SECOND GENERATION DISTRICT PLAN

Network Utilities
Decision of Hearings Panel

Proposed Second Generation Dunedin City District Plan (2GP)

7 November 2018

User guide to the decision reports and the marked-up decisions version of the 2GP

The decisions of the 2GP Hearings Panel are presented in 29 decision reports (one report per hearing topic).

The reports include the Panel's decisions and reasons and incorporate the requirements under s32AA.

At the end of each report a table has been included summarising all the decisions on provisions (Plan text) in that decision report.

Marked-up version of the Notified 2GP (2015)

The decisions include a marked-up version of the notified 2GP, which shows the amendments made to the notified plan in ~~strike-through~~ and underline. Each amendment has a submission point reference(s) or a reference to 'cl.16' if the amendment has been made in accordance with Schedule 1, clause 16(2) of the Resource Management Act. Schedule 1, clause 16(2), allows minor and inconsequential amendments to be made to the Plan.

Amendments to the Schedules below are not marked up as in other sections of the plan as they are drawn from a different source. Any changes to Schedules are detailed in the decision report for the relevant section.

Some very minor clause 16 changes such as typographical errors or missing punctuation have not been marked up with underline or strikethrough. More significant cl. 16 changes (such as where provisions have been moved) are explained using footnotes, and in some cases are also discussed in the decision.

Hearing codes and submission point references

As part of the requirement of the DCC to summarise all original submissions, all submission points were given a submission point reference, these references started with 'OS'. Further submissions were also summarised and given a submission point that started with 'FS'.

The submission points are made up of two numbers the first is the submitter number, which is followed by a full stop, the second part is the submission point number for that submitter.

For example, OS360.01 is submitter 360 and their first submission point.

The 2GP Hearings Panel has used these same submission point references to show which submission points different amendments were attributed to. However, to enable these changes to be linked to different decision reports, the reference code was changed to start with a decision report code, e.g. Her 308.244.

A list of hearing codes can be found on the following page.

It should be noted that in some cases where several submitters sought a similar change, the submission point reference may not include all of these submission points but rather include only one or say, for instance, "PO 908.3 and others".

Master summary table of all decisions

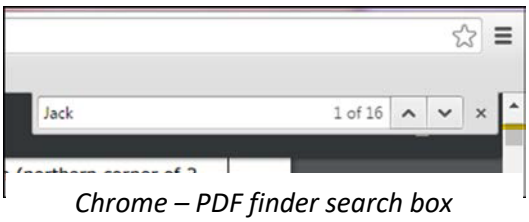
In addition to the summary table at the end of each decision report there is a master summary table that lists all decisions on provisions (Plan text), across all hearing topics, including details of the section(s) of the decision report in which that decision is discussed, and the relevant section(s) of the s42A reports. The s42A report sections will be helpful for appellants needing to identify which other parties have submitted on that provision, as notices of the appeal must be served on every person who made a submission on the provision or matter to which the appeal relates. The master summary table of decisions can be found on the decisions webpage of the 2GP website (2gp.dunedin.govt.nz).

List of hearing codes

Hearing topic	Code
Commercial Advertising (cross plan hearing topic)	CP
Commercial and Mixed Use Zones	CMU
Community Correction Facilities (cross plan hearing topic)	CP
Defence Facilities and Emergency Services (cross plan hearing topic)	CP
Designations	Des
Earthworks	EW
Heritage	Her
Industrial Zones	Ind
Major Facilities (without Port and Mercy Hospital)	MF
Manawhenua	MW
Mercy Hospital	Mer
Natural Environment	NatEnv
Natural Hazards	NatHaz
Natural Hazard Mitigation	HazMit
Network Utilities	NU
Plan Overview and Structure	PO
Port Zone	Port
Public Amenities	PA
Public Health and Safety (PHS)	PHS
Quarries and Mining Activities (cross plan hearing topic)	CP
Recreation Zone	Rec
Residential Zones	Res
Rural Zones	RU
Rural Residential Zones	RR
Scheduled Trees	ST
Service Stations (cross plan hearing topic)	CP
Temporary Activities	TA
Transportation	Trans
Urban Land Supply	ULS

How to search the document for a submitter number or name

1. If you want to search for particular submitter name, submission point or Plan provision in any of the reports (decision report, marked-up version of the Plan, or s42A report) the easiest way to do this is to use the 'Find' function.
2. When you have the document open, press the keys CTRL and F (Windows) or CMND and F (Mac) to bring up the 'PDF Finder'.



Chrome – PDF finder search box

Chrome – PDF finder search box

3. Once the PDF search box appears (in the top left or right corner of your browser) type in the submission number or submitter name and press enter on your keyboard.
4. The PDF finder will search for all instances of this term. Depending on the size of the document and your internet connection it may take a minute or so.
5. Press on the up or down arrows (Chrome) or 'next' (Internet Explorer) in the search box to view the different instances of the term until you find the one you are looking for.
6. An 'advanced search' function is available under the Edit tab in some PDF viewers, this allows you to search 'whole words' only to look for exact strings of letters or numbers

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Appendix 2 – Summary of Decisions

1.0 Introduction

1. This document details the decisions of the Proposed Dunedin City District Plan Hearings Panel/Te Paepae Kaiwawao Motuhake O Te 2GP with regard to the submissions and evidence considered at the Network Utilities and Energy Generation Hearing. The original hearing was held on 14, 15 and 20 July 2016 at the 2GP Hearings Centre. The hearing reconvened on 1 and 2 November 2017 at the Edinburgh Room, Municipal Chambers. Finally, the hearing was reconvened again on 1 December 2017, specifically to look at provisions for activities near the National Grid.

1.1 Scope of Decision

2. This Decision Report addresses all original and further submission points addressed in the Network Utilities s42A report, except:

   - Vodafone (OS576.62), Spark (OS923.62), Chorus (OS925.62), Aurora (OS457.30, OS457.31, OS457.32 and OS457.33) and STOP (OS900.62), which relate to the wording of Section 10 objectives and policies and have been transferred to the Natural Environment Decision.
   - The aspect of STOP's submission point OS900.85 that requests a more restrictive activity status for earthworks – small scale in ONCCs and HNCCs has been transferred to the Natural Environment Decision (the rest of the submission point relates to network utility activities and in addressed in this decision).

3. In addition, it addresses the following points (note that when an original submission point is transferred between topics, all associated further submission points are transferred with it):

   - *Save the Otago Peninsula (STOP) Inc Soc*'s submission point OS900.138, and *Forest and Bird NZ*'s submission points OS958.91 and OS958.93, which relate to the activity status of network utility activities in scheduled Areas of Significant Conservation Value and was included in the Natural Environment s42A Report.
   - The aspect of *STOP*'s submission point (OS900.58) that relates to the activity status of network utility poles and masts in SNLs. This submission point was included in the Natural Environment s42A Report. Other aspects of OS900.58 are addressed in the Natural Environment Decision.
   - *Vodafone NZ Ltd* (OS576.2), *Spark New Zealand Trading Ltd* (OS923.2) and *Chorus New Zealand Ltd* (OS925.2), which seek amendments to provisions to enable service connections to scheduled heritage buildings and scheduled heritage sites, and was included in the Heritage s42A Report.
   - *Radio New Zealand Limited* (OS918.17), which seeks an amendment to the definition of 'sensitive activities' in order to manage reverse sensitivity effects on Radio New Zealand's facilities, and *University of Otago* (OS308.95), seeking that Objective 2.7.1 and associated policies 2.7.1.1 to 2.7.1.3 be retained as notified. These points were inadvertently omitted from consideration in Section 42A reports.
   - *Vodafone NZ Ltd* (OS576.10), *Spark New Zealand Trading Limited* (OS923.10), *Chorus New Zealand Limited* (OS925.10) and *Michael David Newman* (OS1009.1), seeking that the term 'antennas' be used in the Plan instead of 'antennae'. These points were included in the Plan Overview Section 42A Report.
   - *The Oil Companies* (OS634.4), requesting that the definition of buildings be amended to exclude underground infrastructure such as pipes and tanks at service stations. This point was included in the Plan Overview Section 42A Report.
   - *Transpower* (OS806.3), seeking that reference to the New Zealand Electrical Code of Practice for Electrical Safe Distances (ECP34:2001) be added to section 1.1.5 Other requirements outside the District Plan. This point was included in the Plan Overview Section 42A Report.

- *Kiwirail Holdings Limited* (OS322.24), requesting that Rule 5.5.8.6 Clearance from Navigable Water Body be amended to be more enabling. This point was included in the Transportation Section 42A Report.

1.1.1 Section 42A Report

4. The Network Utilities s42A Report deals primarily with plan provisions included in the Network Utilities section of the 2GP, and relevant provisions in the Strategic Directions section. It also covers provisions relating to the management of network utilities in a number of other 2GP sections, most notably the Natural Environment section. This decision should be read in conjunction with the Natural Environment Decision Report.

1.1.2 Structure of Report

5. This decision report is structured by topic. The report does not necessarily discuss every individual submitter or submission point; instead it discusses the matters raised in submissions and records our decisions and reasons on the provisions relevant to each topic[1]. Appendix 2 at the end of the report summarises our decision on each provision where there was a request for an amendment. The table in Appendix 2 includes provisions changed as a consequence of other decisions.

6. Schedule 1 of the RMA outlines key aspects of the process that must be used to prepare and make decisions on a plan change (including the submission and hearing process).

7. Clause 16(2) of that schedule allows a local authority to make an amendment where the alteration "is of minor effect", and to correct any minor errors, without needing to go through the submission and hearing process.

8. This Decision includes some minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process. These amendments are referenced in this report as being attributed to "cl.16". These amendments are summarised in Section 7.0.

1.2 Section 32AA Evaluation

9. Section 32 of the Resource Management Act 1991 (RMA) establishes the framework for assessing proposed objectives, policies and rules. Section 32AA of the RMA requires a further evaluation to be released with decisions, outlining the costs and benefits of any amendments made after the Proposed Plan was notified.

10. The evaluation must examine the extent to which each objective is the most appropriate way to achieve the purpose of the RMA and whether, having had regard to their efficiency and effectiveness, the policies and rules proposed are the most appropriate for achieving the objectives. The benefits and costs of the policies and rules, and the risk of acting or not acting must also be considered.

11. A section 32AA evaluation has been undertaken for all amendments to the notified Plan. The evaluation is incorporated within the decision reasons in sections 4.0 and 5.0 of this decision.

1.3 Statutory Considerations

12. The matters that must be considered when deciding on submissions on a district plan review are set out in Part 2 (sections 5-8, purpose and principles) and sections 31, 32 and 72-75 of the RMA. District plans must achieve the purpose of the RMA and must assist the council to carry out its functions under the RMA.

[1] In accordance with Schedule 1, section 10 of the RMA

13. The s42A Report provided a broad overview of the statutory considerations relevant to this topic. These include:

a) Section 75(3) of the RMA, which requires us to ensure the 2GP gives effect to any National Policy Statement (NPS) or National Environmental Standard (NES) that affects a natural or physical resource that the Plan manages.

b) Section 74(2)(a) of the RMA, which requires us to have regard to the proposed Otago Regional Policy Statement (pRPS) and section 75(3)(c) of the RMA, which requires us to ensure the 2GP gives effect to the operative Otago Regional Policy Statement (oRPS). We note that the proposed RPS was notified on 23 May 2015, and decisions released on 1 October 2016. At the time of making these decisions on 2GP submissions some of the proposed RPS decisions are still subject to appeal, and therefore it is not operative.

c) Section 74(2)(b)(i), which requires us to have specific regard to any other key strategies prepared under the Local Government Act. The s42A Report highlighted the Dunedin Spatial Plan 2012 as needing to be considered as this DCC strategic document sets the strategic directions for Dunedin's growth and development for the next 30 plus years.

14. We note that the following National Policy Statement and National Environmental Standards are directly relevant to this topic.

National Environmental Standards for Telecommunication Facilities (NESTF)

The NESTF are regulations developed to provide a nationally consistent framework for telecommunication facilities, their radio-frequency fields and telecommunications infrastructure in the road reserve. The NESTF has recently been updated, with the NESTF 2016 replacing the original NESTF 2008. The revised NESTF provides for a greater range of telecommunication facilities in a wider range of locations, including:

- cabinets in the road reserve, outside the road reserve and on buildings
- antennas on existing poles in the road reserve
- antennas on new poles in the road reserve
- replacement, upgrading and co-location of existing poles and antennas outside road reserve (with different conditions in residential and non-residential areas)
- new poles and antennas in rural areas
- antennas on buildings (above a permitted height in residential areas)
- small-cell units on existing structures
- telecommunications lines (underground, on the ground and overhead).

The Plan may not include any provisions that are more stringent than those in NESTF 2016, except where the activity is located:

- within the dripline of a tree or other vegetation in the road reserve that is protected in the Plan
- within the dripline of a tree, group of trees, or other vegetation outside the road reserve that the Plan identifies as having special significance
- in an area identified in the Plan as having historic heritage values
- in a landscape feature identified in the Plan as having special visual amenity values
- in an area identified in the Plan as a significant habitat for indigenous vegetation
- in an area identified in the Plan as a significant habitat for indigenous fauna
- in an area identified in the Plan as an outstanding natural landscape or feature, or
- in an area where the Plan has rules to protect the adjoining coastal marine area.

National Policy Statement on Electricity Transmission (NPSET)

The objective of the NPSET is:

To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- *managing the adverse environmental effects of the network; and*
- *managing the adverse effects of other activities on the network.*

The NPSET applies only to the high voltage national grid, which it defines as 'the assets used or owned by Transpower NZ Limited'.

The NPS provides a high-level framework that gives guidance across New Zealand for the management and future planning of the national grid. It does the following:

- acknowledges the national significance of the national grid, which has to be considered in local decision making on resource management
- gives guidance to local decision makers in the management of the impacts of the transmission network on its environment
- recognises the national benefits of electricity transmission, such as better security of supply of electricity
- guides the management of the adverse effects of activities from third parties on the grid which helps reduce constraints on the operation, maintenance, upgrading and development of the grid, and
- ensures long-term strategic planning for elements of the national grid.

The NPSET provides a regulatory framework which works in tandem with the NESETA. These two documents are intended to be used together in order to provide a comprehensive approach to managing activities that occur in relation to the operation of the high voltage national grid network by the operator, Transpower.

National Environmental Standard for Electricity Transmission Activities (NESETA)

The NESETA fulfils the objectives and policies of the NPSET in relation to existing national grid transmission lines. NESETA contains rules that apply 'only to the operation, maintenance, upgrading, relocation, or removal of an existing transmission line'. Therefore, in order to fulfil s75(3) of the Act, the Plan must provide for new national grid transmission structures and lines, and any utilities associated with the operation of the national grid.

National Policy Statement for Renewable Electricity Generation

The NPSREG requires all local authorities to provide for the development, operation, maintenance and upgrade of new and existing renewable electricity generation (REG) activities. District plans must implement the NPSREG by providing for REG activities including solar, biomass, tidal, wave, ocean current, hydro, wind and geothermal energy generation activities. The NPSREG also specifically requires District Plans to provide for small and community scale REG and energy resource investigation devices. The objective of the NPSREG is:

To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation

The NPSREG does not provide specific rules to provide for renewable electricity generation in the form of an accompanying National Environmental Standard; these rules must be included in District Plans in order to fulfil the requirements of s55 of the RMA as applicable to the NPSREG.

15. These statutory requirements have provided the foundation for our consideration of submissions. We note that:

- where submissions have been received seeking an amendment of a provision and that provision has not been amended, we accept the advice in the original s42A Report that the provision as notified complies with the relevant statutory considerations

- where a submitter has sought an amendment in order to better meet the statutory considerations, we have discussed and responded to these concerns in the decision reasons
- in some cases, while not specifically raised, we have made amendments to the Plan as the evidence indicated this would more appropriately achieve these statutory considerations, in these cases we have explained this in our decision reasons
- where we have amended the Plan in response to submissions and no parties have raised concerns about the provisions in terms of any statutory considerations, and we have not discussed statutory considerations in our decision, this should be understood to mean that the amendment does not materially affect the Plan's achievement of these statutory considerations.

2.0 Hearing appearances and evidence presented

2.1 Original hearing commencing 14 July 2016

16. Submitters who appeared at this hearing and/or tabled evidence, and the topics under which their evidence is discussed, are shown below in Table 1. All evidence can be found on the 2GP Hearing Schedule webpage under the relevant Hearing Topic https://2gp.dunedin.govt.nz/2gp/hearings-schedule/index.html

Table 1: Submitters and relevant topics

Submitter (Submitter Number)	Represented by/ experts called	Nature of evidence
Aurora Energy Limited (OS457, FS2375)	Mr Steve Sullivan	Pre-circulated statement of evidence and appeared at hearing
	Ms Joanne Dowd	Pre-circulated planning evidence and appeared at hearing
	Ms Bridget Irving	Legal submissions tabled and appeared at hearing
BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd (OS634, FS2487)	Ms Karen Blair	Pre-circulated planning evidence, did not appear at hearing
Chorus New Zealand Limited (OS925, FS2079)	Mr Chris Horne (called by Chorus, Vodafone and Spark)	Pre-circulated planning evidence and appeared at hearing
	Ms Mary Barton	Pre-circulated evidence and appeared at hearing
Spark New Zealand Trading Limited (OS923, FS2146)	Mr John Ratuszny	Pre-circulated evidence and appeared at hearing
	Mr Graeme McCarrison	Pre-circulated evidence and appeared at hearing

Vodafone NZ Ltd (OS576, FS2076)	Mr Colin Clune	Pre-circulated evidence and appeared at hearing
Federated Farmers of New Zealand (OS919, FS2449)	Mr David Cooper	Tabled statement and appeared at hearing
Generation Zero (OS764)	Mr Finn Campbell and Ms Veronica Eastell	Appeared at hearing
Ms Geraldine Tait (OS101, FS2160)		Tabled statement and appeared at hearing
Horticulture New Zealand (OS1090, FS2452)	Ms Lynette Wharfe	Pre-circulated planning evidence and appeared at hearing
Mr Howard Saunders (FS2373)	-	Appeared at hearing
Liquigas Limited (OS906)	Ms Claire Hunter	Pre-circulated planning evidence, did not appear at hearing
New Zealand Transport Agency (NZTA) (OS881)	Mr Andrew Henderson	Pre-circulated planning evidence, did not appear at hearing
Otago Branch 30 NZ Association of Radio Transmitters (NZART) (OS402)	Mr David Mulder and Mr Adam Campbell	Appeared at hearing
PowerNet Limited (OS915, FS2264)	Ms Megan Justice	Pre-circulated planning evidence and appeared at hearing
Radio New Zealand Limited (OS918, FS2332)	Ms Amy Hill	Tabled statement, did not appear at hearing
Mr Robert Francis Wyber (OS394, FS2059)	-	Tabled statement and appeared at hearing

Save The Otago Peninsula (STOP) Inc Soc (OS900)	Ms Lala Frazer	Tabled statement and appeared at hearing
Dr Simon Ryan (OS600, FS2438)	-	Tabled statement and appeared at hearing
Transpower New Zealand Limited (OS806, FS2453)	Ms Ainsley McLeod	Pre-circulated planning evidence and appeared at hearing
	Mr Dougall Campbell	Pre-circulated evidence and appeared at hearing
	Mr Andrew Renton	Pre-circulated evidence and appeared at hearing
Trustpower Limited (FS2127)	Ms Kirsty O'Sullivan	Pre-circulated planning evidence, tabled summary of evidence, and appeared at hearing
University of Otago (OS308)	Mr Murray Brass	Pre-circulated planning evidence and appeared at hearing

17. Appearances for the Dunedin City Council were:

- Ms Jane Macleod and Mr Peter Rawson, Reporting Officers
- Mr Michael Moore, Landscape Architect
- Mr Peter Christos, Urban Designer

18. Evidence provided by the Dunedin City Council included:

- Section 42A report for Network Utilities, and two addenda
- Reporting Officers' revised recommendations – Network Utilities
- Evidence of Mr Moore, plus graphic supplement
- Evidence of Mr Christos
- Evidence of Mr Christos – addendum

19. Planning assistance to the hearing was provided by:

- Mr Paul Freeland, Senior Planner

2.2 Reconvened hearing commencing 1 November 2017

20. Submitters who appeared at this hearing and/or tabled evidence, and the topics under which their evidence is discussed, are shown below in Table 2.

Table 2: Submitters and relevant topics

Submitter (Submitter Number)	Represented by/ experts called	Nature of evidence
Ms Geraldine Tait (OS101, FS2160)	-	Appeared at hearing
Blueskin Resilient Communities Trust (OS1070)	Ms Bridget Irving	Pre-circulated evidence, appeared at hearing
Aurora Energy Limited (OS457, FS2375)	Ms Bridget Irving	Pre-circulated evidence, appeared at hearing
PowerNet Limited (OS915, FS2264)	Ms Megan Justice	Pre-circulated evidence, did not appear at hearing
Vodafone NZ Ltd (OS576, FS2076)	Mr Colin Clune, Ms Mary Barton and Mr Graeme McCarrison	Pre-circulated evidence, did not appear at hearing
Chorus New Zealand Limited (OS925, FS2079)		
Spark New Zealand Trading Limited (OS923, FS2146)		
University of Otago (OS308)	Mr Murray Brass	Pre-circulated evidence, did not appear at hearing
Transpower New Zealand Limited (OS806, FS2453)	Ms Rebecca Eng	Tabled statement, did not appear at hearing

21. Appearances for the Dunedin City Council were:

- Ms Jane Macleod, Reporting Officer
- Mr Michael Moore, Landscape Architect
- Mr Luke McKinlay, Urban Designer
- Dr Kelvin Lloyd, Ecologist

22. Evidence provided by the Dunedin City Council included:

- Memorandum from Ms Macleod

- Evidence of Mr Moore, plus graphic supplement
- Evidence of Mr Luke McKinlay
- Evidence of Dr Kelvin Lloyd

23. Planning assistance to the hearing was provided by:

- Dr Anna Johnson, DCC City Development Manager

2.3 Reconvened hearing (National Grid only) commencing 1 December 2017

24. Submitters who appeared at this hearing and/or tabled evidence, and the topics under which their evidence is discussed, are shown below in Table 3.

Table 3: Submitters and relevant topics

Submitter (Submitter Number)	Represented by/ experts called	Nature of evidence
Transpower New Zealand Limited (OS806, FS2453)	Ms Ainsley McLeod	Tabled evidence, appeared at hearing
Horticulture New Zealand (OS1090, FS2452)	Ms Lynette Wharfe	Appeared at hearing
Federated Farmers of New Zealand (OS919, FS2449)	Mr David Cooper	Appeared at hearing

25. Appearances for the Dunedin City Council were:

- Mr Peter Rawson and Ms Jane Macleod, Reporting Officers

26. Evidence provided by the Dunedin City Council included:

- Memorandum from Mr Rawson and Ms Macleod

27. Planning assistance to the hearing was provided by:

- Dr Anna Johnson, DCC City Development Manager

3.0 Changes to structure of provisions

28. This section explains a number of changes that have been made, principally under RMA clause 16, to the structure and formatting of provisions. The key changes affect the following provisions:

- definitions of Network Utility Structures, Network Utility Structures – Small Scale and Network Utility Structures – Large Scale
- the Network Utility Activities category in Section 1.6 Nested Tables
- provisions for Irrigation Races and Open Drains, Stormwater Detention Basins and Amateur Radio Configurations
- assessment rules for performance standard contraventions
- Policy 5.2.1.5
- new Policy 18.2.3.13 and new Policy 10.2.3.Z.

29. During the July 2016 hearing, we questioned how provisions were intended to manage non-renewable energy generation, and other types of utility that are not specifically provided for either in the notified list of Network Utilities Activities or in the list of structures provided for in the definition of Network Utility Structures. This matter was not raised by submitters at the hearing or in tabled evidence, but it was touched on in the written submission from *Dunedin City Council* (OS360.236). The Reporting Officers, Ms Macleod and Mr Rawson, did not address this matter in the original s42A Report. However, in response to our questions at the hearing, it was considered in Ms Macleod's memorandum for the November 2017 reconvened hearing. Ms Macleod proposed a number of changes to the structure of network utility provisions both to address this issue and, more generally, to simplify and clarify provisions. Some of these changes were recommended in response to submissions, while others were suggested as minor amendments under Clause 16 of the First Schedule of the RMA.

30. In her further evidence for the November 2017 reconvened hearing, Ms Macleod set out the following problems with the definitions relating to network utilities.

a) Definitions have confusing overlaps, and use the terms "network utilities", "network utility structures" and "network utilities structures" inconsistently.

b) There is detailed reference to some types of utility (e.g. in the definition of Network Utility Structures), which seems to imply that other utilities are excluded, due to their omission from lists.

c) The word "include" is used in an ambiguous way, so that it is unclear whether the intended meaning is "include, but are not limited to…" or "include only the following…"; and, as a result, provisions could be interpreted as omitting to provide for a range of utilities, including:

   i. the generation of energy from non-renewable resources, and from renewable resources other than solar, wind, hydro or biomass, and

   ii. other utility structures that are not specifically listed either in the Network Utility Structures definition, or in any of the specific activity definitions.

31. Ms Macleod indicated that, based on further research into the Plan's evolution, and discussion with staff who reviewed earlier iterations of the section, she had concluded that the intent of the definitions and rules as notified was as follows:

a) to provide separately for, on the one hand, new utilities and, on the other, activities associated with the operation of existing utilities – this is similar to the approach taken for Transportation Activities.

b) to separate out new utilities that involve specialised structures or have other special attributes that determine their effects, and thus need tailored provisions. This is the same approach taken in the Plan for Transportation Activities and some other city-wide activities. Utilities of this kind include: Underground or Internal Network

Utilities; Amateur Radio Configurations; Irrigation Races and Open Drains; Stormwater Detention Basins; Standby Energy Generators; Wind, Solar and Hydro Generators (various scales); Energy Resource Investigation Devices; and Substations. These activities have tailored activity statuses and, in some cases, tailored performance standards, appropriate to the scale and visibility of structures involved and the need to manage health and safety effects.

c) otherwise, to manage all new utilities either as "small scale" or "large scale" Network Utility Structures, depending on whether or not they comply with performance standards relating to scale. This is similar to the approach taken for Earthworks and a number of other activities in the Plan.

32. However, due to the issues with definitions outlined above, the notified provisions did not implement point c clearly enough. Under the intent of the provisions discussed above, non-renewable energy generation – like any other type of utility that is not specifically provided for via other activity definitions – would be provided for as a type of "small scale" or "large scale" network utility structure, depending on its scale (Memorandum, Section 2.3.1).

33. We agree with Ms Macleod that, in order to clarify provisions, the following amendments should be made.

a) Amend definition of Network Utility Structures, to clarify that this definition is not an exclusive list of structures, but rather provides examples of structures associated with the broader definition of network utilities. We also consider that: the list should be reorganised so that examples are grouped by utility type, presented in the same order as in the definition of network utilities; and that the examples of water, stormwater and wastewater utilities that were listed in a separate definition in the notified Plan are instead included in the network utility structures definition.

b) Amend the definitions of Network Utility Structures – Small Scale and Network Utility Structures – Large Scale so that:

- Network Utility Structures – Small Scale includes *all* network utility structures that meet the scale thresholds performance standard (see discussion in Section 4.2.6), i.e. Network Utility Poles and Masts – Small Scale, Hydro Generators – Small Scale, Solar Panels – Small Scale, Wind Generators – Small Scale and all other Network Utility Structures – Small Scale; and
- Network Utility Structures – Large Scale includes *all* network utility structures that do not meet the scale thresholds performance standard, i.e. Hydro Generators – Large Scale, Solar Panels – Large Scale and Wind Generators – Large Scale, and all other Network Utility Structures – Large Scale.

c) Amend the Network Utility Activities category of Section 1.6 Nested Tables to reflect these changes.

34. We consider that the change to the definition of Network Utility Structures provides relief to the *Dunedin City Council's* submission point OS360.236, which requested that the definition of Network Utility Structures be broadened to include "any structures which provide for network utilities". The other changes may be made as minor amendments under RMA Clause 16, as they do not alter the effect of provisions.

35. In addition, we agree with the Reporting Officer's additional suggestions for the reformatting of provisions for further simplification and clarity.

36. Firstly, given that both Irrigation Races and Open Drains, and Stormwater Detention Basins are always permitted with no performance standards under notified provisions, it is more straightforward to amend provisions (specifically, Rule 5.3.2 Activity status table, definitions of Network Utility Structures and Network Utility Activities, and the relevant nested table) to indicate that these activities are not managed via the network utilities provisions of the Plan, and are subject only to Earthworks provisions. This approach will not change the effect of the notified provisions; therefore, we consider that it can be undertaken as a minor amendment under clause 16 of the First Schedule to the RMA.

37. Secondly, the notified provisions separate Amateur Radio Configurations out from Network Utility Structures – Small Scale; however, these two activities have the same activity statuses in all zones and overlays. The only differences are in the performance standards, and in the activity statuses that apply in overlays when performance standards are breached. Therefore, it is more straightforward – and more consistent with the approach generally taken in the 2GP – to treat Amateur Radio Configurations as a type of Network Utility Structure – Small Scale. Under this approach, the tailored performance standards for Amateur Radio Configurations are retained. In order to retain the effect of notified provisions, rules need to be designed so that the activity status of Amateur Radio Configurations that exceed performance standards in overlays remain the same as in notified provisions. Provided this is done, we consider that this change can be undertaken as a minor amendment under Clause 16 of the First Schedule to the RMA, as it amends the formatting of the rules rather than their effect.

38. In summary, the majority of changes to the structure of provisions discussed above have been made under RMA Clause 16. The only exception is our decision on the content of the Network Utility Structures definition, made in response to the DCC's submission point OS 360.236. The following change is required to the Plan to implement our decision:

- amend definition of Network Utility Structures to clarify that it includes all structures associated with Network Utilities as defined in the Plan (NU 360.236).

39. The following changes are required to the Plan to implement the clause 16 amendments discussed above:

- amend definitions of Network Utility Structures – Small Scale and Network Utility Structures – Large Scale as described in paragraph 32b above (NU cl.16)
- amend the Network Utility Activities category of Section 1.6 Nested Tables as described in paragraph 32b above (NU cl.16)
- delete the activity status rules for Irrigation Races and Open Drains, Stormwater Detention Basins and Amateur Radio Configurations – i.e. Rules 5.3.2.6, 5.3.2.7 and 5.3.2.5 (NU cl.16)
- add a new activity status rule for "Network Utility Structures – Large Scale amateur radio configurations only" to allow the notified activity statuses for this activity in different areas to be retained (Rule 5.3.2.C) (NU cl.16)
- delete Irrigation Races and Open Drains, Stormwater Detention Basins and Amateur Radio Configurations from the definition of Network Utility Activities and the Network Utility Activities category of Section 1.6 Nested Tables (NU cl.16)
- amend definition of Network Utility Structures to add "Note irrigation races and open drains and stormwater detention basins are not managed in this Plan as network utility structures. However, earthworks associated with these activities are subject to earthworks provisions." (NU cl.16)
- delete Rule 5.5.1 Amateur Radio Standards (NU cl.16)
- add new Rule 5.5.A.7 Amateur radio configurations – small scale thresholds – as part of Rule 5.5.A Scale Thresholds (NU cl.16)
- delete Rule 5.7.3.1 (contravention of amateur radio standards) (NU cl.16)
- amend Rule 5.8.2.1 and Rules 5.8.3.1-3, and 5.8.3.5-8, which relate to restricted discretionary activities, to refer to "Network utility structures – large scale (amateur radio configurations only)" (NU cl.16)
- amend Rules 5.9.2.4-8 and Rule 5.10.3.2&4, which relate to discretionary activities, to refer to "Network utility structures – large scale other than amateur radio configurations" (NU cl.16)
- amend Policy 10.2.3.2 and Policy 10.2.5.4 (which relate to non-complying activities in ONCCs, HNCCs and ONFs) to refer to "network utility structures - large scale (excluding amateur radio configurations)" (NU cl.16)
- amend Policy 10.2.3.3 and Policy 10.2.5.3 (which relate to restricted discretionary activities in ONCCs, HNCCs and ONFs), and associated assessment rules 10.5.2.3 and 10.5.2.11 to refer to "network utility structures – large scale (amateur radio configurations only)" (NU cl.16)

- amend Rule 10.5.2.7 (relating to restricted discretionary activities in ASCVs) to refer to "network utility structures – large scale (amateur radio configurations only)" (NU cl.16), and
- amend Rule 10.6.2.7 (relating to discretionary activities in ASCVs) to refer to "network utility structures – large scale (excluding amateur radio configurations)" (NU cl.16).

40. We also agree with the Reporting Officer that provisions read more clearly and fluently if the term "network utility" is used instead of "network utilities" in the following defined terms (again, these changes may be undertaken as Clause 16 amendments).

Notified term	**Revised term**
Network utilities structures	Network utility structures
Network utilities structures – small scale	Network utility structures – small scale
Network utilities structures – large scale	Network utility structures – large scale
Network utilities poles and masts	Network utility poles and masts
Network utilities poles and masts – small scale	Network utility poles and masts – small scale
Network utilities activities	Network utility activities

41. Finally, although this matter was not explored in the Section 42A material or in the Reporting Officer's further evidence for the reconvened hearing, we note that Dr Anna Johnson, DCC City Development Manager, who provided planning assistance at the November 2017 reconvened hearing and during deliberations, has proposed a number of further amendments, under clause 16 of the First Schedule to the Act, to clarify assessment rules for network utility activities. These changes affect the structure of assessment rules for performance standard contraventions (Rule 5.7), and are required: to clarify these rules; to ensure they link to appropriate policies; and to ensure that they are structured in the same way as assessment rules in other sections of the Plan. It is also necessary to change Policy 5.2.1.5 and to add new Policy 18.2.3.13, for reasons explained below.

42. The required changes are as follows:

a) delete Rule 5.7.3.6 'Location in a heritage precinct' and Rule 5.7.3.7 'Location in a pedestrian street frontage', and transfer these to new Rule 5.7.X

b) add new Rule 5.7.5 'Assessment of restricted discretionary performance standard contraventions located in an overlay zone or mapped area or affecting a scheduled item'. This rule provides hyperlinks to:

   i. new Rule 18.9.6.7 in Section 18 regarding effects on pedestrian amenity in pedestrian frontages (from breach of location standard or maximum volume standard)

   ii. rule 13.5.4.8 in Section 13 regarding effects on heritage streetscape character in heritage precincts (from breach of location standard or breach of maximum volume standard)

   iii. new Rule 13.5.3.2 in Section 13 regarding effects on heritage values on scheduled heritage sites (from breach of maximum volume standard)

   iv. new Rule 10.4.5.1 in Section 10 regarding effects on the natural character of the coast in NCC overlay zones (from breach of location standard).

c) Amend Policy 5.2.1.5 to remove clause 'b' relating to effects on pedestrian street frontages (and amend the paraphrasing of the policy in assessment Rule 5.7.3.5 to reflect this change). Replace 5.2.1.5.b with new Policy 18.2.3.13: "Require network utility structures – small scale to be of a design, location and scale that maintains a high level of pedestrian amenity in pedestrian street frontages". This policy

provides for the assessment of contraventions of the maximum volume standard (Rule 5.5.B; see discussion in section 4.2.18) by network utility structures – small scale in pedestrian street frontages. We note that, unlike notified Policy 5.2.1.5, new Policy 18.2.3.13 refers only to the maintenance of pedestrian amenity; it does not also provide for the need to 'enable provision of network utilities' to be taken into account. However, we consider that this discrepancy is resolved by our addition of new Policy 5.2.1.A, in response to submissions discussed in section 4.2.1.7 of this report, i.e.: "Enable network utility activities throughout the city where effects can be adequately managed in line with Policies 5.2.1.3, 5.2.1.5, 5.2.1.7, 5.1.2.11, 5.2.1.12 and the objectives and policies of any relevant overlay zones, scheduled sites or mapped areas." Therefore, we are comfortable that the amendment to Policy 5.2.1.5 and addition of Policy 18.2.3.13 will not change the effect of provisions and may be made under clause 16.

43. All changes discussed above, including clause 16 changes, are set out in Appendix 1.

4.0 Key topics discussed at the hearing or covered in tabled evidence

4.1 Context

44. The overarching issue raised by submitters at both the original July 2016 Network Utilities Hearing and the November 2017 Network Utilities Reconvened Hearing was how best to provide for network utilities (including renewable energy generation) in a way that recognises both the benefits provided by utilities and their operational needs, while appropriately managing their potential adverse effects. This issue formed the backdrop to discussion of most provisions and gave rise to a number of more detailed related questions, as set out in sections 4.2 and 4.3.

45. In relation to network utilities in general, a number of utilities companies and other submitters presented evidence arguing for more emphasis to be placed on the benefits or, and constraints facing, network utilities; a range of changes to provisions were sought to achieve this. These submitters included *Aurora Energy Limited*, *BP Oil NZ Ltd, Mobil Oil NZ Ltd and Z Energy Ltd*, *Chorus New Zealand Limited*, *Spark New Zealand Trading Limited*, *Vodafone NZ Ltd*, *Liquigas Limited*, *New Zealand Transport Agency*, *PowerNet Limited*, *Radio New Zealand Limited*, *Transpower New Zealand Limited* and *Otago Branch 30 NZART.* On the other hand, several written submissions sought more emphasis on the management of the adverse effects of utilities; *Save the Otago Peninsula Inc Soc* spoke in support of this view at the hearing. Also, both *Horticulture New Zealand* and *Federated Farmers of New Zealand* argued, in their written submissions and at the hearing, that the interests of affected landowners should be taken into account when designing provisions for network utilities, given that utility structures often need to cross private land.

46. In the case of renewable energy generation (REG), the National Policy Statement for Renewable Electricity Generation 2011 (NPSREG) provides some direction on how the Plan should balance recognition of benefits and constraints with management of effects. The key submitters on REG were:

- the *University of Otago*, *Generation Zero* and (as a further submitter) *Trustpower NZ*, who sought that provisions be amended in a number of ways to better give effect to NPSREG and to be more enabling of REG
- parties involved in the consent application process for the wind energy proposal at Porteous Hill, including the applicant *Blueskin Resilient Communities Trust*, who sought more enabling provisions for community scale wind energy, and local residents *Ms Geraldine Tait* and *Dr Simon Ryan*, who sought a more restrictive approach; and

- *Mr Robert Francis Wyber* and *Ms Elizabeth Kerr*, who sought tighter controls on the potential effects of wind turbines, particularly amenity effects from smaller turbines in an urban setting.

47. At the July 2016 hearing and the December 2017 reconvened hearing, a number of submitters also raised the issue of how best to manage other activities that may have effects that undermine the safe and efficient operation of utilities. These effects can arise both via reverse sensitivity and, more directly, where structures or earthworks are located too close to utility infrastructure, thereby creating risks to health and safety and/or to the physical integrity or ease of operation of the utility. This matter was addressed by *Transpower Limited*, *Aurora Energy Limited* and *Radio New Zealand Limited*, who sought controls on activities around (respectively): the National Grid; Aurora's Critical Electricity Lines; and Radio New Zealand's transmitters on the Otago Peninsula. *Horticulture New Zealand* and *Federated Farmers of New Zealand*, whose members would be among those directly affected by this approach, supported some of the proposed or requested controls, but raised concerns about others.

48. Sections 4.2 to 4.4 of the report discuss these issues in the following order:

- Section 4.2: topics relating to provisions for network utility activities in general
- Section 4.3: topics relating to provisions for renewable energy generation in particular
- Section 4.4: topics relating to the management of other activities that may affect network utilities.

4.2 Provisions for network utility activities in general

4.2.1 Requests for greater recognition of the benefits of, and constraints facing, network utilities in objectives, policies, assessment rules and Sections 5 and 16 Introductions

4.2.1.1 Background

49. This section of the report considers requests from network utility providers to amend a range of 2GP provisions to give greater weight to:

a. recognition that network utilities are essential infrastructure, which provide a range of social, economic and cultural benefits, and

b. recognition of the operational and technical requirements of utilities and the constraints that these impose on location, size and design.

50. Original submission points seeking amendments of this kind were made by *Vodafone NZ Limited (Vodafone), Spark NZ Trading Limited (Spark), Chorus NZ Limited (Chorus), Aurora Energy Limited (Aurora), PowerNet Limited (PowerNet), Radio New Zealand Limited (Radio NZ), Liquigas Limited (Liquigas)* and *Transpower NZ Limited (Transpower)*. These submission points relate to the following provisions:

- Strategic directions
- Section 5 Network Utilities and Energy Generation as a whole
- Introduction to Section 5
- Objective 5.2.1
- policies in Section 5 that manage network utility structures (small scale and large scale) – i.e. Policies 5.2.1.5, 5.2.1.7, 5.2.1.11 and 5.2.1.12
- new policies requested for Section 5
- relevant assessment rules in Sections 5 and 10
- objectives and policies in Section 10: Natural Environment

- Introduction to Section 16: Rural Zones, and a new policy requested for this section.

51. In sections 4.2.1.2 to 4.2.1.9 below, we give our decisions on submissions on each specific provision or provision type in turn.

4.2.1.2 Strategic directions

4.2.1.2.1 Submissions

52. *Vodafone* (OS576.8), *Spark* (OS923.8) and *Chorus* (OS925.8), made identical submissions seeking that Strategic Direction 2.7, Objective 2.7.1 and Policy 2.7.1.2 be amended to relate more broadly to all essential infrastructure, rather than only public infrastructure. The submitters' reasons were that urban growth and development does not just depend on public infrastructure; it relies equally on other services such as telecommunications, broadband and electricity (Vodafone, Spark and Chorus Submissions, p. 6). *Vodafone*'s submission point (OS576.8) was supported by *BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd (the Oil Companies)* (FS2487.6).

53. *Aurora* (OS457.12) sought the deletion of the word "Public" from the title of Strategic Direction 2.7 "Dunedin has Affordable and Efficient Public Infrastructure". The submitter also sought a new objective under 2.7 to provide for "Regionally Significant Infrastructure" (OS457.42) and a new policy under strategic direction 2.7 to provide for the safe and efficient operation of the electricity transmission and distribution networks (OS457.166). *Aurora* considered that these amendments were necessary based on the view that there is currently no acknowledgement of the significance of infrastructure (other than public infrastructure) in the 2GP (*Aurora* Submission, p. 11).

54. *Aurora*'s submission point OS457.42 was supported by *Trustpower Limited (Trustpower)* (FS2127.9), *Waste Management (NZ) Limited (Waste Management)* (FS2444.20) and *the Oil Companies* (FS2487.7). It was also supported in part by *Radio NZ* (FS2332.6). However, OS457.42 was opposed by *Federated Farmers of New Zealand (Federated Farmers)* (FS2449.15) and opposed in part by *Horticulture New Zealand (Horticulture NZ)* (FS2452.12). *Aurora*'s submission point OS457.166 was supported by *Trustpower* (FS2127.10), but opposed by *Federated Farmers* (FS2449.16), *Horticulture NZ* (FS2452.13) and *Transpower* (FS2453.22).

55. *PowerNet* (OS915.6, OS915.7) sought that Objective 2.7.1 be amended, and that a new policy be added under this objective, to include other network utility activities. The submitter considered it necessary to broaden the strategic direction objective and policies to include network utilities that are not encompassed in the Council's own public infrastructure, and to ensure that the essential contribution network utilities make to the social and economic wellbeing of the community is recognised and provided for in the 2GP (*Powernet* Submission, pp. 2-3).

56. *PowerNet*'s submission point OS915.6 was supported by *Trustpower* (FS2127.37), and supported in part by *Transpower* (FS2453.26). *PowerNet*'s submission point OS915.7 was supported by *Vodafone* (FS2076.26), *Chorus* (FS2079.11), *Spark* (FS2146.11) and *Trustpower* (FS2127.11), supported in part by *Radio NZ* (FS2332.7) and *Transpower* (FS2453.11), but opposed by *Federated Farmers* (FS2449.17).

57. *Radio NZ* (OS918.21, OS918.22) also sought that Objective 2.7.1 be amended to better recognise and provide for network utilities in general, and that a new objective and policies be added to Strategic Direction 2.7 to enable network utilities to recognise their benefits, to protect them from adverse effects from other incompatible activities, and to manage the adverse effects of utilities on the environment, having regard to their benefits and functional requirements (Radio NZ Submission, pp. 8-9). *Radio NZ*'s submission point OS918.22 was opposed by *Federated Farmers* (FS2449.13) and *Horticulture NZ* (FS2452.7).

58. The *University of Otago* (OS308.95) sought that Objective 2.7.1 and associated policies 2.7.1.1 to 2.7.1.3 be retained as notified.

59. The Reporting Officer, Ms Jane Macleod, agreed that the Strategic Directions section of the 2GP should be amended to include provisions that: acknowledge the benefits of network utilities and their importance to the social and economic prosperity of the city; enable network utilities to operate efficiently and effectively while managing environmental effects; and protect network utilities from potential adverse effects from other activities. Therefore, she recommended that, in Strategic Direction 2.3 Dunedin is Economically and Socially Prosperous, Objective 2.3.1 should be amended to recognise the economic and social benefits of efficient and effective network utilities, and that a new Policy 2.3.1.7 should be added to outline the methods used in the Plan to enable network utilities to operate efficiently and effectively.

60. Ms Macleod considered that it was more appropriate to amend Strategic Direction 2.3 in this way, rather than to amend Strategic Direction 2.7 as requested by submitters, because the provisions in 2.7 are concerned with ensuring that new development is located in a way that ensures efficient use of public water, wastewater and stormwater infrastructure; therefore, they are not directly relevant to provisions for the operation of utilities themselves.

61. At the hearing, *Aurora*, *the Oil Companies*, *Vodafone*, *Chorus*, *Spark*, *Liquigas*, *PowerNet*, *Transpower*, *Federated Farmers* and *Horticulture NZ* presented evidence relating to provisions for network utilities in the Plan's Strategic Directions section.

62. Ms Joanne Dowd, resource management consultant called by *Aurora*, supported the change to Objective 2.3.1 and the addition of Policy 2.3.1.7 recommended by Ms Macleod, but remained of the view that a separate objective and policy relating specifically to network utilities should be included in the Strategic Directions section of the Plan, in recognition of the importance and economic contribution of utilities to the city (Statement of Evidence, p. 6, para. 20).

63. Ms Karen Blair (planning consultant) called by *the Oil Companies*, supported the recommended change to Objective 2.3.1 and the recommended addition of Policy 2.3.1.7, but requested deletion of the specific types of utility listed in recommended Policy 2.3.1.7. The *Oil Companies* considered the policy should refer simply to 'network utilities', without listing specific examples (Tabled Statement, p.7, para. 4.1-4.4).

64. Mr Chris Horne (planning consultant) called by *Vodafone*, *Chorus* and *Spark*, considered that the approach recommended by the Reporting Officer went some way to addressing *Vodafone*, *Chorus* and *Spark*'s submissions. However, he considered that provisions to enable network utilities seemed out of place under Objective 2.3.1, which aims to "protect" land and facilities important for economic productivity. In Mr Horne's view, this objective is relevant to protecting infrastructure from the adverse effects of third party activity, but not for enabling utilities. Therefore, he considered that it would be preferable either to expand Strategic Direction 2.7 and Objective 2.7.1 as originally requested by the submitters, or include a new, separate objective (Statement of Evidence, pp. 7-8, para. 21).

65. Mr Horne also considered that an additional clause should be added to Policy 2.3.1.7 to recognise that, in some circumstances, network utilities that are not permitted may be necessary, including in more sensitive environments, for functional and operational reasons (Statement of Evidence, p. 8, para. 22).

66. Ms Claire Hunter (planning consultant) called by *Liquigas*, considered that recommended new Policy 2.3.1.7 did not go far enough in managing reverse sensitivity effects on network utilities. Ms Hunter also considered that the recommended policy was written as a method rather than a policy, through the use of descriptions of how the policy will be achieved in clauses (b) and (c). Ms Hunter suggested that the policy be reworded as follows:

> *Enable the effective and efficient development, operation and maintenance of the District's network utilities and ensure that the efficient and effective operation of network utilities are safeguarded and not compromised by incompatible development that could give rise to reverse sensitivity effects and land uses.* (Statement of Evidence, p. 5, para. 4.10).

67. Ms Megan Justice (planning consultant) called by *PowerNet*, considered the recommended changes to Objective 2.3.1 to be appropriate, and was of the view that the objective adequately recognised the important role that network utilities have for the district's economic and social wellbeing. However, she preferred the standalone Strategic Directions objective for network utilities requested in *PowerNet's* submission, on the basis that it would ensure that the Plan appropriately recognised and provided for the essential contribution of network utilities to the community's social and economic wellbeing (Statement of Evidence, p. 5, para. 4.11).

68. Ms Justice also requested the following change to the title of Objective 2.3.1, to align with the language used in Part 2 of the RMA, and to more accurately reflect the content of the provisions: "Protection of land and facilities important for economic ~~productivity~~ and social wellbeing" (Statement of Evidence, p. 6, para. 4.13).

69. In relation to recommended new Policy 2.3.1.7, Ms Justice considered that this provision did not address the reverse sensitivity issues commonly affecting the effective and efficient operation of network utilities, and, like Ms Hunter (called by *Liquigas*) considered that the policy had been written as a method. She requested that the policy be rewritten with a wording similar to that suggested by Ms Hunter (Statement of Evidence, pp. 6-7, para. 4.12).

70. Ms Ainsley McLeod (planning consultant) called by *Transpower*, requested that, in order to give effect to the NPSET with respect to provision for National Grid infrastructure, Objective 2.3.1 and Policy 2.3.1.7 should be amended to provide for the efficient and effective "upgrading and development", as well as "operation", of network utilities. She also requested that Policy 2.3.1.7 be amended to refer to "electricity transmission" specifically (Statement of Evidence, pp. 16-17, para. 55).

71. Ms Kirsty O'Sullivan (planning consultant) called by *Trustpower*, considered that the recommended changes to Objective 2.3.1 went some way towards recognising the important role of network utilities in providing for the social and economic wellbeing of the community. However, in Ms O'Sullivan's opinion, the stand-alone objective proposed by *PowerNet* would be more effective and efficient in achieving this outcome, as it would ensure more definitively that the essential contribution that network utilities make to the social and economic wellbeing of the community is provided for. In Ms O'Sullivan's view, this approach would be consistent with section 5 of the Act (Statement of Evidence, p. 6, para, 5.4).

72. Ms O'Sullivan considered that recommended new Policy 2.3.1.7 was appropriate, and had regard to section 7(b) of the RMA, in that the proposed new policy recognised and provided for network utility activities at a high order, strategic level within the 2GP. However, she was of the view the policy did not address the reverse sensitivity issues commonly affecting the effective and efficient operation of network utilities, and that it had been written as a method rather than a policy, through the use of descriptions of how the policy will be achieved in clauses (b) and (c). She requested that the policy be amended to address these matters (Statement of Evidence, pp. 6-7, para. 5.6-5.7).

73. Mr David Cooper (Senior Policy Advisor) representing *Federated Farmers*, indicated that *Federated Farmers* was not opposed to the importance of network utilities being recognised through Objective 2.3.1. However, *Federated Farmers* did oppose the recommended amendment to the objective to ensure network utilities are able to "operate efficiently and effectively". The submitter considered that it was unclear how the objective would be met in practice, and did not consider that the District Plan was the appropriate mechanism for deciding what is or is not an efficient and effective operation. At a practical level, the submitter was concerned that the recommended amendment set up a "point of potential conflict" in relation to competing land uses. *Federated Farmers*' main concern was that, if Objective 2.3.1 was amended as recommended, the District Plan may "set itself up as an adjudicator of effectiveness and efficiency, and undermine the ability for individual landowners to represent their interests in these matters" (Hearing Statement, para. 10-11).

74. Similarly, while *Federated Farmers* did not oppose part (a) of recommended new Policy 2.3.1.7, the submitter sought that parts (b) and (c) (i.e. "Enable network utilities

through... b. rules that enable network utilities to be established, operated and upgraded efficiently and effectively, while managing any adverse effects on the environment; and c. rules that require activities that may damage and/or impede access to network utilities, and activities that may be sensitive to their effects, to be set back an adequate distance from network utilities") be deleted. In the submitter's view, it has been determined at a national level that protection of the type set out in parts (b) and (c) is appropriate for the National Grid, and the NPSET has been put in place to achieve this. However, there is no such national policy guidance in relation to other utilities. *Federated Farmers* consider that "if such protection is now considered necessary, this should be done consistently at a national level, not piecemeal through district planning processes and subsequent Environment Court processes". In the submitter's view, the recommended policy would "undermine the concerns of other legitimate land uses" including primary production land, which is also protected via Objective 2.3.1 (Hearing Statement, para. 12).

75. Ms Lynette Wharfe, representing *Horticulture NZ*, supported the identification of the National Grid in recommended Policy 2.3.1.7.a. She considered that this would assist with implementing the NPSET, and would give the National Grid greater recognition in the Plan (Statement of Evidence, p. 2, para. 3.6).

76. However, she was concerned about recommended Policy 2.3.1.7.c, which provides a framework for "rules that require activities that may damage and/or impede access to network utilities and activities that may be sensitive to their effects to be set back an adequate distance from the network utilities". Ms Wharfe considered that this wording creates a question about which activities may be included within the framework, and how rules will apply to such activities, as there is little detail on how the framework would be implemented. Therefore, she was of the view that Policy 2.3.1.7.c should be amended: to apply only to new activities (i.e. not to existing activities in the vicinity of network utilities); and to replace the term "impede" with "restrict", so that rules are "only applied where there is a significant restriction or impact on access" (Statement of Evidence, p. 3, para. 3.7-3.10).

77. In addition, Ms Wharfe considered that there was no recognition in Policy 2.3.1.7 that network utilities can impact on other land uses, and requested that part (b) be amended to refer specifically to the potential adverse effects of utilities "on adjacent properties" (Statement of Evidence, p. 3, para. 3.11-3.12).

78. In response to the evidence tabled and presented by submitters, the Reporting Officer made two revisions to her recommendations on Strategic Directions.

79. Firstly, she recommended that the title of Objective 2.3.1 be amended as follows, in order to address points made by Mr Horne (regarding the focus of Objective 2.3.1 on protection) and Ms Justice (regarding the need to refer to social as well as economic factors):

> ~~Protection of land~~ Land and facilities important for economic ~~productivity~~ and social prosperity

80. She did not change her recommendation for the wording of the body of the objective.

81. Secondly, in response to points made by Ms Hunter (opposing the listing of specific utilities) and Ms McLeod (seeking reference to the establishment and upgrading of utilities), she recommended that new Policy 2.3.1.7 be amended as follows:

> *Enable network utilities~~, including energy distribution infrastructure, telecommunication and radiocommunication infrastructure, water, wastewater and stormwater infrastructure, navigational aids, meteorological facilities and river flow recording facilities,~~ through:*
>
> *a. identifying national grid infrastructure on planning maps and protecting the safe and efficient establishment, operation and upgrading of this infrastructure from inappropriate development;*
>
> *b. rules that enable network utilities to be established, operated and upgraded efficiently and effectively, while managing any adverse effects on the environment; and*

c. *rules that require activities that may damage and/or impede access to network utilities, and activities that may be sensitive to their effects, to be set back an adequate distance from network utilities.*

4.2.1.2.2 Decision and reasons

82. We accept in part the submissions from *Vodafone* (OS576.8), *Spark* (OS923.8), *Chorus* (OS925.8), *Aurora* (OS457.12, OS457.42, OS457.166), *PowerNet* (OS915.6, OS915.7) and *Radio NZ* (OS918.21, OS918.22) that request amendments to the Strategic Directions section of the Plan to give more recognition to the importance of network utilities. As discussed above, the witnesses for *Federated Farmers* and *Horticulture NZ* expressed reservations about recognising more than what is protected by the National Policy Statement for Electricity (NPSET) Transmission, but we do not accept that there is any impediment to providing recognition of other elements of network utilities. We are satisfied from the evidence of potential conflicts provided by the network utilities companies that further recognition should be provided as requested, although we have carefully assessed the extent to which this should be carried through into the rules so as to minimise effects on farming, as discussed below.

83. We agree with the Reporting Officer that the most appropriate way to achieve this is by amending Objective 2.3.1 and adding a new policy beneath that objective, rather than by amending the objectives or policies in Strategic Direction 2.7, or by adding a separate new objective to the Strategic Directions section. However, we have made a number of changes to the wording recommended by the Reporting Officer for Objective 2.3.1, in order to improve the clarity of the provision.

84. We consider that the wording below is the most appropriate way to achieve the outcomes sought by submitters, in a way that reflects the drafting protocols of the 2GP and the content of network utility provisions (as amended by our decisions). The planners and resource management consultants called by the submitters generally supported the thrust of these changes, particularly new policy 2.3.1.7 recommended by the Reporting Officer.

Objective 2.3.1*: ~~Protection of land~~ Land and facilities important for economic productivity and social well-being*

Land and facilities that ~~is~~ are important for economic productivity and social ~~prosperity~~ well-being, ~~including~~ which include industrial areas, major facilities, key transportation routes, network utilities and productive rural land are:

a. *~~is~~ protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and*

b. *in the case of facilities, able to operate efficiently and effectively.*

Policy 2.3.1.7

Enable network utilities through:

a. *identifying National Grid infrastructure on planning maps and protecting the safe and efficient establishment, operation and upgrading of this infrastructure from inappropriate development;*

b. *rules that enable network utilities to be established, operated and upgraded efficiently and effectively, while managing any adverse effects on the environment; and*

c. *rules that require activities that may damage or impede access to network utilities, and activities that may be sensitive to their effects, to be set back an adequate distance from network utilities.*

85. As a consequence of our decision to amend Objective 2.3.1 to refer to "economic productivity and social well-being" rather than "economic and social prosperity", we have also made the same change to the wording of Policy 2.3.1.6.

86. Finally, we consider that the assessment rules in Section 5 that apply to all performance standard contraventions and all restricted discretionary, discretionary and non-complying activities (i.e. Rule 5.7.3.Aa&b, Rule 5.8.2.Aa&b, Rule 5.9.2.1, and Rule 5.10.2.1) should be amended to refer to Objective 2.3.1 and to new Policy 2.3.1.7, to ensure that the social and economic benefits of efficient and effective network utilities are appropriately taken into account when assessing consent applications.

87. See Appendix 1 (all amendments attributed to NU918.22).

88. We consider protection of utilities from adverse effects from incompatible activities further in section 4.4 of this report.

4.2.1.3 Section 5: Network Utilities and Energy Generation as a whole

4.2.1.3.1 Submissions

89. *Vodafone* (OS576.9), *Spark* (OS923.9) and *Chorus* (OS925.9) sought that Section 5 as a whole be amended to better provide for network utilities. The submitters' reasons were that telecommunications networks and equipment are constantly evolving, and provisions for upgrades and service extensions are important to maintain supply and access to new and improved services for the community. The submitters did not consider that the provisions in Section 5 were sufficiently enabling or supportive of network utilities (Vodafone, Spark and Chorus Submissions, p. 6).

90. *Radio NZ* (OS918.1) sought that the Plan be amended to better recognise: the critical contribution that infrastructure and network utility operations (such as RNZ's Facilities) make to the social, economic and cultural wellbeing, and health and safety, of the district; the technical and operational constraints that limit the geographic location in which network utilities in general, and RNZ's Facilities in particular, can operate, particularly in relation to land use, subdivision and development; and the need to avoid "reverse sensitivity" effects on network utilities for the benefit of the community (Radio NZ Submission, p. 2). Avoidance of reverse sensitivity effects on utilities is discussed in section 4.4.1 of this report. *Radio NZ*'s submission point was supported by *Trustpower* (FS2127.35).

91. *PowerNet* (OS915.30) sought that the Plan as a whole be withdrawn if the amendments sought by the submitter, which relate to better recognising the benefits and constraints of utilities, are not implemented (Powernet Submission, p. 4)

92. In response to *PowerNet*'s request, Ms Macleod noted that, in a number of cases she had recommended that *PowerNet*'s related submission points be rejected because:

- she did not consider that all amendments were necessary to achieve the overall outcome sought; and
- in some cases, in relation to amendments requested to provisions for network utilities in areas protected for amenity and landscape values, she had recommended that requested amendments be rejected, in order to ensure the appropriate level of protection for these areas.

93. In response to the other submissions, the Reporting Officer agreed with the overall outcome sought. She indicated that, in response both to these submissions and to other submissions on specific provisions, she had recommended a number of amendments to network utility provisions in Sections 5, 10 and 16 of the Plan, including:

- the introduction to Section 5 (see section 4.2.1.4)
- effects tests in Section 5 policies (section 4.2.1.6)
- Section 5 assessment rules (section 4.2.1.8)
- effects test in policies in Section 10: Natural Environment (see discussion in section 3.7.5.2 of the Natural Environment Decision)
- the activity status rule of network utility structures – small scale in certain zones (section 4.2.9)

- performance standards for network utility activities (sections 4.2.15 to 4.2.18)
- provisions for setbacks from identified ridgelines (section 4.2.22)[2]

94. The evidence presented by submitters at the hearing on this topic is discussed in these sections.

4.2.1.3.2 Decision and reasons

95. We accept the submissions from *Vodafone* (OS576.9), *Spark* (OS923.9), *Chorus* (OS925.9), *Radio NZ* (OS918.1), and accept in part the submission from *PowerNet* (OS915.30), requesting that Section 5 as a whole be amended to better provide for network utilities.

96. See our decisions on the introduction to Section 5 (section 4.2.1.4); the wording of Objective 5.2.1 (section 4.2.1.5); effects tests in Policies 5.2.1.5, 5.2.1.7 and 5.2.1.11 (section 4.2.1.6) and on relevant policies in Section 10: Natural Environment (section 3.7.5.2 of the Natural Environment Decision); the content of assessment rules for network utility activities (section 4.2.1.8); the activity status of network utility poles and masts – small scale (section 4.2.8); performance standards for network utility activities (sections 4.2.13-4.2.17); and setbacks from identified ridgelines (section 4.2.20).

97. The reasons for our decisions are as set out in those sections.

98. We reject the submission from *PowerNet* (OS915.30) requesting that the 2GP as a whole be withdrawn where the amendments sought by *PowerNet* are not implemented; we agree with Ms Macleod on this matter.

4.2.1.4 Section 5 Introduction

4.2.1.4.1 Submissions

99. *Radio NZ* (OS918.23) requested several amendments to the Introduction to give more weight to consideration of the benefits of, and the constraints facing, network utilities. *Radio NZ*'s submission was opposed by *Federated Farmers* (FS2449.20).

100. *Aurora* (OS457.167) requested similar amendments to *Radio NZ*. In addition, *Aurora* requested reference to "regionally significant infrastructure", in line with related submission points that are discussed in section 4.4.3 of this decision.

101. *Transpower* (OS806.20) requested a number of additions to the introduction to: recognise the importance of utilities in general; give details of the national significance of the National Grid, as recognised in the NPS on Electricity Transmission and the NES for Electricity Transmission Activities; and refer to the potential for third party activities to adversely affect the operation of network utilities, including the National Grid.

102. The Reporting Officer, Ms Macleod, agreed that the introduction should give more recognition to the benefits and constraints of utilities, and recommended that *Radio NZ* and *Aurora*'s submission points be accepted in part. She suggested a number of amendments to the introduction in response to the submissions, to add details of the benefits of utilities, and to refer to the constraints on scale, location and design associated with the technical and operational requirements of utilities (Section 42A Report, section 5.1.5). The Reporting Officer for National Grid provisions, Mr Peter Rawson, recommended that *Transpower*'s submission be accepted on the basis that the changes would add clarity for Plan users about the significance of the National Grid (Section 42A Report, section 5.2.1).

[2] We note that the Reporting Officer for the Rural Zones Hearing later recommended that these provisions be removed entirely.

103. The submitters did not discuss the Section 5 Introduction at the hearing.

4.2.1.4.2 Decision and reasons

104. Note that the order of paragraphs in the Section 5 Introduction referred to below is based on the decisions version.

105. We accept in part the submissions from *Radio NZ* (OS918.23) and *Aurora* (OS457.167). We do not consider that the level of detail recommended by Ms Macleod regarding the benefits of utilities is necessary; however, we have added more general references to social, economic, cultural and environmental benefits in paragraphs 4, 6 and 8, and have also amended the reference to constraints on utilities in paragraph 8 (all changes attributed to NU 918.23).

106. We also accept in part the submission from *Transpower* (OS806.20); however, we do not agree that so much additional information is required. We consider that the main outcome sought in the submission – i.e. that appropriate recognition is given to the national significance and benefits of the National Grid, and to the potential for other activities to adversely affect the operation of network utilities – is achieved via the amendments to paragraphs 5 and 7 shown in Appendix 1.

107. In her technical advice to the Panel, Dr Anna Johnson (DCC City Development Manager) also suggested that a number of additional amendments be made to the drafting of the introduction, under clause 16 of the First Schedule of the RMA, to clarify the wording and better explain the content of Section 5. We agree with these suggestions, which are as follows:

- new paragraph 1: explanation of what types of activity are provided for as "network utilities" in the Plan
- new paragraph 2: explanation of the relationship between network utilities and "building utilities"
- new paragraph 3: details of the types of infrastructure included in the RMA definition of 'network utility operation' that are not managed via the network utility provisions, and explanation of how these are managed in the Plan
- several minor amendments to wording in paragraphs 4, 6, 8 and 10, plus deletion of the final paragraph, all intended to improve clarity
- paragraph 5: amendment to discussion of renewable energy generation (REG), to: delete a misleading reference to REG not being a 'network utility' (given that it is provided for as a network utility in the Plan); delete a reference to government targets for REG, which may be misleading since government policy is subject to change during the lifetime of the Plan; and to give a more comprehensive summary of the benefits of REG as set out in the NPS for Renewable Electricity Generation
- new paragraph 9: explanation of methods used in the Plan to protect network utilities from third party activities.

108. We note that the reference to the benefits of REG as set out in the NPSREG also gives partial relief, which we support, to NU 308.122 - see discussion of this submission point in section 4.3.5.

109. See Appendix 1 (amendments attributed as set out above).

4.2.1.5 Objective 5.2.1

110. Objective 5.2.1 is as follows:

> *Network utilities activities, including renewable energy generation activities, are able to operate efficiently and effectively, while minimising, as far as practicable, any adverse effects on the amenity and character of the zone; and, where located in an overlay zone, scheduled site, or mapped area, meeting the relevant objectives and policies for those areas.*

4.2.1.5.1 Submissions

111. *Liquigas* (OS906.6) sought that the objective be amended to replace "minimising" with "avoiding, remedying or mitigating". The submitter considered that this change was necessary to align the objective with the effects-based framework of the RMA, and to reduce ambiguity about the acceptable degree of "minimisation".

112. Furthermore, *Liquigas* noted that the objective "does not contemplate circumstances where non-compliance with the objectives associated with an overlay, scheduled site or mapped area may be allowable having regards to the overall merits of a proposal", and considered that the objective should also be amended "to focus on assessment of the nature and significance of adverse effects associated with non-compliance" (Liquigas Submission, Annexure A, p. 2).

113. *Liquigas*'s submission was supported by *Trustpower* (FS2127.15).

114. *Vodafone* (OS576.19), *Spark* (OS923.19) and *Chorus* (OS925.19) requested that the objective be amended to remove the need for network utilities to meet the objectives and policies for overlay zones, scheduled sites and mapped areas, and instead to require that adverse effects on the values of these areas be minimised as far as practicable.

115. The submitters considered that the notified objective sets up a hierarchy in which the overlay provisions are elevated above the network utility provisions. In their view, the objective should be redrafted to enable suitable weighting of competing policy provisions. The submitters also considered that equipment in sensitive areas may be justified in circumstances when there are no reasonable alternatives and the community benefits outweigh any costs (Vodafone, Spark and Chorus Submissions, p. 7)

116. *PowerNet* (OS915.8) requested that the objective be amended so that the phrase "meeting the relevant objectives and policies for those areas" be replaced with "are not contrary to the relevant objectives and policies...". The submitter considered that the notified wording of this objective may be extremely difficult to achieve, and that the phrase "meeting the relevant objectives and policies" does not align with the Act. The submitter's understanding of provisions was that "for the most part, network utility activities in the overlay zones comprise non-complying activities". Based on this understanding, *PowerNet* considered that "the wording applicable to the assessment of non-complying activities under s104D" should be used in the objective (Powernet Submission, p. 3). We note that the submitter's understanding of provisions was not fully accurate; setting aside renewable energy generation activities, the only network utility activities that are non-complying in overlay zones, scheduled sites and mapped areas are "network utility structures – large scale" in the most sensitive landscape and natural coastal character overlays (i.e. ONFs, ONCCs and HNCCs).

117. *PowerNet*'s submission was supported by *Trustpower* (FS2127.16). *Transpower* (FS2453.12) also supported *PowerNet*'s submission, and sought a further amendment to the wording in line with that requested by *Liquigas*.

118. Finally, *Radio NZ* (OS918.24) also sought an amendment to Objective 5.2.1 in relation to overlay zones, scheduled sites and mapped areas. The submitter requested that the provision be amended so that network utility activities were required to meet the objectives and policies for these areas "as far as practicable (having regard to the technical and operational requirements of the network utility activity)". *Radio NZ* considered that it may not be possible for a utility operator to comply with these objectives and policies while still carrying out their function; therefore, an "as far as practicable" qualifier needs to be added (Radio NZ Submission, p. 11)

119. *Federated Farmers* (FS2449.21) opposed *Radio NZ*'s submission.

