant standards. We note that the NG Sub-Chapter provisions referenced have changed in Appendix 1 consequent on the broader numbering changes discussed above in Section 2.1. Save for such cross-referencing changes and the minor changes Mr Sirl recommended, we recommend the rule remain as notified.

INF-R7: Structures associated with infrastructure

268. Mr Anderson identified the following substantive submissions not already addressed above:

- Powerco[110] sought to delete reference to gas regulation valves where the rule currently requires a two metre setback from residential site boundaries;
- Council[111] sought that the rule include bus shelters as a Permitted Activity;
- Wellington Electricity[112] sought to exclude setback requirements at the front boundary of sites where equipment is located within the road reserve; and
- WIAL[113] sought to make the rule exclusive rather than inclusive.

269. Mr Anderson recommended acceptance of Powerco's submission seeking deletion of reference to gas regulation valves. In his view, important equipment such as a shutoff valve should not be captured by the rule. We concur.

[110] Submission #127.23
[111] Submission #266.63
[112] Submissions #355.36-37
[113] Submission #406.106-107

270. Mr Anderson also agreed with the submission seeking that the rule should not apply to a road boundary. In his view, the permitted structures are compatible with structures that are found in legal roads. We agree with that reasoning also.

271. He likewise agreed with the Council's submission seeking to include bus shelters on the basis that these have similar built effects to the listed structures. We agree.

272. Mr Anderson, however, recommended rejection of WIAL's submission points, noting that Airport infrastructure is not regulated by the Infrastructure Chapter.

273. Addressing this latter issue, Ms O'Sullivan continued to support WIAL's relief in her planning evidence. Irrespective of whether the Chapter applies to Airport infrastructure or not, she considered it was important that the rules are clear. In her view, the use of a potentially non-exhaustive list in a rule creates uncertainty.

274. At this point, we record an overlap between submissions on the Transport and Infrastructure Chapters. We have discussed the extent to which notified infrastructure provisions should be shifted into the Transport Chapter in Section 2.3 above. This is an instance of the reverse. The Oil Companies[114] sought a new rule and standard be inserted into the Transport Chapter specifically providing for EV charging stations as a Permitted Activity. Mr Wharton recommended acceptance of the substance of the submission in his Section 42A Report on the Transport Chapter by way of amendment to Rule INF-R7.

275. In her planning evidence for the Oil Companies, Ms McPherson supported that recommendation in principle, but noted a problem that EV charging stations are not infrastructure as defined, and if located in a service station, that would not fall within the scope of 'infrastructure' provisions either. Accordingly, she recommended rewording of the suggested addition to INF-R7.

276. In his rebuttal evidence, Mr Anderson accepted that there was an issue about whether EV charging stations were literally 'infrastructure'. However, he considered that they might appropriately be considered part of the broader infrastructure required for the functioning of the transport network. He also noted that they are of a similar size to cabinets used for telecommunications within road reserves. He therefore considered that this was the appropriate rule to provide for EV charging stations, and suggested both a new definition of 'electric vehicle charging station' and an

[114] Submissions #732.71-72

amendment to the definition of 'infrastructure' to make it clear that EV charging stations are included. We agree with that reasoning.

277. In his Reply statement, Mr Anderson indicated a shift of view, recommending that the activity be reframed as "*infrastructures not otherwise managed by specific rules in this chapter*" and be made specific to the (now) seven items. We agree with the latter approach. We consider that Ms O'Sullivan had a point when she discussed the uncertainties inherent in an inclusive list, particularly one that is referenced to structures "*associated with*" infrastructure.

278. We also think that the reasoning in Mr Anderson's Section 42A Report was flawed, because the Infrastructure Chapter Introduction states that the Chapter does apply to Airport infrastructure outside the Airport Zone.

279. Subsequently, in the Wrap Up Section 42A Report, Mr Sirl recommended that the heading might be tightened still further, to read, "Infrastructure structures for…." We adopt that recommendation also.

280. We note that Mr Anderson also recommended amendments to the provisions cross referenced, in part consequential on his recommended transfer of National Grid provisions into their own sub-chapter. We accept that recommendation, while noting that the numbering of the cross-referenced provisions has changed subsequently. Mr Anderson characterised addition of reference to two other policies (INF-P9 and INF-P11) as being a minor change. We do not think that is correct (i.e. it is a substantive change), but consider rather that scope comes from his recommendation to add reference to EV charging stations and bus shelters. It is that which, in our view, makes policies related to road related infrastructure relevant. Inclusion of reference to these policies is therefore a consequential change.

281. Similarly, we note that the revised rule cross referenced INF-S14 and INF-S16, we consider that this is an error and the references should be to INF-S13 (sight lines for railway level crossings) and INF-S14 (cabinets and other infrastructure located within the road reserve or rail corridor). Our recommended rule in Appendix 1 includes that change.

282. Mr Sirl also suggested simplifying the structure of R7.1 in his Wrap-Up Section 42A Report, which we adopt, subject to the cross referencing correction as above, together with the minor wording changes Mr Sirl recommended.

INF-R8: New infrastructure contained within existing buildings

283. Mr Anderson did not record any substantive submissions seeking amendment to this rule and thus no further assessment is required. The only changes we recommend are the minor wording amendments Mr Sirl suggested

INF-R9: Navigational aids, sensing and environmental monitoring equipment (including air quality and metrological)

284. Mr Anderson did not identify any substantive submission seeking amendments that we have not already addressed. We therefore adopt his recommendation to limit changes to the rule to cross referencing changes, including as a result of transferring National Grid provisions into their own sub-chapter, together with the minor wording changes Mr Sirl recommended. We note that the NG Sub-Chapter provisions referenced have changed in Appendix 1 consequent on the broader numbering changes discussed above in Section 2.1.

INF-R10: New overhead lines and associated support structures that convey electricity below 110kV

285. The Telcos sought[115] to amend the activity described by this rule to provide for above ground telecommunication lines.

286. Wellington Electricity[116] sought to include associated equipment such as pole-mounted transformers and/or battery storage cabinets.

287. Mr Anderson considered that there was merit in both submissions. However, he was unsure what standards should apply to pole-mounted structures that would provide for the activity, while allowing for the amenity of the streetscape. He invited Wellington Electricity to supply that information.

288. In the event, Wellington Electricity did not appear to support their submission and thus, like Mr Anderson, we have no evidence on which to base an amended rule that would provide for the activity it described.

[115] Submission #99.32
[116] Submission #355.38-39

289. As regards the amendment Mr Anderson did suggest, we had an issue with the way that that was expressed: We suggested that Mr Anderson consider that and in his Reply, he proffered amended wording. We think that the rule might still be considered ambiguous and thus while we accept Mr Anderson's reasoning, we recommend that the rule title be amended to read "*New overhead lines that convey electricity below 110kV or telecommunications, and associated support structures."*

290. Mr Anderson also identified cross referencing changes required consequent on other recommended changes. We adopt that recommendation also, together with Mr Sirl's recommended minor wording changes. We note that the NG Sub-Chapter provisions referenced have changed in Appendix 1 consequent on the broader numbering changes discussed above in Section 2.1.

INF-R11: Telecommunications or radio communication activities (not otherwise provided for in another rule in this table and not regulated by the NESTF)

291. Mr Anderson did not identify any substantive submission seeking amendment to this rule not already addressed. Accordingly, we accept his recommendation that the only substantive change required is to delete one of the standards referred to, consequential on other recommended changes. Mr Anderson recommended a cross-referencing number change, and Mr Sirl recommended the same minor wording change as we noted above, both of which we accept. Lastly, we note that the cross-reference to INF-S12 needs to be changed, consequent on that standard being shifted to the INF-NG Sub-Chapter.

INF-R12: New telecommunications poles and new antennas (regulated by NESTF that do not meet the permitted activity standards in those Regulations)

292. Mr Anderson did not identify any substantive submissions seeking amendment to this rule and the only recommended amendments are minor cross-referencing number and wording changes, which we adopt.

INF-R13: New antenna attached to a building (regulated by NESTF that do not meet the permitted standards in the NESTF)

INF-R14: New telecommunication cabinets (regulated by NESTF that do not meet the permitted standards of the NESTF)

INF-R15: Infrastructure buildings and structures not provided for by any other rule in this table

293. Mr Anderson did not identify any substantive submissions seeking amendment to these rules not already considered. The only changes he recommended were consequential cross-referencing number changes and a minor grammatical change. In the Wrap-Up hearing Mr Sirl recommended deletion of reference in INF-R14 to notified INF-S15, on the basis that the requirements within the rule were more onerous than the standard, along with the same minor wording change as in relation to other rules. We agree with those changes for the reasons Messrs Anderson and Sirl provided, although the Sub-Chapter cross-references in INF-R15 need to change again as a result of the changes we recommend, discussed above.

294. We note, however, a wording inconsistency in the heading of INF-R14. We recommend that like INF-R13, it refer to permitted standards **in** the NESTF. We consider this is a minor change enabled by Clause 16.

INF-R16: New electricity lines and associated support structures (including poles and towers) that convey electricity of 110kV or above)

295. The only submission Mr Anderson noted seeking amendment to this rule was from Transpower[117], seeking cross reference to National Grid specific policies. Having considered Ms Whitney's evidence on the point, Mr Anderson recommended acceptance of that relief, together with a consequential cross-referencing change.

296. We asked Mr Anderson about the application of this rule, and in particular, whether Wellington Electricity had any lines of 110kV or greater. The answer (in Mr Anderson's Reply) was that it did not, and that there was no prospect of that changing. As such, the rule appears to apply only to extensions of the National Grid. It could therefore be shifted to the INF-NG Sub-Chapter. However, Transpower did

[117] Submissions #315.76-77

not seek that relief. This is perhaps something Council could consider as part of its ongoing review of the Plan.

297. We note that as a result of the amendments we have recommended, the numbering of the provisions Mr Anderson recommended be cross-referenced has changed in Appendix 1.

INF-R17: New aboveground pipelines

298. In relation to this rule, Mr Anderson noted Powerco's submission[118] seeking to ensure that it does not apply to above ground components of a gas customer connection. Mr Anderson's initial view was that such an activity is clearly covered by INF-R5 and thus no changes were required. We asked Mr Anderson to consider whether the inter-relationship in the rules might be made clearer and, in Reply, he recommended a change to the rule heading to make it clear that it applies to new above ground pipelines that are not customer connections. We agree that this is a helpful change and adopt his recommendation.

INF-R18: New water, wastewater and stormwater pump stations

INF-R19: New water treatment plants

INF-R20: New wastewater treatment plants

INF-R21: Amateur radio configurations

299. In each case, Mr Anderson did not identify any substantive submissions seeking amendment to these rules and the only changes he recommended were consequential changes to cross referencing. We accept the need for consequential changes (including those noted subsequently by Mr Sirl) and find that no further assessment is required. We also agree with the minor wording changes Mr Sirl recommended.

[118] Submission #127.25

INF-R22: Buildings, structures and activities in the National Grid Yard

300. Mr Anderson noted firstly a Transpower submission[119] seeking that this rule be included within the IPI. That submission was addressed in Report 1A and, in any event, it is not now possible to include new provisions in the IPI process, which has concluded.

301. Transpower further sought[120] restructuring of the rule so that rather than specifying Permitted Activities on the basis that they are not sensitive activities and are not used for handling or storage of hazardous substances, the Non-Complying part of the rule lists those activities, together with a range of specific rural structures, and a default as Non-Complying activities.

302. Kāinga Ora[121] similarly sought to delete the reference in the Permitted Activity rule to activities that are not sensitive, but also sought to remove the requirement that activities require Transpower's written approval, and sought a preclusion of both public and limited notification. Mr Anderson accepted the substance of Transpower's submission but noted that consequent on his recommendation to insert a National Grid Sub-Chapter, the rule needed to be deleted and shifted to that sub-chapter.

303. In his planning evidence for Kāinga Ora, Mr Lindenberg accepted that outcome, subject to an amendment to the notification clause in line with Ms Whitney's rebuttal evidence.

304. That amendment would convert the notification rule from a direction to serve Transpower to a requirement that Transpower will be considered an affected person. As part of his presentation of his Section 42A Report at the hearing, Mr Anderson noted that he agreed with that amendment, but we note that his final Reply version did not incorporate that change.

305. We also agree with Mr Anderson about the desirability of amendment in this regard. We concur with Mr Lindenberg's pragmatic view that it is difficult to conceive of a situation where Transpower would not be an affected party in relation to Non-Complying activities within the National Grid Yard.

306. In summary, therefore, we agree with Mr Anderson's recommendation that INF-R22 should be deleted and that the replacement rule with the same heading in the

[119] Submission #315.78
[120] Submissions #315.79-80
[121] Submissions #391.125-127

National Grid Sub-Chapter should be amended as per Mr Anderson's Reply evidence, save that the notification provision should be amended in line with Ms Whitney's rebuttal evidence, and the numbering of the standard cross-referenced updated (it is now numbered INF-NG-R1).

INF-R23: Sensitive activities, including the erection of buildings for sensitive activities, within the Gas Transmission Pipeline Corridor

307. The only submission Mr Anderson noted on this rule was from Firstgas[122] which sought to amend the rule to implement a separation distance of 60 metres from the gas transmission network. Firstgas's reasoning included that the presence of sensitive activities, excluding residential activities, may increase the consequences of pipeline failure because they involve sectors of the community who may be unable to protect themselves.

308. Mr Anderson agreed with the intent of the submission, but noted that it was unclear to him why residential activities were excluded. He suggested that it would be useful if this was addressed in evidence.

309. Mr Anderson recommended that rather than amend the rule, the Plan maps should show the buffer area sought. Accordingly, the only amendments he recommended to the rule were to alter the terminology to refer to the gas transmission network, and an internal cross-reference change to reflect renumbering of the rule.

310. Ms Unkovich explained in her planning evidence for Firstgas that the exclusion proposed in its submission for residential activities aligned with the description of "*sensitive use"* within AS2885.6:2018. Firstgas therefore sought to separate residential activities from more sensitive activities and to provide a lower setback requirement for individual households.

311. However, she recommended acceptance of Mr Anderson's recommendation.

312. We do not consider that it is as easy as that. Firstgas's relief was clearly qualified to exclude residential activities. We do not consider that there is scope to broaden the rule to apply to all residential activities within 60 metres of the gas transmission pipeline.

[122] Submission #304.33

313. Further, based on Ms Unkovich's evidence, such an extension would not appear to be consistent with the relevant standard and would obviously have costs in terms of a restriction on residential development that have not been assessed.

314. It follows that we recommend that Firstgas's submission be accepted in this respect, and the heading of the rule be amended to exclude residential activities. Further, the need to differentiate between residential and non-residential activities suggests to us that the rule needs to specify the relevant distance rather than have the buffer mapped. To that extent, we do not accept Mr Anderson's recommendation.

INF-R24: Connections to roads

315. Addressing the substance of this rule, Mr Anderson noted submissions from Survey & Spatial[123] suggesting that the relevant standards were not correctly referenced (it should refer to INF-S15 and INF-S16 rather than INF-S16 and INF-S17) and from the Council[124] seeking to amend the matters of discretion to refer to INF-P11 rather than INF-P13.

316. Mr Anderson agreed that the submitters had picked up inadvertent errors that needed to be corrected. However, in line with his response to the more general Kāinga Ora submission discussed above, he recommended that the rule be deleted from the Infrastructure Chapter and shifted into the Transport Chapter with the standards and policies correctly referenced (noting that because they also have been shifted into the Transport Chapter, the numbering had changed).

317. We agree with Mr Anderson's reasoning and adopt his recommendation, subject to the minor wording changes Mr Sirl recommended in the Wrap-Up hearing and to a change Mr Wharton recommended in his Transport Section 42A Report, excluding connections providing access to State Highways from what was INF-R24.1 as notified.

INF-R25: New roads

318. Mr Anderson did not identify any substantive submissions raising issues that have not already been addressed. Accordingly, the only amendments he recommended to this

[123] Submission #439.21
[124] Submission #266.64

rule were consequential changes to the numbers of relevant standards, an amendment to Waka Kotahi's name and amendments relating to street trees arising from a submission in INF-S13 that we discuss in Section 2.9 of our Report. We accept the need to modify numbering consequential on other changes, including as noted by Mr Sirl, along with the other changes Mr Anderson recommended, overlaid with additional minor wording changes Mr Sirl recommended.

319. More substantively, the error discussed in Section 2.3 above, means that this rule should be subject to notified INF-S17 (now INF-S14). This change could potentially be considered consequential on our acceptance of the relief sought by Survey & Spatial[125], but we regard it more appropriately categorised as responding to the series of Kāinga Ora submissions[126] seeking review and amendment of transport-related provisions in the Infrastructure Chapter.

INF-R26: Structures near railway level crossings

320. Mr Anderson noted a single submission seeking amendment to this rule from KiwiRail[127] seeking its amendment to ensure it applies to all potential visual obstructions, not just structures.

321. Mr Anderson agreed in principle with the concern KiwiRail had expressed, but he did not consider that the amendment it had suggested (to alter the rule heading to read "*Sight Lines at Railway Level Crossings"* was appropriate because it did not define the activity proposed to be a Permitted Activity. In his view, the only potential visual obstruction that needed to be provided for in addition to structures was vegetation. Accordingly, he recommended that the rule heading be altered to refer to structures and vegetation near railway level crossings. In her tabled statement for KiwiRail, Ms Grinlinton-Hancock agreed with that reasoning, as do we.

322. There is one further change, however, that we think is required. Mr Anderson noted that the cross reference to the standard needed to be amended. However, as Mr Sirl subsequently picked up, Mr Anderson's suggested alteration is incorrect and that the correct reference should be to INF-S13, which relates to sight triangles for railway

[125] Submission #439.21
[126] Submissions #391.136-147
[127] Submission #408.47

level crossings, rather than INF-S14, which relates to cabinets, bus shelters and the like not otherwise provided for that are located within the road reserve or rail corridor.

323. Accordingly, we recommend acceptance of Mr Anderson's change to the rule heading, but recommend the cross reference be to INF-S13.

2.9 Infrastructure Standards

INF-S1: Health and safety

324. Mr Anderson did not note any submission seeking substantive change to this standard. Accordingly, no further assessment is required.

INF-S2: Underground infrastructure

325. Mr Anderson noted Transpower's submissions on this standard[128] seeking to include the clarification contained within INF-R1 specifying that the standard applies to existing underground infrastructure. Mr Anderson did not consider any amendment was necessary. Ms Whitney agreed with that position in her planning evidence for Transpower as do we. Accordingly, we recommend that this standard remain as notified.

INF-S3: Earthworks

326. Mr Anderson noted a single submission on this standard from Rod Halliday on behalf of Lincolnshire Farm and others[129] seeking to delete the constraint that trenching must be progressively closed so that no more than 120 metres of continuous trench is exposed to a road at any one time. Mr Anderson did not agree. He noted that the Telcos, Powerco and Transpower all supported the standard as notified. In response to our query whether Mr Halliday might perhaps be more focussed on greenfield situations than are the infrastructure providers, Mr Anderson noted that an open trench of more than 120 metres would require regional consents in any event.

[128] Submissions #315.82-83
[129] Submission #25.22

327. We did not hear from Mr Halliday to justify his position, and so we accept Mr Anderson's reasoning. Accordingly, we recommend that the standard remain as notified.

INF-S4: Upgrading of aboveground infrastructure

328. Mr Anderson noted a submission from the Telcos[130] seeking to amend this standard to include provision for the replacement of antennas or making changes to the width of an antenna support headframe. Mr Anderson expressed himself open to changes along the lines sought in the Telcos submission, which would provide clarity as to how INF-S4 relates to INF-S9 (governing antenna size), but noted that he needed an understanding of the width of a telecommunication headframe. Accordingly, he recommended that the submission point be rejected, subject to provision of further evidence. In the event, however, Mr Horne did not pursue the matter in his planning evidence for the Telcos. We agree that this submission requires further evidence before it could be accepted, and on that basis we adopt Mr Anderson's recommendation that the submission be rejected. That means that the only change recommended to notified INF-S4 is to amend the description of gas transmission pipelines to refer to 'gas transmission network' consequential on submissions discussed earlier.

INF-S5: New aboveground customer connections

329. The only submission noted seeking change to this standard was from Wellington Electricity[131] seeking to increase the specified conductor diameter to 43mm. Mr Anderson accepted that there was a technical basis for the suggested change. He considered that the difference between 30mm (as notified) and 43mm would not be noticeable. On that basis he recommended that the change should apply to conductors, lines, pipes and cables.

330. On the basis of Mr Anderson's reasoning, to the extent that this relief extends beyond that sought by Wellington Electricity, we regard it as a minor change, within the scope

[130] Submission #99.42
[131] Submissions #355.41-42

of clause 16 of the First Schedule. We therefore adopt Mr Anderson's recommended amendment.

INF-S6: Structures

331. Mr Anderson did not identify any substantive submissions seeking this standard be changed and accordingly no further assessment is required.

INF-S7: Riparian setbacks

332. Mr Anderson noted a single submission from Wellington Electricity[132] seeking to amend this standard so that riparian setbacks do not apply to infrastructure beneath the beds of waterbodies. His initial reaction was that infrastructure under the bed of a river would likely disturb that bed and as such require consideration against the Regional Natural Resources Plan. He also considered that works in the riparian margin can result in effects on the margin and the water body itself.

333. Both Powerco and the Telcos filed further submissions supporting Wellington Electricity's relief, and in his planning evidence for the Telcos, Mr Horne suggested that provision might be made for trenchless directional drilling without raising the issues Mr Anderson had noted.

334. In his rebuttal evidence, Mr Anderson accepted in principle that trenchless methods should be a Permitted Activity, subject to further evidence either from a Council expert or from the submitter. The Telcos duly provided a diagram and photographs as to how such a process would in fact operate and, on that basis, Mr Anderson recommended acceptance of the amended wording Mr Horne had suggested in his Reply. We concur.

INF-S8: Height of telecommunication poles and associated antennas, lines and single pole support structures and meteorological masts

335. Mr Anderson noted submissions from Wellington Electricity[133] seeking to amend the title of this rule so that it applies to electricity infrastructure. Mr Anderson agreed that

[132] Submissions #355.43-44
[133] Submissions #355.45-46

this was appropriate and recommended that the amendments sought be made. We accept Mr Anderson's reasoning, but consider that the relief he supports does not go far enough. While the standard would now apply to electricity structures, the body of the standard continues to apply only to telecommunication poles and metrological masts. In our view, consequential on acceptance of the submission, INF-S8.1 and 4 need to be amended to refer to electricity poles in order to have the desired effect. The version of the standard attached as Appendix 1 shows the amendments we propose.

INF-S9: Antenna size

INF-S10: Height of antenna attached to buildings

INF-S11: Amateur radio configurations

336. Mr Anderson did not identify any submissions seeking to amend any of these standards. Accordingly, no further assessment is required.

INF-S12: Buildings, structures, and activities in the National Grid Yard

337. Mr Anderson noted submissions from both Kāinga Ora[134] and Transpower[135] on this standard. Kāinga Ora sought to provide for all fences, irrespective of location and to delete controls over artificial crop protection structures or crop support structures.

338. Transpower, by contrast, sought that the standard be included within the IPI part of the Plan and be amended both to refer more generally to compliance with the New Zealand Electrical Code of Practice for Safe Electrical Distances (NZECP34:2001) and to restrict structures that result in the loss of vehicular access to a National Grid support structure. Mr Anderson had the same response to this standard as for INF-R22. Accordingly, he recommended that the amendments proposed by Transpower be accepted, but that the standards sit within the National Grid sub-chapter. Ms Whitney supported that recommendation, but suggested that Transpower's relief in relation to vehicular access be reframed to read "*must ensure vehicular access to any National Grid support structure".*

[134] Submissions #391.130 and #391.144
[135] Submissions #315.88-90

339. As we observed to her, that would require landowners proposing structures within the National Grid Yard to ensure vehicular access where it was not currently available. She advised that this was not the intention and agreed that the requirement would be better framed in the negative, requiring that vehicular access not be precluded.

340. We prefer that wording to the wording set out in Mr Anderson's Reply "*vehicle access to any National Grid support structure must be provided*" because in our view, that is open to the same interpretation as Ms Whitney's wording. Like Ms Whitney's wording, it is also not restricted to the subject site. Read literally, it would require vehicle access be provided to every support structure forming part of the national grid, encompassing hundreds if not thousands of structures across the country.

341. Accordingly, we recommend that this standard be deleted from the Infrastructure Chapter and replicated in the National Grid Sub-Chapter (as INF-NG-S1) with the wording changes from Mr Anderson's Reply version discussed above.

342. Deletion of INF-S12 means that the subsequent standards have to be renumbered. For clarity, we will continue to refer to the remaining standards by their notified numbering.

INF-S13: Design of roads

343. Mr Anderson noted a number of submissions seeking substantive amendments to this standard and the accompanying tables, as follows:

- Avryl Bramley[136] sought to remove requirements for footpaths and cycles until further work is undertaken to classify different types of cycles;
- FENZ[137] sought to amend the minimum requirements for local streets with no vehicle access frontage to provide for fire appliance access;
- FENZ[138] sought that the design requirements for local streets with no vehicle access frontage be amended to specify a minimum of one lane with a width of 4 metres (instead of the proposed 3.5 metres);
- Living Streets[139] sought to amend Table 3 to have more native Wellington tree species used as street trees;

[136] Submission #202.20
[137] Submission #273.36-37
[138] Submission #273.38-39
[139] Submission #482.32

- Living Streets[140] sought that vehicle space be limited along all roads to support the desired mode shift; and

- Waka Kotahi[141] sought to align existing posted speed limits with the One Network Framework and current speed management review. In addition, Waka Kotahi[142] sought to remove the column setting out target speeds from Table 1 of the Design for Roads.

344. Mr Anderson did not agree with Ms Bramley's point. He did not consider that different types of cycles needed to be classified, but did consider that road design needed to make provision for cyclists. We agree.

345. Mr Anderson's response to FENZ was that Table 1 supporting this standard relies on the Waka Kotahi One Network Framework in order to provide national consistency to different road classifications. He considered that this also addressed the submission point of Living Streets. We did not hear from FENZ, and the representatives of Living Streets who appeared at the hearing did not seek to advance its submission on this point.

346. In the absence of any expert commentary, we do not think we have the basis to disagree with Mr Anderson in this regard.

347. Living Streets did, however, appear in relation to the choice of street trees. Mr Anderson's position was that the Table 3 list of trees had been reviewed by Council Parks and Reserves Officers and that while it would be desirable to have solely indigenous species, this is not always possible. Mr Horne addressed us on behalf of Living Streets on this issue, emphasising that of the 29 species listed, only 5 are native. In response to our invitation, Mr Horne supplied a list of what in his view were an appropriate native species.

348. Mr Wharton addressed this issue in his Reply on transport matters advising that many species of native trees are not suitable as street trees, including those suggested in the Living Streets' further information. In particular, many of them grow slowly, and when they get to a full size, they may be too large or the road environment may have changed.

[140] Submission #482.33
[141] Submission #370.91
[142] Submission #370.90

349. In summary, Mr Wharton did not support adding additional native species to the Table 3 list, but rather, he recommended removing Table 3 entirely and specifying tree species and conditions on tree planting as matters of discretion for new roads.

350. We agree that his suggested amendments to notified INF-R25 (New roads) and notified INF-S13 are a pragmatic response to the issue.

351. Lastly, Mr Anderson supported Waka Kotahi's suggested relief of removing the target speed column from Table 1.

352. In summary, therefore, we recommend:

- Deletion of Table 3 (Street Tree Species List) and reference to it in the standard;
- Deletion of the target speed column in Table 1; and
- Consequential renumbering of what was Table 4, and references to it.

INF-S14: Sight triangles for railway level crossings

353. The only substantive submissions on this standard were from KiwiRail[143] which sought to amend the standard to specifically reference structures and plantings. It also sought insertion of a new figure to illustrate how approach sight lines would work.

354. Mr Anderson agreed with the suggested amendments. While Mr Anderson's reasoning is not completely consistent with his approach to notified INF-R26, we do not have scope to delete the 'catchall' in the standard and we agree that the enlargement of description of specific activities caught is helpful. Accordingly, we adopt his recommendations.

INF-S15: Connection to roads – sites with pedestrian, cycling and micromobility site access only

355. The only submission on this point was from Survey & Spatial[144] which sought to amend the standard so that the minimum pedestrian access width is 1.5 metres

[143] Submissions #408.48-49
[144] Submission #439.22

rather than the notified 1.8 metres. Mr Anderson's response was that 1.5 metres was appropriate for pedestrians, and additional width needed to be provided for a micromobility vehicle. We did not hear from Survey & Spatial in support of its submission, but we did hear supporting commentary of Mr Anderson's position from Living Streets Aotearoa.

356. We accept Mr Anderson's recommendation as to the substance of this standard but consequent on his recommendation that provisions related to road connections be shifted to the Transport Chapter (which we have accepted above) we recommend that this standard be deleted.

INF-S16: Connection to roads - driveways

357. Mr Anderson noted the following submissions on this standard:

- FENZ[145] sought an additional standard directing that access be provided for a fire appliance design vehicle where no fully reticulated water supply system was available;
- Rimu Architects[146] sought to clarify how the restriction of one vehicle crossing per site applies where a vehicle crossing serves a right of way from another site, to reduce the minimum design vehicle to the 85th percentile vehicle (from the 99th percentile vehicle as notified) and to provide additional direction for the length of vehicle crossings parallel to the road;
- Waka Kotahi[147] sought to include requirements for longer setbacks for driveways on local roads that intersect with a State Highway; and
- Waka Kotahi[148] sought that the sight distances required by the standard be amended to align with its own planning policy manual.

358. Mr Anderson noted that this standard had been drafted to implement NZS4404:2010, which he understood to be the best practice for land development. This suggests that clear justification is required for any substantive change, and we did not hear from either FENZ or Rimu Architects in support of their suggested changes.

[145] Submission #273.40
[146] Submission #318.16
[147] Submission #370.92
[148] Submission #370.93

359. In relation to FENZ, Mr Anderson observed that the standard governs the situation where driveways are installed. It does not require driveways to be installed and thus, at best, FENZ relief would only apply to a proportion of new sites. We observe that those sites would likely be in rural environments, given the suggested FENZ standard would only apply to sites where no fully reticulated water supply system is available.

360. Against that background, Mr Anderson considered that further evidence was required to support any change. We agree and, in the absence of such evidence, recommend FENZ submission be rejected.

361. In relation to the suggestion from Rimu Architects that the situation of a right of way for a second site might be grounds for two driveways on the same property, we agree with Mr Anderson that this situation is appropriately dealt with through a resource consent process.

362. More generally, we consider that in the absence of evidence to support the other amendments suggested, Rimu Architects' submission should be rejected.

363. Lastly, Mr Anderson recommended acceptance of the two Waka Kotahi submissions on the basis that this promotes national consistency. He accepted that this might mean that some additional properties would require resource consent if they are within 30 metres of an intersection, but considered that this was appropriate in order to ensure safety is considered appropriately.

364. We agree with Mr Anderson's reasoning. Accordingly, we recommend the changes Waka Kotahi sought to the standard be made. This is in the context of Mr Anderson's recommendation that the entire standard be shifted to the Transport Chapter. The end result is therefore that INF-S16 is deleted, along with the accompanying two figures and table of Minimum Sight Distances at Vehicle Crossings, and moved to the Transport Chapter, as amended.