120. Although *Transpower* did not lodge an original submission point directly relating to Objective 5.2.1, the submitter did seek that a new objective be added to the Plan to "recognise and provide for the ongoing operation, maintenance, upgrading and development of the National Grid" (OS806.21). *Transpower* considered this objective necessary to give effect to policies 2 and 10 of the NPSET. We include this submission point here because we have given partial relief to this point in our decision to amend

Objective 5.2.1, as set out below. We note that our amendment was requested through evidence relating to this broader point – see details of Ms Ainsley McLeod's evidence, below.

121. The Reporting Officer, Ms Macleod, did not recommend any amendments to Objective 5.2.1 in response to submissions. In relation to Liquigas's submission, she noted the term "minimising" has been used in many of the Plan's objectives to describe the end state that will be achieved following measures to avoid, remedy or mitigate effects. She was of the view that "measures to avoid, remedy or mitigate effects are methods rather than outcomes"; the implication being that these terms should, therefore, not be used in an objective, because objectives are statements of desired outcomes (Section 42A Report, section 5.1.7.1).

122. In response to the requests from other submitters to amend the objective as it relates to overlay zones, mapped areas and scheduled sites, Ms Macleod considered that, in order to protect the recognised values of these areas, it is necessary that network utility activities are undertaken in a manner that meets the relevant objectives and policies. However, she accepted that, to ensure that the need for network utilities to be able to operate efficiently and effectively is appropriately balanced with the need to protect special values, some of the policies in 2GP Chapter 10 Natural Environment that relate to the management of network utilities should be amended (Section 42A Report, section 5.1.7.1). We discuss Ms Macleod's recommendations for these policies in section 3.7.5.5 of the Natural Environment Decision.

123. The Reporting Officer for the National Grid provisions, Mr Rawson, recommended that *Transpower*'s request for a new objective be rejected, on the basis that the existing objective reflects the national importance of the National Grid and gives effect to the NPSET (Section 42A Report, Section 5.2.1, p. 108).

124. At the hearing, the submitters presented the following evidence in relation to changes sought to Objective 5.2.1.

125. Mr Chris Horne (planning consultant), called by *Vodafone, Chorus* and *Spark*, remained of the view that Objective 5.2.1 should be amended to require utilities to 'minimise effects on the values' of overlay zones, mapped areas and scheduled sites; he considered that the notified wording elevated overlay policy provisions above network utilities provisions (Statement of Evidence, pp. 9-11, paras 26-36 and Appendix A, p. 7).

126. Ms Claire Hunter (planning consultant), called by *Liquigas*, supported the submitter's view that an amendment to Objective 5.2.1 to replace "minimising as far as practicable" with "appropriately managing".

127. She considered that, if the intention is to provide for an ability to manage adverse effects by avoiding, remedying or mitigating these, then this is what the objective should explicitly say. She noted that 'minimise', in its dictionary definition means to reduce to the smallest possible amount or degree. In her view, this goes further than a requirement to mitigate or remedy, and she was concerned that the literal meaning of the word "minimise" could be applied when assessing applications.

128. She was also concerned that the effects test "minimise as far as practicable" had no regard for the significance or scale of adverse effects. Therefore, the objective required that all adverse effects, regardless of whether these effects are minor or less, are to be minimised. She did not agree that this was an appropriate outcome, and considered that it could potentially constrain the development and ongoing operation of critical and essential network utilities throughout the city.

129. In Ms Hunter's view, the objective should establish a framework whereby adverse effects should be appropriately managed, taking into account factors such as the degree of significance or scale of the effect, as well as recognising that in certain circumstances technical and/or operational constraints may mean that adverse effects are inevitable and could also be acceptable (Statement of Evidence, pp. 3-4, paras 4.3-4.4).

130. Ms Megan Justice (planning consultant), called by *PowerNet*, supported *PowerNet*'s view that Objective 5.2.1 should be amended so that it requires utilities to be 'not contrary

to' the objectives and policies for overlay zones, rather than being required to 'meet' them.

131. She considered that, in seeking to achieve the sustainable management purpose of the RMA, it would be useful to amend these provisions "so that there is adequate scope for decision makers to consider whether a degree of non-compliance with an overlay, scheduled site or mapped area is acceptable" (Statement of Evidence, p. 7, para 4.17).

132. Ms Ainsley McLeod (planning consultant) called by *Transpower*, sought the following amendment to Objective 5.2.1, on the basis that it was necessary to implement the NPS for Electricity Transmission (Statement of Evidence, pp. 14-16, paras 49-53):

> *Network utilities activities, including renewable energy generation and National Grid activities, are able to operate, upgrade and develop efficiently and effectively, while ~~minimising, as far as practicable,~~ managing any adverse effects ~~on the amenity and character of the zone; and, where located in an overlay zone, scheduled site, or mapped area, meeting the relevant objectives and policies for those areas~~ on the environment, having regard to locational, technical and operational constraints.*

133. Ms Kirsty O'Sullivan (planning consultant) called by *Trustpower*, considered that amendments should be made to Objective 5.2.1 to replace 'minimising as far as practicable' with 'appropriately managing', and 'meeting' with 'are not contrary to'. Her reasons were similar to those given by Ms Hunter and Ms Justice for the same requests (Statement of Evidence, pp. 9-11, paras 5.1-6.9).

134. Following the presentation of evidence by submitters, Ms Macleod revised her recommendation that the wording of Objective 5.2.1 should be retained as notified, and recommended the following additions to the objective:

> *Network utilities activities, including renewable energy generation activities, are able to establish, operate and upgrade efficiently and effectively, while minimising, as far as practicable having regard to locational, technical and operational constraints, any adverse effects on the amenity and character of the zone; and, where located in an overlay zone, scheduled site, or mapped area, meeting the relevant objectives and policies for those areas.*

135. These revisions were made in response to *Transpower*'s evidence. Ms Macleod agreed with *Transpower* that it would be appropriate for Objective 5.2.1 to be amended to refer to the establishment and upgrading of utilities as well as their operation, and that it would be appropriate to include a specific reference to "locational, technical and operational constraints" in the objective. She noted that in the Section 42A Report she had recommended amendments to assessment rules to ensure that locational, technical and operational constraints are considered. However, as pointed out in *Transpower*'s evidence, these rules would not be relevant in situations where network utility operators (as requiring authorities) were seeking designations.

136. With regard to both the use of the term "minimising", and the wording of the second half of the objective (i.e. the text after the semicolon), Ms Macleod remained of the view that these elements of the objective should be retained as notified, for the reasons she had given in the Section 42A Report.

4.2.1.5.2 Decision and reasons

137. We reject the submissions from *Liquigas* (OS906.6), *Vodafone* (OS576.19), *Spark* (OS923.19), *Chorus* (OS925.19), *PowerNet* (OS915.8) and *Radio NZ* (OS918.24) in relation to the use of the wording "minimising, as far as practicable" and/or "meeting the relevant objectives and policies" in Objective 5.2.1. We found the advice of the Reporting Officer more compelling on these matters. In our assessment Objective 5.2.1 as recommended by the Reporting Officer appropriately describes a desired end state. It recognises the need to provide for network utilities, while acknowledging the potential for network utilities to generative significant adverse effects. We accept the advice of the Reporting Officer that the test of minimising adverse effects "as far as practicable" is appropriate in this situation.

138. We note that we have considered submissions and evidence on the objectives and policies drafting protocol holistically in the Plan Overview decision, including the use of "minimise as far as practicable" and requests to use "avoid, remedy or mitigate". Based on the assessment set out in the Plan Overview decision, which includes evidence from the Network Utilities hearing, we consider that, other than the amendment set out below, the wording of the objective is appropriate.

139. With respect to the submission from *Transpower* (OS806.21), we agree that the Plan's objectives should refer to the establishment and upgrade of network utilities, as well as their operation, but we do not consider that a separate objective is necessary for the National Grid. Therefore, we accept this submission in part, and make the following amendments to Objective 5.2.1:

> *Network utility activities, including renewable energy generation activities, are able to <u>establish,</u> operate <u>and upgrade</u> efficiently and effectively, while minimising, as far as practicable, any adverse effects on the amenity and character of the zone; and, where located in an overlay zone, scheduled site, or mapped area, meeting the relevant objectives and policies for those areas.*

140. We do not agree with the evidence of *Transpower*, or with the advice of the Reporting Officer, that it is necessary to refer specifically to "locational, technical and operational constraints" in the objective; we consider that recognition of these constraints is implicit in the phrase "as far as practicable".

4.2.1.6 Policies 5.2.1.5, 5.2.1.7, 5.2.1.11 and 5.2.1.12

141. These are the policies in Section 5 that manage network utility activities (excluding those that relate only to energy generation, which are discussed in section 4.3 of this report). They are as follows:

> ***Policy 5.2.1.5***
>
> *Require network utilities structures to be of a scale, size, design and location that enables the provision of network utilities while:*
>
> *a. minimising, as far as practicable, adverse effects on the amenity and character of the zone;*
>
> *b. maintaining a high level of pedestrian amenity in pedestrian street frontages.*
>
> ***Policy 5.2.1.7***
>
> *Require network utilities structures are* [sic] *located, designed, and operated to ensure any risk to health and safety is no more than minor.*
>
> ***Policy 5.2.1.11***
>
> *Only allow network utility structures - large scale, regional scale energy generation in the rural zones, network utilities poles and masts - small scale (other than in the rural, rural residential or industrial zones), community scale energy generation, biomass generators - stand-alone, and biomass energy generation on-site energy generation and energy resource investigation devices (other than in the rural and industrial zones) where the activity is designed and located to avoid any significant adverse effects and minimise adverse effects, as far as practicable, including:*
>
> *a. effects on visual amenity and the character of the zone in which the activity is located; and*
>
> *b. effects on the amenity of any surrounding residential activities.*
>
> ***Policy 5.2.1.12***
>
> *Only allow new network utilities or additions to existing network utilities in transition overlay zones where network utilities are located to support a logical and efficient future pattern of development.*

4.2.1.6.1 Submissions

Policy 5.2.1.5

142. *Aurora* (OS457.194), *Vodafone* (OS576.20), *Spark* (OS923.20), *Chorus* (OS925.20), *PowerNet* (OS915.9) and *Radio NZ* (OS918.26) supported Policy 5.2.1.5 as notified, while *Liquigas* (OS906.7), supported by *Trustpower* (FS2127.18), sought to amend the policy to replace "minimising, as far as practicable" with the "avoiding, remedying or mitigating". *Liquigas* considered that this change was necessary to align the policy with the effects-based framework of the RMA, and to reduce ambiguity about the acceptable degree of "minimisation".

143. The Reporting Officer agreed that the wording of the policy should be amended to be less restrictive, but did not agree that the wording requested by *Liquigas* should be used, as it did not align with the drafting protocol for 2GP policies. She recommended that the policy should be rephrased so that the test for "adverse effects on the amenity and character of the zone" was "avoid or, if avoidance is not possible, adequately mitigate". She noted that this was the standard wording recommended by the drafting protocol for cases in which avoidance of effects may not be possible, and the focus should be on trying to get the best outcome from the development concerned.

144. At the hearing, Ms Claire Hunter, called by *Liquigas*, supported the change requested in *Liquigas*'s submission. Her reasons for seeking removal of the term 'minimise' are set out above in relation to Objective 5.2.1 (see section 4.2.1.5). In addition, she opposed the Reporting Officer's recommended change to the policy to use the phrase "avoid or, if avoidance is not possible, adequately mitigate", for the following reason (Statement of Evidence, p. 4, para. 4.7).

> *In all circumstances, avoidance of adverse effects is possible. For example, the activity could not proceed and therefore the adverse effect is effectively avoided. I suspect that this is probably not the intended outcome by the section 42A report author. However as above I am of the view that provisions in a plan should be drafted in such a manner to avoid ambiguity and interpretation difficulties later that the wording selected should be clear and purposeful.*

145. Ms Megan Justice, called by *PowerNet*, agreed with *PowerNet*'s submission seeking that the wording of Policy 5.2.1.5 be retained as notified. She opposed the Reporting Officer's recommended change to the policy, on the basis that the recommended wording was overly onerous "particularly as the policy would apply in areas that are not within overlay areas such as Outstanding Natural Landscapes" (Statement of Evidence, p. 7, paras 4.19 and 4.20).

146. Ms Ainsley McLeod, called by *Transpower*, sought a number of amendments to the policy test for amenity and character effects in Policy 5.2.1.5, including reference to locational, technical and operational constraints. She considered these amendments necessary to give effect to the NPS for Electricity Transmission, as an alternative to adding the objectives and policies sought in Transpower's submission (Statement of Evidence, pp. 16-18, para. 55).

147. Ms Kirsty O'Sullivan (planning consultant) called by *Trustpower*, supported the change to "avoid, remedy or mitigate" requested by other submitters and supported by *Trustpower*'s further submission, on the basis that it would allow every proposal to be assessed on its merits (Statement of Evidence, p. 11, para. 6.15).

Policy 5.2.1.7

148. *Vodafone* (OS576.21), *Spark* (OS923.21) and *Chorus* (OS925.21) supported Policy 5.2.1.7 as notified, while *Radio NZ* (OS918.27) sought that the policy be amended to replace the phrase "any risk to health and safety is no more than minor" with "any risk to health and safety is minimised to the extent practicable", in order to be more enabling of utilities.

149. Again, Ms Macleod agreed that the wording of the policy should be amended to be less restrictive, but did not recommend that the wording requested by the submitter be used, as it did not align with the drafting protocol. In this case, she recommended that

the policy be amended so that risk to health and safety was to be "avoided or, if avoidance is not possible, no more than minor", as this is the standard wording recommended by the drafting protocol for cases where there is low tolerance for the type of effect being managed (Section 42A Report, section 5.1.7.4). We note that this recommendation was, in fact, out of scope, given that it would make the effects test more restrictive than the notified version.

150. This recommendation was superseded by advice provided by Ms Macleod during the Plan Overview Reconvened Hearing. Based on further analysis of the use of "minimise as far as practicable", set out in the Reporting Officer's Revised Recommendations – Policy Drafting and Terminology (section 6), Ms Macleod advised that the effects test in Policy 5.2.1.7 should be amended from 'risk ... is no more than minor' to 'risk ... is avoided or minimised as far as practicable', in response to *Radio NZ* (OS918.27).

Policy 5.2.1.11

151. *Vodafone* (OS576.24), *Spark* (OS923.24) and *Chorus* (OS925.24) sought that Policy 5.2.1.11 be deleted. They considered the policy to be problematic in that: it seeks to limit "large scale" network utility activities in many of the zones where they may need to be located; it is too directive; and it "will have unintended consequences" (unspecified). The submitters noted that the threshold to be considered "large scale" is quite low in many instances. *Vodafone*'s submission point was supported by *the Oil Companies* (FS2487.8). *Vodafone*, *Spark* and *Chorus*'s submission points were all opposed by *the Runaka* (FS2456.36; FS2456.38; FS2456.39).

152. *Aurora* (OS457.14), supported by *Trustpower* (FS2127.20), *PowerNet* (FS2264.19) and *Transpower* (FS2453.21), sought that Policy 5.2.1.11 be amended to indicate that, when considering the extent to which it is "practicable" to minimise adverse effects of utilities, technical and operational constraints will be taken into consideration (Aurora Submission, p.16). *PowerNet* (OS915.10) supported by *Trustpower* (FS2127.21) but opposed by *the Runaka* (FS2456.37), sought that the policy be amended to provide for adverse effects to be "avoided, remedied or mitigated", rather than "avoided" or "minimised". *PowerNet* also requested that the wording of the policy be amended for clarity (Powernet Submission, p. 3).

153. In response to these submissions, the Reporting Officer recommended that Policy 5.2.1.11 be amended firstly to clarify the wording (specifically, in relation to the types of activity covered by the policy), and secondly to change the effects test from "avoid any significant adverse effects and minimise adverse effects, as far as practicable" to "avoid or, if avoidance is not possible, adequately mitigate adverse effects". She considered that the change to the effects test would "establish a more balanced framework within which decision makers can consider the benefits, technical and operational needs, and potential adverse effects of a network utilities activity, and take all of these matters into account when determining the appropriate level of mitigation for the effects of that activity" (s42A Report, section 5.1.7.5).

154. At the hearing, Ms Justice, called by *PowerNet*, did not consider that the Reporting Officer's recommended amendment to Policy 5.2.1.11 was appropriate. She noted that the policy will apply to all large scale network utility structures and substations, regardless of whether they are located in overlay zones. She considered that the requirements to avoid or adequately mitigate adverse effects on the visual amenity and character of the zone and on residential amenity values were restrictive, as they did not allow for the remedying of adverse effects. As requested by *PowerNet*, she considered that the policy should be amended to include the words 'avoid, remedy or mitigate'. She also considered that, as sought by *Aurora* and supported in *PowerNet*'s further submission, the policy should be amended to include the words "taking into consideration technical and operational constraints of the network utility structure", in order to acknowledge these important factors which, determine the location and scale of utility structures.

155. Finally, she opposed the use of the word "only" in Policy 5.2.1.11. She considered this word inappropriate in the context of provision for network utilities, which are only developed as and when required, and in response to consumer demand. This is different

from, for instance, speculative development for commercial gain (Statement of Evidence, pp. 7-8, paras. 4.21-4.22).

156. Ms McLeod, called by *Transpower*, sought the deletion of Policy 5.2.1.11. She considered this necessary to give effect to the NPS for Electricity Transmission, as an alternative to adding the objectives and policies sought in *Transpower*'s submission (Statement of Evidence, pp. 16-19, para. 55).

157. Ms Kirsty O'Sullivan (planning consultant) called by *Trustpower*, supported the change to "avoid, remedy or mitigate" requested by other submitters and supported by *Trustpower*'s further submission, on the basis that it would allow every proposal to be assessed on its merits (Statement of Evidence, p. 11, para. 6.15).

158. Ms Karen Blair (planning consultant), called by *the Oil Companies*, opposed the recommendation to change the policy to allow mitigation only where avoidance is not possible, and consider that the term 'possible' should be deleted and replaced with the term 'practicable'. Ms Blair considered that, given the constraints on the design and location of network utilities, including lineal network utilities such as petroleum pipelines, it was important to recognise that while it may be possible to mitigate some effects - it may not be practicable. That is, while mitigation may be able to be implemented, it may not be able to be implemented successfully. For example, there may be practical reasons why a pipeline needs to take a certain route, even though it may be possible for it to take an alternate route (Statement of evidence, pp. 7-8, para 5.3).

Policy 5.2.1.12

159. *Vodafone* (OS576.23), *Spark* (OS923.23) and *Chorus* (OS925.23) supported Policy 5.2.1.12 as notified, while *Aurora* (OS457.43) sought to have the wording of the policy amended to read: "Maximise the efficiency of existing network utilities in transition overlay zones or provide opportunities for expansion of such networks to support a logical and efficient future pattern of development."

160. The Reporting Officer recommended that *Aurora*'s submission be rejected on the basis that the requested wording did not comply with the drafting protocol, and because she considered the notified wording a more appropriate way to achieve Objective 5.2.1.

Revised recommendations

161. In response to *the Oil Companies*' evidence regarding the use of "practicable" rather than "possible" in the effects test from Policy 5.2.1.11, Ms Macleod agreed that "practicable" was the preferable term, for the reasons given by the submitter.

162. We note that further advice on a number of the matters raised by these submitters was provided at the reconvened Plan Overview Hearing, by the Reporting Officer for that hearing. These matters include: use of "practicable" rather than "possible"; use of "minimising"; and whether the term "only" should be retained in "only allow..." policies. Refer to the Plan Overview Decision Report.

163. Ms Macleod did not revise any of her other recommendations on the policies, in response to the submitters' evidence.

4.2.1.6.2 Decision and reasons

Policy 5.2.1.5

164. We accept in part the submission of *Liquigas* (OS906.7) regarding the need to amend the effects test for this policy and, therefore, reject the submissions of *Aurora* (OS457.194), *Vodafone* (OS576.20), *Spark* (OS923.20), *Chorus* (OS925.20), *PowerNet* (OS915.9) and *Radio NZ* (OS918.26) seeking that the policy be retained as notified. We agree with the advice of the Reporting Officer that the most appropriate effects test is "avoid or, if avoidance is not possible, adequately mitigate" – except where this is partially overridden by our decision from the Plan Overview Hearing to use the term "practicable" rather than "possible" where this effects test is used. Therefore, we have amended Policy 5.2.1.5 as shown in Appendix 1 (attributed to NU 906.7).

165. This decision also results in consequential changes to the assessment rules that paraphrase Policy 5.2.1.5, i.e.:

- Rule 5.7.3.5.a.ii
- Rule 5.7.3.18.a.ii
- Rule 5.7.3.19.a.ii, and
- Rule 5.7.3.20.a.ii.

166. We have also corrected the wording of Policy 5.2.1.5 so that it includes the full name of the activity to which it applies, i.e. 'network utility structures – small scale'. This change clarifies the connection between this policy and the rules that implement it; therefore, we consider that it gives additional partial relief to the submissions from *Vodafone* (OS576.9), *Spark* (OS923.9) and *Chorus* (OS925.9) seeking that Section 5 be amended to better provide for network utilities (see discussion of these submissions in section 4.2.1.3).

Policy 5.2.1.7

167. We accept in part the submission of *Radio NZ* (OS918.27) regarding the need to amend the effects test for this policy and, therefore, we reject the submissions of *Vodafone* (OS576.21), *Spark* (OS923.21) and *Chorus* (OS925.21) seeking the retention of Policy 5.2.1.7 as notified. We have amended the effects test to 'risk to health and safety is avoided or minimised as far as practicable".

168. We accept the evidence from utility companies that the services they provide are important for the well-being of their customers. This goes to the purpose of the Act set out in section 5. It follows then that the policy should not promote a "no more than minor" test for the inevitable adverse effects of some of the infrastructure needed to provide these essential services. It does not follow however that these adverse effects should be accepted without scrutiny. In our assessment, "minimised as far as practicable" is the appropriate effects test, because it recognises that it is not always possible to provide the necessary infrastructure without creating adverse effects that may be more than minor.

169. We note the advice given at the Plan Overview Reconvened Hearing by Dr Anna Johnson, Reporting Officer, that 'minimise as far as practicable' is a relatively demanding effects test; we consider this appropriate for effects on public health and safety.

170. This decision also results in a consequential change to Rule 5.7.3.16, which is the assessment rule that paraphrases Policy 5.2.1.7.

171. We have also corrected the wording of Policy 5.2.1.7 so that it includes the full name of the activities to which it applies, i.e. 'network utility structures – small scale' and 'underground or internal network utilities'. This change clarifies the connection between this policy and the rules that implement it; therefore, we consider that it gives additional partial relief to the submissions from *Vodafone* (OS576.9), *Spark* (OS923.9) and *Chorus* (OS925.9) seeking that Section 5 be amended to better provide for network utilities (see discussion of these submissions in section 4.2.1.3).

Policy 5.2.1.11

172. We reject the submissions of *Vodafone* (OS576.24), *Spark* (OS923.24) and *Chorus* (OS925.24) seeking deletion of Policy 5.2.1.11 but accept in part the submissions of *Aurora* (OS457.14) and *PowerNet* (OS915.10) seeking that the effects test be amended to be more enabling, and that the wording of the policy be clarified. We consider that our decision on this policy achieves both outcomes. We agree with the advice provided by the Reporting Officer, and have amended the policy as shown in Appendix 1 (attributed to NU 457.14). Note that this decision includes the use of "practicable" rather than "possible" and is, therefore, in keeping with our wider decision on the policy drafting protocol, as set out in the Plan Overview Decision Report.

173. This decision also results in consequential changes to the assessment rules that paraphrase Policy 5.2.1.11, i.e.:

- Rule 5.8.2.A.c

- Rule 5.8.2.A.d, and
- Rule 5.9.2.1.

174. Note that we have also made other changes to the wording of Policy 5.2.1.11, relating to the activities that are covered by this policy. These changes are explained in section 4.2.9 (relating to network utility poles and masts - small scale; change attributed to NU 576.40), section 4.2.13 (relating to substations; change attributed to NU 915.17), section 4.3.5 (relating to renewable energy generation; changes attributed to NU 308.122) and section 4.3.8 (relating to biomass energy generation; changes attributed to NU 308.468 and NU 308.137).

Policy 5.2.1.12

175. We accept the submissions of *Vodafone* (OS576.23), *Spark* (OS923.23) and *Chorus* (OS925.23) seeking that Policy 5.2.1.12 be retained as notified, and reject the submission from *Aurora* (OS457.43) seeking that the policy be rewritten. We accept the advice of the Reporting Officer that the submitter's requested wording does not comply with the 2GP drafting protocol, and in any case the notified wording more clearly supports Objective 5.2.1.

4.2.1.7 New policies requested for Section 5

4.2.1.7.1 Submissions

176. A range of utility companies sought that new policies be added to Section 5 to recognise the benefits of network utilities and/or the technical and operational constraints that utilities must work within.

177. *Vodafone* (OS576.37), *Spark* (OS923.37) and *Chorus* (OS925.37) sought the addition of a new policy to require the benefits of network utilities to be considered where assessing the adverse effects of proposals. These submissions were supported by *Trustpower* (FS2127.23) and *Radio NZ* (FS2332.8 and FS2332.9).

178. *Aurora* (OS457.192) requested that a new policy be added to "Provide for a range of network utilities to operate throughout Dunedin by recognising: operational and technical requirements; location, route and design constraints; the complexity of network utility services and the fact that such infrastructure is generally managed as a connected network; the benefits of network utilities to the wider community, and Dunedin; and the need to respond quickly to service disruptions". *Aurora* noted that the majority of policies in Section 5 relate to the potential adverse effects of network utilities; as a result, there is no "positive policy framework" for utilities. In this submitter's view, the addition of the requested policy would provide the necessary balance to the policy framework. *Aurora*'s submission was supported by *Vodafone* (FS2076.22), *Spark* (FS2146.7), *Chorus* (FS2079.7), *Trustpower* (FS2127.22) and *PowerNet* (FS2264.24).

179. *Transpower* (OS806.24) sought the following new policy: "Consider the locational, technical and operational requirements of network utilities and the contribution they make to the functioning and wellbeing of the community and beyond in assessing their location, design and appearance." *Transpower* considered that this policy was necessary to give effect to Policy 3 of the NPSET (i.e. "When considering measures to avoid, remedy or mitigate adverse environmental effects of transmission activities, decision-makers must consider the constraints imposed on achieving those measures by the technical and operational requirements of the network"). This submission point was supported by *KiwiRail Holdings Limited (KiwiRail)* (FS2162.17) and *PowerNet* (FS2264.6).

180. The Reporting Officer did not agree that the requested policies should be added to Section 5. She noted that she had recommended changes to Objective 2.3.1 and the addition of new Policy 2.3.1.7 to recognise the importance of network utilities to social and economic prosperity in Dunedin (see discussion in section 4.2.1.2, above). She also recommended that the assessment rules in Section 5 be altered so that the assessment of all resource consent applications for network utilities activities involves consideration

of the benefits of network utilities, and of the technical and operational requirements that constrain their location, size and appearance (see discussion in section 4.2.1.8). She considered that these amendments achieved the outcomes sought by the submitters and, therefore, that it was unnecessary to add any of the new policies requested by submitters (Section 42A Report, section 5.1.4, pp. 33-34).

181. At the hearing, the submitters presented the following evidence in relation to requested new policies for Section 5.

182. Ms Dowd, representing *Aurora,* remained of the view that a new policy focussing on a balance between providing for network utilities and managing the adverse environmental effects was required, noting "no such positive policy framework is provided" (Statement of Evidence, pp. 6-7, paras 21-23).

183. Mr Horne, called by *Vodafone, Chorus and Spark*, considered that the Reporting Officer's recommended changes to policies in Section 10: Natural Environment provided some relief to the submitters' request that there be more flexibility for network utilities to be considered in more sensitive environments in some circumstances, but remained of the view that a new policy should be added that requires the benefits of utilities to be considered when assessing the adverse effects of proposals (Statement of Evidence, pp. 10-11, paras. 29-32).

184. Ms Justice, called by *PowerNet*, supported *Aurora's* request – as supported in *PowerNet*'s further submission – for a new policy to be added to Section 5 to recognise the locational and technical constraints inherent in providing network utility services to the community. In Ms Justice's view, the suite of objectives and policies contained in Section 5 (as recommended in the s42A report) remained unbalanced, and did not adequately recognise that network utilities are an essential service for the community. Ms Justice noted that, without network utilities, the economy would falter, and community wellbeing would diminish, and that by their nature network utilities will result in some adverse effects, and avoiding such effects in most situations, not being possible. Therefore, she requested that a policy recognising the operational and technical requirements and constraints, and the benefits, of network utilities, be added as the first policy listed in Section 5 (Statement of Evidence, p.9, para. 4.23).

185. Ms McLeod, called by *Transpower*, sought the addition of a new policy to "Recognise and provide for the benefits of the National Grid by enabling its operation, maintenance, upgrading and development". She considered these amendments necessary to give effect to the NPS for Electricity Transmission, as an alternative to adding the objectives and policies sought in *Transpower*'s submission (Statement of Evidence, pp. 16-17, para. 55).

186. Finally, Ms O'Sullivan, called by *Trustpower*, supported *Aurora's* request – as supported in *Trustpower*'s further submission – for a new policy to be added to Section 5 to recognise the locational and technical constraints inherent in providing network utility services to the community. Her reasons were similar to those given by Ms Justice, above (Statement of Evidence, p.13, paras. 6.22 and 6.23).

187. Ms Macleod did not revise her recommendations on the requested new policies in response to the submitters' evidence.

4.2.1.7.2 Decision

188. We accept in part the submissions of *Vodafone* (OS576.37), *Spark* (OS923.37), *Chorus* (OS925.37), *Aurora* (OS457.192) and *Transpower* (OS806.24). Partial relief is provided by our amendments to the Strategic Directions section and Section 5 assessment rules, set out in sections 4.2.1.2 and 4.2.1.8 of this report.

189. In addition, we consider that a general 'enabling' policy for network utility activities should be added to Section 5, as follows:

> Enable network utility activities throughout the city where effects can be adequately managed in line with Policies 5.2.1.5, 5.2.1.7, 5.2.1.11, 5.2.1.12, 5.2.2.2 and the

objectives and policies of any relevant overlay zones, scheduled sites or mapped areas.

190. We consider this aligns with the approach taken in other sections of the plan – see for example Policy 15.2.1.1 (Residential and Community activities in residential zones), Policy 16.2.1.2 (Rural activities in rural zones) and Policy 3.2.1.1 (public amenities). We consider that this policy partially achieves the outcome sought in the submissions discussed above, in particular that of *Aurora* (OS457.192). It also addresses an issue with the assessment of network utilities in pedestrian street frontages, as discussed in section 3.0 of this report, above (see para 41c).

191. We consider that this new policy, provisionally numbered 5.2.1.A (to be renumbered in the 'clean' decisions version of Plan), should be referenced in the following assessment rules:

- Rules 5.7.3.A.a and 5.7.3.A.b (assessment of all performance standard contraventions)
- Rules 5.8.2.A.a and 5.8.2.A.b (assessment of all restricted discretionary activities)
- Rule 5.9.2.1 (assessment of all discretionary activities)
- Rule 5.10.2.1 (assessment of all non-complying activities)

192. See Appendix 1 (amendments attributed to NU 457.192).

4.2.1.8 Assessment rules in sections 5 and 10

4.2.1.8.1 Submissions

193. Although *Vodafone* (OS576.57), *Spark* (OS923.57) and *Chorus* (OS925.57) supported Rule 5.7.2 Assessment of all performance standard contraventions, clause e and f (General assessment guidance), overall these submitters (OS576.58; OS923.58; OS925.58) sought that both the Section 5 assessment rules, and the Section 10 (Natural Environment) assessment rules that relate to network utilities, be amended in two ways:

1. to replace directive statements, such as 'Network utilities are designed and located to avoid any significant adverse effects and minimise adverse effects, as far as practicable, including: ' with assessment matters such as 'the extent to which…'
2. to include criteria that require consideration of functional, technical and operational requirements of network utilities, and community benefits, so that a more balanced assessment of benefits and costs can be undertaken.

194. *Aurora* (OS457.26 and OS457.35) and *Radio NZ* (OS918.38) made similar points in relation to specific assessment rules in Sections 5 and 10. *Aurora*'s submission point OS457.26 was supported by *Trustpower* (FS2127.33), and *Radio NZ* was supported by *Trustpower* (FS2127.34) and *Aurora* (FS2375.20) but opposed by *Harboursides and Peninsula Preservation Coalition* (FS2267.114).

195. The Reporting Officer noted that the outcome sought at point 1 is contrary to the 2GP drafting guidelines; one of the key aims in the drafting of 2GP assessment rules was to provide clearer guidance for the assessment of resource consents. Ms Macleod considered that an essential part of this is clearly referencing the policy that the rule that has triggered the resource consent application is intended to achieve. The 2GP drafting protocol also recommends that assessment rules that are worded more like questions than statements (e.g. 'Whether…', 'The extent to which…') should be avoided, as these do not give a clear indication of the outcomes sought. Therefore, Ms Macleod did not agree that assessment rules should be amended as sought in this aspect of the submissions.

196. However, Ms Macleod noted that amendments that she had recommended to effects test in policies (e.g. Policy 5.2.1.11) would have knock on effects for the assessment

rules that assessed activities against these policies. She considered that this may address some of the submitters' concerns.

197. In relation to point 2, Ms Macleod agreed with the submitters that it would be appropriate to amend all assessment rules in Section 5 to ensure that the benefits and operational and technical requirements of utilities are taken into account and recommended a number of changes to the Section 5 assessment rules to achieve this. She considered that these amendments were necessary to provide a framework within which the benefits that utilities provide to social and economic wellbeing, and the constraints on location, size and design that derive from their technical and operational requirements, are considered alongside potential adverse effects.

198. She noted that the Section 5 assessment rules applied to all resource consent applications for network utility activities, including those that are also subject to rules in Section 10. Therefore, she did not consider that any further amendments were necessary to the Section 10 assessment rules to achieve the outcomes sought by the submitters (Section 42A Report, section 5.1.13.1, pp. 87-89; 5 July 2016 Addendum to s42A Report, section 1.3, pp. 3-6).

199. At the hearing, the submitters presented the following evidence in relation to assessment rules.

200. Ms Blair, called by *the Oil Companies*, supported the recommended changes to assessment rules (Statement of Evidence, p.7, para 4.5 and p. 16, Attachment A), as did Ms Justice, called by *PowerNet* (Statement of Evidence, p.11, para 4.32) and Mr Horne, called by *Vodafone, Chorus and Spark* (Statement of Evidence, pp. 11-12, para. 35).

4.2.1.8.2 Decision and reasons

201. We accept in part the submissions from *Vodafone* (OS576.58), *Spark* (OS923.58) and *Chorus* (OS925.58) to the extent that we agree that more emphasis should be placed on the benefits of network utilities, and on their functional and operational requirements. However, we agree with the Reporting Officer that requested amendments to replace directive statements with "assessment matters such as 'the extent to which'" would not provide clear guidance to Plan users.

202. In keeping with this decision, we accept in part *Aurora*'s submission point (OS457.26) requesting recognition of operational and technical constraints in a specific assessment rule in Section 5 (Rule 5.8.2.2), but reject submissions from *Radio NZ* (OS918.38) and *Aurora* (OS457.35) seeking changes that would make assessment guidance less clear.

203. The amendments required for these decisions, including consequential amendments, are as follows.

- Delete existing references to the importance of activities to the maintenance or establishment of a network utility service, and to the benefits of utilities, in Rule 5.7.2.1, and instead add new Rules 5.7.3.A.a and 5.7.3.A.b 'All performance standard contraventions', so that matters of consideration include the "benefits of network utility activities", and "technical and operational constraints of network utility activities".
- Amend guidance for assessment of contraventions of the Location performance standard (Rule 5.7.3.5.a.iii) to give more emphasis to operational considerations.
- Add new Rules 5.8.2.A.a and 5.8.2.A.b applying to 'All restricted discretionary network utility activities', so that matters of consideration include the "benefits of network utility activities" and "technical and operational constraints of network utility activities".
- Amend Rules 5.8.2.A.c and 5.8.2.A.d, which provide for the assessment of "effects on character and amenity of zone" and "effects on surrounding sites' residential amenity", to:

- provide for consideration of various factors that may mitigate adverse effects (by adding new Rules 5.8.2.A.c.iv&v and amending Rule 5.8.2.A.c.vii);
- give more emphasis to operational considerations (by amending Rule 5.8.2.A.c.ix and adding new Rule 5.8.2.A.d.iii);
- avoid introducing effects test in assessment rules that are more restrictive than the effects test in the relevant policy (by amending Rule 5.8.2.A.c.viii&x); and
- remove assessment guidance that is superfluous (by deleting Rules 5.8.2.A.c.iii&vi).

- Amend Rule 5.9.2.1 'All discretionary activities' to provide for consideration of technical and operational constraints (via addition of 5.9.2.1.e.iii), and to provide for consideration of various factors that may mitigate adverse effects; and the assessment of alternative sites (via addition of 5.9.2.1.j, k, l and n).
- Amend Rule 5.10.2.1 'All non-complying activities' to provide for consideration of the importance of the activity to the provision of a network utility service, and technical and operational constraints (via addition of 5.10.2.1.d.ii and 5.10.2.1.f).

204. See Appendix 1 (amendments attributed to NU576.58).

4.2.1.9 Section 16 introduction and requested new policy

4.2.1.9.1 Submissions

205. *Radio NZ* (OS918.39) requested that the introduction of Section 16: Rural Zones be amended to add: "Network utilities that provide essential services for Dunedin's communities may also be located in the rural environment." The submitter noted that rural locations for network utilities were often essential to enable utilities to meet the needs of people living in both urban and rural environments (Radio NZ Submission, p. 17).

206. *Radio NZ* also requested (OS918.41) that a new policy be added to Section 16, as follows: "To enable and provide for the effective operation of network utilities that are required to be located in the rural zones for technical or operational reasons."

207. The submitter considered that this was necessary to recognise that it is appropriate for network utilities to be located in the rural zones, where such a location is required for the effective operation of the network utility (Radio NZ Submission, p. 18).

208. Ms Macleod recommended that both submission points be rejected. She noted that the purpose of the introduction to Section 16 was to discuss the resource management issues to be addressed in Dunedin's rural zones and set out the methods that the section uses to address them. Therefore, in her opinion, it was not appropriate to add the text requested by *Radio NZ*, since network utility activities are not managed by rules in Section 16, except in relation to setbacks from ridgelines (Section 42A Report, section 5.1.6, p. 38). She opposed the addition of the requested policy to Section 16 for similar reasons (Section 42A Report, section 5.1.9, p. 66).

209. In her statement tabled at the Network Utilities Hearing, Ms Amy Hill (legal counsel), called by *Radio NZ*, did not directly refer to the requested changes to Section 16, but indicated her support for the Reporting Officer's overall recommendations for changes to the Strategic Directions section, Section 5 Introduction, Policy 5.2.1.11 and Section 10 policies. Ms Hill stated: "RNZ considers that these recommended changes more appropriately provide for the operations of network utilities and recognise the importance of enabling their efficient and effective operation while managing environmental effects" (Tabled Statement, p. 1).

4.2.1.9.2 Decision and reasons

210. We reject the submissions of *Radio NZ* (OS918.39 and OS918.41). As the Reporting Officer noted, the purpose of the Introduction is to set out the key resource management issues relating to a topic and how they are to be addressed. We note that

counsel for the submitter accepted that to a large extent the statement and the new policy sought by *Radio NZ* have been addressed in other recommended changes to the 2GP as discussed above.

4.2.2 Requests for non-complying activity status for network utility activities in Areas of Significant Conservation Value

4.2.2.1 Submissions

211. *Save the Otago Peninsula (STOP) Inc Soc* (OS900.138) and *Forest and Bird NZ (FBNZ)* (OS958.91 and OS958.93) requested that all network utility activities become non-complying in ASCVs, on the basis that these activities have the potential to adversely affect biodiversity values of ASCVs and undermine protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

212. *STOP*'s submission was supported by *Ms Geraldine Tait* (FS2160.8), who considered that having strong rules will discourage inappropriate use or people attempting to bend planning rules so that these areas can be developed with risk of loss of biodiversity. In *Ms Tait*'s view, much of the Dunedin area has lost its original bush covering and many habitats are very degraded, and strong planning rules are needed to protect what is left.

213. Both *STOP*'s and *FBNZ*'s submissions were opposed by *Vodafone* (FS2076.25, FS2076.38), *Chorus* (FS2079.10, FS2079.22) and *Spark* (FS2146.10, FS2146.22), who considered that there may be legitimate circumstances where network utilities need to be located within sensitive environments.

214. *STOP*'s submission was also opposed by *Geoff Scurr Contracting Limited* (FS2391.71). *FBNZ*'s submissions were opposed by *Federated Farmers* (FS2449.236, FS2449.242), who did not consider that the change to non-complying had been adequately justified. *Federated Farmers* considered that the approach would be overly onerous and inconsistent with the sustainable management principles of the RMA, and that the activities in question can be undertaken without significant impact on the specified areas.

215. The Reporting Officer, Ms Macleod, noted that a range of network utility activities were provided for as Permitted, Restricted Discretionary or Discretionary in ASCVs, including network utility structures (small and large scale), smaller scales of energy generation activity, and the Operation, Repair and Maintenance of Existing Utilities.

216. Ms Macleod considered that it was appropriate that these activities were provided for in ASCVs, on the basis that they:

- may need to establish in ASCVs for operational reasons, and
- have the potential to give rise to adverse effects in ASCVs, but could be established in ASCVs with net positive effects, depending on factors such as the scale of the activity, its exact location within the ASCV, and any proposals for positive measures such as new plantings.

217. She noted that the larger scales of energy generation activity were non-complying in ASCVs, on the basis that these activities were considered to have significant potential to damage and displace indigenous vegetation and the habitats of indigenous fauna.

218. Ms Macleod considered that the relevant policies and assessment rules for network utilities in ASCVs allowed for the effects of these activities on protected values to be assessed and managed. In addition, she noted that even where network utilities were permitted in ASCVs, any associated earthworks or vegetation clearance may require consent subject to separate provisions.

219. In her view, therefore, the Plan provided for appropriate protection of indigenous biodiversity in ASCVs from the potential adverse effects of network utilities, and she did not agree with the submitters that the activity status needed to be changed to non-complying in order to protect biodiversity values.

220. In addition, she considered that changing the activity status of all network utility activities in ASCVs to non-complying would be inconsistent with Part 2 of the RMA, with regard to enabling people and communities to provide for their social, economic and cultural well-being. With regard to the activities associated with renewable electricity generation, she considered that the requested change would be inconsistent with the National Policy Statement for Renewable Electricity Generation (NPSREG), which requires councils to provide for REG activities.

4.2.2.2 Decision and reasons

221. We reject the submission points from *STOP* (OS900.138) and *FBNZ* (OS958.91 and OS958.93).

222. Having assessed the provisions managing network utility activities in ASCVs, and the evidence presented on the activity status of renewable energy generation activities at the July 2016 Network Utilities hearing and at the reconvened Network Utilities hearing in November 2017, we do not consider non-complying activity status to be appropriate for any network utilities activities in ASCVs. See our discussion of evidence relating to renewable energy generation in section 4.3.5 of this report.

223. Our main concern, in terms of activities that are permitted in ASCVs, is that the realignment or relocation of existing network utilities may result in adverse effects on the protected values of ASCVs, if it involves the movement of existing structures or lines of a significant scale. We contemplated amending provisions to apply restricted discretionary status to this activity, however we consider that a better balance between enabling utilities and managing effects on biodiversity values can be struck by retaining permitted activity status and relying on separate provisions for associated development activities to manage potential effects.

224. We note that earthworks associated with network utilities are exempt from the maximum area control that normally applies in ASCVs ($25m^2$), although they must comply with the maximum change in finished ground level of 0.5m. However, more directly related to protection of biodiversity values, any indigenous vegetation clearance associated with the relocation/realignment of a network utility in an ASCV would be a non-complying activity (see our decision as set out in the Natural Environment Decision to amend the activity status of indigenous vegetation clearance in ASCVs from restricted discretionary to non-complying). Indigenous vegetation clearance "for the maintenance (but not extension) of existing network utilities" would be permitted in ASCVs (see discussion in the Natural Environment Decision); however, maintenance does not include relocation or realignment.

225. We note that in response to submissions received, network utility activities that require consent as restricted discretionary or discretionary activities are now included in Policy 10.2.1.2 and subject to the same policy test as land use and development activities (see discussion in sections 3.3.3 and 3.6.6 of the Natural Environment Decision Report). We consider Policy 10.2.1.2 provides a strong policy test, requiring activities to meet the test of "no net loss and preferably a net gain" in the biodiversity values of the ASCV, thereby affording appropriate protection to the biodiversity values of these areas. We note also that assessment guidance provides in the relevant assessment rules provides a level of direction around potential circumstances that may support an application, and these relate to gains for biodiversity.

226. We are comfortable that provisions for network utility activities in ASCVs, incorporating the amendments made in our decisions discussed above, will appropriately protect areas of significant indigenous vegetation and the significant habitats of indigenous fauna without the need to apply non-complying activity status to these activities.

4.2.3 Requests for more restrictive activity statuses for network utility activities in landscape and natural coastal character overlay zones

4.2.3.1 Submissions

227. *Save The Otago Peninsula (STOP) Inc Soc* (OS900.58) requested that network utility poles and masts – small scale be removed from Policy 10.2.5.7, which lists activities that are restricted discretionary or discretionary in Significant Natural Landscapes (SNLs), because the submitter considers this activity to be "inappropriate" in these areas. This submission point has been interpreted as a request for non-complying activity status for network utility poles and masts – small scale in SNLs. STOP's submission on this matter was opposed by *Waste Management (NZ) Ltd* (FS2444.45). We note that OS900.58 also relates to other activities in SNLs; the aspects of the submission point that do not relate to network utilities are considered in the Natural Environment Decision.

228. The Reporting Officer, Ms Macleod, noted that under Policy 10.2.5.7 network utility poles and masts – small scale were only to be allowed if any adverse effects on the identified landscape values of the SNL were "avoided or, if avoidance is not possible... no more than minor".

229. Given the level of protection provided by the policy, she did not consider a more restrictive activity status (such as non-complying) was necessary for the activity in question, in SNLs. In addition, she did not believe this would be appropriate, given that network utility companies may well have an operational need to establish poles and masts up to 25m in height in SNLs in order to sustain or upgrade their services (for example, by extending power or telecommunication lines). She considered that, in order to achieve Objective 5.2.1, 2GP provisions should allow for consideration of these operational requirements, as well as potential effects on landscape values.

230. Similarly, *STOP* also requested (OS900.85) that references to network utility structures - small scale and network utility poles and masts - small scale be removed from Rule 10.5.2.3, which is an assessment rule for activities that are restricted discretionary in ONCC and HNCC overlay zones. We are treating this submission point as a request for a more restrictive activity status for these activities in these areas; the reason given for the submission point is that "Utility towers and masts are in gross contrast to landscape and farming infrastructure". We note that OS900.85 also requests that earthworks – large scale be removed from Rule 10.5.2.3; this aspect of the submission point is considered in the Natural Environment Decision.

231. *STOP*'s submission point OS900.85 was opposed by *Geoff Scurr Contracting Limited* (FS2391.69), *Federated Farmers of New Zealand* (FS2449.228) and *Radio New Zealand Ltd* (FS2332.19).

232. Ms Macleod did not agree that the requested amendment to Rule 10.5.2.3 was necessary, on the basis that earthworks – large scale, network utility structures - small scale and network utility poles and masts - small scale are restricted discretionary activities in ONCCs and HNCCs and, therefore, it is appropriate to include them in Rule 10.5.2.3. She did not comment on the appropriateness of the activity status.

4.2.3.2 Decision and Reasons

233. We reject the part of STOP's submission point OS900.58 that relates to network utility poles and masts – small scale in SNLs. We accept Ms Macleod's recommendation on this matter.

234. We note that, in the Natural Environment Decision, we have amended the effects test in Policy 10.2.5.7 as follows:

> *Only allow.... network ~~utilities~~ utility **{NU cl.16}** poles and masts small scale ... in the Significant Natural Landscape Overlay Zone (SNL) where ~~any~~ **{NatEnv cl.16}** adverse effects on the landscape values of the SNL, as identified in Appendix A3,*

*~~will be~~ are **{NatEnv cl.16}** avoided or, if avoidance is not ~~possible~~ practicable: **{PO908.3}***

*a. ~~be~~ **{NatEnv cl.16}** no more than minor; or*

*b. where there are no practicable alternative locations, adequately mitigated. **{NatEnv 458.12}***

235. As discussed in the Natural Environment Decision, we consider that this amended effects test achieves an appropriate balance between maintaining or enhancing the identified values of SNLs and providing for activities that need to locate in SNLs for operational reasons.

236. We also reject the aspect of STOP's submission point OS900.85 that relates to the activity status of network utility structures - small scale and network utility poles and masts - small scale in ONCCs and HNCCs. We consider that restricted discretionary status, coupled with the fact that under Policy 10.2.3.3 the activities are only to be allowed if adverse effects on identified natural character values are insignificant, provides appropriate protection for protected values of these areas.

4.2.4 Requests to amend assessment rules for network utility activities to manage effects on the natural environment

4.2.4.1 Submissions

237. *Harboursides and Peninsula Preservation Coalition (HPPC)* (OS447.54) sought changes to a number of assessment rules that apply to network utility activities of different kinds in natural coastal character overlay zones, ASCVs and ONFs (Rules 10.5.2.3, 10.5.2.5, 10.5.2.8 and 10.5.2.12). *HPPC* sought that the following paragraph be added to the assessment of network utilities activities in these areas:

238. *The utility provider enters into a DCC* agreement *to downsize the infrastructure within a year of the availability of facilitating new technology*.

239. *Save The Otago Peninsula (STOP) Inc Soc* (OS900.90) sought the same changes, although only with respect to assessment rules in natural coastal character overlay zones and ONFs (i.e. this submission point did not request a change to Rule 10.5.2.8, which applies within ASCVs).

240. These submission points were opposed by:

- *Radio NZ* (FS2332.20; FS2332.21) on the basis that the requested changes were unnecessarily restrictive
- *Aurora* (FS2375.18; FS2375.19), on the basis that assets are replaced when they have come to the end of their useful life, not when new technologies become available; having to replace assets within a year of a facilitating new technology would not be cost effective given the range and type of infrastructure that Aurora has across the City, and
- *Federated Farmers* (FS2449.223; FS2449.230) on the basis that the requested changes have not been shown to be appropriately effects-based or necessary.

241. The Reporting Officer, Ms Macleod, recommended that *HPPC* and *STOP*'s requested changes be rejected, on the basis that utility infrastructure is expensive to install and, therefore, it is a more efficient use of resources to allow this infrastructure to remain in place until it requires replacement for operational reasons.

4.2.4.2 Decision and Reasons

242. We reject the submissions of HPPC (OS447.54) and STOP (OS900.90) for the reasons given by the further submitters and the Reporting Officer. The amendment sought would introduce uncertainty because communications technology changes rapidly and it would not be practical or an efficient use of built resources (having regard to s7(b) of

the Act) to require network utility providers to replace valuable infrastructure whenever new technology becomes available.

4.2.5 Requests to amend provisions to manage effects on Manawhenua values

4.2.5.1 Submissions

243. *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou (Nga Rūnanga)* (OS1071.34) requested an amendment to the introduction to Section 5, to refer to the potential for network utilities and energy generation to have adverse effects on Manawhenua values.

244. The Reporting Officer, Ms Macleod, recommended that *Nga Rūnanga*'s submission point be accepted. She noted that the term 'cultural values' had been used in the notified introduction to mean 'Manawhenua values', and recommended that 'cultural 'values' be replaced with 'Manawhenua values', for increased clarity.

245. *Nga Rūnanga* (OS1071.35) also sought that Policy 5.2.1.11 be amended to manage effects on Manawhenua values in wāhi tūpuna. Ms Macleod noted that these potential effects from network utilities were managed via provisions in the Manawhenua section (Section 14), specifically Policies 14.2.1.2 and 14.2.1.4 and associated assessment rules. Therefore, she did not recommend that the requested amendment to Policy 5.2.1.11 should be accepted.

4.2.5.2 Decision

246. We accept *Nga Rūnanga*'s submission on the Section 5 Introduction (OS1071.34) and have amended it to refer to effects on Manawhenua values rather than cultural values.

247. We reject *Nga Rūnanga*'s submission on Policy 5.2.1.11 (OS1071.35) for the reasons given by Ms Macleod.

4.2.6 Requests to amend activity status table as a whole, including division into large scale and small scale activities

4.2.6.1 Submissions and Section 42A Report recommendations

248. *Radio New Zealand Limited* (OS 918.31) supported Rule 5.3.2 Activity Status Table as notified. *Vodafone NZ Ltd (Vodafone)* (OS576.25), *Spark New Zealand Trading Limited (Spark)* (OS923.25) and *Chorus New Zealand Limited (Chorus)* (OS925.25) sought the following amendments to the activity status table.

- Use of a wider range of activities to represent different types of network utility equipment; the table currently uses three activities, 'network utilities structures – small scale', 'network utilities poles and masts – small scale' and 'network utilities structures – large scale', to represent most types of above ground network utility activity.
- Use of a wider range of zone and overlay columns in the table, so that there can be more differentiation in activity statuses for different areas; the table currently uses four columns, which group 'rural and industrial zones', 'all other zones', 'ONF, HNCC, ONCC' and 'SNL, NCC, ONL, ASCV, SHS, HP'. Also include a separate column for network utilities activities within roads.
- More frequent use of permitted activity status in the activity status table. Different zone sensitivities can be recognised by varying performance standards rather than activity status.

249. Overall, the submitters considered that the activity status table as notified is likely to lead to inappropriately restrictive controls in many cases.

250. *Vodafone*'s submission point was supported by *Aurora* (FS2375.4) and *the Oil Companies* (FS2487.9).

251. In related submission points, *Vodafone* (OS576.4), *Spark* (OS923.4) and *Chorus* (OS925.4) also opposed the general approach taken in the 2GP of categorising all network utilities into either 'small scale' and 'large scale' groupings, with more permissive controls for small scale utilities and more restrictive controls for large scale. These submitters did not consider this general approach to be sufficiently fine-grained to allow appropriate activity statuses to be allocated to the broad range of network utilities against the limited number of zone and overlay groupings listed in the network utilities activity status table in Section 5. Therefore, they sought that the following definitions be deleted from the 2GP: large scale network utilities; small scale network utilities; network utilities poles and masts – small scale; network utilities structures - small scale; network utilities structures – large scale; and network utilities activities. *Radio New Zealand Limited (RNZ)* (FS2332.10-12) and *the Oil Companies* (FS2487.11) supported this view.

252. In their original submissions, *RNZ* (OS918.9, OS918.3) supported the notified definitions of small scale network utilities and large scale network utilities.

253. The Reporting Officer, Ms Macleod, did not agree that it was necessary to provide for a wider range of network utility activities in order to allow appropriate rules to be used for different types of network utility. She noted that the 'network utilities structures – small scale', 'network utilities poles and masts – small scale' and 'network utilities structures – large scale' activities had been used to group different types of network utility equipment that are of a similar scale and are thus likely to have similar effects on amenity. She considered that it was appropriate that the same rules should apply to each of the different types of equipment that fall within these three groups, as this helped to ensure that all network utilities would be treated fairly and consistently. She acknowledged that different types of utility structure (for example, a free-standing pole or mast, a structure attached to a building, and a roadside cabinet) have different characteristics and size requirements, but noted that this is recognised in the different size-related performance standards that apply to these different structures, as set out in Rules 5.5.7 and 5.5.8 (s42A Report, p.73)

254. In addition, Ms Macleod did not consider it necessary to amend the structure of the activity status table and in particular did not agree that a separate column should be included for network utilities activities within roads. She considered that it was appropriate that network utility activities in roads should be subject to the same provisions as those of the applicable zone, and where relevant the applicable overlay zone, because activities in roads can have significant effects on the amenity of their surrounding environment (s.42A Report, p.73). To support this view, she referred to Mr Moore's evidence on the potential effects of small scale network utility structures in ONF, ONCC and HNCC overlay zones (Evidence, pp. 18-19).

255. However, she did agree that it would be appropriate in some cases to amend provisions so that permitted activity status applies more frequently – in particular in the case of network utility poles and masts – small scale (see discussion in section 4.2.9 of this report). She also noted that a number of amendments recommended to performance standards would make the maximum dimensions of both 'network utility structures – small scale' and 'network utility poles and masts – small scale' more generous (see discussion in section 4.2.18 of this report). This would allow a wider range of structures to proceed as permitted (s.42A Report, p.73).

256. Although, as discussed above, Ms Macleod supported the retention of the 'network utilities structures – small scale', 'network utilities poles and masts – small scale' and 'network utilities structures – large scale' activities, she noted that the inclusion of the 'small scale network utilities' and 'large scale network utilities' activity groupings in the 2GP as notified had been a drafting error; these terms appear only in the definitions section of the 2GP, and are not referenced in any other provisions relating to the management of network utilities and energy generation. Therefore, she agreed with *Vodafone*, *Spark* and *Chorus* that these terms should be deleted and recommended that *RNZ*'s submissions in support of the terms be rejected (s42A Report, p.151).

4.2.6.2 July 2016 hearing: evidence presented by submitters

257. *Vodafone*, *Spark* and *Chorus* called Mr Chris Horne (planning consultant) who noted that, following a pre-hearing meeting with the Reporting Officers held on 18 March 2016, the submitters had agreed not to pursue their submissions on the activity table structure and use of large and small scale as broad activity classes, and agreed to work together to reach agreement to the extent possible on the activity statuses set out in the table, and on related performance standards (Statement of Evidence, p. 13, para 38-30).

258. *The Oil Companies* called Ms Karen Blair (planning consultant) who considered that the distinction between 'network utilities structures – small scale' and 'network utilities structures – large scale' on the basis of compliance with performance standards relating to scale, was unnecessarily complicated, and that it would be preferable to have one activity category for network utility structures, with the activity status (rather than activity categorisation) determined by compliance with standards (Statement of Evidence, p. 5, para 3.7).

259. In addition, Ms Blair opposed the Reporting Officer's recommendation that both the definition of 'network utilities activities' and the network utilities activities category in the nested table be amended to add references to additional utility activities (Statement of Evidence, pp. 3-5, paras 3.2-3.5). Ms Macleod had recommended that these activities be added to the definitions as a consequence of her recommendation that the definitions of 'small scale network utilities' and 'large scale network utilities' be deleted. The changes to the 'network utilities activities' definition and nested table would replace these terms with the full lists of activities that were classified as 'small scale network utilities' or 'large scale network utilities' in notified provisions. In Ms Blair's view, "the practice of listing activities as being 'included in the definition' can be useful where it is helpful to be indicative", but that in this case the long list of inclusions was "confusing and unnecessary" (Statement of Evidence, p. 4, para 3.4).

260. *New Zealand Transport Agency (NZTA)* called Mr Andrew Henderson (planning consultant). In relation to *NZTA*'s submission point OS881.12, which sought an amendment to the definition of 'network utilities' and is discussed in section 4.2.7 below, Mr Henderson expressed a similar view to Ms Blair about the confusing and unnecessary distinction between 'network utilities structures – small scale' and 'network utilities structures – large scale'. Mr Henderson considered that this could be addressed by revising provisions so that there was only one activity definition for 'network utilities structures', with this activity provided for as permitted subject to compliance with performance standards (Statement of Evidence, p. 3).

4.2.6.3 Reporting Officer's revised recommendations

261. In her revised recommendations, Ms Macleod indicated that she considered that the points raised by Ms Blair and Mr Henderson in relation to the distinction between 'network utilities structures – small scale' and 'network utilities structures – large scale' were valid. She suggested that, if we agreed in principle, Council staff could investigate options to redraft the provisions for greater clarity.

262. In response to Ms Blair's comments on the addition of multiple activities to definition of 'network utilities activities' and the nested table, Ms Macleod noted that the purpose both the definition and the nested table was to list comprehensively all network utilities activities that are provided for in the plan. Therefore, she considered that it was necessary that both the definition of 'Network Utilities Activities' and the activities list in the nested table list all relevant activities.

263. We asked that the Reporting Officer investigate redrafting of provisions, for greater clarity and to ensure that provisions were not overly onerous.

4.2.6.4 November 2017 reconvened hearing

264. Ms Macleod's presented further evidence and revised recommendations to the Panel in a Memorandum that was circulated to all submitters prior to the reconvened hearing.

265. With regard to whether 'small scale' and 'large scale' network utility activities should remain as two separate activities, or be amalgamated into one, she considered that – due to the structure of the plan as a whole – it was preferable to retain the separate activity definitions. She noted that policies in Section 10 Natural Environment that manage the landscape/biodiversity effects of activities in Significant Natural Landscapes, Outstanding Natural Landscapes and Scheduled Areas of Significant Conservation Value had been drafted so that only 'network utility activities – large scale' are referred to. This is because the small scale activity is always permitted in these areas; it was determined during plan drafting that, at this scale, potential effects on landscape or biodiversity are not significant enough to warrant management. She considered that if the distinction between small and large scale activities were removed (and, therefore, the Section 10 policies were redrafted to refer to all network utility structures rather than only large scale structures), there may be confusion as to whether a smaller structure that needed consent for a non-scale related reason – such as noise – should be assessed against these policies (Memorandum, section 2.3.2, para. 28).

266. However, she recommended other drafting changes to clarify provisions for small and large scale utility structures. The dividing line between these two activities is represented by two rules – Rule 5.5.7 Maximum Dimensions and Rule 5.5.8 Maximum Height. She noted that these rules are lengthy and are mainly presented in text form. Therefore, it takes time, when reading these rules, to identify which dimension and height limits apply to different types of structure – i.e. which apply to freestanding structures, which to poles and masts, which to structures attached to poles and masts, and so on. In her view, it would be preferable to combine the two rules, and to reformat them as a table, so that all relevant scale thresholds for each type of structure are presented together. She considered that, as these changes did not affect the content of rules, they could be made as minor amendments under RMA First Schedule, clause 16.

267. In addition, she recommended that the definition of 'network utility structures – small scale' should indicate that lines (as per the 2GP definition – i.e. conductors only, not including support structures) are always to be treated as part of the 'small scale' activity. She noted that none of the scale-related standards in notified Rules 5.5.7 and 5.5.8 were specific to lines; the only standard that was relevant to lines was maximum height, and in her view, it was unnecessary to apply this rule to lines, because separate standards control the height of the structures that lines will be attached to. She considered that this change fell within the scope of submissions points from *Vodafone* (OS576.9), *Spark* (OS923.9) and *Chorus* (OS925.9) (Memorandum, section 2.3.2, para. 29).

268. No submitters presented evidence in relation to this topic at the reconvened hearing.

4.2.6.5 Decision and Reasons

269. We do not accept the specific amendments to the activity status table sought by *Vodafone* (OS576.25), *Spark* (OS923.25) and *Chorus* (OS925.25); we preferred Ms Macleod's evidence on these matters. However, we consider that our decisions to amend the activity status of 'network utility poles and structures – small scale' to be more enabling in certain zones (discussed in section 4.2.10), and to amend performance standards to raise the scale threshold for both 'network utility poles and structures – small scale' and 'network utility structures – small scale' (discussed in section 4.2.19) provide alternative relief; therefore we accept in part the outcomes sought in these submission points.

270. We accept in part the submitters' opposition the Plan's approach of categorising all network utilities into either 'small scale' and 'large scale' groupings – *Vodafone*

(OS576.4), *Spark* (OS923.4) and *Chorus* (OS925.4) – but only to the extent that we agree with Ms Macleod that the activity categories 'small scale network utilities' and 'large scale network utilities' should be deleted, as they are redundant.

271. We agree with the amendments to the formatting of Rules 5.5.7 and 5.5.8 proposed by Ms Macleod under RMA Clause 16; these amendments result in provisions that are clearer, and easier to understand.

272. Finally, we consider that it is appropriate always to treat lines as a type of 'network utility structure – small scale', because as Ms Macleod noted, overhead lines (conductors) are supported by structures so are indirectly managed by standards for those structures. We have made this change in response to submissions from *Vodafone* (OS576.9), *Spark* (OS923.9) and *Chorus* (OS925.9), discussed in section 4.2.1.3 of this report, which request that the Plan as a whole be amended to better provide for network utilities.

The amendments to provisions required for these decisions are as follows:

- delete the definitions of 'small scale network utilities' and 'large scale network utilities' (NU 576.4)
- amend the nested table for network utility activities to delete "small scale network utilities" and "large scale network utilities", to create new 'activity' rows for "network utility structures – small scale", "network utility structures – large scale" and "standby or temporary energy generators", which were treated as 'sub-activities' in notified provisions, and to treat "network utility poles and masts - small scale" as a sub-activity of network utility structures - small scale (rather than as a sub-activity of small scale network utilities, as notified) (NU 576.4)
- amend the following definitions, to remove text stating that the activity is "a sub-activity of" either "small scale network utilities" and "large scale network utilities": network utility poles and masts - small scale, network utility structures - large scale, network utility structures - small scale, and standby or temporary energy generators (NU 576.4), and
- add new Rule 5.5.A.1, and amend the definition of 'network utility structures – small scale', to indicate that lines are always considered network utility structures - small scale (NU 576.9).

273. In addition, the following amendments are required due to the change to formatting of Rule 5.5.7 and 5.5.8, under clause 16 (note that the substantive changes to the content of these rules, made in response to submissions, are set out in section 4.2.18 below).

- Delete Rule 5.5.7 Maximum Dimensions and Rule 5.5.8 Maximum Height, and reformat their contents as new Rules 5.5.A.2, 5.5.A.6, 5.5.A.7 and 5.5.A.8 (NU cl.16).
- Amend definitions for network utility poles and masts - small scale, network utility structures - large scale, and network utility structures - small scale, to replace references to "maximum dimensions and maximum height" performance standards with references to the scale thresholds in Rule 5.5.A.

274. See Appendix 1.

4.2.7 Requests to amend the definitions of network utilities, network utility structures and network utility structures – small scale

4.2.7.1 Background

275. The definitions are as follows:

Network Utilities

Any systems, services and networks associated with:

- *the supply of electricity;*
- *community water supply and drainage;*
- *the transmission and distribution of natural or manufactured gas;*
- *telecommunications and radiocommunications;*
- *navigational aids*
- *meteorological facilities*
- *river flow recording facilities.*

Network Utility Structures

Include

- *above ground lines and pipes*
- *head arrays, aerials and dish antenna*
- *meteorological or air quality monitoring facilities or devices*
- *navigational aids*
- *water, stormwater, or wastewater utilities*
- *roadside cabinets*
- *substations*
- *river flow recording facilities*
- *gas pressure regulating stations*
- *telephone booths.*

Network utilities structures do not include any network utilities which meet the definition of underground or internal network utilities or amateur radio configurations.

Network Utilities Structures – Small Scale

Network Utility Structures, which include:

- *above ground lines and pipes*
- *head arrays, aerials, and dish antenna*
- *meteorological or air quality monitoring facilities or devices*
- *navigational aids*
- *water, stormwater, or wastewater utilities*
- *roadside cabinets*
- *substations*
- *river flow recording facilities*
- *gas pressure regulating stations*
- *telephone booths.*

that do not exceed the performance standards for maximum dimensions or maximum height.

Network utilities structures - small scale are a sub-activity of small scale network utilities.

4.2.7.2 Submissions and Section 42A Report recommendations

Definition of Network Utilities

276. *Vodafone* (OS576.15), *Spark* (OS923.15), *Chorus* (OS925.15) and *RNZ* (OS918.15) sought that the definition of Network Utilities be retained as notified.

277. The *New Zealand Transport Agency (NZTA)* (OS881.12) requested that the definition be amended to be made consistent with the definition of Network Utility Operator set out in section 166 of the RMA. This request was supported in part by *Radio New Zealand (RNZ)* (FS2332.78). The Reporting Officer, Ms Macleod, considered that it would be misleading to align the two definitions, because certain types of utility covered by the definition of Network Utility Operator in the RMA (roads, railway lines, airports and air traffic control services) are not provided for in the network utilities provisions of the 2GP. In addition, certain types of utility – for example amateur radio configurations and all activities relating to energy generation – are provided for as Network Utilities in the Plan but are not listed in the RMA definition (s42A Report, p. 143).

278. The *Dunedin City Council (DCC)* (OS360.233) requested that the definition be amended as follows: "Any structure, systems, services and networks associated with: the treatment, supply or distribution of water; the drainage and treatment of stormwater or wastewater; the generation and supply of electricity; ~~community water supply and drainage~~; ..." The DCC's request was supported in part by *PowerNet* (FS2264.1). Ms Macleod recommended that this submission be accepted in part. She agreed that the definition should include the generation of electricity, and that the more specific references to water, wastewater and stormwater infrastructure should also be added. However, given that the provisions in Section 5 cover energy generation, rather than electricity generation, she considered that all forms of energy generation should be included in the Network Utilities definition (s42A Report, p. 143).

279. *The Oil Companies* (OS634.10) requested that the definition of network utilities be amended to include the transmission and distribution of petroleum, biofuel, or geothermal energy. In a related point (OS634.4), the submitter also requested that the definition of Buildings be amended to clarify that it is not intended to apply to below ground structures. The submitter was concerned to ensure that below ground infrastructure such as stormwater, wastewater or water supply pipes or underground fuel storage tanks at a service station site not be included in the definition of Buildings. The submission point is considered here because, if such infrastructure is included in the definition of Network Utilities and Network Utility Structures, then (due to the way the Plan is structured) it is necessarily not subject to provisions for Buildings.

280. Ms Macleod recommended that *the Oil Companies*' submission point OS634.10 be accepted, on the basis that Section 5 rules provide for pipes as a type of Network Utility Structure. Therefore, she considered it appropriate that the provisions should cover pipes that transmit or distribute petroleum, biofuel, or geothermal energy as well as those that transmit natural or manufactured gas (s.42A Report, p. 143). Submission point OS634.4, relating to the definition of Buildings, was considered at the Plan Overview Hearing. The Reporting Officer for that hearing, Dr Anna Johnson, recommended that the submission be rejected for two reasons. Firstly, because the definition of Buildings only applies in the context of activities that fit under the development activities category, and the nested tables indicate that network utility activities (which the activities listed form part of) do not fit under this category (s42A Report, p. 93). Therefore, in Dr Johnson's view, any attempt to expand the definition to include this clarification would make the definition more confusing. Secondly, the suggested amendment would not make sense with respect to the minimum floor heights

that apply to buildings in hazard areas, if below ground parts of buildings are excluded from the definition.

281. *Transpower New Zealand Limited* (OS806.14) requested that the definition of network utilities be amended to refer to the "transmission and distribution" rather than the "supply" of electricity. This was supported by *PowerNet* (FS2264.3) and *Aurora* (FS2375.3). Ms Macleod recommended that this alternative wording be used, on the basis that it was more precise (s42A Report, p. 143).

282. Finally, the *University of Otago* (OS308.126) sought that activity status rules be amended to make it clear that network utility activities undertaken by the University are covered by the relevant permitted activities. Ms Macleod recommended that this submission be accepted in part. She considered that the outcome sought would be best achieved by amending the definition of Network Utilities in two ways: firstly, to clarify that the network utilities provisions in the 2GP apply not only to network utility operators; and secondly to ensure that all network utility activities undertaken by the University (which include the distribution of energy in the form of hot water and steam) are listed in the definition (s42A Report, pp. 143-144).

Definition of Network Utility Structures

283. *Chorus* (OS925.17), *Spark* (OS923.17) and *Vodafone* (OS576.17) sought that the definition of Network Utility Structures be retained as notified.

284. *Dunedin City Council* (OS360.236) requested that the definition be amended to more comprehensively cover all structures associated with network utilities. Ms Macleod recommended that this submission be rejected, on the basis that it was unnecessary (s42A Report, p. 164). We note that she later revised this advice, as discussed in Section 3.0, above.

285. *Aurora Energy Limited* (OS457.11) sought that the definition be amended to include transformers, switching stations, kiosks and cabinets. Ms Macleod agreed that this was appropriate (s42A Report, pp. 164-165).

286. *PowerNet Limited* (OS915.2) sought the removal of the remove the reference to "above ground" lines from the definition. This would allow underground lines to be provided for as a type of Network Utility Structure (via the Underground or Internal Network Utilities activity definition, which uses this term). Similarly, *RNZ* sought that the definitions of Network Utility Structures (OS918.16) and Underground or Internal Network Utilities (OS918.11) be amended to clarify the relationship between the two terms. The Reporting Officer acknowledged the disconnect between these two definitions, and recommended that, to resolve it, the definition of Network Utility Structures should be amended to delete both the term "above ground" and the statement at the end of the definition that excludes Underground or Internal Network Utilities (s42A Report, p. 165).

Definition of Network Utility Structures – Small Scale

287. *Radio NZ* (OS918.5) sought that this definition be retained as notified.

288. The *Dunedin City Council* (OS360.237) sought that it be amended to delete the list of different types of structure, on the basis that this was a duplication of the content of the 'network utility structures' definition. Ms Macleod recommended that this submission be accepted, for the reasons given.

289. *Aurora* (OS457.5) sought that the definition be amended to include transformers, switching stations, kiosks, and cabinets. As noted above, Ms Macleod recommended that these structures instead be added to the 'network utility structures' definition (s42A Report, section 5.5.3).

4.2.7.3 Evidence presented by submitters at hearings, and Reporting Officers' revised recommendations

290. Ms Megan Justice (planning consultant), called by *PowerNet*, supported the amendments to the definitions of Network Utilities and Network Utility Structures, that were recommended response to *PowerNet*'s submission (Statement of Evidence, p.3, para 4.2).

291. Ms Ainsley McLeod (planning consultant), called by *Transpower,* also supported the Reporting Officer's recommended response to *Transpower*'s submission (Statement of Evidence, Attachment C).

292. *New Zealand Transport Agency (NZTA)* (OS881.12) called Mr Andrew Henderson (planning consultant), who opposed the recommended amendment to the definition of Network Utilities and confirmed that the exclusion of roading from this definition is of concern to the Transport Agency. Mr Henderson also considered that the definitions applying to Network Utilities and Infrastructure were "becoming increasingly confusing and deviate from commonly understood definitions that are based upon the provisions in the Act and applied in many District Plans nationwide" (Statement of Evidence, pp. 2-3).

293. *Vodafone*, *Spark* and *Chorus* called Mr Chris Horne (planning consultant), who considered that the definition for Network Utilities Structures should be amended to delete the word "roadside" from the reference to "roadside cabinets", because cabinets were not always sited on the roadside (Statement of Evidence, p. 33, para 109). The Reporting Officer agreed with this point, and also recommended that the proposed definition of Roadside Cabinets should be deleted as it is unnecessary (Revised Recommendations, p.14).

294. Evidence was also presented by *the Oil Companies* and others in relation to requested amendments to definitions to ensure that underground pipes and fuel storage tanks would be treated as network utility activities rather than being subject to provisions for "buildings", which are located in management zone sections. This evidence was presented at the Plan Overview, Network Utilities and Public Health and Safety hearings.

295. Firstly, in response to Dr Johnson's recommendation in the Plan Overview Section 42A Report not to exempt below ground structures from the definition of Buildings, Ms Georgina McPherson (planning consultant), called by *the Oil Companies*, tabled evidence at the Plan Overview Hearing requesting greater certainty as to how below ground infrastructure was to be provided for in the Plan (Statement of evidence, pp. 6-8, paras 6.3-6.7). In response to this evidence, Dr Johnson recommended a change to the definition of Buildings and Structures Activities to clarify that any structures associated with network utility activities are excluded from this category and are managed instead via the network utility activities provisions. She noted the related recommendation, in the Network Utilities Section 42A Report, to provide for fuel infrastructure as a type of network utility.

296. Subsequently, at the Network Utilities Hearing (July 2016), Ms Karen Blair (planning consultant), called by *the Oil Companies* (OS634.10) supported the recommended amendment to the definition of Network Utilities to include reference to the transmission and distribution of petroleum, biofuel and geothermal energy (Statement of Evidence, p.3, para 3.1).

297. Finally, this change to the Network Utilities definition was also discussed in evidence presented by both *the Oil Companies* and *Liquigas* at the Public Health and Safety Hearing (January 2017). Ms Georgina McPherson (planning consultant), called by *the Oil Companies*, reiterated the submitter's support for the recommended change to the Network Utilities definition, on the basis that this change would "broaden the definition to include *[the submitter's]* bulk storage facilities" (Statement of Evidence, p. 33).

298. However, at the same hearing, Ms Claire Hunter (planning consultant), called by *Liquigas*, expressed concern that the recommended definition for "network utilities" omitted reference to "bulk storage for wholesale or distribution purposed of natural or

manufactured gas over 15 tonnes, or petroleum over 1 million litres" (Statement of Evidence, p. 16).

4.2.7.4 Decision and Reasons

299. For the reasons given by submitters and the Reporting Officer, we accept the submissions from *Transpower* (OS806.14) and the *University of Otago* (OS308.126) and have amended the definition of Network Utilities accordingly, as shown in the attached 2GP amendments.

300. We accept in part the submission from the *Dunedin City Council* (OS360.233). We agree that the definition of Network Utilities should specifically include the generation of electricity, and also that it should refer to wastewater and stormwater infrastructure. However, we note that the specific wording requested by the submitter, and recommended by the Reporting Officer, implies that irrigation and stock water infrastructure is also included in the definition and, therefore, is subject to network utility provisions. This outcome would increase restrictions on these structures in a way that we consider unnecessary; it would also unduly prejudice affected parties, who could not realistically have anticipated the outcome from the submission. Therefore, we have amended this aspect of the Network Utilities definition as follows: "Any systems, services and networks associated with... municipal and domestic water, wastewater and stormwater supply, treatment and drainage." We note that this includes a clause 16 amendment suggested by Dr Anna Johnson, the DCC City Development Manager, from whom we received technical drafting advice; Dr Johnson advised that "community" should be replaced with "municipal and domestic" in this part of the definition, in order to clarify that structures that are part of privately owned irrigation or stockwater schemes that supply water to multiple owners (which could be considered to fall within the term "community water supply") are not treated as Network Utilities for the purposes of the Plan.

301. In consequence of our decision to amend the definition of Network Utilities to include energy generation, in response to the DCC's submission (OS360.233), we have also amended all references to "network utilities and energy generation" in the Plan; we have changed these to "network utilities". This affects: the title of Section 5; Rule 5.3.1.1; the introduction to Section 9 Public Health and Safety (5th paragraph); and references to Section 5 in the "Rule location" rule at the start of Sections 15 to 35 (e.g. Rule 15.3.1 in the Residential Zones section).

302. We reject the submission from *New Zealand Transport Agency (NZTA)* (OS881.12) requesting that this definition be amended to be consistent with the RMA definition of Network Utility Operator, for the reasons given by the Reporting Officer.

303. With regard to the submissions from *the Oil Companies* (OS634.10, OS634.4), we agree that infrastructure associated with the supply of fuel (including fossil fuels and biofuels) should be provided for as a type of network utility. It is clear from submitters' evidence from the Public Health and Safety Hearing that there is confusion over whether, under Ms Macleod's recommended change to the Network Utilities definition, underground bulk storage of fuel would be covered by that definition. To clarify this matter, we have amended the definition of Network Utilities to refer specifically to "the *storage,* transmission and distribution of natural or manufactured gas, petroleum, biofuel, or geothermal energy". In addition, we have amended the definition of Network Utility Structures to refer to "underground fuel storage systems" as an example of the structures associated with this type of utility.

304. Further, in relation to the issue discussed at the Plan Overview Hearing, we have decided not to amend definitions for Buildings or Structures to clarify that these do not cover buildings/structures associated with network utility activities, as was recommended by the Reporting Officer. We did not consider this necessary given that, via a separate clause 16 amendment discussed in the Plan Overview Decision, changes have been made to definitions of all activities to clarify where they 'sit' in terms of the Nested Tables, which categorise all activities provided for in the Plan. As a result, the definitions of Buildings and Structures state, respectively "buildings are an activity in

the buildings and structures sub-category, which is in the development activities category" and "structures is an activity in the buildings and structures sub-category, which is in the development activities category." Section 1.4 of the Plan, entitled "Activities managed by this Plan (Nested Tables)" clearly shows that the development activities and network utility activities categories do not overlap. In addition, the 'Rule location' information, given at the start of each management zone section, states that rules for network utility activities are contained in Section 5 – i.e. these activities are not subject to the rules for development activities in zone sections.

305. We accept the submissions from *Aurora* (OS457.11), *PowerNet Limited* (OS915.2) and *Radio New Zealand Limited* (OS918.16) and amend the definition of Network Utility Structures accordingly, as shown in the attached 2GP amendments, for the reasons given by submitters and the Reporting Officer. We consider that the amendment to this definition resolves the relationship between 'Network Utility Structures' and 'Underground or Internal Network Utilities'; therefore, we reject *RNZ*'s request (OS918.11) that the latter definition also be amended to clarify how the two terms relate to each other.

306. Our response to the submission from the *Dunedin City Council* (OS360.236) on the definition of Network Utility Structures is provided in section 3.0 above, as it relates to the changes we have made to the structure of provisions.

307. We accept the submission of the *Dunedin City Council* (OS360.237) and have amended the definition of 'network utility structures – small scale' to delete the list of different types of structure, for the reasons given by the submitter. We also accept in part the submission from *Aurora* (OS457.5) seeking that this definition be amended to include transformers, switching stations, kiosks, and cabinets; as advised by Ms Macleod, we have instead included this structures as examples in the 'network utility structures' definition (this change is attributed to NU 457.11).

4.2.8 Requests to permit minor upgrading of utilities

4.2.8.1 Submissions and Section 42A Report recommendations

308. *Aurora Energy Ltd* (OS457.4 and OS457.6) requested that the 2GP provide for the upgrading of utilities, as part of the 'Operation, repair, and maintenance of existing network utilities' activity. The submitter considered that the rules as notified were overly restrictive and would require resource consent to be obtained for activities that result in effects that are less than minor. *Aurora's* requests were supported in further submissions from *Trustpower Ltd* (FS2127.2 and 3), *Powernet Ltd* (FS2264.18) and *Transpower* (FS2453.5 and 7) but opposed by *Horticulture NZ* (FS2452.10 and 11) and *Federated Farmers* (FS2449.14). In supporting *Aurora*, *Transpower* also requested that the development of existing network utilities be treated in the same way as operation, repair and maintenance. *Transpower* considered this necessary to ensure consistency with Policy 2 of the NPSET.

309. The reason put forward by *Horticulture New Zealand* (FS2452.11) for opposing the *Aurora Energy Limited* submission point OS457.6 was that "while upgrading is part of network utility activities it needs to be separate from operation and maintenance as it can involve more extensive work and create adverse effects."

310. The Reporting Officer recommended that upgrading not be provided for as part of this activity, on the basis that upgrading can have adverse effects on amenity that make it inappropriate to provide for it as a permitted activity alongside operation, repair and maintenance (Section 42A Report, pp. 223-224).

311. The definition of 'line maintenance' allows for certain minor upgrades to lines to be treated as part of the 'Operation, repair, and maintenance of existing network utilities' activity. *Vodafone NZ Ltd* (OS576.13), *Transpower New Zealand Limited* (OS806.9), *Chorus New Zealand Limited* (OS925.13) and *Spark New Zealand Trading Limited* (OS923.13) sought that the definition of line maintenance be retained.

312. *Aurora Energy Limited* (OS457.10) requested that the definition be amended so that "support structure replacement within 5m of the existing alignment of the electricity distribution corridor" would be provided for as part of line maintenance. This submission was supported by *Trustpower Limited* (FS2127.4). The Reporting Officer recommended that this submission point be rejected, on the basis that support structure replacement is provided for as part of the separate "realignment, reconfiguration or relocation of existing network utilities" activity.

313. *Horticulture New Zealand* (OS1090.7) requested an amendment to the definition so that "increasing the power carrying or operating capacity, efficiency or security of existing electricity, gas distribution or telecommunication lines" is only provided for as part of line maintenance "where the line was originally constructed to operate at the higher voltage". *Horticulture New Zealand* indicated in their submission that the increase in voltage can lead to an increase in setbacks required under NZECP 34:2001 and considered that, therefore, the effect of an increase in voltage needs to be considered, unless the line was originally constructed to operate at the higher voltage. The Reporting Officer recommended that this submission point be accepted, for the reasons given by the submitter.

4.2.8.2 July 2016 hearing: evidence presented by submitters

314. The submitters presented the following evidence in relation to the upgrading of utilities.

315. Ms Justice, called by *PowerNet*, supported amendments to definitions and rules to provide for network utility upgrading as a permitted activity within certain parameters. In making her request, Ms Justice noted that "the upgrading of infrastructure is periodically necessary to ensure the efficient and effective provision of services. The upgrading of network utilities is an almost constant activity for network utility providers. Upgrading is required to take advantage of advances in design and technology, and to meet customers changing demands for these services" (Statement of Evidence, p. 3, para 4.3).

316. Ms McLeod, called by *Transpower* sought to amend relevant objectives and policies of the 2GP, to give effect to the NPS for Electricity Transmission by providing for "upgrading". The submitter also sought consequential changes to the rule framework and the activity status for the upgrading and development of the National Grid in overlay areas, to enable minor upgrading of network utilities (Statement of Evidence, pp. 16-21, paras 54-57).

317. Ms McLeod further considered that enabling the minor upgrading of network utilities was necessary in order to ensure that the 2GP gave effect to Policy 5 of the National Policy Statement on Electricity Transmission 2008, which reads:

> *"When considering the environmental effects of transmission activities associated with transmission assets, decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets."*

318. Ms Kirsty O'Sullivan, called by *Trustpower*, suggested the parameters around what constitutes an 'upgrade' could be defined in the 2GP, allowing minor upgrading to be permitted subject to these parameters. She noted, "there are likely to be circumstances where the 'upgrading' of existing network utilities results in negligible effects. Requiring resource consent for such minor upgrading activities is, in my opinion, inefficient and is not the most appropriate way to provide for the efficient operation and use of network utilities." (Statement of Evidence, p. 14, para. 6.26)

319. Mr David Cooper, representing *Federated Farmers*, considered that the District Plan should "appropriately distinguish" between the maintenance and operation of a network utility and an upgrade of that utility (Statement of Evidence, para. 8); Mr Cooper did not go into further details on this topic at the hearing.

320. Ms Lynette Wharfe, representing *Horticulture NZ*, supported the Reporting Officer's recommendation not to provide for 'upgrading' of utilities as part of the 'operation,

repair and maintenance' activity, on the basis that the effects of upgrading need to be considered separately (Statement of Evidence, pp. 9-10, paras. 8.5, 9.7).

321. In addition, Ms Wharfe supported Ms Macleod's related recommendation to amend the definition of line maintenance so that it only includes an increase in the power carrying or operating capacity of a line where the line was originally constructed to operate at a higher voltage (Statement of Evidence, p. 10, para. 9.6). She considered this change necessary, given that:

> *"NZECP is based on distances from lines which vary according to voltage. The higher the voltage the greater the separation distance. An increase in voltage can have the effect of a landowner having to increase the separation distances to the lines. Therefore, any increase in the voltage can affect the landowner over whose property the line passes. Such increases ... therefore should not occur as a permitted activity ... The exception to this is where a line may have been built to take a higher voltage but has been operating at a lower voltage. In this situation a higher voltage could be reasonably anticipated."* (Statement of Evidence, pp. 9-10, para. 9.4).

4.2.8.3 July 2016 hearing: Reporting Officer's revised recommendations

322. In her revised recommendations, the Reporting Officer suggested that further discussions be held with utilities companies to identify potential parameters for 'upgrading', and that comment be sought from Mr Peter Christos and Mr Mike Moore on these parameters, with a view to providing for the upgrading of existing utilities as a permitted activity. We confirmed that this work should be done, to identify options for providing for minor upgrading of utilities as a permitted activity.

4.2.8.4 November 2017 reconvened hearing: further evidence from Reporting Officer

323. In her further evidence to the Panel, the Reporting Officer outlined:

- the types of upgrade already provided for as permitted in the Plan via the definition of 'line maintenance', which forms part of the 'operation, repair and maintenance of existing utilities' activity
- a practice review of other district plans that provide for upgrading of utilities
- a review of the types of upgrading that are provided for in the National Environmental Standards (NES) for Electricity Transmission Activities 2009 and the NES for Telecommunication Facilities 2016
- input received from *Aurora* and *Transpower*, and
- input received from the DCC's Urban Designer Mr Luke McKinlay.

324. She noted that she "did not consider it necessary to consult Mr Moore, in relation to potential landscape and visual effects in the rural environment, because rules applying to new utilities in rural environments are less restrictive; the minor upgrading provisions will, therefore, generally only be relevant in urban environments (i.e. in rural and rural residential zones, the activities listed below would generally be permitted if they were part of a new utility)".

325. Based on this evidence, the Reporting Officer recommended that minor upgrading be provided for as a permitted activity throughout the city (via an amended activity name "Operation, repair, minor upgrading and maintenance of existing network utilities"), and that it be defined to include a number of different types of activity, including (in certain circumstances and/or subject to certain conditions): the addition of new poles and masts; replacement of existing poles and masts; alterations to existing poles and masts, and attached structures; addition of or alterations to cross-arms; increasing the voltage of electricity lines; alterations to existing above ground pipes; and realignment, reconfiguration or relocation of existing above-ground pipes and network utility poles and masts.

326. She recommended that the separate activity for "Realignment, reconfiguration or relocation of existing network utilities" be deleted, along with the location standard for relocation of pipes, poles and masts, because its content would be covered by the

amended "Operation, repair, minor upgrading and maintenance of existing network utilities" activity, and definition of minor upgrading.

327. In relation to the minor upgrading of National Grid infrastructure, she was of the view that this did not need to be managed through district plan provisions, because the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA) apply (Memorandum, section 9).

4.2.8.5 November 2017 reconvened hearing: evidence presented by submitters

328. The submitters presented the following evidence at the reconvened hearing in relation to the upgrading of utilities.

329. Ms Rebecca Eng (Senior Environmental Planner), representing *Transpower* noted that the NESETA only applies to transmission lines that were operational, or able to be operated, at the time the NES came into effect. Therefore, the upgrading of any new transmission lines would rely on the 2GP provisions for minor upgrading.

330. Ms Eng considered that such provisions must, in turn, give effect to the National Policy Statement on Electricity Transmission 2008 and cannot conflict by being more stringent or more lenient than the NESETA (Section 44A of the RMA). Therefore, Ms Eng sought that 'minor upgrading' of transmission lines be a permitted activity in the 2GP in a manner that mirrors the NESETA (Tabled Statement, p.1).

331. Ms Justice, called by *PowerNet* generally supported the Reporting Officer's recommendations, but requested that the definition of minor upgrading be amended by deleting the phrase "where the line was originally constructed to operate at the higher voltage" from part 5a of the definition. This would mean that an increase in the voltage of electricity lines is provided for, regardless of whether or not the line was originally constructed to operate at the higher voltage. In Ms Justice's view, this factor makes no difference to the effects of the upgrade (Statement of Evidence, p. 3, para 1.9-1.10).

332. Ms Bridget Irving (legal counsel), called by *Aurora*, stated that "the reconsideration of provisions relating to minor upgrading represents a significant improvement", that the recommendations are supported by *Aurora*, and that (together with other changes recommended by the Reporting Officer) they would result in more enabling rules that would facilitate *Aurora's* activities and support a resilient and secure electricity distribution network (Statement of Evidence, paras. 6 and 13).

4.2.8.6 November 2017 reconvened hearing: Reporting Officer's revised recommendations

333. In response to *Transpower*'s evidence, Ms Macleod indicated that she accepted that all upgrading of transmission lines should be managed in the same way. Therefore, she recommended that the definition of 'minor upgrading' be amended to achieve this – i.e. to mirror the NESETA, with respect to transmission lines and support structures only.

334. In response to *PowerNet*'s evidence, she noted that the wording that *PowerNet* requested to be deleted from the definition was recommended in response to a submission from *Horticulture New Zealand*. As indicated above, *Horticulture New Zealand* had requested this wording because the increase in the voltage of a line can lead to an increase in setbacks required under NZECP 34:2001. Therefore, *Horticulture New Zealand* considered that the effect of an increase in voltage needs to be considered, unless the line was originally constructed to operate at the higher voltage.

335. She further noted that, under the technical standards performance standard (Rule 5.5.13) any new line may be installed up to a maximum voltage of 110kV. Therefore, power companies will only have to rely on the minor upgrading provisions where they seek to upgrade lines to over 110kV. She also stated that any line of 110kV or more will be part of the National Grid, as local distribution lines have lesser voltages.

336. Therefore, given her recommendation that the upgrading of National Grid powerlines should be provided for in the 2GP in the same way as it is in NESETA, and since NESETA

does not limit the maximum voltage of powerlines, the Reporting Officer recommended that the definition be amended as requested by *PowerNet*.

4.2.8.7 Decision and decision reasons

337. We accept the submissions from *Aurora Energy Limited* (OS457.4 and OS457.6) that the Plan should provide for minor upgrading of utilities as a permitted activity. While major upgrades can have adverse effects on amenity just like new networks, on balance it seems unnecessary to require consent for minor upgrading. The question is how to distinguish these. We generally agree with the Reporting Officer's recommendations on the parameters for minor upgrading, although we consider that it would be more straightforward to define "minor upgrading" as part of the "Operation, repair, minor upgrading and maintenance of existing network utilities" definition, rather than via a separate definition.

338. In addition, we would have preferred performance standards managing the design of minor upgrading to have been included in provisions, relating for example to the colour of new infrastructure. However, given that we have not heard any relevant evidence on this matter, we recommend that it is considered via a future plan review. In relation to the definition of line maintenance, we accept the submission from *Aurora Energy Limited* (OS457.10) that support structure replacement within 5m of the existing alignment be provided for as permitted. However, due to our decisions on provision for minor upgrading, a separate definition of 'line maintenance' is no longer necessary; relief will be provided via the new definition of "Operation, repair, minor upgrading and maintenance of existing network utilities", and the associated activity status rule.

339. As a result, we reject the submissions from *Vodafone NZ Ltd* (OS576.13), *Transpower New Zealand Limited* (OS806.9), *Chorus New Zealand Limited (Chorus)* (OS925.13) and *Spark New Zealand Trading Limited* (OS923.13) that the definition of line maintenance be retained.

340. Further, we reject the submission of *Horticulture New Zealand* (OS1090.7) requesting that increases in "the power carrying or operating capacity, efficiency or security of existing electricity, gas distribution or telecommunication lines" only provided for as a permitted activity "where the line was originally constructed to operate at the higher voltage", because we accept the opinion of the Reporting Officer in her revised recommendations at the November 2017 reconvened hearing, that this would be unnecessarily restrictive.

341. The amendments required for this decision, including consequential amendments, are as follows.

- Amend activity name and definition of "Operation, repair, minor upgrading and maintenance of existing network utilities", and amend entry for this activity in the nested table for the Network Utility Activities Category to reflect this change.
- Amend references to this activity name at Rule 5.3.2.2 and Rule 5.5.5.
- Delete definition of 'line maintenance'.
- Delete Rule 5.2.3.3 (activity status rule for 'Realignment, reconfiguration or relocation of existing network utilities'), and delete this activity from the nested table for the Network Utility Activities Category.
- In Rule 5.5.6 (Location performance standard): delete Rule 5.5.6.3, which applies to 'Realignment, reconfiguration or relocation of existing network utilities'); and amend the reference to 'operation, repair, minor upgrading and maintenance of existing network utilities' in Rule 5.5.6.2.c.
- Amend the description of activities in Note 5.3.2B General advice to reflect these changes.

342. See Appendix 1 (amendments attributed to NU457.4).

4.2.9 Requests to permit network utility poles and masts – small scale in commercial and mixed use zones and major facility zones

4.2.9.1 Background

343. Under Rule 5.3.2.9 in the activity status table, 'network utilities poles and masts – small scale' (which include structures such as cell phone towers and power poles) are permitted in rural, rural residential and industrial zones, restricted discretionary in all other zones, and also restricted discretionary in all landscape and natural coastal character overlay zones and in scheduled ASCVS, scheduled heritage sites, and heritage precincts.

344. Under Rule 5.3.2.8, the addition of new 'network utility structures – small scale' (for example, power or telecommunication lines, cell phone antennae and head arrays) to existing poles and masts, or to rooftops, is a permitted activity in all management zones and most overlays; it is restricted discretionary only in the most sensitive landscape and natural coastal character overlay zones (i.e. ONFs, ONCCs and HNCCs).

4.2.9.2 Submissions and Section 42A Report recommendations

345. *Vodafone* (OS576.40), *Spark* (OS923.40) and *Chorus* (OS925.40) sought that the activity status of network utility poles and masts – small scale be amended from restricted discretionary to permitted in commercial and mixed use (CMU) zones, and in major facility zones, and that performance standards rather than restricted discretionary status be used to protect amenity values in these zones.

346. *PowerNet Ltd* (OS915.16) sought the same change, but in the CMU zones only.

347. The Reporting Officer, Ms Macleod, noted in the s42A Report that since making their submissions, *Vodafone*, *Chorus* and *Spark* had provided more detail on the performance standards they proposed in association with permitted activity status for network utilities poles and masts in Centres Zones. The proposed standards were as follows:

- maximum height of 15m
- application of a height in relation to boundary control from residential and rural residential property boundaries
- 1m maximum diameter for head arrays, and
- 10m setback from any pedestrian amenity frontage (i.e. the primary and secondary pedestrian frontages identified in the Plan).

348. Ms Macleod recommended that the submissions be accepted in part, to the extent that the activity be made permitted in the Princes, Parry and Harrow Street Zone (PPH), CBD Edge Commercial Zone (CEC) and Trade Related Zone (TR), but that it remain restricted discretionary in all other CMU zones and in major facility zones.

349. She did not recommend any amendments to performance standards for the activity.

350. This recommendation took into account advice from the DCC's Urban Designer Mr Christos on the potential adverse effects of these structures on amenity. Mr Christos advised that the PPH, CEC and TR zones were less sensitive to adverse amenity effects than the other zones (s42A Report, section 5.1.12.3).

4.2.9.3 July 2016 hearing

351. *Vodafone*, *Chorus* and *Spark* called Mr Chris Horne (planning consultant). Mr Horne supported Ms Macleod's recommendation for permitted activity status in the PPH, CEC and TR zones. However, he noted that the recommended retention of notified restricted discretionary status in other CMU zones, and in major facility zones, represented "a quantum shift in approach" from the rules of the operative District Plan, under which the equivalent activity is generally permitted, provided that it does not exceed a certain

number of metres above the permitted height of buildings in the relevant zone (Evidence, para. 42).

352. Mr Horne also noted that the application of restricted discretionary status in the zones in question ran "directly contrary to the Council's s32 assessment on this issue" (Evidence, para. 44). Mr Horne quoted this assessment, which states:

This option [i.e. restricting network utility poles and masts outside rural, rural residential and industrial zones, to encourage co-location] *was considered inappropriate as the permitted baseline created by similar activities in the road reserve, plus other common structures in residential areas would strongly counter any amenity concerns relating to restricting new masts. Further, restricting these has the potential to impose excessive time and cost implications on network utilities providers, for little to no environmental benefit.* (Network Utilities and Energy Generation Section 32 Report, Option 8, p.10)

353. Mr Horne also noted that the s32 report did not raise any specific issue of complaints history around telecommunications masts and poles in commercial areas (Evidence, para. 44).

354. In Mr Horne's view, the Reporting Officer's recommendation did not take into account the fact, acknowledged in the s32 report, that roadside mast and antenna solutions up to 15m high are already authorised under the National Environmental Standards for Telecommunication Facilities (NESTF) in roads in these areas. He noted that this authorisation would be further extended in the revision to the NESTF, which would apply to new facilities and not just the upgrading of existing poles in roads. Mr Horne considered that in many instances it would be a better and lower impact solution to place such equipment at the rear of a commercial site (assuming the site adjoining the rear was also commercial), rather than placing the equipment in the road, potentially as a permitted activity, under the NESTF (Evidence, para. 49).

355. Finally, Mr Horne did not consider that Ms Macleod's recommendation was consistent with her recommendations on Section 5 policies, which aimed to take a balanced approach between enabling network utilities while managing environmental effects. He requested that "a suitable balance... be struck" by providing for network utility poles and masts – small scale as permitted in the zones requested in *Vodafone*, *Chorus* and *Spark*'s submissions, and by applying the requested performance standards in Centres Zones, as referred to in the discussion of submissions above (Evidence, para. 50).

356. *PowerNet* called Ms Megan Justice (planning consultant). Ms Justice also supported the recommendation that permitted activity status be applied to network utility poles and masts – small scale in the PPH, CEC and TR zones. However, she considered the retention of restricted discretionary status in other CMU zones to be "overly onerous", on the basis that the effects of poles and masts are "well understood" and, in her view, these structures were acceptable "in the commercial and mixed use zones where varied and intensive land use and structures are provided for" (Evidence, para. 4.35).

357. The Reporting Officer did not revise her recommendation on this matter in response to evidence presented at the hearing.

4.2.9.4 November 2017 reconvened hearing

358. In the memorandum prepared by Ms Macleod for the Reconvened Network Utilities Hearing, she noted that the National Environmental Standards for Telecommunication Facilities (NESTF), which originally came into effect in 2008, had been reviewed and a revised NESTF had come into effect at the beginning of 2017. The new NESTF provides for a wider range of telecommunication facilities in a wider range of environments.

359. These changes led Ms Macleod to revise her recommendations on the activity status of network utility poles and masts – small scale. She noted that it had become a permitted activity, under the new NESTF, for telecommunication utilities to establish new cell phone masts and antennae in the road reserve. The Plan may only impose more restrictive controls than this in certain environments – i.e. landscape and natural coastal character overlays, ASCVs, heritage precincts and scheduled heritage sites. Outside

these more sensitive environments, she considered that retaining the notified restricted discretionary activity status for network utility poles and masts – small scale would be counterproductive in terms of protecting amenity, because, as pointed out in Mr Horne's evidence at the July 2016 hearing, it would mean that telecommunication facilities would be encouraged to locate in the road reserve (where they would be permitted under NESTF) rather than away from the road, perhaps behind buildings, where amenity effects would be lesser.

360. Therefore, Ms Macleod recommended that network utility poles and masts – small scale be permitted in the commercial and mixed use and major facility zones. She also recommended that certain of the more restrictive performance standards suggested by Mr Horne at the July 2016 hearing be applied to these activities in these zones, so that:

- the maximum diameter of head arrays would be reduced from 4m to 1m, and network utility poles and masts – small scale would be subject to the height in relation to boundary controls, from residential and rural residential property boundaries.

361. Finally, she considered that, as Clause 16 amendments, references to NESTF 2008 in Rule 5.3.1.5 (Activity status introduction) and in the Section 5 performance standards should be updated to refer to NESTF 2016 (Memorandum, section 10).

362. Mr Colin Clune, Ms Mary Barton and Mr Graeme McCarrison (planners) representing, respectively, *Vodafone*, *Chorus* and *Spark*, tabled a joint statement at the reconvened hearing. In this statement, they expressed support for the recommended amendment to the activity status for network utility poles and masts – small scale.

363. They requested some minor amendments to Ms Macleod's recommended wording Rule 5.3.1.5 in the introduction to the activity status table, which describes the activities managed by the NES Telecommunication Facilities 2016; they considered that, by incorporating these amendments, the rule would better reflect the language used in the NES.

364. They also requested a number of changes to performance standards. Firstly, they requested that Rule 5.5.6.1, which manages the location of network utility structures – small scale in certain sensitive areas, be amended to indicate that, within primary pedestrian street frontages, this rule does not apply to structures permitted by the NESTF 2016. This is because, under the NESTF, pedestrian street frontages do not qualify as areas within which district plans may have stricter rules that the NES. Therefore, the rule conflicts with the revised NESTF.

365. Secondly, they requested that the maximum diameter of head arrays be amended to 6m in a number of different zones, including the CBD zone, the CBD Edge mixed use zones, the Trade Related Zone, the CBD Edge commercial zone, major facility zones, industrial zones and rural residential zones. The following reasons were given for this request.

- Industrial zones are the lowest amenity urban zone type, and a relaxed standard in these zones would offer an incentive to use these zones rather than more visually sensitive areas.
- CBD Edge mixed use zones, the Trade Related Zone, the CBD Edge commercial zone and major facility zones have larger building typologies more readily able to absorb the effects of masts and associated large head arrays.
- Most of the CBD is covered by heritage precincts, where stricter controls apply.
- Regulation 33(6) of the NESTF allows a maximum 6m diameter for head arrays on poles outside the road reserve in non-residential zones, where an existing pole is upgraded. Therefore, the NESTF would provide for any pole established under Plan rules to be upgraded later, and a head array of up to 6m added, as a permitted activity.

366. Finally, Mr Clune, Ms Barton and Mr McCarrison requested that the maximum height of 20m for network utility poles and masts – small scale be increased to 25m in rural residential zones (as well as in rural and industrial zones, as previously recommended by the Reporting Officer), to align with the NESTF (regulation 35).

367. In her revised recommendations, Ms Macleod generally agreed with the changes requested to Rule 5.3.1.5, and recommended that they be incorporated into the rule, with some minor drafting changes (Revised Recommendations, pp3-4).

368. She also agreed that:

- Rule 5.5.6.1 should be amended as requested by the submitters, to avoid conflict with NESTF 2016 in relation to the location of network utility structures – small scale in primary pedestrian street frontages
- the maximum height for network utility poles and masts – small scale should be increased to 25m in rural residential zones, to align with the NESTF, and
- the maximum diameter of head arrays should be increased to 6m in rural residential zones to align with the NESTF, and in industrial zones to provide an incentive to locate masts with larger head arrays there.

369. However, she did not agree with the requested increase in the permitted diameter of head arrays in the CBD Zone, CBD edge mixed use zones, the Trade Related Zone, the CBD Edge Commercial Zone or major facility zones.

370. She noted that, although the NESTF 2016 permits head arrays of up to 6m diameter in this zone on upgraded cell phone masts (regulations 32 and 33), it does not permit any head arrays on new cell phone masts in the road reserve (regulations 28 and 29), and it does not provide for new cell phone masts outside the road reserve in these zones. She did not see any reason for the plan to be more permissive than the NESTF, particularly in the CBD (albeit that only a very small proportion of the CBD is not covered by heritage precincts) and in mixed use zones, which include the Harbourside Edge zone and zones with residential uses like Smith St/York Place. The Reporting Officer noted that Mr McKinlay supported her response on this matter (Revised Recommendations, pp. 4-5).

371. Having given the matter further thought, she also withdrew her recommendation that height in relation to boundary controls should be applied to network utility poles and masts – small scale, from rural residential property boundaries. She noted that network utility poles and masts – small scale are permitted in rural residential zones – so it does not make sense to require that poles and masts in adjacent zones are setback from rural residential land. She continued to recommend that the height in relation to boundary control be applied from residential property boundaries.

4.2.9.5 Decision and Reasons

372. We accept the submissions from *Vodafone* (OS576.40), *Spark* (OS923.40*)* and *Chorus* (OS925.40) requesting that network utility structures – small scale be permitted in all CMU and major facility zones, and also the submission from *PowerNet* (OS915.16) requesting permitted status in CMU zones only. The Panel would like to thank the submitters' experts and the Reporting Officer for consulting and providing us with nearly unanimous conclusions.

373. We accept the evidence on this matter presented by Mr Horne at the original hearing, and by Ms Macleod at the reconvened hearing, indicating that provisions for this activity need to be designed with interaction with the NESTF in mind, in order to avoid unintended adverse consequences for amenity. In relation to the additional performance standards to be applied to the activity to manage potential effects on amenity, the amendments to references to NESTF 2016 in Rule 5.3.1.5, and the increases to the maximum diameter of head arrays and the maximum height of poles and masts certain zones, we agree with the revised recommendations given by Ms Macleod at the close of the reconvened hearing.

374. We note that the increase to the maximum diameter of head arrays in rural residential zones, and to the maximum height of poles and masts in rural, rural residential and industrial zones, are required so that the Plan does not conflict with the NEST 2016. Therefore, these are made under s44A(5) of the RMA, rather than in response to a submission.

375. We note that the increase to the maximum diameter of head arrays in industrial zones is not within the scope of the submissions discussed in this section, but is within the scope of *Vodafone* (OS576.46), *Spark* (OS923.46) and *Chorus* (OS925.46), discussed in section 4.2.18 of this report.

376. However, we do not agree with Ms Macleod's recommendation, in response to the telecommunication companies' tabled statement, that *rules* should be amended to clarify that activities provided for under NESTF are exempt from certain standards that normally apply in areas that are not within ONF, HNCC, ONCC, NCC, SNL and ONL overlay zones, in heritage precincts and on scheduled heritage sites. We consider that it is preferable to make these clarifications via notes to plan users (located directly underneath the relevant rules in the Plan), as these may be amended without a plan change if the NES is further revised in the future.

377. The amendments required for this decision, including consequential amendments, are as follows.

- Amend Rule 5.3.2.9 so that network utility poles and masts – small scale are permitted, rather than restricted discretionary, in all commercial and mixed use and major facility zones (NU576.40).
- Add Rule 5.5.A.6.e to apply a height in relation to boundary control to network utility poles and masts – small scale in CMU and major facility zones, where these are located on sites that are adjacent to residential zones (NU576.40).
- Amend Rule 5.5.A.6.a (notified as Rule 5.5.7.1.a.iv) so that the maximum diameter of head arrays in the CBD and Centres zones is 1m rather than 4m (NU576.40) and so that the maximum diameter of head arrays in industrial zones is 6m rather than 4m (NU576.46).
- Add Note 5.5.6A under Rule 5.5.6, Note 5.5.A.6A under Rule 5.5.A.6, Note 5.5.A.8A under Rule 5.5.A.8, and Note 5.5.BA under Rule 5.5.B, to clarify that activities provided for under NESTF are exempt from these standards, in areas that are not within ONF, HNCC, ONCC, NCC, SNL and ONL overlay zones, in heritage precincts and on scheduled heritage sites (NU cl.16).

378. See Appendix 1.

379. We note that, as discussed above, Rule 5.5.A.6.a.ii (notified as Rule 5.5.7.1.a.iv) and Rule 5.5.A.6.d (notified as Rule 5.5.8.5.a) have been amended under s44A(5) of the RMA to increase the maximum diameter of head arrays in rural and rural residential zones to 6m, and to increase the maximum height of poles and masts in rural, rural residential and industrial zones to 25m.

4.2.10 Requests to permit network utility structures – small scale in roads in ONFs, ONCCs and HNCCs

4.2.10.1 Background

380. Under Rule 5.3.2.8, network utilities structures – small scale are permitted in all management zones and in SNLs, ONLs, NCCs, ASCVs, scheduled heritage sites and heritage precincts, and restricted discretionary in ONFs, HNCCs and ONCCs.

4.2.10.2 Submissions

381. *KiwiRail* (OS322.71) sought that Rule 5.3.2.8 be retained as notified. *PowerNet* (OS915.14) sought the same outcome, provided that the definition of 'network utilities structures' was amended to include underground lines, as requested by the submitter in OS915.2 (see discussion in section 4.2.7).

382. *Vodafone* (OS576.39), *Spark* (OS923.39) and *Chorus* (OS925.39) sought that Rule 5.3.2.8 be amended to permit network utilities structures – small scale in all roads.

383. *Vodafone's* submission point was supported by *Trustpower* (FS2127.30) and *Aurora* (FS2375.8). Both *Spark* and *Chorus's* submission points were supported by *Aurora* (FS2375.9; FS2375.10) and opposed by *HPPC* (FS2267.115; FS2267.116). We note that, in their further submissions, *HPPC* requested discretionary activity status for network utilities structures – small scale in certain areas. However, additional requests made in further submissions do not provide us with scope to make changes to the plan; therefore, we have not given consideration to this request.

384. The Reporting Officer noted that the Plan as notified permitted network utilities structures – small scale in all roads, except within ONFs, HNCCs and ONCCs. She referred the requests to permit the activity in roads in these additional areas to Mr Michael Moore (landscape architect).

385. Mr Moore considered that "being built elements, the nature of effects of small scale network utility structures on natural character and landscape values was likely to be adverse, and particularly in areas with high natural character" (Evidence, pp. 18-19).

386. In Mr Moore's view, although the proposed maximum dimensions would restrict the scale of these elements to the point where landscape character and visual effects were likely to be modest, taking into account the high natural character and landscape values associated with ONFs, HNCCs and ONCCs, "there is still risk that there could be significant adverse effects e.g. on specific significant close proximity viewpoints, or where proposed sites have high levels of visibility and visual sensitivity such as skylines" (Evidence, pp. 18-19).

387. Therefore, Mr Moore considered that a consent process would be valuable, as it would allow for the assessment of matters such as the suitability of the proposed location, colour finishes and the effects on specific views.

388. Based on this evidence, the Reporting Officer recommended that *Vodafone*, *Spark* and *Chorus*'s requested amendment to Rule 5.3.2.8 be rejected.

389. No evidence relevant to this matter was presented by submitters at the hearing.

4.2.10.3 Decision and Reasons

390. We reject the submissions of *Vodafone* (OS576.39), *Spark* (OS923.39) and *Chorus* (OS925.39), based on the evidence of Mr Moore and the recommendations of the Reporting Officer. We note that the issue is potential new infrastructure, not replacement of existing infrastructure, which is permitted under section 10 of the Act. The areas concerned cover only small areas and we accept the only landscape evidence presented (by Mr Moore, for the Council) that in these special areas there is a need to at least consider whether visual impacts could be mitigated through a consent process.

4.2.11 Requests to amend provisions to enable service connections to scheduled heritage buildings and scheduled heritage sites

4.2.11.1 Submissions

391. *Vodafone* (OS576.2), *Spark* (OS923.2) and *Chorus* (OS925.2) all sought that the definition of Additions and Alterations be amended to exclude "Network utilities placed on or connected to a building or structure within a scheduled heritage site". The intent of these requests was to ensure that the placement of network utility equipment (e.g. service connections) on a building did not require consent via provisions in management zone sections (for example Rule 18.3.6.23 in CMU zones) that apply restricted discretionary activity status to Additions and Alterations to a scheduled heritage building or item within a scheduled heritage site.

392. *Heritage New Zealand (HNZ)* (FS2440.1, FS2440.2, and FS2440.3) opposed these submissions, on the basis that (Further submission, Appendix A, p.3):

> *it is appropriate to specifically include building utilities in the definition because such equipment has the potential to adversely impact on the fabric and appearance*

of heritage buildings and should be controlled, along with all other activities which alter or add to a protected part of a scheduled building.

393. These submissions were considered at the Heritage Hearing. The Reporting Officer, Ms Emma Christmas, recommended that the definition be amended to specifically include the attachment or construction of "building utilities" but exclude "network utilities" (Heritage s42A Report, section 5.1.1). She recommended that "network utilities" be excluded from the definition on the basis that network utilities are managed separately from Additions and Alterations, under rules in Section 5.

394. *Vodafone*, *Spark* and *Chorus* tabled a joint written statement at the Heritage Hearing stating that they supported Ms Christmas's recommendation on this matter (on the understanding that the recommendation would result in consent not being required for the addition of network utility connections to heritage buildings). They considered it important that the Plan recognise that "network utilities will be required within heritage precincts to provide essential services within these areas. Viable use of these areas for activities such as business and education requires access to modern telecommunications/broadband services..." (Statement, p.1).

4.2.11.2 Decision

395. We agree with the outcome sought in the submissions from *Vodafone* (OS576.2), *Spark* (OS923.2) and *Chorus* (OS925.2) – i.e. that network utility connections to buildings in scheduled heritage sites should not be subject to a consent requirement – on the basis of the evidence provided by these submitters in their statement tabled at the Heritage Hearing. We agree that access to up to date telecommunication services is important to the continued use and re-use of heritage buildings.

396. We note that, in order to give effect to this request, it is necessary to amend the definition of Building Utilities. This is because Building Utilities – which include a wide range of utility structures attached to a building, that form part of the utility systems for that building – are not treated as Network Utility Activities in the Plan.

397. Instead, they are treated as part of the building, and are subject to the Plan's provisions for Buildings and Structures (i.e. the development provisions in the management zone sections) rather than the network utilities provisions.

398. It is unclear from the definition of Building Utilities whether network utility connections – i.e. lines connecting buildings to aboveground utility networks – are to be treated as a type of building utility or not. If they are, then they require consent as additions and alterations; if they are not, they are permitted as "network utility structures – small scale" in Section 5 (under Rule 5.5.A.1). Therefore, we have decided that, in response to *Vodafone* (OS576.2), *Spark* (OS923.2) and *Chorus* (OS925.2) the definition of Building Utilities be amended to clarify that it excludes network utility connections. We have also amended the definition of Additions and Alterations, in response to the same submissions and for the same reason, to clarify that it does not include network utility activities. See the amendments to these definitions shown in Appendix 1.

4.2.12 Requests to provide for network utility structures – large scale and substations in ONFs, ONCCs and HNCCs

4.2.12.1 Background

399. Under Rule 5.3.2.10, network utilities structures - large scale are: restricted discretionary activities in management zones; fully discretionary in SNL, ONL and NCC overlay zones, scheduled ASCVs, scheduled heritage sites and heritage precincts; and non-complying in ONF, HNCC and ONCC overlay zones.

4.2.12.2 Submissions

400. *Aurora* (OS457.15), *Vodafone* (OS576.41), *Spark* (OS923.41), *Chorus* (OS925.41) and *Transpower* (OS806.29) sought discretionary, rather than non-complying, status for this activity in ONF, HNCC and ONCC overlay zones.

401. *Aurora's* submission point was supported by *Trustpower* (FS2127.31), and *Transpower's* submission point was supported by *PowerNet* (FS2264.7).

402. The Reporting Officer, Ms Macleod, referred these submissions to Mr Moore, landscape architect, for comment.

403. Mr Moore considered that larger scale network utility structures "can obviously significantly modify the character and the naturalness of areas that have high existing natural character or natural character-based landscape values". In forming his view Mr Moore noted the following (Evidence, pp.20-21):

- *These overlays give effect to matters of national importance under section 6 of the RMA and are worthy of considerable care.*
- *It is my assessment that large scale network utilities structures have the potential to have highly significant adverse effects on the values of ONF, HNCC and ONCC overlays. In general terms and as far as landscape and visual effects are concerned, I believe that their presence in these areas would usually constitute inappropriate development, incompatible with preservation or protection of the landscape values.*

404. Taking this evidence into account, the Reporting Officer considered that non-complying rather than discretionary activity status was appropriate in this case.

405. Given the importance of network utilities to Dunedin's social and economic prosperity, and the constraints on the location of utility structures that arise from their technical and *operational* requirements, she considered it appropriate to use non-complying activity status sparingly in provisions for network utilities. She noted that, accordingly, the only network utilities activity (not including energy generation activities) that is non-complying in notified Plan provisions is network utilities structures – large scale in ONF, HNCC and ONCC overlays. In support of this activity status, in addition to the evidence provided by Mr Moore, Ms Macleod noted that:

- ONF, HNCC and ONCC overlays cover very little land within Dunedin. This reduces the extent to which non-complying activity status restricts the ability of network utilities to operate efficiently and effectively.
- ONF, HNCC and ONCC overlays are almost entirely without existing development and uninhabited; therefore, there is likely to be less demand for most types of utility in these locations. Because ONFs are generally located on highland, they may (from an operational point of view) be considered appropriate locations for certain types of utility, such as telecommunication or radiocommunication masts. However, due to the limited extent of the ONF overlay zone, Ms Macleod did not consider that non-complying activity status will significantly restrict the ability of network utilities to operate efficiently and effectively.

406. At the hearing, Ms Ainsley McLeod (planning consultant), called by *Transpower*, indicated that, in her view, the Reporting Officer's recommendation on this matter did not give particular consideration to balancing the values associated with the overlay areas, and potential effects on those values, with the benefits and national significance of the National Grid, including the direction given by the policies of the NPSET (Evidence, pp. 42-43, para. 107-109). In Ms McLeod's view, this balance would be better achieved by applying discretionary activity status to network utility structures – large scale, where these were part of the National Grid.

407. Ms Kirsty O'Sullivan (planning consultant), called by *Trustpower Ltd*, and considered the non-complying activity status in the HNCC overlay was unnecessarily onerous and went beyond the policy directives contained in the NZCPS Policy 13(i)(a), which sought to "avoid adverse effects on natural character areas of the coastal environment with

outstanding natural character" (Evidence, paras 6.29-6.31). In Ms O'Sullivan's view, discretionary status would be appropriate in HNCC overlays.

408. Likewise, Ms Megan Justice (planning consultant), called by *PowerNet*, considered that discretionary activity status should be applied to substations in the HNCC overlay zone, on the basis that non-complying status was overly onerous, and failed to recognise that, where a location in an overlay zone was chosen for a substation structure, it was due to the locational constraints inherent in providing a service to a community. Where such a situation arose, discretionary activity status would enable decision makers to take into account all effects generated by the structure and activity, including effects on the values of the HNCC (Statement of Evidence, p.11, para. 4.29).

409. Ms Karen Blair (planning consultant), called by *the Oil Companies*, considered that non-complying activity status in any overlay area was inappropriate for network utilities, because it failed to recognise their technical, functional and locational constraints and their wider benefits (Statement of Evidence, p. 10, paras 6.6-6.7).

410. Mr Chris Horne (planning consultant), called by *Vodafone, Chorus* and *Spark*, noted that, while the provisions for network utilities in ONFs, ONCCs and HNCCs were "avoidance based", "these areas are quite discrete and it is unlikely that telecommunications infrastructure will need to be deployed within these areas" (Statement of Evidence, pp. 11-12, para 35).

411. In response Ms McLeod's evidence for *Transpower*, the Reporting Officer stated that, given the very limited spatial extent and the particularly high values of ONCCs, HNCCs and ONFs, she did not consider that non-complying activity status for network utilities structures – large scale in these areas is inconsistent with the policies of the NPSET.

412. However, she considered that, if *Transpower* needed to erect new National Grid infrastructure in any of these areas during the lifetime of the 2GP, it may be appropriate to build in exceptions to the provisions for specific areas (for example, discretionary activity status could be included for a specific ONF in which *Transpower* have plans to establish infrastructure). She recommended that further discussions be held with *Transpower* to establish if this is the case.

4.2.12.3 Decision and Reasons

413. We reject the submissions from *Aurora* (OS457.15), *Vodafone* (OS576.41), *Spark* (OS923.41), *Chorus* (OS925.41) and *Transpower* (OS806.29) requesting changes to the activity status of network utility structures – large scale in ONFs, ONCCs and HNCCs; we consider that the non-complying activity status should be retained. Our decision is based on the evidence provided by Mr Moore, and the recommendations of the Reporting Officer. As noted above, these are quite small areas with very high natural values. We accept that it is possible that there could be a need for a large scale network utility structure to be sited in one of these, but there would have to be truly exception circumstances to justify it. We do not consider that the possible further discussions between the Council and *Transpower*, referred to in the Reporting Officer's revised recommendations, are necessary.

414. We note that related evidence from *Aurora*, *Transpower*, *Vodafone, Chorus* and *Spark*, on the question of the appropriate effects test (in policies) for network utilities structures - large scale in ONF, HNCC and ONCC overlay zones, was presented at the Natural Environment Hearing. See discussion, and our decisions on the wording of relevant policies, in section 3.7.5.2 of the Natural Environment Decision.

4.2.13 Requests for more enabling provisions for substations

4.2.13.1 Submission

415. *PowerNet* Limited (OS915.17) requested that performance standards for network utility structures be amended so that the notified 6.5m^2 maximum permitted area for "gross

floor area of substations" (Rule 5.5.7.1.a.vii) was applied instead to "gross floor area of equipment and buildings".

416. In its submission, *PowerNet* noted that the rule as notified would be problematic for substations, which comprise a combination of structures, including transformers, switchboards, equipment shelter buildings for switchboards, communications masts and antennas and lines. In its view, the rule did not reflect the characteristics of substations, and should be amended so that it only applies to buildings forming part of a substation (Submission, Annexure A, p.4).

417. The Reporting Officer, Ms Macleod, considered that the specific relief sought in *PowerNet*'s submission would lead to an increase in the size of utility structures in general, which she did not support. However, she acknowledged *PowerNet's* wider concern that notified rules did not adequately provide for substations. To address this, she recommended that substations should be managed as a separate activity. Given the total area typically covered by a substation, she considered that the activity status rules proposed for network utilities structures – large scale should apply to this activity (i.e. substations would be restricted discretionary in all management zones, discretionary in most overlay zones and scheduled sites, and non-complying in the most sensitive overlays (ONFs, ONCCs and HNCCs). She recommended that the Technical standards performance standard be applied to substations.

418. She also proposed that a new definition for substations (based in part on the description of substations provided in *PowerNet's* submission) be added to the Plan, as follows (s42A Report, section 5.9.4):

> ***Substations***
>
> *A set of structures and associated equipment, which may include transformers, switchboards, equipment shelter buildings for switchboards, communication masts and antennas, and lines, that reduces the high voltage of electrical power transmission to that suitable for supply to consumers.*

419. At the hearing, Ms Megan Justice, called by *PowerNet*, considered that substations should be permitted activities in industrial zones, given the lower level of amenity anticipated in these zones (Evidence, para. 4.28). She also considered that the Technical standards performance standard (Rule 5.5.13) was not relevant to substations, and should not be applied to them, because the rule related only to gas pressure (Evidence, para. 4.30).

420. Ms Joanne Dowd, representing *Aurora*, was concerned to ensure that the recommended provisions for substations (involving restricted discretionary activity status in all zones) were not applied to small 'distribution substations' which are typically found along road reserves. *Aurora* requested that the activity definition for substations be renamed 'zone substations', to ensure that only larger substations were captured by these provisions.

421. In her revised recommendations, Ms Macleod acknowledged Ms Dowd's concern and recommended that the activity definition of 'substations' be amended to 'zone substations' as requested, with the wording of the definition to be amended in consultation with *Aurora*. In addition, she recommended that smaller 'distribution substations' be treated as a type of 'network utility structure – small scale', i.e. permitted in all zones and most overlays.

422. She also agreed with Ms Justice that permitted activity status would be more appropriate for both zone and distribution substations in industrial zones. In relation to Ms Justice's view that Rule 5.5.13 Technical standards were not relevant to substations, she noted that, in addition to the standard relating to gas pressure, the rule also included a maximum voltage for overground electricity lines. Therefore, she considered it appropriate to apply the standard as recommended.

423. We requested that Ms Macleod consult with *Aurora*, as suggested, to determine an appropriate definition for 'zone substations'.

424. At the reconvened hearing in November 2017, Ms Macleod recommended – in her memorandum to the Panel – that term 'electrical distribution structures' should be

added to the definition of 'network utility structures' as an example of this type of activity, and a definition of 'electrical distribution structures' should be added to the Plan, drafted in line with feedback that had been provided by *Aurora.* This would allow smaller substations to be permitted in all zones, via the 'network utility structures – small scale' provisions.

425. She also recommended that, to provide for larger substations as a restricted discretionary activity, the activity name "substations" should be retained, again with a definition drafted in line with feedback that had been received from *Aurora*, that would make clear that only higher capacity facilities were covered by this term. Ms Macleod considered that this approach would address *Aurora's* concerns, while using plain English as far as possible (Memorandum, section 12.2).

426. In evidence tabled at the reconvened hearing, Ms Justice, called by *PowerNet*, requested that the recommended definition of 'electrical distribution structures' be amended to refer to structures with a maximum operative voltage of 22kV rather than 11kV, on the basis that most of the transformers they install are up to 22kV (Evidence, para. 1.11-1.12). She noted that there would be no physical difference in the appearance of structures of these higher voltages, and that in any case, the maximum scale of structures was controlled by performance standards.

427. The Reporting Officer accepted *PowerNet's* point and recommended that the definition be amended as requested.

4.2.13.2 Decision and Reasons

428. We largely accept the submission from *PowerNet* (OS915.17) because the notified provisions for Substations appear to unnecessarily constrain small substations. The approach recommended by the Reporting Officer with specific provisions for Substations is in our view a workable compromise.

429. The amendments required for this decision, including consequential amendments are as follows.

1. Amend the nested table for the Network Utility Activities Category to add Substations.
2. Amend the definition of Network Utility Activities to include Substations.
3. Add new definitions to the Plan as follows:

Electrical Distribution Structures

Cabinets or other structures containing equipment for the control and/or transformation of electricity, which have a maximum nominal operating voltage and energy transfer of 22kV and 3MVA respectively.

Substations

A facility for the control and/or transformation of electricity at a high or significant capacity. For the sake of clarity, this includes any associated communication masts and antennas. Examples are:

- *zone substations*
- *sub-transmission switching stations*
- *National Grid exit points*
- *switching stations.*

This definition excludes activities otherwise defined as electrical distribution structures.

4. Amend definition of Network Utility Structures to include Electrical Distribution Structures, and to exclude Substations.
5. Amend definition of Underground or Internal Network Utilities to remove "This definition excludes any substations which are defined as network utilities – small scale or network utilities – large scale."

6. Amend Policy 5.2.1.11 to include "…substations (other than in industrial zones)…"
7. Add Rule 5.3.2.A, under which Substations are: a restricted discretionary activity in all zones except that they are permitted in industrial zones; a non-complying activity in ONF, HNCC and ONCC overlay zones, and a discretionary activity in SNL, NCC and ONL overlay zones, ASBVs, scheduled heritage sites and heritage precincts. Apply the Technical standards performance standard (Rule 5.5.13) to this activity.
8. Add "substations" to Policy 5.2.1.7, which manages activities that contravene Rule 5.5.13.
9. Delete Rule 5.5.7.1.a.vii 'Gross floor area of substations'.
10. Amend Rules 5.9.2.4-8 (Assessment of Discretionary Activities) to include Substations located in SNLs, ONLs, ASBVs, NCCs, scheduled heritage sites and heritage precincts.
11. Amend Rule 5.10.3.2 and 5.10.3.4 (Assessment of non-complying network utilities activities) to include Substations located in ONFs, ONCCs and HNCCs.
12. Amend policies in Section 10 that relate to discretionary activities in ONLs, SNLs and NCCs, and non-complying activities in ONFs, ONCCs and HNCCs, (i.e. Policies 10.2.3.2, 10.2.3.Y, 10.2.5.4, 10.2.5.Z and 10.2.5.7) to refer to Substations.
13. Amend Rule 10.6.2.5 (assessment rule for discretionary activities in SNLs and ONLs), Rule 10.6.2.7 (assessment rule for discretionary activities in ASBVs), Rule 13.7.2.2 (assessment rule for discretionary activities in scheduled heritage sites) and Rule 13.7.2.3 (assessment rule for discretionary activities in heritage precincts) to refer to Substations.

430. See Appendix 1 (amendments attributed to NU 915.17).

4.2.14 Requests to provide for electric vehicle charging stations

4.2.14.1 Background

431. The Plan lists electric vehicle charging stations (EVCS) in the 'small scale network utilities' definition, but they are not otherwise mentioned in any provision. Although the Reporting Officer, Ms Macleod, stated that the inclusion of EVCS in this definition did not result in the activity being provided for in the Plan (Section 42A Report, section 5.6), the more recent explanation provided by Ms Macleod of the ways in which provisions for network utilities in general were intended to work (see section 3.0, paragraph 24), shows that EVCS are included in the definition of 'network utility structure', because the definition of 'network utilities' includes 'the supply of electricity'. This means that EVCS are in fact provided for in notified provisions, as either Network Utility Structures – Small Scale or Network Utility Structures – Large Scale depending on their compliance with relevant scale thresholds.

4.2.14.2 Submissions

432. The *NZTA* (OS881.5) and *Aurora* (OS457.215) sought that electric vehicle charging stations (EVCS) be retained as part of the definition of 'small scale network utilities'. *Aurora*'s submission indicated that the reason for this request was that the submitter supported the introduction of provisions relating to EVCS.

433. Ms Macleod did not agree with the specific request to retain electric vehicle charging stations (EVCS) as part of the definition of small scale network utilities, due to her separate recommendation that this definition be deleted (see section 4.2.6). She did, however, agree with *Aurora* that the 2GP should include provisions for EVCS, on the

basis that the availability of EVCS would support the uptake of electric vehicles in Dunedin, which would reduce reliance on fossil fuels for transportation, and reduce local air pollution.

434. Due to her initial reading of notified provisions as not providing for EVCS, Ms Macleod was of the view that *Aurora*'s submission provided scope to draft provisions 'from scratch'. As a result, she recommended certain amendments that are discussed below.

435. She recommended that EVCS be treated in the same way as similar utilitarian structures, such as telecommunication cabinets – i.e. provided for as a type of network utility structure. On this basis, given their typical dimensions, they would be Permitted in all zones, but Restricted Discretionary in ONFs, ONCCs, HNCCs, and Discretionary in heritage precincts, pedestrian street frontages and scheduled heritage sites. She indicated that Dr Glen Hazelton (then the DCC's Team Leader – Urban Design) was supportive of this approach.

436. She had also consulted Mr Grant Fisher (the DCC's Transport Planner/Engineer) with regard to the potential effects of EVCS on the safe and efficient operation of the transport network. Based on Mr Fisher's advice, she recommended that the following performance standards should be applied to EVCS, in order to manage these potential effects:

- EVCS may provide a maximum of two charging cables
- A minimum parking requirement of one space per charging cable applies, and
- EVCS are subject to the requirements for car parking design and vehicle access design and location set out in Section 6: Transportation.

437. Finally, she recommended that these provisions apply only to EVCS that are available to the public. Any private electric vehicle charging facility – for example located in a residential garage – should be treated as part of the primary activity and not be subject to any additional controls. Therefore, she recommended that EVCS be defined as "A structure which provides for the charging of electric or hybrid vehicles, and is available for public use."

438. At the hearing, Mr Andrew Henderson, the consultant planner called by *the NZTA*, tabled evidence on this topic. Mr Henderson indicated that *the NZTA* supported the Council's intention to facilitate greater use of hybrid vehicles, and providing for charging stations will assist in making these vehicles more accessible and easy to use within Dunedin.

439. However, Mr Henderson indicated that *the NZTA* considered the recommended rules not to be sufficiently clear or flexible. The submitter was of the view that the provisions would benefit from further consideration and discussion, in particular to ensure that "the provisions appropriately enable the consideration of actual and potential effects of *[the location of EVCS]* on the state highway network" (Statement of Evidence, p. 2).

440. In response to Ms Macleod's recommendation that EVCS be defined as including only facilities that were "available for public use", Mr Henderson considered that this would not achieve the outcome sought by the Council. The result would be that, if an EVCS is not available for public use, it would sit outside the definition. Mr Henderson considered that, unless there was a clear statement in the Plan that EVCS provided for private use (whether residential or business) are a Permitted activity, the wording as recommended in the Section 42A Report could result in unnecessary resource consent requirements in some circumstances.

441. In his view, the definition would function appropriately if the reference to public use was deleted, so that there was no distinction between public and other use of a charging station in the definition. Further, he considered that any distinction between publicly and privately used EVCS should properly be made through performance standards, to make it clear that an EVCS is subject to standards when it is to be provided for public use, and otherwise is a permitted activity.

442. In addition, Mr Henderson considered that the recommended provisions may be unnecessarily onerous. He noted that Discretionary status in heritage precincts and primary and secondary street frontages, for example, would mean that consent was

required for these facilities in much of the CBD, and may make their provision in an area likely to be frequented by electric or hybrid vehicles challenging.

443. Further, he queried the resource management justification for limiting the maximum number of cables per EVCS to two given that, depending on the layout of the car park, more cars may be able to be serviced. He suggested that there may be more appropriate performance standards to manage effects, such as applying a maximum distance that a car may be parked from a charging station.

444. Mr Henderson considered that the recommended provisions were more restrictive than those originally notified, and were not directly contemplated in the submissions supporting the provision of EVCS. He indicated that, in the view of *the NZTA*, it would be appropriate for the Panel to direct either expert conferencing or mediation on this matter in order to discuss the appropriate level of control. (Evidence, pp. 1-2)

445. Ms Karen Blair, the planning consultant called by *the Oil Companies*, also considered it unclear why the number of charging cables was limited to two. In the view of *the Oil Companies*, as long as one parking space was provided per cable, the DCC should be more encouraging of these facilities, especially where they were installed to serve high turnover parking spaces (Evidence, para 6.5).

446. In response to this evidence, the Reporting Officer indicated that she had discussed the limit on the number of charging cables with *Aurora*, who installed the charging unit in the Filleul St car park. *Aurora* indicated that all units currently being manufactured for sale in New Zealand have a maximum of two cables, and that this was not considered likely to change in the lifetime of the Plan.

447. She indicated that the only resource management reason for limiting the number of cables was to limit effects from vehicle movements to and from the chargers. Having revisited this matter with Mr Fisher, she indicated that he considered a maximum limit of four charging cables per installation to be acceptable from the point of view of transportation effects. This would allow two units two be installed side by side. Therefore, Ms Macleod recommended that the maximum number of charging cables be increased from two to four.

448. She did not consider any further amendments were necessary to clarify that provisions for EVCS were not intended to capture chargers that are not available for public use, which are not captured by the proposed rules. She considered that her recommended definition of EVCS made this clear.

449. Finally, in relation to the query from Mr Henderson regarding whether EVCS should require consent in heritage precincts and on pedestrian frontages, she noted that the dimensions of the units were similar to those of large utility cabinets, which would also require consent in these areas in order to provide an opportunity to manage effects on amenity. Therefore, taking into account the advice she had received on this matter from Dr Hazelton, she did not revise her recommendation on this point.

4.2.14.3 Decision and Reasons

450. We accept in part the submissions *NZTA* (OS881.5) and *Aurora* (OS457.215) to the extent that we consider that EVCS should be provided for in the 2GP, although, for reasons set out in section 4.2.6, we also agree with separate advice provided by the Reporting Officer that the definition of 'small scale network utilities', in which they are mentioned, should be deleted.

451. However, we disagree with the Reporting Officer's initial interpretation of notified provisions. In our view, notified provisions did provide for EVCS, and submissions do not provide scope to amend the effect of those provisions.

452. All that can be done at this stage, therefore, is to amend provisions to clarify that EVCS are included in the definition of 'network utility structure', and thus provided for as either Network Utility Structures – Small Scale or Network Utility Structures – Large Scale. This has been achieved via a separate recommendation, in response to other

submissions, to amend the definition of 'network utility structure' to indicate that it includes any structure that forms part of a network utility (see section 3.0).

453. There is no scope for Ms Macleod's recommendations to:

- add performance standards to limit the number of charging cables, require minimum car parking or require compliance with car parking and vehicle access design standards, or
- add the recommended definition of EVCS, which would exempt EVCS that are not publicly available from both activity status rules and performance standards.

454. We recommend that, if issues arise with the management of EVCS as additional units are installed around the city, these matters are revisited in a future plan change. This approach has the benefit of allowing involvement of key stakeholders, as requested by Mr Henderson.