365. We note that the end result is somewhat different both to that which Mr Anderson suggested in his Section 42A Report[149], and to Appendix A to the Section 42A Transport Report, which does not show any amendment to the provisions previously found in the Infrastructure Chapter, either to give effect to Mr Anderson's recommendation, or to insert the additional provisions Waka Kotahi had sought.

[149] At paragraph 405

366. Specifically, Mr Anderson recommended that INF-S16.7 be amended to specify minimum distances from all intersections with roads having a posted speed of 50, 60, 80, or 90kph. There are three problems with his recommendation in this regard. First, Waka Kotahi's submission only sought to specify minimum distances on roads intersecting a state highway. It provides no scope to specify more restrictive limits on other intersections. Second, Mr Anderson's proposed amendment does not specify minimum distances from roads with posted speeds of 70 kph or 100kph. Third, his recommended minimum distance where a road intersected has a posted speed of 90kph does not align with the table Waka Kotahi referenced in its submission[150] and which Mr Anderson recommended be accepted. That specifies 200m.

367. Our Appendix 1 recommended amendments addresses those inconsistencies so that the end result correctly reflects the relief Waka Kotahi sought in its submission #370.92.

368. We note also that Mr Anderson did not recommend any amendment to implement the relief sought in Waka Kotahi's second submission (#370.93), notwithstanding his recommendation that it be accepted.

369. That submission referenced a specific table of minimum sight distances in its Planning Policy Manual[151]. That table in turn relates to sight distances from vehicle crossings onto State Highways. Consistent with Mr Anderson's recommendation that it be accepted, the appropriate relief in our view is to add a fourth column in (now) Transport Chapter Table 5 governing sight distances from vehicle crossings onto State Highways. Appendix 1 shows the required changes.

INF-S17: Intersections

370. There were no submissions seeking substantive changes to this standard. However, in accordance with his recommendation above regarding the provisions transferred to the Transport Chapter, Mr Anderson recommended that this standard, and the figure and table that support it, be deleted from the Infrastructure Chapter. As discussed in Section 2.3 above, we have not accepted that recommendation and accordingly, this

[150] New Zealand Transport Agency Planning Policy Manual, Appendix 5B – Accessway standards and guidelines, Table App5B/3
[151] New Zealand Transport Agency Planning Policy Manual, Appendix 5B – Accessway standards and guidelines, Table 5B/1

standard should remain in the infrastructure, but with consequential numbering changes.

INF-S18- Cabinets, electric vehicle charging stations, temporary infrastructure and temporary electricity generators and self-contained power units to supply existing infrastructure, bus shelters and any other infrastructure structure or infrastructure building not otherwise provided for that are located within the road reserve or rail corridor

371. There were no submissions on this standard and the only amendment Mr Anderson recommended was consequential renumbering. Accordingly, no further assessment is required.

2.10 Proposed New Infrastructure Provisions

372. Mr Anderson noted a WIAL submission[152] seeking to add a new objective to the Infrastructure Chapter, to recognise and provide for the development, operation, maintenance, repair, replacement, renewal and upgrading of existing infrastructure. Mr Anderson did not consider that a new objective is required. In his view the existing objectives (including as recommended to be amended) already provide for these matters. Ms O'Sullivan did not pursue the matter in her planning evidence for WIAL and we agree with Mr Anderson's assessment. We do not recommend any additional objectives in response to this submission.

373. In relation to policies, Mr Anderson noted a series of Transpower submissions[153] seeking new National Grid specific policies be added to the chapter. Mr Anderson accepted the substance of these submissions, but considered that the policies sought should form part of the National Grid Sub-Chapter.

374. We have accepted the principle of a new National Grid Sub-Chapter. We consider the details of the policies Transpower sought, and Mr Anderson agreed with, in the context of that Sub-Chapter in Section 2.15 of our Report below.

375. Other submissions seeking new policies were lodged by GWRC[154], seeking a new policy encouraging assessment of whole of life carbon emissions for any new or altered transport infrastructure, and how new or altered transport infrastructure would

[152] Submission #406.86
[153] Submissions #315.50-54
[154] Submission #351.90

assist in meeting greenhouse gas emission reduction targets, and from WIAL[155], seeking a new policy to protect infrastructure from incompatible land use activities, including reverse sensitivity effects. As regards the latter, Mr Anderson considered that given the terms of his recommended revised INF-P7, an additional policy was unnecessary. We agree. In our view, INF-R7 already appropriately addresses the point WIAL are making.

376. In relation to GWRC's submission, Mr Anderson expressed himself as being unsure as to what the suggested policy would achieve. He noted that the notified PDP did not require consents for altering transport infrastructure and that new transport infrastructure will be necessary for greenfield development. He also observed that the notified PDP encourages intensification while acknowledging that some greenfield development will be necessary to meet projected future dwelling demand.

377. He also expressed the view that greenhouse gas reduction targets should be relevant to all development, not just roads.

378. We agree with Mr Anderson's reasoning. We note that in Stream 10, the Hearing Panel heard updated economic evidence suggesting that although theoretical plan-enabled dwelling capacity has increased as a result of the Minister's IPI decisions, worsening economic conditions over the last 18 months have reduced the realisable plan-enabled housing capacity provided by the Plan[156], and that provision of greenfield development capacity is now necessary to meet the modelled long-term demand for standalone dwellings[157]. Given the directions of the NPSUD, these changes provide greater weight to Mr Anderson's reasoning as to why we should not accept GWRC's submission.

379. We note that GWRC did not appear in the Stream 9 hearing and accordingly, we did not have the ability to discuss these matters with the Regional Council's representatives.

380. In summary, therefore, we recommend GWRC's submission be rejected.

[155] Submission #406.87

[156] In her Stream 10 evidence for WIAL, Ms Hampson recorded projected long-term realisable capacity in existing residential areas as being 39,678 compared with Table 4 of Mr Philip Osborne's Stream 1 evidence, which estimated that the realisable demand reconciled capacity provided by the PDP as notified was 49,876. We calculate that as a reduction of 10,200 or 25.7%.

[157] Ms Hampson's Stream 10 evidence at paras 43-45

381. Turning to parties seeking new rules, Firstgas[158] sought a new rule to restrict residential activities within 20 metres of the gas transmission pipeline and/or within 30 metres of above ground infrastructure.

382. oOh! Media Street Furniture[159] sought a new rule that would provide for the 'transport network' and 'ancillary transport network infrastructure' as a permitted activity.

383. Lastly (of the submissions heard in Stream 9), Waka Kotahi[160] sought a new rule in the Infrastructure Chapter for the operation, maintenance, repair and upgrading of the transport network as a permitted activity, provided compliance is achieved with INF-S3 and INF-S18.

384. Addressing those submissions in reverse order, Mr Anderson did not consider that a new rule was needed to explicitly provide for operation, maintenance, repair and upgrading of the transport network as a permitted activity. We did not hear from Waka Kotahi, but the tabled statement for KiwiRail (which supported Waka Kotahi's submission and further submissions[161]) continued to support the relief sought.

385. We agree with Mr Anderson. INF-R1 already provides for operation, maintenance and repair of existing above and below ground infrastructure. INF-R3 separately provides for upgrading of existing above ground infrastructure. It was unclear to us why these rules were not adequate to address the needs of transport infrastructure, and we do not see the need for new rules which would introduce complexity and duplication into the chapter.

386. Responding to the oOh! Media Street Furniture submission, Mr Anderson similarly did not see the need for a new rule for ancillary transport infrastructure as INF-R7 provides for bus shelters.

387. The tabled statement for the submitter points out that the Reporting Officer recommended that bus shelters be included in INF-R7 in response to a Council submission (i.e. they were not listed in the notified Plan). That said, the statement supported the recommendation to add bus shelters, as do we.

388. Lastly, in relation to Firstgas's submission, Mr Anderson recorded that in relation to INF-R23, he had stated that it would be desirable to understand why residential

[158] Submission #304.17
[159] Submission #316.2
[160] Submissions #370.72-73
[161] FS #72.20-21

development is less sensitive to the gas transmission network than other sensitive activities.

389. In our discussion of INF-R23, we noted that there was no scope to apply a 60 metre buffer from the gas transmission network to residential development. That finding leaves a gap as to what rules should apply to residential development. We accept that a buffer is required for health and safety reasons. Unfortunately, Ms Unkovich did not supply us with any evidential basis for the specific buffers sought in Firstgas's submission. On the other hand, Mr Anderson was prepared to recommend a 60 metre buffer and the submission itself indicates that the separation distances sought were derived from NZ/AS2885 and from unspecified international advice.

390. In the circumstances, we recommend that Firstgas's submission be accepted, and a new Restricted Discretionary Activity rule numbered INF-R23 be inserted related to residential activities in proximity to the gas transmission network. For consistency with the approach of the Plan generally, our recommended rule refers to a 20 metre buffer from underground components of the gas transmission network and 30 metres from above ground components.

391. Mr Anderson noted submissions from GWRC[162] and from Transpower[163] overlapping with the submissions addressed above and seeking both new policies and rules to address their respective issues.

392. We agree with Mr Anderson's reasoning that it is not appropriate to single out roading aspects of greenfield land development and that on this basis, GWRC's submissions should be rejected. Similarly, we agree with Mr Anderson's recommendation that a National Grid sub-chapter is required. We will discuss the details of the content of that sub-chapter below.

393. We also record that Mr Anderson drew our attention to a number of minor inconsequential amendments. We agree with his recommendations in that regard.

394. In her Stream 9 evidence, Ms O'Sullivan drew our attention to WIAL's submission seeking inclusion of new provisions relating to incompatible land use and development and specifically identifying a range of activities that were a particular

[162] Submissions #351.88-89
[163] Submission #315.48

concern to the Airport. Its submission[164] was incorrectly allocated to Hearing Stream 6. It should have been re-allocated to Hearing Stream 9 but, inadvertently, was not.

395. The Panel made directions that WIAL's submission be allocated to the Wrap-up Hearing. That submission was broadly framed and in the same Minute (Minute 57) we directed that WIAL provide the wording of the provisions that it sought in order to give effect to its general relief, a map of the area that would be subject to the proposed rule framework, and a Section 32AA Evaluation of that relief.

396. WIAL duly provided a detailed Memorandum responding to the Panel's directions. It proposed a new infrastructure rule worded as follows:

INF-R25 Bird strike

*All Zones 1. Activity status: **Permitted***

Where:

Any Bird Strike Risk Activity is proposed between a 3 km and 8 km radius of the thresholds of the runways at Wellington International Airport (as shown on the planning maps), a birdstrike management plan (BSMP) prepared in consultation with WIAL has been provided to the Wellington City Council Planning Manager prior to the activity establishing and accepted (within 10 days of receipt).

An updated BSMP shall be provided to the Wellington City Council if the activity expands.

*All zones Activity status: **Restricted Discretionary***

Where:

1. Any Bird Strike Risk Activity is proposed within a 3km radius of the thresholds of the runways at Wellington International Airport (as shown on the planning maps); or

2. Compliance with INF-R25(1) cannot be achieved; or

The matters of discretion are:

1. The extent to which the proposed activity will be designed, operated and managed to avoid attracting bird species which constitute a hazard to aircraft.

2. The matter set out in INF-P7.

*All other Zones 2. Activity status: **Discretionary***

Where:

1. The Bird Strike Risk Activity is a landfill proposed within a 13km radius of the thresholds of the runways at Wellington International Airport, as shown on the planning maps.

[164] Submission #406.11

397. This was proposed to be accompanied by a definition of 'Bird Strike Risk Activity', worded as follows:

> *means a new or extension to an existing:*
>
> *a. permanent artificial water body resulting in a surface area exceeding 1000 m^2;*
>
> *b. marine food processing activity with external food storage or waste areas accessible to birds;*
>
> *c. sewage treatment and disposal facility;*
>
> *d. abattoir or freezing works;*
>
> *e. landfill, waste management facility or composting facility.*

398. This detail was supported by both background information explaining the rationale for relief and a planning analysis, as sought.

399. In his Section 42A Report, Mr Sirl noted that in principle, he did not oppose the regulation of certain land use activities to manage a potential adverse effect that has a low probability of occurrence, but which could result in a high impact. He also agreed with Ms O'Sullivan's analysis that the Infrastructure Chapter was the best 'home' for the suggested rule, in that INF-O3 and INF-P7 provide appropriate direction and support for the proposed provisions.

400. He anticipated a potential objection, in that the rule governs non-infrastructure activities, noting that the Infrastructure Chapter and associated Sub-Chapters already include rules managing potential adverse effects on infrastructure.

401. However, Mr Sirl's view was that he had not yet seen adequate evidence to justify the proposed land use planning response to the potential adverse effects of bird strike in Wellington. In the interim, he recommended rejection of WIAL's relief.

402. To assist resolution of these submissions, Mr Sirl also made suggestions as to the nature of the evidence that would assist the Panel. Among other things, he posed a question as to the detail required to be included in the birdstrike management plan proposed in Ms O'Sullivan's suggested rule, and how Council would determine whether a submitted plan is of an appropriate standard.

403. WIAL pre-circulated detailed evidence supporting its proposed 'bird-strike' rule. Ms O'Sullivan addressed planning matters. Responding to the implicit concern in the Section 42A Report regarding the efficacy of reliance on a birdstrike management plan, Ms O'Sullivan recognised that the proposed method might be difficult to

administer. She had therefore reconsidered reliance on it and tabled a revised rule worded as follows:

INF-R25 *Bird strike*

All zones *Activity status:* ***Restricted Discretionary***

Where:

1. Any Bird Strike Risk Activity is proposed within a 8km radius of the thresholds of the runways at Wellington International Airport (as shown on the planning maps);

The matters of discretion are:

1. The extent to which the proposed activity will be designed, operated and managed to avoid attracting bird species which constitute a hazard to aircraft.
2. Whether a bird management plan has been prepared by a suitably qualified ornithologist that describes how the activities will be managed on site to minimise potential bird strike risk at Wellington International Airport, and whether consultation has been undertaken with the Airport Authority and feedback integrated into the bird management plan;
3. The matter set out in INF-P7.

All Zones *2. Activity status:* ***Discretionary***

Where:

1. The Bird Strike Risk Activity is a landfill proposed within a 13km radius of the thresholds of the runways at Wellington International Airport, as shown on the planning maps.

404. Ms O'Sullivan's planning evidence was supported by expert evidence from Dr Michael Anderson addressing the nature and extent of bird-strike risk from an ecological perspective, along with evidence from Mr Jack Howarth, WIAL's Wildlife Officer, providing further detail as to how WIAL currently manages bird-strike risk, along with a commentary on the proposed rules.

405. Council filed rebuttal evidence from Mr Sirl, and from Dr Rachel McClellan. Dr McClellan is an expert ecologist and provided a detailed response to Dr Anderson's evidence.

406. In summary, Mr Sirl accepted that some form of land use management was justified to address potential adverse effects from new, or future extensions to activities that have a high potential to attract birds and that pose a significant threat to the Airport and aircraft safety. Based on Dr McClellan's evidence, Mr Sirl did not accept that it

was either necessary or appropriate to constrain activities to the proposed 8km radius (he suggested 3 kilometres), but recommended that the proposed rule, as it relates to landfills, waste management facilities, composting facilities and sewage treatment and disposal facilities should apply to the entire district.

407. Again based on Dr McClellan's evidence, Mr Sirl did not consider it was necessary to control landfills receiving only cleanfill, or to manage new artificial water bodies.

408. He also adopted WIAL's suggestion[165] that a new rule to marine food processing activities be qualified to relate only to such activities occurring "*with external food storage or waste areas accessible to birds".*

409. Lastly, Mr Sirl suggested a single Restricted Discretionary Activity rule for all activities covered by the rule.

410. We had a lengthy discussion with all of the witnesses on this issue, which prompted Ms O'Sullivan to table a revised suggested rule after the Wrap-Up hearing incorporating the following key elements:

- Ms O'Sullivan did not incorporate the previously proposed qualification to marine food processing activities, as above;
- Ms O'Sullivan continued to seek that the suggested rule apply to permanent artificial water bodies with a surface area exceeding 1000m^2;
- Ms O'Sullivan continued to seek rule coverage within a 8 kilometre radius for marine food processing activities, abattoirs, freezing works and permanent artificial water bodies;
- Ms O'Sullivan continued to seek control over landfills, waste management facilities, composting facilities and sewage treatment and disposal facilities within a 13 kilometre radius of the Airport;
- Ms O'Sullivan accepted the exclusion of cleanfill and a single Restricted Discretionary Activity rule.

411. One of the issues we discussed with both Mr Sirl and Ms O'Sullivan was the clarity of the proposed rule, and whether it might capture small-scale operations that, in reality, do not pose a risk to aircraft operations. One example we put to Mr Sirl was an offal

[165] In its 17 September 2024 Memorandum

pit at the back of a farm in the western hills of Wellington, which might be considered to fall within the definition of 'landfill'.

412. We directed that Mr Sirl conference with Ms O'Sullivan and they duly produced a Joint Witness Statement to assist our consideration of this issue. While they agreed that the rule should not apply to temporary activities, or small-scale activities, they found it difficult to capture that thought in an amended definition. Ultimately, they did not consider that further qualification was necessary but, if we disagreed, they suggested that reference be made to a 'facility'.

413. Mr Sirl provided limited further commentary in his Reply. He did not resile from applying a 3km radius around the Airport for some activities and continued to support managing landfills, waste management facilities, composting facilities, and sewage treatment and disposal facilities across the district.

414. Responding to the question we had posed to him at the hearing as to whether, following WIAL's particularisation of its relief, there was now scope to manage activities outside a 13km radius, Mr Sirl considered that the scope for relief was established by WIAL's original submission, which did not specify any particular distance.

415. We disagree. While we accept that the scope of WIAL's relief was initially established by its submission (which referred to a "*fixed distance"* from the Airport) the purpose of our requiring WIAL to particularise its relief was to ensure that the argument which followed in the Wrap-up Hearing was on a firm basis. Having particularised its relief as seeking management of activities with a maximum of 13km of the Airport, in our view, that is then the outer limit of what relief might be granted on the submission.

416. It appears agreed as between Council and WIAL that within that outer radius, landfills, waste management facilities, composting facilities (excluding cleanfill) and sewage treatment and disposal facilities should be managed. We acknowledge the difficulties of specifying with greater precision what those activities encompass, as discussed in the Joint Witness Statement. We remain concerned, however, that the definition of landfill in the Plan ("*means an area used for, or previously used for, the disposal of solid waste*") potentially captures domestic level activities such as farm offal pits that Ms O'Sullivan and Mr Sirl agreed need not be regulated. We adopt their alternative recommendation that reference should be made to "*landfill facilities"*.

417. Turning to the inner radius, it seems to us that the expert disagreement between Doctors Anderson and McClellan is the result of a difference in focus. Dr Anderson has given evidence of the pulling power of the Southern Landfill for black-backed gulls and expresses concern that other significant feed sources opening up would create additional bird strike risk. Dr McClellan accepts the risk from landfills, but opines that the other land uses highlighted by WIAL pose less risk as they provide a lesser food source for black-backed gulls.

418. The difficulty is that while that is probably correct at the moment, that is because there are few such facilities currently in Wellington. In addition, the fact that one of those few facilities that does exist (the abattoir in Ngauranga) does not appear to be a significant attraction to birds may be just because it is well managed, rather than indicating the absence of any need for management.

419. Similarly, the lack of evidence supporting controls over large artificial freshwater bodies is readily explainable by the fact that there are none, other than the two reservoirs within Zealandia. It does not say that they would not be a problem if one were established.

420. Both sides of the argument cited the controls around Christchurch Airport as a precedent. Dr McClellan noted that she had given evidence in the Plan hearings for all three district plans governing the land around the Christchurch Airport supporting control of landfills throughout the district, and controls over other activities at a 3km radius. Ms O'Sullivan advised, however, that while yet be to be formalised, appeals on the Selwyn District Plan had been resolved on the basis of the same 8/13km structure that she supported.

421. We approached the matter on the basis that there is already a problem contributed to by existing activities, principally the Southern Landfill. Mr Howarth gave evidence of the number of bird strikes, and near misses in recent times to demonstrate that.

422. There is inherently an element of conjecture as to how any particular new activity will influence the pattern of bird movements. We take on board Dr McClellan's point, however, that a new activity needs to be attracting a lot of birds for it to be a potential bird strike issue.

423. We think it is inherently unlikely that any of the activities WIAL seeks to constrain with its proposed rule will in fact be established over the life of the Plan. Wellington does not have a big fishing fleet and it is hard, for instance, to imagine a new marine

processing facility being established in the City. The Hearing Panel heard evidence in Stream 10 that it is also unlikely that a new landfill will be established within the City boundaries. It is much more likely that the Southern Landfill will be expanded, but that facility is designated, and so is unlikely to be the subject of a resource consent application at district level.

424. As we discussed with the parties, also, it is likely that any new facility of the kind sought to be controlled would be the subject of extensive controls under other legislation. Marine processing facilities would, for instance, be the subject of regulation in relation to food safety. Similarly abattoirs.

425. All of these considerations would support an argument that there is no need for a new rule.

426. On the other hand, Mr Sirl accepts that there is a case for regulation in this sphere and we accept the underlying premise that we are looking at an effect of low probability but high potential impact.

427. That combination suggests to us that if we are going to have a rule, we should favour WIAL's rule structure with an 8km inner radius around the Airport.

428. We have the same concern about definition of the activities the subject of constraint within 8 kilometres. In particular, the qualification that WIAL suggested which would identify only marine food processing activities "*with external food storage or waste areas* accessible *to birds"* dropped out of the later iterations proposed by the planning witnesses, but neither of them explained why it had been deleted. Again, we adopt their alternative recommendation that the rule should focus on marine food processing "*facilities"*, but we consider that the qualification that WIAL initially recommended quoted above should be retained.

429. As regards WIAL's desire to retain control over bodies of freshwater with an area greater than 1000m^2, we find it difficult to conceive where or why such an activity would be established within a 8km radius of Wellington Airport, but on the basis that if it doesn't occur, no costs will be incurred as a result of a rule requiring its management for potential bird strike, we recommended that be included also, as sought by WIAL. Our recommended new INF-R26 incorporating these considerations and recommendations is set out in Appendix 1.

2.11 INF-CE Sub-Chapter

430. As above, Mr Anderson provided us a second Section 42A Report addressing the infrastructure sub-chapters. The Coastal Environment Sub-Chapter was the first of these to be discussed. We note that in the revised recommended Sub-Chapter attached in Appendix, the numbering of provisions has been changed for the reasons discussed in Section 2.1 above.

General Submissions

431. Mr Anderson noted two sets of general submissions in relation to the INF-CE Sub-Chapter. The first, from Forest and Bird[166], sought that the provisions are no less protective and/or mirror those in the Coastal Environment Chapter, and align with the directions set in NZCPS Policy 13.

432. The second, from WIAL[167], sought that infrastructure located within the High Hazard Area of the Coastal Hazard overlay between Lyall Bay and Moa Point be exempt from the provisions relating to that area in the overlay.

433. Mr Anderson did not consider that further amendments were required to the sub-chapter to ensure consistency with the NZCPS. He noted that Policy 6 of the NZCPS requires recognition that the provision of infrastructure is important to the social, economic and wellbeing of people and communities. This is particularly the case in Wellington where the mapped Coastal Environment covers extensive areas of urban land.

434. We agree with that analysis. As Mr Anderson observes, the Plan reflects the varying levels of natural character across the Coastal Environment through its identification of areas with assessed high and very high coastal natural character.

435. In the case of infrastructure, NZCPS Policy 6 introduces an additional consideration that needs to be borne in mind alongside the more protection-oriented direction in Policy 13 that is not present in relation to other activities within the Coastal Environment. Accordingly, there is good reason for taking a slightly different, and more enabling, position in relation to infrastructure within the Coastal Environment.

[166] Submissions #345.43-44
[167] Submission #406.110

436. In summary, therefore, we accept Mr Anderson's reasoning that no recommendations need be made in relation to the Forest and Bird general submissions.

437. As regards WIAL's submission, Mr Anderson's position was that coastal hazards are addressed in the INF-NH Sub-Chapter.

438. Ms O'Sullivan addressed this issue in her planning evidence for WIAL, drawing our attention to submissions and evidence that WIAL had made in previous hearing streams relating to the seawalls that protect the Airport between the eastern end of Lyall Bay and the western end of Moa Point Beach. She sought in particular that the infrastructure provisions take a similar approach to that which the Reporting Officers in Hearing Streams 7 and 8 had taken in relation to those seawalls.

439. Mr Anderson's initial response (in rebuttal) was to state his view that the seawalls were not 'infrastructure'. He accepted that a seawall can protect infrastructure, but he did not consider it was infrastructure in and of itself, as it can also protect land which is not used for infrastructure purposes.[168]

440. Mr Anderson also drew attention to the fact that seawalls qualified under the PDP definition of "Hard Engineering Hazard Natural Hazard Mitigation Works*'.*

441. WIAL took issue with that view. Its counsel, Ms Dewar, provided legal submissions as to why the seawalls did qualify as infrastructure. In addition, Ms O'Sullivan pointed out that in the hearing process for Plan Change 1 to the Regional Policy Statement, the Council Reporting Officer had recommended an extension of the definition of 'Regionally Significant Infrastructure' to state that it included infrastructure, buildings, installations and equipment "*required to operate, maintain, upgrade and develop the Airport located on, or adjacent to, land and water used in connection with the Airport".* That definition of 'Regionally Significant Infrastructure' also made clear that such infrastructure was not necessarily located on Airport land.

442. Returning to the issue in Reply at our request, Mr Anderson accepted that if the Regional Council Reporting Officer's recommendation was accepted, this would make it clear that the seawalls should be considered part of the Airport. That prompted him to recommend that the provisions recommended by Mr Sirl, the Reporting Officer on the Coastal Environment Chapter in Stream 8, should be

[168] T Anderson Rebuttal Evidence at para 72.

imported into the Introduction to the Infrastructure Chapter, and the INF-CE Sub-Chapter.

443. We have already discussed the Infrastructure Chapter Introduction above. As regards Mr Anderson's recommendations for the INF-CE Sub-Chapter, we think that there is merit in Ms Dewar's legal submissions that whatever might be said about seawalls generally, the seawalls within the area Mr Sirl recommended be mapped and defined as the 'Moa Point Road Seawall Area' are protecting infrastructure, in the form of an important local road and the Airport, which is defined in the Regional Policy Statement as Regionally Significant Infrastructure.

444. In addition, since the hearing GWRC has released its decisions on Regional Policy Statement Change 1 confirming its acceptance of the Reporting Officer's recommendations Ms O'Sullivan alerted us to. While we understand the definition of 'regionally significant infrastructure' is the subject of appeal, GWRC's decision clearly supports the conclusion we have reached.

445. We note that in his Wrap-Up Section 42A Report, Mr Sirl recommended that the definition of 'regionally significant infrastructure' be amended to align with the Change 1 decisions where it references Wellington International Airport. In his reply, however, Mr Sirl resiled from that position on the basis of legal advice that that change would be out of scope. We agree with Mr Sirl's final position. The only amendments we recommend are those discussed above that respond to the submissions of Powerco, Firstgas, and Wellington Electricity.

446. In summary, however, we recommend acceptance of the amendments Mr Anderson proposed to the INF-CE Sub-Chapter to provide for the Moa Point Road Seawall Area subject to a minor amendment to the Introduction to the Sub-Chapter to make it clear that the seawall is located within the defined area, rather than being one and the same[169] and minor wording changes Mr Sirl suggested to the standard Mr Anderson recommended as part of the package of changes on this topic, which is INF-CE-S1 in Appendix 1. As Mr Anderson noted in his Reply, this leaves open the question as to what implications that recommendation has for the provisions of the Natural Open Space Zone and the Coastal Environment Chapter. We address that issue in Reports 7 and 8 respectively.

[169] Noting that in some places his recommended text referred to the Moa Point Seawall Area- we recommend consistent use of the 'Moa Point Road Seawall Area'

INF-CE: Introduction

447. Mr Anderson noted three sets of submissions as follows:

- Meridian[170] sought to introduce clarification that the rules in the INF-CE Sub-Chapter do not apply to REG activities;
- Taranaki Whānui [171] sought to add reference to the Sites and Areas of Significance to Māori Chapter in the 'Other relevant District Plan provisions' section of the Introduction; and
- Transpower[172] sought to add the statement that other sub-chapter provisions do not apply to the National Grid.

448. Mr Anderson's view was that if accepted, his recommendations for changes to the Infrastructure Chapter Introduction already addressed the point Meridian had raised.

449. In her planning evidence for Meridian, Ms Foster sought an amendment to the statement in the Infrastructure Chapter Introduction that we have already addressed, but she appeared to agree with Mr Anderson's view that no further amendments were required to the INF-CE Introduction.

450. The amended Infrastructure Chapter Introduction we recommend makes it clear that the Infrastructure Sub-Chapters do not apply to REG activities. As we have discussed above, in the Wrap-Up hearing, we asked Mr Sirl to consider whether greater clarity was required both as to how the Infrastructure Sub-Chapters related to the balance of the Plan (including the Infrastructure Chapter), and to each other. In his reply, Mr Sirl suggested a consistent form of words that supplied the necessary clarity. Among other things, it restated the fact that this (and the other) Sub-Chapter(s) do not apply to REG, thereby accepting Ms Foster's point, as well as deleting the 'Other relevant District Plan provisions' section of the Introduction. We accept and adopt Mr Sirl's recommendations, save only for the minor amendment to the reference to the Moa Point Road Seawall Area noted above.

451. As for Taranaki Whānui's submission on the Infrastructure Introduction, Mr Anderson considered that its submission on the INF-CE Introduction was already addressed in the INF-OL Sub-Chapter. We concur.

[170] Submission #228.25-26
[171] Submission #309.56
[172] Submission #315.91

452. Lastly, Mr Anderson considered that the recommended INF-NG Sub-Chapter addressed the matter raised by Transpower. Ms Whitney agreed with that position in her planning evidence for Transpower, as do we.

INF-CE: Policies

453. Notified INF-CE-P14 relates to the operation, maintenance and repair of existing infrastructure within the Coastal Environment, but outside of High Coastal Natural Character Areas and outside of coastal and riparian margins. Mr Anderson noted a Forest and Bird submission[173] seeking to qualify the extent to which infrastructure activities were allowed, and a submission from WIAL[174] seeking that the policy be deleted.

454. Mr Anderson reiterated the point already noted regarding the extent to which the mapped Coastal Environment extends into urban areas. He considered it was appropriate to have a policy addressing the operation, maintenance and repair of existing infrastructure. We did not hear from Forest and Bird, and Ms O'Sullivan did not indicate opposition to this policy in her planning evidence for WIAL. Nevertheless, we did wonder whether, consistent with the NZCPS, the policy should be amended to provide for management of effects on natural character where it exists, and we asked Mr Anderson to address that point in his Reply. He emphasised to us that this policy applies to existing infrastructure, not the creation of new infrastructure and that High Coastal Natural Character Areas have been separately mapped. Mr Anderson also observed that the Director-General of Conservation had submitted in support of the policy as notified seeking that it be retained.[175]

455. Mr Anderson makes a number of fair points, and we generally accept his reasoning in the absence of any argument to the contrary.