455. In relation to EVCS that are not publicly available (e.g. are located in a private garage), we note that these would be likely to fall within the definition of 'underground or internal network utilities', which are permitted throughout the city.

456. See also our decision to amend the definition of 'service stations', to provide for service stations that incorporate electric vehicle charging facilities (section 4.3.5 of this decision; change made in response to NU 764.1).

4.2.15 Requests to amend performance standards for amateur radio configurations

4.2.15.1 Background

457. Under notified Rule 5.3.2.5, amateur radio configurations are provided for as a permitted activity in all zones and in most overlays, subject to compliance with Rule 5.5.1 Amateur Radio Standards. Restricted discretionary status applies only in the most sensitive landscape and natural coastal character overlays zones (ONFs, ONCCs and HNCCs).

458. Rule 5.5.1 sets out permitted parameters for the size, design and location of the various elements of amateur radio configurations. These include limits on:

- the diameter of aerial elements, wire aerials, dish antennae and panel antennae, the length of horizontal high frequency Yagi aerials
- the height of aerials
- the number, dimensions and location within the site of pedestal mounted antennae
- the number, design and height of poles and support structures, and
- the diameter of guy wires.

4.2.15.2 Submissions

459. The Otago branch of the New Zealand Association of Radio Transmitters, *Otago Branch 30 NZART*, lodged three submission points (OS402.1-3) in relation to Rule 5.5.1.

460. Firstly, the submitter sought corrections to two errors in the drafting of Rule 5.5.1.1.a (OS402.1), as follows:

a. The maximum diameter of amateur radio configurations is:

i. for aerial elements, 80mm;

ii. for wire aerials, ~~115~~15mm;

iii. for dish antenna, 2m; and

iv. for panel antenna, 2m, unless less than 2m² in area.

461. The submitter noted that a wire aerial of even 15mm in diameter is very large and would not normally be found in amateur aerials, therefore the reference to 115mm appears to be a typographical error. The second requested change would correct a grammatical error (Submission, p.5).

462. Seven further submitters supported *Otago Branch 30 NZART* (OS402.1), while an eighth, *Terence Michael Thomas* (FS2286.1), supported the submission point in part, but sought that the 115mm diameter wire aerial be retained (the further submission did not refer to any reasons for this request).

463. The Reporting Officer, Mr Rawson, recommended that submission point OS402.1 be accepted, for the reasons given by the submitter.

464. Secondly, the submitter requested that Rule 5.5.1.1.c, which limits the maximum height of aerials that are part of amateur radio configurations, be amended to delete the following text:

c. The maximum height of aerials is 2m above the maximum height of the zone in which the activity is located, except:

i. one vertical aerial is permitted to a maximum height of 20m~~, provided there is only one vertical aerial or one support structure (and attached aerials) per site~~.

465. The submitter considered that "The additional words are superfluous in that the sentence has already specified that only one vertical aerial may be this height, and the way it is written is confusing and could be misconstrued to mean that no other aerials at any height are permitted if there is a vertical aerial more than 2m above the maximum height of the zone." (Submission, p. 5). Again, seven further submitters supported this request.

466. Mr Rawson agreed with the submitter that the requested amendment would make interpretation of the rule clearer and simpler. He considered that the revised wording proposed by the submitter will retain the intent of the rule. Therefore, he recommended that submission point OS402.2 be accepted.

467. Finally, *Otago Branch 30 NZART* requested that Rule 5.5.1.2.c, which limits the maximum height of poles and support structures that are part of amateur radio configurations, be amended as follows:

c. The maximum height of poles and support structures is 2m above the maximum height of the zone in which the activity is located, except:

i. one support structure (and attached aerials) may exceed ~~the height of the zone in which the activity is located by a maximum of 2m~~ this height, to a maximum height of 20m.

468. In support of this request, the submitter noted that the Plan allows for many different kinds of structure (such as chimneys and spires) to exceed the maximum zone height by 2m or more. "This is no doubt based on the fact that these structures are slender and therefore do not overly restrict daylight etc. This applies equally to amateur radio aerials and support structures. Allowance for one structure to be up to 20m high is consistent with decisions made recently by many councils (including Auckland, Tauranga, Hamilton, South Taranaki, and Christchurch) following an environment court decision regarding the Tauranga District plan" (Submission, p. 5).

469. Mr Rawson noted that the Environment Court decision referred to in the submission was an oral interim decision (Decision No [2012] NZEnvC107). In this decision, the Court examined the issue of an appropriate height limit to mitigate amenity effects from amateur radio configurations. It concluded that "20m overall as an upper limit, although generous to amateur radio, is sufficient to enable them to engage in HF use and meets the majority of international publications' recommendations as to aerial height. In our view, 20m represents a reasonable provision for the radio community

while balancing that against the potential impacts (Oral interim decision, p.10, para. 34)."

470. However, the agreed position reached by the parties to NZEnvC107 was outlined in the final Environment Court decision dated 7/9/2012 (ENV-2011-AKL-74). This decision set out rules for support structures in the Residential and Rural Residential Zones, and included a maximum height of 9m for pole and lattice support structures.

471. Mr Rawson referred *Otago Branch 30 NZART*'s submission on this matter to Mr Peter Christos, DCC Urban Designer, who considered that, at 20m in height, radio masts could be "significantly dominant" in residential zones, and "likely to impact on several sites – including the road reserve and public space". Mr Christos considered that height limits of: 2m over maximum building height in residential zones; 5m over maximum building height in commercial and mixed use (CMU), major facility and recreation zones; and 20m maximum height in rural, rural residential and industrial zones would be appropriate (Evidence, p. 11).

472. Based on this evidence, and taking into account the proposed limits on the height of network utility poles and masts set out in in Rule 5.5.8 of the Plan and the maximum building height limits in place in various zones, Mr Rawson recommended that submission point OS402.3 be accepted in part, and that Rule 5.5.1.2.c be amended as follows:

> *c. The maximum height of poles and support* ***structures*** *is the maximum height of the zone in which the activity is located, except:*
>
> *i. one support* ***structure*** *(and attached antennas) may exceed the height of the commercial and mixed use, rural and rural residential zones to a maximum height of 20m*
>
> *ii. in all other zones, one support* ***structure*** *may exceed the height of the zone in which the activity is located by a maximum of 2m.*

473. At the hearing, Mr David Mulder and Mr Adam Campbell appeared for *Otago Branch 30 NZART*. In response to our questions, they indicated that in Dunedin there were around half a dozen amateur radio aerials in the city area, and about 20 in rural areas. They also noted that aerials were generally retractable, because that made them easier to maintain, and meant they could be lowered in bad weather. They discussed the role played by amateur radio in aiding technological development, and in responding to emergencies.

474. Mr Mulder pointed out that the Environment Court judge, in the decision referred to in the submission, had noted that raising the height of antennae actually diminishes the appearance of the height and bulk of the antennae apparatus.

475. He also indicated that noise interference mitigation would be difficult with the 11m or 14m limit recommended by the Reporting Officer. Mr Campbell agreed that getting antennae up a bit higher would get them away from background noise.

476. Having sought further verbal advice from Mr Christos on this matter, Mr Rawson revised his recommendation in response to the evidence provided by Mr Mulder and Mr Campbell. He recommended that Rule 5.5.1.2 be amended to allow one support structure (in zones other than CMU, rural and rural residential) to exceed the height limit for buildings in the zone by a maximum of 5m (Revised Recommendations, p.17).

4.2.15.3 Decision and decision reasons

477. We note that these provisions are affected by the reformatting discussed in section 3.0, above. Amateur radio configurations are now treated as a type of network utility structure and provided for via provisions for network utility structures – small scale or network utility structures – large scale, depending on their size.

478. As a result of this reformatting, notified Rule 5.5.1 has been deleted and amalgamated with other scale thresholds applying to network utility structures, in new Rule 5.5.A. The part of this rule that is relevant to amateur radio configurations is Rule 5.5.A.7. None of these formatting changes alter the effect of provisions.

479. We accept *Otago Branch 30 NZART*'s submission points OS402.1 and OS402.2, for the reasons given by the submitter.

480. We accept in part the request from *Otago Branch 30 NZART* (OS402.3) for a more enabling standard for the maximum height of poles and support structures. We consider that poles and support structures should, as per notified rules, generally have to comply with the maximum height limit for buildings and structures in the zone in which they are located. However, based on the evidence of Mr Christos and Mr Rawson, we consider that one support structure per configuration should be allowed up to 20m in height in CMU, rural and rural residential zones. In other zones, taking into account the evidence of Mr Christos and Mr Rawson, and also the evidence given by Mr Mulder and Mr Campbell in relation to the importance of additional height to the functioning of amateur radio configurations, we consider that:

- if non-retractable, one support structure per configuration should be allowed to exceed the maximum zone height for buildings and structures by up to 5m, or
- if retractable, one support structure per configuration should be allowed up to a height of 20m, provided it is used only from sunset to sunrise.

481. In our view, the amended rule strikes an appropriate balance between enabling amateur radio and managing amenity effects, in accordance with Objective 5.2.1.

482. The following amendments are required for this decision.

- Amend Rule 5.5.A.7.b.ii (notified as 5.5.1.1.a.ii) to replace '115mm' with '15mm' (NU 402.1).
- Amend Rule 5.5.A.7.b.iv (notified as 5.5.1.1.a.iv) to insert the word 'less' (NU 402.1).
- Amend Rule 5.5.A.7.d (notified as 5.5.1.1.c.i) to delete "provided there is only one vertical aerial or one support structure (and attached aerials) per site" (NU 402.2).
- Amend Rule 5.5.A.7.h.i&ii (notified as 5.5.1.2.ci&ii) to increase the maximum height of poles and support structures associated with amateur radio configurations (one support structure per configuration only) (NU 402.3).

483. Amendments are shown in Appendix 1.

4.2.16 Requests to remove 'buildings and structures located on or above the footpath' standard for network utilities

4.2.16.1 Submissions

484. Under proposed provisions (Rules 5.5.2 and 6.7.2), network utilities poles and masts - small scale, network utilities structures - small scale and network utilities structures - large scale that are located on public footpaths must provide a minimum width of unobstructed area for pedestrian movement of 3m in the CBD Zone, and 1.5m in all other zones. Rule 6.7.2, located in the Plan's Transportation Section, also applies this requirement to other activities, including public amenities and certain signs.

485. *Aurora* (OS457.169), *Chorus* (OS925.43, OS925.59 and OS925.60), *Vodafone* (OS576.43, OS576.59 and OS576.60) and *Spark* (OS923.43, OS923.59 and OS923.60) each sought that provisions be amended to remove this requirement, by deleting Rule 5.5.2, Rule 6.7.2 and associated assessment rules.

486. *Chorus*, *Vodafone* and *Spark* considered that the requirement will not always be practical, and that it is better to manage the location of structures on the footpath via the Corridor Access Request (CAR) process, which is not part of the Plan.

487. The Reporting Officer, Mr Rawson, noted that the CAR process referred to by the telecommunication companies is set out in the National Code of Practice for Utility Operators' Access to Transport Corridors (September 2015).

488. He noted that the stated purpose of the Code is to:

- enable utility operators' access to transport corridors to be managed in a way that maximises the benefit to the public while ensuring that all utility operators are treated fairly;
- ensure that disruptions are kept to a minimum and safety is maintained; and
- provide a nationally consistent approach to managing access to transport corridors.

489. Mr Rawson observed that the Code requirements for the positioning of utility structures on footpaths are consistent with Rule 6.7.2; the Code requires maintenance of minimum footpath widths of 1.5m in residential areas, 2.5m in Commercial Areas, and 3m for combined foot/cycle paths. Therefore, he agreed that Plan provisions should be amended to remove the location requirement on public footpaths for network utility activities.

490. However, he noted that the Code applies only to utilities and not to the other activities that are subject to Rule 6.7.2 (public amenities and signs); therefore, he did not agree with submitters that Rule 6.7.2 should be deleted entirely.

491. At the hearing, *Chorus*, *Vodafone* and *Spark* called Mr Chis Horne (consultant planner) who supported Mr Rawson's recommendation as an acceptable solution (Evidence, pp. 25-26).

492. Ms Joanne Dowd (Network Policy Manager), representing *Aurora*, also supported Mr Rawson's recommendation on this matter (Evidence, p. 10).

4.2.16.2 Decision and Reasons

493. We accept in part the submissions from *Aurora* (OS457.169), *Chorus* (OS925.43, OS925.59 and OS925.60), *Vodafone* (OS576.43, OS576.59 and OS576.60) and *Spark* (OS923.43, OS923.59 and OS923.60), to the extent that we agree with the Reporting Officer's recommendations on this matter. We consider it appropriate to rely on the National Code of Practice for Utility Operators' Access to Transport Corridors (September 2015) to ensure that network utilities on public footpaths are located appropriately.

494. The amendments required for this decision are as follows:

- amend Rule 6.7.2.1 to remove reference to 'network utilities poles and masts - small scale, and network utility structures (small and large scale)'
- delete Rule 5.5.2 'Buildings and Structures Located on or Above the Footpath'
- amend Rules 5.3.2.8, 5.3.2.9 and 5.3.2.10 to delete reference to the 'Buildings and Structures Located on or Above the Footpath' standard
- delete Rule 5.7.3.3 'Assessment of performance standard contraventions (network utilities activities) - Buildings and Structures Located on or Above the Footpath'
- amend Policy 9.2.2.13 (which manages the effects of activities in the footpath on health and safety), and its paraphrasing in assessment Rule 9.4.3.1, to delete references to "network utility activities".

495. Amendments are shown in Appendix 1 and attributed to NU 457.169.

4.2.17 Requests to amend location performance standard

4.2.17.1 Background

496. In notified provisions, the 'Location' performance standard (Rule 5.5.6) applies to the following activities:

- Realignment, reconfiguration or relocation of existing network utilities
- Network utilities structures - small scale

- Hydro generators - on-site energy generation.

497. Rule 5.5.6 contains a number of different requirements. The following elements of the rule apply to network utilities structures – small scale:

- a requirement that network utilities structures – small scale be co-located with a building or existing network utility pole or mast in certain circumstances, i.e.:
  - in pedestrian street frontages, within heritage precincts where visible from an adjoining public place, and in 'coastal landscape overlays' if over a certain size, visible from an adjoining public place, and located on the seaward side of a coastal road (Rule 5.5.6.1), and
  - on outstanding natural features (ONFs) (Rule 5.5.6.5).
- a requirement that pipes and lines be located underground, with some exceptions including lines that are located in rural or rural residential zones, or attached to an existing pole or mast (Rule 5.5.6.2).

498. The following element of the rule applies to Realignment, reconfiguration or relocation of existing network utilities:

- A requirement that, when above-ground pipes, or network utilities poles and masts, are relocated, the new location is within 3m of the existing location/alignment (Rule 5.5.6.3).

499. Finally, the following element of the rule applies to Hydro generators - on-site energy generation:

- A requirement that, in heritage precincts, this activity be located so that it is not visible from any adjoining public place (Rule 5.5.6.4).

500. Under Rule 5.5.6.6, contravention of Rule 5.5.6.5 (co-location on ONFs) results in non-complying activity status; contravention of any other aspect of the rule results in restricted discretionary status.

4.2.17.2 Submissions and Section 42A recommendations

501. *Chorus*, *Spark*, *Vodafone*, *Aurora* and *Transpower* lodged a range of submission points seeking that Rule 5.5.6 be amended in a number of ways, to be more enabling of utilities.

Rules 5.5.6.1, 5.5.6.5 and 5.5.6.6

502. *Chorus* (OS925.44), *Spark* (OS923.44) and *Vodafone* (OS576.44) requested that the rule be amended to delete the requirements that network utilities structures – small scale be co-located with a building or existing network utility pole or mast in certain circumstances (Rules 5.5.6.1, 5.5.6.5 and 5.5.6.6). In the same submission point, they also requested that Rule 5.5.6.2.b be amended so that lines attached to existing buildings or structures would be exempt from the requirement to be located underground.

503. The submitters considered that Rule 5.5.6.1 duplicates matters controlled through the Corridor Access Request (CAR) process (which is discussed in section 4.2.16 above). They sought deletion of Rules 5.5.6.5 and 5.5.6.6 on the grounds that it may not always be practical to locate network utilities structures - small scale against a building.

504. Similarly, *Aurora* (OS457.17) requested that Rule 5.5.6.1 be either deleted, or amended in two ways:

a. to exclude new overhead lines and associated poles and masts from the requirement to co-locate with buildings/poles and masts, and

b. only to require other types of network utilities structures – small scale to be co-located with a building 'where practicable'.

505. *Aurora* noted that a requirement to establish electricity lines against existing buildings would conflict with the New Zealand Electrical Code of Practice for Electrical Safe

Distances (NZECP34: 2001) which requires particular setbacks from buildings and structures.

506. In response to the telecommunication companies' submissions, the Reporting Officer, Mr Rawson, discussed the requirements of the CAR process, set out in the National Code of Practice for Utility Operators' Access to Transport Corridors (September 2015), in relation to the location of utility structures. He did not consider that Rule 5.5.6.1 duplicated the requirements of the Code.

507. Mr Rawson agreed with *Aurora* that new overhead lines and associated poles and masts should be excluded from the co-location requirement, for the safety reasons given by the submitter; but did not agree that the phrase 'where practicable' should be added to Rule 5.5.6.1, on the basis that it was imprecise and, therefore, unsuitable for a performance standard. He considered that the resource consent process was the appropriate forum in which to consider the operational constraints that may make it impracticable to establish network utilities structures – small scale against a building or utility pole or mast.

508. However, he did recommend that partial relief should be provided to submissions seeking the deletion of Rule 5.5.6.1, via the removal of the co-location requirement from network utilities structures – small scale in secondary pedestrian street frontages. Mr Rawson noted that these areas have lesser streetscape amenity than primary pedestrian street frontages and, therefore, he considered it appropriate to relax the standard in these locations. He noted that Mr Peter Christos, DCC Urban Designer, had endorsed this approach.

509. He also recommended that the reference to "coastal landscape overlay" in Rule 5.5.6.1.c be corrected to "natural coastal character overlay" (NCC), which is the term used in other Plan provisions. He noted that, in the other coastal character overlays (HNCCs and ONCCs), the amenity effects of network utilities structures - small scale would be considered as part of the resource consent process, given that the activity is restricted discretionary in these areas.

510. Mr Rawson recommended that the Panel reject the requests from *Chorus*, *Spark* and *Vodafone* to delete both the requirement that network utilities structures – small scale be co-located with a building or existing network utility pole or mast on Outstanding Natural Features (Rule 5.5.6.5), and the application of non-complying status to contraventions of this standard (Rule 5.5.6.6).

511. He noted that during pre-hearing consultation these submitters had been supplied with information on the location of outstanding natural features in Dunedin, which are mostly isolated areas which generally have no permanent residents, as well as being of outstanding landscape value. There are 21 of these outstanding natural features identified in the Plan, with examples including Tunnel Beach, the Pyramids, the Chasm/Lovers Leap, Taiaroa Head, Quarantine Island/Kamau Taurua and Mt Holmes Organ Pipes.

512. Mr Rawson indicated that it was his understanding that there was limited existing or potential future network utility infrastructure within these locations and, therefore, these rules are not overly onerous. He noted that, after reviewing the locations of ONFs, submitters had indicated that they were relatively comfortable with the Plan's approach.

<u>Rule 5.5.6.2</u>

513. *Aurora* also sought that Rule 5.5.6.2 be amended in two ways (OS457.18):

a. to exclude 'extensions of overhead lines to serve single domestic customers' from the requirement to be located underground, and

b. only to require pipes and lines (of types not exempt from the rule) to be located underground 'where practicable'.

514. The submitter considered that, by incorporating the second requested amendment, the rule would better reflect the potential difficulties and constraints associated with

undergrounding, which include co-ordination with other utility operators, geological conditions and other matters which make it impractical to install utilities underground.

515. *Transpower* (OS806.31) requested that Rule 5.5.6.2 be amended to exempt "new National Grid infrastructure not already provided for under NESETA" from the requirement to locate underground.

516. Mr Rawson recommended that, with the exception of the requested addition of 'where practicable', which he opposed for reasons discussed above, amendments sought by submitters to Rule 5.5.6.2 should be made. He considered that the requested changes would "generally add clarity and simplicity" to the rule, and would balance the operational requirements of utility operators and requirements of NESETA with the intent of the rule, to encourage undergrounding of pipes and lines.

Rule 5.5.6.3

517. *Chorus* (OS925.45), *Spark* (OS923.45) and *Vodafone* (OS576.45) supported the notified wording of Rule 5.5.6.3 (i.e. the requirement that, when above-ground pipes, or network utilities poles and masts, are relocated, the new location is within 3m of the existing location/alignment).

518. However, *Aurora* (OS457.19) sought that the rule be amended to replace '3m' with '5m', on the basis that the 3m limit was "unduly restrictive". The submitter considered that the amendment was required to ensure that activities associated with routine maintenance were not subject to consent requirements.

519. The rule exempts any 'national grid support structure managed under NESETA' (i.e. the NES for Electricity Transmission Activities) from the need to comply with the 3m limit. *Transpower* (OS806.31) requested that this aspect of the rule be amended so that it would also refer any 'National Grid line' managed under NESETA.

520. Mr Rawson recommended that *Transpower*'s request be accepted, as it would improve the clarify of the rule. He also recommended that the reference to 3m be replaced with 5m, in response to Aurora's submission, on the basis that the change would not be likely to result in a significant change to the effects of the relocated line.

4.2.17.3 July 2016 hearing: evidence presented by submitters

521. Ms Joanne Dowd (Network Policy Manager), representing *Aurora*, supported the amendments recommended by the Mr Rawson to the Location performance standard (Rule 5.5.6) (Statement of Evidence, p. 12).

522. *Vodafone*, *Spark* and *Chorus* called Mr Chris Horne (consultant planner). Mr Horne noted that the telecommunications companies had made a number of submissions on this rule. While Mr Rawson's recommendations had resolved most of the matters submitted on, the submitters disagreed with the recommendation on Rule 5.5.6.1.

523. Mr Horne noted that telecommunications cabinets in roads are a permitted activity under the NES for Telecommunications Facilities (NESTF), subject to certain dimensional and separation controls (Regulation 8). Under Regulation 6 of NESTF, the rules in a district plan may only be more stringent than the NES where they protect one or more of the following values:

- trees and vegetation
- historic heritage values
- visual amenity values
- Coastal Marine Area.

524. Mr Horne indicated that, while the submitters accept that rules in a District Plan can reasonably control location of above ground cabinets in roads within heritage precincts, they were concerned that Rule 5.5.6.1, which controls cabinets in pedestrian street frontages, "goes beyond what the NESTF ever intended in regard to visual amenity areas" (Evidence, para. 58).

525. Mr Horne noted that he had been directly involved in the development of the NESTF 2008, and stated that the reference to "visual amenity" in Regulation 6 had been intended to apply to "particular high amenity landscapes that had been determined as the result of a specific study or assessment" rather than to areas like the Plan's proposed pedestrian street frontages. Therefore, he considered that Rule 5.5.6.1.a, which would be more stringent than the NESTF in relation to telecommunication cabinets in pedestrian street frontages, conflicted with the NES and should be deleted (Evidence, para. 59).

4.2.17.4 November 2017 reconvened hearing

526. At the reconvened hearing the Reporting Officer, Ms Macleod, revised her recommendations for certain provisions in the light of the revised NESTF 2016, which came into effect at the start of 2017. These revised recommendations are discussed in section 4.2.9 of this decision and relate to the activity status of network utility poles and masts – small scale in the commercial and mixed use and major facility zones.

527. In response to these recommendations, Mr Colin Clune, Ms Mary Barton and Mr Graeme McCarrison (planners) representing, respectively, *Vodafone*, *Chorus* and *Spark*, tabled a joint statement at the reconvened hearing in which, as noted in section 4.2.9, they requested that Rule 5.5.6.1 be amended to indicate that, within primary pedestrian street frontages, this rule does not apply to structures permitted by the NESTF 2016. This is because, under the revised NESTF, pedestrian street frontages more clearly do not qualify as areas within which district plans may have stricter rules that the NES. Therefore, the rule conflicts with the revised NESTF.

528. In her revised recommendations at the close of the hearing, Ms Macleod acknowledged that the rule did conflict with NESTF 2016 and recommended that it be amended as requested by the submitters.

4.2.17.5 Decision and Reasons

<u>Rules 5.5.6.1, 5.5.6.5 and 5.5.6.6</u>

529. We reject the submission from Aurora (OS457.17) in relation to the wording of Rule 5.5.6.1. We do not consider it necessary to exclude "new overhead lines and associated poles and masts" from the rule, because:

- the rule does not apply to network utility poles and masts, and
- the requirement for new lines to be attached to network utility poles and masts will not conflict with NZECP34: 2001.

530. In addition, we agree with Mr Rawson that the qualifier "where practicable" should not be added to the rule, as this would be inappropriate in a performance standard.

531. We accept in part the submissions from *Chorus* (OS925.44), *Spark* (OS923.44) and *Vodafone* (OS576.44) seeking deletion of Rules 5.5.6.1, 5.5.6.5 and 5.5.6.6, but only to the extent that we agree with Mr Rawson that the reference to secondary pedestrian street frontages should be removed from Rule 5.5.6.1.a, and that the reference to 'coastal landscape overlay zone' should be replaced with 'Natural Coastal Character overlay zone'.

532. While we agree with the telecommunication companies that provisions should be clarified to indicate that Rule 5.5.6.1.a does not apply to activities provided for under the NESTF that occur within primary pedestrian street frontages, we consider that the best way to do this is via the addition of a note to plan users, which would be straightforward to amend if the NES is further revised in the future.

533. We agree with Mr Rawson that Rules 5.5.6.5 and 5.5.6.6, requiring the co-location of network utility structures – small scale with existing buildings or network utility structures when located on ONFs, should be retained, for the reasons given in the s42A Report.

534. In a related matter, we note that Rule 5.5.6.1 requires location "against a building or attached to an existing network utilities pole or mast" while Rule 5.5.6.5 requires co-location with "an existing building or with an existing network utility structure". We consider that the drafting of these rules require review to ensure that they are as enabling and as consistent as possible, while appropriately managing potential effects.

535. Firstly, we do not consider that the word "existing" is necessary in relation to poles and masts in Rule 5.5.6.1. If a pole or mast is to be established either as a permitted activity or via consent process, we do not see any need to require utility providers to wait until that structure has been established before co-locating "network utility structures – small scale" with it.

536. Likewise, we consider that in ONFs network utility structures – small scale should be permitted for the purposes of Rule 5.5.6.5 if they are co-located with "a building" (not necessarily an "existing building", noting that any new building would require consent as a non-complying activity anyway), with a "network utility pole or mast" (which, again, would require separate consent if new), or with an "existing network utility structure" (we consider that the "existing" is necessary in this case, given that network utility structures – small scale may be established as permitted activities).

537. Finally, we consider that the term "against" in Rules 5.5.6.1 and 5.5.6.5 requires clarification (in the context "Network utility structures – small scale must co-locate against a building...'). Therefore, we have added a footnote to Rule 5.5.6.1 to clarify that this term means "as close as practicable to the other structure specified in the rule, subject to the requirements of the Building Code".

538. Given that these amendments each have the effect of making the rules slightly more enabling, we consider that they fall within the scope of *Chorus* (OS925.44), *Spark* (OS923.44) and *Vodafone* (OS576.44).

539. In a related matter, we note that Policy 10.2.5.14, in the Natural Environment section of the Plan, which applies to contraventions of Rule 5.5.6.5, is inappropriately worded. The notified wording of the policy is "Avoid network utility structures - small scale in an Outstanding Natural Feature Overlay Zone (ONF) unless they are co-located with an existing building or network utilities structure". Under the Plan's drafting protocol, this policy should begin "Require...", because it relates to a performance standard contravention. Based on technical advice received from Dr Anna Johnson, the DCC's City Development Manager, we have amended the wording to: "Require network utility structures - small scale in an Outstanding Natural Feature Overlay Zone (ONF) to be designed and located to ensure that any adverse effects on the landscape values identified in Appendix A3 are insignificant." We consider that this amendment gives additional partial relief to the submissions from *Vodafone* (OS576.9), *Spark* (OS923.9) and *Chorus* (OS925.9) seeking that Section 5 be amended to better provide for network utilities (see discussion of these submissions in section 4.2.1.3). Although this policy is located in Section 10, it guides the processing of consents triggered by rules in Section 5.

540. Finally, we note that, in the notified Plan, there is no policy against which to assess contraventions of Rule 5.5.6.1 by network utility structures – small scale in NCC overlay zones. In the absence of such a policy, the only guidance for the assessment of these contraventions on the identified values of NCCs is provided by Objective 10.2.3. This objective, as amended by the Natural Environment Decision Report, reads:

> *Areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) are protected from inappropriate use and development and their values, as identified in Appendix A5, are ~~maintained~~ preserved {NatEnv 958.37} or enhanced.*

541. Standard Plan drafting indicates that a specific policy is necessary to manage the effects of these contraventions on identified values. Based on the revised approach to the structure of the policies associated with Objectives 10.2.3 and 10.2.5 (see section 3.7.5.2 of the Natural Environment Decision), the appropriate policy wording would be as follows:

Require network utility structures – small scale in a Natural Coastal Character Overlay Zone (NCC) to be located to ensure that adverse effects on the natural coastal character values identified in Appendix A5 are avoided or, if avoidance is not practicable:
a. no more than minor, or
b. where there are no practicable alternative locations, adequately mitigated.

542. The effects test in this policy would match that of Policy 10.2.3.Y, which manages network utility structures – large scale in NCCs and would therefore provide a consistent approach to the management of network utilities in these overlays.

543. Again, we consider that the addition of this policy gives partial relief to the submissions from *Vodafone* (OS576.9), *Spark* (OS923.9) and *Chorus* (OS925.9) referred to above, on the basis that the effects test specifically provides for consideration of the locational constraints of network utility structures that contravene Rule 5.5.6.1 in NCCs.

544. Therefore, we have added new Policy 10.2.3.Z to Section 10 of the Plan, with the wording shown above. We have also added new assessment rule 10.4.4.7 in Section 10, to indicate that contraventions of Rule 5.5.6.1 in NCCs are to be assessed against this new policy and to add guidance (discussed in section 3.7.5.2 of the Natural Environment Decision) to clarify the situations in which activities will be considered to have "no practicable alternative locations". Consequentially, we have added new assessment rule 5.7.5.4 in Section 5, to link to Section 10. These amendments are shown in Appendix 1 and attributed to NatEnv 576.9.

Rule 5.5.6.2

545. We accept in part *Aurora*'s requested amendment to Rule 5.5.6.2 (OS457.18); we agree it is logical that 'extensions of overhead lines to serve single customers' are excluded from the requirement to be located underground, however, we do not consider it appropriate to add the qualifier "where practicable" to the rule, because as Mr Rawson pointed out, it would introduce uncertainty. Standards should not require assessment, in contrast to policies which may have to include qualifiers like "where practicable" in order to provide nuances intended to be taken into account when proposals are being assessed.

546. We reject *Transpower*'s request (OS806.31) that Rule 5.5.6.2.e be amended to exempt "new National Grid infrastructure not already provided for under NESETA" from the requirement to locate lines underground.

547. We note that the addition of this exemption would not remove the consent requirement for new lines, because all National Grid lines exceed 110kV and, therefore, would contravene Rule 5.5.13 Technical Standards; neither would it change the activity status of new lines, because contraventions of both Rule 5.5.6.2 and Rule 5.5.13 default to restricted discretionary status. However, it would affect the matters of discretion that apply to new lines; effects on character and amenity are assessed for contraventions of Rule 5.5.6, whereas effects on health and safety are assessed for contraventions of Rule 5.5.13. We consider it appropriate that effects on character and amenity be considered when new National Grid lines are proposed. Therefore, we do not agree that this activity should be exempt from Rule 5.5.6.2.

Rule 5.5.6.3

548. We accept in part the submission from *Aurora* (OS457.19) requesting that realignment/relocation of utilities up to 5m away from the existing alignment/location be permitted. This appears to us to be a reasonable compromise, allowing relatively small deviations in alignment for practical reasons while maintaining scrutiny of new corridors. As discussed in section 4.2.8 of this report, we have deleted the activity definition for "Realignment, reconfiguration or relocation of existing network utilities", and amalgamated it with an expanded definition for "Operation, repair, minor upgrading and maintenance of existing network utilities". The revised definition of the latter activity includes: "Realignment, reconfiguration or relocation of existing above-ground pipes and network utility poles and masts that occurs within 5m of the existing location

or alignment." We consider that our decision on this matter, set out in full in section 4.2.8, provides alternative relief for *Aurora*'s request.

549. We also accept in part the submission from *Transpower* (OS806.31) requesting that "National Grid lines" be excluded from Rule 5.5.6.3 on the basis that they are managed under NESETA. For reasons discussed in section 4.2.8, the revised definition of "Operation, repair, minor upgrading and maintenance of existing network utilities" has been drafted to mirror the NESETA, with respect to National Grid lines and support structures. We consider that this provides alternative relief for *Transpower*'s request.

Amendments to provisions

550. The amendments required for this decision, including consequential amendments, are as follows.

- Amend Rule 5.5.6.1 to add a footnote at the term "against", stating "For the purposes of Rules 5.5.6.1 and 5.5.6.5, the term "against" means "as close as practicable to the structure specified in the rule, subject to the requirements of the Building Code" (NU 576.44).
- Amend Rule 5.5.6.1 to change the wording in the first part of the rule from "an existing network utility pole or mast" to "a network utility pole or mast" (NU 576.44).
- Amend Rule 5.5.6.1.a to delete "of secondary" (NU 576.44).
- Amend Rule 5.5.6.1.c to refer to the "Natural Coastal Character overlay zone", rather than "coastal overlay zone" (NU 576.44).
- Amend Rule 5.5.6.2.b to add "or to existing buildings or structures" (NU 576.44).
- Amend Rule 5.5.6.2.c to add "(including extensions of overhead lines to serve a single customer)" (NU 457.18).
- Amend Rule 5.5.6.5 to change the wording from "an existing building" to "a building" and to add "or attached to a network utility pole or mast" (NU 576.44).
- Amend wording of Policy 10.2.5.14 as discussed above, and in consequence amend assessment Rule 10.7.2.5 and add new assessment Rule 10.7.2.C (NU 576.9)
- Add new Policy 10.2.3.Z as discussed above, and in consequence add assessment rules 10.4.4.7 and 5.7.5.4 (NU 576.9).

551. See Appendix 1.

4.2.18 Requests to amend scale thresholds for network utility structures – small scale and network utility poles and masts

4.2.18.1 Background

552. Under notified provisions, performance standards set out in Rule 5.5.7 Maximum Dimensions and Rule 5.5.8 Maximum Height apply to network utilities structures – small scale, and to network utilities poles and masts – small scale.

553. These performance standards represent the dividing line between 'small scale' and 'large scale' activities. Specifically:

- a network utility pole or mast is provided for as 'network utilities poles and masts – small scale' if it complies with Rules 5.5.7 and 5.5.8, and as 'network utilities structures – large scale' if it does not, and
- a network utility structure is provided for as 'network utilities structures – small scale' if it complies with Rules 5.5.7 and 5.5.8, and as 'network utilities structures – large scale' if it does not.

554. Rules 5.5.7 and 5.5.8 control the area, volume and height of utilities and have different requirements based on the zone and/or overlay they occupy. There are more stringent

controls in heritage precincts, heritage sites, along pedestrian street frontages and in residential zones.

555. These types of control contained in Rules 5.5.7 and 5.5.8 are as follows:

- Rule 5.5.7.1 Maximum dimensions: network utilities structures - small scale
- Rule 5.5.7.2 Maximum dimensions: Network utilities poles and masts - small scale
- Rule 5.5.8.3 Maximum height: network utilities attached to buildings
- Rule 5.5.8.4 Maximum height: network utilities attached to existing network utilities poles and masts
- Rule 5.5.8.5 Maximum height: 'freestanding' network utilities structures and network utilities poles and masts
- Rule 5.5.8.6 Clearance from navigable water body

556. Note that submissions on the performance standard relating to the scale of wind generators – on-site energy generation (Rule 5.5.10) are considered section 4.3.6 below. No submissions were received on performance standards relating to the scale of solar generators – on-site energy generation or hydro generators – on-site energy generation.

4.2.18.2 Submissions and Section 42A Report recommendations

Rule 5.5.7.1 Maximum dimensions: network utilities structures - small scale

557. *Aurora* (OS457.44, OS457.45 and OS457.47), *Vodafone* (OS576.46), *Spark* (OS923.46), Chorus (OS925.46) and *PowerNet Limited* (OS915.17) each sought amendments to make Rule 5.5.7.1 more enabling.

558. *Aurora* requested that the maximum volume of pole-mounted network utility structures be amended from $0.3m^3$ to $0.6m^3$ (OS457.44) and that the maximum volume of ground-mounted structures be amended from $0.4m^3$ to $0.6m^3$ (OS457.45). The submitter also requested that the maximum area for network utility structures along primary or secondary street frontages, in heritage precincts, or on a scheduled heritage site, where visible from an adjoining public place, be amended from $0.5m^2$ to $4m^2$ (OS457.47). In all cases, if these changes were note made, *Aurora* requested that the activity status for contravention of the standards be amended from restricted discretionary to controlled (OS457.44, OS457.45 and OS457.47).

559. *Vodafone* (OS576.46), *Spark* (OS923.46) and *Chorus* (OS925.46) sought the following changes to Rule 5.5.7.1.

- Delete controls on the maximum volume of pole-mounted and ground-mounted network utility structures.
- Amend the maximum diameter of head arrays in zones other than residential, rural residential and recreation from 4m to 6m.
- Amend the maximum diameter of dish antennae in residential, rural residential and recreation zones, landscape and natural coastal character overlay zones and along primary or secondary street frontages, in heritage precincts, or on a scheduled heritage site, where visible from an adjoining public place, from 1m to 1.2m.
- Amend the control on 'maximum cross-sectional areas of aerials' to a control on 'maximum area of largest antenna face (excluding dish antennas)', and amend the limit from 1m2 to 1.5m2 in residential, rural residential and recreation zones, landscape and natural coastal character overlay zones and along primary or secondary street frontages, in heritage precincts, or on a scheduled heritage site, where visible from an adjoining public place.

560. *PowerNet Limited* (OS915.17) sought the following changes to Rule 5.5.7.1.

- Delete controls on the maximum volume of pole-mounted and ground-mounted network utility structures.

- Delete the limit on the maximum area of network utility structures and amend the limit on 'gross floor area of substations' so that it applies to 'gross floor area of equipment or buildings' (this aspect of *PowerNet*'s submission OS915.17 is addressed in section 4.2.13 above).

561. The submitters sought these changes for a range of reasons, including:

- to ensure thresholds are reasonable and practical
- to align with typical equipment and provide for evolving technology, and
- to align with dimensions provided for in the NES for Telecommunication Facilities (NESTF).

562. The Reporting Officer, Mr Rawson, agreed it was important for provisions to allow network utilities operators and others to install typical equipment without undue impediment, but also noted the importance of protecting amenity values and, in particular, the high pedestrian and heritage character and amenity values in primary or secondary street frontages, heritage precincts and scheduled heritage sites (s42A Report, section 5.9.4).

563. He recommended that the submissions requesting deletion of the volume limits for pole-mounted and ground-mounted structures be accepted; in his view, these rules did not add any value "because the size of structures is adequately controlled by the area and diameter rules" (Rules 5.5.7.1.a.iii-vii). He referred the requested amendments to Rules 5.5.7.1.a.iii-vii to Mr Peter Christos, DCC Urban Designer, who considered the likely effects of these changes on the amenity and character of urban areas.

564. Mr Christos considered that *Aurora*'s request (OS457.47) for an increase in the maximum area of structures from 0.5m² to 4m² along primary or secondary street frontages, in heritage precincts; or on a scheduled heritage site (where visible from an adjoining public place) would be likely to result in structures that were visually dominant in zones with high sensitivity. He noted that large, above ground, utilities can also obscure architectural detail and reduce pedestrian amenity.

565. Similarly, he did not support the increase to the maximum diameter of head arrays in zones other than residential, rural residential and recreation zones, sought by *Vodafone* (OS576.46), *Spark* (OS923.46) and *Chorus* (OS925.46). He considered that the requested increase, from 4m to 6m, was significant and likely to have negative visual effects at some locations with high sensitivity.

566. Based on this evidence, Mr Rawson recommended that the submission point from *Aurora* (OS457.47) and the relevant aspects of the submission points from *Vodafone* (OS576.46), *Spark* (OS923.46) and *Chorus* (OS925.46), be rejected.

567. However, Mr Christos considered that the requests from *Vodafone* (OS576.46), *Spark* (OS923.46) and *Chorus* (OS925.46) for less significant changes to the rules for the maximum diameter of dish antennae and the cross-sectional area of aerials would have minimal additional visual impacts. Based on this evidence, Mr Rawson recommended that the relevant aspects of these submission points be accepted.

Rule 5.5.7.2 Maximum dimensions: Network utilities poles and masts - small scale

568. *Vodafone* (OS576.47), *Spark* (OS923.47) and *Chorus* (OS925.47) requested that Rule 5.5.7.2.a be amended to remove the reference to 'tubular' masts and to increase the maximum diameter from 0.5m to 1.5m.

569. In response to these submissions, Mr Rawson noted an inconsistency between Rule 5.5.7.2.a, which limits the diameter of tubular masts to 0.5m (resulting in a maximum cross-sectional area of $0.2m^2$), and Rule 5.5.7.2.c, which sets a $1m^2$ limit for the maximum cross-sectional area of other masts. He could not see any resource management reason to have a more restrictive level of control for tubular masts, and considered that a 1m² maximum cross-sectional area was appropriate for all types of mast. Therefore, he recommended that Rule 5.5.7.2.a be deleted, as alternative relief for the submitters' request.

Rule 5.5.8.3 Maximum height: network utilities attached to buildings

570. No submissions requested amendments to this aspect of Rule 5.5.8.

Rule 5.5.8.4 Maximum height: network utilities attached to existing network utilities poles and masts

571. No submissions requested amendments to this aspect of Rule 5.5.8.

Rule 5.5.8.5 Maximum height: 'freestanding' network utilities structures and network utilities poles and masts

572. *Vodafone* (OS576.50), *Spark* (OS923.50) and *Chorus* (OS925.50) requested that Rule 5.5.8.5.a be amended to increase the maximum permitted height of network utilities poles and masts in rural, rural residential and industrial zones from 20m to 25m.

573. Mr Rawson noted that it was his understanding that the revised National Environmental Standards for Telecommunication Facilities (NESTF), which at that point had yet to come into effect, would permit new masts up to 25m in rural zones. In addition, he considered that a 25m height limit in the Industrial zone for new poles and masts would generally be consistent with the character and amenity of the industrial zones, which contain and allow for tall buildings. Therefore, he recommended that these submissions be accepted in part, and that the limit be raised to 25m in rural and industrial zones, but remain at 20m in the rural residential zones (s42A Report, section 5.9.8).

574. *Aurora* (OS457.20) requested that the rule be amended to allow poles and masts in all other zones to exceed the normal limit (i.e. 5m above the maximum height for buildings in the zone) if this was necessary "to meet the safety clearance requirements of the New Zealand Electrical Code of Practice for Electrical Distances (NZECP34)."

575. Mr Rawson agreed with *Aurora* that, for safety reasons, the requested exemption from the height limit should apply if necessary to comply with NZECP34 (s42A Report, section 5.9.8).

576. These submitters also requested changes to the maximum height for 'freestanding' network utility structures – small scale, set out in Rule 5.5.8.5.b. *Aurora* (OS457.20) requested that the maximum height along any primary or secondary street frontage, or in a heritage precinct, or on a scheduled heritage site, where visible from an adjoining public place, be amended from 0.5m to 2m. *Vodafone* (OS576.51), *Spark* (OS923.51) and *Chorus* (OS925.51) requested that the rules be amended so that the lower threshold (0.5m) not be applied in primary or secondary street frontages.

577. These submissions were referred to Mr Christos, who noted that utility structures can detract from the high pedestrian amenity values and heritage character particularly of primary street frontages, heritage precincts or scheduled heritage sites, and considered that restricting the size of these structures is a valid method to protect these amenity and character values. Based on this evidence, Mr Rawson recommended that the requested changes be rejected (s42A Report, section 5.9.8).

Rule 5.5.8.6 Clearance from navigable water body

578. *Kiwirail Holdings Limited (Kiwirail)* requested that the rule be amended so that the requirement to maintain a minimum clearance of 10m between lines and a navigable water body did not apply to lines attached to an existing structure over a water body (OS322.24). Vodafone (FS2076.16), *Chorus* (FS2079.1) and *Spark* (FS2146.1) supported this submission point.

579. *Kiwirail*'s submission on this matter was considered in the Transportation Section 42A Report. The Reporting Officer, Ms Ann Rodgers, recommended that the submission point be rejected, but did not give any specific reasons for this recommendation (Transportation s42A Report, section 5.19.1).

580. *Vodafone* (OS576.52), *Spark* (OS923.52) and *Chorus* (OS925.52) sought that provisions be amended so that contraventions of Rule 5.5.8.6 were restricted discretionary, rather than non-complying. In their view, non-complying status for infringement of this rule is overly stringent. They noted that the rule may not be met by many existing lines attached to bridges.

581. These points were considered in the Network Utilities s42A Report, where Mr Rawson recommended that this request be rejected on the basis that non-complying activity status is appropriate, given the potential for adverse health and safety effects from non-compliance with the standard. In addition, Mr Rawson considered that existing lines would be covered by existing use rights, and he did not consider it likely that bridges that are situated over a water point with less than 10m clearance would be a 'navigable water body' as referenced in this rule (s42A Report, section 5.9.9).

582. In addition, *Dunedin City Council* (OS360.199) sought that the note to plan users provided beneath Rule 5.5.8.6 (i.e. Note 5.5C: "See also rules 5.5.7 and 5.5.1") be deleted on the basis that it was unnecessary. Mr Rawson agreed that the note did not add any value for plan users and should be deleted (s42A Report, section 5.9.10).

4.2.18.3 July 2016 hearing: evidence presented by submitters and Reporting Officer's revised recommendations

583. At the hearing, Mr Chris Horne (consultant planner), called by *Vodafone*, *Spark* and *Chorus*, provided evidence relating to a number of the submitters' requested changes to Rules 5.5.7 and 5.5.8.

584. In relation to the maximum diameter for head arrays in zones other than residential, rural residential and recreation zones, he considered that the 6m maximum diameter requested by the submitters would: align with the likely requirements of the revised National Environmental Standards for Telecommunication Facilities (NESTF) (which at that the time of the hearing had yet to come into effect); encourage the co-location of multiple providers' equipment on the same site; and also be appropriate for technical reasons (Evidence, para. 61).

585. Therefore, he considered that the permitted head array diameter should be increased from 4m to 6m in rural zones, industrial zones, and in "business zones other than the CBD ... and Centres" (Evidence, para. 62).

586. In response to this evidence, Mr Rawson recommended that the maximum diameter limit in Rule 5.5.7.1.a.iv be amended as follows to align with the likely requirements of the revised NESTF:

- increase maximum diameter to 6m in rural zones, and
- allow an existing head array to be increased by up to 30% in industrial zones and in CMU zones other than CBD and Centres (Revised Recommendations, p. 15).

587. In relation to the Reporting Officer's recommendation for a $1m^2$ maximum cross-sectional area of poles and masts, Mr Horne's understanding was that this would not be achievable for many typical mobile masts used by Spark and Vodafone, particularly given the flare at the base of the mast required for structural support (Evidence, para. 66). He also noted that a $1m^2$ cross-sectional area would not be sufficient for a mast of the recommended permitted height in rural and industrial zones (25m). Therefore, he requested that the limit be increased to $2m^2$ (Evidence, para. 66-67).

588. In his revised recommendations, Mr Rawson supported the requested increase of the maximum cross-sectional areas of masts from 1 to $2m^2$ (Revised Recommendations, p. 15).

589. Mr Horne indicated that the submitters generally supported the Mr Rawson's recommendations for amendments to the maximum height of poles and masts (Rule 5.5.8.5.a) (Evidence, para. 68).

590. In relation to the question of whether the Plan should apply a 0.5m height limit to freestanding network utility structures – small scale in pedestrian street frontages, Mr Horne reiterated his view (discussed in section 4.2.9 above) that Regulation 6 of the NESTF did not allow the Plan to apply more stringent controls than those contained in the NES in these areas (Evidence, para. 70-71).

591. In relation to the requirement for a minimum clearance between lines and navigable water bodies (Rule 5.5.8.6), Mr Horne noted that he had been involved in a number of

projects where new lines have been attached to existing bridges. He considered that, provided the project does not reduce the existing freeboard of the bridge above the waterway, there will be no impact on any navigable water body, and therefore a consent requirement would be "unnecessary regulation". He also stated that, given that "navigable water body" is not defined in the 2GP, "it is not clear what the potential extent of this rule is (e.g. how small a vessel being able to transit a waterway would deem it to be navigable)" (Evidence, para. 75).

592. He considered that network utilities attached to any existing bridge or structure crossing a navigable water body, where the existing freeboard above the water body is not reduced, should be exempt from Rule 5.5.8.6 (Evidence, para. 76).

593. Similarly, in addressing this matter at the Transportation Hearing, Ms Rebecca Beals (RMA Team Leader), representing *Kiwirail*, noted that the submitter had sought that lines attached to an existing structure over a water body be exempt from Rule 5.5.8.6 on the basis that often network utilities, particularly small-scale ones like cables, were attached to existing structures such as bridges through a ducted pipe. Therefore, the 10m clearance might not be achieved, and such cables would require resource consent. She observed that the practicality of installing elevated support structures to achieve a 10m clearance for a cable, and the associated visual intrusion that would result, did not seem to ensure efficient or effective resource management.

594. In his revised recommendations, Mr Rawson recommended that Rule 5.5.8.6 be amended as requested by Mr Horne and Ms Beals.

595. Ms Joanne Dowd (Network Policy Manager), representing *Aurora*, expressed major concerns with notified and recommended provisions for network utility structures in heritage precincts, in pedestrian street frontages, and on scheduled heritage sites – both in terms of the low dividing line between 'small scale' and 'large scale' proposed for these areas ($0.5m^2$ area and 0.5 height) and in terms of the proposed discretionary activity status for large scale. In Ms Dowd's view, these provisions would be "operationally prohibitive" and would have "the potential to compromise Aurora's ability to provide a secure and efficient supply of electricity" in the CBD and other affected areas. Ms Dowd reiterated the request made in Aurora's submission that, to address this, either the dividing line between small and large scale should be significantly raised, or the activity status for large scale should be amended from discretionary to controlled, in order to provide certainty that consents would be issued (Evidence, pp. 12-13).

596. In his revised recommendations, Mr Rawson recommended, following consultation with Mr Christos, that:

- the $0.5m^2$ maximum area (footprint) should be retained, and
- the $0.5m^2$ maximum height should be increased to $0.9m^2$.

597. No recommendation was made to amend the discretionary activity status that, under the proposed rules, would apply to utilities in pedestrian frontages, heritage precincts and scheduled heritage sites that exceed these thresholds.

4.2.18.4 Further information requested by Panel

598. Following the presentation of revised recommendations, we requested that the Reporting Officers review the drafting of provisions for network utility structures, to achieve greater clarity and to ensure that provisions are not overly onerous.

4.2.18.5 November 2017 reconvened hearing

599. Ms Macleod's presented revised recommendations on this matter to the Panel in a memorandum, which was circulated to all submitters prior to the reconvened hearing. She indicated that, having reflected further on Ms Dowd's evidence, she accepted her view that the combination of a low scale threshold for 'network utility structures – large scale' and fully discretionary status for this activity in heritage precincts, pedestrian frontages and scheduled heritage sites did not provide for the effective and efficient

operation of utilities in these areas (noting that heritage precincts cover almost all of the CBD).

600. In terms of the lower threshold of 'large scale' – which, incorporating revised recommendations given at the hearing, would be 0.5m^2 maximum area and 0.9m maximum height – she recommended that this be replaced with a single threshold of 0.5m3 volume. This would be more flexible than the area and height thresholds (for example, it would permit the low voltage distribution pillars cited in Ms Dowd's evidence, which have a height of 1.1m and a footprint of up to 0.4m^2) but still retain strict controls on the bulk of utility structures that may be established as of right in these sensitive areas. She indicated that she had consulted both Mr Christos, the DCC's Urban Designer, and Mr Dan Windwood, the DCC's Policy Planner (Heritage), and they advised that they were comfortable with this approach.

601. She also recommended that provisions be amended so that utilities that exceed the permitted scale thresholds for the more sensitive areas (0.5m^3 volume) but do not exceed the higher thresholds that apply in all underlying management zones (4m^2 footprint, 4m height) are restricted discretionary rather than fully discretionary. Under this approach, fully discretionary status would be retained for structures over 4m^2/4m. In Ms Macleod's view, restricted discretionary status was sufficient to manage structures less than 4m^2/4m, but fully discretionary status was appropriate for the larger structures, which may be highly variable in the magnitude and range of their effects. She recommended that, for restricted discretionary structures between 0.5m^3 volume and 4m^2/4m, discretion should be restricted to:

- effects on the character and amenity of the zone
- effects on pedestrian amenity
- effects on heritage streetscape character (heritage precincts only)
- effects on heritage values (scheduled heritage sites only).

602. Finally, to provide greater certainty and reduce costs for applicants, she recommended that provisions guarantee that the restricted discretionary activities (i.e. those between 0.5m3 and 4m2/4m) are not notified.

603. She considered that restricted discretionary activity status (along with a guarantee of no notification) was preferable to controlled in this case, because in these more sensitive areas the DCC should retain the ability to decline applications for structures that would have unacceptable effects on heritage or streetscape – for example, where they are located in a way that would obscure or detract from views of a highly valued heritage building from a public place (Memorandum, section 2.3.3).

604. In addition, as discussed in section 4.2.6 above, Ms Macleod recommended that Rules 5.5.7 and 5.5.8 be reformatted as a single rule, using tables rather than text where possible, to make it more straightforward for Plan users to identify the different scale thresholds (height, area etc.) that applied to different types of structure. She considered that, as these formatting changes did not affect the content of rules, they could be made as minor amendments under RMA clause 16 (Memorandum, section 2.3.2).

605. At the reconvened hearing, Ms Bridget Irving (Counsel), called by *Aurora*, indicated that *Aurora* generally supported Ms Macleod's revised recommendations, and considered that they represented "a sensible balance between *Aurora's* ability to develop its infrastructure without unnecessary regulatory cost and delay and concerns about amenity values" (Evidence, para. 5-6).

606. However, she indicated that *Aurora* continued to have concerns in relation to rules applying to its larger structures. The submitter considered that applications for discretionary utility structures, over 4m^2 footprint and over 4m in height, should also be non-notified; this would reduce regulatory costs but still give the Council full discretion to assess potential effects (Evidence, para. 7).

607. Ms Macleod did not revise her recommendations in response to this evidence.

608. Mr Colin Clune, Ms Mary Barton and Mr Graeme McCarrison (planners) representing, respectively, *Vodafone*, *Chorus* and *Spark*, tabled a joint statement at the reconvened hearing.

609. They presented evidence on a number of matters, relating mainly to the revised NESTF 2016. This evidence, and Ms Macleod's revised recommendations in response to it, are discussed in section 4.2.9 above.

4.2.18.6 Decision and Reasons

610. We agree with Ms Macleod that Rules 5.5.7 and 5.5.8 should be reformatted as a single rule under RMA clause 16, for the reasons discussed in the Memorandum. This new rule is provisionally numbered Rule 5.5.A, with a separate rule for the clearance from navigable water body standard, which is provisionally numbered Rule 5.5.C.

611. In terms of substantive amendments to the notified rules in response to submissions, our decisions are as follows.

Rule 5.5.7.1 Maximum dimensions: network utilities structures - small scale

612. We accept the submissions from *Vodafone* (OS576.46), *Spark* (OS923.46), *Chorus* (OS925.46) and *PowerNet* (OS915.17) as they relate to requested deletion of the maximum volume limits for pole-mounted and ground-mounted structures. We agree that these provisions (Rule 5.5.7.1.a.i&ii) should be deleted, for the reasons given by the submitters and the Reporting Officer. Therefore, we reject the submission points from *Aurora* (OS457.44 and OS457.45) requesting amendments to these rules.

613. Our decision on *PowerNet*'s submission point (OS915.17) as it relates to substations is provided in section 4.2.13 above.

614. We also accept the submissions from *Vodafone* (OS576.46), *Spark* (OS923.46) and *Chorus* (OS925.46) as they relate to the maximum diameter of dish antennae and the maximum cross-sectional area of aerials (Rule 5.5.7.1.a.v&vi). We accept the amendments sought to these rules for the reasons given by the submitters and Mr Rawson, taking into account advice from Mr Christos on urban design matters. We note that, due to reformatting, these rules are provisionally renumbered Rule 5.5.A.6.b and Rule 5.5.A.6.c.

615. In relation to OS576.46, OS923.46 and OS925.46 as they relate to the maximum diameter of head arrays, we accept these submissions in part, to the extent that we have amended this standard as set out in section 4.2.10 above, taking into account the evidence presented by the submitters and the Reporting Officer, Ms Macleod, at the reconvened hearing.

616. We accept in part the submission from *Aurora* (OS457.47) requesting an amendment to the maximum area of network utility structures in pedestrian frontages, heritage precincts and scheduled heritage sites (Rule 5.5.7.1.a.iii.2), to the extent that we accept the recommendations given by Ms Macleod at the reconvened hearing in response to both this submission point and *Aurora*'s submission point OS457.20 on the maximum height rule. We agree that it is appropriate to create a separate performance standard, Rule 5.5.B Maximum Volume in Pedestrian Frontages, Heritage Precincts and Scheduled Heritage Sites, with: a volume limit of $0.5m^3$; restricted discretionary activity status for contravention; and no notification for consent applications triggered by this rule. In our view, this will achieve an appropriate balance between enabling network utilities and protecting amenity values in these more sensitive areas.

Rule 5.5.7.2 Maximum dimensions: Network utilities poles and masts - small scale

617. We accept the request from *Vodafone* (OS576.47), *Spark* (OS923.47) and *Chorus* (OS925.47) that Rule 5.5.7.2.a be amended to remove the reference to 'tubular' masts and accept in part their request, in the same submission points, to increase the maximum diameter from 0.5m to 1.5m.

618. We agree with Mr Rawson that it is preferable to delete Rule 5.5.7.2.a entirely and apply a limit to the cross-sectional area of masts that is the same for all mast designs except

lattice masts. We accept the evidence of Mr Horne that $2m^2$ is an appropriate limit for the cross-sectional area, and that it represents alternative relief for the request made in the submissions, noting that no differing expert evidence on this matter was presented.

Rule 5.5.8.5 Maximum height: 'freestanding' network utilities structures and network utilities poles and masts

619. We accept the request from *Vodafone* (OS576.50), *Spark* (OS923.50) and *Chorus* (OS925.50) that Rule 5.5.8.5.a be amended to increase the maximum permitted height of network utilities poles and masts in rural, rural residential and industrial zones from 20m to 25m. We agree with the evidence provided by the submitters that this change is necessary in rural and rural residential zones to align with the revised NESTF 2016 and accept the evidence from Mr Rawson in the original s42A Report that the increased height is also appropriate industrial zones due to the character and amenity of these zones, which contain and allow for tall buildings.

620. We also accept the request from *Aurora* (OS457.20) that the rule be amended to allow poles and masts to exceed height limits if this is necessary to meet the safety clearance requirements of the New Zealand Electrical Code of Practice for Electrical Distances (NZECP34). We agree that this is appropriate, for safety reasons and to avoid conflict between the Plan and the Code.

621. For reasons discussed in section 4.2.9 of this decision, we reject the request from *Vodafone* (OS576.51), *Spark* (OS923.51) and *Chorus* (OS925.51) that provisions be amended so that a more restrictive scale threshold is not applied in primary or secondary street frontages. However, we consider that Note 5.5.BA (mentioned in section 4.2.9), which has been added to the Plan under RMA clause 16, is relevant to these submission points. The note advises that "Under the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NESTF), activities provided for under the NESTF are exempt from Rule 5.5.B in primary and secondary pedestrian street frontage mapped areas."

Rule 5.5.8.6 Clearance from navigable water body

622. We accept *Kiwirail's* request (OS322.24) that Rule 5.5.8.6 be amended so that the requirement to maintain a minimum clearance of 10m between lines and a navigable water body does not apply to lines attached to an existing structure over a water body. We accept the evidence on this matter provided by Ms Beals and Mr Horne.

623. We note Mr Horne's concerns about the lack of clarity over the circumstances in which a water body would be treated as a "navigable water body" for the purposes of this rule. However, there is no scope in submissions to add a definition for this term. Common sense should prevail, but if necessary this could be clarified through a future plan change.

624. We reject the requests from *Vodafone* (OS576.52), *Spark* (OS923.52) and *Chorus* (OS925.52) seeking that contraventions of Rule 5.5.8.6 be restricted discretionary, rather than non-complying. We agree with Mr Rawson that non-complying activity status is appropriate, given the potential safety implications of contravening the standard.

625. We accept the request from *Dunedin City Council* (OS360.199) that Note 5.5C, sitting beneath Rule 5.5.8.6 be deleted, for the reasons given by the submitter.

Amendments to provisions

626. The amendments required for this decision, including consequential amendments, are as follows.

- Delete Rule 5.5.7.1.a.i – maximum volume for pole-mounted network utility structures (NU 576.46).
- Delete Rule 5.5.7.1.a.ii – maximum volume for ground-mounted network utility structures (NU 576.46).

- Amend Rule 5.5.A.6.a (notified as 5.5.7.1.a.iv) to increase the maximum diameter of head arrays in rural, rural residential and industrial zones from 4m to 6m in rural and industrial zones and from 0.8m to 6m in rural residential zones (NU 576.46).
- Amend Rule 5.5.A.6.b (notified as 5.5.7.1.a.v) to increase the maximum diameter of dish antenna in residential and recreation zones, and in landscape and natural coastal character overlays, from 1m to 1.2m (NU 576.46).
- Amend Rules 5.5.A.6.c and 5.5.A.8.b.v (notified as 5.5.7.1.a.vi) to replace 'cross sectional area of aerials' with 'maximum area of largest antenna face (excluding dish antennas)', and to amend the limit from $1m^2$ to $1.5m^2$ (NU 576.46).
- Delete Rule 5.5.7.1.a.iii.2 – maximum area for network utility structures in pedestrian street frontages, heritage precincts and scheduled heritage sites, where visible from an adjoining public place (NU 457.20).
- Delete Rule 5.5.8.5.b.i – maximum height for network utility structures in pedestrian street frontages, heritage precincts and scheduled heritage sites, where visible from an adjoining public place (NU 457.20).
- Add new Rule 5.5.B Maximum Volume in Pedestrian Frontages, Heritage Precincts and Scheduled Heritage Sites (NU 457.20).
- In the activity status table, apply Rule 5.5.B to "all other network utility structures - small scale" by adding a reference to "Maximum volume in PPF, SPF, HP and SHS" at Rule 5.3.2.8.iv (NU 457.20).
- Amend Rules 5.7.5.1, 5.7.5.2 and 5.7.5.3, and Rules 13.5.3.2, 13.5.4.8 and 18.9.6.7 to provide for the assessment of the effects of activities that contravene Rule 5.5.B on pedestrian amenity, heritage streetscape character and heritage values (NU 457.20).
- Add new Rule 5.4.5 to state that contraventions of Rule 5.5.B will be considered without the need to obtain a written approval of affected persons, and will not be notified, unless special circumstances exist (NU 457.20).
- Delete Rule 5.5.7.2.a – maximum diameter of tubular masts (NU 576.47).
- Amend Rule 5.5.A.6.g – cross sectional area of poles and masts other than lattice masts (notified as 5.5.7.2.c) to increase the area limit from $1m^2$ to $2m^2$ (NU 576.47).
- Amend Rule 5.5.A.6.d – maximum height of network utility poles and masts (notified as 5.5.8.5.a) to increase the height limit in rural, rural residential and industrial zones to 25m (NU576.50) and to provide an exemption from this limit where a greater height is required to meet the requirements of NZECP34 (NU457.20).
- Amend Rule 5.5.C – clearance from navigable water body (notified as 5.5.8.6) to state that the standard does not apply in the case of lines attached to any existing bridge or structure crossing a navigable water body, where the existing freeboard height above the waterway is not reduced (NU 322.24).

627. See Appendix 1.

4.2.19 Requests to amend setback from coast and water bodies performance standards for network utilities

4.2.19.1 Background

628. Under Rule 5.3.2.1.c, the setback from coast and water bodies applies to all network utility activities. However, the setback itself (Rule 10.3.3) includes a range of exemptions for network utilities – as well as for other activities – in various circumstances.

629. Rule 10.3.3 is as follows:

New buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utilities activities must be set back:

1. *20m from mean high water springs (MHWS); and*
2. *20m from any wetland identified in Schedule A1.2, Scheduled Areas of Significant Conservation Value (Scheduled ASCV); and*
3. *20m from any water body with a clearly defined bed of at least 3m in width in the rural zones; and*
4. *5m from any water body with a clearly defined bed less than 3m in width in the rural zones; and*
5. *5m from any water body in all other zones;*
6. *Except, the following are exempt from this standard:*
    a. *natural hazard mitigation activities;*
    b. *hydro generators - on-site energy generation in the rural and industrial zones;*
    c. *hydro generators - community scale in the rural zones;*
    d. *network utilities poles and masts for the purposes of supporting lines across a water body;*
    e. *river flow recording facilities;*
    f. *navigational aids;*
    g. *maimai and whitebait stands on the surface of water;*
    h. *post and wire fences;*
    i. *bridges, culverts and fords;*
    j. *jetties, boat ramps, and wharves;*
    k. *signs;*
    l. *earthworks required for any of the structures in (a) - (k) above*

4.2.19.2 Submissions

630. *Aurora* (OS457.21) requested that Rule 10.3.3 be amended exempt "the operation, repair, upgrade and maintenance of existing network utilities" from the setback requirement. The submitter was concerned that the rule could "significantly impede *Aurora's* operations particularly in relation to operation, repair and maintenance activities."

631. The Reporting Officer, Ms Macleod, agreed that it would be appropriate to exempt the operation, repair and maintenance of utilities from the setback rule, but did not agree that upgrading should be exempt; in her view, the upgrading of utilities in the vicinity of water bodies and the coast could give rise to adverse effects, and should be managed by Plan rules.

632. *Vodafone* (OS576.64), *Spark* (OS923.64) and *Chorus* (OS925.64) sought to retain the notified exemptions from Rule 10.3.3 for poles and masts supporting lines across a water body, and any earthworks required. In addition, they sought a further exemption from the rule for "network utilities within roads". They noted that telecommunication cabinets and lines may need to be located close to water bodies or the coast "to cross a waterway on an existing road alignment" or where the road runs "adjacent and parallel with one of the features to which the setbacks apply".

633. Ms Macleod agreed that it was reasonable that network utility structures – small scale should be allowed to locate in existing roads, provided that they met the co-location requirement in Rule 5.5.6 if located on the seaward side of a coastal road. At the hearing, Mr Chris Horne (planning consultant), called by *Spark, Chorus* and *Vodafone*, supported Ms Macleod's recommendation on this point (Evidence, para. 89).

4.2.19.3 Decision and Reasons

634. We accept in part the submission from *Aurora* (OS457.21), to the extent that we agree with Ms Macleod's recommendation that the operation, repair and maintenance of existing network utilities should be exempt from Rule 10.3.3. Further, we note that the "operation, repair and maintenance…" activity has been amended by our decision set out in section 4.2.9, so that it now includes "operation, repair, *minor upgrading* and maintenance of existing network utilities". We consider that the full activity, including minor upgrading, should be exempt from Rule 10.3.3; this is consistent with our decision that minor upgrading should be permitted in other sensitive environments, such as ASBVs (see discussion in section 4.2.2).

635. "Minor upgrading" (which is defined as part of the wider definition of "operation, repair, minor upgrading and maintenance of existing network utilities" - see Appendix 1) includes: overhead activities such as the addition of lines and other structures to existing masts; the replacement of existing poles, masts and aboveground pipes with new such structures within certain size parameters; the addition of new poles and masts in certain circumstances; and the realignment/relocation of existing poles, masts and aboveground pipes within 5m of the existing alignment/location. Under notified Rule 10.3.3.d, the addition of new poles and masts for the purposes of supporting lines across a water body is exempt from the setback; we do not consider that the activities that fall within "minor upgrading" are likely to have significantly greater effects than those already provided for under Rule 10.3.3.d. We consider that separate provisions that manage vegetation clearance within setbacks from the coast and water bodies (Rule 10.3.2.3 as amended by our decisions - see section 3.4 of the Natural Environment Decision) will be adequate to manage the potential effects of these activities. We accept the submissions from *Vodafone* (OS576.64), *Spark* (OS923.64) and *Chorus* (OS925.64) in relation to network utilities in roads, for the reasons given by the submitters.

636. The amendments required for this decision are as follows:

- add new Rule 10.3.3.e "network utility structures – small scale in existing roads that comply with Rule 5.5.6" (NU 576.64)
- add new Rule 10.3.3.f "the operation, repair, minor upgrading or maintenance of existing network utilities" (NU 457.21)

637. See Appendix 1.

4.2.20 Requests to amend vegetation clearance performance standards for network utilities

4.2.20.1 Background

638. The following performance standards for the management of vegetation clearance are located in Section 10 Natural Environment:

- Rule 10.3.2.1 Maximum area of vegetation clearance in an urban conservation mapped area (UCMA)
- Rule 10.3.2.2 Maximum area of indigenous vegetation clearance
- Rule 10.3.2.3 Protected areas
- Rule 10.3.2.4 Protected species (indigenous vegetation clearance)

639. In addition, Section 11 Natural Hazards contains Rule 11.3.2 Maximum Area of Vegetation Clearance in the Hazard Overlay Zones.