456. There is one aspect of the policy, however, that we consider needs work. As notified, it read:

> "*Allow the operation, maintenance, repair and upgrading of existing infrastructure and for new infrastructure within the coastal environment."*

[173] Submission #345.45
[174] Submission #406.111
[175] Submission #385.617

457. We understand the reference to new infrastructure to be intended to allow for operation and maintenance of infrastructure not currently in place, once it is installed. Mr Anderson says as much.[176]

458. The language of the policy could be read, however, to provide for new infrastructure to be installed, duplicating notified INF-CE-P24 and INF-CE-P25. Reference in the body of the policy (but not the heading) to upgrading of infrastructure also duplicates notified INF-CE-P18 and INF-CE-P19.

459. We recommend, therefore, that the notified policy be amended as follows:

> *"Allow the operation, maintenance, and repair ~~and upgrading~~ of both existing infrastructure and ~~for~~ new infrastructure within the coastal environment."*

460. Notified INF-CE-P15 addresses the operation, maintenance and repair of existing infrastructure within High Coastal Natural Character Areas. The only substantive submission Mr Anderson noted was from Forest and Bird[177] which sought that this policy apply to any area of natural character in the Coastal Environment. Mr Anderson did not agree, noting that the Plan differentiates between High and Very High Coastal Natural Character Areas, as well as coastal margins and riparian margins, and indeed the balance of the Coastal Environment. He considered it appropriate that different policy frameworks apply to infrastructure in each area. We agree. In essence, this submission is making the same point that we have already addressed in relation to INF-CE-P14.

461. Notified INF-CE-P16 addresses the operation, maintenance and repair of existing infrastructure within the Coastal Environment in Residential Zones, Commercial and Mixed Use Zones, Industrial Zones and the Airport and Port Zones that is also within coastal and riparian margins.

462. Mr Anderson noted submissions seeking amendments to it, as follows:

- Forest and Bird[178] sought to require protection of natural character irrespective of zoning;

[176] Anderson Reply at para 64.
[177] Submission #345.46
[178] Submission #345.47

- Yvonne Webber[179] and Guardians of the Bays[180] sought that the policy restrict the scale of earthworks, avoid significant adverse effects on natural character and avoid remedy or mitigate other adverse effects on natural character; and

- WIAL[181] sought that the area covered by the policy be expanded to include the Natural Open Space Zoned land between Lyall Bay and Moa Point.

463. For his part, Mr Anderson considered that operation, maintenance and repair of existing infrastructure in urban zones is necessary to support well-functioning urban environments. He therefore did not recommend acceptance of either Forest and Bird or the Weeber/Guardians of the Bays submissions.

464. Initially, Mr Anderson also did not support the WIAL submission either, on the basis that it had been addressed in Streams 7 and 8.

465. As we have recorded already, Mr Anderson reconsidered that position in his Reply and as a result recommended that both the title and the body of the policy include reference to the mapped Moa Point Road Seawall Area that is Natural Open Space Zone. We note that Ms Weeber, in her presentation for Guardians of the Bays indicated support for the recognition of the mapped and defined area.

466. We concur for the reasons set out above in relation to WIAL's general submissions.

467. Notified INF-CE-P17 relates to the operation, maintenance and repair of existing infrastructure within the Coastal Environment in the Rural Zone and Open Space and Recreation Zones that is also within coastal and riparian margins. The only submissions seeking it be changed were those of WIAL[182] seeking to exclude the area of Natural Open Space Zoned land between Lyall Bay and Moa Point. Again, although initially recommending rejection of this submission, Mr Anderson reconsidered his position in Reply and recommended insertion of exclusions for the mapped Moa Point Road Seawall Area that is Natural Open Space Zone. We agree, for the reasons set out above.

468. Notified INF-CE-P18 relates to the upgrading of existing infrastructure within the Coastal Environment, but outside of high coastal and natural character areas and outside of coastal and riparian margins. Mr Anderson noted a Forest and Bird

[179] Submission #340.18.
[180] Submission #452.17.
[181] Submission #406.112-113.
[182] Submissions #406.115-117

submission[183] seeking to amend the policy to give effect to Policy 13 of the NZCPS, and a WIAL submission[184] seeking deletion of the policy. He did not agree with either submission, considering it appropriate to have a policy addressing the upgrading of existing infrastructure given the extensive area of urban land covered by the overlay.

469. Ms O'Sullivan did not pursue this point in her planning evidence for WIAL and we did not hear from Forest and Bird. Accordingly, we agree with Mr Anderson's logic and adopt his recommendation.

470. Notified INF-CE-P19 relates to the upgrading of existing infrastructure within High Coastal Natural Character Areas that is underground or within an existing road reserve. The only substantive submission seeking it be changed was that of Forest and Bird[185] seeking to provide direction about acceptable effects of undergrounding. Mr Anderson's position was that the permitted parameters for earthworks addressed the amendments Forest and Bird were seeking, and he did not consider that any amendments were required. As above, we did not hear from Forest and Bird, and we therefore have no basis to disagree with Mr Anderson on the point.

471. Notified INF-CE-P20 relates to the upgrading of existing infrastructure that is within High Coastal Natural Character Areas and that is located above ground and outside an existing road reserve. The only substantive change sought to the policy was to delete reference to operational need.[186]

472. Mr Anderson's initial response was that it was appropriate to make provision for operational need on the basis that the justification from infrastructure operators could be considered in a resource consent process. Accordingly, in his Section 42A Report, the only amendment he recommended was to correct a cross reference within the policy.

473. We asked Mr Anderson about the reference in this policy to operational need given that the NZCPS only talks about functional need. He noted that this was a defined term that reflected the National Planning Standards.

[183] Submission #345.49.
[184] Submission #406.118.
[185] Submission #345.50.
[186] Forest and Bird [#345.51].

474. However, in his Reply, Mr Anderson advised[187] that he had reflected on that question and now recommended that the sub-policy be updated to only refer to functional need, so as to provide alignment with the NZCPS.

475. We too have reflected on the issue. We observe that the provisions in the NZCPS relating to functional need[188] relate to development within the Coastal Marine Area, rather than to the broader Coastal Environment. Given the recognition of the importance of infrastructure in the NZCPS, we consider Mr Anderson's initial recommendation is to be preferred, and reference to 'operational need' should remain (and Forest and Bird's submission accordingly rejected).

476. Notified INF-CE-P21 addresses the upgrading of existing infrastructure within the Coastal Environment in the Residential Zones, Commercial and Mixed Use Zones, Industrial Zones and Special Purpose Zones that is also within coastal or riparian margins. Mr Anderson noted the following submissions on it:

- Avryl Bramley[189] expressed the view that the policy is too permissive, but her relief was restricted to relevant rules, seeking that they be strengthened;
- Forest and Bird[190] sought that the policy give effect to NZCPS Policy 13; and
- WIAL[191] sought to include the area of Natural Open Space Zone land between Lyall Bay and Moa Point.

477. Mr Anderson noted the extent to which the Coastal Environment extends over urban areas. In his view, the policy appropriately allows for upgrading of that existing infrastructure. He noted that that upgrading is subject to permitted limits.

478. As previously, consideration of WIAL's case prompted Mr Anderson to review his position on the Moa Point Road Seawall Area in his Reply and to recommend that it be included in this policy.

479. At the hearing, we had a general question for Mr Anderson in respect of this and other policies providing for upgrading of infrastructure, because it appeared to us that the policies (and the rules of the Sub-Chapter giving effect to them), did not provide any limit on the scale of upgrading. His initial reaction was that upgrading was

[187] Anderson Reply at [129]
[188] NZCPS Policy 6(1)(e), 6(2)(c) and 6(2)(d)
[189] Submission #202.21.
[190] Submission #345.52.
[191] Submissions #406.119-121.

defined, but when he checked the definition, he confirmed that there were no connotations as to the scale of upgrading in the definition.

480. He returned to the point in Reply noting that the intention when these provisions were drafted was that upgrading in the Coastal Environment, but outside of identified High Coastal Natural Character Areas, be subject to the same provisions as infrastructure which is not subject to any overlays. In his view, this was accomplished because the Infrastructure Chapter Introduction states that infrastructure rules apply in addition to Sub-Chapter rules. Having reviewed that statement, we think that it should state more clearly that activities need to meet the requirements of the rules both of the Sub-Chapters and the Infrastructure Chapter. In the Wrap-Up hearing Mr Sirl recommended additional wording in the Introduction to each Sub-Chapter to address this point. We adopt that recommendation which, in our view, removes the need for an advice note in the rule section of each sub-chapter, which Mr Anderson suggested.

481. That does not, however, solve the problem that policies such as INF-CE-P21 are expressed in relatively open terms and allow for infrastructure upgrades with no limitation on the extent of the upgrade. We think that the answer at least, in this context, is that the limitation to urban zones (and the Moa Point Road Seawall Area) effectively limits the nature of the infrastructure concerned and thus we accept Mr Anderson's recommendation that the only amendment required is to insert reference to the Moa Point Road Seawall Area.

482. Notified INF-CE-P22 relates to the upgrading of existing infrastructure within the Coastal Environment in the Rural and Open Space and Recreation Zones that is located underground or within an existing road reserve and is within coastal and riparian margins.

483. The only substantive submission seeking amendment to this policy was that of Forest and Bird[192] seeking that it give effect to NZCPS Policy 13. Mr Anderson noted that NZCPS Policy 13 seeks to preserve natural character and that, by definition, infrastructure in a road or underground is unlikely to impinge on that policy. We agree. Accordingly, the only recommended change to the policy text is a consequential one: to exclude the mapped Moa Point Road Seawall Area that is Natural Open Space Zone.

[192] Submission #345.53.

484. Notified INF-CE-P23 relates to the upgrading of existing infrastructure within the Coastal Environment in the Rural Zone and Open Space and Recreation Zones that is above ground and outside an existing road reserve and within coastal and riparian margins. Mr Anderson noted once again, WIAL submissions[193] seeking to exclude the area of Natural Open Space Zoned land between Lyall Bay and Moa Point, and Forest and Bird[194] seeking to delete provision for upgrading in case of operational need.

485. Mr Anderson's initial response in his Section 42A Report was that there was no need to amend the policy to respond to either submission, for the reasons he had earlier discussed. As part of his review of WIAL's submissions in his Reply, he altered his position and recommended that the mapped Moa Point Road Seawall Area that is Natural Open Space Zone be excluded within the policy. He did not alter his position in relation to Forest and Bird's submission. Although he did not discuss this specifically, we consider there is greater reason to recognise operational need in this context than in relation to INF-CE-P20. The latter relates to activities within High Coastal Natural Character Areas. INF-CE-P23 relates to the balance of coastal and riparian margins which, by definition, do not have high natural character values.

486. In summary, therefore, we adopt Mr Anderson's recommendations in relation to this sub-policy.

487. Notified INF-CE-P24 relates to new infrastructure within the Coastal Environment outside of High Coastal Natural Character Areas and outside of coastal and riparian margins. It allows for such infrastructure.

488. Mr Anderson noted the following substantive submissions on it:

- Avryl Bramley[195] considered the policy too permissive;
- Forest and Bird[196] sought to amend the policy to give effect to Policy 13 of the NZCPS;
- GWRC[197] sought to retain the policy with amendments that would require new infrastructure in the Coastal Environment only to be allowed where significant

[193] Submissions #406.123-124.
[194] Submission #345.54
[195] Submission #202.2
[196] Submission #345.55
[197] Submissions #351.91-92

adverse effects on natural character are avoided and other adverse effects on natural character are avoided, remedied or mitigated; and

- WIAL[198] sought to delete the policy in its entirety.

489. Mr Anderson did not agree with the submitters, noting the extent to which the Coastal Environment applies to urban areas and the recognition in Policy 6 of the NZCPS of the importance of infrastructure in the Coastal Environment. In response to Ms Bramley, he also did not consider that the policy prevents access to the coastline.

490. We did not hear from any of the submitters on this point (Ms O'Sullivan did not pursue the point in her evidence for WIAL) and we agree with Mr Anderson. Accordingly, we do not recommend any change to this policy.

491. Notified INF-CE-P25 relates to new infrastructure within the Coastal Environment within High Coastal Natural Character Areas or within the coastal and riparian margins.

492. Mr Anderson noted the following substantive submissions on this policy:

- CentrePort[199] sought to amend the reference to "functional or operational need" to refer to "functional need" and "operational requirements";
- Forest and Bird[200] sought to delete reference both to "*identified"* values and "*operational need"*;
- GWRC[201] sought to delete the policy in its entirety; and
- WIAL[202] sought to delete the policy in its entirety, or failing that, to amend it to bring it into line with the NZCPS.

493. Mr Anderson noted that while natural character in High Coastal Natural Character Areas or within coastal and riparian margins should be preserved in line with Policy 13 of the NZCPS, some infrastructure can only be located in such areas. He saw the policy as requiring resource consent applicants to convince decision-makers that their proposed infrastructure must be located in those areas, as well as how it will maintain

[198] Submission #406.127
[199] Submissions #402.63-64
[200] Submission #345.56
[201] Submission #351.93
[202] Submission #406.128

or restore the identified values. He saw this as being in line with high order statutory direction.

494. In her planning evidence for WIAL, Ms O'Sullivan noted that the notified policy did not restrict itself to managing effects on natural character, natural features and natural landscapes, and accordingly went beyond the policy guidance of the NZCPS. She also noted that the policy was more stringent than the equivalent provision recommended in the Coastal Environment Chapter.

495. Although not initially accepting Ms O'Sullivan's evidence, Mr Anderson did accept, when we put it to him, that it was desirable that the policy focus on effects on natural character, rather than some broader category of effects. In his Reply, he largely accepted Ms O'Sullivan's suggestions as to how this might be done. We support the end result, which in our view, is better directed towards the effects in issue. We consider further that their focus should be on identified values, where values have been identified, in the absence of any evidence from Forest and Bird that Schedule 12 does not include all relevant values in the areas it identifies. We also recommend rejection of CentrePort's submission for the reasons set out earlier in this Report.

496. Mr Anderson did not specifically address Forest and Bird's point about continued reference to operational need and his rationale, as summarised above, aligned more with reliance on functional need. We consider there is good reason to require new infrastructure to have a stronger justification for locating in sensitive environments than in the case of upgrading where, by definition, location choices are limited by the existence of existing infrastructure. We recommend deletion of the reference to operational need and that, to that extent, Forest and Bird's submission be accepted.

497. As notified, the INF-CE Chapter had the rules relating to the policies we have discussed above following INF-CE-P25, followed in turn by a series of policies relating to the National Grid and the Gas Transmission Network (and then in turn by rules related to those policies). We found the layout difficult to follow and Mr Anderson agreed with our suggestion that all of the policies in the Sub-Chapter should be grouped together and not interspersed with rules in this way. We therefore next address notified INF-CE-P26, which relates to the operation, maintenance and repair of existing National Grid and Gas Transmission Pipeline Corridor infrastructure within the Coastal Environment. The only substantive submission Mr Anderson noted on this policy was from Transpower[203], which sought that the policy be amended to

[203] Submission #315.94

include ‘minor upgrades’, or alternatively that a new National Grid specific policy be provided.

498. Mr Anderson considered that this submission would be addressed by transferring the National Grid aspects of the policy into the separate National Grid Sub-Chapter. Similar reasoning prompted him to recommend that reference to the National Grid in subsequent notified policies INF-CE-P27 and P31 be deleted and that notified INF-CE-P28 be entirely deleted as it relates solely to upgrading of the National Grid.

499. We agree with that recommendation and will discuss the content of the policies related to the National Grid in the context of the National Grid Sub-Chapter.

500. Returning to notified INF-CE-P26, deletion of reference to the National Grid leaves it solely related to operation, maintenance and repair of existing Gas Transmission Pipeline infrastructure. Mr Anderson recommended amendment of that terminology in accordance with his reasoning discussed above, so that the policy would refer to the Gas Transmission Network. He noted that there was an issue with the policy remaining, even as amended, because there is no existing Gas Transmission Network infrastructure within the Coastal Environment. However, he could not identify any scope in submissions to delete the policy and thus advised that this would need to be achieved by a future Plan Change.

501. We do not entirely agree with Mr Anderson’s reasoning. It seems to us that at least in theory, there is the potential for the Gas Transmission Network to expand into the Coastal Environment and once constructed, its ongoing operation, maintenance and repair would need to be addressed by the Plan.

502. For present purposes, however, it is sufficient to say that we adopt Mr Anderson’s recommendation that reference to the National Grid be deleted and that the policy refer to Gas Transmission Network infrastructure.

503. Notified INF-CE-P27 relates to the upgrading of existing National Grid and Gas Transmission Pipeline Corridor infrastructure. Mr Anderson recommended the same changes to this policy as for INF-CE-P26, for the same reasons. He noted also a Transpower submission[204] seeking that the coastal margin is clearly identified (and mapped). Mr Anderson recorded that the Reporting Officer on the Coastal Environment Chapter had recommended that the District Plan mapping be amended to include the coastal line margin area. He considered that that addressed

[204] Submission #315.95

Transpower's issue. We agree that it would address Transpower's issue if the Reporting Officer's recommendation had been accepted. As discussed in Report 8, however, the problem with that approach is that identifying the location of the coastal margin requires judgment. As Transpower's submission notes there are dynamic coastal environments where the boundary of the CMA is not readily identifiable. The Hearing Panel accepts that it is desirable that a coastal margin be mapped, but producing a map after the end of the relevant hearing raises obvious natural justice issues. This is a matter that can only be addressed by way of a future Plan Change in our view.

504. In summary, therefore, we recommend that references in INF-CE-P27 to the National Grid be deleted and that the Gas Transmission Network be renamed as such within the policy, but that there be no other amendments to it.

505. As discussed above, notified INF-CE-P28 relates solely to the National Grid. Consistent with Mr Anderson's recommendation that National Grid policies sit within the National Grid Sub-Chapter, we recommend it be deleted.

506. Notified INF-CE-P29 and P30 relate to upgrading of Gas Transmission Pipeline Corridor infrastructure within High Coastal Natural Character Areas or within coastal and riparian margins. The first policy governs infrastructure underground or within an existing road reserve. The second relates to areas above ground and outside an existing road reserve. INF-CE-P29 was not the subject of any substantive submission and accordingly the only change Mr Anderson recommended was in the nomenclature, to refer to the Gas Transmission Network. INF-CE-P30 was the subject of a single submission from Avryl Bramley[205] seeking to amend the policy so it is not a Permitted Activity and notification is necessary. We agree with Mr Anderson's reasoning that a framework providing for Permitted Activities is appropriate, and that where consent is required, notification can be determined on a case-by-case basis. Accordingly, the only amendments we recommend to these two policies are to nomenclature, to refer to the Gas Transmission 'Network' and numbering.

507. Notified INF-CE-P31 relates to new National Grid and Gas Transmission Pipeline Corridor infrastructure within the Coastal Environment outside of High Coastal Natural Character Areas and outside of coastal or riparian margins. Mr Anderson noted a further submission from Avryl Bramley[206] to the same effect as his submission in

[205] Submission #202.23
[206] Submission #202.24

relation to INF-CE-P30. He had the same response. We agree with that response, and with his recommendations based on his position in relation to other policies that reference to the National Grid should be deleted (on the basis that it is addressed in the National Grid Sub-Chapter) and that references be to the Gas Transmission Network rather than the Gas Transmission Pipeline Corridor.

508. Notified INF-CE-P32 relates to new National Grid and Gas Transmission Pipeline Corridor infrastructure within the Coastal Environment and either within High Coastal Natural Character Areas or within coastal and riparian margins. Transpower[207] sought that the policy be deleted in its entirety and a new National Grid specific policy be added. As above, Mr Anderson accepted that position. Further, he did not see there being any useful role for a stand-alone Gas Transmission Network policy given the overlap with notified INF-CE-P25. He recommended, accordingly, that the policy be entirely deleted. We note that Ms Unkovich did not express any concern about that recommendation in her evidence for Firstgas. Accordingly, we recommend that INF-CE-P32 be deleted.

INF-CE Rules

509. Notified INF-CE-R27 relates to the operation, maintenance and repair of existing infrastructure within the Coastal Environment outside of High Coastal Natural Character Areas and outside of coastal and riparian margins. The only substantive submission on it was that of WIAL[208] seeking its deletion. Mr Anderson did not agree with that submission, and we record that Ms O'Sullivan did not pursue the point in her planning evidence for WIAL. We agree that the Plan should make provision for this activity and that the only amendment we recommend is to adopt Mr Anderson's suggestion that the rule should also reference customer connections. This was a response to a Telco submission[209] seeking a new rule providing for customer connections in the Coastal Environment as a Permitted Activity. We agree that the relief sought is desirable, and that it sits more conveniently within this rule than as a new standalone rule.

510. Notified INF-CE-R28 relates to the operation, maintenance and repair of existing infrastructure within High Coastal Natural Character Areas. Mr Anderson did not note

[207] Submission #315.98
[208] Submission #406.130
[209] Submission #99.49

any submissions seeking substantive amendments to the rule and accordingly, no further substantive assessment is required. We do note, however, that in the Wrap-Up hearing, Mr Sirl recommended minor changes to the way the Restricted Discretionary Activity component of this and subsequent rules were triggered, to ensure consistency of language and approach. We adopt his recommendations in this regard, and Appendix 1 shows the changes. The change in numbering discussed in Section 2.1 above also necessitates consequential changes to the policies referred to. Again, Appendix 1 shows the changes.

511. Notified INF-CE-R29 relates to operation, maintenance and repair of existing infrastructure within the Coastal Environment and within coastal or riparian margins. Mr Anderson noted two submissions seeking substantive relief. The first from Avryl Bramley[210] sought to amend the rule so it is not a Permitted Activity and notification is mandatory. Second, the submissions of WIAL[211] sought to amend the rule to include the area of Natural Open Space Zone land between Lyall Bay and Moa Point.

512. Mr Anderson's initial response in his Section 42A Report was to recommend rejection of both sets of submissions for the reasons he had already set out in relation to similar submissions on other provisions. However, as part of his revised response to WIAL's submissions, Mr Anderson recommended both that the mapped Moa Point Road Seawall Area be included within the zones the subject of INF-CE-R29.1, with corresponding exclusions to INF-CE-R29.2 and 3, and that additional standards Mr Sirl had recommended in the Coastal Environment Chapter hearing be imported into it.

513. Subsequently, in the Wrap-Up hearing, Mr Sirl recommended amendments to those changes:

- To delete the requirement for compliance with INF-S1-3 on the basis that they will apply anyway, via INF-R1; and
- To delete reference to alterations, additions and upgrades of seawalls, and substitute reference to their maintenance and repair, on the basis that the latter activities are the subject of the rule.

514. We agree with Mr Sirl's logic, and adopt his recommendations regarding the suggested amendments, including minor wording changes, subject to correction of

[210] Submission #202.25
[211] Submissions #406.131-133

the name of the Moa Point Road Seawall Area and cross reference numbering changes. To that extent, we recommend Ms Bramley's submission is accepted in part.

515. As part of his analysis in his reply, Mr Sirl noted that the revised rule did not provide for the situation where the revised requirements of INF-R29.1 are not met. That means that the activity would default to Discretionary Activity status under Section 87B of the Act. On the face of the matter, specification of a default rule would be in scope as it is only required as a result of the amendments Messrs Anderson and Sirl recommended. However, we had no evidence as to what that default should be as Mr Sirl did not suggest a solution to that gap in the Plan. We suggest that the Council consider whether and how to fill that gap as part of a future Plan Change.

516. Mr Sirl also noted that Sub-Part 3 of this rule omits reference to a relevant policy (notified INF-CE-P17) in the specified Matters of Discretion. This was one of a number of rules referencing the wrong policies (he noted also INF-CE-R31.3, INF-CE-R32.1.1, INF-CE-R37.1.1 and INF-NFL-R44.2). In his view, there was no scope to correct these errors, because no submission sought that they be changed in this regard, and the effect of the change(s) required is more than minor for the purposes of Clause 16 of the First Schedule. We agree with Mr Sirl's analysis. Accordingly, while the numbering of the provisions referenced in Appendix 1 has changed for the reasons discussed in Section 2.1, the amended numbering still relates to the same incorrect provisions. The absence of scope to correct these errors needs to be fixed via a Plan Change, because until that occurs, the relevant rules will not operate as intended. We recommend that Council address this issue as a matter of urgency.

517. Notified INF-CE-R30 relates to upgrading of existing infrastructure and new infrastructure within the Coastal Environment outside of High Coastal Natural Character Areas and outside of coastal and riparian margins. The only substantive submission Mr Anderson noted on this rule was that of WIAL[212] seeking its deletion. Mr Anderson did not agree with that relief on the basis that it provided clarity as to how the activity should be addressed. We note that Ms O'Sullivan did not pursue the point in her planning evidence for WIAL. We agree with Mr Anderson's recommendation in principle, but we note that the description of the activity is potentially ambiguous, for the same reasons as we discussed in relation to INF-CE-P14 above. We recommend this be clarified consistent with what we understand to

[212] Submission #406.135

be the intent of the rule by deleting the first 'infrastructure' and adding the word "*both*" so that the rule would read as follows:

> "*Upgrading of both existing ~~infrastructure~~ and new infrastructure within the coastal environment…".*

518. To that extent WIAL's submission might be categorised as accepted in part.

519. Notified INF-CE-R31 relates to upgrading of existing infrastructure within the Coastal Environment and within coastal or riparian margins. This is provided for as a Permitted Activity. The only submissions on it were from WIAL[213] seeking to include the area of Natural Open Space Zone land between Lyall Bay and Moa Point. As for other rules, having initially recommended rejection of this submission, Mr Anderson revised his view and recommended inclusion of the mapped Moa Point Road Seawall Area that is Open Space Zone in the list of zones to which the permitted activity status applies, with the corresponding exclusions from INF-CE-R31.2 and 3.

520. We agree with that recommendation along with Mr Sirl's recommended wording change for the reasons we have already discussed. Appendix 1 also shows consequential numbering changes.

521. Notified INF-CE-R32 relates to upgrading of existing infrastructure within High Coastal Natural Character Areas. Mr Anderson did not identify any substantive submissions seeking amendment to it and the only change he recommended was a cross-referencing correction. This was one of the rule changes Mr Sirl identified as being out of scope and so we do not accept that recommendation. Accordingly, while Appendix 1 shows the provision numbers referenced as changed, these are consequential on the broader numbering changes we recommend and have no substantive effect.

522. Notified INF-CE-R33 relates to new infrastructure within the Coastal Environment outside of High Coastal Natural Character Areas and outside of coastal and riparian margins. The only substantive submission seeking change to it was that of WIAL[214], seeking its deletion. Mr Anderson considered that the rule should be retained, and we record that Ms O'Sullivan did not pursue the point in her planning evidence for WIAL. On that basis, we accept Mr Anderson's recommendation.

[213] Submissions #406.136-137
[214] Submission #406.140

523. Notified INF-CE-R34 relates to new infrastructure within High Coastal Natural Character Areas or within coastal or riparian margins.

524. Mr Anderson recorded WIAL[215] as seeking to amend the activity status from Discretionary to Restricted Discretionary Activity. He considered that there was potential for a limitation of the effects considered to the matters in INF-P6 and INF-CE-P25 to lead to nuances within the environment and within the infrastructure being overlooked. He therefore considered it appropriate that full discretion be retained. We note that Ms O'Sullivan did not pursue the point in her planning evidence for WIAL and we agree with Mr Anderson's recommendation that the rule remain substantively as notified.

525. Notified INF-CE-R35 relates to the operation, maintenance and repair of existing National Grid and Gas Transmission Pipeline Corridor infrastructure within the Coastal Environment. Avryl Bramley[216] sought to have controls on gas company activity to ensure that only maintenance necessary to keep the network functioning at a minimal level is permitted until final phaseout. Transpower[217] sought to delete reference to the National Grid.

526. Mr Anderson recommended acceptance of the Transpower submission, for the same reasons as have been discussed above, but rejection of Ms Bramley's submission. In his view, operation, maintenance and repair of the Gas Transmission Network will continue to be required. We agree. Accordingly, the only amendments we recommend to this rule other than to its numbering are to delete reference to the National Grid and alter the description to refer to Gas Transmission Network Infrastructure.

527. Notified INF-CE-R36 relates to upgrading of existing National Grid and Gas Transmission Pipeline Corridor infrastructure outside of High Coastal Natural Character Areas and outside of coastal margins or riparian margins. Mr Anderson noted essentially the same submissions from Ms Bramley and Transpower as they made in relation to INF-CE-R35. He had the same response, considering that upgrades to the Gas Transmission Network must be provided for in order to enable efficiency and effectiveness improvements. We agree with Mr Anderson's reasoning with the result that the only changes we recommend other than to numbering are to

[215] Submissions #406.141-142
[216] Submission #202.26
[217] Submission #315.99

delete reference to the National Grid and to refer to Gas Transmission 'Network' infrastructure.

528. Notified INF-CE-R37 relates to upgrading of existing National Grid Infrastructure within High Coastal Natural Character Areas or within coastal or riparian margins. Mr Anderson recommended that Transpower's submission[218] that this rule be deleted be accepted, and the substance of the rule this rule be shifted to National Grid Sub-Chapter for the reasons discussed above. We concur.

529. Notified INF-CE-R38 relates to upgrading of existing Gas Transmission Pipeline Corridor infrastructure within High Coastal Natural Character Areas or within coastal or riparian margins. The only substantive submission on it was from Ms Bramley[219] seeking essentially the same relief as in relation to earlier rules. Mr Anderson likewise had a similar response, noting the need to allow for the upgrading of infrastructure, albeit that there is no Gas Transmission Network infrastructure currently within the Coastal Environment. We agree with Mr Anderson's reasoning and accordingly the only change we recommend to this rule as notified other than to numbering is to refer to Gas Transmission 'Network' infrastructure, together with the same minor wording change that Mr Sirl recommended to other rules, as discussed above.

530. Notified INF-CE-R39 relates to new National Grid and Gas Transmission Pipeline Corridor infrastructure within the Coastal Environment, but outside of High Coastal Natural Character Areas, and outside of coastal or riparian margins. There were no substantive submissions seeking amendment to it. Accordingly, the only amendments Mr Anderson recommended were to delete reference to the National Grid, consistent with his recommendations on other provisions, and to refer to Gas Transmission 'Network' infrastructure. We agree with those changes. Appendix 1 also shows a numbering change for the reasons discussed in Section 2.1 above.

531. Notified INF-CE-R40 relates to National Grid and Gas Transmission Pipeline Corridor infrastructure within High Coastal Natural Character Areas or within coastal or riparian margins. Again, there were no substantive submissions seeking amendment to it and, accordingly, the only amendments we recommend other than numbering are to delete reference to the National Grid, to refer to Gas Transmission 'Network' infrastructure.

[218] Submission #315.101
[219] Submission #202.29

532. Lastly in relation to the INF-CE- Sub-Chapter, Mr Anderson noted Transpower's submissions[220] seeking new policies governing the operation, maintenance and minor upgrade of the National Grid; and development of the National Grid. He recorded that these matters have been provided for in the proposed National Grid Sub-Chapter. We will discuss their content in that context.

2.12 INF-NFL Sub-Chapter

General Submissions

533. Mr Anderson noted five sets of general submissions on this Sub-Chapter as follows:

- Churton Park Community Association[221] and John Tiley[222] sought that all city ridgelines remain free of any development;
- Forest and Bird[223] sought that the Sub-Chapter be amended to mirror the Natural Features and Landscapes Chapter, and to be as protective as the latter;
- Meridian[224] sought to amend the preamble to the Sub-Chapter by stating that rules in the INF-NFL Sub-Chapter do not apply to REG activities and that the relevant rules are in the REG Chapter;
- Taranaki Whānui [225] sought that the list of 'Other relevant District Plan provisions' in the Sub-Chapter include the Sites and Areas of Significance to Māori Chapter; and
- Transpower[226] sought a revised set of National Grid specific policies.

534. Mr Anderson recommended that the submissions of the Churton Park Community Association and John Tiley be rejected. He noted that the rule framework of the Sub-Chapter sets up different provisions for differing infrastructure uses in the mapped ridgelines and hilltops overlay, recognising that the ridgelines and hilltops of the City currently already have infrastructure on them. We agree that a case-by-case evaluation is required, and thus likewise recommend that these submissions be rejected at the general level at which they were pitched.

[220] Submissions #315.92-93
[221] Submission #189.5
[222] Submission #142.5
[223] Submission #345.78
[224] Submissions #228.29-30
[225] Submission #389.58
[226] Submission #315.120

535. Mr Anderson noted that there is also existing infrastructure in the identified ONLs and ONFs, and within the Special Amenity Landscapes. He did not consider that that infrastructure could be ignored. We agree that the Sub-Chapter needs to recognise how infrastructure within natural feature and landscape overlays is provided for and, accordingly, recommend that Forest and Bird's submission is rejected.

536. We agree also with Mr Anderson's position that Meridian's relief has been provided for through the recommended changes to the Introduction of the Infrastructure Chapter, and thus we recommend that those submissions also be rejected.

537. Lastly, Mr Anderson noted that the INF-OL Sub-Chapter addresses sites and areas of significance to Māori, and thus did not recommend acceptance of Taranaki Whānui's submission. We agree with that decision also.

538. As a result, we do not recommend any amendments to the Sub-Chapter in response to these general submission points.

INF-NFL Introduction

539. Under this heading, Mr Anderson noted Forest and Bird's submissions[227] seeking acknowledgement of the potential adverse effects of infrastructure on indigenous biodiversity, landscape and natural character values, making it clear that these are important values that require protection.

540. In addition, Transpower[228] sought to qualify the statement in the Introduction that the Sub-Chapter applies to infrastructure within natural feature and landscape overlays.

541. Mr Anderson did not consider that the amendments sought by Forest and Bird were necessary or appropriate. He noted that indigenous biodiversity is not addressed in the Sub-Chapter and expressed the view that the objectives and policies already provide acknowledgement that infrastructure can affect natural features and landscapes. We agree on both counts.

542. Mr Anderson also considered that no amendment was necessary to address Transpower's submission, because it was already addressed through the recommended INF-NG Sub-Chapter. We think this is correct, but only to a point. The existence of the INF-NG Sub-Chapter, and the consequent shifting of rules out of the

[227] Submissions #345.79-80
[228] Submission #315.121

INF-NFL Sub-Chapter related to the National Grid, addresses Transpower's concern in part, but it also means that the statement in the INF-NFL Introduction is not correct.

543. Our concern in that regard was addressed by Mr Sirl's recommendation (in his Wrap-Up reply) that a much more comprehensive statement of the inter-relationship of this Sub-Chapter with other Chapters be inserted into the Sub-Chapter Introduction. We adopt those changes and accordingly recommend that Transpower's submission be accepted.

544. We note that, consistent with recommendations discussed above, Mr Anderson recommended that reference to the Notable Trees Chapter in the 'Other relevant District Plan provisions' section be deleted. Again, this recommendation was overtaken by Mr Sirl's suggested deletion of the entire section.

INF-NFL Policies

545. Notified INF-NFL-P38 addresses the operation, maintenance and repair of existing infrastructure within ridgelines and hilltops, allowing for that activity. Forest and Bird[229] opposed that policy direction on the basis that it did not consider NFL-P2.

546. Mr Anderson did not support the relief sought, considering that operation, maintenance and repair of existing infrastructure will not have any noticeable effect on ridgelines and hilltops. We agree and, accordingly, do not recommend any change to this policy other than to its numbering.

547. Notified INF-NFL-P39 addresses the operation, maintenance and repair of existing infrastructure within Special Amenity Landscapes, including within the Coastal Environment, allowing for that activity where associated earthworks and vegetation removal are of a scale that maintains or restores the identified values in the landscape.

548. Mr Anderson noted a Forest and Bird submission on this policy[230] seeking that it be amended to delete reference to "*identified"* values and to insert reference to relevant NFL and ECO provisions for biodiversity protection, along with direction that effects need to be protected in certain areas.

[229] Submission #345.82
[230] Submission #345.83

549. In addition, Mr Anderson noted Powerco[231] and the Telcos[232] as pointing out that the cross reference to the schedule in the policy is incorrect.

550. Mr Anderson accepted the latter point. He considered that the relevant schedule (Schedule 11) identifies the relevant values for Special Amenity Landscapes and that the policy should not include provisions related to landscapes other than Special Amenity Landscapes, or on biodiversity, which are provided for elsewhere. We accept Mr Anderson's reasoning, noting that we did not hear from Forest and Bird on the point. Accordingly, the only amendment we recommend to this policy is to correct the cross-referencing error Powerco and the Telcos noted and to renumber it.

551. Notified INF-NFL-P40 addresses the operation, maintenance and repair of existing infrastructure within ONLs and ONFs, including within the Coastal Environment, allowing that activity provided associated earthworks and vegetation removal are of a scale that protects the identified values of the landscape or feature.

552. Mr Anderson noted another Forest and Bird submission[233] seeking to delete the reference to "*identified"* values, reference the correct schedule, and add direction to enable assessment of effects at reconsenting stage and to give effect to Policy 11 of the NZCPS. The Telcos[234] made the same point about the incorrect cross reference.

553. Mr Anderson accepted that the cross reference did indeed require correction. More substantively, he did not consider NZCPS Policy 11 relevant, as it relates to indigenous biodiversity, which is addressed in the INF-ECO Sub-Chapter. He considered it appropriate to have a policy framework that allows, within reason, for the operation, maintenance and repair of existing infrastructure within ONLs.

554. We accept that reasoning. In our view, the notified policy already allows for appropriate assessment of effects at the reconsenting stage. Similarly, we consider that reference should be to the values identified in the schedule in the absence of any evidence from Forest and Bird that the schedule does not identify all relevant landscape values.

555. Accordingly, the only amendment we recommend is correction of the cross reference to Schedule 11 (referring instead to Schedule 10) and renumbering the policy.

[231] Submission #127.34
[232] Submission #99.52
[233] Submission #345.84
[234] Submission #99.53

556. Notified INF-NFL-P41 relates to upgrading of existing infrastructure within ridgelines and hilltops, allowing for it in specified conditions. The only substantive submission on the policy was from Forest and Bird[235] seeking that this be converted to an 'only allow' policy. Mr Anderson disagreed on the basis that the policy only applies to a specific instance. In the absence of further commentary from Forest and Bird explaining what would be gained by the suggested amendment, we agree with Mr Anderson's recommendation that this submission should be rejected.

557. We agree with Mr Anderson's recommendation of a minor change to express sub-policy 2 more clearly. We also note that a minor grammatical correction is required to sub-policy 1, as set out in Appendix 1 to our Report.

558. Notified INF-NFL-P42 relates to upgrading of existing infrastructure within a Special Amenity Landscape, including within the Coastal Environment, that is located underground or within an existing legal road, allowing for that activity. The only substantive submission on it was from Forest and Bird[236] expressing the view that a blanket 'allow' policy is inappropriate as it gives no direction regarding the appropriateness of effects. Mr Anderson did not agree with this submission point, noting that standards are proposed to manage the effects of undertaking earthworks associated with undergrounding infrastructure. Again, we had nothing from Forest and Bird to support its submission at the hearing, and we therefore agree with Mr Anderson's reasoning. Accordingly, we recommend that this policy remain without substantive change.

559. Notified INF-NFL-P43 relates to upgrading of existing infrastructure within Special Amenity Landscapes, including within the Coastal Environment, that is located above ground and outside of an existing legal road. This is provided for where four conditions are met. Mr Anderson noted Forest and Bird as seeking[237] deletion of reference to "*identified"* values, deletion of a requirement for the activity to have a functional or operational need to locate within the landscape, and insertion of an additional requirement to align with relevant ECO and NFL policies. Mr Anderson noted also Powerco[238] and Telco[239] submissions pointing out an error in the cross reference to the relevant schedule.

[235] Submission #345.85
[236] Submission #345.86
[237] Submission #345.87
[238] Submission #127.35
[239] Submission #99.54

560. Mr Anderson accepted that the cross reference was indeed inaccurate, and should be amended. However, he disagreed with Forest and Bird's submission points, noting that relevant values for Special Amenity Landscapes are identified and expressing the view that reference to functional and operational need provides an opportunity for the applicant to outline those needs, and for their assessment.

561. Again, we did not have any additional evidence from Forest and Bird at the hearing in relation to this submission and we therefore agree with Mr Anderson's reasoning. We observe that because the requirements of this policy are expressed conjunctively, reference to functional and operational need imposes an additional hurdle for infrastructure providers, rather than reducing the regulatory requirements (as Forest and Bird appears to assume).

562. In summary, therefore, we adopt Mr Anderson's recommendations and the only amendments we recommend other than renumbering are to refer to Schedule 11 (not Schedule 12 as notified) and to revise the language of two of the other sub-policies to express the intent more clearly.

563. Notified INF-NFL-P44 relates to upgrading of existing infrastructure within ONLs and ONFs, including within the Coastal Environment, that is located underground or within an existing legal road, allowing for that activity. Mr Anderson noted a Forest and Bird submission[240] seeking that the policy reference polices in the ECO and NFL Chapters as a guide to the appropriateness of effects.

564. Mr Anderson had a similar response to that in relation to previously discussed Forest and Bird submissions, noting that the INF-NFL Sub-Chapter stands alone and that indigenous biodiversity matters are addressed in the INF-ECO Sub-Chapter. We agree with that reasoning and adopt his recommendation that the policy remain substantively as notified.

565. Notified INF-NFL-P45 relates to upgrading of existing infrastructure within ONLs and ONFs, including within the Coastal Environment, that is located above ground and outside an existing legal road. This policy is expressed as an 'only allow' policy subject to four stated conditions.

566. Mr Anderson noted a Forest and Bird submission[241] seeking:

[240] Submission #345.88
[241] Submission #345.89

- Deletion of reference to "*identified"* values;
- Deletion of the precondition requiring a functional or operational need for the activity to be undertaken within the feature or landscape;
- Alignment with relevant NFL and ECO policies; and
- Amendment to give effect to NZCPS Policies 11 and 15.

567. Mr Anderson also noted a Telco submission[242] seeking to qualify the policy direction for protection of identified landscape or feature values.

568. Mr Anderson's response to these submissions, as set out in his Section 42A Report, was that the INF-NFL Sub-Chapter is intended to be stand-alone, with indigenous biodiversity matters addressed elsewhere in the Plan.

569. He maintained the position that values associated with ONLs and ONFs were identified in the relevant schedule. He also considered that the areas identified are limited and identified for their outstanding values, and as such a robust policy framework is necessary to consider changes to structures within those areas.

570. Forest and Bird did not follow up its submission with any evidence (or representations), but we did have evidence from the Telcos. Mr Horne gave planning evidence suggesting that this policy (and notified Policy INF-NFL-P49 relating to new infrastructure) might be difficult to meet in some cases for necessary infrastructure that has a functional and operational need to be located in a particular environment. He referred to the fact that Regional Policy Statement Policy 26 requires protection of ONLs and ONFs from inappropriate subdivision, use and development. He also drew our attention to the fact that the explanation for that policy indicated that it was not intended to prevent change, but rather to ensure that change is carefully considered and appropriate in relation to the identified landscape values.

571. Responding in rebuttal evidence, Mr Anderson reconsidered his position with reference to RPS Policy 26 recommending that the word "*protect"* in notified INF-NFL-P45 (and INF-NFL-P49) be replaced with "*respects"*. He also recommended clarifying the inter-relationship between the sub-policies to acknowledge that sub-policies 2 and 3 address alternative factual scenarios.

572. We discussed the first issue with both Mr Horne and Mr Anderson at the hearing.

[242] Submission #99.55

573. We asked Mr Horne whether he had considered the extent to which the issues he had drawn to our attention actually arose in relation to telecommunication infrastructure, given the location of the ONLs and ONFs identified in the Plan. His response was that he had raised the point as an issue of principle, but having looked at the planning map showing the location of these landscapes and features, he confirmed that that mitigated the issue he was raising.

574. This acknowledgement rather confirmed the impression we had. We found it difficult to understand, given the location of the ONLs and ONFs identified in the Plan, how they could conceivably impinge on the operation of telecommunication infrastructure.

575. Discussing the matter with Mr Anderson, we queried whether he was placing rather too much weight on an explanation in the Regional Policy Statement and suggested that the Supreme Court's decision in *EDS v The New Zealand King Salmon Company Limited*[243] would seem to suggest that appropriateness needs to be considered by reference to whether the values of outstanding natural features and landscapes are protected. Mr Anderson said he needed to think about that, but unfortunately, we did not pick up on this point in our Minute highlighting issues that we needed further feedback on in Reply, and so we do not have the benefit of Mr Anderson's further thoughts on the subject.

576. We also asked Mr Anderson if he considered that the policy instruction to "*respect"* identified values provided enough detail to ensure appropriate outcomes. His response was that he thought it did do so.

577. Consideration of these questions takes place against a background where Policy 15 of the NZCPS directs an avoidance approach for adverse effects on outstanding natural features and landscapes in the Coastal Environment. That higher order direction is captured in Sub-Policy 3, and the policy provides separately that outside the Coastal Environment, significant adverse effects of identified values are to be avoided, and other adverse effects avoided, remedied or mitigated.

578. Against that background, we consider that the less directive language Mr Anderson has recommended in the more general Sub-Policy 1 is acceptable.

579. In summary, therefore, we adopt Mr Anderson's recommendation that Sub-Policy 1 refer to activities of a scale that *"respects*" the identified values in Schedule 10, and

[243] [2014] NZSC 38

amends the detail of Sub-Policies 2 and 3 to clarify their effect (substituting "*will*" for "*can*").

580. While we agree that the notified policy could usefully be clarified as regards the inter-relationship between the sub-policies, we find Mr Anderson's suggested additions create ambiguity. We therefore recommend that the ordering and lay-out of the policy be amended to clarify its intent, as shown in Appendix 1.

581. Notified Policy INF-NFL-P46 relates to new infrastructure within identified ridgelines and hilltops, directing that it be allowed for, subject to two conditions. The only substantive submission was that of Forest and Bird[244] seeking to convert this policy to an 'only allow' policy.

582. Mr Anderson disagreed on the basis that the policy only applies in a specified circumstance. Once again, we did not have the benefit of further feedback responding to Mr Anderson's reasoning from Forest and Bird, and in the absence of reason to query his view, we accept his recommendation that the policy remain as notified, save only for a minor grammatical correction Mr Sirl noted in his Wrap-Up Section 42A Report and renumbering.

583. Notified INF-NFL-P47 relates to new infrastructure within a Special Amenity Landscape, including within the Coastal Environment, that is located underground or within an existing road, and provides for that activity.

584. Mr Anderson noted a single substantive submission from Forest and Bird[245] seeking that matters for consideration include relevant ECO and NFL provisions. His response was that the infrastructure provisions are stand-alone and should not refer to relevant ECO and NFL provisions. We do not agree that that is necessarily always the case. Clearly though, there would need to be evidence suggesting that additional policy direction is required over and above that which the INF-NFL or INF-ECO Sub-Chapters provide. In this case, on the face of the matter, infrastructure located underground or within an existing legal road is unlikely to have a material landscape effect, certainly once it is installed. Forest and Bird did not provide us with any evidential foundation for its submission and, on that basis, we adopt Mr Anderson's recommendation that this policy should remain as notified.

[244] Submission #345.90
[245] Submission #345.91

585. Notified INF-NFL-P48 relates to new infrastructure within a Special Amenity Landscape, including within the Coastal Environment, that is located above ground and outside an existing legal road. The policy only allows for that infrastructure if four pre-conditions are met. Again, Forest and Bird had the only substantive submission on the policy[246]. It sought:

- Deletion of reference to "*identified"* values;
- Deletion of reference to functional or operational need as a policy requirement;
- Insertion of a requirement to align with specified NFL and ECO policies; and
- Amendment generally to give effect to Policy 11 of the NZCPS.

586. Mr Anderson had a similar response to that in relation to the Forest and Bird submissions discussed above, noting that indigenous biodiversity matters are addressed elsewhere in the Plan and that the INF-NFL-Sub-Chapter is intended to be stand-alone.

587. Consistent with our findings above, we recommend that Forest and Bird's submission be rejected in the absence of evidence that Schedule 11 does not identify all relevant values that need to be addressed and/or that the requirements of this policy are inadequate to control the effects of the activity in question on landscape values. We note Mr Anderson's recommendation that Sub Policies 2 and 3 be the subject of minor amendment to clarify their intent. In our view, while already generally consistent with the NZCPS, the suggested amendments would make that alignment clearer.

588. Lastly, in the context of this policy, the requirement to establish a functional or operational need operates as a hurdle to infrastructure providers, not an enabling provision, and thus we cannot understand why it should be deleted.

589. We note a grammatical error in the title to the policy that requires correction and the need for renumbering, but otherwise, we adopt Mr Anderson's recommendations in relation to minor amendments to this policy, as set out in Appendix 1.

[246] Submission #345.92

590. Notified INF-NFL-P49 relates to new infrastructure within ONLs and ONFs, but outside the Coastal Environment. It provides that such infrastructure only be allowed when three specified pre-conditions are met.

591. Mr Anderson noted two substantive submissions on the policy. Forest and Bird[247] sought the same relief as for INF-NFL-P48, but minus any reference to the NZCPS (doubtless reflecting the fact that this policy relates to activities outside the Coastal Environment).

592. Second, the Telcos[248] sought to soften the requirement for activities to be of such a scale that protects the identified values.

593. These submissions raise similar issues to notified INF-NFL-P45, and Mr Anderson referenced his reasoning in that context.

594. That reasoning prompted Mr Anderson to recommend the same change to the first sub-policy as in relation to INF-NFL-P45 (referring to activities being of a scale that "respects" the identified values). Mr Anderson also recommended that a reference to the Coastal Environment in Sub-Policy 3 be deleted. The latter is clearly inappropriate since, as above, the activity the subject of the policy is defined to be infrastructure outside the Coastal Environment.

595. More substantively, we accept Mr Anderson's reasoning in relation to the balance of the policy for the same reasons as we have discussed in relation to INF-NFL-P45 above and the only other change we recommend is to its numbering.

596. Notified INF-NFL-P50 relates to new infrastructure within ONLs and ONFs within the Coastal Environment. It directs that new infrastructure be avoided unless adverse effects on identified values will be avoided.

597. The only substantive submission on it was that of Forest and Bird[249] seeking to delete reference to "*identified"* values. As previously, in the absence of evidence suggesting that the identification of relevant values is incomplete, we do not support that suggested change. Accordingly, aside from renumbering it, we adopt Mr Anderson's recommendation that the only amendment to the policy be to clarify the language so that it is more clearly aligned with the NZCPS.

[247] Submission #345.93
[248] Submission #99.56
[249] Submission #345.94

598. As with the INF-CE Sub-Chapter, the notified INF-NFL Sub-Chapter had a series of rules following the policies we have discussed above, followed in turn by a series of policies related to the National Grid and Gas Transmission Pipeline Corridor infrastructure (and in turn the rules related to those policies). Mr Anderson recommended adoption of a suggestion we made that the Sub-Chapter would be more understandable if the policies were grouped together, and the rules grouped together rather than having them interspersed. As with the INF-CE Sub-Chapter, we agree that this is an improvement in the layout, and we adopt that recommendation.

599. Addressing, therefore, the balance of policies (notified INF-NFL-P51 to P60 inclusive), Mr Anderson noted only a series of Transpower submissions[250] seeking that the policies be deleted or amended to not include references to the National Grid. Mr Anderson recommended acceptance of those submissions for reasons we have discussed already, and deletion in each case of reference to the National Grid, together with a general change, to refer to Gas Transmission 'Network' infrastructure. He also recommended more minor wording changes to clarify the effect of some of these policies.

600. We adopt his recommendations, and the relevant changes are shown in Appendix 1. We also recommend correction of a minor error repeated in notified INF-NFL-P53, P58 and P60 where, in each case, the policy refers to outstanding landscapes rather than outstanding *natural* landscapes. Lastly Appendix 1 shows the renumbering we recommend to each policy.

INF-NFL Rules

601. Notified INF-NFL-R48 relates to the operation, maintenance and repair of existing infrastructure within landscape overlays, including within the Coastal Environment. Mr Anderson advised that there were no submissions seeking amendments or deletions to this rule. Accordingly, no further assessment is required and the only amendments recommended are to numbering, consequential cross-referencing changes, additional minor wording changes Mr Sirl recommended in the Wrap-Up hearing, and correction of the same error, referencing outstanding landscapes rather than outstanding *natural* landscapes. We have made the same correction in the relevant subsequent rules.

[250] Submissions #315.126-140

602. INF-NFL-R49 relates to upgrading of existing infrastructure within Special Amenity Landscapes or identified ridgelines and landscapes. Mr Anderson identified only one substantive submission on it, that of KiwiRail[251], which sought provision for infrastructure within an existing rail reserve.

603. Mr Anderson's initial reaction was that there was no overlap between designated rail facilities and Special Amenity Landscapes or identified ridgelines and hilltops, and thus no need to amend the rule. Ms Grinlinton-Hancock advised in her tabled statement that this was not entirely correct, and that the radio station at Te Kopahao, Hawkins Hill was within an identified ridgeline and hilltop. Accordingly, KiwiRail continued to seek amendment to the rule.

604. In rebuttal, Mr Anderson noted that he was unsure if KiwiRail's radio station qualified as 'rail reserve', but in any event, as the facility was designated, the designation provided sufficient certainty to undertake any necessary upgrade (or construct new infrastructure). We agree with Mr Anderson. If the facility is designated, provisions related to the identified ridgeline and hilltop will not apply to it anyway. The designation can be exercised according to its terms.

605. It follows that the only amendments we recommend to this rule are for numbering, consequential cross-referencing changes and the minor wording changes Mr Sirl recommended.

606. Notified INF-NFL-R50 relates to upgrading of existing infrastructure within ONLs and ONFs. Mr Anderson did not identify any substantive submissions on this rule and accordingly, the only additional changes recommended are to numbering, consequential cross refencing amendments and the minor wording changes Mr Sirl recommended.

607. Notified INF-NFL-R51 relates to new infrastructure within ONLs and ONFs. Again, Mr Anderson did not identify any substantive submissions on this rule and thus no further assessment is required.

608. Notified INF-NFL-R52 relates to new infrastructure within Special Amenity Landscapes or identified ridgelines and hilltops. Mr Anderson noted two substantive submissions on this rule. The first, from KiwiRail[252], sought the same relief as it had sought in relation to INF-NFL-R49. The second, from Taranaki Whānui[253] sought that

[251] Submission #408.76
[252] Submission #408.77
[253] Submission #389.59

the rule be amended to include triggers for active engagement with Taranaki Whānui in relation to SASM as a matter of discretion.

609. Mr Anderson had the same response to KiwiRail as in relation to notified INF-NFL-R49. We agree, also for the same reasons.

610. Mr Anderson's response to Taranaki Whānui was to point out that there are triggers of the kind Taranaki Whānui seek in the INF-OL Sub-Chapter. We agree with his reasoning in that regard also.

611. Accordingly, we adopt Mr Anderson's recommendation that the only amendments required are consequential cross-referencing changes, noting that the numbering of the relevant provisions has changed as a result of the renumbering exercise we discussed in Section 2.1 above, together with the minor wording changes Mr Sirl recommended.

612. Notified INF-NFL-R53-R57 (inclusive) relate to National Grid and Gas Transmission Pipeline Corridor infrastructure activities within landscape overlays. Mr Anderson noted a series of Transpower submissions[254] seeking that these rules be deleted or amended to not include reference to the National Grid. As per Mr Anderson's recommendations on other Transpower submissions, he recommended deletion of INF-NFL-R54, which relates solely to National Grid infrastructure, and deletion of reference to the National Grid in notified INF-NFL-R53, R56 and R57, together with a change of nomenclature throughout to refer to the Gas Transmission 'Network' infrastructure and consequential cross-referencing changes.

613. We agree with Mr Anderson's recommendations in this regard for the reasons set out above, while noting that the numbering of provisions referenced has changed as a result of the renumbering exercise we discussed in Section 2.1 above. We note that we adopt a minor wording change Mr Sirl recommended and have also made a minor correction to the Matters of Discretion in notified INF-NFL-R55 (now INF-NFL-R7).

INF-NFL Standards

614. As notified, this Sub-Chapter had a single standard governing earthworks. Mr Anderson noted two substantive submissions seeking amendment to it. Firstgas[255]

[254] Submissions #315.141-147
[255] Submission #304.36

sought that the policy be amended to allow for excavation up to a maximum volume of 350m^3 per project during maintenance and repair works on existing infrastructure. Secondly, GWRC[256] sought to remove the word "*identified"* before the existing reference to "*significant biodiversity values"*.

615. As we pointed out to Mr Anderson in the hearing, due to a glitch in preparation of his Section 42A Report, it did not contain any assessment or recommendation of these submissions, although the attached recommended provisions showed no change. We also asked Mr Anderson to consider whether the existing limitation of no more than 50m^3 per transmission line support structure should remain, given that he had recommended that all other references in the Sub-Chapter to the National Grid be transferred to the INF-NG Sub-Chapter.

616. In his Reply, Mr Anderson agreed that the latter reference should be deleted. He noted that there did not need to be a corresponding provision in the INF-NG Sub-Chapter as the matter is addressed by different provisions in that Sub-Chapter.

617. His Reply also provided the missing assessment and recommendations related to the Firstgas and GWRC submissions.

618. Mr Anderson did not recommend acceptance of Firstgas's submission. He noted the potential for project works in NFL overlays have the potential to adversely affect the identified values of the overlays and considered that the permitted allowance of 100m3 per access track is a relatively small allowance which in effect only permits maintenance of existing access tracks rather than the construction of new ones.

619. In her planning evidence for Firstgas, Ms Unkovich agreed with Mr Anderson's recommendation to reject Firstgas's submission, as do we.

620. Considering GWRC's submission, Mr Anderson noted that it highlighted that the assessment criteria for the standard relate to biodiversity values.

621. In particular, assessment criterion (2), as notified, reads:

> *"The effect of the activity and removal on the identified biodiversity values of the significant natural area and the measures taken to avoid, minimise or remedy the effects and where relevant the ability to offset biodiversity impacts."*

[256] Submission #351.98

622. As Mr Anderson noted, this is an appropriate assessment criterion for infrastructure works in Significant Natural Areas, but not in NFL overlays.

623. Mr Anderson considered that this criterion should properly be amended to read:

> "*The effect of the activity and removal on the identified values of the Outstanding Natural Feature and Landscape, Significant Amenity Landscape or Ridgeline and Hilltop (whichever is relevant) and the measures taken to avoid, minimise or remedy the effects on the natural feature or landscape."*

624. He recorded, however, that GWRC's submission did not afford scope to make that change. He nevertheless considered that as it was an error, it should be changed.

625. On the face of the matter, this is problematic. Comparing the existing assessment criterion and Mr Anderson's recommended substituted criterion, the latter materially changes the scope of the inquiry and, as such, would appear to fall outside the realm of permitted minor changes, as per clause 16 of the First Schedule.

626. Putting this standard in context, the only rule that requires it be met is notified INF-NFL-R48, relating to the operation, maintenance and repair of existing infrastructure within ONLs, ONFs, Special Amenity Landscapes and identified ridgelines and hilltops, including within the Coastal Environment. Compliance with the standard is the sole precondition to Permitted Activity status.

627. Further, if the standard is not complied with, the matters of discretion in the resulting Restricted Discretionary Activity rule are restricted to the extent and effect of non-compliance with the standard "*as specified in the associated assessment criteria for the infringed standard",* and *"the matters in INF-NFL-P38 and INF-NFL-P39".* The first of these policies relates to ridgelines and hilltops. The second to Special Amenity Landscapes. We suspect that the failure to cross reference the relevant policy for ONLs and ONFs (notified INF-NFL-P40) was an error, but as noted above, there were no submissions on this rule, and we have no jurisdiction to recommend substantive amendments to it.

628. It follows that as currently framed, the only constraint on operation, maintenance and repair of existing infrastructure within natural feature and landscape overlays is if earthworks exceed "*100m^3 per access track*". It is not clear to us whether, if earthworks do not relate to access tracks, their quantum is unlimited (or the quantum is nil). The way the standard was originally framed, with a limit of 50m^3 per transmission line support structure and 100m^3 per access track, would support the more enabling reading. It is also unclear to us whether if there are say six access

tracks on a site, the earthworks limit is 600m^3, even if works are only proposed on one access track, or whether the standard permits earthworks of up to 100m^3 on any single access track. We suspect the latter is intended.

629. Putting those interpretation issues to one side, if the standard is not met, given the way in which the matters of discretion in notified INF-NFL-R48.2 are framed, while functional or operational needs could be considered, effects issues would only come into play if the natural feature/ landscape overlay overlapped with a Significant Natural Area, and then only effects on biodiversity values could be considered. Broader effects issues could be considered in relation to Special Amenity Landscapes via notified INF-P39, but the comparable policy for ridgelines and hilltops is enabling, and effects on non-biodiversity related landscape values in ONLs and ONFs could not be considered at all.

630. While one would expect that the scale of potential adverse effects from operation, maintenance and repair of existing infrastructure would be relatively low, the failure of the Plan to deliver a coherent combination of policy, rule and standard still leaves a material gap in our view. It is tempting to agree with Mr Anderson and plug the gap, even the solution he suggested would not solve all of the problems we have identified. Significantly, however, we find that his suggested changes would make a material difference to the scope, meaning and effect of the standard, operating in conjunction with the rule to which it relates, and the policies that rule cross references. We do not consider that option is open to us in the absence of a submission seeking that relief.

631. Returning to GWRC's submission, which provides the only scope for substantive change to the text of the standard, we find that deletion of reference to "*identified"* biodiversity values is consistent with the approach the Hearing Panel in Stream 11 has recommended both to the ECO Chapter and the INF-ECO Sub-Chapter. We therefore accept it. We also recommend, as a minor change, amending the assessment criterion to refer to "*any"* rather than "*the"* Significant Natural Area, on the basis that there may not be one.

632. We emphasise that the end result, however, is far from satisfactory, and we recommend that the Council investigate urgently how the issues this standard creates might be resolved by way of future Plan Change.

New Provisions

633. Under this heading, Mr Anderson noted two sets of submissions. Firstly, Forest and Bird[257] sought a new policy to give effect to Policy 11 of the NZCPS, which would regulate activities in a Significant Natural Area in the Coastal Environment.

634. The second set of submissions were from Transpower[258], seeking policies governing operation, maintenance, repair, minor upgrade and upgrade of the National Grid within natural feature and landscape overlays.

635. Consistent with his reasoning on earlier submissions to like effect, Mr Anderson recommended rejection of Forest and Bird's submission on the basis that indigenous biodiversity issues were appropriately dealt with under other provisions, and that the matters raised by Transpower were more appropriately addressed in the proposed INF-NG Sub-Chapter.