640. Under notified provisions, vegetation clearance for the maintenance (but not extension) of existing network utilities is exempt from Rules 10.3.2.1, 10.3.2.3, 10.3.2.4 and 11.3.2, but not from Rule 10.3.2.2.

4.2.20.2 Submissions

641. *Aurora* Energy *Limited* (OS457.56) sought that the notified exemptions from Rules 10.3.2.1, 10.3.2.3 and 10.3.2.4 for network utilities be retained.

642. *Vodafone* (OS576.63), *Spark* (OS923.63) and *Chorus* (OS925.63) sought that Rule 10.3.2.3 Protected areas, which requires vegetation clearance to be set back from wetlands, the coast and water bodies, be amended so that "new linear network utilities, and construction or maintenance of tracks up to 3.5m in width" were also exempt from this rule. The submitters were concerned that the notified rule would result in "unnecessary resource consents being needed for routine and low impact works".

643. The Reporting Officer, Ms Macleod, noted that the maintenance of existing network utilities was exempt from Rule 10.3.2.3, and did not consider that it was appropriate to provide for new network utility activities in protected areas without proper assessment of the activity.

644. She also noted that, under Rule 10.3.2.3.c.v, vegetation clearance for the construction and maintenance of tracks up to 2m in width was exempt from the rule. She noted that the submitters did not provide any extra information to support their request for the exemption to increase to 3.5m. Given such an increase would result in a significant increase in vegetation clearance, she did not consider that the rule should be amended as requested (s42A Report, section 7.6).

645. *Transpower* (OS806.46) sought that Rule 10.3.2.1 Maximum area of vegetation clearance (UCMA) be amended to specifically exclude vegetation clearance for the maintenance (but not extension) of the National Grid.

646. Ms Macleod noted that, in response to other submissions, she had recommended that the definition of Network Utilities be amended to refer to 'the transmission and distribution', rather than 'the supply', of electricity (see discussion in section 4.2.7 of this report). As a result, the National Grid would be more clearly included in the notified exemption from Rule 10.3.2.1 for "the maintenance (but not extension) of existing network utilities". Therefore, she did not consider that the amendment requested by *Transpower* was necessary.

647. At the hearing, *Transpower* called Ms Ainsley McLeod (planning consultant) who agreed with Ms Macleod's recommendation in response to OS806.46 (Evidence, pp. 45-47).

648. However, Ms McLeod highlighted a related issue concerning the interaction between the provisions in the Plan and Regulation 30 of the National Environmental Standards for Electricity Transmission Activities 2009 (NESETA), relating to vegetation clearance in "natural areas".

649. Under regulation 30 of NESETA, the removal of vegetation in relation to an existing transmission line is a permitted activity provided that a number of conditions are complied with. Condition (2) states that:

> *Any tree or vegetation must not be trimmed, felled, or removed if –*
> *(a) a rule prohibits or restricts its trimming, felling, or removal (as the case may be); or*
> *(b) it is in a natural area.*

650. "Natural area" is defined in NESETA as "an area that is protected by a rule because it has outstanding natural features or landscapes, significant indigenous vegetation, or significant habitats of indigenous fauna."

651. Ms McLeod noted that, if the areas to which Rule 10.3.2 applies are considered "natural areas" in terms of the definition in NESETA, Transpower would breach Regulation 30(2)

of the NESETA and need to secure resource consent under Regulations 31 or 32 of the NESETA for vegetation trimming or clearance for the maintenance of the National Grid, regardless of the Plan's exemptions for vegetation clearance for the maintenance of network utilities from certain rules.

652. Essentially the issue is that, in order to be permitted in "natural areas" as defined in NESETA, vegetation clearance required for the operation and maintenance of the National Grid needs be specifically permitted by a rule in the plan, rather than simply being exempt from vegetation clearance rules, as it is in the Plan as notified.

653. Ms McLeod discussed two options to resolve this issue:

1. adding a rule to the Plan stating that the possible "natural areas" (i.e. the areas protected by the Plan's vegetation clearance rules) are no longer protected by a rule for the purposes of the National Grid; or
2. excluding the National Grid (existing transmission lines) from the various areas protected by the Plan's vegetation clearance rules, for the purposes of these rules.

654. She indicated that she preferred the first option, which she proposed could be achieved by adding the following rule to the Plan:

> *Rule 10.3.2.X Vegetation Clearance for the Maintenance of the National Grid*
>
> *Vegetation clearance for the maintenance, but not extension, of the existing National Grid is a permitted activity and* [Rules 10.3.2.1 to 10.3.2.4] *do not apply.*

655. She considered that this option better provided for the effective operation and maintenance of the National Grid and, therefore, better gave effect to the Objective and Policy 2 of the NPSET (Evidence, para. 120-126).

656. In response to *Transpower*, Ms Macleod recommended that *Transpower*'s submission be referred for consideration in the Natural Environment Hearing.

657. At that hearing, Ms McLeod noted that the issue outlined above had not been addressed in the Natural Environment Section 42A Report. In the evidence she presented at the Natural Environment Hearing, Ms McLeod reiterated both her concerns about this issue, and her requested solution (Evidence, para. 41-47).

658. In response, Ms Macleod, who was also one of the Reporting Officers for the Natural Environment Hearing, acknowledged the point raised in *Transpower's* evidence, and recommended that a new activity definition be added to the Plan for "Vegetation clearance necessary for the operation, repair and maintenance of the National Grid", and that this activity be provided for as a permitted activity in all zones and overlays, in Section 5 of the 2GP (Revised Recommendations Summary p.33). She suggested that this activity should be defined as follows:

> *Vegetation clearance that is required in order to comply with the Electricity (Hazards for Trees) Regulations 2003. Includes indigenous vegetation clearance. Rules 10.2.3.1 to 10.2.3.4 do not apply to this activity.*

659. She noted that scope for this change did not appear to be directly provided by any of *Transpower's* summarised submission points (although considered that 806.21 and 806.22 were relevant) and recommended that the Panel considered whether the *Transpower*'s submission as a whole provided the necessary scope.

660. However, she also commented that, if it were it not for the existence of Regulation 30 of NESETA, the plan provisions as notified would have the same effect as the recommended amendment (i.e. it is likely that anyone reading the notified plan and interested in the matter would believe that "Vegetation clearance necessary for the operation, repair and maintenance of the National Grid" was already permitted throughout the city); therefore, she did not consider that this is a significant change.

4.2.20.3 Decision and Reasons

661. We accept in part the submissions of Vodafone (OS576.63), Spark (OS923.63) and Chorus (OS925.63). We do not accept that vegetation clearance associated with new linear network utilities should be exempt from rules; we agree with the evidence of the Reporting Officer on this matter. However, we have amended exemptions to vegetation clearance provisions for the construction of tracks, so that the construction of tracks wider than 2m may be exempt from provisions in some circumstances. See discussion, and details of the changes, in section 3.4 of the Natural Environment Decision.

662. We reject *Transpower*'s requested change to Rule 10.3.2.1 (OS806.46), for the reasons given by the Reporting Officer.

663. In relation to the issue raised by Ms McLeod, for *Transpower*, concerning the interaction between the Plan provisions and Regulation 30 of NESETA, we note that NESETA does not (unlike some other NESs) allow for rules in district plans to be more permissive than the NES.

664. Under Regulation 6 of NESETA, vegetation clearance associated with an existing National Grid line is not permitted if it occurs within a "natural area". The key question is how "natural area" is defined. The NES definition, as stated by Ms McLeod, is "an area that is protected by a rule because it has outstanding natural features or landscapes, significant indigenous vegetation, or significant habitats of indigenous fauna".

665. Clearly, the Plan's ONFs, ONLs and ASBVs contain, variously, "outstanding natural features or landscapes, significant indigenous vegetation, or significant habitats of indigenous fauna". However, as we understand it the question is not whether or not they have these values, but rather whether or not they are "protected by a rule" for the specific purpose of vegetation clearance associated with an existing National Grid line. If they are, then they qualify as "natural areas" for the purposes of Regulation 6; if they are not, they do not.

666. In this regard, we note that the vegetation clearance rules have now been reformatted, for reasons discussed in section 3.4.1 of the Natural Environment Decision.

667. Under the notified rules, indigenous vegetation clearance was a restricted discretionary activity in scheduled ASCVs and in all natural coastal character overlay zones (NCCs, HNCCs and ONCCs), but permitted elsewhere, subject to compliance with Rule 10.3.2.2 in relation to maximum area of clearance, and with the other performance standards (Rules 10.3.2.1, 10.3.2.3 and 10.3.2.4 and Rule 11.3.2) in relation to the location of the clearance and to the species affected by it. Non-indigenous vegetation clearance was permitted throughout the city, subject to compliance with Rules 10.3.2.1, 10.3.2.3 and 10.3.2.4 and Rule 11.3.2.

668. Under the reformatted rules, indigenous vegetation clearance (IVC) is separated into two activities; IVC – small scale and IVC – large scale. IVC – small scale is IVC that either:

- consists of a type of clearance, listed in Rule 10.3.2.A.a, that is always treated as 'small scale'; the types of clearance listed in Rule 10.3.2.A.a are those that were exempt from control in notified provisions, via either exemptions to the definition of 'indigenous vegetation clearance' or exemptions from Rule 10.3.2.2 Maximum area of indigenous vegetation clearance (although the types of clearance have been amended in response to submissions), or
- complies with the scale thresholds set out in Rule 10.3.2.A.c, which were notified as Rule 10.3.2.2 (again, these thresholds have been amended in response to submissions).

669. IVC – small scale is permitted throughout the city, subject to compliance with Rules 10.3.2.1, 10.3.2.3 and 10.3.2.4 and Rule 11.3.2.

670. In response to other submissions discussed in the Natural Environment Decision, we have, for the sake of consistency, added "clearance for the maintenance (but not

extension) of existing network utilities" to new Rule 10.3.2.A.a, as a type of clearance that is always treated as IVC – small scale. We note that this type of clearance remains exempt from Rules 10.3.2.1, 10.3.2.3 and 10.3.2.4 and Rule 11.3.2, as per notified provisions.

671. In our view, the amendments to the vegetation clearance rules summarised above resolve the issue identified by Ms McLeod.

672. Following these changes, the areas within which vegetation clearance is managed in the Plan are no longer "protected by a rule" for the purpose of vegetation clearance associated with an existing National Grid line. This is because IVC – small scale (which includes any vegetation clearance "necessary for the maintenance (but not extension) of existing network utilities") is permitted throughout the city. This differs from the notified approach, under which indigenous vegetation clearance required consent as a restricted discretionary activity in ASCVs and other areas.

673. Therefore, regulation 30 of NESETA would no longer require consent for "trimming, felling, or removing any tree or vegetation, in relation to an existing transmission line".

4.2.21 Requests to amend reflectivity performance standard for network utilities

4.2.21.1 Background

674. Rule 10.3.6 sets a maximum limit on the reflectivity of the exterior finish of certain activities, as follows:

> ***10.3.6***
>
> *In any landscape or natural coastal character overlay zone, new buildings and structures (*except *fences), additions and alterations, and wind generators - on-site energy generation must use exterior paint or other surface finish with a light reflectance value of 30% or less.*

4.2.21.2 Submissions

675. Vodafone (OS576.65), Spark (OS923.65) and Chorus (OS925.65) sought that Rule 10.3.6 (reflectivity performance standard) be amended so that it was clear that the rule did not apply to network utilities other than wind generators – on-site energy generation. The submitters noted that network utility equipment was often supplied in a galvanised finish which may dull over time but "may not be within reflectivity limits at initial installation".

676. The Reporting Officer, Ms Macleod, considered that the wording of Rule 10.3.6 as notified made it clear that 'wind generators – on-site energy generation' were the only type of network utility that was required to comply with the limit on reflectivity. Therefore, she did not recommend any change to the rule.

677. At the hearing Mr Chris Horne, called by Vodafone, Spark and Chorus, reiterated the submitters' request. He noted that the rule referred to 'buildings and structures', and considered that it was unclear whether this would include network utility equipment other than wind generators - on-site energy generation.

678. Having reflected further on the matter, Ms Macleod agreed that the 2GP provisions should be amended to clarify the point raised by the submitters. She recommended that the list of 'performance standards that apply to all network utilities activities', set out in Rule 5.3.2.1 at the top of the Section 5 activity status table for network utility activities, be amended so that the reference to the reflectivity standard read as follows:

> *Reflectivity (wind generators – on-site energy generation only)*

4.2.21.3 Decision and Reasons

679. We note that this issue has been resolved as a consequence of our decision, set out in section 4.3.6 below, to apply the reflectivity standard to wind generators - on-site

energy generation (now renamed 'wind generators – small scale') in all zones, rather than only in landscape and natural coastal character overlay zones. As a result, the limit on reflectivity is now applied to the activity directly, via a rule in Section 5 (Rule 5.5.D.4); reference to wind generators has been deleted from Rule 10.3.6 and the cross reference to this rule from the Section 5 activity status table (Rule 5.3.2.1.b) has also been deleted.

680. We consider that these amendments achieve the relief sought by *Vodafone* (OS576.65), *Spark* (OS923.65) and *Chorus* (OS925.65).

4.2.22 Requests to amend provisions relating to setback from ridgelines for network utilities

4.2.22.1 Background

681. Under notified provisions, network utilities structures – small scale, network utilities structures – large scale, and network utilities poles and masts - small scale are subject to a minimum setback from identified ridgelines. The provisions for this requirement are located in Section 16 Rural Zones, and include the following:

> *Policy 16.2.3.1*
>
> *Require buildings, structures and network utilities to be set back from boundaries and identified ridgelines, and of a height that maintains the rural character values and visual amenity of the rural zones.*
>
> *Rule 16.6.11.4*
>
> 1. *New buildings and structures (except fences), additions and alterations, and network utilities structures (all scales) and network utilities poles and masts - small scale must be at least 20m vertically below any ridgeline mapped area.*
> 2. *For the purposes of this standard, the vertical distance will be measured from the highest part of the building or structure.*

4.2.22.2 Submissions

682. *Vodafone* (OS576.67 and OS576.69), *Spark* (OS923.67 and OS923.69) and *Chorus* (OS925.67 and OS925.69) requested that Policy 16.2.3.1 and the related assessment rules (Rule 16.9.4.14) be either fully deleted, or amended to remove the reference to network utilities. *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou (Nga Rūnanga)* opposed the submission points relating to Policy 16.2.3.1 (FS2456.70-72); they supported the intention of the policy to maintain rural character values by requiring network utilities to be set back from ridgelines.

683. The Reporting Officer, Ms Macleod, considered that Policy 16.2.3.1, and thus also the relevant assessment rule, should continue to apply to network utilities (s42A Report, section 5.1.9). She noted that provisions related to visually prominent ridgelines of high cultural or amenity value that had been identified in a 2007 study by Boffa Miskell Ltd. While management approaches had not been an integral part of their brief, Boffa Miskell had suggested in the study that an option for managing activities around ridgelines would be to require any building located within 100m of a prominent ridgeline to be sited so that the highest point was below the ridgeline. In incorporating protection of these ridgelines into the 2GP, after in-house staff discussion which included the Council's landscape architect, it was considered necessary for the policy and rule to also include structures and network utilities, as these activities may also have effects on the values of prominent ridgelines.

684. *Aurora* (OS457.40) and *Radio NZ* (OS918.45) requested that Policy 16.2.3.1 be amended to allow network utilities to be located within setbacks from ridgelines if this was required for technical or operational reasons. *Aurora's* submission point was supported by *PowerNet* (FS2264.23) and *Oceana Gold (New Zealand) Limited*

(FS2439.59). *Nga Rūnanga* opposed both *Aurora* and *Radio NZ's* submission points (FS2456.73; FS2456.74), noting that network utilities can have a significant effect on Kāi Tahu values in wāhi tūpuna areas, and that Kāi Tahu supported the requirement to set buildings, structures and network utilities back from identified ridgelines. In their view, technical and operational considerations should not take precedence over the preservation of the values of wāhi tūpuna.

685. The Reporting Officer agreed with *Aurora* and *Radio NZ* that, if an application was made to establish a network utilities structure (small scale or large scale), or network utilities pole or mast – small scale within the setback from ridgeline mapped areas, it was appropriate that the technical and operational reasons for locating the structure at the proposed site should be taken into consideration (s42A Report, section 5.1.9). This was not to say that these reasons should take precedence over the preservation of the values of wāhi tūpuna, but rather that decision makers should consider all relevant matters when assessing an application of this kind, and determine the most appropriate outcome on a case by case basis; taking into account the importance of the structure to the provision of a network utility service, the expected magnitude of adverse effects on rural character or visual amenity, and any measures proposed to mitigate these effects. However, she considered that the appropriate way to achieve this was by amending the assessment rule applying to activities that breach the setback from ridgelines, rather than by amending the wording of the policy. She recommended that the relevant assessment rule (Rule 16.9.4.14) be amended to refer to a number of potential circumstances that may support a consent application, including 'the network utility is co-located with existing buildings or network utilities structures', 'it is essential for the activity to locate on the feature to ensure the ongoing operation of a network utility service' and 'landscaping or other forms of screening will be used to reduce the visibility of the network utility from surrounding properties and public viewpoints' (s42A Report, section 5.1.9).

686. *Vodafone*, *Spark*, *Chorus* and *Aurora* also submitted on the setback rule itself (Rule 16.6.11.4). *Vodafone* (OS576.53 and OS576.68), *Spark* (OS923.53 and OS923.68) and *Chorus* (OS925.53 and OS925.68) requested that references to network utilities be removed from Rule 16.6.11.4. They considered that any ridgeline protection controls for network utilities should be directly inserted within Section 5 Network Utilities of the 2GP.

687. In addition, they noted that the notified wording of Rule 16.6.11.4 was not workable; it did not define the spatial extent within which the vertical setback applied – as a result structures far from the ridgeline could contravene the rule. Finally, they considered that the rule should provide exemptions for low impact structures.

688. *Nga Rūnanga* (FS2456.97-99) opposed these submissions; they did not consider that Rule 16.6.11.4 should be removed or weakened, on the basis that the notified rule provided for the consideration of Manawhenua values in wāhi tupuna.

689. Ms Macleod acknowledged the point made by *Vodafone*, *Spark* and *Chorus* that it was anomalous, in terms of the structure of the 2GP, for a city-wide activity to be subject to management zone provisions. However, she considered it appropriate to provide for the assessment of the impact of new freestanding network utilities structures on prominent ridgelines (s42A Report, section 5.1.10).

690. She agreed with the submitters that the rule should provide exemptions for low impact structures, and recommended that the following types of utility be exempt from the setback:

- above ground lines and pipes
- head arrays and antennas, and
- any other network utilities structure – small scale to be added to an existing pole, mast or building.

691. She also noted that the submitters raised a valid concern regarding the need to apply a spatial extent to Rule 16.6.11.4. Given that some work would be required to determine a suitable amendment, and that there were implications for activities other than

network utilities, she recommended that this matter be addressed in the Rural section 42A report, for consideration at the Rural Zones hearing.

692. *Aurora* (OS457.22) sought that Rule 16.6.11.4 be amended to exempt the operation, repair, upgrade and maintenance of its existing network assets from the required setback. In response, Ms Macleod noted that existing activities would have existing use rights and, therefore, their operation, repair and maintenance would not be subject to the rule. She considered that it was appropriate that upgrades to network assets were covered by the rule, as these may involve increases to scale and intensity of the activity.

693. At the hearing, Ms Joanne Dowd, representing *Aurora*, considered that the fact that Rule 16.6.11.4 did not apply to the operation, repair, upgrade and maintenance of existing utilities "should be made explicit" by amending the rule to refer to "new" utilities only (Evidence, para. 33).

694. In her revised recommendations, Ms Macleod agreed with Ms Dowd and recommended the requested amendment to Rule 16.6.11.4. She considered this amendment appropriate given that the rule referred to "new" buildings and structures.

695. Mr Chris Horne (planning consultant), for *Vodafone*, *Spark* and *Chorus*, agreed with the Reporting Officer's recommended exemptions from Rule 16.6.11.4 (Evidence, para. 104) but discussed his concerns with the location in a management zone section of provisions applying to network utilities. He considered that the provisions in Section 16 were "designed to apply to all buildings and structures" and, in his view take "too much of an avoidance approach without recognising the functional and operational constraints of network utilities" (Evidence, para. 105).

696. In response, Ms Macleod noted that there were cross-references between rules in Sections 5 and 16. She also noted that she had recommended, in the section 42A report, that assessment matters for breaches of the setback rule be amended to include consideration of the operational needs of utilities. Having given the matter further thought, she also recommended that these assessment matters be amended to refer to Objective 5.2.1, which is to enable utilities while managing their effects.

4.2.22.3 Decision and Reasons

697. We were minded to accept Ms Macleod's recommendations for amendments to Rules 16.6.11.4 and 16.9.4.14, for the reasons she gave in the s42A Report and at the hearing. However, as discussed in the Rural Decision, we have deleted the ridgeline provisions from the Plan due to mapping errors.

698. Therefore, we accept all submissions to delete, and reject all submissions to retain or amend, ridgeline provisions. We have recommended however that the Council undertakes further study of ridgeline provisions, with a view to a possible future plan change to re-introduce them.

4.2.23 Request to amend definition of lines

4.2.23.1 Background

699. The definition of lines is:

> ***Lines***
>
> *Wires or other conductors including: cables or fibre optic cables used or intended to be used for:*
>
> - *telecommunication*
> - *the generation, transmission and distribution of electricity; and*
> - *the transmission or reception of signs, signals, impulses, writing, images, sounds, or intelligence of any nature by means of any electromagnetic system.*

This definition includes any: receiver, insulator, casing, minor fixture, tunnel, or other equipment or material used, or intended to be used for: supporting, enclosing, surrounding, or protecting any such wire or conductor.

This definition excludes any freestanding pole or mast used to support the line.

4.2.23.2 Submissions

700. *Vodafone NZ Ltd* (OS576.14), *PowerNet Ltd* (OS915.4), *Spark New Zealand Trading Limited* (OS923.14) and *Chorus* (OS925.14) supported the wording of the definition as notified.

701. *Transpower New Zealand Ltd* (OS806.61) requested that the definition be amended to delete the exclusion for "any freestanding pole or mast used to support the line", because structures that are used to support transmission lines, such as poles or towers, are inextricably linked to the line. Therefore, the submitter considered that from a practical operational perspective, the two should not be separated.

702. The Reporting Officer, Ms Macleod, noted that the Plan's approach was to treat lines separately from their support structures. This allowed new lines to be treated in a more enabling way (as part of the 'Network utilities structures - small scale' activity) whereas new support structures, which have the potential to have greater adverse visual effects, are treated as "Network utilities poles and masts – small scale" and have more restrictive provisions. As a result, support structures such as power poles and pylons are treated in the same way as similar tall utility structures such as telecommunication masts. Ms Macleod considered that this approach was justified (s42A Report, section 5.5.4.4).

703. At the hearing, Ms Ainsley McLeod, called by *Transpower*, accepted the underlying rationale given by Ms Macleod that in the s42A Report that 'lines' alone should be treated more permissively, but did not consider that Plan provisions achieved this outcome with any certainty. In order to establish what the activity status of lines, or other utilities, was, the Plan user was required to check the definitions of 'network utilities structures – small scale', 'network utilities structures – large scale, and 'network utilities poles and masts – small scale', and also the performance standards for height and maximum dimensions in Section 5. In Ms McLeod's view, the construction of utilities provisions in this manner was unusual and overly complex. (Statement of Evidence, Attachment C).

704. In addition, Ms McLeod considered it problematic that the definition of 'lines' was inconsistent with:

- the Plan's definition of 'line maintenance', which includes activities associated with support structures, such as the installation of new support structures in certain circumstances, and
- the definition of 'transmission line' in the NES for Electricity Transmission Activities (Statement of Evidence, Attachment C).

705. The Reporting Officer did not revise her recommendations in response to this evidence.

4.2.23.3 Decision and Reasons

706. We reject the submission from *Transpower* (OS806.61) and agree with Ms Macleod that the definition of lines should be retained as notified, so as to allow overhead conductors to be managed separately from (more permissively than) their support structures. However, we note the following separate decisions (discussed elsewhere in this decision), which are relevant to the points raised in Ms McLeod's evidence.

- The definition of 'line maintenance' has been deleted, and incorporated into the definition of 'operation, repair, minor upgrading and maintenance of existing network utilities', as discussed in section 4.2.8.

- Amendments have been made to the structure of provisions and the content of Rule 5.5.A Scale Thresholds, as discussed in sections 3.0, 4.2.6 and 4.2.18, to:
    - simplify the activity status table for network utilities
    - clarify that the definition of 'network utility structure' includes all structures that form part of 'network utilities', and
    - reformat performance standards so that one standard (Rule 5.5.A) represents the dividing line between 'network utility structures – small scale' and 'network utility structures – large scale', except that 'lines' are always provided for as 'network utility structures – small scale' (Rule 5.5.A.1).

707. We note that a number of minor changes have been made to the drafting of the definition of lines; as discussed in the Plan Overview decision, all definitions have been reviewed to ensure that clear and consistent wording is used, with amendments made under Clause 16 where necessary.

4.3 Provisions for renewable energy generation

4.3.1 Requests to amend Objective 2.2.2 to refer to renewable energy generation

708. Objective 2.2.2 Energy resilience reads as follows:

> *Dunedin is well equipped to manage and adapt to any changes that may result from volatile energy markets or diminishing energy sources by having:*
> *a. increased local electricity generation;*
> *b. reduced reliance on private motor cars for transportation; and*
> *c. increased capacity for local food production.*

4.3.1.1 Submissions

709. A number of submitters supported the notified wording of Objective 2.2.2. These were *Mr Joel A Vanderburg* (OS189.4), *Waste Management (NZ) Limited (Waste Management)* (OS796.1), the *New Zealand Transport Agency (NZTA)* (OS881.24), the *Otago Chamber of Commerce Incorporated (the Chamber)* (OS1028.12) and *Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou (Nga Rūnanga)* (OS1071.132).

710. The *University of Otago (the University)* (OS308.36) requested that the objective be amended "to recognise local energy generation and to be consistent with Policy 2.2.2.3". Policy 2.2.2.3 refers to enabling "renewable energy generation" rather than "local electricity generation". The *University's* submission point was supported by *Blueskin Resilient Communities Trust (BRCT)* (FS2229.7) but opposed by *Ms Geraldine Tait* (FS2160.11).

711. *BRCT* (OS1070.3) sought that the objective be amended to refer to "local renewable electricity generation" rather than "local electricity generation". *BRCT's* submission point was supported by *Trustpower Limited* (FS2127.6) but opposed by *Ms Tait* (FS2160.14).

712. The Reporting Officer, Ms Macleod, agreed with the *University*, *BRCT* and *Trustpower* that Objective 2.2.2 should be amended to refer to local 'renewable energy' generation, rather than local 'electricity' generation. She considered that this amendment would align Objective 2.2.2 more closely with the objective of NPS REG, Spatial Plan Objective ESR 7 ("Our reliance on non-renewable energy sources and oil-based products is reduced"), and Policy 2.2.2.3.

713. At the hearing, Mr Andrew Henderson, called by *the NZTA*, tabled a statement supporting the recommended change to Objective 2.2.2, because it did not alter 2.2.2.b, relating to reduction of reliance of private cars (Tabled statement, p.3).

714. Mr Murray Brass, representing *the University*, also indicated support for the recommended change in his presentation to the hearing. The *University* considered

that the amended objective would better address the range of renewable energy sources and the ways that they can be used (Statement of evidence, p.4. para. 17).

715. Ms Kirsty O'Sullivan, called by *Trustpower*, also presented evidence that supported the s42A recommendation for Objective 2.2.2 (Statement of evidence, para. 5.9)

4.3.1.2 Decision

716. We accept the submissions from *the University* (OS308.36) and *BRCT* (OS1070.3) and agree with the wording recommended by Ms Macleod for Objective 2.2.2.a, for the reasons she has given. We have amended the objective accordingly, as shown in Appendix 1 (amendment attributed to NU 308.36).

717. Therefore, we reject the submissions from *Mr Vanderburg* (OS189.4), *Waste Management* (OS796.1), the *NZTA* (OS881.24), *the Chamber* (OS1028.12) and *Nga Rūnanga* (OS1071.132) requesting that the objective be retained as notified.

718. Note that we have made an additional amendment to the start of Objective 2.2.2 in response to Generation Zero's submission point (OS764.1), which we discuss in section 4.3.5 below.

4.3.2 Requests to amend Objective 2.2.2 to recognise the role of petroleum and other forms of fuel energy

4.3.2.1 Submissions

719. *BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd (the Oil Companies)* requested that Objective 2.2.2 be amended (OS634.11) and that a new policy be added under the objective (OS634.108) to provide for non-renewable energy resources, and to recognise the importance of maintaining, operating and developing a reliable and resilient storage and fuel supply system. The submitter also sought an amendment to the objective to recognise alternative forms of fuel energy, such as biofuels.

720. The submitter considered that it was important to acknowledge in these provisions that, currently, petroleum storage and distribution play a significant role in providing energy for the region's transport, industry and shipping (Submission, p.17).

721. Similarly, the *Otago Regional Council (ORC)* (OS908.66) considered that Objective 2.2.2 should be amended to recognise the importance of the current fossil fuel supply chain. This submission point was supported by *Geoff Scurr Contracting Limited* (FS2391.37) and *the Oil Companies* (FS2487.4) but opposed by *BRCT* (FS2229.3).

722. The Reporting Officer, Ms Macleod, agreed that a reliable fuel supply chain is essential to the energy resilience of Dunedin, and that its role should, therefore, be recognised in Objective 2.2.2. She recommends that the objective be amended to achieve this, by adding a new clause d, as follows (s42A Report, p. 298):

> *Dunedin is well equipped to manage and adapt to any changes that may result from volatile energy markets or diminishing energy sources by having: ...*
>
> *d. a reliable supply chain for fossil and biofuels.*

723. However, Ms Macleod did not consider it necessary to add a policy under with Objective 2.2.2 in relation to supporting resilient supply chains for fossil or biofuels. She noted that, in Dunedin, the fuel supply chain includes bulk storage tanks in and around Port Dunedin and associated pipelines, distribution of fuels by truck to Dunedin and the wider region, and service stations and truck stops throughout Dunedin. She noted that the importance of the industrial activities and transportation routes that form part of the fuel supply chain are recognised in Policies 2.3.1.4 and 2.3.1.5, and that new Policy 2.3.1.7 (recommended by the Reporting Officer primarily in response to other submissions – see section 4.2.1.2) would recognise the importance of the network utility activities, including pipelines, that form part of the fuel supply chain. Finally, she noted that, although service stations were not specifically recognised in the strategic

directions section, they were provided for in appropriate zones. She did not consider it was necessary to specifically recognise the importance of service stations to energy resilience in Dunedin; similarly, she noted that supermarkets and other food retailers, although important as a way to access locally produced food (Objective 2.2.2.c), were not mentioned in the objective or associated policies.

724. At the hearing, Ms Karen Blair, called by *the Oil* Companies, supported the amendment to Objective 2.2.2 recommended by the Reporting Officer (Statement of Evidence, pp.20-21).

4.3.2.2 Decision

725. We accept in part the submissions from *the Oil Companies* (OS634.11) and the *ORC* (OS908.66), to the extent that we agree that the importance of the fuel supply chain should be recognised in the Plan's Strategic Directions.

726. However, we do not agree that amendments should be made to Objective 2.2.2 (energy resilience) and associated policies to achieve this. We consider that the more appropriate place within the Strategic Direction section to recognise the importance of the fuel supply chain is within Strategic Direction 2.3: Dunedin is Economically and Socially Prosperous. In our view, this has been achieved by:

- our amendments to Objective 2.3.1 to refer to the social and economic importance of the efficient and effective operation of network utilities, and
- our addition of new Policy 2.3.1.7 setting out the ways in which Plan provisions enable network utilities, in recognition of their social and economic benefits.

727. See section 4.2.1.2 of this report for details of these amendments (which are attributed to NU 918.22 in Appendix 1).

728. We note that our decision, in response to a separate submission point from *the Oil Companies*, to treat the transmission and distribution of petroleum and biofuel as a type of network utility (see section 4.2.7) means that Objective 2.3.1 and Policy 2.3.1.7 will apply to these activities.

729. As noted by the Reporting Officer, the economic and social importance of other key elements of the fuel supply chain – i.e. the bulk storage tanks in and around Port Dunedin and the transportation routes needed to distribute fuels by truck to Dunedin and the wider region – are recognised in, respectively, Policy 2.3.1.4 (relating to industrial zoning at Port Dunedin) and Policy 2.3.1.5 (relating to key transportation routes).

4.3.3 Requests to amend Policy 2.2.2.3 to strengthen management of adverse effects

730. Policy 2.2.2.3 reads as follows:

> *Enable renewable energy generation through policies and rules that:*
> *a. enable renewable on-site energy generation; and*
> *b. support the development of small and large scale renewable energy generation in appropriate locations.*

4.3.3.1 Submissions

731. *Waste Management (NZ) Limited (Waste Management)* (OS796.14) and the *Otago Chamber of Commerce Incorporated (the Chamber)* (OS1028.13) sought that Policy 2.2.2.3 be retained as notified.

732. *Ms Elizabeth Kerr* (OS743.57) sought that Policy 2.2.2.3 be amended to remove reference to allowing wind generators anywhere within the greater Dunedin geographic area. She considered that this was necessary in order to avoid visual impacts on Dunedin landscapes, loss of New Zealand wildlife and threatened species, and noise

pollution. *Ms Kerr*'s submission was opposed by *Trustpower* (FS2127.7) and *BRCT* (FS2229.10) but supported in part by *Ms Geraldine Tait* (FS2160.1).

733. *Mr Robert Wyber* (OS394.67) sought that Policy 2.2.2.3 be amended to enable renewable on-site generation only "in appropriate locations" rather than in general.

734. The Reporting Officer, Ms Macleod, did not agree with *Ms Kerr* that provisions for wind energy generation should be removed from the Plan and, therefore, did not consider that the wording of Policy 2.2.2.3 should be amended as requested. In order to implement NPSREG, provisions for wind energy generation and other types of REG must be included in all district plans. However, she acknowledged *Ms Kerr*'s concerns about the potential adverse effects of wind generation. In response to these concerns (and other relevant submissions) she recommended that certain changes be made to provisions to better manage adverse effects while still enabling this activity at appropriate scales and in appropriate locations (Section 42A Report, section 6.2, para. 94). These changes included amendments to performance standards to better protect rural character and amenity from wind generation at the smaller scale (see discussion in section 4.3.6 of this report); and the addition of assessment rules to better protect biodiversity from wind generation at the large scale. We consider the issue of whether the Plan should provide for the assessment of biodiversity effects from wind energy generation and other utilities in section 3.6.1.7 of the Natural Environment Decision Report.

735. The *ORC* (OS908.96) was concerned that the policy may prove to be too enabling and sought that it be amended to recognise the importance of managing the adverse effects of renewable energy generation activities. This submission point was supported by *Mr Robert Wyber* (FS2059.21) but opposed by *Trustpower Ltd* (FS2127.8).

736. In response to this submission, Ms Macleod noted that the role of the policies in the Strategic Directions section is to outline the methods used in the plan to achieve the objectives, and not to state acceptable outcomes for the management of activities. However, she did recommend an amendment to Policy 2.2.2.3 in response the submission points from both the *ORC* (OS908.96) and *Mr Wyber* (OS394.67), to explain that the aim of the Plan's policies and rules was to provide for "appropriate scales" of generation in "appropriate locations based on the sensitivity of surrounding activities and the values of the environment".

737. The *ORC* (OS908.105) also sought that the policies associated with Objective 2.2.2 be retained, "provided that they recognise the impact of climate change when consent for land use activities involving infrastructure is sought".

738. Ms Macleod considered that, if infrastructure were taken to include renewable energy generation activities, she considered that Policy 2.2.2.3 did provide for the impact of climate change to be recognised. The policy outlined the methods used in the plan to implement NPSREG, whose objective was to increase renewable electricity generation in New Zealand, due in part to the benefits of REG in terms of maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions (NPSREG Policy A).

739. At the hearing, Mr Murray Brass, representing *the University of Otago,* opposed the Reporting Officer's recommended change to Policy 2.2.2.3. Mr Brass noted:

> *While this Policy is presented as being enabling, in fact the only criteria for appropriateness relate to the surrounding environment, not to the development itself. This makes no recognition of the benefits of renewables, nor of the locational constraints which can apply, and its overall effect is to restrict where generation can occur, not to enable it.*

740. Mr Brass considered that, in order to give effect to NPSREG and other relevant statutory and planning provisions – including RMA section 7(i) and 7(j), the operative Regional Policy Statement for Otago (Objective 12.4.3 and Policy 12.5.2) and the Dunedin City Council's own Energy Plan 1.0 – it would be appropriate that the benefits and locational constraints of REG are referred to in the objectives and policies, and not only in assessment rules as recommended in the Section 42A Report.

741. He considered that this is particularly important "when the proposed provisions would make most renewable generation a non-complying activity – given that it is unlikely that effects would be minor, any proposal would have to meet the second limb of the s104D "gateway test" and not be contrary to the objectives and policies of the Plan" (Statement of evidence, p. 5, paras. 19-21).

742. Ms Kirsty O'Sullivan, called by *Trustpower Ltd*, also opposed the recommended change to Policy 2.2.2.3. In her view, the recommendation did not give consideration to the wider objectives and policies of the plan that will seek to manage the adverse effects of renewable energy generation on sensitive activities or environmental values. She considered that repeating elements of those provisions in Policy 2.2.2.3 is unnecessary, given that the provisions of the Plan need to be considered as a whole when assessing resource consent applications for infrastructure developments (Statement of evidence, para 5.13).

743. In addition, she did not consider the revised drafting of Policy 2.2.2.3 to be the most appropriate way of achieving Objective 2.2.2, which is focused on encouraging renewable energy. She was of the view that the original drafting of this policy was more appropriate at achieving the objective and requested reversion to notified wording (Statement of evidence, para 5.14).

744. In response to submitters' evidence, the Reporting Officer maintained her position that Policy 2.2.2.3 should refer to "the sensitivity of surrounding activities" and "the values of the environment" as determinants of the areas within which different scales of REG were provided for, but recommended that the policy also refer to "the need for renewable energy generation activities to locate where energy resources are available".

4.3.3.2 Decision

745. We accept in part the submission of *the ORC* (OS908.105) relating to recognition of the impact of climate change; we agree with the Reporting Officer on this matter. No change to the policy is required in response to this submission.

746. We accept in part the submissions of *Ms Kerr* (OS743.57), *the ORC* (OS908.96) and *Mr Wyber* (OS394.67), to the extent that we consider that amendments should be made to other provisions in the Plan to better manage certain adverse effects from wind energy generation. These amendments are discussed in section 4.3.6 of this report (with respect to effects on amenity and character from small scale wind generation), and in section 3.6.1.7 of the Natural Environment Decision (with respect to effects on biodiversity).

747. We do not agree with *the ORC* (OS908.96) that reference to adverse effects should be included in Policy 2.2.2.3. We agree in part with Ms O'Sullivan, called by *Trustpower*, on this matter; the policy should explain the methods that the Plan uses to "increase renewable energy generation", in line with Objective 2.2.2 as amended by our decisions. Other policies in relevant sections of the plan, notably Sections 5 and 10, are concerned with the management of adverse effects. However, we do not agree with Ms O'Sullivan that the policy wording should revert to the notified version. We have made amendments to the policy to recognise the benefits of renewable energy generation and the practical constraints that it faces, in response to submissions from *the University* and *Generation Zero* (discussed in section 4.3.5 of this report). Our decision as set out in that section takes into account: the July 2016 evidence from the *University of Otago* and *Trustpower*, discussed above; the Reporting Officer's revised recommendations to amend Policy 2.2.2.3 to enable renewable energy generation and implement NPSREG, circulated prior to the November 2017 reconvened hearing; and evidence presented and tabled by *BRCT*, *the University* and *Ms Geraldine Tait* at the reconvened hearing, in response to the Reporting Officer's revised recommendations.

748. Therefore, we reject the submissions from *Waste Management* (OS796.14) and *the Chamber* (OS1028.13) seeking that Policy 2.2.2.3 be retained as notified.

4.3.4 Requests that the Plan identify appropriate locations for renewable energy generation

4.3.4.1 Submissions and Section 42A Report recommendations

749. *BRCT* considered that the Plan should identify locations that were appropriate for the development of renewable energy generation. To achieve this, the submitter requested the addition of a new Policy 2.2.2.3.c ("identify appropriate locations for the development of small and large renewable energy generation") (OS1070.4), and the addition of a new policy under Objective 2.3.1 ("identify sites appropriate for renewable energy generation") (OS1070.6).

750. *BRCT* considered that the requested amendment to Policy 2.2.2.3 would make it clear where renewable electricity generation activities were appropriate and, thereby, increase the likelihood of these activities being successfully implemented in Dunedin, "while assisting with the implementation of the Resource Management Act". The submitter also considered that "the identification of appropriate locations may pre-empt any amenity issues".

751. In relation to the submitter's requested new policy under Objective 2.3.1 (which also protects the productivity of land), BRCT considered that wind turbine installation would be likely to affect the productivity of rural land "only marginally".

752. *BRCT*'s submission points were supported by *Mr Robert Wyber* (FS2059.21, FS2059.22), and opposed by *Ms Geraldine Tait* (FS2160.17, FS2160.18).

753. The Reporting Officer, Ms Macleod, noted that during the development of Plan provisions for renewable energy generation, Council staff had assessed two options for provisions for wind farms, in consultation with key stakeholders.

- Option 1: provide for wind farms throughout rural Dunedin, except within sensitive landscapes.
- Option 2: only provide for wind farms within specified areas, to be identified by the Council.

754. Of the six consultees who gave the Council feedback on this matter (Federated Farmers, University of Otago, Generation Zero, Trustpower Ltd, Craig Horne Surveyors and Kurt Bowen) all supported Option 1, with the exception of Generation Zero who did not state a preference.

755. Taking into account points raised in consultation feedback, Council staff's assessment was that Option 1 would be a more effective and efficient way of providing for wind farms while managing their potential effects.

756. Ms Macleod summarised the main disadvantage identified with Option 2 as follows (Section 42A Report, section 2.3.1.1).

- The process of identifying appropriate locations for wind farms in the Plan, including undertaking research and consultation pre-notification, and hearing submissions and appeals post-notification, would be likely to be controversial, lengthy and, therefore, costly both to ratepayers and submitters. Given that wind farms need to be located in areas with high average wind speeds, which are generally located on high ground and/or in coastal areas, the identified locations would have to be located in elevated or coastal areas in order to be workable. Although it might be possible to identify locations without significant biodiversity values and a sufficient distance from dwellings, the construction of wind farms on any area of elevated or coastal land would be likely to have significant effects on visual amenity and landscape values.
- Therefore, once the identified locations were in place in the Plan, it would still be necessary to require resource consent for wind farms proposed within these locations, so that site-specific effects on visual amenity and landscape values could be managed. The activity status for such proposals would need to be Restricted

Discretionary or Discretionary in order to allow these effects to be managed appropriately, and applications would need to be notified for submissions in order to allow affected parties to have a fair say. Any notified wind farm resource consent application is, again, likely to be controversial – even within an area pre-identified by the Council as appropriate for this activity. It is likely that numerous submissions and, potentially, appeals would be lodged, again resulting in a lengthy and costly process both for ratepayers and submitters. Given that Option 2 would result in a duplication of processes and costs, it was not considered to be an efficient way of providing for wind farms while managing their potential effects.

757. Based on this options assessment, Ms Macleod did not agree with *BRCT* that the Plan should identify appropriate locations for renewable energy generation activities, and recommended that submission points OS1070.4 and OS1070.6 be rejected.

4.3.4.2 November 2017 reconvened hearing: evidence presented by submitters

758. No evidence was presented in relation to this topic at the original July 2016 hearing. However, *BRCT* attended the November 2017 reconvened hearing to respond to the additional evidence and revised recommendations provided by the Reporting Officer in relation to provisions for community and regional scale renewable energy generation.

759. At reconvened hearing, Ms Bridget Irving (legal counsel), called by *BRCT*, indicated that, in her view, NPSREG required local authorities to map the renewable energy resources that are present in within their boundaries. She noted that the NPSREG Implementation Guide 2011[3] states:

> *...local authorities will need to identify, based on generally available data (e.g., EECA's regional renewable energy assessments) or data that has been specifically collected, the extent to which the resources identified in Policies E1–E4 exist within their region or city/district.*
>
> *...territorial authorities should ensure that they have identified the relevant resources identified in Policies E1-E4* [of NPSREG – i.e. solar, biomass, tidal, wave, ocean current, hydro-electricity, wind and geothermal] *in their city/district.*

760. Ms Irving considered that these "directions" from the Implementation Guide had not been pursued by the DCC and, therefore, that the Plan failed to give effect to NPSREG (Evidence, paras 32-37).

761. In response to our questions, Ms Irving confirmed that, in her opinion, the identification in the Plan of areas with good wind resources and the application of more enabling provisions within those areas, was necessary to implement the NPSREG.

762. *Ms Tait* also appeared at the reconvened hearing and, in response to our questions, indicated that she also supported the mapping of wind resources in the Plan.

4.3.4.3 November 2017 reconvened hearing: Reporting Officer's revised recommendation

763. In response to Ms Irving, Ms Macleod noted that the NPSREG does not require Councils to map energy resource availability for their districts. The only reference to resource availability in the NPSREG is in policies E1 to E4, which state that plans must provide for different types of generation "to the extent applicable to the region or district".

764. She reiterated that staff had considered the option of mapping areas considered to be particularly appropriate for wind energy generation and applying more enabling rules in these areas. This option had been rejected, on the basis of consultation responses and consideration of costs and benefits, for reasons discussed above.

[3] http://www.mfe.govt.nz/publications/rma/nps-renewable-electricity-generation-guide-2011

765. She noted that, during the reconvened hearing, we had queried whether it may be appropriate to identify areas that are known to have good renewable energy resources in the Plan, so that they could be protected from activities that could impede the establishment of energy generation, e.g. rural residential development.

766. In response to this question, Ms Macleod agreed that it may be appropriate to use wind resource maps in this way, as a means of managing the location of rural residential development. She advised that submissions on the Plan did not provide the scope to take this approach, but that the Panel could recommend it as a topic for a future Plan review.

4.3.4.4 Decision and decision reasons

767. We have sympathy with the points raised in *BRCT*'s submission and in the evidence presented by Ms Irving. We consider that mapping the areas of the city that are most appropriate for wind energy generation – and other types of REG – based on criteria such as resource availability, proximity to electricity transmission or distribution lines, and proximity to demand, would have significant benefits. Under this approach, the Plan could have been drafted with more enabling provisions for REG within these identified areas; in our view, this would provide greater certainty for both developers and local residents and reduce the potential for litigation.

768. However, we recognise that the identification of these areas would involve a significant amount of work, firstly in investigating which parts of the city best meet the criteria to be considered 'appropriate for renewable energy generation' and secondly in undertaking the required public and key stakeholder consultation.

769. Therefore, we reject the submissions from *BRCT* (OS1070.4 and OS1070.6) but recommend that this approach be investigated further in a future Plan review.

4.3.5 Requests to amend provisions to be more enabling of renewable energy generation

4.3.5.1 Background

770. The Plan provides for three categories of renewable energy generation: on-site energy generation; community scale energy generation and regional scale energy generation. The "on-site energy generation" category is defined by both the scale of structures, and the destination of energy (generation must be 'primarily for the supply of on-site needs'). The "community scale" category is defined only by the scale of structures (with higher scale thresholds than for "on-site"). The "regional scale" category consists of all generators that exceed "community scale" thresholds.

771. On-site energy generation is generally provided for as Permitted in all zones, but with consent requirements in overlays. Community scale generation is provided for using a mixture of Permitted, Restricted Discretionary and Discretionary in all zones (depending on the type of generation and zone) but is generally Non-complying in overlays. Regional scale generation is provided for as Discretionary in rural and industrial zones only; in all other zones, and in overlays, it is Non-complying.

772. In this section of the report, we consider submissions requesting that provisions be amended in a variety of ways to be more enabling of renewable energy generation.

773. Provisions for biomass energy generation are discussed separately, in section 4.3.8.

4.3.5.2 Submissions

774. *Generation Zero* sought (OS764.1) that Plan provisions be reviewed in terms of finding ways of reducing dependency on non-renewable energy sources and oil-based products in the region under DCC control, including by promoting local sources of renewable energy, such as distributed generation, to help maximise the potential of Dunedin's renewable energy production capacity. This submission was supported in part by *BP Oil*

NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd (the Oil Companies) (FS2487.10), on the condition that any amendments to provision "appropriately enabled the continued operation, maintenance, upgrade and development of existing non-renewable energy infrastructure".

775. *Generation Zero* also requested (OS764.3) that provisions be amended to allow more than two wind turbines to be considered, where the resource consent process has been adequately followed including community consultation and assessment of environmental effects.

776. The *University of Otago* (OS308.122, OS308.462, OS308.138, OS308.139, OS308.140) requested a range of amendments to Section 5 policies, activity status rules, performance standards and assessment rules. The submitter considered that the Plan's renewable energy generation provisions were unnecessarily restrictive and did not give effect to the National Policy Statement for Renewable Electricity Generation 2011 (NPSREG). Specifically, *the University* sought the following outcomes.

- Retain Objective 5.2.1 and Policy 5.2.1.1.
- Delete Policy 5.2.1.10 because "there is no justification for requiring that there be 'no material effects on amenity', which is a much more stringent test than would apply to other activities which do not provide the benefits that renewable energy generation does".
- Delete Policy 5.2.1.11 again because "there is no justification for the requirement to 'avoid significant adverse effects and minimise adverse effects, as far as practicable', which is a much more stringent test than would apply to other activities which do not provide the benefits that renewable energy generation does".
- Revise activity status rules for wind, hydro and solar to remove use of non-complying activity status, on the basis that these provisions unnecessarily restrict, and do not enable, REG. "The broad-brush use of non-complying status across almost half the city's area is unjustified, especially when in many cases generation could be located within an overlay zone without any impact on the particular values of the overlays."
- Revise all Section 5 performance standards and assessment matters to better provide for network utilities and energy generation, and to enable renewable energy generation. "These rules are unnecessarily restrictive in terms of both the trigger levels for performance standards and the specified assessment matters."

777. The *University*'s submission points were supported by *Trustpower* (FS2127.14, FS2127.25 and FS2127.26), *Waste Management* (FS2444.8, FS2444.6, FS2444.5) and *BRCT* (FS2229.8). They were opposed by *Ms Geraldine Tait* (FS.2160.13, FS2160.15, FS2160.16). *Waste Management* had also made an original submission (OS796.4) seeking that Objective 5.2.1 be retained.

778. More specifically, *BRCT* requested that the non-complying activity status of Wind Generators – Community Scale in SNLs be amended to be less restrictive (OS1070.13), and that the effects test applying to these activities in SNLs and ONLs (in Policy 10.2.5.15 in the Natural Environment section) be amended to be more enabling and to allow for impacts on amenity to be balanced with recognition of the importance of renewable energy generation (OS1070.14). The submitter considered that the combination of non-complying status and the notified policy wording ("avoid... unless there are no material effects on landscape values") "effectively renders community scale wind generators prohibited" in SNLs and ONLs.

779. *BRCT*'s submission point OS1070.14 was opposed by *Ms Geraldine Tait* (FS2160.22), *the Harboursides and Peninsula Preservation Coalition (HPPC)* (FS2267.28), and *Dr Simon Ryan*. *Dr Ryan* also opposed OS1070.13.

780. Finally, *the Otago Chamber of Commerce Incorporated (the Chamber)* (OS1028.14) requested that the scale threshold for Solar Panels - Community Scale (maximum

500m^2 area of ground-mounted panels) be increased, due to concerns that this threshold may restrict future solar farm renewable generation opportunities.

4.3.5.3 Section 42A recommendations

781. The Reporting Officer, Ms Macleod, agreed with the *University* and supporting further submitters, and with *BRCT*, that changes to provisions were required to create a more balanced framework within which to assess the potential adverse effects of REG, taking into account the benefits of REG and its need to locate where energy resources are available. She recommended the following changes to achieve this (Section 42A Report, section 6.2.4).

- Amend the policy test in Policy 5.2.1.11 (which applies to larger scale REG activities in rural and industrial zones) from "avoid any significant adverse effects and minimise adverse effects, as far as practicable" to "avoid or, if avoidance is not possible, adequately mitigate" adverse effects (this change had also been recommended in response to concerns raised in submissions from network utility providers, because this policy also applies to other large scale network utilities – see section 4.2.1.6).
- Amend policy tests applying to on-site energy generation and to community scale generation in NCC, ONL and SNL overlay zones so that a more lenient test (i.e. effects on protected values are "adequately mitigated") is available "where there are no practicable alternative locations".
- Amend the policy test applying to on-site energy generation and community scale solar and hydro generation in ASCVs to change the effects test from "insignificant" to "no more than minor".
- Amend the activity status of Wind Generators – Community Scale in SNLs from Non-complying to Discretionary.
- Amend assessment rules to ensure that the benefits and operational and technical requirements of REG are taken into account (again, this change had also been recommended for all network utility activities – including REG – in response to submissions from network utility providers – see section 4.2.1.8).

782. However, Ms Macleod considered that certain other provisions, which were requested to be amended in the *University*'s submission, should be retained as notified in order to appropriately manage adverse effects. These included the following provisions.

- Non-complying activity status for regional scale renewable energy generation in all management zones other than rural and industrial zones, and associated Policy 5.2.1.10 which provided the effects test for these activities.
- Non-complying activity status for regional scale renewable energy generation in ONFs, ONLs, SNLs, ONCCs, HNCCs, NCCs, ASCVs, scheduled heritage sites and heritage precincts.
- Non-complying activity status for Wind Generators – Community Scale in ONFs, ONLs, ONCCs, HNCCs, NCCs, ASCVs, scheduled heritage sites and heritage precincts.
- Non-complying activity status for community scale energy generation (other than wind) and for on-site energy generation in ONFs, ONCCs and HNCCs.

783. Ms Macleod's recommendations to revise certain provisions and retain others were based on a number of considerations including (Section 42A Report, section 6.2.4):

- Plan-wide protocols regarding use of Non-complying activity status
- the requirements of NPSREG, and the advice provided in the NPSREG Technical Guide
- the proportion of the city likely to have good renewable energy resources that is covered by landscape and coastal character overlays and by ASCVs

- the need to balance RMA section 6 and section 7 matters with the objective of NPSREG, including consideration of case law on this topic
- advice from Mr Michael Moore (Landscape Architect) in relation to the likely effects of different types of REG on the protected values of landscape and coastal character overlays
- the need for additional regional scale REG capacity in the city, in the context of national electricity supply and demand.

784. In response to the request from *Generation Zero* (OS764.1) to review provisions to find ways to reduce dependence on non-renewable resources, Ms Macleod considered that policies and rules that enable renewable energy generation and the use of electric vehicles would facilitate a reduction in dependency on non-renewable energy sources and oil-based products. Therefore, she considered that her recommended amendments both in response to the *University* and *BRCT* (discussed above), and in response to other submitters in relation to electric vehicle charging stations (see discussion in section 4.2.14), would give partial relief to *Generation Zero*'s submission. In relation to the further submission from *the Oil Companies* (FS2487.10), she noted that these changes would not hinder the continued operation of existing non-renewable energy infrastructure.

785. In response to *the Chamber*'s request to increase the threshold for Solar Panels – Community Scale *(*OS1028.14), the Reporting Officer considered that, given that Solar Panels – Regional Scale were provided for as Discretionary activities in rural and industrial zones, the proposed limit for community scale generation would not unduly restrict future development. Therefore, she recommended that this submission be rejected.

4.3.5.4 July 2016 hearing: evidence presented by submitters

786. Evidence relating to this topic was presented at the hearing by *the University of Otago*, *Trustpower* and *Ms Geraldine Tait*.

787. Murray Brass, representing *the University of Otago*, supported the recommended change to Policy 5.2.1.11. However, he reiterated his opposition to the strict effects test in Policy 5.2.1.10, and to the application of Non-complying activity status to renewable energy generation activities outside rural and industrial zones and within overlay zones.

788. Mr Brass noted the evidence provided in the Section 42A Report indicating that 38% of the land area of Dunedin is within landscape and coastal character overlays and ASCVs. In his understanding, this land "is mostly located in the rural hills and ridges where hydro and wind generation are most likely to be viable".

789. He also considered that the Plan had not implemented the NPSREG in terms of provision for "small and community scale distributed electricity generation", because the Plan's scale-based definitions of these activities would not include all activities that fall within the scope of the NPSREG definition.

790. In Mr Brass's view, the overall outcome is that "the proposed provisions would make most realistic options for renewable generation above domestic scale a non-complying activity". He considered that in order to "meaningfully provide" for REG, Discretionary status should be applied "in all cases where renewable generation can realistically be anticipated and potentially accommodated given consideration for both the adverse effects and the associated benefits and constraints". In his view, this meant that Non-complying status should only be applied in the ONCC, HNCC and ONF overlays (Statement of evidence, pp. 5-6, paras 24-32).

791. Ms Kirsty O'Sullivan, the planning consultant called by *Trustpower*, also considered that Discretionary activity status would be appropriate for "the various scales of renewable energy generation... as this activity status aligns with the policy direction of the NPSREG and the enabling provisions of the 2GP" (Statement of evidence, para 6.36).

792. *Ms Tait* spoke in opposition to the view that the inclusion of enabling provisions for wind energy generation in the Plan was necessary to implement NPSREG. She noted that Policy E3 of NPSREG requires plans to provide for the development of wind energy generation "to the extent applicable to the region or district". She considered that, based on this qualifier, it was not necessary to provide for wind energy development (although other forms of REG should still be provided for) because, in *Ms Tait*'s view, the wind resource in Dunedin is compromised by the following two factors.

- Many of Dunedin's hill tops, ridgelines and high plateaus – where wind generation is usually situated – are covered by landscape overlays such as ONLs. Coastal areas have gusty rather than constant wind; this reduces potential output quite considerably.
- Rural residential development is distributed widely over Dunedin's rural land. Therefore, possible sites for wind turbines are within 1 or 2 km of dwellings. This means that it is too late to preserve these areas for wind generation, because these existing dwellings are sensitive to its effects.

793. In addition, she considered that smaller scale wind projects in Dunedin (such as the Blueskin proposal) would have only a negligible effect on achieving the national renewable electricity generation target and reducing the amount of power produced by coal or gas (tabled statement, p. 1).

4.3.5.5 July 2016 hearing: Reporting Officer's revised recommendations

794. In response to the submitter's evidence, the Reporting Officer revised her recommendation for the activity status of regional scale REG in commercial and mixed use zones only.

795. She did not agree with *the University*'s view that, primarily due to the application of Non-complying activity status to larger scale REG in landscape and coastal overlays and ASCVs, the proposed 2GP provisions were insufficiently enabling of renewable energy generation and did not implement NPSREG.

796. She noted that most of the elevated rural-zoned land in Dunedin (specifically, 59% of the land over 300m above sea level) is not covered by either overlay zones or ASCVs. In these areas, REG at a regional scale is provided for as a Discretionary activity.

797. In addition, she considered that the provisions were particularly enabling of on-site and community scale REG. She noted that:

- hydro generation of up to 4MW is a Permitted activity in the rural zones, provided that the height of any dam does not exceed 2m and the surface area of stored water does not exceed 200m^2
- under the proposed rules, landowners at rural and rural residential zoned sites may install wind turbines of up to 5kW in capacity, as a Permitted activity, provided they have sufficient space to meet setback requirements from boundaries, and
- ground-mounted solar panels of up to 200m^2 in area are Permitted in all zones, and in rural and industrial zones ground-mounted solar panels of up to 500m^2 in area are a Restricted Discretionary activity.

798. Finally, with changes to provisions recommended in response to submissions (see discussion in section 4.3.8), the generation of energy from biomass resources at a landfill, or from the bio-waste products of a processing activity such as a saw mill, are provided for as Discretionary in rural zones. Biomass generation using the waste products of a processing activity in industrial zones would be a Permitted activity.

799. Overall, in Ms Macleod's view, the proposed provisions, incorporating recommended changes, provided for a variety of different scales and types of renewable energy generation.

800. However, in relation to regional-scale REG in commercial and mixed use (CMU) zones, she acknowledged that it may be appropriate to consider Discretionary, rather than Non-complying, status for certain technologies in certain CMU zones – for example, solar generators in CMU zones with lesser amenity values, such as the trade-related zone. She suggested that, if the Panel agreed with this in principle, staff could investigate this possibility further and present options for consideration.

801. She also revised her recommendation for the wording of Policy 2.2.2.3, as discussed in the final paragraph of section 4.3.3.1, to recognise that potential locations of REG are determined by availability of resources.

4.3.5.6 Further information requested

802. Having heard the submitters' evidence and the Reporting Officer's response, we requested the following further information to aid our decisions on the activity status of REG in different environments.

- Assessment of alternatives to the notified non-complying activity status for regional scale energy generation in all non-rural and industrial zones.
- A review of the proposed scale threshold for Wind Generators – Community Scale (notified as 5 turbines up to 85m in height or 3 turbines up to 125m in height), taking into account the approaches taken in other District Plans. We also considered that further expert input from Mr Moore (Landscape Architect) was necessary to determine an appropriate level for this scale threshold. Once this had been determined, it would inform our decision on activity status in different environments.

4.3.5.7 November 2017 reconvened hearing: further evidence presented by Reporting Officer

803. Ms Macleod's presented further evidence and revised recommendations to the Panel in her memorandum that was circulated to all submitters prior to the reconvened hearing. She took the following matters into account when preparing her evidence.

- The Environment Court decision (Blueskin Energy Ltd v Dunedin City Council, Environment Court, 11/9/17) to decline Blueskin Energy Ltd's appeal against the Council's decision on the wind turbine application at Porteous Hill. In reaching this decision, the Court found that the notified 2GP does not adequately recognise or provide for either the benefits of renewable electricity generation or for the practical constraints associated with it, and as a result does not fully give effect to the NPSREG.
- A practice review of other district plans' provisions for energy generation at the larger scale (Memorandum, Appendix A).

804. Ms Macleod noted that, in terms of provisions for 'community scale' wind generation, most other plans either:

- cap this at a fairly small scale (15-25m maximum turbine height) and permit it, or
- define the activity only in terms of the destination of power generated and require consent as a restricted discretionary or discretionary activity.

Similar approaches are taken to other types of community scale generation.

805. Because the other plans reviewed do not have a mid-scale category equivalent to the 2GP's 'community scale' energy generation, they do not have a category equivalent to 'regional scale' either – i.e. consisting only of REG that is of a considerable scale. The most common approach taken in other plans is to treat all REG that is not at a fairly small scale as a generic 'renewable energy generation activity' (or other equivalent term).

806. Many district plans treat this scale of activity as fully Discretionary in all management zones (this is the approach taken by Queenstown Lakes, Clutha, Kapiti Coast, Far North

and South Waikato). Other plans (Auckland, Christchurch, Porirua and Rangitikei) treat this activity as Discretionary in rural (and sometimes also industrial and commercial) zones, but Non-complying in residential, recreation and commercial and mixed use zones.

807. In terms of activity status in more sensitive areas, a range of different approaches are taken. At the less restrictive end of the scale, Auckland, Queenstown, Far North and Clutha treat larger scale REG as a Discretionary activity in all more sensitive areas, including ONLs, ONFs and ASCVs. In the mid-range, Christchurch and South Waikato use Discretionary status in most of these areas, except that Christchurch applies Non-complying status in ONFs, ONCCs and HNCCs, and both use Non-complying status in some or all ASCVs – although only where performance standards on indigenous vegetation clearance are breached. The most restrictive plans in this regard are Kapiti Coast, Porirua and Rangitikei, which use Non-complying status for larger scale REG in all landscape overlays and (in the case of Kapiti Coast) ASCVs.

808. Based on this review, Ms Macleod recommended that the 'community scale' category – for wind energy generation and for other types of REG – should be removed from the Plan, as it added an extra layer of complexity to provisions and was out of step with other Plans' approaches.

809. If the community and regional scale categories are merged into one 'large scale' activity covering all but the smallest scale REG, then, in Ms Macleod's view, the activity statuses applying to that activity should be less restrictive than those that previously applied to 'regional scale'. For example, she did not consider that Non-complying activity status would be appropriate for Wind Generators – Large Scale in SNLs, ONLs or ASCVs, given that this activity – at the lower end of the scale – could consist of one or two turbines of 25m in height.

810. Therefore, she recommended that large scale wind generators, solar panels and hydro generators should be fully Discretionary activities throughout the city, except in the most sensitive and spatially limited overlays – i.e. ONFs, ONCCs and HNCCs, where she recommended that Non-complying activity status should apply. She noted that this would be similar to the approaches taken in other cities and districts, such as Queenstown Lakes, Auckland and Christchurch. The effect of this would be that a number of instances of Non-complying activity status would be removed from renewable energy generation provisions, in line with the outcome sought by *the University*. Overall, she considered that the changes would further enable REG and implement the NPSREG.

811. However, she noted that the following additional changes would be necessary to provisions to ensure that the amendments shown above would not increase restrictions on REG in a way that was outside the scope of submissions.

    a) In the notified provisions, Hydro Generators – Community Scale (i.e. generators up to 4MW, 2m dam height and 200m^2 surface area of stored water) are Permitted in rural and industrial zones. There were no submissions requesting that provisions for this activity be made more restrictive in these zones. Therefore, the scale threshold for Hydro Generators – Small Scale would need to be amended so that, in rural and industrial zones, larger generators were treated as part of this category, and thus remained Permitted in these zones.

    b) In the notified provisions, Solar Panels – Community Scale (i.e. panels with a ground-mounted area of between 200m^2 and 500m^2) are Restricted Discretionary in rural and industrial zones, while 'solar panels – regional scale' (over 500m^2) are Discretionary. There were no submissions requesting that provisions for community scale solar panels be made more restrictive in these zones. Therefore, she recommended that provisions be designed so that Solar Panels – Large Scale with a ground-mounted area of 200-500m^2 remain Restricted Discretionary in rural and industrial zones.

812. Ms Macleod noted that the recommended change from Non-complying to Discretionary activity status for large scale REG in SNLs, ONLs, NCCs and ASCVs raised the question

of what the effects tests should be for these activities in these areas. She recommended that the following effects tests be applied:

- In SNLs, ONLs and NCCs: "Only allow... where any adverse effects on the *[landscape/natural character values identified in the plan]* will be:

  a. avoided or, if avoidance is not possible, no more than minor; or

  b. where there are no practicable alternative locations, adequately mitigated."

- In ASCVs: "Only allow... where any adverse effects on the biodiversity values of the ASCV will be avoided or, if avoidance is not possible, no more than minor".

813. She further recommended that guidance be added to assessment rules for large scale REG in SNLs, ONLs and NCCs to clarify what is expected in order to establish that a given project has "no practicable alternative locations". This guidance should indicate that activities will be considered to have no practicable alternative locations only where potential alternatives are "severely constrained", for example:

- where energy generation is dependent on a specific resource, such as a water body that is particularly suitable for hydro generation, or
- in the case of energy generation from a resource that is available on multiple sites, where a range of feasible alternative sites has been identified and assessed, and the proposed site is supported by an assessment of alternatives that takes into account factors such as: the quality of the resource; proximity to distribution or National Grid infrastructure; feasibility of access for construction and maintenance of the utility; and the availability of the site for purchase or long-term use.

814. As a corollary to the amalgamation of 'community' and 'regional' scale REG into 'large scale', Ms Macleod also recommended that 'on-site energy generation' be renamed and redefined as 'small scale'. She noted that, based on the notified definition of 'on-site energy generation', even if wind generators meet the scale thresholds set out in Rule 5.5.10 On-site Energy Generation Design Standards, they are only treated as 'on-site energy generation' – and thus subject to the more enabling rules that apply to this activity – if the energy generated is "primarily for the supply of on-site needs".

815. In Ms Macleod's view, there is no need for additional restrictions for small energy generators that export power off site; in terms of effects on visual amenity and character, and effects on the protected values of areas such as landscape and natural coastal character overlays and ASCVs (i.e. the effects that Objective 5.2.1 seeks to manage in relation to REG), it makes no difference where the energy produced by a generator is going.

816. Therefore, she recommended that the definition of 'on-site energy generation' be deleted, and that activity definitions that use this term be renamed as follows, with no reference to destination of energy in the relevant definitions:

- *Wind Generators - ~~On-site Energy Generation~~ Small Scale*
- *Hydro Generators - ~~On-site Energy Generation~~ Small Scale*
- *Solar Panels - ~~On-site Energy Generation~~ Small Scale*

817. Under this recommendation, the scale-related standards set out in notified Rule 5.5.10 (many of which are subject to change in response to submissions) would represent the dividing line between 'small scale' and 'large scale' for each type of REG.

818. Although the recommended changes to the on-site energy generation provisions were not specifically requested in any submission, Ms Macleod considered that they fell within the scope of the University of Otago's submission (OS308.122) that Rules 5.3.2.12-21 (wind, hydro and solar) and associated performance standards and assessment matters be amended "to better provide for network utilities and energy generation, and to enable renewable energy generation" in order to give effect to Objective 5.2.1.

819. She also recommended that the following changes be made, under RMA clause 16, to the formatting of the performance standards that apply to small scale wind generators, hydro generators and solar panels, in order to simplify and clarify provisions.

- Move the scale-related standards in Rule 5.5.10 to new Rule 5.5.A Scale thresholds (which is also to be the location of scale thresholds for other types of network utility structures – small scale; see discussion in section 4.2.6).
- Move the design-related standards in Rule 5.5.10 (which apply only to Wind Generators – Small Scale) to new Rule 5.5.D Design Standards for Wind Generators.
- Move the site coverage standard in Rule 5.5.10 (which applies only to Solar Panels – Small Scale) to new Rule 5.5.E Site Coverage.

820. Further, she recommended that Energy Resource Investigation Devices (such as wind monitoring masts) be provided for in a more enabling way. She noted that these devices were Permitted in rural and industrial zones, but Restricted Discretionary in all other zones – despite the fact that small scale energy generation is often Permitted in these zones. For example, although small wind generators are permitted in rural residential zones, under notified rules, the device needed to measure the availability of the wind resource prior to establishing the turbine would need consent. In Ms Macleod's view, this was illogical, contrary to Objective 5.2.1, and went against Policy G of the NPSREG, which requires district plans to provide for activities associated with investigation of renewable resources.

821. Again, Ms Macleod considered that the *University of Otago*'s submission (OS308.122) provided the scope to resolve this issue. Therefore, she recommended that Energy Resource Investigation Devices should be treated as a type of 'network utility structure', and subject to the same rules regarding scale. This would result in most devices required to investigate solar or hydro resources being permitted in all zones. For operational reasons, wind monitoring masts will often need to be of a scale that would breach the 'network utility structures – small scale' thresholds. She considered that the most straightforward approach to enable large wind monitoring masts would be to exempt them from the scale thresholds provided that they are not installed for a period of more than 12 months.

822. She noted that, in rural and industrial zones, this approach would result in provisions for wind monitoring masts that were more restrictive in terms of permitted installation period; notified provisions would have permitted these masts for a period of 5 years, provided they were no more than 80m high and met other relevant standards. However, she considered that the notified time period was too permissive; structures of this size that were in place for 5 years could have considerable amenity effects, particularly given that they are likely to be located in prominent positions. She considered that submissions seeking more restrictive provisions for wind energy generation, including those from *Ms Kerr*, *Dr Ryan* and *Ms Tait* (see sections 4.3.3, 4.3.6 and 4.3.7), provided scope to tighten the rules for monitoring masts in this way. Ms Macleod considered that this amended approach to provision for Energy Resource Investigation Devices would enable REG while adequately managing effects on amenity, and as such was the most appropriate way to achieve Objective 5.2.1.

823. Ms Macleod considered that, overall, the changes that she had recommended to provision for small scale REG, large scale REG, and energy resource investigation would recognise and provide for the benefits of REG, and the practical constraints associated with it, in a way that implements NPSREG. The key recommended change in this regard, in her view, was the move from Non-complying to Discretionary status for large scale REG in a wide range of zones and overlays, including commercial and mixed use, major facility, rural residential, residential and recreation zones, and SNLs, ONLs, NCCs and ASCVs.

824. Finally, Ms Macleod recommended a related change to Policy 2.2.2.3, to reflect the recommended changes to activity status for large scale REG, and to more explicitly recognise the benefits and constraints associated with REG. Her recommended amendment to the policy was as follows:

> *Enable renewable energy generation<u>, in recognition of its benefits including those set out in the National Policy Statement for Renewable Electricity Generation 2011,</u> through policies and rules that*

~~*a. enable renewable on-site energy generation; and*~~

~~*b. support the development of small and large scale renewable energy generation in appropriate locations:*~~

a. support the development of appropriate scales of generation in all locations except ONFs, ONCCs and HNCCs; and

b. acknowledge the practical constraints of renewable energy generation, including those arising from the need to locate where resources are available, and close to electricity transmission or distribution infrastructure.

4.3.5.8 November 2017 reconvened hearing: evidence presented by submitters

825. At the reconvened hearing, evidence relating to this topic was presented or tabled by *the University of Otago*, *BRCT* and *Ms Geraldine Tait*.

826. Mr Murray Brass, representing *the University of Otago*, strongly supported the Reporting Officer's revised recommendations to simplify provisions, to recognise positive effects, and to amend the activity status of large scale REG to discretionary other than in the most sensitive locations. He considered that the recommended changes to provisions were appropriate and necessary to give effect to NPSREG (Tabled Evidence, paras. 8-9).

827. Ms Bridget Irving (legal counsel), called by *BRCT*, submitted that "while *[Policy 2.2.2.3 including recommended amendments]* appears to be an effort to achieve what it required by the RMA... this drafting only perpetuates the ambiguity around what is 'appropriate'", particularly given the removal from rules of thresholds for 'community scale' energy generation. In Ms Irving's submission, "... the proposed amendments leave the plan providing no clear guidance on what an 'appropriate scale' might be" (legal submissions, paras. 22 and 23).

828. She argued that a "typical local reaction" to provisions for REG is to "over-value amenity because of an underlying belief that a small local contribution to the target seems insignificant." Ms Irving noted that: "This is despite the fact that the de-minimis argument has been roundly dismissed by the Courts on numerous occasions. To break this cycle the Plan needs to be more directive and actively provide for REG activities" (legal submissions, para. 28).

829. In Ms Irving's view, the proposed removal of specific provisions for community scale generation will "only serve to thwart the intention of the Objective [5.2.1] and Policy [5.2.1.1]" (legal submissions, para. 30).

830. Ms Irving's interpretation of the NPSREG Implementation Guide 2011 was that it provides a clear direction that the Plan should enable community scale generation. She argued that both notified and recommended provisions fail to do this (legal submissions, para. 35). In her view, "...removing the distinction between community scale and regional scale and having a blanket rule for all but very small on-site generation avoids the work that the Implementation Guide has identified as necessary for Councils" (legal submissions, para. 41).

831. Further, she considered that, in terms of giving effect to the proposed Regional Policy Statement, the recommended changes to provisions "are a movement in the wrong direction" (legal submissions, para. 40).

832. She concluded that the recommended removal of more enabling provisions for 'community scale' wind generation "fails to give effect to the NPS and will likely fail to give effect to the pRPS when it becomes operative" (legal submissions, para. 42).

833. Ms Irving indicated, in her response to Panel questions, that she would favour the inclusion of a policy in the Plan that applied in cases where renewable electricity generation proposals would conflict with section 7 amenity values, and stated that in these cases, the importance of energy generation should be given more weight than amenity values.

834. *Ms Geraldine Tait* spoke to her tabled statement. She supported the removal of the category of community scale wind generation from the Plan. She considered that ownership of generators should not be relevant to the provisions that apply to them, and that, as this group included turbines up to 125m high in notified provisions, they "could not be classed as medium size" (Statement, p. 1).

835. However, she expressed concerns with the effects test proposed to apply to wind generators – large scale ("avoid or, if avoidance is not possible, adequately mitigate adverse effects on the amenity and character of the zone... and on the amenity of any surrounding residential activities" – Policy 5.2.1.11). She considered that this wording was "potentially dangerous" in that it implied "that there is no choice and that avoidance might not be possible. Dunedin City needs to look at itself in the context of the whole of New Zealand. We have a very large rural hinterland positioned close to Central Otago which has an excellent wind resource." (Statement, p.2) In response to our questions, *Ms Tait* indicated that she believed the Plan should provide for larger wind generation only in these more distant rural areas where the wind resources were, in her understanding, most plentiful; and not in areas close to the city or to smaller surrounding settlements. See also discussion of the issue of setbacks of turbines from dwellings in section 4.3.7, and mapping of wind resources in section 4.3.4.

836. Finally, she requested an amendment to Policy 2.2.2.3; she considered that the proposed use of the term "support" in recommended 2.2.2.3.a, i.e. "Enable renewable energy generation... through policies and rules that: a. *support* the development of appropriate scales of generation...", was "too strong and shows too much involvement by council". In her view, "a more appropriate term might be provide for or enable" (Statement, p.4).

4.3.5.9 November 2017 reconvened hearing: Reporting Officer revised recommendations

837. The Reporting Officer observed that one of the main reasons for Ms Irving's view that the recommended provisions would not give effect to the NPSREG or PRPS is that they do not differentiate between 'community scale' generation, as defined in the NPSREG, and larger scale generation, in terms of the activity status applied to generation.

838. In relation to this point, Ms Macleod noted that the NPS definition of community scale generation is very broad, including any generation connected to the distribution network, up to the scale of the Mahinerangi Wind Farm (with 12 turbines each of 125m in height). Therefore, 'community scale' as defined in NPSREG covers potentially very large developments. Further, the NPSREG does not require district plans to provide for community scale generation in a more enabling way than larger scale. Policy F simply requires plans to "provide for" this activity – and the Plan provisions, including recommendations, do provide for all types of generation that fall within the 'community scale' definition.

839. She considered that, although all generation that exceeds the 'small scale' thresholds would be subject to the same activity status, where community scale generators (as defined in the NPS) involved smaller structures, they would be more likely to meet the effects tests in the relevant policies and be granted consent.

840. In relation to the pRPS, Ms Macleod noted that the Council is a party to mediation and had access to the mediated version of the policy statement. She confirmed that she had reviewed the relevant document and, in her view, the Plan's REG provisions, incorporating recommended changes, did give effect to the PRPS.

841. In response to Ms Irving's view that a policy should be included to prioritise renewable energy generation over RMA section 7 amenity values, Ms Macleod noted that a policy of this kind would be outside the scope of submissions. Further, in her view, before a policy of this kind could be included in the Plan, significant public consultation would be required to determine whether the community supported this approach. In Ms Macleod's opinion, the approach is not a necessary part of implementing the NPSREG.

842. In response to Ms Tait's request that the wording at the beginning of 2.2.2.3.a be amended from "*support* the development of appropriate scales of generation…" to "*provide for* the development...".., Ms Macleod agreed that "provide for" would be more appropriate in terms of the language used in NPSREG, and elsewhere in the Plan itself. She noted that this change had also been endorsed by Ms Irving for *BRCT* in her responses to Panel questions during the hearing.

843. During the hearing, we had queried whether it would be appropriate, and in line with the general submission from *Generation Zero* requesting that Plan provisions be reviewed to support distributed generation (OS764.1), to refer to proximity to demand, in Policy 2.2.2.3.b, as a practical constraint affecting the location of energy generation. Ms Macleod agreed that this was an important consideration and recommended that the wording of the policy be amended accordingly. She also recommended that, in response to the same submission, assessment rules should be amended to include "proximity to demand" in the list of factors that should be taken into account by applicants when assessing the feasibility of alternative sites for energy generation.

4.3.5.10 Decision and Reasons

844. We accept in part the submissions of the *University of Otago* (OS308.122, OS308.462, OS308.138, OS308.139, OS308.140) and *BRCT* (OS1070.13) to the extent that we have made the following decisions in response to these submissions.

a) For the reasons given by Ms Macleod, we have decided to merge community and regional scale renewable energy generation into a single large scale category (comprised of Wind Generators – Large Scale, Solar Panels – Large Scale and Hydro Generators – Large Scale). The activity status for this category will be discretionary throughout this city, except within ONFs, ONCCs and HNCCs where non-complying activity status will apply (however, see further discussion on this decision in paragraph 848 below).

b) Similarly, we agree that the on-site energy generation category should be renamed "small scale", and definitions should not take into account the destination of energy generated.

c) We have also decided that the activity status of small scale energy generation (i.e. Wind Generators – Small Scale, Solar Panels – Small Scale and Hydro Generators – Small Scale) should be amended from Non-complying to Restricted Discretionary, in response to *the University* (OS308.122), so that the same activity status applies to small scale REG as to other types of small scale network utility structure in these areas. We are in no doubt that small scale energy generation should be encouraged.

d) Similarly, we accept that provisions for Energy Resource Investigation Devices should be amended to be more enabling. We consider that wind monitoring masts should be permitted to exceed the scale thresholds that normally apply to Network Utility Structures – Small Scale for up to 24 months (rather than up to 12 months as recommended by Ms Macleod). Our decision is based on advice provided by Mr Scott Willis, representing *BRCT*, during the reconvened hearing. Mr Willis advised that 24 months of monitoring data would generally be necessary to provide a good indication of the quality of the wind resource at a site. This amendment also falls within the scope of *the University*'s submission (OS308.122).

e) We have decided to amend assessment rules for all network utility activities to refer to Policy 5.2.1.1 ("encourage the use and development of renewable energy generation") to ensure that this policy is taken into account when consents are processed. This amendment gives partial relief to *the University*'s submission (OS308.122).

845. In making these decisions, we have taken account of the submissions and hearing statements of *Ms Tait* and *Dr Ryan*, requesting more restrictive provisions for Wind Generators – Community Scale, which are set out in section 4.3.7 of this decision. As noted in that section, these submissions are given partial relief by the above decisions, because provisions will become more restrictive in certain areas (rural and industrial

zones outside overlays) but less restrictive elsewhere (notably, within most landscape and coastal character overlays).

846. Based on the practice review provided to us by Ms Macleod – and her recommendations, drawing on this review, that there should no longer be specific provisions for 'community scale' REG in the Plan - we did not consider it necessary to obtain advice from Mr Moore on an appropriate scale threshold for community scale wind energy generation.

847. As indicated in section 4.3.4, we would have preferred to have received clearer advice on appropriate locations for larger wind generation activities, based on wind resource availability, proximity to transmission lines, and other relevant factors. Had this advice been available, we may have decided on a different activity status for these activities in different areas; we consider that applying discretionary status throughout all zones and overlays results in uncertainty and potential litigation for applicants and communities. However, on the basis of currently available information we consider that the approach set out above is the best alternative available, within the scope of submissions.

848. We reject the aspect of *the University of Otago*'s submission point OS308.122 that seeks the retention as notified of Objective 5.2.1, and we also reject the submission from *Waste Management* (OS796.4) supporting the notified wording of the objective. We have made a slight amendment to the wording of the objective in response to submissions discussed in section 4.2.1.5 of this report. However, we consider that *the University* and *Waste Management* are unlikely to object to this amendment, as it follows the general direction of their submissions.

849. With regard to the submission from *BRCT* (OS1070.14) on the wording of the effects test in Policy 10.2.5.15 of the Natural Environment section, which applies to wind energy generation in SNLs and ONLs, we reject the submission and refer the submitter to the Natural Environment Decision, where we set out our decisions on effects tests in policies for all activities in landscape and coastal character overlays and ASCVs. See in particular sections 3.7.5.5 and 3.6.6, which relate specifically to network utility activities. In making these decisions, we have taken into account Ms Macleod's recommendations, set out above, on the effects tests and assessment rules for large scale REG in SNLs, ONLs, NCCs and ASCVs.

850. We accept the submission from *Generation Zero* (OS764.1) requesting that the Plan provisions be reviewed to find ways to reduce dependency on non-renewable energy sources and oil-based products in the region under DCC control, including by promoting local sources of renewable energy, such as distributed generation, to help maximise the potential of Dunedin's renewable energy production capacity.

851. For this reason, we have amended the activity status of Network Utility Structures – Large Scale from restricted discretionary to discretionary in all management zones. This is because the non-renewable energy generation falls within the Network Utility Structures – Large Scale activity definition, and we consider it contradictory to *Generation Zero*'s submission that generation derived from non-renewable resources should have a more enabling activity status than REG (which, as discussed above, will be discretionary in all zones).

852. In addition, we have amended the definition of 'building utilities' to clarify that it includes all solar panels mounted to buildings (rather than only 'roof-mounted' panels), and that these panels are still provided for as building utilities if the power they generate is exported to the grid. Along similar lines, we have amended the definition of 'service stations' to clarify that it includes the sale of 'other vehicle power sources' in addition to 'motor vehicle fuels'. This is intended to ensure that service stations that incorporate charging facilities for electric vehicles are provided for in the Plan. These changes make Plan provisions more enabling of building-mounted solar panels and of electric vehicle charging, and thus give partial relief to *Generation Zero*'s submission.

853. We have also amended the wording of Objective 2.2.2 in response to *Generation Zero*'s submission, to emphasise that a key aim of the objective is to reduce reliance on non-renewable energy sources; this reflects the fact that each of the outcomes identified in clauses a to d of the objective would contribute to reduced reliance on these resources.

854. In relation to Policy 2.2.2.3, we agree with the advice of the Reporting Officer (in response to *the University*'s submission point OS308.122) that the policy should be amended to recognise the benefits of REG and the constraints on its location, and to indicate that policies and rules in the plan "provide for the development of appropriate scales of generation". However, we do not agree that the policy should exclude provision for all scales and types of REG in ONFs, ONCCs and HNCCs, for the reasons we set out in paragraph 845c. We also consider that an additional two clauses should be added to the policy, in response to *Generation Zero*'s submission, as follows:

> Enable renewable energy generation, in recognition of its benefits including those set out in the National Policy Statement for Renewable Electricity Generation 2011, through policies and rules that: ...
>
> c. acknowledge the benefits, in terms of the efficient use of energy, of locating renewable energy generation close to end use and to electricity transmission or distribution infrastructure; and
>
> d. acknowledge the benefits of having a distributed network for greater energy resilience.

855. We consider that these additions, which will flow through to assessment rules for all scales of REG, will appropriately allow decision-makers to consider the benefits of distributed generation. This will both provide relief to *Generation Zero*'s submission and – in line with the outcomes sought by *BRCT* and *the University* - strengthen the Plan's implementation of the requirement in the NPSREG to provide for 'small and community scale generation', as defined in the NPS.

856. In relation to *Generation Zero*'s request (OS764.3) that provisions be amended to allow more than two wind turbines to be considered, where the resource consent process has been adequately followed including community consultation and assessment of environmental effects, we accept the intent of this request but do not consider that any amendments to provisions are needed to achieve it. However, we consider that amendments to assessment rules discussed in this section of the decision and in section 4.2.1.8 will improve the assessment of environmental effects from wind generators.

857. Finally, we accept in part the submission *the Otago Chamber of Commerce Incorporated (the Chamber)* (OS1028.14) to the extent that we agree that notified provisions for Solar Panels - Community Scale were unduly restrictive in zones other than rural and industrial zones. We consider that our responses to the *University of Otago* and *BRCT*, set out above, provide relief to this submission point.

858. The various decisions set out above result in the following amendments to the Plan, including consequential amendments:

Objective 2.2.2

i. Amend Objective 2.2.2 as follows:

> "Dunedin reduces its reliance on non-renewable energy sources and is well equipped to manage and adapt to ~~any changes that may result from volatile energy markets or diminishing energy sources~~ changing or disrupted energy supply by having…" (NU 764.1)

Policy 2.2.2.3

ii. Amend Policy 2.2.2.3 as follows:

> Enable renewable energy generation, in recognition of its benefits including those set out in the National Policy Statement for Renewable Electricity Generation 2011, (NU 308.122) through policies and rules that:
>
> a. ~~enable renewable on-site energy generation; and~~ (NU 308.122)
> b. ~~support the development of small and large scale renewable energy generation in appropriate locations.~~ (NU 308.122)
> a. provide for the development of appropriate scales of generation; (NU 308.122)

b. acknowledge the practical constraints of renewable energy generation, including those arising from the need to locate where resources are available; (NU 308.122)
c. acknowledge the benefits, in terms of the efficient use of energy, of locating renewable energy generation close to end use and to electricity transmission or distribution infrastructure; (NU 764.1)
d. acknowledge the benefits of having a distributed network for greater energy resilience. (NU 764.1)

iii. Amend Section 5 assessment rules for all performance standard contraventions (Rule 5.7.3.A.a&b), all Restricted Discretionary activities (Rule 5.8.2.A.a&b), all Discretionary activities (Rule 5.9.2.1) and all Non-complying activities (Rule 5.10.2.1) to refer to Objective 2.2.2 and Policy 2.2.2.3, and to paraphrase new clauses 'c' and 'd' of Policy 2.2.2.3 (NU 764.1).

Effects tests in Section 5 policy tests

iv. Amend Policies 5.2.1.5 and 5.2.1.11 to replace notified, more restrictive, policy tests with 'avoid or, if avoidance is not practicable, adequately mitigate' for both small scale and large scale REG. Our decisions on these policies are set out in section 4.2.1.6, and the amendments to the Plan are attributed to submissions discussed in that section (i.e. NU 906.7 and NU 457.14).

Section 5 assessment rules for all network utility activities

v. Amend Section 5 assessment rules for all performance standard contraventions (Rule 5.7.3.A.a&b), all Restricted Discretionary activities (Rule 5.8.2.A.a&b), all Discretionary activities (Rule 5.9.2.1) and all Non-complying activities (Rule 5.10.2.1) to refer to Policy 5.2.1.1 (OS308.122).

Activity status of non-renewable energy generation

vi. Amend the activity status of 'All other network utility structures – large scale' in all management zones (Rule 5.3.2.10.a&b) from Restricted Discretionary to Discretionary (NU 764.1).

vii. Amend Rule 5.8.2.A (assessment of Restricted Discretionary Network Utility Activities) to delete reference to Network Utility Structures – Large Scale (NU 764.1).

Definitions

viii. Amend definition of service stations to include sale of 'other vehicle power sources', and amend definition of building utilities to include solar panels 'mounted to the building including those that supply excess electricity to the network' (NU 764.1).

Provisions for 'large scale' REG: changes to activity name and activity status

ix. Delete definitions of community scale energy generation, Wind Generators – Community Scale, Solar Panels – Community Scale and Hydro Generators – Community Scale (NU308.122).

x. Delete definitions of regional scale energy generation, wind generators – regional scale, solar panels – regional scale and hydro generators – regional scale (NU308.122).

xi. Add new definitions of wind generators – large scale, solar panels – large scale and hydro generators – large scale (NU 308.122).

xii. Delete activity status rules (Rules 5.3.2.15-17) for community scale generation – hydro, wind and solar (NU308.462).

xiii. Delete Rule 5.5.12.1 Boundary Setbacks, which was a performance standard applying only to wind generators - community scale, and associated assessment Rule 5.7.3.2 (NU 308.122) (see also discussion in section 4.3.7).

xiv. Amend activity status rules (Rules 5.3.2.18-20) for regional scale generation – hydro, wind and solar to replace 'regional scale' with 'large scale' and to apply Discretionary activity status to large scale REG in all environments except ONFs, ONCCs, HNCCs, with the exception that Solar Panels – Large Scale will be Restricted Discretionary up to 500m^2 in rural and industrial zones under Rule 5.3.2.18, and Discretionary beyond that threshold under new Rule 5.3.2.B (NU308.462).

xv. Amend Policy 5.2.1.10 (for non-complying network utility activities) to delete the reference to "regional scale energy generation… outside the rural or industrial zones" (NU 308.122).

xvi. Amend Policy 5.2.1.11 (for restricted discretionary and discretionary network utility activities) to delete references to "regional scale energy generation in the rural zones" and "community scale energy generation"; following changes to definitions discussed in section 3.0, large scale energy generation is now covered by the reference to "network utility structures - large scale" in this policy (NU 308.122).

xvii. Delete Rule 5.8.2.3, which provided for the assessment of community scale solar panels and wind generators as Restricted Discretionary activities in the rural and industrial zones (NU 308.462).

xviii. Amend Rule 5.9.2.2 (Discretionary activities in management zones) to delete references to regional scale solar, hydro and wind energy generation (OS308.122).

xix. Delete Rule 5.9.2.3, which provided for the assessment of community scale solar, wind and hydro in zones other than the rural and industrial zones (NU 308.122).

xx. Amend Rules 5.9.2.4, 5.9.2.5, 5.9.2.6, 5.9.2.7 and 5.9.2.8 (Discretionary activities in ASCVs, SNLs, ONLs, NCCs, scheduled heritage sites and heritage precincts) to remove references to community scale solar and hydro generation and add references to large scale REG of all three types (NU 308.122).

xxi. Amend Rule 5.10.3 "Assessment of Non-complying Network Utility Activities" so that, for renewable energy generation activities, Non-complying activity status only applies to large scale REG and substations in ONFs, HNCCs and ONCCs, by deleting Rules 5.10.3.1, 5.10.3.X and 5.10.3.6 and by amending Rules 5.10.3.2 and 5.10.3.4 to remove references to SNLs and ONLs and to all activities other than hydro generators - large scale, solar panels - large scale, wind generators - large scale, network utility structures - large scale other than amateur radio configurations and substations (NU 308.462).

xxii. Amend Policies 10.2.1.11 and 10.2.3.11 (for non-complying activities in ASBVs and NCCs) to delete references to "wind generators - community scale" and "regional scale energy generation" (NU 308.122).

xxiii. Amend Policy 10.2.3.2 (for non-complying activities in ONCCs and HNCCs) and Policy 10.2.5.4 (for non-complying activities in ONFs) to delete references to community and regional scale energy generation; following changes to definitions discussed in section 3.0, large scale energy generation is now covered by the reference to "network utility structures - large scale" in this policy (NU 308.122).

xxiv. Amend Policy 10.2.5.15 (for non-complying activities in ONLs and SNLs) to delete references to "wind generators - community scale", "regional scale energy generation" and - because following this change there are no non-complying activities in SNLs - the reference to "Significant Natural Landscape" overlay zones (NU 308.122).

xxv. Amend Policy 10.2.5.7 (for restricted discretionary and discretionary activities in SNLs) to delete the reference to "community scale hydro generators and solar panels"; following changes to definitions discussed in section 3.0, large scale energy generation is now covered by the reference to "network utility structures - large scale" in this policy (NU 308.122).

xxvi. Amend Rule 10.6.2.5 (assessment of discretionary activities in SNLs and ONLs) to delete references to "solar panels – community scale" and "hydro generators – community scale" (NU 308.122).

xxvii. Amend Rule 10.6.2.7 (assessment of discretionary activities in ASBVs) to refer to "network utility structures – large scale (excluding amateur radio configurations)" (NB due to changes discussed in section 3.0, this activity category now includes large scale energy generation) (NU 308.122).

xxviii. Amend Rule 10.7.2.3 (assessment of non-complying activities in ASBVs) to delete references to "Regional scale - Wind generators, Hydro-generators, Solar panels" and "Wind generators - community scale" (NU 308.122).

xxix. Amend Rule 10.7.2.5 (assessment of non-complying activities in landscape overlay zones) so that it no longer applies to SNLs, because following changes to the activity status of energy generation activities there are no longer any non-complying activities in SNLs (NU 308.122).

xxx. Amend Rules 13.7.2.2 and 13.7.2.3 (assessment of discretionary activities in scheduled heritage sites and heritage precincts) to delete references to community scale hydro generators and solar panels (NU 308.462).

xxxi. Amend Rule 16.5.9.1.f, Rule 17.5.10.1.g, Policy 16.2.2.1 and Rule 16.9.3.7 (all of which relate to minimum separation distances from wind generators and other existing activities) to replace "wind generators - community scale and wind generators - regional scale" with "wind generators - large scale" (NU 308.122).

Provisions for 'small scale' REG: changes to activity name and activity status

xxxii. Delete definitions of on-site energy generation, wind generators – on-site energy generation, solar panels – on-site energy generation and hydro generators – on-site energy generation (NU 308.122).

xxxiii. Add new definitions of wind generators – small scale, solar panels – small scale and hydro generators – small scale (NU 308.122).

xxxiv. Amend activity status rules (Rules 5.3.2.12-14) for on-site energy generation – hydro, wind and solar to replace 'on-site energy generation' with 'small scale' and to apply Restricted Discretionary, rather than Non-complying, activity status to small scale REG in ONFs, ONCCs, HNCCs. (NU 308.122).

xxxv. Include scale-related performance standards for small scale REG in new Rules 5.5.A.3, 5.5.A.4 and 5.5.A.5, and state in these rules that hydro generators, wind generators and solar panels that exceed these thresholds are treated as the relevant 'large scale' activity (NU 308.122).

xxxvi. Delete Rule 5.7.3.8 (contravention of On-site energy generation design standards) (NU308.122), with relevant content transferred to Rule 5.7.3.18 (contraventions of Design standards for wind generators and Setbacks for wind generators) as a clause 16 amendment.

xxxvii. Amend Rules 5.8.3.3, 5.8.3.5, 5.8.3.6, 5.8.3.7 and 5.8.3.8, (Restricted Discretionary activities in ASCVs, SNLs, ONLs, NCCs, scheduled heritage sites and heritage precincts) to replace references to 'on-site energy generation' with references to 'small scale' REG (NU 308.122).

xxxviii. In consequence of the change in activity status for small scale REG in ONFs, ONCCs, HNCCs, amend Rules 5.8.3.1 and 5.8.3.2, which cover Restricted Discretionary activities in ONF, HNCC and ONCC overlay zones, to include the three types of small scale REG (NU 308.122).

xxxix. Amend Policy 10.2.3.2 (for non-complying activities in ONCCs and HNCCs) and Policy 10.2.5.4 (for non-complying activities in ONFs) to delete "on-site energy generation" (NU 308.122).

xl. Amend Policy 10.2.5.7 (for restricted discretionary and discretionary activities in SNLs) to replace the reference to "onsite energy generation devices" with "hydro

generators – small scale, solar panels – small scale, wind generators – small scale" (NU 308.122).

xli. Amend Rule 10.5.2.5 (assessment of restricted discretionary and discretionary activities in NCCs) to use "small scale" instead of "on-site energy generation", in relation to wind, hydro and solar generators (NU 308.122).

xlii. Amend Rule 10.5.2.7 (assessment of restricted discretionary and discretionary activities in ASBVs) to include "small scale" wind, hydro and solar generators (NU 308.122).

xliii. Amend Rule 10.5.2.16 (assessment of restricted discretionary and discretionary activities in SNLs) to use "small scale" instead of "on-site energy generation", in relation to wind, hydro and solar generators (NU 308.122).

xliv. Amend Rule 10.3.3.6.b&c (exemptions to setback from the coast and water bodies) to replace "on-site energy generation" with "small scale", and to delete the reference to "hydro generators - community scale in the rural zones" (NU 308.122).

xlv. Amend Rules 13.6.3.1 and 13.6.4.4 (assessment of restricted discretionary activities in scheduled heritage sites and heritage precincts) to replace references to "on-site energy generation" with "small scale" (NU 308.122).

xlvi. Amend Rule 5.5.6 to replace 'hydro generators – on-site energy generation' with 'hydro generators – small scale' (NU 308.122).

xlvii. Amend Policy 2.2.5.1 to replace 'domestic scale' with 'small scale' (NU 308.122).

<u>Amendments to provisions for energy resource investigation</u>

xlviii. Amend definition of 'network utility structures' to include energy resource investigation devices, and add new Rules 5.5.A.6.h.iv and 5.5.A.8.c.iv to exclude wind monitoring masts that are installed for up to 24 months from the thresholds for Network Utility Structures – Small Scale (NU 308.122 and 743.17).

xlix. Amend definition of 'network utility poles and masts' to include wind monitoring masts as an example of this type of structure (NU 308.122 and 743.17).

l. Delete Policy 5.2.1.6, which relates to performance standards applying to energy resource investigation devices, and amend Policy 5.2.1.11 to delete reference to energy resource investigation devices (NU 308.122 and 743.17).

li. Delete Rule 5.3.2.21 - the activity status rule for energy resource investigation devices (NU 308.122 and 743.17).

lii. Delete Rule 5.5.4 Energy Resource Investigation Standards (NU 308.122 for Rules 5.5.4.1-4; NU 743.17 for Rule 5.5.4.5) and the assessment rule for contraventions of these standards, Rule 5.7.3.4 (NU 308.122 and 743.17).

liii. Amend Policies 10.2.3.2, 10.2.5.4 and 10.2.5.7 in Section 10 to delete references to energy resource investigation devices (NU 308.122 and 743.17).

liv. Amend Rule 10.5.2.5 (assessment of restricted discretionary and discretionary activities in NCCs) to delete "energy resource investigation devices" (NU 308.122 and 743.17).

lv. Amend Rule 10.5.2.16 (assessment of restricted discretionary and discretionary activities in SNLs) to delete "energy resource investigation devices" (NU 308.122 and 743.17).

lvi. Amend Rules 13.6.3.1 and 13.6.4.4 (assessment of restricted discretionary activities in scheduled heritage sites and heritage precincts) to delete "energy resource investigation devices" (NU 308.122 and 743.17).

lvii. Amend the following Section 5 assessment rules to delete references to energy resource investigation devices (all amendments attributed to NU 308.122 and 743.17):

a. Rule 5.8.2.2 (for the assessment of energy resource investigation devices as Restricted Discretionary activities in zones other than rural and industrial zones)

b. Rules 5.8.3.3, 5.8.3.5, 5.8.3.6, 5.8.3.7 and 5.8.3.8 (for the assessment of Restricted Discretionary activities in ASCVs, SNLs, ONLs, NCCs, scheduled heritage sites and heritage precincts)

c. Rules 5.10.3.2 and 5.10.3.4 (for the assessment of Non-complying activities in HNCCs, ONCCs, ONFs, ONLs and SNLs).

4.3.6 Requests for more restrictive provisions for wind generators – on-site energy generation

4.3.6.1 Background

859. The Plan provides for Wind Generators – On-site Energy Generation as a Permitted activity in all management zones, with consent required as a Restricted Discretionary activity in certain overlays (SNLs, ONLs, NCCs, ASCVs, scheduled heritage sites and heritage precincts) and as a Non-complying activity in others (ONFs, ONCCs and HNCCs).

860. As discussed in section 4.3.5 of this report, in response to other submissions we have decided to use the terms "large scale" and "small scale", rather than "regional scale", "community scale" and "on-site energy generation", and to review the definitions of the affected activities so that they relate only to the scale of structures and not to the destination of generated electricity. Therefore, in this section of the report, which deals with submissions on the activity statuses and performance standards applying to Wind Generators – On-site Energy Generation in various zones, we refer to the new activity Wind Generators – Small Scale, defined as discussed in section 4.3.5.

4.3.6.2 Submissions

861. *Ms Geraldine Tait* (OS101.7) requested that Rule 5.5.10 (on-site energy generation design standards) be retained as notified.

862. *Ms Elizabeth Kerr* (OS743.53) sought that Policy 2.2.5.1 be amended so that rules are applied to domestic-scale energy generation to avoid adverse effects from that which are more than minor, including cumulative effects for residential heritage, urban amenity, streetscapes, and vistas. *Ms Kerr* also submitted more generally in opposition to all provision for wind energy generation in the Section 5 activity status table, on the basis of concerns about visual impacts on Dunedin landscapes, loss of New Zealand wildlife and threatened species and noise pollution (OS743.17). This latter submission point was similar to her submission on Policy 2.2.2.3 (OS743.57), which is addressed in section 4.3.3.

863. *Mr Robert Wyber* shared *Ms Kerr*'s concerns in relation to the amenity effects of small wind turbines in residential zones. He sought that Policy 2.2.5.1 be amended (OS394.68) to ensure that turbines do not "detract from the neighbours' or neighbourhood residential amenity" and (as discussed in section 4.3.3) that Policy 2.2.2.3 be amended (OS394.67) to enable renewable on-site generation only "in appropriate locations" rather than in general. More specifically, he sought that rules be amended so that Wind Generators – On-site Energy Generation be Restricted Discretionary rather than Permitted in residential zones (OS394.89), and that a range of additional performance standards be applied to manage amenity effects (OS394.69 and OS394.71), including standards managing: distance from main glazing of neighbouring dwellings (100m); colour and reflectivity; type of device (e.g. horizontal or vertical axis); maximum diameter/height of blades or wind capture surfaces (1.5m); and design of blade tip and wind capture surface to minimise "noise nuisance and noise".

4.3.6.3 Section 42A Report recommendations

864. The Reporting Officer, Ms Macleod, referred these submissions to DCC Urban Designer Mr Peter Christos for comment in relation to potential amenity effects from small wind turbines in urban areas. In addition, *Ms Kerr's* submission was referred to Mr Michael Moore (landscape architect) for comment in relation to potential amenity effects from small wind turbines in rural areas.

865. In his evidence, Mr Christos acknowledged the submitters' concerns and discussed the potential effects of turbines on amenity and character in the urban environment (s42A Report, p. 266). He also provided specific advice on appropriate performance standards for turbines in urban zones (s42A Report, p. 267).

866. In the light of Mr Christos' advice, Ms Macleod recommended the following changes to the relevant provisions (s42A Report, Section 6.3.5).

1. Amend the activity status of wind generators – on-site energy generation in residential, commercial and mixed use, and recreation zones from permitted to restricted discretionary.
2. Amend performance standards in these zones as follows:
    a. change the maximum height of wind turbines from 2m above maximum zone height to: the same as maximum zone height, for freestanding turbines; and 2m above the section of the building they are attached to, for roof-top turbines
    b. add a maximum rotor diameter of 1.5m
    c. add a requirement to set turbines back 50m from any existing dwelling
    d. add a maximum mast diameter of 600mm, and
    e. add a maximum light reflectance value of 30% for the surface finish of turbines.

867. Ms Macleod's overall rationale for these amendments was that, on the one hand, for operational reasons, wind turbines are far less likely to be viable options for small scale electricity generation in urban zones than in rural or rural residential zones, and on the other as highlighted in Mr Christos' urban design evidence, the adverse amenity effects are likely to be greater. She considered that: "A more restrictive approach in urban zones is, therefore, both appropriate given the magnitude of effects and unlikely to hinder the uptake of wind energy generation on a domestic scale, given that operational barriers in urban areas are already significant" (s42A Report, p. 273).

868. In relation to small wind turbines in rural and rural residential zones, Mr Moore also advised that amendments should be made to provisions to allow for greater control over potential visual effects. He recommended the following changes to performance standards (s42A Report, Section 6.3.5).

1. A maximum limit (6m) should be set on the diameter of the turbine rotor.
2. The minimum setbacks of turbines from boundaries should be increased as follows:
    a. turbines of up to 15m in height and with a rotor of up to 4m in diameter should be set back 100m from boundaries; and
    b. turbines of 15-20m in height or with a rotor of 4-6m in diameter should be set back 200m from boundaries.
3. A maximum limit (600mm) should be set on the diameter of the turbine mast.
4. Limits on reflectivity of wind turbines should apply throughout the rural and rural residential zones, not just in landscape and natural coastal character overlay zones.

869. Ms Macleod noted that the performance standards proposed by Mr Moore were more restrictive than those contained in the 2GP as notified, but considered that, with these additions, the rules would still be enabling of smaller scale wind energy generation in rural and rural residential zones. She noted that, provided the recommended setback from boundaries could be accommodated within a site, the performance standards

allowed for the installation of one 5kW turbine on a rural residential site, and two 5kW turbines on a rural site. She cited information available from the Energy Efficiency and Conservation Authority (EECA), indicating that households normally use turbines that are smaller than 5kW. Moreover, turbines installed in rural and rural residential zones in Dunedin in recent years have generally had a capacity of 2kW.

870. Therefore, she recommended that performance standards be amended as suggested by Mr Moore and considered that this would achieve an appropriate balance between enabling renewable energy generation and managing its potential effects, in keeping with Objective 5.2.1.

871. She also recommended that the wording of Policy 2.2.5.1 (Strategic Directions) be amended to better reflect the provisions in Section 5, as follows: "Encourage ~~domestic scale~~ on-site renewable energy generation through policies and rules that ~~enable these utilities~~ provide for these activities where they are of an appropriate scale, design and location" (s42A Report, section 6.3.3). Ms Macleod's recommendations on Policy 2.2.2.3 are discussed in section 4.3.3 of this decision.

4.3.6.4 July 2016 hearing: evidence presented by submitters

872. The evidence tabled by submitters at the hearing in relation to Wind Generators – On-site Energy Generation focused on the recommendations for this activity in residential and other urban zones; the recommendations for rural and rural residential zones were not discussed by submitters.

873. *Mr Wyber*, in his tabled evidence, considered that the s42A recommendations (including Restricted Discretionary rather than Permitted status for small wind turbines in residential zones, and additional performance standards relating to scale and distance from dwellings) in response to his submission points were "a start", but did not go far enough to protect residential areas from the adverse visual and noise effects of turbines.

874. Mr Finn Campbell and Ms Veronica Eastell, representing *Generation Zero*, also spoke on this matter. As noted in section 4.3.5, above, *Generation Zero*'s submission included a request that that Plan provisions be reviewed with the aim of promoting local sources of renewable energy, such as distributed generation, to help maximise the potential of Dunedin's renewable energy production capacity (OS764.1).

875. Mr Campbell and Ms Eastell opposed the recommendations made by Ms Macleod with regard to provisions for small scale energy generation in urban zones, particularly the recommended Restricted Discretionary activity status and 50m setback from dwellings. They considered that the 2GP should be enabling of wind generation in urban areas, on the basis that it is cheaper than solar, and changes in technology could mean that its effects (visual and noise) become lesser over time.

4.3.6.5 July 2016 hearing: Reporting Officer's revised recommendations

876. In her revised recommendations, taking into account the points made by Mr Campbell and Ms Eastell, Ms Macleod suggested that further work be done by planning staff to look at the new wind energy generation technology that is currently emerging (as referred to in *Generation Zero*'s presentation), which may have lesser effects in terms of both visual impacts and noise. She stated:

> *"Both the rules as notified and the changes to rules recommended in the Section 42A Report have been drafted with older designs of wind turbine in mind, and may be excessively restrictive, both in terms of the activity status and the proposed performance standards (e.g. the 50m setback). Taking into account the changes in technology, it may be more appropriate to provide for wind generators – on-site energy generation as a permitted activity, with performance standards to control visual and noise effects."*

877. We agreed that the further work proposed by the Reporting Officer should be undertaken.

4.3.6.6 November 2017 reconvened hearing: further evidence from Reporting Officer

878. Ms Macleod's presented further evidence to the Panel based on advice from DCC Urban Designer Mr Luke McKinlay (which took into account developing turbine technology), and on her review of practice in other plans. Her revised recommendations derived from this evidence were as follows (Memorandum, Section 7.3.3).

a. Amend the activity status of wind generators – small scale (both rooftop and free standing) from Permitted to Restricted Discretionary in residential and recreation zones.

b. Retain Permitted status for rooftop generators in commercial and mixed use (CMU) zones, but amend the activity status of freestanding turbines in these zones to Restricted Discretionary, except in the lower amenity Trade Related Zone and CBD Edge Commercial Zone, where permitted status should be retained.

c. Apply a maximum rotor diameter of 1.5m in residential, recreation and CMU zones.

d. Apply a maximum height of 2m over the maximum height applying to buildings and structures (which varies in different zones) for freestanding generators in residential, recreation and CMU zones.

e. Apply a maximum height of 2m above the part of the building the structure is attached to for rooftop generators in residential and recreation zones, and of 4m above the part of the building the structure is attached to in CMU zones.

f. Apply height in relation to boundary rules to rooftop generators (this will mean that rooftop generators must be set back from boundaries by a distance that is proportional to their height).

g. Retain a minimum boundary setback equal to the total height of the turbine, for freestanding generators in all zones.

h. Apply a minimum setback from dwellings on other sites that is equal to three times the total height of turbine (ground level to blade tip), for all generators in residential and recreation zones.

i. Apply a maximum mast diameter of 600mm in all zones.

j. Apply a maximum light reflectance value of 30% for the surface finish of rooftop and freestanding generators in all zones.

k. In rural and rural residential zones, apply minimum setbacks of:

    1. 50m (rather than 100m as previously recommended) for turbines of up to 15m height and 4m rotor diameter,

    2. 100m (rather than 200m as previously recommended) for turbines over 15m height or 4m rotor diameter.

4.3.6.7 November 2017 reconvened hearing: evidence presented by submitters

879. The only evidence presented at the reconvened hearing that is relevant to this topic came from Mr Murray Brass, representing the *University of Otago*. As set out in section 4.3.5 above, the *University* had made a number of submission points requesting that Plan provisions be more enabling of REG. In his evidence, Mr Brass expressed general support for the Reporting Officer's revised recommendations on REG provisions, as set out in her further evidence.

4.3.6.8 November 2017 reconvened hearing: Reporting Officer's revised recommendations

880. During the reconvened hearing, we questioned why Ms Macleod had recommended minimum setbacks from boundaries and other dwellings for Wind Generators – Small Scale in residential and recreation zones, given that these activities are recommended

to be Restricted Discretionary anyway, and breach of the performance standards would not change the activity status.

881. Ms Macleod indicated that, having reflected further on this matter, she did not consider it necessary to apply setbacks to small scale turbines in zones where breach of the setback would not lead to a change in activity status. Therefore, she recommended that the minimum setbacks not be applied in residential and recreation zones.

4.3.6.9 Decision and reasons

882. We generally accept the recommendations of the Reporting Officer on this matter, but with the following exceptions.

a. We consider that very small turbines (up to 1.5m in diameter and mounted on rooftops rather than freestanding) should be Permitted in residential and recreation zones, in order to be enabling of REG where amenity effects are likely to be less. However, we accept that freestanding turbines should be Restricted Discretionary in these zones, given that they are likely to have greater adverse amenity effects.
b. We do not see the need for rooftop turbines to be subject to a setback from other dwellings as suggested by the Reporting Officer; we consider that the application of a height in relation to boundary control is sufficient. Where this control is breached, we consider that the activity status should be restricted discretionary rather than discretionary (i.e. the control should be a design standard, rather than part of the 'scale thresholds' performance standard).
c. In industrial zones, given their lower amenity levels, we do not agree that turbines should be subject to a maximum rotor diameter. Also, we consider that rooftop turbines in industrial zones should be permitted up to the maximum height above ground level that a freestanding turbine in the same zone would be.
d. In CMU zones, we consider that whether or not a particular zone provides for residential activity is an appropriate marker of the expected amenity level of that zone. Therefore, we consider that the performance standards applying in residential and recreation zones are suitable for CMU zones that provide for residential activity, and that the performance standards applying in the industrial zones are suitable for CMU zones that do not provide for residential activity.

883. Therefore, we reject the submission from *Mr Wyber* (OS394.89) requesting that Wind Generators – On-site Energy Generation (now termed Wind Generators – Small Scale, as discussed in the background section above) be Restricted Discretionary rather than Permitted in residential zones. We also reject *Ms Tait*'s submission (OS101.7) requesting that performance standards be retained as notified.

884. However, we accept in part the submissions from *Mr Wyber* (OS394.69 and OS394.71) and *Ms Kerr* (OS743.17 and OS743.53), which oppose permissive provision for small scale wind generation on the grounds of their potential amenity effects in both urban and rural environments. We consider that this is best achieved via the amendments to performance standards recommended by Ms Macleod, to require consent for freestanding turbines in zones that are more sensitive to amenity effects, to require setbacks from other dwellings and larger setbacks of turbines from boundaries, and to set a limit on the maximum rotor and mast diameter of turbines.

885. In addition, we have made two amendments to performance standards – at Rule 5.5.A.5.b.iii and Rule 5.5.12.A.c.ii – to be more enabling of Wind Generators – Small Scale. These amendments are explained below and are made in response to *the University of Otago* (NU 308.122).

886. Finally, we accept in part *Mr Wyber* and *Ms Kerr*'s requests for changes to Policy 2.2.5.1 (OS394.68 and OS743.53), to the extent that we agree with the wording suggested by Ms Macleod, for the reasons set out in the Section 42A Report. In relation to *Mr Wyber*'s requested amendment to Policy 2.2.2.3 (OS394.67), see our decision in section 4.3.3, above.

887. The amendments required for this decision, including consequential amendments are as follows.

a. Amend Policy 2.2.5.1 as shown in Appendix 1 (NU 394.68 and others).

b. Delete Rule 5.5.10 On-site Energy Generation Design Standards – to be reformatted as Rules 5.5.A.3-5, 5.5.D and 5.5.12.A, with substantive amendments as explained at 'c', 'd' and 'e' below. Note that, in the Plan amendments, the reformatting of this rule is attributed to RMA clause 16, and the substantive amendments are attributed to the submitters as described below.

c. Delete Rule 5.5.11 Reflectivity – to be replaced with Rule 5.5.D.4, with amendments as explained at 'd' below (NU 743.17).

d. Amend the definition of 'building utilities' to remove the reference to roof-mounted wind turbines; roof-mounted turbines are provided for via Rule 5.5.D, as set out below (NU 743.17).

e. Add new Rule 5.5.A.5 Wind generators – small scale thresholds. This rule contains the following substantive changes to notified provisions.

   i. Rule 5.5.A.5.b.iii amends the Permitted height for rooftop wind generators in zones other than rural and rural residential zones. Under notified rules (5.5.10.1.c.ii) the height limit for both freestanding and roof-mounted turbines was '2m above the zone in which the wind turbine is located'. Under Rule 5.5.A.5.b.ii the height limit for rooftop turbines is more permissive, being: '2m above the part of the building the generator is attached to (in residential zones, recreation zones, CBD and centres zones, and CBD edge mixed use zones)' and 'the greater of: 2m above the maximum height for buildings and structures in the zone in which the wind generator is located; or 2m above the part of the building they are attached to (in all other zones)' (NU 308.122).

   ii. Rule 5.5.A.5.c sets a maximum rotor diameter for wind generators in all zones other than industrial zones, the Trade Related Zone and the CBD Edge Commercial Zone (NU 743.17).

f. Add new Rule 5.5.D Design Standards for Wind Generators. This rule contains the following substantive changes to notified provisions.

   i. Under Rule 5.5.D.2, Wind Generators – Small Scale must be attached to rooftops in the CBD Zone, centres zones, CBD edge mixed use zones, residential and recreation zones (NU 743.53).

   ii. Rule 5.5.D.3 sets the maximum diameter of 600mm for the masts of freestanding Wind Generators – Small Scale (NU 743.17).

   iii. Under Rule 5.5.D.4, the maximum light reflectance value of exterior surfaces of Wind Generators – Small Scale is 30% in all zones, rather than only in landscape or natural coastal character overlay zones, as it was in notified Rule 5.5.11 (NU 743.17).

   iv. Under Rule 5.5.D.5, rooftop wind generators must comply with the height in relation to boundary rule that applies to buildings and structures in the zone in which the wind generator is located, except in the Rural, Rural Residential and Industrial zones (NU 743.53).

g. Add new Rule 5.5.12.A Setbacks for Wind Generators. This rule contains the following substantive changes to notified provisions.

   i. In industrial zones, Rule 5.5.12.A.a.ii requires a minimum setback of 100m from the boundaries of residential, recreation and (excluding the Trade Related Zone and CBD Edge Commercial Zone) CMU zones, for Wind Generators – Small Scale that have a rotor diameter exceeding 1.5m (NU743.53).

   ii. In rural and rural residential zones, Rule 5.5.12.A.b replaces the requirement to set turbines back from road or site boundaries a distance equal to their own height (notified Rule 5.5.10.1.d) with a more restrictive requirement that turbines with a rotor diameter ≤4m and a height ≤15m be set back 50m from road or property boundaries, and that larger turbines be set back 100m from the same boundaries (NU 743.17).

iii. In the Trade Related Zone, CBD Edge Commercial Zone and all major facility zones, under Rule 5.5.12.A.c.ii, freestanding turbines must have a minimum setback from any residential building on a separate site that is equal to three times the height of the turbine. This rule replaces Rule 5.5.10.1.d (turbines must be setback from road or site boundaries a distance equal to their own height) in these zones, and is both more enabling than that rule in the sense that it applies only to freestanding turbines (with rooftop turbines being subject only to the height in relation to boundary rule as per 5.5.D.5), and more restrictive than that rule in the sense that it increases the setback from residential buildings on separate sites. The amendment to be more enabling is attributed to NU 308.122; the amendment to be more restrictive is attributed to NU 394.69.

iv. Note that there is no longer any minimum setback requirement for Wind Generators – Small Scale in the CBD Zone, centres zones, CBD edge mixed use zones, residential or recreation zones. This is because freestanding turbines in these zones always require consent (and an appropriate setback can be determined via that process), and because rooftop turbines are subject instead to the height in relation to boundary rule referred to in Rule 5.5.D.5.

h. In addition, as a consequence of our decision to manage the reflectivity of Wind Generators – Small Scale in all zones (under Section 5 provisions) rather than only in landscape and natural coastal character overlays (under Section 10 provisions):

i. delete reference to reflectivity standard applying in landscape or natural coastal character overlays from the Section 5 activity status table (Rule 5.3.2.1.b)

ii. delete reference to Wind Generators – On-site Energy Generation in Rule 10.3.6 (the reflectivity of Wind Generators – Small Scale will now be managed under Rule 5.5.D.4)

iii. delete Rules 5.7.3.9 and 5.7.3.10, which link to assessment rules for reflectivity in Section 10 (contraventions of Rule 5.5.D.4 will be assessed under Rule 5.7.3.18)

iv. delete references to Wind Generators – On-site Energy Generation in Policies 10.2.3.6 and 10.2.5.8 (contraventions of Rule 5.5.D.4 will be assessed against Policy 5.2.1.5).

All of these consequential amendments are attributed to NU 743.17.

888. See Appendix 1. Amendments are attributed to NU 308.122, NU 394.69, NU 743.17 or NU 743.53, as described above.

4.3.7 Requests for more restrictive provisions for wind generators – community scale

4.3.7.1 Background

889. The Plan provides for Wind Generators – Community Scale (which include activities with a maximum scale of five turbines each up to 85m in height, or three turbines each up to 125m height) as a Restricted Discretionary activity in rural and industrial zones and a Discretionary activity in all other management zones. Non-complying activity status applies in a wide range of overlays – all landscape and coastal character overlays, ASCVs, scheduled heritage sites and heritage precincts.

890. As discussed in section 4.3.5 of this report, in response to other submissions we have decided to use the terms "large scale" and "small scale", rather than "regional scale", "community scale" and "on-site energy generation". As a result, wind generators that previously fell into the community scale category will now be treated as Wind Generators – Large Scale. As set out in section 4.3.5, we have decided that all large scale REG will be Discretionary activities in all zones, and in all overlays except ONFs, ONCCs and HNCCs (where they will be Non-complying).

4.3.7.2 Submissions and Section 42A recommendations

891. *Dr Simon Ryan* (OS600.1, OS600.2, OS600.5) and *Ms Geraldine Tait* (OS101.8, OS101.9) were concerned that proposed provisions for community scale wind energy generation were too permissive, and would not provide adequate management of a range of effects, including on landscapes, amenity and biodiversity. In *Ms Tait*'s further submission, she supported *Dr Ryan*'s submissions (FS2160.4, FS2160.5, FS2160.9).

892. Specifically, these submitters sought:

- a more restrictive activity status for Wind Generators – Community Scale (i.e. more restrictive than Restrictive Discretionary in rural zones, and more restrictive than Discretionary in all other zones)
- amendments to definitions to remove the term "community" and to ensure that wind generators that were owned by community groups did not have more permissive provisions than those owned in other ways, e.g. by individuals or companies
- amendments to definitions to reduce the scale of turbines managed as Wind Generators – Community Scale, and
- that boundary setback rules for Wind Generators – Community Scale be reviewed to mitigate a range of effects outside the wind farm site.

893. The Reporting Officer, Ms Macleod, agreed with these submitters that the ownership of a wind energy generation project should not affect the 2GP rules that apply to it, on the basis that ownership was not relevant to the environmental effects of the project. She noted that, although there is an argument that community-owned projects may have lesser perceived adverse amenity effects, due to community buy-in and support, it was clear from the recent submissions on Blueskin Energy Limited's application to establish a small wind farm on Porteous Hill that this was not always the case, at least not for all members of a community. Therefore, she recommended that the definition of 'community scale energy generation' should be amended to remove references to the possible owners or end users of the generated energy.

894. However, she considered that it was appropriate to retain the term 'community-scale' in Plan provisions, since this term is used (although with a less specific definition) in the NPSREG (Section 42A Report, section 6.4.3).

895. In addition, based on expert evidence from Mr Michael Moore (Landscape Architect), she agreed that the activity status for Wind Generators – Community Scale in rural and industrial zones should be amended from Restricted Discretionary to Discretionary. In support of this recommendation, she noted the following comments from Mr Moore (Evidence, pp. 13-14):

> *In general, I see little justification for differentiating wind generators – community scale from wind generators – regional scale, as wind generators of 85 and 125m can have significant effects whether there are few or many. With structures of this scale, the potential for significant effects is such that provision for wide public notification would be appropriate in my opinion, no matter what the zone. This leads me to the conclusion that either there is no separate wind generators – community scale category, or that discretionary activity status would be more appropriate than restricted discretionary in the rural zones.*

896. Further, she did not consider that the range of matters of discretion for Wind Generators – Community Scale that had been included in notified provisions was comprehensive. Outside overlays, discretion was restricted to 'effects on the amenity of surrounding properties' and 'effects on rural character and amenity'. However, Ms Macleod considered that effects on biodiversity values should also be managed, given the widely acknowledged potential for wind generation to have adverse effects on bird life, if inappropriately located. She also noted that a number of additional types of effect, for example effects on potable water supply and potential navigational hazards to aircraft, had been raised during submissions on LUC-2015-469, Blueskin Energy Ltd's proposed

three turbine development at Porteous Hill, and had been discussed by DCC planner Mr Darryl Sycamore in the Section 42A report for the hearing.

897. However, she considered that Discretionary activity status was appropriate for Wind Generators – Community Scale in zones other than rural and industrial, given that the activity was variable in scale (i.e. could consist of one or more turbines well under the 125m maximum height) and the effects tests in the relevant policy (Policy 5.2.1.11) provided suitable protection for the visual amenity and character of the zone in which the activity was located, and the amenity of any surrounding residential activities (Section 42A Report, section 6.4.2).

898. Finally, Ms Macleod agreed with the submitters that the boundary setback rule applied to Wind Generators – Community Scale in notified provisions (Rule 5.5.12.1) was not adequate to control amenity impacts in all cases and considered that it should be deleted. She noted the following advice from Mr Moore, which indicated that the notified setback would not be sufficient to adequately manage visual effects in the case of proposals that were near the upper threshold (Evidence, pp. 12-13):

> *Having viewed existing turbines of various scales in varying contexts around New Zealand, and having undertaken numerous assessments of wind farm proposals, it is my assessment that where significantly visible, turbines within the 85 – 125m high range have a potentially:*
>
> - *Highly significant visual impact within approximately 1km of the site.*
> - *Significant visual impact within approximately 1 – 3km of the site.*
> - *Moderate visual impact within approximately 3 – 8km of the site*
> - *Minor visual impact within approximately 8 – 20km of the site*
> - *Negligible visual impact over approximately 20km from the site.*
>
> *These ratings can be modified on a site by site basis by such factors as degree of screening and the character of the context, but I believe are reasonable generalizations.*

899. The removal of the performance standard would also be appropriate from a 'Plan drafting protocol' point of view, based on her recommendation on the activity status of this activity in rural and industrial zones, because performance standards are not normally applied to Discretionary activities in the Plan.

900. In Ms Macleod's view, decision-makers should consider the appropriate setback from boundaries of a wind generator – community scale on a case by case basis, taking into account the scale of structures, their visibility from different vantage points, and the proximity of any dwellings (Section 42A Report, section 6.4.4).

901. In addition, *Dr Ryan* (OS600.3) and *Ms Rachel Ozanne* (OS595.2) requested changes to Rule 5.4 Notification, to require all resource consent applications for wind generators - community scale and wind generators - regional scale to be publicly notified. Ms Macleod recommended that these submission points be rejected. She considered that it would be more efficient and effective to rely on the Resource Management Act requirements for notification, as this would allow each proposal to be considered on a case by case basis (Section 42A Report, section 7.3).

4.3.7.3 July 2016 hearing: evidence presented by submitters

902. At the hearing, the central argument of both *Dr Ryan* and *Ms Tait*'s presentations was that provisions for wind energy generation should be further tightened, in addition to the changes recommended in the Section 42A Report, in order to reduce the risk to Dunedin's visual amenity and landscapes. *Dr Ryan* also cited concerns about impacts on ecosystems and biodiversity, impacts from noise (including effects on health), and the possibility that wind energy generation would discouraging tourists and migrants from coming to Dunedin.

903. Both submitters questioned the need to provide for wind energy generation in the Dunedin district in an enabling way, given that 98% of electricity in the South Island is already generated from renewable resources, and there are a large number of consented wind energy projects in New Zealand that are currently on hold, at least in part due to lack of demand. *Ms Tait* noted data from the Dunedin Energy Study Baseline indicating that 76% of Dunedin's greenhouse gas (GHG) emissions come from combustion of liquid fossil fuels, particularly for transport, with only 14% attributed to electricity generation. Therefore, she considered that an increase in wind energy generation was unlikely to significantly reduce GHG emissions. She further noted that:

- the South Island is already an exporter of renewable electricity most of the time
- the electricity market is in a state of flux with uncertainty over Tiwai Point, and
- many people are moving to produce their own power using solar PV and small wind; with improved battery storage coming onto the market this could reduce power demand in the near future.

904. Overall, Ms Tait considered that attempts to liberalise rules around wind generation would not achieve GHG emission reduction, but would lead to more unnecessary disputes.

905. *Dr Ryan* requested that community scale activity be renamed "medium scale", and that this cover turbines with a height of up to 85m. He considered the use of the word "community" in this context to be emotive and to promote "a pretence of automatic acceptance by the public of what are in fact large scale industrial machines".

906. In *Dr Ryan*'s view, all turbines of 85m or more should be treated as "large scale", because "there is no significant distinction in relation to effects" between 85m high turbines and larger turbines. In support of this view, *Dr Ryan* cited Mr Michael Moore's advice, referred to above, that "wind generators of 85m and 125m can have significant effects whether there are few or many".

907. Similarly, Ms Tait sought replacement of the term community scale with a more neutral term such as "medium scale", and noted that wind farms of any scale can be owned by either groups or companies and the ownership of wind farms can change over time. She considered that, if the plan is to provide for three scale categories of wind energy generation, these should be:

- on-site – up to a maximum height of 25m
- medium scale – between 25m and 70m
- regional scale – over 70m.

908. She also sought Non-complying activity status should be retained for Wind Generators – Community Scale in SNLs, on the basis that: "We should not kid ourselves that anything can mitigate the adverse effects on visual amenity or the amenity of surrounding residential activities (less than 3k away) of three turbines up to 125m tall." (Tabled statement, p.2).

909. In addition, both *Dr Ryan* and *Ms Tait* expanded on their requests for more stringent setbacks for large turbines. *Dr Ryan* sought a setback of 2km from dwellings, for all wind turbines with a height of more than 75m. This setback would apply unless a developer could provide evidence, from the outset of the consent process that the topography of the site and surrounding area was such that significant effects on residents of dwellings within 2km of large turbines would not arise. *Dr Ryan* explained: "If applicants can provide such evidence then the application can proceed. The key point here is that the burden of gathering expert evidence is not transferred to the Council and affected residents. This will free both the Council and Dunedin ratepayers of unreasonable financial burden." *Dr Ryan* cited planning rules applying in Australia, which require setbacks of up to 2km between turbines and existing dwellings.

910. *Ms Tait* also requested setbacks of a minimum of 2-3km from dwellings for larger scale wind energy generation, as this would "considerably reduce conflict and give the right message to developers." In her view, distance from dwellings is the only realistic way

to mitigate the effects from large turbines on residents, because choice of paint colour and screening by vegetation cannot reduce effects to any significant degree.

4.3.7.4 July 2016 hearing: Reporting Officer's revised recommendations

911. Having reflected on *Ms Tait* and *Dr Ryan*'s comments on the threshold for Wind Generators – Community Scale, Ms Macleod considered that it may be appropriate to reduce maximum height of turbines for this activity, particularly given her separate recommendation (discussed in section 4.3.5 above) that community scale wind generation should be Discretionary rather than Non-complying in SNLs. She noted that, as pointed out by *Ms Tait* during the hearing, SNLs are generally located close to urban areas, so the amenity effects of very tall turbines outside the SNL areas could be considerable.

912. She suggested that, if the Panel were minded to accept Mr Ryan and Ms Tait's submissions in principle or would like further information on possible options for consideration, planning staff could investigate options for the review of the scale threshold for Wind Generators – Community Scale, in consultation with Mr Moore (Revised recommendations, p.10).

913. In addition, she agreed with *Ms Tait* and *Dr Ryan* that it may be appropriate to introduce a minimum setback of large turbines from dwellings, with Non-complying activity status applying within the setback. As stated by the submitters, this approach would provide greater certainty both for developers and affected landowners. However, she noted that it would also act as an additional limitation on wind energy development, and therefore had implications for the degree to which the plan can be said to implement the NPSREG. Again, she suggested that if the Panel were minded to accept *Mr Ryan* and *Ms Tait*'s submission on this matter in principle, or would like further information and options to consider, planning staff could investigate options for a setback of this kind, in consultation with Mr Moore (Revised recommendations, p.11).

4.3.7.5 Further information requested

914. In response to *Ms Tait* and *Dr Ryan*, we asked the Reporting Officer to undertake the suggested further work to investigate alternative approaches both for the maximum height of community scale wind generation, and for the introduction of a minimum setback from dwellings. We also requested further information on other District Plans' approaches to these matters.

4.3.7.6 November 2017 reconvened hearing: further evidence from Reporting Officer

915. The Reporting Officer's further evidence relating to provisions for Wind Generators – Community Scale is set out in section 4.3.5.7, above.

916. In relation to the setback of turbines from dwellings, the Reporting Officer presented the following further evidence (Memorandum, section 8.3):

- a practice review of the approaches taken by other planning authorities – both in New Zealand and overseas – to requiring setbacks of large turbines from dwellings
- consideration of noise effects, including the noise controls contained in 2GP Section 9 Public Health and Safety
- a review of literature on the health effects of wind farms, and
- evidence from Mr Moore on the visual effects of wind turbines in close proximity to dwellings.

917. She noted that, among New Zealand's district plans, only Porirua (in an operative rule) and Palmerston North (in a proposed rule that is under appeal) require a significant setback – in both cases, 700m – for large wind turbines. This setback applies from the site boundary rather than from existing dwellings in separate ownership. For both councils, management of noise was the key reason behind the selection of the 700m figure. Wind farms that do not meet this setback are Non-complying activities. In Australia, setbacks of 1-2km are required for new wind farms from existing dwellings

or residential areas. The distance varies between different states. Further afield, many other countries require setbacks of this kind. The distance required varies significantly, ranging from 10% over the height of the turbine (England) to 2km (Scotland), with a cluster of countries requiring setbacks of around 500m. The rationale for these setbacks is generally to manage noise effects, with visual effects (including shadow flicker) and health and safety effects also frequently cited. (Memorandum, section 8.3.1)

918. In relation to whether a setback was necessary from the point of view of managing noise impacts from wind turbines, Ms Macleod noted that noise effects are managed via provisions in Section 9: Public Health and Safety. Under Rule 9.3.6.6.j (including amendments recommended in response to submissions), wind generators with a swept rotor area greater than 200m^2 (i.e. a rotor diameter of just under 16m) must comply with the noise limits set out in NZS6808:2010 – Acoustics Wind Farm Noise – i.e. they must not exceed the greater of background noise plus 5 decibels, or 40 decibels, when sound is measured at noise sensitive locations around the wind farm. Smaller turbines must comply with the normal noise emission limits that apply under Rules 9.3.6.1-9.3.6.5.

919. Ms Macleod considered that, rather than imposing a buffer zone around wind generators that applies regardless of project and site-specific conditions, it would be preferable to continue to manage noise impacts from wind generators as proposed in the notified plan – i.e. by:

a) requiring that wind generators be designed to meet noise standards, and

b) applying the policy test set out in Policy 5.2.1.11 (including recommended amendments in response to submissions), which is that proposals only be allowed when adverse effects on the amenity of surrounding residential activities will be avoided or adequately mitigated.

920. This approach allows factors such as the wind farm's exact scale and layout, and wind conditions, topography and background sound at the site, to be taken into account when determining how far any given wind farm proposal should be located from dwellings. (Memorandum, section 8.3.2)

921. In relation to health and safety, based on Ms Macleod's review of the evidence currently available (set out in Appendix D of her memorandum to the Panel) she did not consider that a minimum setback between wind farms and dwellings was necessary to manage potential health and safety effects (Memorandum, section 8.3.4)

922. With regard to visual effects on nearby dwellings from wind turbines, Mr Moore's considered that: "Viewing distance relative to turbine size is an important variable determining the magnitude of the visual effects of wind farms and setbacks from sensitive viewpoints such as dwellings are certainly worth considering for inclusion in the 2GP." In preparing his evidence, he undertook a field assessment of visual impacts close to the following wind farms with turbines of different sizes:

- Mahinerangi Wind Farm (turbine height 125m, rotor diameter 89m)
- Mt Stuart Wind Farm (turbine height 71, rotor diameter 52m)
- Lulworth Wind Farm, Marlborough (turbine height 43m, rotor diameter 26m)

923. He noted that the distance from turbines at which visual effects become significant or highly significant "requires a judgement call". Based on his field assessment, he considered that the relationship between the magnitude of the visual effect, turbine scale and viewing distance can be generally expressed as follows (Evidence, para. 19):

Turbine height (to blade tip)	**Potentially significant magnitude of visual effect**	**Potentially highly significant magnitude of visual effect**
Up to 50m	1.5km	500m
50 – 100m	2.0km	750m
Over 100m	3.0km	1.0km

924. However, Mr Moore notes that a range of factors will influence the degree of visual effect from wind turbines, even in close proximity (hence the use of 'potentially'

significant or highly significant in his assessment). These factors include (Evidence, para. 21):

- *The attributes of the wind farm including the number of the turbines and the geographic spread of turbines in the landscape.*
- *The attributes of the viewpoint including degree of landform or vegetative screening.*
- *Ambient environmental conditions such as lighting and atmospheric conditions which vary with time of day, weather, and seasons.*

925. Taking into account the considerations set out above, Ms Macleod did not recommend that a minimum setback from dwellings be applied for large wind turbines. In the case of both noise and visual effects, project- and site-specific factors will determine the buffer zone around a wind farm within which effects are significant. Therefore, she did not consider that a fixed setback was an effective or efficient way to manage effects; a given fixed setback may be unnecessary to mitigate effects in some situations, and inadequate to mitigate effects in others. She recommended that Wind Generators – Large Scale should be fully discretionary in all zones. Under this approach, they would be subject to Policy 5.2.1.11 (incorporating recommended amendments),

926. The Reporting Officer noted that, under Policy 5.2.1.11, subject to her recommendations on REG provisions set out in section 4.3.5 above, Wind Generators – Large Scale would only be allowed where they are "designed and located to avoid or, if avoidance is not possible adequately mitigate: adverse effects on visual amenity and the character of the zone in which the activity is located; and adverse effects on the amenity of any surrounding residential activities." In order to meet this policy test, wind generators would need to be located a distance from residential activities that was adequate to mitigate adverse effects on their amenity. Additional policy tests would also apply where wind generators are proposed in overlay zones, such as Significant or Outstanding Natural Landscapes.