636. We agree with both recommendations, and we consider the substance of the proposed Transpower submissions in our discussion of the INF-NG Sub-Chapter.

2.13 INF-NH Sub-Chapter

General Submissions

637. Mr Anderson noted two sets of general submissions. The first from CentrePort[259] sought that all natural hazard provisions are located within the Natural Hazards Chapter.

638. The second submission, from Taranaki Whānui[260], sought that the 'Other relevant District Plan provisions' section of the Introduction include reference to the Sites and Areas of Significance to Māori Chapter.

639. Mr Anderson's response to the latter, as with previous like submissions, was that SASM matters are addressed in the INF-OL Sub-Chapter. We agree, while noting that adoption of the more comprehensive amendments Mr Sirl recommended in the Wrap-Up hearing (which we recommend for the reasons set out above) effectively

[257] Submission #345.81
[258] Submissions #315.122-125
[259] Submissions #402.71-72
[260] Submission #389.60

overtakes this submission, because the section Taranaki Whānui seeks to add to has been deleted.

640. His response to CentrePort also reflected his reasoning on other like submissions, pointing to the fact that the Infrastructure Chapters provide a stand-alone location for all infrastructure matters. As above, he had earlier noted that this is a requirement of the National Planning Standards.

641. We agree with that reasoning also, with the result that we do not recommend any changes to the Sub-Chapter in response to these general submissions.

INF-NH Policies

642. Notified INF-NH-P61 relates to infrastructure and structures in natural hazard and coastal hazard overlays, allowing for them where three specified conditions are met. Mr Anderson noted three sets of submissions on this policy. CentrePort[261] sought relocation of the policy to the Natural Hazard Chapter. FENZ[262] identified a typographical error that required correction. WIAL[263] sought amendments to:

- Alter the first sub-policy from precluding increases in hazard risk, so that it references "*an intolerable level of risk"* as the test;
- Insert a practicability qualification to the second sub-policy (which requires incorporation of design measures to reduce the potential for damage to the infrastructure following a natural hazard or coastal hazard event); and
- Introduce a requirement to show operational or functional need.

643. Mr Anderson had the same response to CentrePort's submissions as above. We agree, also for the same reasons.

644. He noted and accepted the FENZ correction, as do we.

645. As regards WIAL's submissions, Mr Anderson accepted the desirability of having a practicability qualification on utilisation of design measures, but recommended rejection of WIAL's other two items of relief. He did not consider it sufficiently clear what an intolerable level of risk is and noted that existing sub-policy 3 already

[261] Submission #402.73-74
[262] Submission #273.44
[263] Submissions #406.151-153

incorporates a functional or operational need test. We accept Mr Anderson's reasons for recommending qualification of Sub-Policy 2 and for not inserting a new operational or functional need requirement. We note that Ms O'Sullivan did not pursue these matters in her evidence for WIAL. She did pursue WIAL's submissions on the first sub-policy, albeit in a different form. Noting that references in other hazard related provisions to not increasing risk had been converted to a 'minimising' requirement, she suggested that relief in this context also.

646. Discussing it with her at the hearing, we noted that the provisions that had been softened from a "*do not increase"* position to "*minimise"* related to urban development, where there was a tension between the conflicting instructions of the NPSUD and the NSCPS. Where the NPSUD was not involved (i.e. in relation to coastal infrastructure), that raised the question as to the basis on which a shift from the NZCPS direction could be justified.

647. Ms O'Sullivan addressed the issue further in supplementary evidence, pointing out that:

- Policy 25 of the NZCPS directs an avoidance approach in relation to increasing the risk of social, environmental and economic harm from coastal hazards and increasing the risk (from redevelopment or change in land use) of adverse effects from coastal hazards; and

- By contrast, Policy 25(d) encourages location of infrastructure away from areas of hazard risk "*where practicable"*, implying in her view, an acceptance that infrastructure may have operational and functional requirements necessitating their presence within a Coastal Hazard Zone. She observed that some infrastructure, by design, is put in place to protect against the effects of natural hazards, such as coastal defences and some infrastructure, such as ports, have a functional need to be there.

648. Having reflected on the issue, Ms O'Sullivan put forward an alternative approach of deleting reference to increased risk "*to infrastructure*".

649. We omitted to ask Mr Anderson to comment on this aspect of Ms O'Sullivan's evidence in reply, and thus we do not have the benefit of his input. However, we consider that there is merit in Ms O'Sullivan's analysis. It would be absurd, for instance, for enhanced coastal defences (seawalls and the like) to be precluded because they increased the hazard risk to infrastructure (i.e. those same coastal

defences). Ms O'Sullivan's suggested amendment also has the merit of protecting third party infrastructure, which by definition, would qualify as "*other property*".

650. In summary, therefore, we accept Ms O'Sullivan's alternative relief and recommend that sub-policy have the words "*or infrastructure"* deleted, but otherwise adopt Mr Anderson's recommendations. As with the other Infrastructure Sub-Chapters, the numbering of this and the following provisions has changed in Appendix 1 for the reasons discussed in Section 2.1.

INF-NH Rules

651. Notified INF-NH-R58 relates to new underground infrastructure, including customer connections, and maintenance or upgrading of existing underground infrastructure in natural hazard and coastal hazard overlays. It provides that this activity is a Permitted Activity, subject to three conditions.

652. Mr Anderson noted three submissions on this rule. The first, from CentrePort[264] sought that the Special Purpose Port Zone be excluded from the rule.

653. Second, Powerco[265] sought that the rule be amended to recognise that an existing gas distribution network in a hazard area may need to be maintained or upgraded and adjacent properties connected.

654. Third, Toka Tū Ake EQC[266] sought:

- A requirement that underground infrastructure within the High Hazard Area of the coastal hazard overlay does not increase hazard impacts in a coastal hazard event;
- New infrastructure with potential to increase impacts of the hazard in the event of an earthquake is not located within the Wellington, Ohariu and Shepherds Gully Fault overlay; and
- New and existing infrastructure includes resilience features to reduce damage from natural hazard events.

[264] Submission #402.75
[265] Submission #127.36
[266] Submission #282.3

655. Mr Anderson noted that CentrePort's issue had already been addressed through recommended amendments to the Introduction to the Infrastructure Chapter. While we agree with that reasoning, the more comprehensive clarification Mr Sirl recommended to the Sub-Chapter Introduction reinforces that message.

656. Initially he also considered that no amendment was required to address Powerco's submission. The evidence for Powerco, however, from Mr Schofield and Mr Horne was that Powerco had an existing gas distribution network under the road running along the coast in the Island Bay area, which is within the High Hazard Area of the coastal hazard overlay. Mr Horne's reading of the rule was that maintenance and repair of that existing network, or providing a customer connection to an adjacent customer, would require a consent. He sought an amendment to exclude maintenance and upgrading of infrastructure in a road or customer connections.

657. In his rebuttal evidence, Mr Anderson noted that he had previously understood that the only area in the City containing underground infrastructure within a High Hazard Area of the coastal hazard overlay was in the City Centre Zone (which is already exempted). He accepted Powerco's evidence that he was mistaken and that this was an issue. He recommended it be addressed in the manner Mr Horne had suggested, although in Reply revised that position slightly, but to the same effect. We accept Mr Anderson's revised recommendation, for the reasons that he and Mr Horne have set out in their evidence.

658. Addressing the submission from Toka Tū Ake EQC, Mr Anderson noted that he had addressed infrastructure resilience in the context of INF-NH-P61 and queried the evidential basis for the balance of relief the submitter had sought. He welcomed further evidence from the submitter to support the relief sought but, in the event, we did not have any additional material from Toka Tū Ake EQC on which to base acceptance of its submission.

659. Accordingly, we adopt Mr Anderson's recommendations on these matters and do not propose any additional changes other than numbering, consequential cross referencing corrections, and the minor change of language Mr Sirl recommended in other Infrastructure rules (substituting "*cannot be*" with "*is not*").

660. Notified INF-NH-R59 relates to temporary infrastructure in natural hazard overlays and coastal hazard overlays.

661. CentrePort[267] sought that the Special Purpose Port Zone be excluded from the rule. WIAL[268] sought an additional exclusion from the default to Restricted Discretionary Activity status for the Natural Rural Open Space Zone located between Lyall Bay and Moa Point.

662. Mr Anderson noted, as for notified INF-NH-R58, that CentrePort's issue had already been addressed through amendment to the Introduction of the Infrastructure Chapter. We too have the same response as for INF-NH-R58.

663. Mr Anderson likewise did not include this rule in his revised recommendations related to the Moa Point Road Seawall Area and Ms O'Sullivan did not specifically address it in her evidence either. WIAL's case on the seawalls was that it was only seeking a consenting pathway, and the status quo achieves that.

664. Accordingly, other than the same minor wording change as in the previous rule, we adopt Mr Anderson's recommendation that the only amendment required to this rule is to consequential cross referencing (noting that the numbering of the relevant provisions has changed in Appendix 1.

665. Notified INF-NH-R60 relates to new above ground infrastructure in natural hazard overlays and coastal hazard overlays. Mr Anderson noted three sets of submissions on it. First, that of CentrePort[269] sought an exclusion for the Special Purpose Port Zone.

666. Second, WIAL[270] sought an exclusion for the Natural Open Space Zone between Lyall Bay and Moa Point so that new above ground infrastructure would be permitted.

667. Lastly, Toka Tū Ake EQC[271] sought:

- Deletion of reference to the Shepherds Gully fault overlay and the Ohariu fault overlay in the list of areas within which new infrastructure is permitted;
- A requirement that new infrastructure in the High Hazard Area of the Coastal Hazard overlay within the Centre Zone demonstrate that the infrastructure does not increase hazard impacts in a coastal hazard event; and

[267] Submission #402.76
[268] Submission #406.154-156
[269] Submission #402.77
[270] Submissions #406.157-159
[271] Submission #282.4

- A requirement for resilience features to reduce damage from natural hazards.

668. Mr Anderson noted that all of these matters have been addressed in relation to previous submissions. We agree. In particular, we did not consider that in the absence of any evidence from Toka Tū Ake EQC we would be justified in recommending the additional controls it proposed. We note that if its relief related to deletion of reference to the Shepherds Gully fault overlay and Ohariu fault overlay had been accepted, the rule would have provided no regulation of such infrastructure.

669. With two exception, therefore, we adopt Mr Anderson's recommendations on this rule. The first exception is to correct a typographical error (the rule refers to the 'Sheppards' Gully Fault Overlay). The second is a consequential cross-referencing change.

2.14 INF-OL Sub-Chapter

670. The Infrastructure – Other Overlays Sub-Chapter relates to infrastructure within the Historic Heritage, Notable Trees, Sites and Areas of Significance to Māori, and Viewshafts Overlays.

General Submissions

671. Mr Anderson noted two sets of submissions raising general issues about the Other Overlays Sub-Chapter. The first, from Powerco[272], sought to amend the rules relating to sites and areas of significance to Māori to clarify that work not directly affecting a piped awa (for example infrastructure work in the roads above it) is not affected by the overlay and related rules. Second, the Telcos[273] sought to ensure that the Notable Trees Chapter does not apply, and that all rules and standards for infrastructure work affecting notable trees are in the Sub-Chapter.

672. Mr Anderson agreed with both submitters. As regards Powerco, he discussed this point further in relation to the relevant provisions, as will we.

673. As regards the Telcos, Mr Anderson confirmed that the reference in the 'Other relevant District Plan provisions' section of the Introduction to the sub-chapter to the Notable Trees Chapter was an error, and should be deleted. We agree with Mr Anderson's reasoning on both points, while noting that Mr Sirl's more comprehensive

[272] Submission #127.37. The Telcos had a submission [#99.64] to similar effect.
[273] Submissions #99.57-58

amendment to the Introduction (which we adopt for the reasons set out above) includes this latter relief.

674. There is one other general matter we should note. The notified Sub-Chapter had advice regarding provisions with immediate legal effect. That advice is no longer required as all plan provisions will have legal effect from notification of the Council's decisions on our recommendations. We therefore recommend it be deleted where it appears as a minor change of no substantive effect.

Other Overlays - Policies

675. Notified Policy INF-OL-P62 provides general guidance as to the management of the adverse effects of infrastructure on any of the four overlays the subject of the sub-chapter.

676. Mr Anderson noted two sets of submissions seeking amendment to the policy, from Transpower[274] and WIAL[275]. Both submitters sought that the alternative, "*where the avoidance of adverse effects under clause (a) is not possible"* be amended to refer to what is not "*practicable"*. Transpower sought also that the instruction to "*give priority to avoiding"* adverse effects be replaced with "*seek"* on the basis that the existing text was not clear.

677. Mr Anderson accepted the first submission point, but not the second. In his view, the policy framework is set up to create an avoid regime in the first instance, and a remedy or mitigate approach if avoidance is not practicable.

678. In her planning evidence for Transpower, Ms Whitney maintained her support for Transpower's relief, noting the lack of clarity as to what 'give priority' meant, and in particular whether it meant "*avoid"*.

679. We asked Mr Anderson to respond to that point in his Reply and, having reflected on the issue, he suggested that his understanding of the intention of the policy could be better captured by re-wording it to say "*Where practicable, avoid…"*. He also suggested amendments to the description of the overlays in this policy, to cross reference the relevant schedules.

[274] Submission #315.153
[275] Submissions #406.161-163

680. As regards the first point, we support Mr Anderson's revised wording. While the terminology "*seek to avoid"* is used in the NPSET, we find it almost as opaque as "*give priority to avoiding"*. Put simply, it does not say how diligently one must seek the desired outcome. Mr Anderson's reformulation avoids that lack of clarity while not, in our view, imposing an impossible obligation on infrastructure providers.

681. The additional minor amendments Mr Anderson proposed provide greater clarity as to where the policy applies, and we support them also.

682. In summary, we adopt Mr Anderson's recommendations in relation to this policy and the only additional amendment we recommend is its numbering, for the reasons discussed in Section 2.1 above.

Other Overlays - Rules

683. Notified INF-OL-R61 addresses maintenance or upgrading of existing underground infrastructure in the Other Overlays. Mr Anderson noted submissions from Powerco[276] and the Telcos[277] seeking similar relief. The effect of the amendments sought would allow for maintenance or upgrading within a formed road corridor, allow for other infrastructure to have previously disturbed ground (rather than restricting it to the situation where the same infrastructure has disturbed the ground), and enable works within the protected root zone of a notable tree provided it complies with TREE-S4.

684. In his Section 42A Report, Mr Anderson recommended acceptance of provision for works within a formed road corridor and works complying with TREE-S4. As regards the second point, we asked Mr Anderson to address in Reply similar wording he recommended be inserted in the following rule: why it should matter what has previously disturbed the ground. He noted that the intent of the rule was that ground that had previously been disturbed should be able to be disturbed again without concern that the disturbance will impact on a matter of identified value from a heritage or site/area of significance to Māori perspective. Both submissions (Powerco and the Telcos made the same submissions on INF-OL-R62) would provide scope for the rule to be generalised so that it does not matter what infrastructure has disturbed the ground.

[276] Submission #127.38
[277] Submission #99.59

685. As regards the broader question, Mr Anderson was of the view that it does not matter what has disturbed the ground, but he noted that in some instances it might be difficult to determine whether there had in fact been ground disturbance.

686. Limiting the rule to disturbance by any infrastructure provided greater certainty that the ground has in fact previously been disturbed.

687. We accept Mr Anderson's reasoning for recommending that INF-OL-R62 refer to disturbance by "*any*" infrastructure, as well as noting his view that we do not have scope to go further in any event. We consider that the same reasoning is equally applicable to INF-OL-R61, and therefore we recommend that additional change to INF-OL-R61 as well.

688. We observed that in his Reply version of the Sub-Chapter, Mr Anderson recommended amendment to the note describing the limitations on the rule having immediate legal effect, to delete reference to Significant Natural Areas. We could not identify any specific discussion of the point, but we consider that the continued existence of the note is unnecessary. As discussed above, by operation of Section 86B, all of the rules in the Proposed Plan will have legal effect from notification of the Council's decisions. Accordingly, rather than the amendment Mr Anderson proposed, we recommend that the note at the end of each of the rules in this Sub-Chapter be deleted on the basis that they are no longer required. We also note Mr Sirl's recommendation in the Wrap-Up hearing for a minor wording change to promote clarity and consistency across the Plan. Lastly, we consider that it needs to be clearer that the condition inserted to cover works in a protected root zone applies irrespective of whether the other conditions are met. With those exceptions, along with the amended numbering shown in Appendix 1, we adopt Mr Anderson's recommended revisions to the rule.

689. Notified INF-OL-R62 relates to new underground infrastructure in Other Overlays. It provides for Permitted Activity status where infrastructure is located on a site identified in Schedule 5 (Viewshafts), but otherwise it is a Restricted Discretionary Activity. Powerco[278] and the Telcos[279] sought to extend the range of Permitted Activities to parallel the provisions they had sought in INF-OL-R61. Mr Anderson largely accepted the relief sought in his Section 42A Report. The exception was the

[278] Submission #127.39
[279] Submission #99.60

point we have discussed above in relation to the previous rule, and as discussed, Mr Anderson altered his view on that matter in his Reply.

690. Mr Anderson also addressed the general concern expressed by Powerco and the Telcos about infrastructure in roads above piped awa. He considered that work on such infrastructure would be a Permitted Activity under this and the previous rule, as amended. Mr Horne agreed with that position in his evidence for Powerco at the hearing. We likewise agree that no further amendment is required to address the point.

691. There are two residual issues that concern us. Mr Anderson sought to combine the additional activities inserted in response to the Powerco and Telco submissions in one Permitted Activity rule. The end result is unclear as to which conditions apply in which overlays. We sought to address the same issue in now INF-OL-R1 by altering the conjunction used (from "*or*" to "*and*"). Here, given the number of overlays and conditions, we think it would be clearer if each overlay had its own rule. We do not think this alters the outcome Mr Anderson and the submitters intended. The recommend the same approach to the Restricted Discretionary rule that follows the Permitted Activity rule- listing the overlays within which it applies in the left hand column rather than in the body of the rule. Again we do not consider this alters the end result.

692. More substantively, both submitters sought any consequential changes required to the Restricted Discretionary Activity clause of the rule. Mr Anderson did not discuss either in his Section 42A Report or in his Reply whether consequential changes were required. Reviewing the matter afresh, we consider that there is a problem. As notified, INF-OL-R62.1 identified work on infrastructure located in Schedule 5 as a Permitted Activity and work on infrastructure located on a site in Schedules 1-4 and 6-7 as a Restricted Discretionary Activity. The amendments Mr Anderson recommended mean that some activities in the Schedules listed in notified INF-OL-R62.2 as Restricted Discretionary Activities are also listed as Permitted Activities in now INF-OL-R62.2-4. We recommend that that overlap be clarified. Taking account of the rearrangement discussed in the previous paragraph, we recommend the amendment of now INF-OL-R62.5(a) so that it reads:

> "*The infrastructure is not a permitted activity under INF-OL-RXX ~~is located on a site identified in any of the following schedules~~….".*

693. We also recommend a minor grammatical change in the first specified Permitted Activity.

694. Notified INF-OL-R63 relates to new above ground customer connection lines in Other Overlays. It provides that such customer connection lines are variously Permitted, Controlled and Restricted Discretionary Activities depending on which Other Overlay they fall within. The only substantive submissions seeking amendment to the rule were from WHP[280] who sought that new above ground customer connection lines in heritage areas and archaeological sites be a Controlled Activity (rather than a Permitted Activity, as at present).

695. Mr Anderson disagreed with the submissions. He noted that archaeological sites are generally underground, and heritage areas include buildings which are not necessarily heritage listed. Individually listed heritage buildings are in a different category. Customer connections to them are a Controlled Activity.

696. We heard from Ms Mulligan and Mr Kelly on behalf of the submitter. They accepted Mr Anderson's reasoning in relation to archaeological sites, but maintained the argument for greater regulation of customer connections within heritage areas.

697. As regards the latter, Mr Kelly's evidence was that Mr Anderson had misunderstood the purpose of heritage areas, which have value both as a whole and for their components. He did not see any reason why they should not be subject to the same level of scrutiny as individual buildings.

698. Mr Anderson responded to that view in rebuttal, noting that heritage areas are comprised of a mix of heritage buildings and non-heritage buildings. He therefore considered that the Plan does recognise that there are differences between heritage buildings and heritage areas. At a level of principle, we agree with that view and note that in Report 3A[281], the Hearing Panel considering WHP's submissions on historic heritage provisions disagreed with Mr Kelly's reasoning.

699. In summary, we prefer Mr Anderson's reasoning and adopt his recommendation that the only changes required to INF-OL-R63 are to address consequential cross-referencing issues (along with the deletion of the note in relation to immediate legal effect discussed above). The provisions cross-referenced have changed for the reasons discussed in Section 2.1 above.

[280] Submissions #412.27-28
[281] Section 2.4

700. INF-OL-R64 relates to operation, maintenance and repair, or removal, of existing above ground infrastructure in Other Overlays. This is a Permitted Activity without conditions. Mr Anderson advised that there were no submitters seeking to amend this rule. Accordingly, the only changes we recommend are deletion of the immediate legal effect note, and re-numbering, in each case for the reasons discussed above.

701. Notified INF-OL-R65 relates to upgrading of existing above ground infrastructure in Other Overlays. This rule classifies the activity as Permitted if located within Heritage Areas, Archaeological Sites, Sites and Areas of Significance to Māori (Category A) and Viewshafts, provided INF-S4 is complied with. That standard has a series of limitations on the scale of any upgrade.

702. Mr Anderson noted the following submissions:

- Taranaki Whānui[282] sought clarification on how Category A Sites and Areas of Significance to Māori fit in the rule;
- WIAL[283] sought that the rule be amended to refer to either Category A or Category B Sites and Areas of Significance to Māori, but not both. WIAL sought also that the rule be amended to refine the matters of discretion to acknowledge the operational and functional needs of infrastructure; and
- WHP[284] sought that the rule be amended so that activities within Heritage Areas, Sites and Areas of Significance to Māori and Archaeological Sites are restricted discretionary activities.

703. Addressing Taranaki Whānui's submission, Mr Anderson advised that notified INF-OL-R65.1 referred incorrectly to Category A areas, when that reference should be to Category C. This is clearly an error as the rule refers to Category A in different sub-parts, with a different rule status in each. We agree with Mr Anderson that it needs to be corrected, thereby providing the clarification Taranaki Whānui sought.

704. Mr Anderson did not agree with WIAL's submission. He did not consider there was a basis to differentiate between Category A or Category B Sites and Areas of Significance to Māori. He also considered that operational and functional needs of infrastructure can be considered via the relevant policies.

[282] Submission #389.61
[283] Submissions #406.164-167
[284] Submission #412.29

705. We note that Ms O'Sullivan did not pursue these matters in her planning evidence for WIAL and we agree with Mr Anderson's reasoning.

706. Lastly in relation to WHP's submission, Mr Anderson referred back to his reasoning in relation to the similar submission on notified INF-OL-R63.

707. Mr Kelly's evidence in support of the submission focussed on heritage areas. He gave an example of a cellphone pole immediately adjacent to the Hataitai Heritage Area.

708. Responding in rebuttal, Mr Anderson noted that the upgrading of telecommunication equipment is a matter which is addressed in the National Environmental Standards for Telecommunication Facilities (NESTF) in the first instance, as opposed to the Plan. He noted also that the example of concern to Mr Kelly would not be managed, even if the rule were amended, because it is located adjacent to and not within a heritage area. Lastly, he considered that heritage areas still require infrastructure services to be viable for their zoned purpose. We consider that there is some merit in Mr Kelly's position and that there do need to be controls on the scale of above ground infrastructure overlays within heritage areas. The difficulty we have is that Mr Kelly did not explain, or even address, why it was that the existing standards in INF-S4 would be inadequate for this purpose. We also think there is merit in Mr Anderson's point around the need for heritage areas to enjoy the benefit of infrastructure services. If those infrastructure services are constrained, there will be costs that landowners within heritage areas will need to bear. Mr Kelly did not address those issues either.

709. For these reasons, we prefer Mr Anderson's position and therefore adopt his recommendations, subject to deletion of the immediate legal effect note for the reasons discussed above.

710. Notified INF-OL-R66 relates to new above ground infrastructure and temporary infrastructure in Other Overlays not otherwise provided for. These are Restricted Discretionary Activities.

711. Mr Anderson noted three sets of submissions, as follows:

- Powerco[285] sought provision as a Permitted Activity for infrastructure within a road that is identified in Schedule 3 (Heritage Areas), subject to a size limitation of 2 metres in height and $2m^2$ in footprint area;

- Telcos[286] also sought Permitted Activity status for infrastructure within a road that is identified in Schedule 3 (Heritage Areas) combined with a requirement to comply with the permitted activity standards of the NESTF; and

- WIAL[287] sought amendments if its submission on INF-OL-P62 is not adopted, to refine the matters of discretion to provide for operational and functional on infrastructure.

712. As regards the last submission, we have recommended that WIAL's submission on INF-OL-P62 be accepted, and thus we regard these submissions also as being substantively accepted.

713. Mr Anderson's initial response to the Powerco and Telcos' submissions was that Permitted Activity status was not appropriate for a catch-all rule.

714. Addressing the point for both submitters, Mr Horne suggested that the substance of the submitters' relief might be better provided for as a separate Permitted Activity rule. He noted that Mr Anderson had not assessed the merits of the submission and reasoned that infrastructure cabinets are small-scale built elements that are common street furniture. He also noted that heritage areas still require infrastructure services to be viable as residential or commercial areas.

715. Mr Anderson largely accepted Mr Horne's reasoning in his rebuttal evidence. He noted also that utility cabinets located in roads are in an area where there clearly has previously been disturbance to create the road. He recommended additional conditions, though, to ensure that infrastructure addresses the protected root zone under a notable tree and avoids archaeological sites or Category A or B Sites of Significance to Māori. Mr Horne, in turn, agreed with those further amendments when he appeared at the hearing.

716. We agree with Mr Anderson's reasoning. The only changes to the new rule he has recommended (now numbered INF-OL-R6) that we have made in Appendix 1 are to insert clarification as to when INF-OL-R6.2 would be engaged and to delete the

[285] Submission #127.40
[286] Submission #99.61
[287] Submissions #406.168-169

immediate legal effect note, for the reasons above, along with correction of a typographical error in sub-rule1.c.

717. In the Wrap-Up hearing, Mr Sirl drew our attention to a Waka Kotaki submission[288] seeking a new rule providing for effects on notable trees associating with maintenance and upgrading of infrastructure. Waka Kotahi sought that the suggested rule be located in the Notable Trees Chapter. We deal with it here because the way the Plan is structured, such a rule would need to be in the INF-OL Sub-Chapter. In the event, however, Mr Sirl did not consider the suggested rule was required, noting that the Sub-Chapter already has rules managing infrastructure related effects on notable trees. We agree with that view.

2.15 INF-NG Sub-Chapter

Background

718. As already discussed, Mr Anderson recommended the creation of a new Infrastructure – National Grid Sub-Chapter. We have recorded our reasons for agreeing with that recommendation, in principle.

719. The content of Mr Anderson's recommended National Grid Sub-Chapter was a mix of provisions transferred from the Infrastructure Chapter and other Infrastructure Sub-Chapters, and new provisions that Transpower had sought in its submissions. For the provisions that had been transferred from other parts of the Plan, we have already recorded our recommendations as to suggested amendments. We will now work through the balance of the Sub-Chapter, referring to provisions with the numbering contained in the version attached to Mr Anderson's Reply. Where we refer to provisions being proposed, that similarly refers to the position Mr Anderson took in his Reply, unless otherwise stated.

720. Because the entire Sub-Chapter is new, the version attached to this report as Appendix 1 shows our recommended amendments from the version Mr Anderson tabled as part of his Reply.

Heading/Introduction

721. Mr Anderson suggested the Sub-Chapter contains the initial statement:

[288] Submission #370.176

"*This Chapter does not contain provisions that have legal effect."*

722. That will not be correct from the point of the Council's decisions on submissions are publicly notified. We recommend that statement be deleted.

723. Second, Mr Anderson had not supplied a Te Reo heading for the Sub-Chapter at the time of his Reply. Mr Sirl advised in his Wrap-Up reply that the appropriate name should be "*Pūnaha hiko ā-motu*".

724. Initially (in his Section 42A Report), Mr Anderson had quite a short Introduction to the Sub-Chapter, noting only that it applies to infrastructure within the National Grid Subdivision Corridor Overlays and applies in addition to the principal Infrastructure Chapter.

725. Ms Whitney was concerned that greater direction was required as to how the Sub-Chapter fitted into the Plan as a whole, and in particular its inter-relationship with other infrastructure sub-chapters. She suggested, and Mr Anderson accepted, a much more detailed Introduction worded as follows:

> *"The Infrastructure – National Grid sub chapter provides a specific policy framework for the National Grid, and specific rules for activities within the National Grid Yard, and new National Grid Infrastructure within the Coastal Environment overlay, Outstanding Natural Features and Landscapes overlay, Special Amenity Landscapes overlay and Hilltops and Ridgelines overlay. For activities outside these specific overlays, in addition to the policies in the Infrastructure National Grid sub chapter, the Infrastructure chapter applies, as do the Infrastructure - Natural Hazards sub chapter and the Infrastructure – Other Overlays sub chapter."*

726. Ms Whitney provided a very helpful tabulated analysis to support this wording, and we have no difficulty with the substance, subject to some issues drawn to our attention in the wrap-up hearing. We do, however, have an issue with the language of the final sentence, insofar as it refers to activities "*outside"* specific overlays. That could be read as describing the overlays from a geographic perspective i.e. outside the area covered by overlays, which would leave unclear what provisions other than the INF-NG Sub-Chapter (if any) apply within the specified overlays. The implication was that the Infrastructure Chapter, the INF-NH Sub-Chapter and the INF-OL Sub-Chapter (at least) would not apply, but we were unclear why that should be the case. We asked Mr Sirl to confer with Ms Whitney and address the issue, which he did as part of his reply. He suggested some rewording that he had discussed and agreed with Ms Whitney, but their proposal seemed to miss the point.

727. However, Mr Sirl's Erratum, dated 3 December 2024, indicated that he and Ms Whitney had discussed the issue further, and proposed rewording that confirmed the intention that both the Infrastructure Chapter and the INF-NH Sub-Chapter applied to the National Grid irrespective of location. We adopt their revised position and Appendix 1 reflects that recommendation.

728. Separately, as part of his Wrap-Up Section 42A Report, Mr Sirl recommended a number of additional changes:

- To qualify the reference to existing National Grid Infrastructure to exempt activities exempted by the National Environmental Standards for Electricity Transmission Activities (**NESETA**);
- To make it clear that NESETA prevails over anything in the Plan in the event of conflict; and
- To add reference to Significant Natural Areas as one of the specified overlays.

729. In his reply, Mr Sirl added the same wording he recommended for the other Infrastructure Sub-Chapters, clarifying their relationship to 'infrastructure' managed under other Chapters. He acknowledged that in some respects this might be considered unnecessary (the National Grid is not located near the airport), but felt that there was merit in consistency of language nonetheless.