927. However, in order to provide greater certainty for developers and affected landowners, and also to assist decision-makers in determining, in each case, what distance is likely to mitigate effects "adequately", Ms Macleod did recommend that guidance be added to the relevant assessment rule as follows, in accordance with Mr Moore's evidence:

> ***General assessment guidance***
> *In the case of wind generators – large scale, the Council will generally expect, as a minimum, the following setbacks of wind turbines from dwellings on sites in held in separate ownership, unless it can be demonstrated that a lesser setback will adequately mitigate effects. In some cases, greater setbacks may be necessary:*

Turbine height (to blade tip)	***Setback from dwellings on sites held in separate ownership***
Up to 50m	*500m*
50 – 100m	*750m*
Over 100m	*1.0km*

928. While acknowledging that the setbacks in this rule would act as a limitation on the range of sites available for wind energy development, she considered that this was warranted as a means of managing potential effects on amenity values, in line with section 7(c) of the RMA. In her view, this was the most appropriate way to achieve Objective 5.2.1, and objectives around the maintenance of amenity in management zone sections, such as Objective 16.2.3 (rural zones) and Objective 17.2.3 (rural residential zones). She considered that use of assessment rules rather than a performance standard was effects-based, and also more in keeping with the plan-wide approach to provisions for Discretionary activities. (Memorandum, section 8.3.5)

4.3.7.7 November 2017 reconvened hearing: evidence presented by submitters

929. Ms Tait attended the reconvened hearing to present evidence responding to the Reporting Officer's recommendations on provisions for the setback of turbines from dwellings, while Dr Ryan tabled a statement on this matter.

930. As discussed in section 4.3.5, Ms Tait also responded to the more general recommendations to remove the 'community scale' category and provide for wind generators of this size via the Wind Generators – Large Scale activity.

931. In relation to setbacks, Ms Tait was pleased that the concept of setbacks had been introduced, but she did not support the proposed approach. She considered that Mr Moore's assessment of visual effects close to turbines was too simplistic, and that visual assessments should have been carried out at a greater number of different distances from turbines. She considered it unclear why divisions of "up to 50m", "50-100m" and "over 100m" had been used. She opposed the lengths of setbacks proposed by Mr Moore, on the basis that they are too low. She was concerned that these numbers would be a green light to developers.

932. She considered that turbines should be located far from dwellings, in the rural hinterland; "it makes sense to generate power at high grade wind sites where there are fewer issues with residential properties".

933. She noted that a lot of rural land on the outskirts of Dunedin city had been allowed to be subdivided for lifestyle properties. As a result, there were many dwellings in these areas, including some near the top of local hills and ridgelines, i.e. in areas that might be considered for wind farm developments. This created a conflict between residential amenity and REG. Having allowed this spread of residential development in rural areas, Ms Tait considered that there was an onus on the Council to protect the quality of life and amenity valued by these people. She considered that, if wind farms were anticipated or to be encouraged by the Council, no more houses should be allowed to go anywhere hear places where turbines could be sited.

934. *Dr Ryan* did not consider that Mr Moore's evidence provided a certain or stable basis for determining the setback provisions in the Plan. He considered that the evidence was "extremely limited in its scope and background research".

935. In his view, the Reporting Officer's recommended approach:

- was "an open invitation to expensive and time-consuming litigation for all parties" because the proposed setback distances were "precisely within the most litigiously contested zone of wind turbine appeals nationally", and
- represented "a weakening of the planning controls on wind generators".

936. He sought a setback of 2km for all turbines over 50m height to blade tip.

4.3.7.8 November 2017 reconvened hearing: Reporting Officer's revised recommendations

937. The Reporting Officer accepted Ms Tait's concerns that the numbers recommended for inclusion in the assessment rule table would be seen as a green light for any wind generation that met the setbacks. She noted that Mike Moore's evidence makes it clear that turbines that comply with the minimum setbacks contained in the assessment rule would nevertheless often have significant adverse effects on nearby dwellings. Although the assessment rule states that "in some cases, greater setbacks may be necessary", she conceded that it was likely that these numbers would be used by developers to argue in favour of turbines that met the setbacks, even where effects on neighbouring properties were highly adverse.

938. However, she was not in favour of increasing the setback to 2km as requested by the submitters, as this would be too unfavourable to the development of wind energy generation and would not be in keeping with implementation of the NPSREG.

939. She revised her recommendations in the following ways.

- She withdrew her previous recommendation to add 'general assessment guidance' as set out in section 4.3.7.6 above. She considered that the Discretionary consent process allowed for the individual circumstances of each case to be taken into account and, as set out in Mr Moore's evidence, site and project specific circumstances are critical in determining how far turbines need to be located from dwellings in order to mitigate effects.
- She recommended that a new 'potential circumstance that may support a consent application' be added to the assessment rule (Rule 5.9.2.2) for Wind Generators – Large Scale as follows:

  Wind generators – large scale are located a sufficient distance from dwellings to adequately mitigate adverse effects on amenity, taking into account factors such as the number, scale and geographical spread of turbines, and the degree to which landform or vegetative screening obscures views of turbine(s) from the dwelling.

4.3.7.9 Decision and decision reasons

940. We accept in part the submissions from *Ms Geraldine Tait* (OS101.8) and *Dr Simon Ryan* (OS600.2) to make activity status rules for Wind Generators – Community Scale more restrictive, to the extent that we have merged this activity into Wind Generators – Large Scale, which is fully Discretionary in all management zones. This is more restrictive than the notified approach in rural and industrial zones, under which Wind Generators – Community Scale were Restricted Discretionary.

941. However, we have decided to make activity status rules less restrictive in other areas. Under our decisions set out in section 4.3.5, Wind Generators – Large Scale will be Discretionary activities in ONLs, SNLs, NCCs and ASCVs, whereas under notified provisions, Wind Generators – Community Scale were Non-complying in these areas. The reasons for these decisions are set out in section 4.3.5.

942. We accept in part the submission from *Dr Ryan* (OS600.1) to amend the definition of Wind Generators – Community Scale to review both the scale threshold and the use of the term 'community', to the extent that we have deleted this activity definition as part of the decisions set out in section 4.3.5, for the reasons set out in that section.

943. We accept in part the submissions from *Ms Tait* (OS101.9) and *Dr Ryan* (OS600.5) requesting more restrictive provisions for setbacks of wind turbines from dwellings, to the extent that we agree with the Reporting Officer's final recommendation on this matter, to add to the assessment rule (Rule 5.9.2.2) for Wind Generators – Large Scale as described in paragraph 816. We accept the evidence of Ms Macleod that this approach is preferable to the application of a specified minimum setback from dwellings, for the reasons given in her recommendations.

944. The amendment to provisions required for this decision is to:

- amend Rule 5.9.2.1 to add new Rule 5.9.2.1.m, with content generally as recommended by Ms Macleod in section 4.3.7.8, above, but with a drafting amendment to ensure that noise as well as visual effects are taken into account when considering effects on the amenity of dwellings. (Note that Rule 5.9.2.1 has been reformatted under RMA clause 16 to include the contents of Rule 5.9.2.2.)

945. See Appendix 1 (amendment attributed to NU 600.5).

946. We reject the submissions from *Dr Ryan* (OS600.3) and *Ms Rachel Ozanne* (OS595.2) seeking that the Plan require public notification for all resource consent applications for Wind Generators – Community Scale and Wind Generators - Regional Scale; we agree with Ms Macleod's evidence this matter.

4.3.8 Requests to amend provisions for biomass energy generation

4.3.8.1 Submissions

947. *Waste Management (NZ) Limited* (WMNZ) (OS796.16 and OS796.29) and the *University of Otago* (OS308.478, OS308.137 and OS308.468), both expressed concerns that the biomass energy generation provisions as notified were overly restrictive.

948. *WMNZ* queried the reasoning behind the different degrees of restriction proposed for Biomass Generators – Stand Alone and Biomass Generators – On-site Energy Generation, and requested that a single activity be provided for, with Restricted Discretionary activity status.

949. The *University of Otago,* which has many woodchip-fired boilers on campus, and also takes reticulated hot water from the Energy for Industry facility in Castle Street, noted that the definition of 'biomass generators' would capture wood-fired boilers and heaters. The submitter questioned the appropriateness of this, given that any environmental effects were generally related to discharges, not land use impacts. The *University* also sought that rules be amended so that biomass generators were permitted generally, including within the Campus Zone. In the submitter's opinion, the proposed provisions would create a barrier to the use of renewable energy resources. The *University's* submission point OS308.137, relating to the activity status of Biomass Generators – Stand Alone, was supported by *WMNZ* (FS2444.4).

950. The Reporting Officer, Ms Macleod, recommended that, in order to be more enabling of biomass energy generation, the specific provisions for this activity should be deleted from the Plan, and that this type of generation should instead be provided in two different ways (Second Addendum to the Section 42A Report, Appendix 2, section 6.5).

951. Firstly, the generation of electricity from biomass resources that are the by-product of another activity (for example, landfill gas, or wood waste from sawmills and paper mills) should be provided for by amending the definitions of Rural Industry, Industry and Landfills to include any associated energy generation from biomass waste.

952. Secondly, biomass generators should be included in the definition of 'network utility structures', meaning that they would be provided for as Underground or Internal Network Utilities (Permitted in all zones and overlays), Network Utility Structures – Small Scale (Permitted in all zones and most overlays), or Network Utility Structures – Large Scale (Restricted Discretionary in all zones with stricter controls in overlays), depending on their scale and location.

953. At the hearing, Mr Murray Brass, representing the *University of Otago*, commented that, while the s42A Report recommendations addressed some of the *University's* concerns, the recommended provisions were still unnecessarily restrictive, given that discharges to air are managed by the Regional Plan: Air for Otago.

954. Ms Macleod, in response to Mr Brass, recommended that the definition of biomass generators be amended to exclude "the combustion of biomass resources, such as wood, for heating".

955. In response to evidence presented by the *University of Otago*, and Ms Macleod's revised recommendation, we requested that Ms Macleod review all proposed provisions for biomass energy generation, at the small scale, to help us consider the full context of Mr Brass's request.

956. In her further evidence to the Panel provided at the November 2017 reconvened hearing, Ms Macleod clarified that all energy generators that come under the definition of 'building utilities' – i.e. "structures attached to buildings that form part of the heating, cooling, cooking, hot or cold water… systems for the building" were not subject to network utilities provisions; but were instead managed by the rules that apply to buildings and structures, as set out in zone provisions. Therefore, domestic wood fired heaters would not be treated as 'biomass energy generators'. She did note, however, that structures attached to buildings that form part of the electricity generation system

(as opposed to heating, cooling etc. systems) for the building were not included in the notified definition of building utilities.

957. She then recommended that the definition of 'building utilities' be amended to include structures attached to buildings that form part of electricity generation systems for the building (with the exception of roof-top wind turbines). These structures – which would include the external elements of small scale biomass or fossil-fuel based electricity generators and rooftop solar PV panels – would, therefore, be treated as part of "building utilities", and would be subject to normal zone standards for buildings and structures activities (for example relating to height and maximum site coverage).

958. In relation to other aspects of this topic, Ms Macleod maintained her position as set out in the 5 July Addendum to the s42A Report, i.e. she continued to recommend that:

- biomass energy generation that was fuelled using the waste product of another activity (e.g. via the combustion of landfill gas, or of wood waste from sawmills and paper mills) be provided for as part of the activity that provides the biomass fuel – i.e. landfills, rural industry or industry;
- except where they are building utilities, or form part of a landfill, rural industry or industry activity, treat biomass energy generators as a type of network utility structure, i.e. subject to the same rules on scale and location as other such structures, in order to manage amenity effects. (Memorandum, section 3.3)

959. Mr Brass did not appear at the reconvened hearing, but tabled a statement supporting the approach recommended by the Reporting Officer, based on the following reading of the revised provisions:

- the provisions would be neutral in terms of fuel used;
- wood-fired boilers (both those providing energy on-site and those exporting energy to other sites) would be permitted as underground or internal utilities, or as building utilities; and
- boiler houses and flues would need to comply with the applicable performance standards for height, location etc.

960. During the reconvened hearing, we queried whether the definition of 'building utilities' had been deliberately drafted to exclude energy generation structures attached to the outside of buildings that resulted in energy being exported off site (as well as being used to power the building itself).

961. In response to this query, the Reporting Officer indicated that, on reflection, she considered that it would be appropriate to amend the definition to clarify that these structures should also be provided for as 'building utilities'. Therefore, she recommended that the definition be amended to indicate that it included the export of excess energy off-site.

962. She also considered that, in the case of utilities that were generally internal but that may involve small protrusions from a building – for example, a boiler system with external chimneys or other vents; it would be more straightforward if these could be provided for via the Underground or Internal Network Utilities activity definition alone, rather than having to rely on a combination of this activity and the 'building utilities' or 'rooftop structures' definition. She proposed an amendment to the definition of 'underground or internal network utilities' to achieve this.

4.3.8.2 Decision and reasons

963. We accept in part the submissions from *Waste Management (NZ) Limited* (OS796.16 and OS796.29) the *University of Otago* (OS308.478, OS308.137 and OS308.468), and to amend the provisions for biomass energy generation so that they are more enabling and effects-based. The evidence was that the rules unnecessarily restrict something that the policies promote.

964. We generally accept the recommendations of the Reporting Officer on this topic discussed above, but we consider that a height limit should be imposed on external protrusions (such as vents and chimneys) from internal network utilities, so that provisions for utilities are equivalent to those for other activities that require similar rooftop structures. We have also amended the wording of the building utilities definition, for brevity and clarity.

965. The following amendments are required for this decision, including consequential amendments.

- Delete: definitions of biomass generators (NU 308.137 and 308.468), Biomass Generators – On-site Energy Generation (NU 308.137) and Biomass Generators – Stand Alone (NU 308.468).
- Delete Rules 5.3.2.22 (NU 308.137) and 5.3.2.23 (NU 308.468) (these are the activity status rules for Biomass Generators – On-site Energy Generation and Biomass Generators – Stand Alone, respectively)
- Delete the references to Biomass Generators – On-site Energy Generation (NU 308.137) and Biomass Generators – Stand Alone (NU 308.468) in the Network Utility Activities nested table.
- Delete Rule 5.5.10.4 Biomass energy generators - design standards (NU 308.137).
- Delete the reference to Biomass Generators – Stand Alone in Policy 5.2.1.10 (NU 308.468).
- Delete the references to Biomass Generators – On-site Energy Generation (NU 308.137) and Biomass Generators – Stand Alone (NU 308.468) in Policy 5.2.1.11.
- Delete references to Biomass Generators – On-site Energy Generation in assessment Rules 5.8.2.2, 5.8.3.3, 5.8.3.5, 5.8.3.6, 5.8.3.7, 5.8.3.8, 5.10.3.2, 5.10.3.4 (NU 308.137).
- Delete references to Biomass Generators – Stand Alone in assessment Rules 5.9.2.2, 5.10.3.1, 5.10.3.2, 5.10.3.4, 5.10.3.X and 5.10.3.6 (NU 308.468).
- Delete the references to Biomass Generators – Stand Alone (NU 308.468) in Policy 10.2.1.11, Policy 10.2.3.2, Policy 10.2.3.11, Policy 10.2.5.4 and Policy 10.2.5.15.
- Amend Rule 10.5.2.5 (assessment of restricted discretionary activities in NCCs) to delete "biomass generators – on-site energy generation" (NU 308.137).
- Amend Rule 10.5.2.15 (assessment of restricted discretionary activities in ONLs) to delete "biomass generators – on-site energy generation" (NU 308.137).
- Amend Rule 10.5.2.16 (assessment of restricted discretionary activities in SNLs) to delete "biomass generators – on-site energy generation" (NU 308.137).
- Amend Rule 10.7.2.3 (assessment of non-complying activities in ASBVs) to delete the reference to "biomass generators – stand alone" (NU 308.468).
- Amend definitions of Rural Industry, Industry and Landfill to include generation of energy from the combustion of biomass waste from these activities (NU 308.468).
- Amend definition of Network Utility Structures to exclude structures otherwise defined as rural industry, industry or landfills (NU 308.468).
- Amend Rule 16.11.2.3 and Rule 16.11.2.4 (assessment rules for rural industry and landfill) to refer to objectives and policies relating to renewable energy generation (i.e. Objective 5.2.1 and Policy 5.2.1.1) (NU 308.468).
- Amend definition of building to clarify that it includes building utilities and rooftop structures (NU cl.16).
- Amend definitions of building utilities and rooftop structures to clarify the types of energy generation that fall within these definitions and are, therefore, not subject to network utility provisions (NU cl.16).

- Amend definitions of building utilities and Underground or Internal Network Utilities to be more enabling of energy generation (and other utilities) that take place predominantly inside a building (NU 308.137).
- Add performance standard to manage the height of external protrusions from internal network utilities (Rule 5.5.F Maximum height) and amend the activity status rule for Underground or internal network utilities (Rule 5.3.2.4.ii) to refer to this standard (NU 308.137).
- Add new assessment rule for contraventions of Rule 5.5.F - i.e. assessment Rule 5.7.3.20 (NU 308.137). Contraventions of the rule will be assessed against Policy 5.2.1.5, which manages effects on the amenity and character of the zone. Therefore, amend Policy 5.2.1.5 to refer to 'underground or internal network utilities' (NU 308.137).

966. See Appendix 1.

4.4 Management of activities that may affect network utilities

4.4.1 Requests for a general policy to manage effects of activities on network utilities

4.4.1.1 Submissions

967. *Radio NZ* (OS918.29) sought a new policy as follows: "Avoid, or as appropriate, remedy or mitigate, the potential for any adverse effects, including reverse sensitivity effects, on network utilities from incompatible new subdivision, use and development occurring near network utilities." The submitter considered that there should be "specific policy direction to avoid adverse reverse sensitivity effects on existing infrastructure", given that reverse sensitivity effects "can create significant problems and can potentially inhibit the effective operation of network utilities" (Radio NZ Submission, p. 14).

968. *Liquigas* (OS906.8) also sought a new policy to protect existing network utilities by avoiding the establishment of incompatible activities in adjacent areas that may adversely affect the ongoing operation and development of network utilities through reverse sensitivity effects (Liquigas Submission, Annexure A, p.3).

969. In the submitter's view, the policies associated with Objective 5.2.1 do not provide for the protection of existing network utilities. Given the importance of these services and infrastructure to the wellbeing of the community, *Liquigas* considered that it is appropriate to include a new policy seeking to protect existing network utilities from reverse sensitivity effects. This submission was supported by *Trustpower* and *the Oil Companies*.

970. The Reporting Officer did not agree that the requested policies should be added to Section 5. She noted that she had recommended changes to Objective 2.3.1 and the addition of new Policy 2.3.1.7 to recognise the importance of network utilities to social and economic prosperity in Dunedin and refer to the ways that the Plan enables network utilities, including the use of rules to protect network utilities from activities that may hinder their safe operation, including through reverse sensitivity effects (see discussion in section 4.2.1.2, above). She considered that these amendments achieved the outcomes sought by the submitters and, therefore, that it was unnecessary to add any of the new policies requested by submitters (Section 42A Report, section 5.1.4, pp. 33-34).

971. In her statement tabled at the Network Utilities Hearing, Ms Amy Hill, called by *Radio NZ*, did not directly refer to the submitter's requested new policy for Section 5, but indicated her support for the Reporting Officer's overall recommendations for changes to the Strategic Directions section, Section 5 Introduction, Policy 5.2.1.11 and Section 10 policies. Ms Hill stated: "RNZ considers that these recommended changes more appropriately provide for the operations of network utilities and recognise the

importance of enabling their efficient and effective operation while managing environmental effects" (Tabled Statement, p. 1).

972. Ms Hunter, consultant planner called by *Liquigas*, considered that new Policy 2.3.1.7, recommended partially in response to *Liquigas*'s submission point OS906.8, did not go far enough in managing reverse sensitivity effects on network utilities. As discussed in section 4.2.1.2, above, she requested that this policy be amended to include a requirement to "ensure that the efficient and effective operation of network utilities are safeguarded and not compromised by incompatible development that could give rise to reverse sensitivity effects and land uses" (Statement of Evidence, p. 5, para. 4.10).

4.4.1.2 Decision

973. We accept in part the submissions of *Radio NZ* (OS918.29) and *Liquigas* (OS906.8). While we agree with the Reporting Officer that, given the amendments to Strategic Directions which give partial relief to these submissions, a new policy to manage third party effects on network utilities is not necessary, we consider that there is a disconnect between the wording of Objective 5.2.1 and the policies sitting beneath that objective that manage activities that may compromise utilities. In our view, this should be rectified by creating a new objective that focuses specifically on the management of other activities.

974. The wording of Objective 5.2.1 (as amended by this decision) begins "Network utilities activities, including renewable energy generation activities, are able to <u>establish,</u> operate <u>and upgrade</u> efficiently and effectively..." We understand that this element of the objective was intended to link to the policies beneath it that manage the effects of other activities on utilities, but we do not consider that this is sufficiently clear.

975. Therefore, we consider that a separate new Objective 5.2.2 should be added, as follows, and that the relevant policies should be moved to sit beneath it:

> <u>The operational efficiency and effectiveness of network utilities is not compromised by development locating near these activities.</u>

976. We consider this separation of Objective 5.2.1 into two objectives to be a clarification of, rather than a significant departure from, the notified provisions.

977. We note that, as discussed in Sections 4.4.2 and 4.4.4 of this Decision Report, we have made a number of changes to the policies in Section 5 that manage third party effects on utilities. As shown in Appendix 1, the policies that now sit under new Objective 5.2.2 are:

- Policy 5.2.1.2 relating to development near the National Grid (this policy has been deleted in response to other submissions; see section 4.4.2)
- Policy 5.2.1.9 (now renumbered 5.2.2.1) relating to earthworks near network utilities
- Policy 5.2.1.3 (now renumbered 5.2.2.2) relating to activities near the National Grid
- new Policies 5.2.2.3 and 5.2.2.4 relating to subdivision near the National Grid; and
- new Policy 5.2.2.5 relating to activities near Radio NZ's transmitters on the Otago Peninsula.

978. The amendments to provisions required for this decision are:

- addition of Objective 5.2.2
- transfer of Policy 5.2.1.2, Policy 5.2.1.3/5.2.2.2 and Policy 5.2.1.9/5.2.2.1 from Objective 5.2.1 to Objective 5.2.2
- amendments to the following assessment rules to refer to Objective 5.2.2 rather than Objective 5.2.1, Policy 5.2.2.2 rather than Policy 5.2.1.3, and/or to Policy 5.2.2.1 rather than Policy 5.2.1.9: Rule 5.7.4.1.a&b, Rule 5.7.4.2.a&b, Rule

5.10.4.5, Rule 3.9.2.2, Rule 15.12.5.3, Rule 16.12.6.5, Rule 17.12.6.2, Rule 18.12.5.2, Rule 19.12.5.2, Rule 20.12.5.2, Rule 31.12.5.3 and Rule 35.11.4.2, and

- deletion of assessment Rule 5.10.4.5.e ("the ability to operate, maintain, upgrade and develop the national transmission network, including access to the national grid infrastructure, is not impeded") because its content is covered by new Objective 5.2.2, referenced at 5.10.4.5.a.

979. See Appendix 1 (amendments attributed to NU 918.29).

4.4.2 Requests to amend provisions for activities near the National Grid

4.4.2.1 Overview

980. A range of provisions in the Plan manage activities near the National Grid. The policy framework, sitting beneath Objective 5.2.1, is as follows:

> *Policy 5.2.1.2*
>
> *Require development to be designed and located to avoid adverse effects on the safe and efficient operation of national grid infrastructure or, where avoidance is not possible, ensure any adverse effects would be insignificant.*
>
> *Policy 5.2.1.3*
>
> *Require sensitive activities, hazardous substances, and earthworks to be set back an adequate distance from the national grid to ensure adverse effects on the health and safety of people are avoided.*

981. These policies are implemented via rules that require the setback from National Grid transmission lines and support structures of sensitive activities, buildings and structures, above ground network utility activities, certain public amenities activities (specifically, public play equipment and freestanding flagpoles), and earthworks (Rules 5.6.1.1 and 5.6.1.2). The setback rules are cross-referenced in Section 3: Public Amenities and all relevant management and major facility zone sections. Applications for activities that would contravene the setbacks are to be assessed as non-complying activities, except for contraventions of the setback for earthworks, which are restricted discretionary activities.

982. In the case of subdivision near the National Grid, the 'Shape' performance standard, which applies to subdivision in all zones, requires that every site created by subdivision must be of a size and shape that is large enough to contain a building platform of at least 8m by 15m that meets the required setback of buildings from National Grid infrastructure. Subdivision activities that contravene this performance standard are restricted discretionary activities.

983. In addition, Rule 5.4.3 requires that Transpower NZ Ltd always be treated as an affected person for any resource consent application that contravenes any of the National Grid setbacks.

984. Finally, the provisions include the following definition of National Grid Support Structure:

985. *A support structure that is part of the national grid, which is the network that conveys electricity throughout* New *Zealand.*

4.4.2.2 Submissions and Section 42A Report recommendations

986. *Transpower New Zealand Limited (Transpower)* (806) requested a range of amendments to Plan provisions relating to management of third party activities that may adversely affect the operation of the National Grid. The submitter considered many

of these amendments necessary to give effect to the National Policy Statement for Electricity Transmission 2008 (NPSET)[4].

987. *Horticulture New Zealand* (FS2452.15, FS2452.17, FS2452.19, FS2452.20), and *Powernet Limited* (FS2264.4, FS2264.5) either supported or supported in part a number of these points; *Federated Farmers of New Zealand (Federated Farmers)* (FS2449.19, FS2449.23, FS2449.24) opposed a number of the submission points (see details in s42A Report, section 5.2).

988. The specific requests made by *Transpower*, and the responses recommended by the Reporting Officer, Mr Peter Rawson, are set out below.

989. *Transpower* requested the addition of a new definition of National Grid to ensure accurate interpretation of the objectives, policies and rules, in a way that was consistent with the NPSET (OS806.10). Mr Rawson recommended that this point be accepted, on the basis *that* the requested change would add clarity to plan users about the significance of the National Grid. He also recommended a consequential amendment to the definition of National Grid Support Structure (s42A Report, pp. 101-102).

990. The submitter also requested the addition of new definitions for National Grid Subdivision Corridor and National Grid Yard to give effect to Policy 11 of the NPSET, which requires local authorities to identify a buffer corridor along National Grid infrastructure, within which sensitive activities will generally not be provided for (OS806.11). Mr Rawson recommended that this point be rejected on the basis that he did not consider the requested changes necessary to manage adverse effects (s42A Report, pp. 101-102). However, he did recommend that a figure in the Plan that illustrates the buffer corridor (Figure 5.6A) be amended for clarity (s42A Report, pp. 103-106).

991. Transpower's final request in relation to definitions was to seek that the definition of Sensitive Activities be *amended* to include working from home, sleepouts and family flats (OS806.11). Mr Rawson recommended that this request be rejected because family flats and sleep outs are already covered as types of buildings used for residential activities, rather than being a different land use activity (s42A Report, p. 106).

992. In relation to the policy framework for management of both the National Grid itself and third party activities that may affect it, the submitter requested the addition of new objectives and policies to give effect to policies 2, 3 and 10 of the NPSET, which require decision makers to: recognise and provide for the effective operation, maintenance, upgrading and development of the National Grid; take into account technical and operational constraints when considering measures to avoid, remedy or mitigate adverse effects from the National Grid; and manage activities to avoid reverse sensitivity effects on the National Grid and to ensure that its operation, maintenance, upgrading, and development is not compromised (OS806.21 OS806.22, OS806.23, OS806.25, OS806.26).

993. Mr Rawson recommended that these submission points be rejected and that no new objectives or policies should be added to the Plan. He considered that the notified objectives and policies reflected the national importance of the national grid and gave effect to the NPSET and NESETA.

994. In relation to performance standards, Transpower sought that the rules requiring minimum setbacks from National Grid infrastructure for sensitive activities, buildings and structures, above ground network utility activities and certain public amenities activities (Rule 5.6.1.1) and for earthworks (Rule 5.6.1.2) be deleted and replaced with alternative rules as set out in its submission. We note the following key substantive differences between the notified rules and the versions sought in *Transpower*'s submission.

[4] http://www.mfe.govt.nz/sites/default/files/nps-electricity-transmission-mar08.pdf

- The notified provisions applied a setback both to buildings and structures and to Sensitive Activities – which included a wide range of land use activities such as residential activities, emergency services, early childhood education, schools and visitor accommodation. The proposed amendments would apply only to buildings and structures. Under *Transpower*'s requested provisions there would be no control over new sensitive activities establishing in existing buildings, unless an alteration was required that increased the size of the existing building.
- The notified provisions applied a 12m setback from lines to Sensitive Activities (including the buildings and structures in which they were located) and a 10m setback to other buildings and structures (subject to exemptions for both setbacks). *Transpower*'s requested provisions would apply a 12m setback from lines to all buildings and structures (subject to exemptions). (We note that both versions of the provisions applied a 12m setback from support structures and substations.)
- Whereas the notified provisions required earthworks over 300mm deep to be set back from both transmission lines and support structures, under *Transpower*'s requested amendments this setback would apply only from support structures.
- The amendments proposed by *Transpower* contained a wider range of exemptions from setbacks. In the case of setbacks for buildings and structures, electricity infrastructure connecting to the National Grid would be exempt, as would horticultural and agricultural buildings and structures in certain circumstances. In the case of setbacks for earthworks, any earthworks undertaken as part of "agricultural or domestic cultivation" would be exempt, as would any earthworks carried out by a territorial authority or network utility, provided NZECP34 was complied with.
- Under notified rules, earthworks that contravened required setbacks would be restricted discretionary activities; under *Transpower*'s requested amendments, they would be non-complying.

995. Mr Rawson considered the notified performance standards were generally consistent with the new standards proposed by *Transpower*. He recommended that *Transpower*'s submission on this matter be accepted in part, specifically by adding the requested exemptions for horticultural and agricultural buildings and structures and for earthworks for farming or domestic cultivation (s42A Report, pp. 106-107).

996. In addition, Mr Rawson agreed that it was appropriate that contraventions of the earthworks setback be a non-complying, rather than restricted discretionary, activity, given the potential for adverse effects on health and safety.

997. Six other submitters also sought specific amendments to Rule 5.6.1.1 (i.e. the minimum setback requirement from National Grid infrastructure for sensitive activities, buildings and structures, above ground network utility activities and certain public amenities *activities*). Mr Rawson recommended that these submissions be accepted, given that the outcomes sought were in line with the changes requested in *Transpower*'s submission. Specifically, the requested amendments were to:

- exempt above-ground network utilities from Rule 5.6.1.1 (*Aurora Energy Limited,* OS457.23; *Vodafone NZ Ltd (Vodafone),* OS576.54); *Spark New Zealand Trading Limited (Spark),* OS923.54; *Chorus New Zealand Limited (Chorus)*, OS925.54)
- exempt artificial crop protection structures and crop support structures in certain circumstances (*HNZ*, OS1090.21), and
- amend Rule 5.6.1.1 to recognise the NZECP34 safe clearance distances (*New Zealand Fire Service Commission (NZFS)*, OS945.15).

998. In addition, submitters supported certain aspects of the National Grid setback provisions. *Federated Farmers* sought (OS919.109) that Rule 5.6.1.1 be retained as notified, on the basis that it balances the need for protection of the National Grid with consideration of the impact that unnecessary restrictions around the National Grid may have on *otherwise* compatible activities. *Federated Farmers* (OS919.95) also supported the definition of National Grid Support Structure. The recommendations made by Mr

Rawson in response to Transpower's submission, as set out above, implied the rejection of these submission points.

999. *Aurora* (OS457.50), *Vodafone* (OS576.55), *Spark* (OS923.55) and *Chorus* (OS925.55) supported the notified exemption of earthworks ancillary to network utilities from the *minimum* setback of earthworks from the National Grid (Rule 5.6.1.2.b.iii). The revised rules recommended by Mr Rawson would retain this exemption.

1000. In addition to their requested changes to the setback requirements in Rules 5.6.1.1 and 5.6.1.2, *Transpower* also sought a change to the way subdivision was managed near the National Grid (OS806.11). The submitter requested that a new mapped layer be added to planning maps to show the National Grid Corridor (i.e. the area extending 16-37m – depending on line voltage – from the centre line of National Grid transmission lines). Within that corridor, *Transpower* requested that subdivision normally be a restricted discretionary activity, with discretion extending to a range of matters associated with: health and safety; management of reverse sensitivity effects; and provision for the efficient operation, maintenance, development and upgrading of the National Grid. However, the submitter requested that non-complying activity status apply to subdivision where any site to be created by the subdivision did not identify a building platform "for the principal building (and any secondary building)" that is located entirely outside of the National Grid Yard (i.e. the area within 12m of any national grid support structure or overhead line).

1001. In the submitter's view, these changes to provisions for subdivision along the National Grid were required to give effect to the NPSET.

1002. Mr Rawson recommended that the requested changes to subdivision provisions be rejected, on the basis that the notified provisions (i.e. the Shape performance standard described in paragraph 822 above, and associated assessment rules) would allow the Council to fully consider the matters set out in *Transpower*'s submission (s42A Report, pp. 107-108).

1003. In relation to provisions for the National Grid itself, *Transpower* requested that assessment rules for non-complying network utility activities be amended so that the list of "Relevant objectives and policies (priority considerations)" included cross reference to a policy that recognised the national importance of the National Grid (OS806.40). We note that such a policy would only be relevant in cases where new National Grid infrastructure had non-complying activity status – i.e. in ONFs, ONCCs and HNCCs. Mr Rawson recommended that this submission point be rejected, noting that the assessment rules referred to Objective 5.2.1 (s42A Report, p. 109). See discussion of that objective in section 4.2.1.5 above.

1004. *Transpower* also requested an amendment to assessment rules in relation to the management of third party activities that may adversely affect the National Grid. The submitter sought that the assessment rule for contraventions of Rule 5.6.1.1 (i.e. Rule 5.10.4.5) be deleted, on the basis that it does not provide for activities to be assessed against appropriate objectives and policies (OS806.63). Mr Rawson recommended that this submission point be rejected, in line with his recommended rejection of the new objectives and policies requested by *Transpower*.

1005. The submitter also requested that the Plan's Section 12: Transitional Provisions be amended to provide clarity on the information requirements for structure plans or other development plans where subdivision is proposed, particularly with regard to the National Grid Corridor (OS806.50). Mr Rawson recommended that this point be rejected, given that the *National* Grid does not intersect with any of the transitional zones provided for in Section 12 (s42A Report, p. 109).

1006. Finally, *Transpower* expressed concerns with the adequacy of the Section 32 Report for the Plan's network utilities provisions. In its view, the Section 32 Report did not demonstrate how the proposed provisions gave effect to the purpose of the RMA, relevant National Policy *Statements* or the Otago Regional Policy Statement (OS806.62). Mr Rawson recommended that the Section 32 Report be amended in line with *Transpower*'s submission.

1007. *Transpower* did not lodge original submission points on either of the policies relating to management of activities and development near the National Grid – i.e. Policies 5.2.1.2 and 5.2.1.3, which are reproduced above.

1008. Policy 5.2.1.2 was supported by *HNZ* (OS1090.19) and *Federated Farmers* (OS919.106). There were no other submissions on the policy.

1009. Policy 5.2.1.3 was supported by *BP Oil NZ Ltd, Mobil Oil NZ Ltd and Z Energy Ltd (the Oil Companies)* (OS634.1), *Federated Farmers* (OS919.107) and *Horticulture New Zealand* (OS1090.20). In addition, two submissions were received that requested changes to this policy. *Waste Management (NZ) Limited* (OS796.15) requested that Policy 5.2.1.3 be amended to add a notation that directs readers to the applicable (setback) standard. Mr Rawson noted that a similar point had been covered in the Plan Overview section 42A report and agreed with the recommendation made in that report that the change be rejected. He noted that, in cases where the performance standards linked to Policy 5.2.1.3 were contravened, the relevant assessment rules would refer to the policy (4 July Addendum to the Section 42A Report, section 5.2.3, p3).

1010. *Radio New Zealand Limited (RNZ)* (OS918.25) requested that Policy 5.2.1.3 be amended as follows:

> *Require sensitive activities, hazardous substances, and earthworks to be set back an adequate distance from the ~~national grid~~ network utilities to ensure adverse effects on the health and safety of people are avoided and the potential for reverse sensitivity effects on infrastructure are minimised.*

1011. This submission point was opposed by *Federated Farmers* (FS2449.22), *HNZ* (FS2452.14) and *Transpower New Zealand Ltd* (FS2453.27).

1012. *RNZ*'s request that the policy refers to all network utilities, rather than only the National Grid, is related to its request for provisions to be added to the Plan to manage activities around its radio transmitters – see discussion in section 4.4.4.

1013. However, the requested reference to the management of reverse sensitivity effects is relevant to provisions for activities near the National Grid. Mr Rawson agreed that Policy 5.2.1.3 should be amended in this way. Further, he recommended that the policy should not refer only to reverse sensitivity effects, but more widely to "effects on the safe and efficient operation of the national grid, including from reverse sensitivity". We note that this recommendation would give partial relief to *Transpower*'s submission (OS806.26) requesting that a new policy be added to Section 5 to manage the effects of third party activities on the safe and efficient operation, maintenance, upgrade and development of the National Grid.

1014. Finally, we note an additional relevant submission point that was considered in the Plan Overview Section 42A Report. Transpower (OS806.3) requested that section 1.1.5, which is located in the introductory part of the Plan and set out 'Other requirements outside the District Plan', be amended to add reference to the New Zealand Electrical Code of Practice for Electrical Safe, Distances (ECP34:2001), and also to add reference to the date of release of two other documents mentioned (the ORC's Water Plan and Waste Plan). The Reporting Officer for the Plan Overview Hearing, Dr Anna Johnson, recommended that this submission point be accepted in part and that reference to ECP34:2001 be added to section 1.1.5.

4.4.2.3 July 2016 hearing: evidence presented by submitters

4.4.2.3.1 Transpower

1015. *Transpower* called Ms Ainsley McLeod (consultant planner), Mr Dougall Campbell (Environmental Policy and Planning Group Manager), and Mr Andrew Renton (Senior Principal Engineer).

1016. Ms McLeod provided *comprehensive* evidence on the National Grid provisions and responded to the recommendations of the Reporting Officer.

1017. She considered that the Reporting Officer's recommended amendments to the 2GP provisions did not give effect to NPSET and did not appropriately distinguish or enable nationally or *regionally* significant infrastructure, such as the National Grid. She requested that several further amendments be made to the Plan to rectify this, including changes to objectives and policies, and to rules requiring setbacks of activities from the National Grid (Statement of Evidence, p. 2, para. 5).

1018. Her requested *amendments* to Rule 5.6.1.1 Setback from National Grid (sensitive activities, buildings and structures) were as follows.

- Application of a 12m rather than a 10m setback of buildings and structures from National Grid lines, as requested in *Transpower*'s submission (Statement of Evidence, p. 23, para. 65a).
- Review of the types of farm building that should not be included in the exemption from setback from lines; for example, in Ms McLeod's view and as requested in *Transpower*'s submission, dairy sheds should not be covered by the exemption (Statement of Evidence, p. 24, para. 65b).
- Review of the types of horticultural structure that are exempt from setbacks from pole support structures, in order to be more enabling of these structures (Statement of Evidence, p. 24, para. 65c).
- Clarification that activities that are provided for within the National Grid setback need to either comply with NZECP 34:2001 or have 10m vertical clearance, not both (Statement of Evidence, p. 24, para. 65d).
- Exemption of network utilities, but not of irrigation reticulation or storage, from National Grid setbacks (Statement of Evidence, p. 27, para. 69d).
- Deletion of the reference to public play equipment and freestanding flagpoles on the basis that they fall within the definition of 'structure' (Statement of Evidence, p. 28, para. 69f).
- In residential zones, exemption of small uninhabitable accessory buildings from setbacks from National Grid lines (Statement of Evidence, p. 28, para. 69h).
- Deletion of exemptions for building alterations, given that these are provided for under section 10 of the RMA in any case (Statement of Evidence, p. 28, para. 69i).
- Deletion of the table that duplicates Table 1 of NZECP 34:2001, on the basis that it is:
    - of limited relevance given that the voltage of National Grid transmission lines in Dunedin exceeds 66Kv, and
    - misleading in that it could be interpreted as providing for vertical conductor clearance rather than horizontal separation (Statement of Evidence, p. 28, para. 69j).

1019. Ms McLeod generally agreed with the amendments proposed by the Reporting Officer to Rule 5.6.1.2 Setback from National Grid (earthworks), although she was concerned with the Reporting Officer's recommendation that 'network utilities' and 'network utilities activities' be expanded to also include the 'generation of electricity' and 'energy generation' respectively. To appropriately confine the exemption for earthworks ancillary to network utility activities in Rule 5.6.1.2.b.iii she recommended an addition to this exception to be worded as follows (Statement of Evidence, p. 30, para. 76):

> *iii. earthworks ancillary to network utility activities, <u>including associated access tracks, (other than for the reticulation and storage of water for irrigation purposes) that are undertaken by network utility operators as defined in the RMA and are in accordance with NZECP 34:2001; …</u>*

1020. She did not support the inclusion of Table 5.6A (taken from Table 4 of NZECP 34:2001) in the body of Rule 5.6.1.2 and considered that it should be deleted (Statement of Evidence, p. 31, para. 77).

1021. She disagreed with the Reporting Officer's recommendations on management of subdivision near the National Grid. She considered that subdivision should be managed in the proposed National Grid Subdivision Corridor, not only in the National Grid Yard (Statement of Evidence, pp. 31-38).

1022. Ms McLeod also proposed that the definition for Sensitive Activities be revised so that, for the purposes of National Grid setback provisions, sensitive activities would include hospitals, registered health practitioners, early childhood education, residential activities (including sleep outs), campuses, schools, training and education, visitor accommodation and marae-related activities (Statement of Evidence, Attachment C – Consideration of Definitions). We note that this request was not made in *Transpower*'s original submission.

1023. In his evidence, Mr Dougall Campbell explained that *Transpower* is the State-Owned Enterprise that plans, builds, maintains, owns and operates the National Grid, which links electricity generators to distribution companies and major industrial users and extends from Kaikohe in the North Island to Tiwai in the South Island, and comprises around 12,000 km of transmission lines, 167 substations and 300 telecommunication sites (Statement of Evidence, p. 4).

1024. He also described *Transpower*'s assets within Dunedin City, which include the following (Statement of Evidence, pp. 4-5):

- Halfway Bush-Roxburgh A 110kV transmission line on double circuit towers
- Gore-Halfway Bush A 110kV transmission line on single circuit pi-poles;
- North Makarewa-Three Mile Hill A 220kV transmission line on double circuit steel towers
- Halfway Bush-South Dunedin A 220kV transmission line on double circuit steel towers (including 9 mono tube steel poles)
- Roxburgh-Three Mile Hill A 220kV transmission line on double circuit steel towers
- Berwick Substation
- Three Mile Hill Substation
- Halfway Bush Substation
- South Dunedin Substation, and
- Rudd Road communications site.

1025. He described that the purposes of *Transpower's* approach to National Grid Yards and Corridors are (Statement of Evidence, pp. 6-8):

- to ensure that sensitive activities, such as residential development, are generally not provided for near National Grid structures and lines
- to manage reverse sensitivity effects
- to protect the integrity of the National Grid (structures and lines)
- to enable efficient and safe maintenance and operations
- to allow for any future potential upgrade requirements of the asset
- to provide the residential, rural, commercial and industrial electricity users in Dunedin City with a reliable and secure supply of electricity
- to provide the community, Council and *Transpower* with the knowledge and confidence that the lines are being managed in a safe and sustainable manner, and
- to minimise hazards to safety.

1026. Mr Campbell explained that provisions sought by *Transpower* are generally consistent with provisions that the submitter seeks elsewhere around the country, including Christchurch Replacement District Plan, Southland District, Waimate, Central Otago,

Whangarei, Western Bay of Plenty Districts and Auckland (Statement of Evidence, p. 9).

1027. He was of the view that the Yard and Corridor provisions sought by *Transpower* would give effect to Policies 10 and 11 of the NPSET in an integrated manner and are based on the operational and maintenance needs of *Transpower's* existing assets (Statement of Evidence, pp. 10-11).

1028. Mr Campbell also indicated that buildings and structures underneath transmission lines restrict *Transpower's* ability to maintain and upgrade existing lines. Activities that cannot be easily shut down to enable work on transmission lines, or are likely to have reverse sensitivity effects, should be located away from these lines. These include buildings such as dairy sheds, piggeries, poultry farms, commercial greenhouses, and factories, because these buildings and activities are either at greater risk of effects from the transmission lines or put the line itself at greater risk. In addition, the operation of a building can impact on the lines, including through the emission of dense smoke, dust or chemicals (Statement of Evidence, pp. 11-12).

1029. Furthermore, he indicated that *Transpower* experiences reverse sensitivity issues or complaints about the operation of the National Grid on a regular basis, and the subdivision corridor provisions proposed will help to reduce these reverse sensitivity effects (Statement of Evidence, pp. 13-14).

1030. In Mr Campbell's view, Transpower's requested rules for subdivision near transmission lines and substations were necessary to avoid the creation of lots on which it would be difficult or impossible to construct a complying dwelling, to reduce reverse sensitivity effects and the disruption of access to lines for maintenance and upgrade, and to avoid conflict associated with future development. He noted that *Transpower* is not always recognised by councils or applicants as being affected by subdivision applications, and that NZECP34:2001 does not protect the National Grid from the effects of subdivision, as it does not restrict the subdivision of land near lines or substations (Statement of Evidence, pp. 14-16).

1031. Mr Campbell gave examples of subdivisions near the National Grid which *Transpower* supported (Pokeno and Lake Hayes, Queenstown) or opposed (7A Cormack St, Mt Roskill and 362 Blockhouse Bay Road, Blockhouse Bay, Auckland) (Statement of Evidence, pp. 16-18).

1032. He described ways in which earthworks near support structures or lines can undermine the support structures, compromise vehicular access, reduce the clearance between the ground and conductors (through mounding of earth) and dust can increase the wear on the equipment reducing its usable lifespan. Examples from Porirua, Karapiro and Hastings were provided (Statement of Evidence, pp. 18-21).

1033. He noted that inappropriate activity, including vehicles, under transmission lines can cause problems. Examples given were of a forklift that carried a container and hit the 220kV transmission line between Otahuhu and Henderson and 280,000 customers lost electricity and a crop auger on a local road hit the overhead High Voltage Direct Current ('HVDC') line in Canterbury (Statement of Evidence, pp. 22-24).

1034. He clarified that the New Zealand Electricity Code of Practice for Safe Distances 34:2001 (NZECP34:2001) does not adequately protect National Grid infrastructure (Statement of Evidence, pp. 24-26).

1035. Mr Renton described *Transpower's* substations and transmission lines in Dunedin, their characteristics and the reason for, and widths of, National Grid Corridors (Statement of Evidence, pp. 2-3).

1036. He explained that transmission lines have a range of operational constraints and requirements to ensure the delivery of an efficient and secure supply of electricity through the National Grid (Statement of Evidence, p. 7).

1037. He also outlined that the main electrical hazard risk associated with high voltage transmission lines is receiving an electric shock, with the risk and severity of electric shocks varying depending on the transmission voltage and type of exposure (e.g. direct

human contact, mobile plant, or vegetation). Risks are most likely to be highest within 12 metres of a transmission line, however, some associated effects can be transferred further than this (Statement of Evidence, p. 7).

1038. Mr Renton noted that lethal electric shocks can be caused by: earth potential rise (EPR); step and touch voltages; induction voltages; conductor drop; flashovers (coming into contact with the line conductors or where the electricity arcs from a conductor onto an object such as a structure or fence); and vegetation growing too close to a line and causing a flashover. He described in greater detail what these causes of electric shocks are, gave examples of them, and outlined other hazards and issues associated with transmission infrastructure, including equipment or structure failure, earthworks, electrical and wind noise, and the perceived effects of electric and magnetic fields (EMF) (Statement of Evidence, pp. 8-14).

1039. He outlined that the subdivision corridor that *Transpower* seeks is calculated as the distance from the centreline between the support structure (tower) to a point where the conductor would swing impacting the ability to construct structures under possible high wind conditions (Statement of Evidence, pp. 14-16).

4.4.2.3.2 Horticulture New Zealand

1040. *HNZ* called Ms Lynette Wharfe (resource management consultant). Ms Wharfe noted that *HNZ* had requested exemptions to National Grid setbacks for artificial crop protection structures and crop support structures on horticultural properties (OS1090.21) and did not consider that the recommendations made by the Reporting Officer to amend Rule 5.6.1.1 achieved the outcome sought by the submitter (Evidence, para. 4.4).

1041. She noted that, under Mr Rawson's recommendations, structures would need to meet NZECP34:2001, but excerpts from the NZECP would also be included in Plan rules (in Table 1 'Minimum safe distances for farming structures or buildings from national grid support structures', which was recommended to be added to Rule 5.6.1.1). She did not consider that it was necessary to include Table 1 in the Plan "when there is also a requirement both in the Plan and the regulations to comply with NZECP" (Evidence, para. 6.5). She requested that Table 1 be deleted from Rule 5.6.1.1 and that the rule be amended to exempt the following structures from National Grid setbacks, as requested in *HNZ*'s submission (Evidence, para. 6.12):

- *Artificial crop protection structures and crop support structures between 8-12 metres from a pole support structure that:*
  - *Meet the requirements of NZECP 34: 2001*
  - *Are no more than 2.5 metres in height*
  - *Are removable or temporary to allow a clear working space 12 metres from the pole where necessary for maintenance purposes*
  - *Allow all weather access to the pole and a sufficient area for maintenance equipment, including a crane.*
- *An agricultural or horticultural structure located within 12 metres of a tower support structure that meets the requirements of Clause 2.4.1 of NZECP34:2001.*

1042. Ms Wharfe noted that the inclusion of these exemptions would be consistent with a memorandum of understanding that had been signed between Transpower and Horticulture NZ, and that set out an agreed approach to be taken in district plans when implementing the NPSET, particularly in relation to horticulture activities and structures. She noted that this approach had been implemented in a range of district plans, and that including such provisions in Dunedin would be consistent with the approach taken across the country (Evidence, para. 6.8).

1043. In terms of the policy framework for implementation of the NPSET in the Plan, Ms Wharfe opposed the Reporting Officer's recommendation to widen Policy 5.2.1.3 from the national grid to all network utilities. She considered that this change "gives less

recognition to the National Grid... and significantly affects the plan provisions and functions. By diluting Policy 5.2.1.3 to apply to all network utilities gives them the same recognition as the National Grid, even though they are not nationally significant." (Evidence, para. 4.9-4.10)

1044. She also opposed the recommended addition to Policy 5.2.1.3 of clause b: "[Require sensitive activities, hazardous substances, and earthworks to be set back an adequate distance from network utilities to ensure]... b. adverse effects on the safe and efficient operation of network utilities, including from reverse sensitivity, are avoided or, where avoidance is not possible, are insignificant." She considered that a test of "avoiding adverse effects" was high and noted that HNZ was concerned that the effects on landowners from the implementation of this policy could be significant, as it would limit their activities (Evidence, para. 5.6).

1045. In Ms Wharfe's view, such limits are appropriate in relation to the National Grid, but not necessarily in relation to other network utilities (Evidence, para. 5.7).

4.4.2.3.3 Federated Farmers

1046. Mr David Cooper, representing *Federated Farmers*, generally supported Mr Rawson's recommendations for changes to the National Grid setback rules (Rules 5.6.1.1 and 5.6.1.2, but also noted that he supported the hearing evidence of Ms Wharfe, outlined above, in respect to the requirements to provide for horticultural structures (Evidence, para. 14-15).

1047. Mr Cooper also supported Mr Rawson's recommendation not to accept Transpower's request to add a National Grid Subdivision Corridor to the Plan (Evidence, para. 16-17).

1048. However, like Ms Wharfe, he opposed the recommended changes to Policy 5.2.1.3, in particular the addition of a new test (in clause b) to manage effects on the "efficient operation of network utilities, including from reverse sensitivity", on the basis that the 2GP is not the appropriate mechanism for deciding what is or is not efficient operation (Evidence, para. 19).

4.4.2.3.4 Revised Recommendations

1049. In response to the evidence presented by the submitters, Mr Rawson recommended that the Plan should adopt the version of the setback rules outlined in *Transpower's* evidence, but with minor editing to be consistent with the 2GP drafting protocol.

1050. He also recommended that the National Grid Corridor Mapped Area for subdivision be mapped in the 2GP (as sought by *Transpower*) and the subdivision performance standard and assessment criteria be amended.

1051. We asked the Reporting Officer to consult with submitters and come back with final wording of the National Grid related provisions (Revised Recommendations, p. 17).

4.4.2.4 December 2017 reconvened hearing: further evidence from Reporting Officers

1052. Having reviewed the National Grid related provisions in response to evidence presented by submitters at the July 2016 hearing, the Reporting Officers, Mr Rawson and Ms Macleod, revised their recommendations for provisions relating to the management of activities near the National Grid. These revisions affected the officers' recommendations for: the policy framework; the approach to management of subdivision near the National Grid; the setbacks applying to land use, development and city-wide activities (Rules 5.6.1.1 and 5.6.1.2), including the exemptions to these rules; and the assessment rules for activities that contravene setback standards.

1053. On 25 September 2017, the Reporting Officers sent these revised recommendations to *Transpower* for feedback. Ms Ainsley McLeod responded on behalf of *Transpower* on 18 October 2017. She supported some of the recommended amendments but sought a number of revisions. Later in October, both the Reporting Officers' revised recommendations and *Transpower's* feedback were circulated to all other parties who

had submitted on the Plan's National Grid provisions, and these submitters were also invited to provide feedback.

1054. *HNZ* called Ms Lynette Wharfe, who provided a statement of supplementary evidence dated 24 November 2017. In this evidence she assessed both the Reporting Officers' revised recommendations (dated 25 September 2017) circulated to submitters and Ms McLeod's response on behalf of *Transpower*.

1055. The Reporting Officers then further revised their recommendations, in the light of Ms McLeod and Ms Wharfe's feedback, and presented them in the form of a memorandum dated 1 December 2017. This memorandum was circulated to the submitters and the Panel on 30 November 2017, the evening before the start of the reconvened hearing.

1056. The key amendments to recommendations in the memorandum were as follows (note that these are set out in full in Appendix 1 of the memorandum).

1057. The officers recommended that Policy 5.2.1.2 should be deleted, and Policy 5.2.1.3 amended, so that one policy (5.2.1.3) would manage all land use, development and city-wide activities near the National Grid. However, they agreed with *Horticulture NZ* that Policy 5.2.1.3 should apply *only* to the national grid, and not to 'network utilities' in general. They noted that Policy 5.2.1.3 as recommended in the 25 September iteration had become overly complicated, because it was attempting to link to three different types of rule (i.e.: national grid setbacks; rules managing sensitive activities close to Radio New Zealand's transmitters; and setbacks of earthworks from all network utilities). In the officers' view, both the wording of policies and their links to rules would be clearer if the policy was separated into three (i.e. Policy 5.2.1.3 relating to the National Grid; Policy 5.2.1.8 relating to RNZ infrastructures; and Policy 5.2.1.9 relating to earthworks near all utilities), reflecting these three different functions.

1058. They considered that a separate policy (Policy 5.2.1.4) was necessary for the management of subdivision near the national grid, because, under other recommendations discussed below, subdivision was to be managed in a different way from other activities close to the Grid.

1059. Taking into account the submitters' hearing evidence and later feedback on the 25 September draft, the requirements of the NPSET, and the scope of submissions, the officers recommended the following wording for Policies 5.2.1.3 and 5.2.1.4:

> *Policy 5.2.1.3:*
>
> *Require residential and other {NU cl.16} sensitive activities, hazardous substances, buildings, {NU 806.26} structures, {NU 806.26} public amenities, {NU 806.26} above ground network utility structures {NU 806.26} and earthworks to be set back an adequate distance from the national grid to ensure:*
> *a. adverse effects on the health and safety of people are avoided;*
> *b. adverse effects on the operation, maintenance, upgrading and development of the national grid are avoided or, if avoidance is not possible, insignificant; and {NU 806.11}*
> *c. the potential for reverse sensitivity, is avoided or, where avoidance is not possible, minimised. {NU 806.11}*
>
> *Policy 5.2.1.4*
>
> *Require subdivision in the National Grid Corridor Mapped Area to be designed so that any necessary building platforms are located a sufficient distance from the national grid to ensure that:*
> *a. adverse effects on the operation, maintenance, upgrading and development of the national grid are avoided or, if avoidance is not possible, insignificant; and*
> *b. the potential for reverse sensitivity is avoided or minimised as far as practicable. {NU 806.11}*

1060. The officers also recommended a number of changes to the rules for the setback of land use, development and city-wide activities from the National Grid (Rules 5.6.1.1 and 5.6.1.2), in response to the hearing evidence and later feedback.

1061. Rule 5.6.1.1, including revised recommendations, would generally apply a minimum setback of 12m from National Grid infrastructure (supports structures, lines and substations) to buildings, structures, above ground network utility structures, and a range of sensitive land use activities.

1062. Two sets of exemptions would apply to this rule. Firstly, a third-party activity would be exempt from the setback from support structures and substations if it:

- either met the requirements of NZECP 34:2001 or had a minimum vertical clearance of 10m below the lowest point of the conductor associated with National Grid lines, and
- appeared in a list of exempt activities provided in the rule (5.6.1.1.a.ii) – including: network utility operations (as per RMA definition); fences and public amenities (up to a certain size); and artificial crop protection and crop support structures (subject to certain conditions in line with those requested in *HNZ*'s submission).

1063. Secondly, a third-party activity would be exempt from the setback **from lines** if it:

- again, either met the requirements of NZECP 34:2001 or had a minimum vertical clearance of 10m below the lowest point of the conductor associated with National Grid lines, and
- appeared in a different list of exempt activities provided in the rule (5.6.1.1.b.ii) – including: network utility operations (as per RMA definition); fences and public amenities (up to a certain size); "uninhabited farming or horticultural structures and buildings other than those used for intensive farming, milking/ dairy sheds, or commercial greenhouses"; "produce packing facilities or structures associated with irrigation infrastructure that are less than 10m² in area and under 2.5m in height"; and "uninhabited buildings associated with residential activities in residential zones that are less than 10m² in area and under 2.5m in height".

1064. Rule 5.6.1.2, including revised recommendations, would generally apply a minimum setback of 12m from national grid support structures and lines to all earthworks that exceeded 300mm in depth, that compromised the stability of any support structure, or that breached the ground to conductor clearance distances required by Table 4 of NZECP 34:2001.

1065. The exemptions to this rule would include: earthworks for the maintenance of roads, footpaths, driveways and tracks; "earthworks which result in vertical holes less than 500mm in diameter and more than 1.5m from the outer edge of a national grid support structure"; "earthworks ancillary to network utilities activities and associated access tracks, that are undertaken by network utility operators as defined in the RMA and are in accordance with NZECP 34:2001"; earthworks ancillary to the operation, repair, and maintenance of the roading network; and earthworks for "farming or domestic cultivation".

1066. The officers recommended that non-complying activity status (rather than restricted discretionary as notified) should apply to contraventions of the National Grid setback for earthworks. This would align with the notified non-complying status for contraventions of Rule 5.6.1.1.

1067. Finally, the Reporting Officers recommended that rules for subdivision near the National Grid be amended so that building platforms must not be located within 12m of the outer edge of a national grid support structure or centreline of an overhead national grid transmission line. Again, if this standard was not complied with, the officers recommended that non-complying activity status should apply.

4.4.2.5 December 2017 reconvened hearing: evidence presented by submitters

1068. At the reconvened hearing evidence was presented by *Transpower* (Ms McLeod), *HNZ* (Ms Wharfe) and *Federated Farmers* (Mr Cooper). Concern was expressed by all submitters about the lack of time available to consider their responses to the Reporting Officers' memorandum.

1069. Ms McLeod tabled evidence and spoke at the hearing, raising a number of issues with the revised recommendations presented in the memorandum, as follows.

- She did not consider that there was scope to delete Policy 5.2.1.2.
- She sought a definition of 'national grid sensitive activities', to avoid the need to list sensitive activities individually.
- She considered that *Horticulture New Zealand* had requested changes, in their October 2017 feedback on the Council's draft provisions, that were not within the scope of their submission.
- She noted that some parties not present at the hearing may be concerned with the revised recommendation for Policy 5.2.1.3, under which it would focus on the national grid only, rather than on network utilities in general.
- She requested that, due to safety concerns, 'the reticulation and storage of water for irrigation purposes' be excluded from the exemptions from setbacks for network utilities – with preference to exempt mobile irrigators.
- She requested that all produce packing facilities be excluded from exemptions from setbacks, and also opposed the exemption of small public amenities.
- She requested that the scale threshold for earthworks near National Grid lines (but not support structures) be made less restrictive.
- She requested that subdivision be managed as a restricted discretionary activity in the National Grid Corridor, with assessment of effects on a range of matters relating to health and safety, reverse sensitivity, and efficient operation of the Grid.

1070. Ms Wharfe spoke at the hearing in response to the Reporting Officers' memorandum. She noted that the layout of Rule 5.6.1.1 and 5.6.1.2 created confusion as to which activities were exempt from setbacks. Like Ms McLeod, she also sought a definition of 'national grid sensitive activities', to avoid the need to list sensitive activities individually. However, she did not agree with Ms McLeod that produce packing facilities should be subject to the setback from National Grid lines.

1071. In addition, she considered that the maximum scale thresholds for earthworks near the National Grid should be made less restrictive, in line with NZECP, and that the activity status for earthworks breaching these thresholds be restricted discretionary rather than non-complying.

1072. Mr David Cooper also provided spoken evidence. His key concern was around earthworks provisions; particularly, he considered that earthworks that are anticipated as part of farming and horticulture should be provided for within setbacks, for example earthworks needed for new tracks, drainage, smoothing out paddocks, and clearing debris.

1073. In their revised recommendations at the close of the hearing, the Reporting Officers' recommended that:

- drafting be reviewed, to clarify rules
- 'reticulation and storage of water for irrigation purposes', public amenities and produce packing facilities not be exempt from setbacks
- earthworks provisions be reviewed so that earthworks are restricted discretionary if they breach 2GP provisions, and only non-complying if they also breach NZECP requirements

- exemptions to the earthworks setback be amended to be less restrictive, in line with *Transpower's* submission, but with drafting changes to be consistent with terminology used 2GP-wide
- subdivision within the National Grid Corridor be restricted discretionary, with assessment of effects on the Grid.

1074. The officers did not revise their recommendations for policies.

1075. In terms of the scope issue raised by Ms McLeod in relation to Policy 5.2.1.2 – i.e. that no submitters requested its deletion – the officers noted that, although they were recommending that this policy be deleted, they were also recommending that its former content be merged with Policy 5.2.1.3, so that a single policy manages activities and development (except subdivision) near the national grid. The content of former Policy 5.2.1.2 will not be lost; therefore, this is a change is drafting only.

1076. In terms of Ms McLeod's concern that other submitters would be disadvantaged by not being able to comment on the recommendation that Policy 5.2.1.3 focus only on the national grid and not on network utilities more widely, the officers noted that, in the provisions as notified, this policy related only to the national grid. An amendment was recommended to replace 'national grid' with 'network utilities' so that this policy would also provide the framework for rules that protect Radio New Zealand's transmitters from reverse sensitivity effects. However, the officers were now recommending that this aspect of the policy be transferred to new Policy 5.2.1.8.

1077. The officers did not consider that any submitters would be unduly prejudiced by the recommended reversion to 'national grid' as opposed to 'network utilities' in Policy 5.2.1.3. Submitters that objected to the policy focussing only on the national grid had the opportunity to express those views in their original submissions. Both *Radio NZ* and *Aurora* requested either changes to Policy 5.2.1.3 or new policies to provide for management of activities around either network utilities in general (*RNZ*) or regionally significant electricity distribution infrastructure (*Aurora*). These submissions were discussed in the original Section 42A Report and at the July 2016 hearing.

1078. The officers also noted that *Radio NZ*, *Aurora* and all other submitters on Policies 5.2.1.2 and 5.2.1.3 and associated rules had been given the opportunity to respond to revised recommendations at the 1 December reconvened hearing.

1079. At our request, the Reporting Officers indicated that they would consult the submitters who attended the reconvened hearing when drafting provisions to implement their revised recommendations.

1080. The final drafting was developed and consulted on with submitters over the period from December 2017 to February 2018, including via email and phone conversations. A teleconference was also held on 19 December between the Reporting Officers, City Development Manager Dr Anna Johnson, and representatives of *HNZ* and *Federated Farmers*.

4.4.2.6 Decision and Reasons

4.4.2.6.1 Decisions on definitions

1081. We accept *Transpower's* request (OS806.10) that a definition of National Grid be added to the Plan, and that the definition of National Grid Support Structure be amended accordingly. We consider this change appropriate, as it clarifies that the National Grid consists of the assets used or owned by *Transpower*. Therefore, we reject the submission of *Federated Farmers* (OS919.95) in support of the notified definition of National Grid Support Structure.

1082. We reject *Transpower's* request (OS806.11) that the definition of Sensitive Activities be amended to include "working from home, sleep outs and family flats". We do not consider that it is appropriate to include "working from home" in the definition, as the effect of this would be to apply restrictions to the establishment of a new working from home activity at an existing dwelling. We do not consider this necessary to manage

effects. In addition, we agree with Mr Rawson that it is unnecessary to refer specifically to "sleep outs and family flats", as these are covered by the reference to Residential Activities.

1083. We note that, for reasons explained in section 3.10 of the Plan Overview Decision, the use and definition of the term Sensitive Activities throughout the Plan has been amended for clarity under clause 16. As part of this change, references to Sensitive Activities in the National Grid setback rules have been replaced with references to National Grid Sensitive Activities, with the latter term defined as follows:

> *The group of activities that are considered to be sensitive for the purposes of the National Grid provisions, and that consist of:*
>
> - *early childhood education*
> - *hospitals*
> - *marae-related activities*
> - *prisons or detention centres*
> - *registered health practitioners*
> - *residential activities (excluding new working from home activities in existing dwellings)*
> - *schools*
> - *visitor accommodation.*

4.4.2.6.2 Decisions on Policies 5.2.1.2 and 5.2.1.3

1084. We accept in part *Transpower*'s requests (OS806.11, OS806.21, OS806.22, OS806.23, OS806.25, OS806.26 and OS806.63) for the addition of new objectives and policies to the Plan (with consequential amendments to assessment rules), to the extent that we agree with the Reporting Officers recommendations that alternative relief be given to these requests via the deletion of Policy 5.2.1.2, and the amendment of Policy 5.2.1.3 so that it manages the effects of all sensitive land use activities, and all development and city-wide activities that have the potential to compromise the National Grid, on health and safety, on the operation of the Grid, and in terms of the potential for reverse sensitivity.

1085. In terms of the effects test in Policy 5.2.1.3.a, we agree with the officers that "adverse effects on the health and safety of people are avoided" is an appropriately stringent test given the nature of the effects.

1086. In relation to Policy 5.2.1.3.b, we agree with *Transpower* and the Reporting Officers that the policy framework should manage effects on the maintenance, upgrading and development of the grid, as well as effects on its operation; this appropriately reflects the wording in Policy 10 of the NPSET. We agree with the officers that "effects are avoided or... insignificant" is the most appropriate test available given the scope of submissions, although we acknowledge *HNZ*'s concern (discussed in paragraph 41 of the Reporting Officers' memorandum for the reconvened hearing) that this test could be interpreted in a more restrictive way than the wording of the relevant part of NPSET Policy 10, which is "to the extent reasonably possible manage activities... to ensure that the operation, maintenance, upgrading and development of the electricity transmission network is not compromised".

1087. In relation to Policy 5.2.1.3.c, we agree with the Reporting Officers that the effects test "the potential for reverse sensitivity is avoided or minimised as far as practicable" appropriately gives effect to the relevant part of Policy 10 of NPSET, which is "to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network..."