730. Transpower did not seek to be heard in relation to Mr Sirl's Section 42A recommendations (Ms Whitney indicated agreement with the suggested approach in her pre-circulated evidence) and we tend to agree with Mr Sirl that while his further amendments might be considered something of a 'belts and braces' approach, there is merit in consistency. On that basis, we agree with and adopt Mr Sirl's revised recommendations for revisions to the Introduction to this Sub-Chapter, subject to a minor amendment so that the Introduction refers to the "*Ridgelines and Hilltops*" overlay, consistent with the balance of the Plan.

Objective and Policies

731. On our initial review of the proposed Objective and Policies of the Sub-Chapter, we had a general concern that the provisions appeared to go further than the NPSET would require, in ways that had not been justified or evaluated. We asked both Ms Whitney and Mr Anderson about that question. Ms Whitney responded to our

concerns, defending the suggested provisions for the most part. Mr Anderson replied in detail on this point and provided us with a very helpful provision by provision analysis that both compared the relevant NPSET provisions and the corresponding provisions in the Proposed Porirua District Plan, that has been the subject of recent review[289].

732. We will address the issues as we see them in the light of the helpful comment received from both Ms Whitney and Mr Anderson.

733. Looking first at the single recommended objective, it reads:

> "*The national significance and benefits of the National Grid are recognised, and the National Grid is protected and provided for."*

734. We had an initial concern that the second part of this objective appears to go considerably further than the NPSET objective, which talks about managing the adverse effects of other activities on the network.

735. Ms Whitney's response to our query in this regard was to point us to the directive language of NPSET Policies 10 and 11.

736. We note that Policy 10 is qualified by reference to "*the extent reasonably possible"* and Policy 11 focuses attention on establishment of buffer zones.

737. Having reflected on the point, we think that the better justification for the wide language of the National Grid Objective is by reference to the Regional Policy Statement. As noted above, Policy 8 of that document directs that District Plans include policies and rules "*that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure".*

738. On that basis, we accept and recommend adoption of what is now numbered INF-NG-O1.

739. Recommended INF-NG-P58 reads:

> *"Recognise and provide for the benefits of the National Grid by enabling the operation, maintenance and upgrade of the existing National Grid and the establishment of new electricity transmission resources."*

[289] As far as the Hearing Panel is aware, appeals on that Plan are still awaiting determination.

740. Ms Whitney suggested and Mr Anderson agreed in his Rebuttal evidence that the final word should be amended from "*resources*" to "*assets*".

741. We agree with that change. The issue we have with this policy is the reference to enabling upgrades of the existing National Grid, and the establishment of new electricity transmission assets, without any reference to the nature and scale of the upgrade, or new assets. In the style of the Proposed Plan, "*enabling*" connotes a Permitted Activity approach. The proposed Sub-Chapter does not provide that all upgrading and all National Grid development is a Permitted Activity. By contrast, Policy 2 of the NPSET requires decisionmakers to recognise and provide for effective upgrading and development of the electricity transmission network, whereas Policy 5 directs decisionmakers to enable, among other things, minor upgrade requirements of established electricity transmission assets.

742. We consider that the proposed policy goes too far, and the words "*by enabling*" should be substituted with "*by providing for*" as part of the relief granted in respect of Transpower's submission on the point[290].

743. Proposed INF-NG-P59 reads:

> "*Enable the operation, maintenance and minor upgrade of the National Grid while managing the adverse effects of these activities, recognising its operational, functional and technical constraints."*

744. The issue we had with this policy is the lack of direction provided by a policy instruction to manage adverse effects against the background of Policy 7 of the NPSET, which directs that planning and development of the transmission system "*should minimise adverse effects on urban amenity and avoid adverse effects on town centres and areas of high recreational value or amenity and existing sensitive activities."*

745. Ms Whitney made the fair point, in response to our query, that the National Grid is not located near any town centres in this district. That, however, only answers part of our concern about the failure to translate Policy 7 of the NPSET accurately.

746. We also had a question for Ms Whitney about the reference to "*operational, functional and technical constraints".* We wondered how a technical constraint could fail to also be an operational constraint. Ms Whitney, however, pointed us to the definitions of "*operational need"* and "*functional need"*, which focus on the location of infrastructure.

[290] Submission #315.50

As she noted, technical constraints limit what is required to be placed in any particular location. Against a background where Policy 3 of the NPSET directs consideration on the constraints imposed by the "*technical and operational requirements"* of the network, we recommend that all three terms be retained.

747. To give effect to these various competing considerations raised by Transpower's submission[291] we recommend a revision of this policy as follows:

> "*Enable the operation, maintenance and minor upgrade of the National Grid, while ~~managing~~ minimising as far as practicable the adverse effects of these activities, ~~recognising~~ having regard to its operational, functional and technical constraints."*

748. In Mr Anderson's Section 42A version of the proposed Sub-Chapter, INF-NG-P60 related to upgrading and development of the National Grid. However, in her evidence for Transpower, Ms Whitney identified that the suggested policy duplicated INF-NG-P58, and added no value. Mr Anderson agreed and therefore recommended that it be deleted. We agree also.

749. Proposed INF-NG-P60 accordingly relates to adverse effects on the National Grid. Mt Anderson's proposed wording is drawn from Transpower's submission[292] and seeks to protect the safe and efficient operation, maintenance and repair, upgrading, removal and development of the National Grid from adverse effects by a series of steps.

750. The first such step is "*avoiding land uses (including sensitive activities) and buildings and structures within the National Grid Yard that may directly affect or otherwise compromise the National Grid*".

751. It seems to us that this Sub-Policy is trying to do too many things. Policy 10 of the NPSET directs that to the extent reasonably possible adverse effects are managed to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised. Policy 11 directs identification of an appropriate buffer corridor within which sensitive activities will generally not be provided for.

[291] Submission 315.51
[292] Submission #315.53

752. The National Grid Yard is such a buffer and, it seems to us that the policy could be more forceful in relation to sensitivity effects within that buffer.

753. By the same token, a direction to avoid non-sensitive activities that have any (direct) effect on the National Grid does not appear to be authorised by the NPSET. We recommend that this Sub-Policy be split into two, as follows:

> "*Avoiding sensitive activities located within the National Grid Yard.*
>
> *Ensuring that other land uses and buildings and structures within the National Grid Yard do not compromise the National Grid."*

754. Proposed Sub-Policy 2 reads:

> "*Avoiding adverse effects on the National Grid from incompatible subdivision, use and development."*

755. There are two issues with this policy. The first point is that it started (in the Section 42A Report version) as a direction to avoid reverse sensitivity effects. It was amended to refer to "*incompatible subdivision, use and development"* apparently in response to the evidence of Mr Lindenberg for Kāinga Ora. As Ms Whitney pointed out, however, in the body of Mr Anderson's rebuttal evidence[293], he recommended that Mr Lindenberg's evidence not be accepted on this point. She continued to support the specific reference to reverse sensitivity in the Section 42A Report version.

756. We agree with Ms Whitney. As Mr Anderson noted in his rebuttal evidence, the NPSET refers to reverse sensitivity, and to the extent that the revised wording addresses adverse effects on the National Grid that are not reverse sensitivity effects, such effects are managed by the amended Sub-Policies we have recommended in place of Sub-Policy 1.

757. The second issue we have arises from the fact that, as already noted, Policy 10 of the NPSET directs decisionmakers that "*to the extent reasonably possible"* manage activities to avoid reverse sensitivity effects.

758. When we queried Ms Whitney about the failure to translate that qualification into the suggested policy, her response was that it was reasonably possible to protect the National Grid through the Plan.

[293] Anderson Rebuttal Evidence at para 125

759. To our mind, if that was the case, it would equally have been reasonably possible for the NPSET to direct an unqualified avoidance position.

760. In this case, we have recommended avoidance of sensitive activities within the National Grid Yard, and so the policy is addressing subdivision, use and development outside the National Grid Yard that gives rise to reverse sensitivity effects. We consider that the qualification in the NPSET "*to the extent reasonably possible"* should be added to the start of this Sub-Policy and that it therefore be amended as follows:

> *"As far as reasonably possible, a~~A~~voiding reverse sensitivity ~~adverse~~ effects on the National Grid ~~from incompatible subdivision, use and development~~."*

761. Proposed Sub-Policy 3(a) is framed as follows:

> *"Only allowing subdivision within the National Grid subdivision corridor where it can be demonstrated that the National Grid will not be compromised taking into account:*
>
> *1 The impact of the subdivision layout and design on the operation, maintenance, and potential upgrade and development of the National Grid, including the ability for continued reasonable access to existing transmission assets for maintenance, inspections and upgrading…."*

762. This policy assumes that there is currently reasonable access to existing transmission assets, and that the loss of same is an environmental effect. Access issues are usually considered a property issue, to be regulated through the exercise of property rights, rather than an environmental issue.

763. We recommend that this Sub-Policy end with the words "*of the National Grid*".

764. With these exceptions, we recommend adoption of INF-NG-P60, as proposed by Ms Whitney and Mr Anderson.

765. Proposed Policy INF-NG-P61 relates to upgrading of the National Grid. We have only one issue with this policy. Sub-Policy 5 indicates that provision for the upgrading of the National Grid should occur while:

> "*Where appropriate, major upgrades should be used as an opportunity to reduce existing adverse effects of the National Grid."*

766. Putting to one side for the moment the poor grammar linking the Sub-Policy to the chapeau of the Policy, this Sub-Policy purports to implement Policy 6 of the NPSET which reads:

> "*Substantial upgrades of transmission infrastructure should be used as an opportunity to reduce existing adverse effects of transmission including such effects on sensitive activities where appropriate."*

767. We read the qualification "*where appropriate"* in Policy 6 as relating to effects on sensitive activities. By putting the qualification at the front of the Sub-Policy, Ms Whitney and Mr Anderson's proposed wording expands its ambit to relate to reduction of all existing adverse effects of the National Grid.

768. We consider that the policy should more closely align with the direction of the NPSET. Addressing also the grammatical issue we have identified, we recommend that the Sub-Policy be amended as follows:

> *"Acknowledging that ~~Where appropriate,~~ major upgrades should be used as an opportunity to reduce existing adverse effects of the National Grid including effects on sensitive activities where appropriate."*

769. With that exception, we recommend adoption of proposed INF-NG-P61.

770. Proposed INF-NG-P62 relates to development of the National Grid. We have three issues with the way it is framed. First and less significantly, the chapeau of the policy does not link to the five sub-policies that follow. This requires massaging of the connection in each case.

771. Second and more substantively, proposed Sub-Policy 1 reads as follows:

> *"In urban zoned areas, development should minimise adverse effects on urban amenity and should avoid material adverse effects on the Commercial and Mixed-Use zones, and areas of high recreational or amenity value and existing sensitive activities."*

772. This Sub-Policy is clearly intended to give effect to Policy 7 of the NPSET which reads:

> *"Planning and development of the transmission system should minimise adverse effects on urban amenity and avoid adverse effects on town centres and areas of high recreational value or amenity and existing sensitive activities."*

773. We asked Ms Whitney about insertion of the qualifier "*material"*. She accepted that it was not in Policy 7, but emphasised that she would not want all adverse effects to be controlled. Mr Anderson supported that view in his Reply.

774. The concern we have with explicitly qualifying adverse effects in this way is that the controls over adverse effects on the National Grid are not similarly qualified, and

insertion of "*material*" in relation to Transpower's effects on third parties could be read as implying that the same qualifier does not apply in reverse.

775. The Supreme Court has told us that avoidance policies (in the context of the NZCPS) should be interpreted as precluding material harm to relevant values and areas[294]. That suggests to us that it is not necessary to explicitly qualify this Sub-Policy in order to have the effect that Mr Anderson and Ms Whitney believe is appropriate, and removing the qualification would avoid potential arguments that its inclusion here, but not elsewhere in the Sub-Chapter, is significant.

776. We therefore recommend that the word "*material"* be deleted from Sub-Policy 1, Appendix 1 also contains the more minor grammatical changes that we consider are required to make the policy language flow properly.

777. Lastly, we note that in her evidence, Ms Whitney suggested that Mr Anderson had inappropriately recommended deletion of reference to development of the National Grid in Sub-Policy 4. We agree with Ms Whitney's point. The subject of the policy is development of the National Grid, and amending Sub-Policy 4 in the manner Mr Anderson proposes would broaden its effect beyond that category of activities. We recommend Sub-Policy 4 refers to "*development of*" the National Grid.

778. The revised version of INF-NG-P62 in Appendix 1 shows both the amendments we have recommended above and grammatical changes we propose.

Rules and Standards

779. As regards the balance of the proposed Sub-Chapter containing rules and a single standard, as discussed, these are derived from provisions shifted from elsewhere in the Plan. We have made recommendations on the text of those provisions in the context where they originally sat. Appendix 1 reflects our recommendations in that regard.

780. Appendix 1 also reflects additional amendments Mr Sirl proposed in his Wrap-Up Section 42A Report that in our view either promote greater consistency with other Infrastructure Chapters or are consequential on making provision for Significant Natural Areas and for the role of NESETA.

[294] *Port Otago Ltd v EDS* [2023] NZSC 112 at [68]

781. We have one additional proposed amendment to proposed rule INF-NG-R65. It seems to us that consequential on the addition of proposed policy INF-NG-P58 (now INF-NG-P1), and like the following rule, that policy should be referenced as a relevant matter of discretion.

782. We note that Ms Whitney had a minor issue with the way in which the single standard (INF-NG-S18 in Mr Anderson's proposed Sub-Chapter) was framed. As she noted, with the revisions Mr Anderson has recommended, the standard should be expressed as separate requirements, all of which need to be met. It follows that the word *"or"* should be deleted at the end of Sub-Standard 1, and that "*and"* should be inserted at the end of Sub-Standard 2.

783. We note also that some of the rules in this Sub-Chapter have the same error as we noted in relation to the INF-NFL Sub-Chapter, referring to "*outstanding landscapes*" rather than "*outstanding natural landscapes*". We recommend that be corrected in this context also.

784. More broadly, Appendix 1 captures all of the amendments that we recommend to the rules and standard in the INF-NG Sub-Chapter, including numbering changes.

3. TRANSPORT

3.1 Introduction

785. The Transport (Tūnuku) chapter as notified is contained within a broader section in Part 2 (District-Wide Matters) of the PDP relating to Energy, Infrastructure, and Transport. The purpose of the chapter as described in its introductory section is to *"manage on-site transport facilities and the effects of high vehicle trip-generating use and development."* We note the focus in the chapter on facilities and activities as they interact with and/or affect the transport network; matters concerning the operation, maintenance and development of the transport network itself are located in the Infrastructure chapter.

786. The Transport chapter as notified contains a single objective (TR-O1), three policies (TR-P1 to P3), five rules (TR-R1 to R5) and nine standards (TR-S1 to S9) inclusive of four tables (Tables 7 to 10) and one figure (Figure 5).

787. In sum, these provisions which, unless otherwise specified, apply in all zones:

(a) provide for a majority of land use activities as Permitted Activities (TR-R1.1) subject to compliance with standards requiring the provision of cycle and

micromobility[295] parking and vehicle loading, circulation and manoeuvring areas to certain specifications (TR-S2, S3, S8 and S9 and Table TR-7);

(b) limit the number of permitted light and heavy vehicle movements per day and per week, respectively (TR-R2.1 and TR-S1);

(c) impose standards relating to the classification and design of driveways where site accesses are provided (TR-R3.1, TR-S5 and S6, and Tables TR-8 and TR-9);

(d) impose standards relating to the design and functionality of on-site pedestrian, cycling and micromobility paths (TR-R4.1 and TR-S4);

(e) impose standards relating to the design of on-site vehicle parking, circulation and manoeuvring areas where they and car sharing activities are provided (TR-R5 and R5[296], TR-S7, Table TR-10 and Figure TR-5); and

(f) impose requirements for consent as Restricted Discretionary Activities where the above conditions or standards are not achieved (TR-R1.2, R2.2, R3.2, R4.2., R5.2 and R5.1[297]).

788. Matters of discretion that apply in situations referred to in f. above refer the reader back to TR-P1 relating to high trip generating use and development (in the case of b. above) and to TR-P3 relating to managed activities (in all other instances).

789. We note that consent applications for activities effectively classed as 'high trip generators' by virtue of their generation of vehicle movements above the specified thresholds are required to be accompanied by integrated transport assessments (TR-R2.2), and also that Rules TR-R3 through R5 as notified contain preclusions relating to the public notification of applications.

790. Consideration of the chapter takes place against the background of Policy 11 of the NPSUD, which precludes specification of minimum car parking requirements other than for accessible car parks.

3.2 Matters raised in submissions received

791. Mr Andrew Wharton, Section 42A report author on this topic, noted that 66 submitters collectively made 307 submission points on the Transport chapter and other related

[295] Defined as including scooters, skateboards and the like.
[296] The rules relating to on-site parking and manoeuvring and car sharing were both misnumbered TR-R5 in the notified PDP.
[297] As above, additional misnumbering.

transport topics and that these were supplemented by 75 further submission points received from 20 further submitters. Mr Wharton went on to group submission points in terms of their being made on the chapter as a whole, on relevant definitions, on the sole objective, on policies, on rules, and on transport matters in more general terms.

792. Where submission points were made on the rules, he grouped these in his Section 42A Report by topic including, but not limited to, pedestrian infrastructure, cycling and micromobility parking and facilities, vehicle trip generation, site access and driveways, electric vehicle charging stations and preclusions relating to notification.

3.3 Recommended amendments we are minded to accept

793. Over the course of his Section 42A Report, supplementary evidence and reply statement, Mr Wharton recommended a series of amendments to the Transport chapter in response to submission points that were informed, in part, by the expert evidence of Ms Patricia Wood and Mr John Lieswyn for the Council, and that were largely uncontested by submitters in evidence presented on their behalf, as follows:

(a) amendments to relevant definitions for 'cycle' and 'transport network', the addition of a definition for 'active transport' and the deletion of a definition for 'ancillary transport network infrastructure';

(b) amendments to TR-P1, TR-P2 and TR-P3 to provide greater clarity and direction and, with respect to TR-P3, incorporate references to relevant standards and codes relating to access for fire-fighting purposes;

(c) amendments to the titles for TR-R2, TR-R3, TR-R4, TR-R6, TR-S2, TR-S3, so that they more accurately reflect the focus of the said rules and standards;

(d) the inclusion of additional statements precluding public notification in relation to TR-R1.2, TR-R2.3 and TR-R7.2;

(e) amendments to TR-S4, TR-S6, TR-S7[298] and TR-S8 to clarify the application of these standards and, with respect to TR-S6 and TR-S7, to include specifications intended to facilitate access for fire-fighting purposes; and

(f) the relocation of a policy (TR-P4), rule (TR-R7), standards (TR-S10 and TR-S11) and associated Figures TR-2 and TR-3 and Table TR-5 relating to connections to roads from the Infrastructure chapter.

[298] Inclusive of a correction recommended by Mr Wharton in his reply statement at para 49

794. We recommend the adoption of these recommended amendments for the reasons outlined by Mr Wharton in his briefs of evidence, with one qualification. Mr Wharton queried the need for an amendment to TR-S8 to add a gross floor area (**GFA**) limit in each limb of the standard. The notified standard poses tests for on-site loading areas based on a specified building footprint area (450m^2). Mr Wharton noted that the Section 32 Report had recommended that the reference point be a 450m^2 GFA. He advised that this would be more onerous in the case of multi-storey buildings than a building footprint limit of the same area. He advised also that no submission sought to make the standard more onerous and invited us to consider whether we had scope to recommend a change in line with the Section 32 Report. Given the background to the matter outlined by Mr Wharton, we conclude that we do not have scope to add a separate GFA limit either in addition to or in substitution for the existing building footprint limit. If the Council considers that this is a problem, it will need to be addressed via a future Plan Change.

795. In addition to the above amendments, we also:

(a) endorse the change to the fifth clause in TR-O1 that Mr Wharton recommended in response to a query from us[299] to clarify that the outcome that parking and other vehicle-related areas must be 'safe and functional' applies where they are provided, as opposed to being required[300]; and

(b) acknowledge Mr Wharton's clarification that the wording of clause 1 in TR-P3 is intended to remain unchanged from that as notified[301], again in response to a query from us[302].

796. In addition, in the Wrap-Up hearing, Mr Sirl identified minor errors and other changes he recommended be made for consistency across the Plan. We adopt those recommendations also.

797. In Section 2.1 above, we discussed the numbering scheme adopted in the Infrastructure Sub-Chapters, and recommended that rather than being numbered sequentially across multiple Sub-Chapters, the provisions in each Sub-Chapter be numbered separately, starting at #1 in each case. The same issue arises in the Standards of the transport Chapter where Tables and Figures were notified with

[299] Minute 51, para (4)(c)(iii)
[300] Right of reply of Andrew Wharton on the Transport Chapter and transport topics on behalf of Wellington City Council, 19 July 2024, para 15
[301] Right of reply of Andrew Wharton on the Transport Chapter and transport topics on behalf of Wellington City Council, 19 July 2024, para 20
[302] Minute 51, para (4)(c)(iv)

numbering following sequentially from other chapters. The transfer of several tables and figures from the Infrastructure Chapter requires consequential renumbering and we recommend that rather than continue the existing numbering scheme, the Tables and Figures in the Transport Chapter be renumbered from #1.

798. All the amendments set out above that we recommend the adoption of have been incorporated into the amended Transport chapter provisions attached as **Appendix 1**.

799. During the course of the hearing there remained only a relatively small number of topics in contention, on which we heard evidence from other parties in addition to Mr Wharton, as follows:

(a) The appropriateness of vehicle trip generation thresholds given their effect in terms of consent status and triggering of a requirement for integrated transport assessments to support the resulting consent applications. On this matter we heard from Ms Georgina McPherson for the Oil Companies[303], Mr Matthew Lindenberg and Ms Megan Taylor for Kāinga Ora[304] and Ms Kirsty O'Sullivan for WIAL[305];

(b) The appropriate extent of provision for cycling and micromobility facilities. On this matter we heard from Mr Maciej Lewandowski, Mr Craig Stewart and Mr Gary Clark for Stratum Management Ltd[306] and Ms O'Sullivan for WIAL;

(c) The appropriate content of rules relating to electric vehicle charging facilities. On this matter, we heard from Ms McPherson for the Oil Companies and Mr Lindenberg for Kāinga Ora;

(d) Statements precluding the notification of consent applications. On this matter, we heard from Ms McPherson for the Oil Companies and were in receipt of a tabled statement from Ms Michelle Grinlinton-Hancock for KiwiRail Holdings Ltd[307]; and

(e) The extent to which rail forms part of the City's transport network. On this matter we had Ms Grinlinton-Hancock's tabled statement for KiwiRail Holdings Ltd.

800. We consider that the matters referred to in c. to e. above were largely resolved by the time that Mr Wharton provided us with his reply statement. Accordingly, we accept

[303] Submission #372
[304] Submission #391
[305] Submission #406
[306] Submission #249
[307] Submission #408

and recommend for adoption some further, minor amendments proposed by Mr Wharton in relation to these matters, as follows:

(a) a change to the title of TR-R5 to more accurately reflect the focus of the said rule[308]; and

(b) a further change to the definition for 'transport network' to delete the word 'public' in reference to 'rail'[309].

801. For completeness, we agree with Mr Wharton that in relation to the matters referred to in paragraph 799. c. to e. above no further amendments are warranted.

3.4 Matters remaining in contention that we need to reach a finding on

802. That then leaves the matters referred to a. and b. of paragraph 799. above to make a finding on. On these matters, our findings and recommended amendments differ in some respects from those proposed by Mr Wharton. We now take to the opportunity to elucidate our position with respect to these matters, and in doing so, explain both our reasoning and the evidence and assessment we have relied on in coming to our recommendations.

3.5 Setting appropriate vehicle trip generation thresholds

803. TR-R2.1 is a key rule in that, as notified, it established Permitted Activity status for activities falling below the maximum vehicle movement thresholds in TR-S1. Where they do not, TR-R2.2 goes on to assign a Restricted Discretionary Activity consent status, and requires that integrated transport assessments (**ITA**) accompany the resulting resource consent applications.

804. As notified, there were two exceptions to this general pathway. Service stations and drive-through activities were automatically categorised as Restricted Discretionary Activities under TR-R2.2. Ms McPherson expressed concern that any alterations to a service station not resulting in a change to vehicle generation (such as the replacement of underground fuel storage tanks) could trigger the resource consent and accompanying ITA requirements. She sought deletion of references to the specific activities from the rule and the addition of a condition assigning Permitted Activity status for lawfully established existing activities on the basis that the

[308] Statement of supplementary planning evidence of Andrew Wharton on behalf of Wellington City Council, 4 June 2024, para 30
[309] Statement of supplementary planning evidence of Andrew Wharton on behalf of Wellington City Council, 4 June 2024, para 49

character, intensity and scale of trip generation associated with such activities remains the same or similar[310].

805. In his supplementary evidence, Mr Wharton indicated he was not minded to accept Ms McPherson's suggestion, as he considered the scenario she posited would not arise; with s10 of the RMA already securing existing use rights in appropriate circumstances[311]. However, having reconsidered the matter through his reply statement on the basis of a query from us[312], he recommended an amendment to TR-R2.2 to try and clarify that resource consent would only be required when vehicle generation from a service station or drive-through activity is increased[313].

806. We do not favour Mr Wharton's recommendation as it now stands. We do not consider it succeeds in providing a suitably clear baseline above which increases in vehicle generation associated with an existing activity can be judged to warrant consent. We appreciate that there is an issue here in terms of effect 'creep' that requires some form of resolution, but we are unable to satisfactorily resolve the matter on the basis of the evidence presented and the options available to us. All options can only be rigorously canvassed through a Plan Change exercise, including a rigorous Section 32 assessment, that provides all interested parties with an opportunity to provide input from the characterisation of the issue onwards. We are well past that point in the evolution of the PDP.

807. More fundamentally, we agree with Ms McPherson that it is not clear from the available documents, including the relevant Section 32 Report, why the activities concerned have been singled out in the first place. In our view, the rule (and standard) should be blind to the nature of the activity concerned and any activity that exceeds the thresholds under TR-S1 should have Restricted Discretionary Activity status. This would focus the rule and standard on the effect needing to be addressed.

808. It is for these reasons that we recommend that TR-R2.2 (as TR-R2.1 has now been renumbered) is amended to require only compliance with the thresholds in TR-S1 in order to achieve Permitted Activity status.

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[310] Statement of Planning Evidence of Georgina McPherson on Behalf of BP Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited (Submitter 372) Hearing Stream 9 – Infrastructure And Risks, 27 May 2024, paras 6.1-6.15
[311] Statement of supplementary planning evidence of Andrew Wharton on behalf of Wellington City Council, 4 June 2024, paras 23-26
[312] Minute 51, para (4)(c)(i)
[313] Right of reply of Andrew Wharton on the Transport Chapter and transport topics on behalf of Wellington City Council, 19 July 2024, paras 7-8

809. As noted previously, TR-R2.2 as notified requires that an ITA must accompany resource consent applications. We asked Mr Wharton to consider the merits of stating specifically that the detail and scope of an ITA needs to be proportionate to the complexity of a proposal and its traffic context[314]. Although Mr Wharton formulated a potential addition to the note attending the rule along these lines in his reply statement, he did not favour its inclusion, finding sufficient direction on proportionality in legislation, PDP policy, published guidance and operational practice[315].

810. We do favour the inclusion of such a statement as it would provide clear, immediate direction to plan readers and complement the guidance on ITA already embedded in the Waka Kotahi guidelines referred to in the rule as notified. For clarity, we recommend a slight variation on the wording Mr Wharton proposed, with the additional text we propose reading thus: *"In particular, the detail and scope of the Assessment needs to be proportionate to the complexity of the vehicle trip generation from the site in the context of the surrounding transport network."*

811. There is one last amendment to TR-R2 that we need to address for completeness. While we have accepted Mr Wharton's amendments to the rule (and to TR-P1) in response[316] to evidence from Ms O'Sullivan for WIAL[317] clarifying that, in relation to vehicle trip generation, activities in various Airport precincts should be permitted without constraint, we have altered the references to 'Precincts' to 'Specific Control Areas' commensurate with our recommendations arising from our consideration of submissions on the Special Purpose - Airport Zone provisions in Report 6.

812. In Section 32AA terms, we consider that the additional amendments that we propose to TR-R2 as outlined above represent the most efficient and effective means of achieving the intent of the Transport chapter as encapsulated in TR-O1.1 and TR-P1 relating to managing the effects of high trip generating activities.

813. Turning now to the vehicle trip generation thresholds which TR-S1 seeks to establish, these were set at a maximum of 200 vehicle movements per day for 'light' vehicles and eight per week for 'heavy' vehicles in the notified version of the standard. The latter remained uncontested during the course of the hearing, but the former was

[314] Minute 51, para (4)(c)(i)
[315] Right of reply of Andrew Wharton on the Transport Chapter and transport topics on behalf of Wellington City Council, 19 July 2024, paras 9-10
[316] Statement of supplementary planning evidence of Andrew Wharton on behalf of Wellington City Council, 4 June 2024, para 32 and Right of reply of Andrew Wharton on the Transport Chapter and transport topics on behalf of Wellington City Council, 19 July 2024, para 31
[317] Statement of Evidence by Kirsty O'Sullivan Hearing Stream 9 - Wellington International Airport Limited Submitter 406, Further Submission 36, 27 May 2024, paras 86-91

subject to considerable scrutiny. Waka Kotahi[318] submitted that the 200 vehicle per day threshold is too high with respect to vehicle movements to and from state highways and should be reset at 100 vehicle movements. Mr Wharton agreed with this request in his Section 42A Report and, as the resulting amendment was not challenged by other parties fielding traffic expertise, we recommend it for adoption.

814. Restaurant Brands Ltd[319] was one of a number of submitters that considered the 200 vehicle per day threshold to be too low; in its case wanting it raised to 100 vehicle movements per hour, whereas Kāinga Ora[320] questioned the evidential basis for the threshold and requested that it be lifted to 500 per day.

815. In this respect, Ms Taylor, for Kāinga Ora, provided us with a useful comparison with thresholds in other district plans, in concluding that, with respect to their application to residential thresholds, the threshold would be reached at a much lower level under the notified provisions of the PDP then it would in other jurisdictions, including in the adjacent cities of Lower Hutt and Porirua[321].

816. Throughout the course of the hearing, and with respect to all roads other than state highways, Mr Wharton had nevertheless recommended that the threshold of 200 vehicle movements per day be retained, relying to considerable degree on the technical evidence of Ms Wood in maintaining this position[322]. Essentially, Ms Wood's advice to us was that the notified threshold was justified by Wellington's characteristically narrower, winding streets when compared with other jurisdictions. Mr Wharton did indicate that he was prepared to make two concessions, however. The first related to the application of the threshold to 'local roads'. On this, he agreed with Ms Taylor that the undefined qualifier 'local' was an unnecessary addition and recommended an amendment on that basis[323]. The second related to a modification of the method set out in clause 2 of the standard for calculating light vehicle movements on the basis of provided car parks and (by extension) bedrooms. On

[318] Submission #370
[319] Submission #349
[320] Submission #391
[321] Statement of Evidence of Megan Kate Taylor on Behalf of Kāinga Ora – Homes and Communities (Transport), 27 May 2024, paras 5.1-5.15
[322] Statement of supplementary planning evidence of Andrew Wharton on behalf of Wellington City Council, 4 June 2024, paras 34-40
[323] Statement of supplementary planning evidence of Andrew Wharton on behalf of Wellington City Council, 4 June 2024, para 41

this, he agreed that Waka Kotahi guidance provided a better basis for recalibrating the calculation and recommended amendments to clause 2 accordingly[324].

817. While we endorse Mr Wharton's recommended amendments as summarised above, we find we do not agree with his position that the threshold for light vehicle movements on roads other than state highways should remain unchanged. We are not satisfied with the evidential basis for the figure of 200 supplied by the Council.

818. In our view, there is a stronger case for the threshold to be set at a higher level of 500 vehicle movements per day, commensurate with the thresholds that apply in equivalent district plans in the Wellington Region, but still much lower than the guidance contained in a 2010 guide published by Waka Kotahi[325]. That guidance identified a threshold of 75 residential units, which is equivalent to 750 vehicle movements per day as being the lower band drawn from international best practice transportation documents, and recommended adoption of the median of 138 residential units (1,380 vehicle movements per day).

819. In Section 32AA terms, we consider that the amendment to the threshold in TR-S1 that we propose above represents the most efficient and effective means of achieving the intent of the Transport chapter as encapsulated in TR-O1.1 and TR-P1 relating to managing the effects of high trip generating activities.

3.6 Appropriate provision for cycling and micromobility parking and facilities

820. Standards relating to the provision (TR-S2) and design (TR-S3) of parking and user facilities for cycling and micromobility devices together with the more detailed specifications set out in Table 7-TR (as notified and subsequently recommended for amendment) and Figure 1-TR and Tables 7A-TR and 7B-TR (all as recommended for addition at the S 42A reporting stage) remained a matter of contention throughout the hearing on the Transport provisions.

821. Broadly, submitters including Stratum Management Ltd[326] were concerned that the requirements were overly prescriptive, provided little or no room for the market to ascertain and accommodate demand or find innovative and potentially more efficient and effective design solutions, and failed to sufficiently account for opportunity costs particularly with respect to their substitution of apartment space; costs that

[324] Right of reply of Andrew Wharton on the Transport Chapter and transport topics on behalf of Wellington City Council, 19 July 2024, paras 45-46
[325] NZ Transport Agency research report 422: Integrated transport assessment guidelines, at Section 5.3
[326] Submission #249

themselves were not adequately addressed by the Council in Section 32 or Section 32AA terms.

822. Broadly speaking, we agree with the submitters in these respects, particularly with reference to the evidence presented on behalf of Stratum Management Ltd by Messrs Stewart, Lewandowski and Clark, in recommending a reversion to the notified provisions and the adoption of only limited amendments for which a reasonable case has been made.

823. We would add that, as the majority of the officer changes that we recommend not be progressed were only recommended for addition at the Section 42A stage, this has not provided potentially interested parties beyond those that made submissions with an adequate, fulsome opportunity to consider their implications and take a position as to their merits or otherwise.

824. The key matter in contention at the hearing where we propose to depart from the advice of Council officers was prompted by the requirement in row 9.a. of Table 7-TR, as notified, that residential activities provide a minimum of one long-stay parking space per residential unit. In its submission, Stratum Management Ltd considered this requirement to be overly onerous, not commensurate with market demand, and potentially deleterious in terms of compromising the viability and/or volume of apartment offerings.

825. Our starting point in considering this matter has to be the complete absence of any cost benefit analysis of the existing provisions provided by the Council, either at the Section 32 stage or Section 32AA terms. Mr Lieswyn's evidence was qualitative in nature and did not assist us in understanding the rationale, if any, for the 1:1 ratio proposed.

826. Ms Harriet Fraser did address the matter on behalf of the Council in evidence presented to us during the course of the hearing,[327] in response to a request from us[328]. She alluded to guidance prepared by Waka Kotahi[329] which provided the example of Christchurch, with one long-stay space per dwelling without a garage. She advised that this had been considered appropriate for a mid-sized city such as Wellington. We note the parking requirement as notified contained no such qualifier with respect to the absence of a garage. Obvious questions might also be asked as

[327] Statement of evidence of Harriet Fraser Hearing Stream 9 – Transport, 20 June 2024
[328] Minute 51, para 2.(c)
[329] Cycle parking planning and design – Cycling Network Guidance technical note, Via Strada Ltd, 9 December 2022, Version 3.

to whether Christchurch, with its wide flat roads and long history of cycle use, should be relied upon in this context.

827. Mr Wharton sought to address this evidential gap (in part at least) in his reply statement[330], quantifying the costs of providing parking for cycles and micromobility devices by reference to market information relating to the value of car parks. In other words, taking the market value of a car park as a starting point, Mr Wharton then sought to divide that by the number of cycle parks that could be created out of a 'sacrificed' car park to arrive at a 'cost' per cycle park; effectively an order of magnitude below that calculated by Stratum[331]. With respect, we consider the methodology to be flawed. By definition, if standalone carparks within an apartment block are on the market, then it follows that the developer did not assess demand correctly and needs to offload the surplus parks. There is no assurance that the space taken up by such carparks will be sufficient to provide the number of cycle/micromobility spaces the proposed provisions would require (thereby avoiding the need to use more expensive space). In this regard, Mr Wharton drew our attention to Mr Stewart's verbal statement that, in practice, cycle parking in multi-storey buildings is typically provided in basement areas; i.e., wherever it can be fitted in. In Mr Wharton's assessment, these areas command a lower value, suggesting that the commensurate costs of providing cycle parks is lower than that posited by Stratum. In our view, this is not a fair comparison. The 'opportunistic' nature of cycle parking placement that Mr Stewart alluded to is sufficient at the level of provision the company has provided to date, but it does not mean it is feasible at the level the Council is demanding.

828. Essentially, there are four options before us in settling this matter:

(a) No requirement at all as per Stratum's original request.

(b) A requirement of 0.25 spaces per unit (the equivalent of one space for every four units), which was supported by the results of a survey of its tenants supplied by Stratum and as cited by Mr Clark in his evidence[332]. This is the only quantitative evidence we had available to us of demand for cycling and micromobility spaces.

[330] Right of reply of Andrew Wharton on the Transport Chapter and transport topics on behalf of Wellington City Council, 19 July 2024, paras 38-44
[331] A range of $3,000 to $8,000 as calculated by Mr Wharton, compared to the $61,300 to $63,300 calculated by Stratum.
[332] Statement of Evidence of Gary Paul Clark on Behalf of Stratum Management Limited (Submitter 249) Hearing Stream 9 – Infrastructure, 10 June 2024, paras 5.10-5.14

(c) A requirement of 0.5 spaces per unit (the equivalent of one space for every two units) as per Mr Wharton's supplementary evidence, albeit limited, on his recommendation, to the City Centre Zone. This represents a retreat from the 1:1 ratio as notified and was justified, in Mr Wharton's view, by the idea that the Council should be driving positive change[333].

(d) A requirement of 1 space per unit, as notified, bearing in mind the weaknesses in that position we have identified above.

829. While acknowledging that it is based on a limited pool of respondents, we give considerable credence to Stratum's survey of tenants supporting a ratio of 0.25:1. Reviewing the data Mr Clark provided, only one of the five apartment blocks surveyed reached that ratio. In addition, as noted above, it is the only quantitative evidence we have to rely on of demand. Having considered the options before us, we consider that a ratio of 0.25:1 is an appropriate figure, and recommend its adoption accordingly.

830. This is not to say that we do not appreciate and support the Council's desire to promote cycling and micromobility modes, inclusive of parking and other facilities. We certainly do, and this is something that is clearly signalled in the policy framework that we recommend the adoption of, particularly with reference to Objective TR-O1.5, TR-P1.2, TR-P2.3 and TR-P3.5.

831. If applicants for resource consent propose to depart from a more basic, essential set of requirements for provision of parking and facilities that we propose be retained within recommended versions of TR-S2, TR-S3 and Table 7-TR, then the resulting assessment as to whether what is being proposed is 'appropriate', represents an effective means of 'promotion' and provision in an 'adequate manner' will be guided by references to same in the objective and policies referred to above. After all, it is those policies that are explicitly identified as matters for discretion in the consideration of proposals.

832. Having settled our position on this key matter in contention, we turn now to the detail of other Transport chapter provisions relating to cycling and micromobility matters. In this context, we support and recommend the adoption of the following amendments:

[333] Statement of supplementary planning evidence of Andrew Wharton on behalf of Wellington City Council, 4 June 2024, para 20

(a) To TR-P2.3 to read as follows: "*Promote the uptake and use of pedestrian, cycling, micromobility and public transport modes, including by providing sheltered, convenient and secure parking for cycles and micromobility devices*" as recommended (in part) by Mr Wharton in his Section 42A Report in response to a submission by GWRC[334];

(b) To add a fifth clause to TR-P3 to read as follows: "*Cycling and micromobility parking is provided for in a manner that is adequate for the location and nature of the proposed activity*" as recommended (in part) by Mr Wharton in his reply statement[335] in response to evidence presented for Stratum Management Ltd;

(c) To TR-S3 to specify:

(i) (in the first clause) that the minimum specifications for cycling and micromobility parking facilities only apply where they "are not in a lockable, residential unit-specific storage facility such as a garage or storage locker dedicated to that residential unit";

(ii) (in the second clause) that they must be located so they "*are clear of pedestrian thoroughfares to provide safety for all pedestrians, including at-risk groups such as pedestrians with mobility and vision impairments, and children*"; and

(iii) (in the third clause) that long-stay facilities "*must be electric charging-ready by being serviced with an electrical cable conduit from the electricity supply to the parking space or the collective parking facility*";

(d) all as recommended (in part) by Mr Wharton in his Section 42A Report in response to submissions from the Disabled Persons Assembly NZ[336] and Living Streets Aotearoa[337], among others. To our mind, these are reasonable and sensible expectations relating to the design of cycling and micromobility device parking where its provision is required under TR-S2;

(e) To Table 7-TR to add notes:

[334] Submission #351
[335] Right of reply of Andrew Wharton on the Transport Chapter and transport topics on behalf of Wellington City Council, 19 July 2024, paras 34-37
[336] Submission #343
[337] Submission #482

(i) clarifying the circumstances in which the cycling and micromobility parking requirements specified in the table apply with respect to short-stay visitor parks;

(ii) specifying a rounding method where calculations result in a fractional space[338]; and

(iii) specifying that said spaces cannot be located within a residential unit itself;

all as recommended by Mr Wharton in his Section 42A Report and reply statement in part response to a submission from Living Streets Aotearoa as well as a query from us relating to options for improving the readability and clarity of the table[339]; and

(f) To row 9.d. (or row 9.c. as renumbered) in Table 7-TR relating to retirement villages to require a minimum of one short-stay parking space for use by visitors per village plus a minimum of one long-stay parking space for use by staff and residents plus 0.1 long-stay space per staff member. Having reviewed examples of provisions in other district plans supplied by Mr Wharton, we consider that this level of provision is appropriate for retirement villages and suitably differentiated from the generic residential activity requirement set out in row 9.a. We address the number of carparking spaces per residential unit below.

833. For readability, we have grouped all the notes embedded in Table 7-TR at the end of that table.

834. Beyond the above, we do not recommend the adoption of a number of other Transport chapter provisions as notified or as recommended for amendment by Council reporting officers, as follows:

(a) To TR-P2.3 to further promote the uptake and use of pedestrian, cycling, micromobility and public transport modes by referring to the provision of shower and locker facilities for cycle and micromobility device users as recommended (in part) by Mr Wharton in his Section 42A Report, and as latterly recommended for further amendment in his reply statement in response to a query from us[340]. A

[338] Inclusive of a further amendment recommended in Mr Wharton's reply statement at para 48.
[339] Minute 51, para (4)(c)(ii)
[340] Minute 51, para 4(c)(v)

requirement to provide such facilities is not supported by a suitable assessment of costs by the Council and therefore, in our view, is not sufficiently justified;

(b) To TR-P3.5 to further specify the parameters for the provision of parking for cycling and micromobility devices as recommended (in part) by Mr Wharton in his reply statement[341] as, in our view, the additional text duplicates that in TR-P2.3;

(c) To TR-S2 to amend the title, add a second clause and alter the first assessment criterion to set out requirements for the provision of showers and lockers for use by staff using cycles and micromobility devices as recommended by Mr Wharton in his Section 42A Report as, in our view, as in a. above, requirements to provide such facilities have not been sufficiently justified and the standard should remain focused on requirements of the provision of parking for such modes alone (i.e., as notified);

(d) To insert Table 7A-TR setting out ratios for the provision of on-site showers and lockers for the same reasons as in a. above;

(e) To the first clause in TR-S3 to replace basic specifications relating to the dimensions and design of parking stands with much more detailed design requirements including reference to and insertion of Figure 1-TR Cycle and micromobility parking and Table 7B-TR Minimum distance from centre of stand to a wall or kerb (together with a cross-reference to Figure 1-TR in Table 7-TR) as in our view these requirements are overly prescriptive and provide little or no room for the market to find innovative and potentially more efficient and effective design solutions;

(f) To Table 7-TR to widen the application of the parking requirements to all zones, which would have been the effect of amendments to the table recommended by Mr Wharton in his reply statement. Despite the fact that the triggering rule (TR-R1) states that it is applicable to all zones, our reading of the effect of the structure of Table 7-TR, at least at notification, was to limit the application of on-site cycling and micromobility device parking requirements to activities occurring in the City Centre, Metropolitan Centre, Local Centre, Neighbourhood Centre and Mixed Use Zones. In our observation, this accords with the structure of similar tables elsewhere in the PDP. The expansive effect of Mr Wharton's recommended amendment would be significant in this context and, being made

[341] Right of reply of Andrew Wharton on the Transport Chapter and transport topics on behalf of Wellington City Council, 19 July 2024, paras 34-37

relatively late in the hearing process, does not provide submitters and interested parties to an opportunity to consider and take a position on the proposal. It is for this reason that we do not favour this proposal. If the Council wishes to require provision for cycling and micromobility device parking in other zones, it needs to do that through a future Plan Change that is properly assessed in terms of Section 32. As part of our recommended restructuring of the table we have inserted references to the applicable zones in each of the relevant rows;

(g) To row 9.b. in Table 7-TR to establish a differentiated minimum of 0.5 long-stay parks per residential unit in the City Centre Zone, as recommended by Mr Wharton in his s42A report in response to Stratum's position. As we recommend this ratio be applied to residential activities generally, as outlined above, there is no need to differentiate the requirement where it relates to the City Centre Zone; and

(h) To row 9.d. (or row 9.c. as renumbered) in Table 7-TR to specify a minimum requirement of 0.1 long-stay park per residential unit in retirement villages, as recommended by Mr Lieswyn[342]. In our view, this should be reduced to a 0.03:1 ratio, which represents a rounded version of the 1 park to 30 residential unit ratio specified in the Auckland Unitary Plan. Having reviewed examples of provisions in this plan and other district plans supplied by Mr Wharton, we consider that this level of provision is appropriate for retirement villages.

835. In Section 32AA terms, we consider that the amendments we have adopted as outlined in paragraph 831 above as well as the additional amendments we recommend for adoption in paragraphs 828. and 833. above represent the most efficient and effective means of achieving the intent of the Transport chapter, as encapsulated in TR-O1.4, TR-P1.2, TR-P2.3 and TR-P3.5 relating to provision for cycling and micromobility parking and facilities.

4. RENEWABLE ELECTRICITY GENERATION

4.1 Introduction

836. The Renewable Electricity Generation Chapter of the PDP sits within Part 2 – District Wide Matters and under Energy, Infrastructure and Transport. The purpose of the

[342] Statement of evidence of John Lieswyn, 18 April 2024

chapter, as set out in the Introduction section, is to *"provide for the development, operation, maintenance and repair, and upgrade of renewable electricity generation activities while managing adverse environmental effects"*. Section 7 of the RMA requires District Plans to have "*particular regard to the benefits to be derived from the use and development of renewable energy".* The NPSREG directs that the District Plan recognise and provide for the national significance and benefits of renewable electricity generation (**REG**). The NPSET must also be considered as part of the benefits of REG. In addition, the District Plan has to take account of the adverse effects of REG on the Coastal Environment, in particular, informed by the New Zealand Coastal Policy Statement (**NZCPS**). The District Plan must give effect to both the NPSREG and the NZCPS.

837. As notified, the REG chapter contains four objectives that guide how this balance is to be achieved, 13 policies, seven rules and 11 standards. In short, these provisions provide for:

(a) Maintenance and repair of existing REG activities;

(b) REG investigation activities;

(c) Small scale REG activities outside and within specified overlays;

(d) Community scale REG activities outside and within specified overlays;

(e) Upgrading of existing REG activities; and

(f) Large scale REG activities outside and within specified overlays.

838. There were 15 submitters with 171 submission points in relation to the REG Chapter, along with 2 further submitters and 68 further submission points.

839. The submissions were assessed in a Section 42A Report authored by Mr Joe Jeffries.

840. The Reporting Officer identified the following main issues as being in contention:

(a) The extent to which the REG Chapter gives effect to the NPSREG in providing for the development, upgrading, operation and maintenance of new and existing renewable electricity generation activities;

(b) The extent to which the REG Chapter appropriately balances the provision of renewable electricity with the protection of natural environmental and coastal values; and

(c) The extent to which the REG Chapter makes appropriate trade-offs between the NPSREG, NPSIB and NZCPS.

841. We approach the last point with caution as Clause 1.3(3) of the NPSIB states that it does not apply to REG activities.

4.2 REG Policies

Large scale renewable electricity generation activities

842. Large scale REG activities include:

(a) Upgrading of existing large scale REG activities[343] within and outside overlays;

(b) New activities outside overlays; and

(c) New activities within overlays.

843. The polices in the REG Chapter provide for these activities through a hierarchy that 'provides for' upgrading and new large scale activities outside overlays while 'only allowing' the same activities within overlays. This provides the direction for the relevant rule framework.

844. The notified version of the PDP REG Chapter included:

(a) REG-P8 for upgrading existing large scale REG activities, within and outside overlays;

(b) REG-P9 for new activities outside overlays;

(c) REG-P10 for new activities within overlays; and

(d) REG-P11 recognising the benefits of REG activities across all scales of REG activities.

845. Forest and Bird submitted[344] that REG-P8 gave insufficient recognition and protection to the natural environment and Coastal Environment values given that it applies within and outside the identified overlays. This was supported by M&P Makara

[343] In practice, limited to Meridian's Westwind and Mill Creek wind farms.
[344] Submissions #345.117-119

Family Trust[345] and opposed by Meridian[346]. It also sought that both REG-P8 and REG-P11 address upgrading of existing large scale REG activities.

846. In his Section 42A Report, Mr Jeffries agreed with Forest and Bird and M&P Makara Family Trust in part, in that there was duplication between REG-P8 and REG-P11 and the relationship between the two was not clear. As a result, Mr Jeffries saw an opportunity to restructure the policies relating to large scale REG activities. In his view the policies could be made clearer by having one policy for new and upgrading of existing REG activities outside overlays, and one policy for REG activities within overlays. In addition, he recommended amending REG-P10 so that it only provided for new large scale REG activities in other zones (other that is, than the General Rural Zone) and REG-P11, which provides for recognising the benefits of upgrading and technological advances across all scales of REG activities.

847. Mr Jeffries provided a useful table in his rebuttal evidence[347] that set out the comparisons between the notified version of the PDP and the Section 42A version. In summary, his recommended provisions were:

(a) REG-P8 be deleted;

(b) REG-P9 'provides for' all large scale REG activities, both new and upgrading of existing, in the General Rural Zone and outside identified overlays;

(c) REG-PX: a new policy that 'only allows' for all large scale REG activities both new and upgrading of existing in the General Rural Zone and within the identified overlays. This specifically provides direction for the protection of natural and coastal environments. It also provides direction for recognition and protection of heritage, archaeological values and sites of significance to Māori;

(d) REG-P10 provides for new large scale REG activities in other zones; and

(e) REG-P11 recognises the benefits of upgrading existing REG activities.

848. The new REG-PX was proposed to be worded:

[345] Further Submissions #FS41.46-48
[346] Further Submissions #FS101.101-103
[347] Rebuttal evidence of Joe Jeffries 4 June 2024, Para 23

REG-PX	**Large scale renewable electricity generation activities within Specified Overlays** Only allow large scale renewable electricity generation activities, including the upgrading of existing activities, in the General Rural Zone in the Overlays specified below where: 1. If located within or on any areas, items or features identified in SCHED1 - Heritage Buildings, SCHED2 - Heritage Structures, SCHED3 - Heritage Areas, SCHED4 - Archaeological Sites, any significant adverse effects are avoided and any other adverse effects are avoided, remedied or mitigated, while having regard to the matters in HH-P8, HH-P12, HH-P15, HH-P21 and HH-P22; 2. If located within an area identified in SCHED7 - Sites and Areas of Significance to Māori, any significant adverse effects are avoided and any other adverse effects are avoided, remedied or mitigated, while having regard to the matters in SASM-P4 and SASM-P5; 3. If located within an area identified in SCHED8 - Significant Natural Areas: a. Outside the coastal environment, significant adverse effects on the identified values are avoided and any other adverse effects on the identified values are avoided, remedied or mitigated; b. Within the coastal environment: i. Adverse effects on the matters in Policy 11(a) of the New Zealand Coastal Policy Statement 2010 are avoided; and ii. Significant adverse effects on the matters in Policy 11(b) of the New Zealand Coastal Policy Statement 2010 are avoided, and other adverse effects on these matters are avoided, remedied or mitigated; while having regard to the matters in ECO-P2, ECO-P3, ECO-P4 and ECO-P7; 4. If located within an area identified in SCHED12 – High Coastal Natural Character Areas, or a coastal margin or riparian margin within the coastal environment, any significant adverse effects are avoided and any other adverse effects are avoided, remedied or mitigated, while having regard to the matters in CE-P5, CE-P6 and CE-P7, and: a. The activity is of a scale that maintains or restores the identified values, including restoration and conservation activities; and b. The design and location of the activity is subordinate to and does not compromise the identified characteristics and values; 5. If located within an area identified in SCHED10 - Outstanding Natural Features and Landscapes: a. Outside the coastal environment, significant adverse effects on the identified values are avoided and any other adverse effects on the identified values are avoided, remedied or mitigated; b. Within the coastal environment, any adverse effects on the identified values are avoided; c. The activity is of a scale that maintains or restores the identified values, including restoration and conservation activities; and d. The design and location of the activity is subordinate to and does not compromise the identified characteristics and values; while having regard to the matters in NFL-P5 and NFL-P6; 6. If located within an area identified in SCHED11 - Special Amenity Landscapes:

	a. Outside the coastal environment, any adverse effects are avoided, remedied or mitigated; and b. Within the coastal environment, any significant adverse effects are avoided and any other adverse effects are avoided, remedied or mitigated; while having regard to the matters in NFL-P2 and NFL-P4. 7. If located within a Hazard Overlay, the activity: a. Does not increase the risk from the natural hazard to people, other properties or infrastructure; b. Is not vulnerable to the natural hazard; and c. Is designed to maintain reasonable and safe operation during and in the immediate aftermath of a natural hazard event; 8. There is an operational need or functional need for the identified location and there are no reasonable alternatives; and 9. Adverse effects are avoided, remedied or mitigated having regard to: a. The scale, intensity, duration or frequency of the activity's effects and the effects on the surrounding environment; b. Any potential adverse landscape, visual or amenity effects from scale, colour, shading, lighting, glare, reflectivity, blade or shadow flicker, or noise, and the potential to cause sleep disturbance or annoyance; c. The design and site layout of the activity and its ability to internalise effects; d. Whether there is adequate separation and buffering from existing sensitive activities to ensure conflict between activities, including potential reverse sensitivity effects, are minimised; e. The capacity of the roading and infrastructure network to accommodate the activity; f. Traffic generation, earthworks and construction effects; g. Ecological and biodiversity effects, including adverse effects on terrestrial ecology and avifauna; h. The extent to which the proposed activity recognises and provides for tangata whenua cultural and spiritual values and practices; i. Any existing navigation or telecommunication facilities; j. Any adverse cumulative effects; and k. Any adaptive management, offsetting measures or environmental compensation which may benefit the local environment or the community affected.

849. Ms Foster presented supplementary evidence for Meridian in response to Mr Jeffries's recommended restructuring of these policies. She accepted the overall approach, in that REG-P9 now adopts the 'provide for' approach for new and upgrading of large scale REG outside overlays and REG-PX adopts the 'only allow for' provision in relation to large scale REG within overlays. However, she said that the policies did not address the activities in areas of unoccupied land within the wider wind farm that are not in fact used for REG activities. This derives from the definition of 'large scale REG activities' which means "***the land**, buildings, substations, wind turbines, structures, underground cabling earthworks, access tracks, roads, paved areas, internal transmission and fibre networks*….." (Emphasis added). In Ms

Foster's opinion, the definition, and therefore the policies using the defined term, do not make the distinction between the unoccupied (by REG activities) land from the REG buildings, structures and activities that are located on the land.

850. This results in problems with the application of REG-PX to activities on land that is not used for REG activities. In Ms Foster's words:

> "*Although the existing wind farm buildings, structures, roads and transmission facilities are generally not located within ONFLs, SNAs or within natural character areas within the coastal environment, there are unoccupied areas of land within the wider wind farm landholding that are within these overlays. Many of the structures and roads are within identified areas of significance to Māori"*[348]

851. Ms Foster therefore sought that REG-PX be amended to only apply to "*new or altered buildings, structures, access tracks, roads, transmission facilities and earthworks that are proposed to be located within the overlay areas*".[349] In other words, it should not apply to activities within unoccupied areas of land in the wider area of the wind farm.

852. In response to Ms Foster's proposed rewording, Mr Jeffries considered that his recommended wording of REG-P9 is unambiguous in its meaning that upgrading and new large scale REG activities are 'provided for' outside overlays. He didn't agree that the inclusion of 'land' within the definition meant that all upgrading activities would be captured by the 'only allow' provisions of REG-PX.

853. Mr Jeffries did however consider that there were some possible interpretive issues with the way some overlays were referred in his recommended REG-PX. In his view, there was some confusion with the use of the words 'area' and 'site', used variably in relation to overlays, and considering that some overlays don't occupy a whole site (i.e. to its legal boundaries). In his view, addressing the issue raised by Ms Foster could be resolved by referring to 'areas' within overlays. He said that this:

> "…*is preferable and removes the potential for the policy to be interpreted in a way that brings an entire site including areas unaffected by the overlay into its* ambit."[350]

854. The Panel agrees that there was some potential room for misinterpretation of the intent of the policies and that clarification to address Ms Foster's concerns was necessary. We looked at various options and consider that Mr Jeffries's suggestion,

[348] Supplementary statement of evidence of Christine Foster 11 June 2024 para 3.5
[349] Supplementary statement of evidence of Christine Foster 11 June 2024 para 3.7
[350] Reply of Joe Jeffries 19 July 2024, para18

while an advance, would not resolve the problem Ms Foster identified, and would require further 'patching up' of REG-PX to make the meaning clear. This would result in an even longer and more qualified policy.

855. We have decided that Ms Foster's suggested rewording is required in combination with Mr Jeffries' suggested wording changes.

856. However, we have also identified that there is a lack of consistency and completeness in the policy in some places. Some parts of the policy do not specify what sort of effects should be avoided. For example, REG-PX.1, in referring to Heritage overlays states, "*any significant adverse effects are avoided and any other adverse effects are avoided, remedied, or mitigated*." While it is implicit that it is effects on heritage values that are being referred to, by way of comparison, REG-PX.3 says, in regard to SNAs *" …outside the coastal environment, significant effects on the identified values are avoided and any other adverse effects on the identified values are avoided, remedied, or mitigated"*. This can be remedied by adding relevant wording to the sections of the policy which are lacking the necessary specificity. In our view, this can be done by way of a minor change under Clause 16 of the RMA since the intended meaning is reasonably clear.

857. In summary, we recommend adopting the wording proposed by Ms Foster in REG-PX, as above, as well as the revisions Mr Jeffries proposed, and making minor amendments to sections of the policy where more clarity is required to define what effects need to be avoided. A consequential change resulting from this is the same minor amendment needs to be made to REG-P7 in relation to community scale REG activities.

858. Subsequently, in her Stream 11 evidence, Ms Foster drew the Panel's attention to issues arising from the way that the draft REG-PX cross referenced policies in the ECO Chapter. As she observed, such cross references are problematic because the ECO Chapter seeks to give effect to the NPSIB, which does not apply to REG. Resolution of that issue was deferred to the Wrap-Up hearing. In his Section 42A Report for that hearing, the reporting officer (Mr Sirl) recommended that such cross references might appropriately be deleted, both in REG-PX, and in REG-P5 and P7. Having reviewed the matter afresh, Mr Sirl considered that there were sufficient controls in relevant policies to mean that it was unnecessary to refer also to policies in the ECO Chapter. Mr Sirl also recommended deletion of reference to ECO policies in REG-R2 for the same reason.

859. We accept and adopt Mr Sirl's recommendations in this regard for the same reasons.

REG-P3

860. Following the hearing, we asked Mr Jeffries (through Minute 51) whether, in relation to REG-P3, there was merit in requiring effects to be "*minimised*" without the qualification of the words "*as far as practicable*". Mr Jeffries responded that he supported amending the policy to qualify "*minimised*" with "*as far as practicable*". He agreed that without qualification, effects would have to be minimised at any cost. In his view, this was not the intention and was overly onerous, particularly as the policy applies to activities outside overlays. With the addition of "*as far as practicable*", the policy is also more consistent with the direction of the NPSREG. Mr Jeffries considered that the submission of Forest and Bird[351] provided the scope to make this amendment.

861. The Panel agrees with Mr Jeffries that this amendment is necessary to be consistent with the direction of the NPSREG and the intent of the policy.

862. While looking at REG-P3, we observed that there are some additional minor changes required to both assist the reading of the policy and to address and the omission of a cross-reference. Our revised Plan provisions in Appendix 1 show those changes. These are minor amendments that can be made under clause 16 of the RMA.

863. We note that as part of his reconsideration of REG Policies in the Wrap-Up hearing, Mr Sirl also recommended that the Introduction to the REG Chapter be clarified where it seeks to explain the relationship between this Chapter and the balance of the Plan, consistent with the description he recommended be inserted in the Introduction to the Infrastructure Chapter and the General Approach Chapter that we have discussed in Section 2.5 of our report above, and that the cross reference in REG-P7 to VIEW-P5 be deleted.

864. We agree with Mr Sirl's recommendations in this regard also. As regards the latter point, there is no VIEW-P5 and this removal of the cross reference is a minor correction.

[351] Submissions #345.101-102, Further Submissions FS101.86, FS101.87, FS41.33, FS41.34

865. We also agree with the other changes recommended for the reasons discussed in Section 2.5 of our report.

4.3 REG Rules and Standards

REG-R6

866. Meridian[352] submitted (opposed by M&P Makara Family Trust[353]), that REG-R6.1 be amended by deleting the requirement to comply with REG-S9 and REG-S10. Ms Foster considered that reference to NZS6808 was sufficient and REG-S9 and S10 addressed the same matters.

867. In his Section 42A Report, Mr Jeffries acknowledged that there was duplication, but considered REG-S9 and 10 added clarity to NZS6808. The Panel asked Mr Jeffries to advise on the extent of duplication and whether there were any substantive requirements in NZS6808 that were not captured by the REG standards, and if not, whether there was merit in still retaining reference to NZS6808. Mr Jeffries responded that NZS6808 contained additional information including methods for assessing and measuring wind turbine noise effects. In addition, REG-S9 and 10 make available specified information from NZS6808 that assists plan users who do not need to obtain a copy of the national standard. So, while there is some duplication, he recommended that REG-S9 and 10 be retained as they provide clarification and a comprehensive approach to noise management.

868. Ms Foster said in her evidence that ultimately it was a matter of plan efficiency for Council to consider, but that Meridian would not take the matter further.

869. The Panel considers that while there is duplication, being able to reference the requirements in relation to noise largely within the PDP, is of value, and therefore both the standards and reference to NZS6808 should be retained. This is also applicable to reference to the standards in REG-R3, REG-R4 and REG-R5. We do, however, recommend a minor rewording of the cross reference to NZS6808 in REG-S9 to improve the English.

870. A consequential submission by Meridian[354] also sought deletion of the non-complying activity status for activities that do not comply with the noise standard. This was on

[352] Submissions #228.61, 228.62, 228.66, 228.67
[353] Further Submissions FS41.54-56
[354] Submission #228.63

the basis that reference to REG-S9 and 10 was removed. Ms Foster's reasoning was that:

> "*The requirements of the standards are already addressed in NZS6806 and can be addressed in full in the assessment of an application for discretionary activity consent under rule REG-R6. There is no justification for assigning non-complying activity status only to allow consideration of noise effects…"*

871. Mr Jeffries responded in his supplementary evidence that Non-Complying activity status is appropriate for large scale REG activities that don't comply with the standards given the significance of the possible effects. He considered that a more onerous consenting pathway is warranted.

872. The Panel agrees with Mr Jeffries that Non-Complying Activity status is appropriate given the scale of the activity and the possible extent of non-compliance with the standards. This is consistent with the approach taken in the PDP as a whole.

REG-S1 Trimming, pruning or removal of indigenous vegetation within a significant natural area

873. FENZ[355] sought that the standard be amended to ensure that fire risk mitigation is taken into account when assessing applications to trim or remove indigenous vegetation. Mr Jeffries did not agree that this was required as he considered that this matter would be better addressed through the provisions of the ECO Chapter.

874. The Panel asked Mr Jeffries, by way of Minute 51, to comment further on his thinking in relation to the matter. Mr Jeffries stood by his view that this was not strictly a REG activity and can be addressed through the ECO Chapter. However, he acknowledged that vegetation trimming undertaken for the purposes of managing fire risk in association with REG activities could also be considered a REG activity.

875. He therefore recommended the addition of an assessment criteria to require consideration of fire risk where the standard is infringed. As the standard only applies to maintenance and repair of existing REG activities, there is no duplication of the provisions of the ECO Chapter.

[355] Submissions #273.45-46

876. The Panel agrees that this assessment criteria addresses the submitter's concerns and adds clarity to the provisions.

877. WCC-ERG[356] sought the addition of 'cultural values' to assessment criteria REG-S1.2 which requires consideration of '*the effects on the identified ecological and biodiversity values of the significant natural area…."*

878. In his Section 42A Report, Mr Jeffries did not agree that the addition of 'cultural values' was necessary. He considered that this was adequately addressed by cultural values being a component of the identification of significant natural areas set out in Policy 28 of the WRPS and the NPSIB.

879. In response to our question to him through Minute 51, he reconsidered his position and agreed that the addition of 'cultural values' to the assessment criteria would add clarity to the provisions.

880. The Panel considers that this is a necessary addition for clarity and consistency with the identification of other values included in the standard. We adopt Mr Jeffries' revised recommendation.

REG-S6 Small scale renewable electricity generation activities-freestanding wind turbines

881. Andrew Hodge[357] sought that the standard be amended to modify the requirement that wind turbines must be located 60m from a habitable building or a distance of 10 times the wind turbine tower's height above ground level. His proposal was that these requirements be replaced with a distance of 15m from a habitable building.

882. Mr Hodge appeared at the hearing and provided some very useful data to support his submission. His analysis of the application of the 60m distance requirement from a habitable room meant that there were only 12 sites in Wellington that could comply with this. He also outlined the importance of allowing for small scale freestanding wind turbines in the context of rising costs of electricity generation. In addition, he reminded us how well Wellington is placed to harness the wind.

883. While Mr Jeffries had not initially supported removal of the 60m distance, he subsequently reconsidered this view following Mr Hodge's presentation. He agreed

[356] Submission #377.42
[357] Submission #8.1

that the effects of small-scale wind turbines would not be so significant that such a setback was justified, particularly as noise effects are managed through REG-R3. As a result, he agreed with Mr Hodge that a 15m setback from a 'site boundary' would be more appropriate. This would replace the reference to distance from 'a habitable room'. He recognised that building placement can change on adjacent sites thereby compromising a setback from a habitable room.

884. In its review of this matter, the Panel questioned the 15m setback, considering it still an arbitrary number with no rationale provided as to how or why this would be an appropriate measure. We also considered that the effects of small-scale wind turbines are adequately managed through other provisions such as height standards, and noise effects are managed as Mr Jeffries noted, by REG-R3. We therefore concluded that there was no need for a setback requirement, but there was no scope from submissions to delete this entirely. We recommend that Council consider a Plan Change to delete this requirement.

885. In looking further at the assessment criteria, we noted that the limitation of the rotor area of a wind turbine to 200m^2 seems excessive given that the maximum rotor diameter allowed is 5m. This would equate to the maximum rotor area being less than 20m^2. The 200m^2 requirement is therefore, in the Panel's view, redundant. It would never be the element that caused the standard not to be complied with.

886. The Panel considers that REG-S6.1.d can be deleted on this basis and that this amendment can be dealt with as a Clause 16 matter, since it has no effect on what the Plan permits.

REG-S8 Community scale solar panels

887. Meridian[358] sought that the maximum area for solar panels be increased from 150m^2 to 1,500m^2 on the basis that 150m^2 is too small to support community scale solar electricity generation. Meridian also sought the addition of a limitation to restrict the area of a solar panel to the area of the roof to which the panel is attached.

888. WCC ERG[359] sought that the size limitation be removed as it was too limiting and did not deliver on the objectives of the chapter.

[358] Submissions #228.64-65
[359] Submission 377.44

889. Mr Jeffries agreed with Meridian that restricting the area of the solar panel to the area of the building's roof was necessary as there was no direction on community scale roof mounted solar panels. He did not however support increasing the area of the panel or removal of the size limitation.

890. In his supplementary evidence, Mr Jefferies reconsidered Meridian's position, which had been somewhat moderated by Ms Foster who thought that perhaps 1,500m^2 was too large. Mr Jeffries had reached a conclusion that as REG-S8 is only triggered by REG-R4 and consent is required for either a Restricted Discretionary Activity or Discretionary Activity, the scale of the solar panel is able to be considered without a specific area. He concluded that there was no need to specify any size limitation, but he recommended that assessment criteria be added to REG-R4 to provide scope for consideration of scale, form and location matters. This therefore resolved the matter and addressed the submitters' concerns.

891. The Panel agrees that the limitation on size was arbitrary with no rationale for the actual size, and that the revised provisions recommended by Mr Jeffries provide a more finely tuned approach to considering the visual effects of community scale solar panels. We adopt his recommended amendments. We did however restructure REG-R4 to improve the legibility of the recommended amendments. This can be dealt with as a Clause 16 matter as it has no material effect on the meaning of the rule.

4.4 Other Minor Matters

892. We note and accept Mr Sirl's recommendation (in his Wrap-Up Section 42A Report that a number of the REG rules be amended to achieve consistency of language with the balance of the Plan when describing when non-compliance with conditions and standards will cause a more restrictive rule status to apply. We classify these changes as minor, and within the jurisdiction provided by Clause 16 of the First Schedule. We adopt Mr Sirl's recommendations in this regard.

893. Mr Sirl also identified a REG-related submission that had not previously been addressed. This is the submission of M&P Makara Trust seeking addition of a definition of 'repowering' if it is different to 'upgrading'. We have discussed the definition of 'upgrading' in Section 2.4 of our report above. Mr Sirl was of the view that 'upgrading' includes repowering. We agree, and note our acceptance of an addition of reference to increasing output as an outcome of upgrading, which makes that clearer. We also agree with Mr Sirl's point that REG-P12 reinforces the point. In summary, we do not consider that an additional definition is needed.

894. Lastly, we note that a number of REG rules reference the circumstances when the rule will have immediate legal effect. We have discussed this issue in Section 2.14. For the same reasons as are set out there, such notes should be deleted as a minor change having no substantive effect.

5. CONTAMINATED LAND AND HAZARDOUS SUBSTANCES

5.1 Background

895. This final section of the report considers the relevant provisions of the PDP as they apply to the Contaminated Land (CL) and Hazardous Substances (HS) Chapters.

896. The purpose of the Contaminated Land Chapter, as set out in the Introduction section, is to *"manage the subdivision, use and development of contaminated land or potentially contaminated land to protect human health*" and to recognise the benefit of remediating contaminated land which *"can provide social, economic and health benefits for people and communities through enabling future use of the land and development opportunities, including for residential activities and commercial activities."* The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS) also applies in situations where it is proposed to carry out certain activities on land where a Hazardous Activities and Industries List (HAIL) activity is being, or has been, undertaken. In such cases, the activity must be assessed for compliance in accordance with the NES-CS.

897. The purpose of the Hazardous Substances Chapter is to "*protect people, communities and identified areas and their values from the residual risk of facilities and activities involving the manufacture, use and storage, transportation or disposal of hazardous substances*." This Chapter also seeks to separate sensitive activities and hazardous facilities and activities in order to minimise reverse sensitivity effects and unacceptable residual risk.

898. In total there were 12 submissions received in relation to the CL Chapter, and 33 submissions and one further submission received in relation to the HS Chapter.

899. All of these submissions were considered in a single Section 42A Report which addressed both the HS and CL chapters together.

900. The Reporting Officer, Ms Hannah van Haren-Giles, identified the following key issues in contention in each of the chapters:

With respect to CL Chapter, none of the submissions opposed the provisions of the chapter, but one sought amendment;

Regarding HS Chapter, there were three main issues in contention, including:

- *The role and function of WCC and GWRC in managing hazardous substances;*
- *Application of HS-P1; and*
- *Explosives near the gas transmissions pipeline corridor.*

5.2 Contaminated Land Provisions

CL-P3 Management of contaminated land

901. The only submission seeking amendment to the CL Chapter was received from Taranaki Whānui.[360] The submitter requested CL-P3 be amended to reflect Taranaki Whānui partnership opportunities in the assessment of contaminated land practices and restoration and recovery processes.

902. In response, Ms van Haren-Giles outlined in her Section 42A Report that she did not consider any specific amendment to the CL Chapter was necessary. In her view, the submitter's point had already been addressed by CL-P3.3 which minimised the risk to the health and wellbeing of mana whenua by ensuring that land containing elevated levels of contaminants would be managed to protect their significant sites, waterways, natural resources and associated values and relationships. She further noted that there are triggers in the consenting process through the PDP to enable active engagement with mana whenua, where appropriate.

903. However, following the hearing in response to a further question from the Panel[361], Ms van Haren-Giles reconsidered her position in light of the fact that there is no specific provision in the NES-CS for mana whenua involvement in assessments of HAIL activities undertaken to ensure compliance with the national standards. She noted that where contaminated land is within a site or area of significance to Māori, the Sites and Areas of Significance (**SASMs)** Chapter provides for consultation with mana whenua where appropriate. However, she observed this would not necessarily extend to include partnership opportunities. Therefore, she considered there would be benefit in amending CL-P3 to include the following addition to clause 3:[362]

[360] Submission #389.62
[361] Hearing Stream 9 (Contaminated Land and Hazardous Substances) Reporting Officer's Right of Reply of Hannah van Haren-Giles on behalf of Wellington City Council, 19 July 2024; paras 9-11, page 3
[362] *Ibid;* para 11, page 3

Ensuring that land containing elevated levels of contaminants is managed to protect mana whenua's significant sites, waterways, natural resources and associated values and relationships, as well as the general health and wellbeing of their people and rohe, <u>including through partnership opportunities for remediation and/or site management</u>.

904. The Panel agrees with this amendment as it better reflects the status of mana whenua as Treaty partners and provides for their involvement as Kaitiaki to be able to contribute their cultural knowledge and expertise towards the identification, management or remediation of contaminated land in ways that enhance opportunities for the new use and development of contaminated land for the wider social, economic and health benefits of mana whenua and affected communities. In addition, the Panel considers this amendment to CL-P3.3 also better achieves Objective CL-O2 by enhancing the potential benefits of remediating contaminated land through partnership opportunities with mana whenua.

5.3 Hazardous Substances Provisions

The role and function of WCC and GWRC in managing hazardous substances

905. GWRC[363] sought removal of the reference to the Greater Wellington Regional Council's role in managing hazardous substances and the deletion of associated HS Chapter rules. GWRC sought this relief on the understanding that the 2017 amendments to the RMA repealed the provisions in Sections 30 and 31 relating to the function of regional councils and territorial authorities with respect to the management or use of land for hazardous substances.

906. However, Ms van Haren-Giles strongly disagreed with the requested deletions. She noted that whilst WCC no longer has the specific obligation to manage hazardous substances under s31 of the RMA, it retains the broad function to place extra controls on hazardous substances if existing controls in the Hazardous Substances and New Organisms Act 1998 (HSNO) and the Health and Safety at Work Act (HSWA) inadequately address the environmental effects of hazardous substances. In this respect, she considered there was still a role for WCC to make sure that adverse effects of land use activities are managed to ensure the purpose of the RMA is met.

907. She highlighted that the primary matter the HS chapter seeks to manage is the risk profile and location of Major Hazard Facilities (MHF). While HSNO and HSWA are adequate to ensure risks (including cumulative risks) are contained on site, there may

[363] Submission #351.117

be potential for off-site effects or catastrophic consequences associated with their risk despite compliance with HSNO and HSWA. Therefore, provisions in the PDP provide a wider assessment to account for potential risks and effects on surrounding land uses and the environment with respect to facilities that store large volumes of hazardous substances.

908. In any case, Ms van Haren-Giles noted in her Section 42A Report that Policy 63 of the RPS directs that local authorities are responsible for specifying the objectives, policies and methods, including rules, for the control of the use of land for the prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances. In her view, this is precisely what the HS chapter achieves.

909. The Panel agrees with Ms van Haren-Giles that the HS Chapter does achieve its intended purpose in terms of meeting the requirements of RPS Policy 63. In this respect, we accept Ms van Haren-Giles' reasoning and conclusions as outlined in her Section 42A Report with respect to the Council's ongoing role in managing the potential effects of hazardous substances through the PDP. It is clear to us that the Council does have a role to play in managing the residual and cumulative risk, reverse sensitivity effects, and the location and risks associated with MHF, after statutory rules and controls are complied with.

910. As for GWRC's requested relief for the removal of the reference in the Introduction to its own role in managing hazardous substances, Ms van Haren-Giles did not consider this appropriate given GWRC's function in regulating the discharge of hazardous substances (in accordance with Objective 041 and Policy P100 of the Natural Resources Plan). The Section 42A Report also highlighted GWRC's responsibility for identifying and recording sites where hazardous activities have, or currently are, being carried out and, in this sense, the Selected Land Use Register (SLUR) was considered to go hand in hand with activities involving hazardous substances. In this context, Ms van Haren-Giles acknowledged that the HS Introduction could benefit from clarifying GWRC's role and recommended it be amended as follows:

> *Greater Wellington Regional Council, among other government bodies, also has a role in the management of hazardous substances, <u>specifically to regulate the discharges of hazardous substances and administer the Selected Land Use Register (SLUR) that provides a regional database of sites that have or may have, been used for hazardous activities and industries</u>.*

911. The Panel agrees with Ms van Haren-Giles' proposed amendment to the HS Introduction and considers this does provide greater clarity with respect to GWRC's role in the management of hazardous substances.

912. On this basis, the Panel rejects GWRC's requested relief seeking the removal of reference to the regional council in the Introduction to the chapter, and adopts the recommendations of the Section 42A Report accordingly.

HS-P1 Residual risk to people and communities

913. The Oil Companies[364] opposed HS-P1 on the basis that the policy extends to a range of matters which are not specific to hazardous substances and which, in their view would be better managed through provisions applicable to all activities affected by the specific areas or overlays (i.e. in their own chapters). The submitter was particularly concerned about the potential conflict of HS-P1 with the policy direction set by the specific area and overlay chapters, in particular the Natural Hazards Chapter, which does not explicitly seek to avoid hazardous substances in natural hazard areas.

914. As outlined in the Section 42A Report, Ms van Haren-Giles disagreed with the Oil Companies' submission that the matters in HS-P1 are not specific to hazardous substances. She emphasised that the PDP should be read as a whole. If a hazardous facility were to be proposed in, for example, an Outstanding Natural Landscape, then the HS objectives and policies would be a relevant consideration for discretionary or non-complying activities. The intent is that the provisions in each of the zone chapters are sufficient to manage reverse sensitivity and avoid incompatible activities locating within areas where hazardous facilities can be anticipated. With respect to the Natural Hazards Chapter, Ms van Haren-Giles clarified that hazardous facilities are identified as a hazard sensitive activity, and there are policies and rules in the NH chapter to effectively manage this type of activity.

915. At the hearing, Ms McPherson[365] provided planning evidence in support of the concerns raised by the Oil Companies in relation to the wording of HS-P1. In her opinion, the requirement set out in the final paragraph (following clause 7) to avoid residual risk, in the first instance, or to mitigate unacceptable risk where risk avoidance cannot be achieved "*is inappropriate and inconsistent with both the term 'residual risk' and the approach to risk management set out in Objectives HS-O1 and*

[364] Submission #372.82
[365] Statement of Planning Evidence of Georgina McPherson, Hearing Stream 9 – Infrastructure and Risk; 27 May 2024; para 5.4

HS-O2." Ms McPherson emphasised that both Objectives HS-O1 and HS-O2 seek the protection of activities and areas from unacceptable 'residual risk' (her emphasis), which in her view recognises that there is inherent risk in the use and handling of hazardous substances, which cannot be entirely avoided. In this regard, Ms McPherson was of the opinion that the avoidance of residual risk can only be achieved by the hazardous substance activity not occurring in these locations.

916. Furthermore, Ms McPherson considered an avoidance approach to be inappropriate in relation to the natural hazard and SASM overlays, as these affect existing developed areas across a range of underlying zones. She further noted that the natural hazard overlays are widespread throughout the district and of the approximately 22 service stations and other sites currently operated by the Oil Companies across the Wellington district, only two are not affected by natural hazard overlays. For these reasons, Ms McPherson sought amendments to the wording of HS-P1 to remove the avoidance requirement and more clearly focus the policy on the acceptability or otherwise of residual risk, consistent with the definition of the term and the direction set by the Objectives HS-O1 and HS-O2.

917. In her supplementary evidence, Ms van Haren-Giles responded to the specific matters raised by Ms McPherson with respect to HS-P1. She noted that the PDP definition of risk can be summarised as 'risk that remains after other industry and statutory controls have been complied with' i.e. residual risk that would not otherwise be managed. In this sense, Ms van Haren-Giles highlighted the importance of the district plan as: "*the only regulatory instrument available to manage residual risk to matters of national importance and other identified matters under the RMA, such as outstanding natural features and landscapes (ONFL), significant natural areas (SNA), historic heritage, and sites and areas of significance to Māori (SASM)*."[366] In response to Ms McPherson's view that avoidance of residual risk could only be achieved by the hazardous facility not occurring in the identified locations, Ms van Haren-Giles confirmed that that is the intent of the policy. However, she noted that HS-P1 also adopts an effects-based hierarchy that requires residual risk to be avoided, or where avoidance is not practicable, unacceptable risk is adequately mitigated.

918. With regard to locating a hazardous facility within a SASM, Ms van Haren-Giles' view was that this would be inherently inconsistent with the purpose of protecting the cultural significance of SASMs and to her mind was no different to a hazardous

[366] Statement of Supplementary Planning Evidence of Hannah van Haren-Giles on behalf of Wellington City Council, 6 June 2024; para 9

facility locating in an ONFL. She observed that a hazardous facility proposing to locate within a SASM could be compliant with HSNO and HSWA, but this does not mean the residual risk to the cultural values of the site is appropriate, noting that this is the risk the district plan seeks to manage. She considered the avoid directive was appropriate, noting that a consenting pathway exists for the management of residual risk that does not impose a zero-risk approach, but rather provides an appropriately high threshold where avoidance is practicable.[367]

919. The exception to this, as noted by Ms van Haren-Giles, is the approach for Natural Hazards (**NH**) which is self-contained and manages hazardous facilities and major hazardous facilities as 'hazard sensitive activities'. In her Reply, Ms van Haren-Giles clarified that in relation to the NH Chapter *"the Objectives and Policy framework directs that in high hazard areas the existing risk from natural hazards to people, property and infrastructure is reduced or not increased, and in low or medium hazard areas, that risk from natural hazards to people, property and infrastructure is minimised*".[368] In her opinion, the test for Hazardous Facilities and Major Hazardous Facilities in high hazard overlay areas is clear as the activity cannot introduce any greater level of risk. The policy test for Hazardous Facilities and Major Hazardous Facilities in medium and low hazard overlay areas, although not as absolute as compared with high hazard overlay areas, requires that risk is to be *"reduced to the smallest amount reasonably practicable*". Therefore, in Ms van Haren-Giles' opinion, the rule framework and policies for hazard sensitive activities are appropriate in ensuring that risk is reduced to the smallest amount reasonably practicable through requirements such as mitigation measures and ensuring safe evacuation.[369]

920. For the reasons outlined by Ms van Haren-Giles in her supplementary evidence and Reply, we are satisfied that the NH Chapter provides sufficient guidance as to the identification of 'acceptable' levels of risk to reduce the risk to people and property of a natural event. As such, the Panel agrees with Ms van Haren-Giles that it is not appropriate for HS-P1 to include provision for the management of hazardous facilities in 'natural hazard areas' as natural hazard risk is suitably addressed in the NH Chapter.

921. Furthermore, the Panel concurs with Ms van Haren-Giles' reasoning as to the importance of the district plan as the only regulatory instrument available to manage

[367] *Ibid;* para 13, page 2
[368] Hearing Stream 9 (Contaminated Land and Hazardous Substances) Reporting Officer's Right of Reply of Hannah van Haren-Giles on behalf of Wellington City Council, 19 July 2024; paras 18, page 5.
[369] *Ibid;* para 21, page 5.

residual risk to a number of matters of national importance. We disagree that the matters identified by the submitter with respect to HS-P1 would be better managed through provisions set out in the plan chapters relating to those specific areas, as it would result in duplication of HS direction in a manner inconsistent with the National Planning Standards. We therefore consider the notified HS-P1 is more appropriate than the submitter's requested amendments in achieving the objectives of the PDP and the purpose of the RMA.

922. Following the hearing the Panel asked Ms van Haren-Giles (through Minute 51) to provide suggested wording in line with her verbal comments made at the hearing that she supported splitting HS-P1 into two separate policies. This was in response to Ms McPherson's suggested rewording of HS-P1, which highlighted distinct concerns relating to the residual risk of hazardous facilities to both people and communities, as well as to sensitive environments. In her proposed amendments, Ms van Haren-Giles took these matters into account by dividing HS-P1 into two separate policies along the lines suggested by Ms McPherson. Having reviewed the proposed amendments, the Panel considers there is merit in splitting HS-P1 into two separate policies for the reasons outlined by Ms van Haren-Giles in her supplementary evidence and Reply. We consider this will provide greater clarity whilst retaining the substance of the policy, as notified, and will therefore achieve better consistency with the definition of the term 'residual risk' and the direction set by the Objectives HS-O1 and HS-O2.

923. Lastly, the Panel notes that Ms van Haren-Giles indicated she was comfortable with the suggested amendment sought by the Oil Companies that residual risk, where avoidance is not possible, be *"mitigated to an acceptable level"* (instead *of "unacceptable risk is adequately mitigated*"). She did not consider this would detract from the aim of HS-O1 that people, communities and identified areas are protected from any unacceptable residual risk. We agree with her reasoning for this amendment, along with her proposed separation of HS-P1 into two distinct policies, and we accordingly adopt her amended Policy HS-P1, as follows:[370]

> *HS-P1 Residual risk to people and communities*
>
> *Avoid facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances from locating in areas where they may adversely affect human health unless it can be demonstrated*

[370] Hearing Stream 9 (Contaminated Land and Hazardous Substances) Reporting Officer's Right of Reply of Hannah van Haren-Giles on behalf of Wellington City Council, 19 July 2024; para 16, page 5

that the residual risk to human health, people and communities will be avoided, or if avoidance is not possible, mitigated to an acceptable level.

HS-P2 Residual risk to sensitive environments

Avoid facilities and activities involving the manufacture, use storage, transportation or disposal of hazardous substances from locating in:

1. *A Significant Natural Area;*
2. *An Outstanding Natural Feature;*
3. *An Outstanding Natural Landscape;*
4. *A Special Amenity Landscape; and*
5. *A Site or Area of Significance to Māori;*

unless it can be demonstrated that the residual risk to these identified areas and their values will be avoided, or if avoidance is not possible, mitigated to an acceptable level.

Explosives near the gas transmissions pipeline corridor

924. Firstgas[371] sought that a Restricted Discretionary Activity rule be added to manage the use of explosives within 100 metres of the Gas Transmission Network. While Ms van Haren-Giles was sympathetic to the notion of a setback to ensure the safety of the public and property from the use of explosives within a certain distance of the gas transmission network, she was not clear as to the basis upon which the 100m setback had been determined, or whether other existing regulations already managed the use of explosives in relation to gas pipelines.

925. In her Section 42A Report, Ms van Haren-Giles outlined her understanding that the use and storage of explosives is regulated under the Health and Safety at Work (Hazardous Substances) Regulations 2017. Given the paucity of information provided in support of the amendment by Firstgas, she did not support the addition of the suggested rule. However, she was open to reconsidering this request subject to the provision of further information by Firstgas at the hearing.

926. However, there was no additional information in this regard proffered by representatives of Firstgas at the hearing. Therefore, the Panel was unable to clarify the scale and significance of this issue in Wellington, or what other mechanisms may effectively manage this issue. Accordingly, the Panel does not consider there is

[371] Submission #304.38

sufficient evidence to justify the additional rule sought by Firstgas. On this basis, we agree with Ms van Haren-Giles' recommendation in her Section 42A Report that the submission from Firstgas seeking an additional rule to manage explosives near the gas transmission network ought to be rejected.

Other Matters

927. Ms van Haren-Giles noted and agreed with an Oil Companies' submission[372] seeking a new definition of 'Hazardous Facility on the basis that this would provide clarity to Plan users. We agree with her recommendation and Appendix 1 includes the new definition she proposed.

928. CentrePort made two related submissions seeking recognition of the Port Zone. The first[373] sought that HS-P1 be amended to provide, as an additional alternative exception to the avoidance approach the policy directs, for the situation where:

> "*There is a functional need or operational requirement and there are no practicable alternatives*"

929. The second submission[374] sought that HS-R3 provide for new major hazard activities in the Port Zone as a Discretionary Activity (rather than Non-Complying as notified.

930. Ms van Haren-Giles supported the second but not the first. She considered that the existing exception in HS-P1 providing for situations where, if residual hazard risks cannot be avoided, unacceptable risk is adequately mitigated, appropriately addressed the issue CentrePort had raised. We agree with her reasoning and therefore recommend the submission be rejected. Similarly, we agree with her reasoning that the Special Purpose Port Zone is sufficiently akin to the General Industrial Zone to be treated the same way in HS-R3.

Minor Matters

931. We record that in the Wrap-Up hearing, the reporting officer, Mr Sirl, recommended a minor amendment to HS-R2.2, to achieve greater clarity and Plan-wide consistency. We adopt that further change.

[372] Submission #372.6
[373] Submission #402.84
[374] Submissions #402.89-90

5.4 Conclusion

932. As above, the submissions on these two chapters (including relevant definitions) were limited in scope. We have recommended amendments, where appropriate, to respond to the few submissions received seeking changes.

6. CONCLUSIONS

933. We have sought to address all material issues of the parties who have appeared before us put in contention in relation to the topics discussed in this report.

934. To the extent that we have not discussed submissions on this topic, we agree with and adopt the reasoning of the Section 42A Reports prepared by the relevant reporting officers, as amended in their written Reply.

935. Appendix 1 sets out the amendments we consider should be made to the PDP as a result of our recommendations. As noted in Section 2.15 of our report, because the National Grid Sub-Chapter is entirely new, we have shown our recommended amendments relative to the version of the Sub-Chapter provided with the Reporting Officer's Stream 9 Reply. We note also our recommendations that the ePlan maps be amended to show the gas transmission network (refer Section 2.3 of our report) and the National Grid Corridor, and that the latter be tagged with a pop-up Advice Note (refer Section 2.7 of our report).

936. To the extent that the Section 42A Reporting Officer has recommended amendments to the Plan requiring evaluation in terms of Section 32AA that we agree with, we adopt their evaluation for this purpose.

937. Where we have discussed amendments, in particular where we have identified that further amendments should be made, our reasons in terms of Section 32AA of the Act are set out in the body of our Report.

938. Appendix 2 sets out in tabular form our recommendations on the submissions allocated to Hearing Stream 9 topics considered in this report.

939. Finally, we draw the attention of Council to our recommendations:

(a) That it review the Plan for consistency with the Regional Policy Statement once the provisions amended by Change 1 to that document are finalised, including specifically with reference to the definition of 'regionally significant infrastructure',

with a view to aligning the Plan with the Regional Policy Statement via a future Plan Change (refer Section 2.3 of our report);

(b) That it consider amending the definition of 'maintenance and repair' as it relates to infrastructure to include a wider range of renewals/ replacements via a future Plan Change (refer Section 2.4 of our report);

(c) That it consider whether additional guidance is required regarding the inter-relationship between the Infrastructure Chapter and the Infrastructure Sub-Chapters (refer Section 2.7 of our report);

(d) That it review the controls over underground infrastructure currently provided for as Permitted Activities and amending same via a future Plan Change if appropriate (refer Section 2.8 of our report);

(e) That it consider shifting notified INF-R16 to the INF-NG Sub-Chapter via a future Plan Change (refer Section 2.8 of our report);

(f) That it consider mapping the coastal margin via a future Plan Change (refer Section 2.11 of our report);

(g) That it consider amending notified INF-CE-R29 (INF-CE-Rxxx in Appendix 1) to provide a default where the requirements of sub-rule 1 are not met via a future Plan Change (refer Section 2.11 of our report);

(h) That it urgently undertake a Plan Change to ensure that the rules we have identified that refer to incorrect polices operate as intended (refer Section 2.11 of our report);

(i) That it urgently undertake a Plan Change to ensure that INF-NFL-S16, as set out in Appendix 1, provides for assessment of all relevant issues (refer Section 2.13 of our report);

(j) That it review rule TR-R2 to determine if it might be modified to better manage traffic generating activities via a future Plan Chage (refer Section 3.5 of our report);

(k) That it consider whether TR-S8 needs to be amended to specify a GFA limit via a future Plan Change (refer Section 3.3 of our report); and

(l) That it review whether it is appropriate to specify minimum cycle and mobility storage requirements in zones other the Centre zones and the Mixed Use Zone,

and if so, provide for such requirements via a future Plan Change (refer Section 3.6 of our report).

For the Hearing Panel:

Trevor Robinson
Chair
Wellington City Proposed District Plan Hearings Panel

Dated: 17 February 2025