1088. Therefore, we reject the submissions of *HNZ* (OS1090.19) and *Federated Farmers* (OS919.106) in support of Policy 5.2.1.2, and the submissions of *the Oil Companies* (OS634.1), *Federated Farmers* (OS919.107) and *HNZ* (OS1090.20) in support of Policy 5.2.1.3. We reject *Waste Management*'s (OS796.15) request that Policy 5.2.1.3 be amended to add a reference to the relevant rule, for the reasons referred to by Mr Rawson, and discussed in the Plan Overview Decision (see the response to OS1090.26 in section 3.2.7 of that decision). We reject *RNZ*'s request (OS918.25) that the policy be amended to refer to 'network utilities' rather than 'National Grid', given that this would imply that setback rules applied to utilities other than the National Grid; in response to other submissions from *RNZ* and *Aurora* discussed in the two subsequent sections of this report, we have decided that minimum setbacks should not be applied to other utilities.

4.4.2.6.3 Decisions on Rules 5.6.1.1 and 5.6.1.2

1089. We accept in part the submission points requesting changes to Rule 5.6.1.1 made by *Transpower* (OS806.11), *Aurora* (OS457.23), *Vodafone NZ Ltd* (OS576.54), *Spark* (OS923.54), *Chorus* (OS925.54), *NZFS* (OS945.15) and *HNZ* (OS1090.21), and we also accept in part *Transpower*'s requested changes to Rule 5.6.1.2 (OS806.11), to the extent that we broadly agree with the revised recommendations for changes to Rules 5.6.1.1 and 5.6.1.2 in response to these submissions given by the Reporting Officers at the close of the reconvened hearing.

1090. Therefore, we reject the submission point from *Federated Farmers* (OS919.109) requesting that Rule 5.6.1.1 be retained as notified, and we accept in part the submissions from *Aurora* (OS457.50), *Vodafone* (OS576.55), *Spark* (OS923.55) and *Chorus* (OS925.55) requesting the retention of the exemption of earthworks ancillary to network utilities from the setback in Rule 5.6.1.2. We note that this exemption is modified in our decision, so that it includes only earthworks ancillary to a network utility operation as defined in RMA section 166.

1091. The Reporting Officer's recommendations did not address Transpower's request (made as part of OS806.11) that all network utility activities (not only "above ground" utilities, as notified) should be subject to the setback from the National Grid set out in Rule 5.6.1.1. We consider that all utilities should be subject to the setback, given that underground utilities near the National Grid could also compromise its functioning. We note that many underground utilities will be exempt from this setback in any case, if they meet the conditions of the exemption in Rule 5.6.1.1.b.i. We agree with the submitter that it is appropriate that underground utilities that do not meet this exemption are subject to the setback.

1092. We have received technical advice from Dr Anna Johnson, the DCC City Development Manager, in relation to issues with the drafting of provisions to implement the Reporting Officer's recommendations. Based on Dr Johnson's advice, our decision differs from the officers' recommendations, for reasons set out in the following subsections, in relation to:

- exemption of certain structures that comply with NZECP34:2001
- treatment of irrigation and stock water structures
- treatment of farming and horticultural buildings and structures, and
- aspects of the setback rule for earthworks.

4.4.2.6.3.1 Exemption of structures that comply with NZECP34:2001

1093. Under the proposed rules discussed at the reconvened hearing, certain structures would be exempt from the required setback from the national grid if they met either the requirements of NZECP34: 2001 NZ Electrical Code of Practice for Electrical Safe Distances, or an alternative vertical clearance distance requirement. Dr Johnson noted that the Code sets out a range of safe distances for different types of activity (buildings, earthworks etc.) from different types of infrastructure; in many cases the Code states

that "prior written consent of the infrastructure owner shall be obtained" for activities that do not meet these distances. Therefore, in certain circumstances – i.e. where safe distances are not met – written consent from Transpower would be a necessary part of meeting the requirements of the Code.

1094. This creates a difficulty for 2GP provisions, because compliance with a performance standard in a district plan should not be dependent on third party consent. To resolve this issue, we have revised the wording of Rule 5.6.1.2 as shown in Appendix 1, so that the exemption only applies where activities meet the safe distances set out in the Code, and the written consent of Transpower is not required to meet the Code.

4.4.2.6.3.2 Treatment of irrigation and stock water structures

1095. As discussed in section 4.2.7, as a result of the s42A recommendation in response to submissions on the definition of Network Utilities, some confusion arose over the question of whether irrigation structures were to be treated as network utilities for the purposes of the 2GP. However, our decision, as set out in that section, is that irrigation and stock water systems are **not** to be treated as network utilities in the Plan.

1096. As a result, these systems would only be subject to national grid setback rules if they met the Plan's definition of 'structures' (i.e. were permanently fixed to the land or were over a certain size and were left in place for over a year). Some elements of irrigation and stock water systems would be likely to meet this definition, including river intake structures and wells, and permanent elements of centre-pivot or lateral pivot systems.

1097. Based on feedback on drafting from *Transpower* and *HNZ* received after the reconvened hearing, Dr Johnson advised that it would be appropriate to include an additional exemption for irrigation and stock water systems from setbacks from national grid lines, i.e. Rule 5.6.1.1.b.v which covers "structures associated with irrigation or the supply of stock water, including the reticulation and storage of water, provided that they do not permanently obstruct existing vehicular access to a National Grid support structure". This replaces the previously recommended exemption for 'mobile irrigators', which is unnecessary given that mobile irrigators would not be treated as 'structures' and would, therefore, not be subject to national grid setback provisions at all. We agree that this amendment improves the clarity and workability of the rules.

4.4.2.6.3.3 Treatment of farming and horticultural buildings and structures

1098. For the sake of clarity, Dr Johnson advised that the exemption from the setback from lines for uninhabited farming or horticultural buildings (in Rule 5.6.1.1.b.iv) be redrafted as follows, and that the following associated amendment be made to the definition of Residential Buildings:

> Rule 5.6.1.1.b.iv
>
> iv. farming or horticultural buildings that are not used for intensive farming, milking/dairy sheds, produce packing facilities or commercial greenhouses, and that are not residential buildings
>
> Definition of Residential Buildings
>
> A building that is, or will be, used entirely or in part, for residential activity and contains one or more residential units or, for the purposes of hazards or National Grid related rules, any sleeping accommodation.

1099. We agree that this advice improves the clarity of the rule. We note that disagreement between submitters remains over whether only 'post-harvest' packing facilities should be excluded from the exemption (as requested by *HNZ*) or whether all packing facilities should be excluded (as requested by *Transpower*). In the absence of a clear, effects-based definition of what constitutes a 'post-harvest' packing facility – i.e. a definition that would be directly related to the scale of the facility, its frequency of use and thus its potential to compromise the National Grid, we agree with *Transpower* and the Reporting Officers that the more precautionary approach should be taken and therefore "produce packing facilities" in general should not be exempt from the setback.

4.4.2.6.3.4 Aspects of the setback rule for earthworks

1100. Dr Johnson noted that notified Rule 5.6.1.2.a.ii ("Earthworks within 12m of a national grid support structure or transmission line must ... not compromise the stability of any national grid support structure") was insufficiently clear and objective for a performance standard. The requirement to "not compromise the stability…" is not directly measurable and would, therefore, create uncertainty as to how to determine whether an activity complies with it. As a result, it would be difficult to implement, and potentially subject to legal challenge.

1101. Scope to amend Rule 5.6.1.2.a.ii is provided by *Transpower*'s submission, which requests that this element of the rule be deleted and replaced with a requirement that earthworks do not "create an unstable batter that will affect a National Grid support structure". Dr Johnson considered that *Transpower*'s requested replacement rule was also insufficiently objective for a performance standard; however, in her view, the separate 2GP rules that control the gradient, and thus the stability, of batters throughout the city already achieve the outcome that *Transpower seek*. In the notified plan, these rules are located in the management zone sections – see for example notified Rule 16.6.1.3 Batter gradient in Section 16: Rural Zones, which states:

> *1. Earthworks must:*
>
> *a. have a maximum cut batter gradient of 1:1 (i.e. rising 1m over a 1m distance); and*
>
> *b. have a maximum fill batter gradient of 2:1 (i.e. rising 1m over a 2m distance).*

1102. Therefore, she considered that, to address this drafting issue, it would be within scope not to transfer notified Rule 5.6.1.2.a.ii to the new Rule 8A.3.1.5 Setback from National Grid (earthworks); and instead to rely on the Batter gradient rules to provide alternative relief to *Transpower*'s request. We agree that this is an appropriate drafting solution.

1103. Another drafting issue arose in relation to the activity status of earthworks that do not meet the national grid setback. The Reporting Officers' revised recommendation, given at the reconvened hearing, was that the activity status of earthworks that contravene setback should be:

- restricted discretionary if they meet the requirements of with Section 2 of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001), and
- non-complying if they do not meet these requirements.

1104. This recommendation was made as a compromise position required by the scope of submissions. Having heard the submitters' evidence, the officers were of the view that the earthworks setback should be amended to align with the (less restrictive) thresholds set out in Section 2 of the NZECP – but there was no scope in submissions to achieve this. The only available scope relates to activity status of contraventions; the notified activity status is restricted discretionary, and *Transpower*'s submission (OS806.11) requests that it be made non-complying.

1105. However, during the drafting of provisions, Dr Johnson noted that the officers' recommended approach would result in content within the performance standard that was complicated, difficult to understand, and unusual in terms of 2GP drafting. Therefore, she advised that contraventions should always be restricted discretionary, but with a clear statement in assessment rules that "The Council will generally refuse consent if earthworks do not comply with Section 2 of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001)."

1106. We agree with Dr Johnson that this option is clearer and simpler and achieves the best outcome available within the scope of submissions, by on the one hand providing for earthworks that comply with NZECP Section 2, and on the other clearly stating that earthworks that do not comply with NZECP Section 2 are unlikely to be consented.

4.4.2.6.4 Decisions on management of subdivision near the National Grid

1107. We accept in part *Transpower*'s request (OS806.11) for amendments to the Plan's approach to the management of subdivision near the National Grid, to the extent that, on the whole, we agree with the revised recommendations in response to the submission given by the Reporting Officers at the close of the reconvened hearing. These provide a workable compromise, providing protection of the National Grid, while allowing owners of land crossed by transmission lines to put forward proposals for subdivision and have them assessed taking account of identified issues. In summary, these recommendations were that: subdivision should generally be a restricted discretionary activity within the National Grid Corridor, with matters of discretion including effects on health and safety, reverse sensitivity effects and effects on the efficient and effective operation of network utilities; except that where the subdivision involves a building platform within 12m of National Grid infrastructure the activity status should be non-complying; and that a single policy should apply in both situations (Policy 5.2.1.4 as recommended in the Reporting Officers' memorandum for the reconvened hearing).

1108. In relation to the drafting of the policy framework for subdivision near the National Grid, Dr Johnson advised us that it would align better with the policy drafting protocol, and similar policies in the Plan, to split recommended Policy 5.2.1.4 into two separate policies; one for subdivision in the National Grid Corridor as a restricted discretionary activity, and the other to apply when the performance standard relating to locating building platforms 12m from National Grid infrastructure was contravened. We have adopted Dr Johnson's advice on this matter, in the form of new Policies 5.2.2.3 and 5.2.2.4 (the renumbering of these policies is affected by our decision set out in section 4.4.1 to create a new objective relating to the management of activities near network utilities).

4.4.2.6.5 Decisions on mapping

1109. As part of our decision on the management of subdivision, we accept *Transpower's* request (OS806.11) that planning maps be amended to show the National Grid Corridor, being the area:

- 16 metres from the centre line of a 110kV national grid transmission line on pi poles; or
- 32 metres from the centre line of a 110kV national grid transmission line on towers or mono-poles; or
- 37 metres from the centre line of a 220kV national grid transmission line on towers.

1110. This has been added to maps in a new layer named the "National Grid Corridor Mapped Area", which is referred to in relevant policies (Policies 5.2.2.3 and 5.2.2.4) and assessment rules (Rule 5.8.5, and assessment rules in management zone sections that refer to Rule 5.8.5). We do not consider it necessary to also add a definition to the Plan describing the extent of the National Grid Corridor, as requested by *Transpower* (OS806.11).

4.4.2.6.6 Other decisions

1111. We accept in part *Transpower*'s requested amendment (OS806.40) to assessment rules for non-complying network utility activities to refer to a new policy that recognises the importance of the National Grid. We consider that our decision, discussed in section 4.2.1.2 of this report, to amend Strategic Directions (Objective 2.3.1) to better recognise the economic and social importance of network utilities in general, and to refer to Objective 2.3.1 in assessment rules, provide alternative relief to this point.

1112. We reject *Transpower*'s request (OS806.50) for amendments to the Transitional Provisions section of the Plan, to add reference to the National Grid Corridor, on the basis that, as noted by Mr Rawson in the s42A Report, the National Grid does not intersect with any of the transitional overlays and, therefore, such amendments are unnecessary.

1113. We accept *Transpower*'s concerns about the adequacy of s32 analysis of notified provisions (OS806.62) at least as far as how the analysis above was summarised in the s32 Report. However, we believe these concerns have been addressed through the collaborative and open-minded approach the various parties, including the Council, have taken to try to find agreement on provisions around this topic. This gives us confidence that our decisions are appropriate in terms of our requirements under s32AA. The Panel has greatly appreciated the assistance of the submitters' witnesses, the Council Reporting Officers, and Dr Johnson acting as Senior Planner providing technical advice on implementing our decisions on these complicated provisions.

1114. We accept *Transpower*'s request (OS806.3) that that the Plan be amended to highlight the requirements of New Zealand Electrical Code of Practice for Electrical Safe, Distances (ECP34:2001), which sit outside the Plan. Rather than adding details of the code to section 1.1.5 (as was requested), we have instead added new note 5.6.1A to the 'Setback from National Grid' performance standard. This change is attributed in Appendix 1 to Transpower's wider submission point – 806.11 – but we consider that it also provides relief to OS806.3.

4.4.2.6.7 Amendments to provisions

1115. The amendments to provisions required for these decisions are as follows.

- Add a new definition of National Grid and amend definition of National Grid Support Structure in consequence (NU 806.10).
- Delete Policy 5.2.1.2 (NU 806.26).
- Amend Policy 5.2.1.3 (now renumbered 5.2.2.2, as discussed in section 4.4.1 above) so that it manages sensitive activities, hazardous substances, buildings, structures, public amenities and above ground network utility activities and to add effects tests for "adverse effects on the operation, maintenance, upgrading and development of the national grid" and reverse sensitivity effects (NU 806.26 and 806.11).
- Amend assessment rules that paraphrase Policy 5.2.1.2 or Policy 5.2.1.3 (Rules 5.7.4.1.b and 5.10.4.5), to reflect the new wording of Policy 5.2.2.2 (NU 806.26 and 806.11).
- Amend Rules 5.6.1.1 and 5.6.1.2 as shown in Appendix 1 (NU 806.11, NU 576.54 and NU 1090.21), and consequently amend the description of the setback of earthworks from the National Grid in Rule 5.6.2.a (NU 806.11). Add new Note 5.6.1A (NU 806.11).
- Amend the definition of Residential Building so that it applies to building that contain sleeping accommodation, for the purposes of National Grid-related rules (NU 806.11)
- Amend assessment Rule 5.7.4.1.b to indicate that, in the case of earthworks that contravene the setback from the National Grid (Rule 5.6.1.2), "The Council will generally refuse consent if earthworks do not comply with Section 2 of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001)." (NU 806.11)
- Add new Policy 5.2.2.3, applying to the location of building platforms for subdivision activities in the National Grid Corridor Mapped Area (NU 806.11):

  Require subdivision activities in the National Grid Corridor mapped area to be designed so that any necessary building platforms are located a sufficient distance from the National Grid to ensure that:
  a. adverse effects on the health and safety of people are avoided;
  b. adverse effects on the operation, maintenance, upgrading and development of the National Grid are avoided or, if avoidance is not practicable, insignificant; and
  c. the potential for reverse sensitivity is avoided or minimised as far as practicable

- Add new Policy 5.2.2.4, applying to all subdivision activities in the National Grid Corridor Mapped Area (NU 806.11):

  Only allow subdivision activities in the National Grid Corridor mapped area where the subdivision is designed to ensure that any associated future land use and development will:

  a. avoid adverse effects on the health and safety of people;
  b. avoid or, where avoidance is not practicable, have not more than insignificant effects on the operation, maintenance, upgrading and development of the National Grid; and
  c. avoid or minimise as far as practicable the potential for reverse sensitivity.

- Add new Rule 5.8.5 Assessment of subdivision activities in the National Grid Corridor Mapped Area, and amend Rules 15.10.5, 16.10.5, 17.10.5, 18.10.5, 19.10.5 and 20.10.5 to refer subdivision activities in the National Grid Corridor Mapped Area in all management zones to this rule. Consequently, amend Rule 5.8.1.3 to refer to new Rule 5.8.5 (NU 806.11).
- Amend Rules 15.7.6, 16.7.5, 17.7.6, 18.7.5, 19.7.5 and 20.7.5 (the Shape performance standards that are applied to subdivision and located in the Plan's management zone sections) to require that sites created by subdivision must be capable of containing a building platform that is located at least 12m from the outer edge of a National Grid support structure or centreline of an overhead National Grid transmission line, and to apply non-complying activity status to contraventions of this standard (NU 806.11).
- Amend Rule 5.10.4.5 (Assessment of non-complying performance standard contraventions) to include contraventions of the Shape performance standard (applying to subdivision) and to add paraphrasing of new Policy 5.2.2.3 (NU 806.11). Consequently, delete Rule 5.10.4.5.g, because its content is covered by new Policy 5.2.2.3 (and by the paraphrasing of that policy at Rule 5.10.4.5.c) (NU 806.11).
- Amend the relevant assessment rules in the management zone sections (Rules 15.12.5, 16.12.6, 17.12.6, 18.12.5, 19.12.5 and 20.12.5) to cross-reference to Rule 5.10.4.5 (NU 806.11).
- Amend planning maps to include the National Grid Corridor Mapped Area, as described in the decision above (NU 806.11).

1116. Amendments are shown in Appendix 1.

4.4.3 Requests for the plan to manage activities near Critical Electricity Lines

4.4.3.1 Submissions and Section 42A Report recommendations

1117. *Aurora Energy Limited* (OS457.219) requested that the Plan be amended to manage activities taking place in the vicinity of "Critical Electricity Lines", which include electricity distribution lines in Dunedin that "are not covered by the National Policy Statement on Electricity Transmission and that are or have the potential to be crucial to the region's quality, reliability and security of electrical supply". Maps of these lines were supplied with *Aurora*'s submission and were requested to be added to 2GP maps. The lines include:

- all 33kV sub-transmission and distribution overhead lines and underground cables
- East Taieri 3 - 11kV overhead line
- 11kV line serving Dunedin Airport
- 11kV line serving the Port of Otago
- 11kV line serving the University Campus
- 11kV line serving Dunedin Hospital

- 11kV pylon line across the Otago Harbour, and
- 11kV submarine cable located within the Otago Harbour.

1118. *Aurora* (OS457.219) requested that, to protect the integrity of these lines and their ability to provide a safe, secure and efficient supply of electricity, new rules be added to the Plan to:

- require (subject to some exemptions) minimum setbacks of 10-20m for buildings, structures, earthworks, shelterbelts, forestry and commercial horticultural operations from any Critical Electricity Line or designated substation identified on planning maps, with restricted discretionary status applied to activities that do not comply with this standard (Submission, pp21-22), and
- apply restricted discretionary activity status to subdivision occurring within 32m of the centre line of a Critical Electricity Line or designated substation to allow potential reverse sensitivity effects to be managed (Submission, pp22-23).

1119. *Aurora* (OS457.219) also requested a range of other related amendments, including:

- amendments to Policy 5.2.1.2 and Policy 5.2.1.3, which require management of the effects of activities in the vicinity of the National Grid on health and safety and on the safe and efficient operation of the utility, so that they also apply to activities in the vicinity of Critical Electricity Lines (Submission, p. 13)
- new definitions for Critical Electricity Line, Electricity Distribution and Electricity Distribution Line Corridor (Submission, pp. 6-7)
- an amendment to the notification rule (Rule 5.4) to require Aurora to be considered as an affected party, where its written approval is not provided, for resource consent applications that contravene the requested setback from Critical Electricity Lines (Submission, p. 15), and
- amendments to assessment rules to guide assessment of contraventions of the requested setback rule, with matters of discretion including: the use, design and location of buildings; the mature size, growth rate, location and fall zone of any associated tree planting; compliance with NZECP34:2001; effects on public health and safety; and effects on Critical Electricity Lines, designated substations and associated infrastructure for maintenance purposes (Submission, pp.24-25).

1120. The various aspects of *Aurora*'s submission point OS457.219 were supported or supported in part by *Trustpower Limited* (FS2127.5, FS2127.13, FS2127.40, FS2127.42, FS2127.44, FS2127.45), but opposed by *Federated Farmers of New Zealand* (FS2449.7 and FS2449.18), *Horticulture New Zealand* (FS2452.18, FS2452.3) and *Transpower New Zealand Limited* (FS2453.2, FS2453.19, FS2453.20, FS2453.23, FS2453.24, FS2453.25). However, *Transpower (*FS2453.3) supported Aurora's requested definition of Electricity Distribution.

1121. In related submission points, *Aurora* also sought that a new definition for Regionally Significant Infrastructure be added to the Plan (OS457.75), on the basis that such definitions are used in other District Plans in New Zealand and provide greater certainty about the nature and types of infrastructure that is significant on a regional scale. The requested definition is as follows (Submission, pp. 8-9):

Regionally significant infrastructure is:

1. *Strategic land transport network and arterial roads*
2. *Dunedin Airport*
3. *Port Otago*
4. *Telecommunication facilities*
5. *Electricity generation, transmission and distribution networks*
6. *Sewage collection, treatment and disposal networks*
7. *Community land drainage infrastructure*

8. *Community potable water systems*
9. *Established community-scale irrigation and stockwater infrastructure*
10. *Transport hubs*
11. *Bulk fuel supply infrastructure including terminals, wharf lines and pipelines.*
12. *Life line utilities as defined in the Civil Defence and Emergency Management Act.*

1122. *Radio New Zealand Limited* (FS2332.3), *Waste Management (NZ) Limited* (FS2444.21) and *Transpower New* Zealand *Limited (*FS2453.8) supported this requested definition, in full or in part.

1123. The Reporting Officer, Mr Rawson, noted that the network of Critical Electricity Lines identified in Aurora's submission extends throughout a large part of the city including through rural, residential, commercial and mixed use and industrial zones.

1124. While he agreed with *Aurora* that it was important to protect the integrity of their high voltage and critical distribution lines, he considered that the requested new rules may have significant adverse effects on landowners. He was concerned that there had been insufficient time for him to appropriately assess the costs and benefits of the requested changes to the Plan by:

- undertaking research on the effects of the proposed approach
- considering alternatives, and
- consulting with affected landowners on the implications of the approach.

1125. He also noted that not all electricity infrastructure in Dunedin was owned by *Aurora*, and that other mechanisms such as easements were available to electricity distributors to protect their infrastructure (s42A Report, section 5.3.1). Therefore, he did not recommend that the provisions requested by *Aurora* be added to the Plan.

1126. However, he did recommend, in response to a submission from RNZ discussed in Section 4.4.4 below, that Policy 5.2.1.3 be amended as follows (4 July Addendum to the s42A Report, section 5.2.3):

> *Require sensitive activities, hazardous substances, and earthworks to be set back an adequate distance from the national grid network utilities to ensure:*
>
> *a. adverse effects on the health and safety of people are avoided; and*
>
> *b. adverse effects on the safe and efficient operation of network utilities, including from reverse sensitivity, are avoided or, where avoidance is not possible, are insignificant.*

1127. Mr Rawson stated: "it is possible that a variation or plan change may be initiated in the future to amend the 2GP in order to achieve the outcomes sought by Aurora; any new rules to protect Aurora's infrastructure from adverse effects from nearby activities could be linked to Policy 5.2.1.3 *[as amended by the recommendation above]*" (4 July Addendum to the s42A Report, section 5.2.3, p. 3).

1128. Alternatively, Mr Rawson noted that the approach recommended in response to RNZ's submissions requesting amendments to the Plan to protect their infrastructure from third party activities (discussed in section 4.4.4 below) may also be appropriate as a means of protecting Critical Electricity Lines (4 July Addendum to the s42A Report, section 5.4.1). Briefly, under this approach:

- a buffer zone around RNZ's infrastructure is added to planning maps (the "Radio Transmitters Mapped Area")
- when subdivision and other potentially sensitive activities (that require consent for other reasons) are proposed within this buffer zone, RNZ is treated as an affected party unless their written approval is provided, and the activity is assessed against amended Policy 5.2.1.3, as shown above.

1129. This approach does not add a resource consent requirement to any activity, but ensures that when consent is already required for a potentially sensitive activity in the vicinity of *RNZ*'s infrastructure, relevant effects are managed.

1130. Mr Rawson noted that while *Aurora* manage the electricity distribution network for most of Dunedin's urban areas as well as some rural areas, OtagoNet are the electricity network services provider for northern and western areas of Dunedin district, including Middlemarch, Waitati and surrounding areas. OtagoNet's assets are managed by PowerNet. Therefore, he recommended that this option be explored in consultation with all critical electricity line providers in the city.

1131. In regard to *Aurora*'s request for a new definition for Regionally Significant Infrastructure (OS457.75), Mr Rawson agreed with *Federated Farmers of New Zealand* (FS2449.7) and *Horticulture New Zealand* (FS2452.3) that the significance of this type of infrastructure is addressed in existing National or Regional Policy Statements and/or elsewhere in the Plan and, therefore, the addition of this definition is unnecessary (s42A Report, section 5.3.1).

4.4.3.2 July 2016 hearing: evidence presented by submitters

1132. *Aurora Energy Limited* called Ms Joanne Dowd (Network Policy Manager), Mr Steve Sullivan (Asset Strategy Manager) and Ms Bridget Irving (legal counsel), all of whom tabled and presented evidence or submissions at the hearing.

1133. Ms Dowd indicated that *Aurora*'s network can be adversely affected by reverse sensitivity to the same degree as high voltage transmission lines (owned by *Transpower*) and stated (Evidence, p. 18):

> *Corridor protection is a term that relates to providing a buffer or separation between development and overhead electricity distribution and transmission lines. Aurora seeks to have identified electricity lines (33kV distribution lines and the identified strategic 11kV electricity lines) recognised within the Proposed 2GDP. Critical electricity lines are lines located throughout the Dunedin City, they are not covered by NPSET but have the potential to be crucial to the District and Region's quality, reliability and security of electrical supply. These electricity lines are crucial because they contribute to the social and economic wellbeing and health and safety of the region and are lines that:*
>
> i. *Supply essential public services; or*
>
> ii. *Supply large industrial or commercial electricity consumers; or*
>
> iii. *Supply high numbers of consumers; or*
>
> iv. *Are difficult to replace with an alternative electricity supply if they are compromised.*

1134. She noted that *Aurora* had made submissions to the Otago Regional Council to requested that its identified Critical Electricity Lines (CELs) be recognised as regionally significant and critical infrastructure. If these submissions were accepted, CELs would be subject to Proposed Otago Regional Policy Statement provisions that seek to "recognise the functional needs of infrastructure of regional and national importance" (Proposed Policy 3.4.1) and to "protect infrastructure corridors for infrastructure needs, now and for the future" (Proposed Policy 3.4.2).

1135. Ms Dowd indicated that *Aurora* was disappointed by the Reporting Officer's recommended rejection of its requests for rules to protect CELs, made on the basis that the provisions had been sought as part of a submission. She noted that discussions between Aurora and the Council in relation to the District Plan review began in December 2013. Consultation meetings were held between Tracey Wilmott, who was then Delta's Asset Strategy Manager and Council staff; during these meetings it was highlighted that Aurora sought to include corridor protection measures in the Plan (Evidence, p. 19).

1136. As part of this consultation, the Council was provided with a copy of the Environment Court Decision on NorthPower Limited's Plan Change 117 (also attached as Attachment D to Ms Dowd's evidence), which included details of the provisions which NorthPower had sought to include in the Whangarei District Plan. The provisions sought by Aurora mirror the NorthPower provisions. In addition, the formal response from Aurora on the draft utilities section of the Plan, submitted by BECA on the 5th March 2015, also signalled Aurora's intentions to include provisions to avoid reverse sensitivity effects on network utilities generally and in particular, Aurora's regionally significant infrastructure and electricity distribution network (a copy of submission was attached to Ms Dowd's evidence as Attachment E). This submission had specifically requested that:

> *Council shows the location of regionally significant infrastructure (such as Aurora's electricity distribution network) on the planning maps. Aurora also recommends that Council produces vegetation and planting limitation zones within close proximity to the network's assets,* particularly *substations, low voltage distribution and high-voltage sub-transmission lines. These zones would protect the network from incompatible land uses and reverse sensitivity effects.*

1137. Ms Dowd noted that, therefore, the Council had been alive to this issue for some time (Evidence, p. 20).

1138. Both Ms Dowd and Ms Irving noted that the NPSET provides a statutory framework to provide provisions in the 2GP for the protection of the National Grid, but that it does not preclude the Plan from providing corridor protection provisions for *Aurora's* electricity distribution lines, which they considered to be regionally and locally significant (Evidence of Ms Dowd, pp. 20-21, and Ms Irving's submissions, para. 36).

1139. Ms Dowd also indicated that the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34) is difficult to enforce, and the safe distances set out in the code are sometimes not adhered to. In her view, the public and landowners are more aware of, and familiar with, their obligations under the RMA; inclusion of corridor identification within the 2GP would thus ensure that people were aware of their obligations around this infrastructure. Reliance on NZECP34 would not, in her view, ensure that the relevant objectives and policies of the Proposed Otago Regional Policy Statement, referred to above, were achieved (Evidence, pp. 20-21).

1140. Mr Steve Sullivan emphasised the importance of CELs to electricity supply in Dunedin; given the number of customers supplied from each of the high voltage lines, the failure of any one of these lines has a far greater impact than the failure of one, or indeed many, low voltage lines. Aurora's high voltage lines are critical to its network and critically important to the city and region. He noted that, in recognition of the role *Aurora* plays to ensure distribution of a reliable and secure supply of electricity, it was classified as a Lifeline Utility in the Civil Defence Emergency Management Act 2002 (Evidence, para. 3.7).

1141. He emphasised that protection was sought not for the whole of Aurora's network, but only for the most critical lines (which made up approximately 9% of the total Dunedin network).

1142. Mr Sullivan considered that, in the absence of the corridor protection rules requested by *Aurora*, there is a risk of development under or in close proximity to high voltage lines; no other legislation applicable to the lines provides a suitable safeguard from development that may put this infrastructure at risk (Evidence, para. 5.3).

1143. He explained that the Electricity Act 1992 provides some protection for lines that were legally installed under previous Acts and Regulations i.e. before 1992. It provides a right to occupy exclusively the space occupied by the lines, and to operate, inspect, maintain, replace and upgrade the lines, because the lines have the status of "existing works" under the Electricity Act 1992. These rights are sometimes referred to as statutory easement rights or existing use rights.

1144. However, the Act does not include detailed obligations for landowners under the lines and does not prevent "underbuild", or other land uses incompatible with the ongoing use and maintenance of the lines. Therefore, it is possible that buildings could be

constructed, and other activities undertaken, beneath the lines. Overall, he considered that the Act, on its own, does not afford sufficient protection for lines from nearby activities (Evidence, para. 5.4-5.6).

1145. Mr Sullivan explained that the New Zealand Electrical Code of Practice 34 (NZECP34:2001) also governed the use of lines corridors. The Code sets minimum safe electrical distance requirements for overhead electric line installations. The Code states that the minimum safe distances have been set primarily to protect persons, property, vehicles and mobile plant from harm or damage from electrical hazards. However, the distances established in the Code do not prevent the underbuild near the lines that *Aurora* seeks to prevent, and there had been numerous cases on the Aurora network of building having occurred under high voltage lines (Statement of Evidence, para. 5.7-5.13).

1146. Mr Sullivan indicated that having structures underneath lines can cause various issues, including:

- risk of damage and electrocution from line failure
- increased time, cost and safety risk when replacing, maintaining and inspecting conductors and support structures
- possibility that accessory structures (e.g. aerials) will be added to structures under lines, thereby increasing risks to landowner and security of electricity supply
- maintaining buildings under lines, in particular replacing roofing and guttering, is hazardous and can be fatal, and
- exposure of buildings under lines to noise associated with lines (from wind, electrical discharges/crackling and rain dripping off lines) (Evidence, para. 5.17).

1147. In relation to earthworks, Mr Sullivan stated that *Aurora Energy Limited* sought to have the minimum distances of excavation from support structures, which were set out in NZECP, repeated in the 2GP; but in plain English terms. He noted that *Aurora* often found developers and contractors undertaking excavation work prohibited by the Code; when questioned they indicated they were unaware of the Code or simply did not want to read it (Evidence, para. 5.18-5.19).

1148. Mr Sullivan described the adverse effects that arise when earthworks are located too close to support structures (Evidence, para. 5.20). These include:

- destabilisation
- risk of contact with conductors, which posts a significant safety risk
- replacement and maintenance activities hindered, and additional hazards for staff undertaking these activities, and
- piles of soil left under lines, reducing clearance distances and creating safety risks for workers and the public (particularly for children climbing on piles) (Statement of Evidence, p. 19).

1149. Ms Bridget Irving (counsel) submitted that the Proposed Otago Regional Policy Statement (PRPS) – specifically, Objective 3.4 and Policies 3.4.2-4, and Objective 3.6 and Policy 3.6.5 – provided a clear direction to:

- protect distribution (not just transmission) infrastructure, and
- restrict the establishment of activities that may result in adverse effects on distribution infrastructure.

1150. She considered that the Plan, both as notified and incorporating s42A recommended amendments, did not achieve this, and that the addition of requested provisions to protect CELs (among other changes requested in *Aurora*'s submissions) were necessary to do so (Evidence, para. 11-12). She also considered that protection of CELs was necessary to achieve the objectives of the 2GP itself, such as Objective 2.2.2 and Objective 5.2.1.

1151. Ms Irving noted that the Reporting Officer had recommended rejection of Aurora's requested provisions to identify and protect CELs for the following reasons:

- proposed rules may have adverse effects on landowners
- there had been insufficient time to undertake research on the effects of the proposed approach
- other companies also have infrastructure in the district, and
- there are other mechanisms for protecting the infrastructure, e.g. easements.

1152. She examined each of these matters in turn.

1153. In relation to effects on landowners, Ms Irving noted that the relief sought by *Aurora* was no more restrictive than NZECP34 requirements. The addition of the requested provisions to the Plan would make landowners more aware of these requirements (Evidence, para. 21-24).

1154. In relation to the lack of time to undertake research, Ms Irving noted firstly that submissions are the manner in which interested parties can seek changes to a proposed plan, and that it should be anticipated that they may propose options that the Council had not previously thought of. Secondly, she reiterated that the Council had been aware of the proposed request when *Aurora* provided feedback on the draft utilities section in March 2015 and considered that this should have provided sufficient time to investigate and consult with landowners about the request. Finally, she considered that, even if the proposed option had only been requested in submissions, the Council were obliged to assess it and failure to do so was a significant deficiency in the s42A Report – so much so that the recommendation to reject the submission should be ignored (Evidence, para. 27-29).

1155. In relation to fact that distribution infrastructure is also operated by other companies, Ms Irving agreed with this but did not consider it a valid reason to reject Aurora's request. Other companies could seek amendments to maps later, via a plan change, so that their infrastructure would also be protected by the requested rules (Evidence, para. 30-31).

1156. Finally, in relation to the Reporting Officer's comment that other mechanisms such as easements are available to protect infrastructure, Ms Irving acknowledged that *Aurora* obtains easements to protect most of its new infrastructure, but that almost none of its infrastructure installed prior to 1992 was secured by easements (Evidence, para. 32). While it would be possible for Aurora to seek easements over all CELs, Ms Irving considered that this would be "hugely time-consuming and costly", because "landowners often expect some form of monetary compensation for granting an easement", and their expectations for compensation are "often well out of step with the degree of 'injurious affection' that is objectively assessed under the Public Works Act". If compensation could not be agreed, it would be possible for Aurora to seek designations over the affected land, and then compulsorily acquire it, but, in Ms Irving's view, in most cases "this would be taking a sledge hammer to a fly" (Evidence, para. 34).

1157. In the absence of easements or designations, Ms Irving noted that Aurora's ability to protect its infrastructure is limited to NZECP34:2001. She referred to the shortcomings of the Code discussed in Mr Sullivan's evidence, and also discussed the enforcement framework for the Code. Ms Irving noted that the Code is administered by WorkSafe, and she could not find any cases of WorkSafe, or its predecessor, initiating a prosecution for breaching the Code (Evidence, para. 33).

1158. We asked *Aurora Energy Limited's* representatives a number of questions which clarified that Aurora are not seeking any 2GP controls that are additional to the controls in NZECP (confirmed by Ms Irving) and new critical electricity lines are unlikely to happen very often as "new CELs are few and far between" (confirmed by Mr Sullivan).

1159. *Transpower* (FS2453) called Ms Ainsley McLeod (consultant planner), who supported the possibility raised by the Reporting Officer that alternative relief could be provided by protecting CELs via the approach recommended in relation to *RNZ*'s assets (see

details in section 4.4.3.1 above). She agreed with Ms Dowd and Ms Irving that, although the NPSET did not extend to local or regional distribution networks, it did not prevent a district plan from identifying or protecting corridors for distribution lines (Evidence, p. 50).

1160. Ms McLeod considered that, in determining the appropriateness of such corridors, additional regulation must be examined in relation to: significance of lines; nature and scale of effects to be managed; appropriate breadth of corridor; and the restrictiveness of rules to be applied in the corridor. Moreover, in her view, the approach taken to the management of distribution corridors (if any) should differ from the approach to the management of transmission corridors, to reflect the different significance of lines (Evidence, pp. 50-51).

1161. *Federated Farmers* (FS2449) called Mr David Cooper (Senior Policy Advisor) who supported the Reporting Officer's recommendation to reject *Aurora's* submission point (OS457.219). He agreed with the Reporting Officer that the proposed rules may have significant adverse effects on landowners and considered that local lines are excluded from the NPSET for that very reason. In his view, adding the proposed protections into the 2GP without appropriate consideration of the impacts on landowners would be irresponsible (Evidence, pp7-8).

1162. *Horticulture New Zealand* (FS2452) called Ms Lynette Wharfe planning consultant) who noted that the Board of Inquiry on the NPSET determined that distribution lines should not be included in the NPS as they were not of national significance.

1163. She did not support the Reporting Officer's suggestion that a variation or plan change may be initiated in the future to amend the 2GP in order to achieve the outcomes sought by *Aurora*, on the basis that, because activities adjacent to CELs need to comply with NZECP34:2001, additional protection through the 2GP was not required.

1164. Ms Wharfe opposed the corridor protection requested by *Aurora* because, in her view, it is a blunt tool that restricts use of land within the corridor, it is only one mechanism that may be used to protect the network, and it involves the district plan "picking winners" with the costs to be borne by others in terms of restrictions on development opportunities. (Evidence, pp. 7-8).

1165. Following appearances and evidence heard at the hearing, the Reporting Officer clarified that OtagoNet was the electricity distributor that served the northern and western areas of Dunedin district, including Middlemarch, Waitati and surrounding areas. OtagoNet's assets were managed by PowerNet and, therefore, OtagoNet were the owner of the assets in these areas that are the equivalent to *Aurora Energy Limited's* 'Critical Electricity Lines' in the rest of the DCC area (Revised Recommendations, p. 16).

1166. The Reporting Officer also indicated that DCC Building Control had confirmed that they do not consider or provide advice on the requirements of NZECP34:2001 when processing building consents or project information memoranda (PIMs).

1167. He suggested that if the Panel required further information on the options set out in the s42A addendum (i.e. protection of CELs via the same method recommended for RNZ's assets, or alternatively consideration of Aurora's requested corridor protection via a variation or plan change process), DCC staff could undertake consultation with PowerNet and affected landowners and come back to the Panel with a more detailed recommendation (Revised Recommendations, p. 16).

4.4.3.3 Decision and Reasons

1168. While we understand *Aurora*'s concerns, we reject *Aurora's* request (OS457.219) to add a policy and rule framework to provide corridor protection for *Aurora's* strategic electricity distribution assets. We are more persuaded by the evidence of the Reporting Officer Mr Rawson and Ms Wharfe for *Horticulture New Zealand* (FS2452) that there are better mechanisms to address *Aurora*'s concerns, which include the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP 34:2001) and easements to protect these strategic electricity distribution assets.

1169. During deliberations we received technical advice from Mr Paul Freeland, DCC Senior Planner, who suggested that the Council could assist in raising awareness of the requirements of NZECP34 by adding the 11kV and 33 kV lines and cables managed by *Aurora* and *PowerNet* to the 2GP Data map (which is for information only, and is not part of the 2GP). This would alert Plan users to the fact that work in the vicinity of these lines and cables will require compliance with the NZECP. This is a similar approach to the archaeological overlay which maps areas in Dunedin which have the potential to contain archaeological sites. Mr Freeland also suggested the addition of an advice note to 'Note 5.3A Other requirements outside of the District Plan' as follows:

> *The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to electricity transmission and distribution lines. Compliance with this code is mandatory. Compliance with this plan does not ensure compliance with NZECP 34:2001.*

1170. Both of these amendments may be undertaken under Clause 16 of the First Schedule to the RMA; they do not change the effect of Plan provisions.

1171. We consider that this approach is preferable to the changes sought by *Aurora*, because it:

- highlights to Plan users the location of the 11kV and 33 kV lines and cables managed by *Aurora Energy Limited* and PowerNet, and associated with this the existence of NZECP34
- avoids the risk of the 2GP controls becoming out of date if NZECP34 changes or new critical electricity lines are constructed
- does not involve the DCC taking on WorkSafe's compliance responsibilities for enforcement of the code.

1172. We reject *Aurora*'s request (OS457.75) for a new definition for Regionally Significant Infrastructure. We agree with *Federated Farmers* and *HNZ* that the significance of this type of infrastructure is addressed in existing National or Regional Policy Statements and/or elsewhere in the 2GP and, therefore, including this definition is unnecessary.

4.4.4 Requests for the plan to manage activities near radio transmitters

4.4.4.1 Submissions

1173. *Radio New Zealand Limited (RNZ)* (OS918.17, OS918.43, OS918.50, OS918.52, OS918.53, OS918.55, OS918.56 and OS918.57) sought amendments to the Plan to manage the reverse sensitivity effects of activities taking place in the vicinity of their radio transmitters at 740 Highcliff Road and 35 Karetai Road, on the Otago Peninsula.

1174. These amendments included the following.

- A requirement for new residential buildings to be located at least 1km from the radio transmitters (OS918.52).
- A requirement for *RNZ* to be treated as an affected person (where their written approval is not provided) with respect to resource consent application for "subdivision or sensitive activities" proposed within 1km of the radio transmitters (OS918.50). This point was opposed by *Federated Farmers of New Zealand* (FS2449.331).
- Associated amendments to assessment rules (OS918.53, OS918.55, OS918.56 and OS918.57), and to the definition of 'sensitive activities' (OS918.17). OS918.57 was opposed by *Harboursides and Peninsula Preservation Coalition* (FS2267.74) but supported by *Rural Contractors New Zealand Incorporated* (FS2450.42) and *AgResearch Limited* (FS2398.42).

1175. *RNZ* also sought the following changes to policies, which would be linked to its requested rules, but would have a broader scope.

- The addition of a new policy to the Rural Zones section of the plan to require "new sensitive activities such as residential buildings to be set back an adequate distance from network utilities to minimise the potential for reverse sensitivity effects on the network utilities" (OS918.43). This point was supported by *Aurora Energy Limited* (FS2375.24).
- Amendment to Policy 5.2.1.3 as follows (OS918.25):

  Require sensitive activities, hazardous substances, and earthworks to be set back an adequate distance from the ~~national grid~~ network utilities to ensure adverse effects on the health and safety of people are avoided and the potential for reverse sensitivity effects on infrastructure are minimised.

1176. *RNZ*'s submission on Policy 5.2.1.3 was opposed by *Federated Farmers* (FS2449.22) and *Horticulture New Zealand* (FS2452.14).

1177. In *RNZ*'s view, changing land use in the vicinity of the radio transmitters could result in future residents or occupiers of the land seeking to constrain the operation of *RNZ's* Facilities. *RNZ* considered that the 2GP should include more strongly-worded provisions that better recognised the need to avoid actual and potential conflicts between different land uses, and in particular provisions to avoid reverse sensitivity.

4.4.4.2 Section 42A Report

1178. The Reporting Officer, Mr Rawson, indicated that DCC officers had undertaken a teleconferencing call with *RNZ* in relation to their submission (4 July 2016 Addendum to S42A Report, Section 5.4.1, p. 7). During this meeting, it had been clarified that the proposed 1000m setback for residential buildings was based on complaints received by members of the public, regarding interference to electrical devices that were located in the vicinity of *RNZ* facilities. The Reporting Officer understood that the maximum distance, where complaints were received from around New Zealand, was approximately 850m; *RNZ* had rounded this figure up to 1000m. The effects reported by the public included interference with television reception; and, potentially, interference with broadband, telephone signals, burglar alarms and intercom units, where these were located near to a radio transmitter.

1179. *RNZ* had indicated, during the teleconferencing call that:

- there was no practical way of mitigating the effects of electrical interference (apart from distance), and as a consequence, landscaping or topography made no difference in relation to these effects; and
- these electrical interference effects were intermittent and variable and there was difficulty in predicting the duration, frequency or intensity of any such effect.

1180. In his response to *RNZ*, Mr Rawson noted that the requested 1km setback for residential buildings from transmitters at 740 Highcliff Road and 35 Karetai Road would cover an extensive area of land zoned Rural Hill Slopes and Rural Peninsula Coast (and some land zoned Rural Residential 2 and Township and Settlement zones). Over these areas various 2GP Section 16 (Rural Zone) rules were relevant to the consideration of the *RNZ* submission; including the boundary setback rule (16.6.11.1) that required a 40m setback from the side and rear boundaries, and a 20m setback from road boundaries for residential buildings; minimum density requirements (Rule 16.5.2) and the minimum site size for subdivision (Rule 16.7.4).

1181. Overall, the Reporting Officer did not consider that the requested 1km setback has been adequately justified and, therefore, recommended that *RNZ's* submission points relating to this requested rule and associated assessment criteria (OS918.52, OS918.53 and OS918.55) be rejected. He invited *RNZ* to provide further clarification, at the Hearing, on the scientific basis for the 1km setback, including the frequency and intensity of reported electrical interference effects, and detail of any possible mitigation measures.

1182. The Reporting Officer did, however, recommend that we accept in part *RNZ*'s submission point requesting affected party status in relation to resource consent

applications for activities near the radio transmitters that may give rise to reverse sensitivity effects (OS918.50). He considered this approach appropriate, given the potential for reverse sensitive effects arising from the establishment of sensitive activities in close proximity to *RNZ*'s infrastructure. To give effect to this, he recommended that notification and assessment rules in the Rural and Rural Residential Zones sections of the plan be amended so that:

- *RNZ* would be treated as an affected party for applications for subdivision activities, and for any potentially sensitive discretionary or non-complying land activities, within 850m of the transmitters, and
- potential effects on the efficient and effective operation of network utilities would be considered for these activities.

1183. In addition, the Reporting Officer recommended that Policy 5.2.1.3 be amended along the lines requested by *RNZ*, but with a different wording in order to better conform with the 2GP drafting protocols (4 July 2016 Addendum to S42A Report, Section 5.2.3, pp. 2-3). Given his recommendation to accept *RNZ's* submission point OS918.50 as set out in the previous paragraph of this report, he considered that it was appropriate that Policy 5.2.1.3 referred to all network utilities and not just the National Grid. Under this approach, the recommended new assessment rules would be drafted so that activities would be assessed against amended Policy 5.2.1.3.

4.4.4.3 July 2016 Hearing

1184. *RNZ* did not attend the Network Utilities Hearing. Ms Amy Hill (legal counsel) called by *RNZ*, tabled a statement and did not respond in detail to the s42A recommendations on activities near radio transmitters, but indicated that "*RNZ* maintains its position as set out in its submission" on this issue (para 6).

4.4.4.4 Plan Overview Reconvened Hearing December 2017

1185. At the Plan Overview Reconvened Hearing, 6 December 2017, the Reporting Officer Dr Anna Johnson made two sets of recommendations that are relevant to provisions to manage activities near radio transmitters.

1186. The first set of recommendations related to the management of reverse sensitivity, and included an amendment to the wording of Policy 5.2.1.3, as shown below:

> Earlier recommendation (NU s42A Report):
>
> Require sensitive activities, hazardous substances, and earthworks to be set back an adequate distance from ~~the national grid~~ network utilities to ensure: *{NU 918.25}*
>
> a. adverse effects on the health and safety of people are avoided~~.~~ ; and
>
> b. adverse effects on the safe and efficient operation of network utilities, including from reverse sensitivity, are avoided or, where avoidance is not possible, are insignificant. *{NU 806.11}*
>
> New recommendation (Reporting Officer report for the Plan Overview reconvened hearing):
>
> Require sensitive activities, hazardous substances, and earthworks to be set back an adequate distance from ~~the national grid~~ network utilities to ensure: *{NU 918.25}*
>
> a. adverse effects on the health and safety of people are avoided;
> b. adverse effects on the safe and efficient operation, maintenance, upgrading and development of network utilities are avoided or, where avoidance is not possible, are insignificant; and *{NU 806.11}*
> c. the potential for reverse sensitivity, is avoided or minimised as far as practicable. *{NU 806.11}*

1187. These recommendations would separate 'reverse sensitivity effects' out from 'effects on operation of network utilities', in keeping with the plan-wide recommendation to remove any wording from objectives and policies that referred to reverse sensitivity being 'to' or 'from' any activity; on the basis that this would be explained in the definition of 'reverse sensitivity' (Reporting Officer report for the Plan Overview Reconvened Hearing, paras 40-45). They would also amend the effects test for reverse sensitivity effects from 'effects are avoided or, where avoidance is not possible, insignificant' to 'the potential for effects is avoided or minimised as far as practicable'. This would be in keeping with the recommended revision to the Policy Drafting Protocol, to provide guidance that 'avoided or minimised as far as practicable' equates to a high level of strictness, and low tolerance of effects. Finally, the recommendations would align the wording of Policy 5.2.1.3 with that of other policies in the Plan that dealt with reverse sensitivity, including Policies 16.2.2.1, 16.2.2.8. 17.2.2.1, and 18.2.2.8 (incorporating recommendations made in the RO's revised recommendations on policy drafting).

1188. The second set of recommendations from the Reconvened Plan Overview Hearing that are relevant to *RNZ's* requests are those relating to the definition of 'sensitive activities'. Dr Johnson recommended that 'sensitive activities' should only be defined in relation to the Plan's natural hazard provisions and also, possibly, the National Grid setback provisions. In other words, in her view, the Plan should specify which activities are sensitive to natural hazards and to the National Grid, but in all other situations, references to 'sensitive activities' should rely on the plain English interpretation, with no listing of particular activities (paras 197-202).

1189. This was relevant to provisions for the management of activities near radio transmitters because the s42A Report recommendations for these provisions were based on an earlier version of the 'sensitive activities' definition. Therefore, the implication of this recommendation is that the notification and assessment rules relating to management of sensitive activities near radio transmitters would need to be amended so that they are clearer about which activities are 'sensitive' to these facilities (i.e. which effects are of concern).

1190. During the Reconvened Plan Overview Hearing, no evidence was presented by submitters that related specifically to either the recommended change to Policy 5.2.1.3, or the recommended change to the definition of 'sensitive activities' (an amendment so that it no longer applied to activities near radio transmitters).

1191. As discussed in section 3.10 of the Plan Overview Decision Report, we agreed with Dr Johnson's recommendations on these matters.

4.4.4.5 Network Utilities (National Grid) Reconvened Hearing, 1 December 2017

1192. The memorandum prepared for the Panel by Reporting Officers for the reconvened hearing on 1 December 2017 focused on revised recommendations for National Grid setback provisions, but also included recommendations affecting provisions of interest to *RNZ*.

1193. The Reporting Officers, Mr Rawson and Ms Macleod, recommended that Policy 5.2.1.3 should focus only on effects on the National Grid, and that a separate new Policy 5.2.1.8 should be created to manage reverse sensitivity effects on *RNZ*'s infrastructure.

1194. The Reporting Officers did not change their recommendations for notification and assessment rules in the Rural and Rural Residential Zones sections that would implement this policy.

4.4.4.6 Decision and decision reasons

1195. We reject the submission points from *Radio New Zealand* requesting a 1km setback from radio transmitters (OS918.52), the associated policy (OS918.43) and associated amendments to assessment rules (OS918.53 and OS918.55) and to the definition of 'sensitive activities' (OS918.17). We accept the evidence of Mr Rawson on this matter.

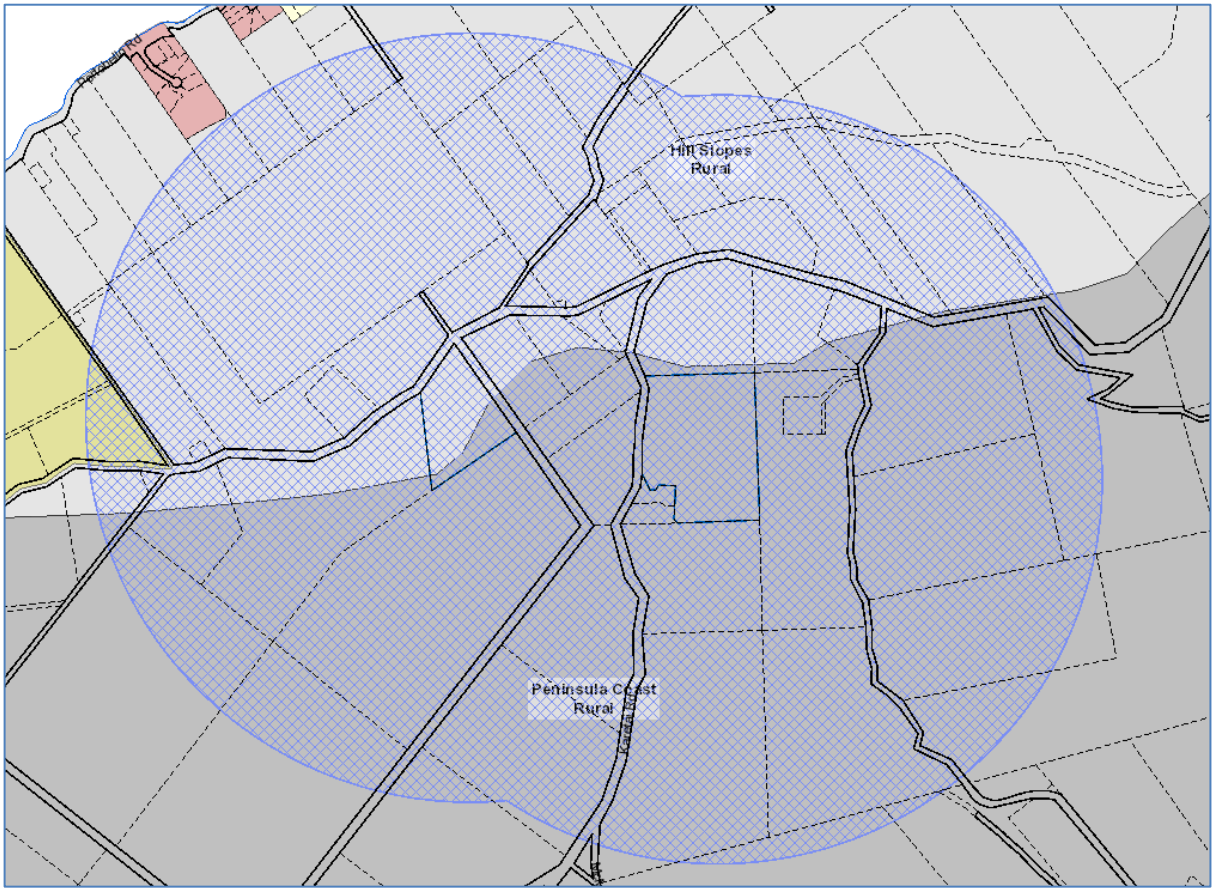
1196. However, we accept in part the requested amendment to Policy 5.2.1.3 (OS918.25). As recommended by Mr Rawson and Ms Macleod, we consider that this request should be implemented via the creation of new Policy 5.2.1.8 rather than by amending Policy 5.2.1.3.

1197. We also accept in part *RNZ*'s requested amendment to 2GP notification rules (OS918.50) and associated amendments to assessment rules (OS918.56 and OS918.57). Again, we accept the evidence of the Reporting Officer on this matter.

1198. The following amendments, including consequential amendments, are required for this decision.

- Amend planning maps to include the "Radio Transmitters Mapped Area", extending 850m from *RNZ*'s facilities at 740 Highcliff Road and 35 Karetai Road (see below).

Figure 1: Radio Transmitters Mapped Area



- Add new Policy 5.2.2.5 to manage reverse sensitivity effects from activities taking place within that mapped area, as follows: "Only allow subdivision and sensitive activities, where these are not otherwise permitted, in the radio transmitters mapped area where the potential for reverse sensitivity is avoided or minimised as far as practicable."
- Add new notification rules 16.4.6 and 17.4.6 so that RNZ are treated as an affected party, unless its written approval is provided, with respect to any activities within the mapped area that may be sensitive to electromagnetic interference, noise or visual effects from Radio New Zealand's facilities at 740 Highcliff Road and 35 Karetai Road, and subdivision that could result in activities of these kinds.
- Add new assessment rules 5.8.4, 16.10.5.15, 17.10.5.16 to manage reverse sensitivity effects from subdivision activities in the mapped area. Consequently, amend Rule 5.8.1.3 to refer to new Rule 5.8.4.

- Add new assessment rules 5.9.4, 5.10.5, 16.11.2.1.k, 16.12.2.1.e, 17.11.2.2.w and 17.12.2.1.d to manage reverse sensitivity effects from discretionary and non-complying activities in the mapped area. Consequently, amend Rule 5.9.1.2 to refer to new Rule 5.9.4 and amend Rule 5.10.1.2 to refer to new Rule 5.10.5.

1199. See Appendix 1 (amendments attributed to (NU 918.25).

5.0 Other amendments

1200. We have also made a number of other minor amendments in response to submissions. Submitter did not provide specific evidence in relation to these changes during the hearings; our decisions are based on the content of submissions, and the recommendations of the Reporting Officer in the Section 42A Report.

1201. We accept in part the submissions of *Vodafone NZ Ltd* (OS576.5), *Spark New Zealand Trading Limited* (OS923.5) and *Chorus New Zealand Limited* (OS925.5). For the reasons given by the submitters, we agree that the definition of Aerials should be deleted and that a new definition of Antenna should be added to the Plan; however, we do not agree that the Plan definition should exactly reflect the definition provided in the National Environmental Standards for Telecommunication Facilities. We agree with the Reporting Officer's recommendation that, unlike the NESTF definition of Antenna, the Plan's definition should be drafted so that it does not exclude antennas that are operated by parties other than 'network operators' (e.g. it should include antennas operated by amateur radio operators) (Section 42A Report, section 5.5.4.1). As a result of this decision, we have deleted the definition of Aerials, added the new definition shown in Appendix 1, and replaced the terms 'aerial' and 'aerials' with the terms 'antenna' and 'antennas', throughout the Plan.

1202. We also accept the related submission point from *Vodafone NZ Ltd* (OS576.6), *Spark New Zealand Trading Limited* (OS923.6) and *Chorus New Zealand Limited* (OS925.6) requesting that the definition of Dish Antenna be deleted from the Plan on the basis that it is redundant, given the new definition of Antenna (Section 42A Report, section 5.5.4.2). In consequence, we have removed the term 'dish antenna' from the definition of Amateur Radio Configurations.

1203. We accept the submissions from *Vodafone NZ Ltd* (OS576.10), *Spark New Zealand Trading Limited* (OS923.10), *Chorus New Zealand Limited* (OS925.10) and *Michael David Newman* (OS1009.1) seeking that the term 'antennas' be used in the Plan instead of 'antennae' (Plan Overview Section 42A Report, section 6.3.11). We have amended the terminology used in the Plan accordingly.

1204. We accept the submission from the *Dunedin City Council* (OS360.235) requesting that the definition of Water, Stormwater or Wastewater Utilities be deleted, on the basis that it is unnecessary (Section 42A Report, section 5.5.4.7).

1205. We accept the submission from *Aurora Energy Limited* (OS457.8) requesting that the name of the activity 'Standby Energy Generators' be amended to 'Standby or Temporary Energy Generators' (Section 42A Report, section 6.6.1). This decision results in consequential amendments to the nested table, and to the activity status rule that provides for this activity (Rule 5.3.2.11). It is our understanding, based on evidence from the Reporting Officer (s42A Report, section 6.6.1), that this change also constitutes acceptance of the intent of *Aurora*'s request (OS457.9) that the definition of 'Temporary Activities' be amended to include temporary utilities.

1206. We accept the submission from *New Zealand Transport Agency (NZTA)* (OS881.53) requesting that Note 5.3A.4 (renumbered 5.3.2A.4) be amended to indicate that, for works within a state highway road corridor, an agreement to work on the road corridor will be required from the *NZTA*. We reject the *NZTA*'s other requested change to this note (OS881.52), to indicate that rules for network utility activities do not apply to transportation activities; we do not consider this necessary given that section 1.4

'Activities managed by this Plan (Nested tables)' indicates that network utility activities and transportation activities are managed separately.

1207. We accept the submission from the NZTA (OS881.54) to remove Rule 5.5.3 (blank page), which had been included in the notified Plan in error.

1208. We reject the submission from Transpower New Zealand Limited (OS806.30) requesting a grammatical change to Rule 5.4.3 Notification; we note that this change would make the rule inconsistent with similar rules elsewhere the Plan, and we are comfortable that the notified wording is clear.

1209. We accept the submission from the *Dunedin City Council* (OS360.199) requesting deletion of Note 5.5C (located at notified Rule 5.5.8 Maximum Height), on the basis that it is unnecessary (Section 42A Report, section 5.9.10). We also accept the *DCC*'s requests that Rule 5.9.2.10 be deleted, on the basis that it is unnecessary (OS360.200; see Section 42A Report, section 7.5.3), and that the wording of Rule 5.10.4.3 be amended, for the sake of clarity (OS360.201; see Section 42A Report, section 7.5.5).

1210. Finally, in the course of considering this topic, we noticed that, under Rule 5.6.2, earthworks associated with roading and accessways leading to and from network utility activities must be set back a certain distance from network utility structures. This seems anomalous and presumably was unintended; in our opinion, it is inappropriate in terms of the objectives of the Plan. We sought drafting advice from Dr Anna Johnson, the DCC City Development Manager, on the best way to address this anomaly. Based on this advice, we have amended Rule 5.6.2, so that earthworks associated with roading and accessways leading to and from network utility activities exempt from the setback. As part of this decision, we have deleted the definition of 'earthworks ancillary to network utilities activities' (which excluded 'earthworks associated with roading leading to and from utilities'). Although these changes were not specifically requested in submissions, we consider that they give additional partial relief to the submissions from *Vodafone* (OS576.9), *Spark* (OS923.9) and *Chorus* (OS925.9) seeking that Section 5 be amended to better provide for network utilities (see discussion of these submissions in section 4.2.1.3). Therefore, the changes are attributed to NU 576.9; see Appendix 1.

1211. We do not consider that the amendment to Rule 5.6.2 requested by Radio New Zealand (OS918.34), which would apply the setback from 'underground network utilities' as well as 'network utility structures', is necessary, because the definition of network utility structures has been amended by our decision in section 4.2.7 of this report, and now includes underground structures.

6.0 Future plan change reviews and other suggestions

1212. In considering this topic, it was our opinion that the Plan may have been improved in a number of ways, as described below. These improvements are not included in our decisions either because they were not requested in submissions or because we consider that additional work is needed, in terms of investigating and consulting on options, to ensure that the most appropriate option is taken.

1213. Firstly, and most substantively, as discussed in section 4.3.4 we consider that mapping the areas of the city that are most appropriate for renewable energy generation, based on criteria such as resource availability, proximity to electricity transmission or distribution lines, and proximity to demand, would have significant benefits. Under this approach, the Plan could be drafted with more enabling provisions for REG within these identified areas; in our view, this would provide greater certainty for both developers and local residents and reduce the potential for litigation.

1214. This approach is not outside the scope of submissions; *Blueskin Resilient Communities Trust* (OS1070.4 and OS1070.6) requested that the Plan's strategic directions be amended to include the identification of appropriate locations and sites for renewable energy generation. However, we recognise that the identification of these areas would

involve a significant amount of work, firstly in investigating which parts of the city best meet the criteria to be considered 'appropriate for renewable energy generation' and secondly in undertaking the required public and key stakeholder consultation. Therefore, we suggest this as a topic for a future plan review.

1215. Secondly, as discussed in section 4.2.8.7, we would have preferred performance standards managing the design of minor upgrading of existing network utilities to have been included in provisions, relating for example to the colour of new infrastructure. Given that we did not hear any relevant evidence on this matter, we suggest that it is considered as a future plan review.

1216. Thirdly, we note that, in relation to electric vehicle charging stations (EVCS), the Reporting Officer raised the possibility of applying performance standards to this activity to limit the permitted number of charging cables and require minimum car parking and compliance with parking and access design standards, in order to manage potential impacts on the transport network (see section 4.2.14). However, it was determined that such changes to provisions for EVCS were outside the scope of submissions. We suggest that, if issues arise with the management of EVCS in the future, as further units are installed around the city, these matters could be revisited in a future plan change.

1217. Finally, as discussed in section 4.2.18, submitters raised concerns over the clarity of Rule 5.5.8.6 Clearance from navigable water body (NB our decision renumbers this rule 5.5.C). The rule requires a minimum clearance distance of 10m when lines cross 'navigable water bodies'; however, provisions do not define what constitutes a 'navigable' water body – as submitters pointed out, even a very small water body could be navigable by a small boat. There is no scope in submissions to add a definition for this term. We consider that common sense should prevail, but if necessary this could be clarified through a future plan change.

7.0 Minor and inconsequential amendments

1218. Clause 16(2) of Schedule 1 of the RMA allows a local authority to make an amendment where the alteration "is of minor effect", and to correct any minor errors, without needing to go through the submission and hearing process.

1219. This Decision includes minor amendments and corrections that were identified by the DCC Reporting Officers and/or by us through the deliberations process. These amendments are referenced in this report as being attributed to "cl.16". These amendments generally include:

- correction of typographical, grammatical and punctuation errors
- removing provisions that are duplicated
- clarification of provisions (for example adding 'gross floor area' or 'footprint' after building sizes)
- standardising repeated phrases and provisions, such as matters of discretion, assessment guidance, policy wording and performance standard headings
- adding missing hyper-linked references to relevant provisions (e.g. performance standard headings in the activity status tables)
- correctly paraphrasing policy wording in assessment rules
- changes to improve plan usability, such as adding numbering to appendices and reformatting rules
- moving provisions from one part of the plan to another

- rephrasing plan content for clarity, with no change to the meaning.

1220. Minor changes such as typographical errors have not been marked up with underline and strikethrough. More significant cl. 16 changes (such as where provisions have been moved) are explained using footnotes in the marked-up version of the Plan.

Appendix 1 – Amendments to the Notified 2GP (2015)

Please see www.2gp.dunedin.govt/nz/decisions for the marked-up version of the notified 2GP (2015). This shows changes to the notified 2GP with strike through and underline formatting and includes related submission point references for the changes.

Appendix 2 – Summary of Decisions

1. A summary of decisions on provisions discussed in this decision report (based on the submissions covered in this report) is below.

2. This summary table includes the following information:

    - Plan Section Number and Name (the section of the 2GP the provision is in)
    - Provision Type (the type of plan provision e.g. definition)
    - Provision number from notified and new number (decisions version)
    - Provision name (for definitions, activity status table rows, and performance standards)
    - Decision report section
    - Section 42A Report section
    - Decision
    - Submission point number reference for amendment

Summary of Decisions

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
2. Plan Overview and Introduction	Nested Tables	1.4	1.2.2.4	Network utility activities category	Amend nested table to delete references to 'community scale' and 'regional scale' energy generation activities, and add references to 'large scale' energy generation activities - linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU 308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Nested Tables	1.4	1.2.2.4		Amend to reflect the renaming of 'Operation, repair, minor upgrading and maintenance of existing network utilities' and the deletion of 'Realignment, reconfiguration or relocation of existing network utilities' as a separate activity. Linked to decision to amend the activity definition for 'Operation, repair, minor upgrading and maintenance of existing network utilities'; this activity now includes realignment etc.	NU 457.4	4.2.8	5.5.2 5.10.1.1
2. Plan Overview and Introduction	Nested Tables	1.4	1.2.2.4	Network utility activities category	Amend the nested table for network utility activities to reflect decision to delete 'small scale network utilities'. This involves: deleting reference to 'small scale network utilities'; creating new activity rows for 'network utility structures – small scale' and 'standby or temporary energy generators', which were treated as sub-activities of small scale network utilities in notified provisions; and treating 'network utility poles and masts - small scale' as a sub-activity of network utility structures - small scale (rather than as a sub-activity of small scale network utilities, as notified)	NU 576.4	4.2.6	5.5.3
2. Plan Overview	Nested Tables	1.4	1.2.2.4	Network utility	Amend the nested table for network utility activities to reflect decision to	NU 576.4	4.2.6	5.5.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
and Introduction				activities category	delete 'large scale network utilities'. This involves: deleting reference to 'large scale network utilities' and creating a new activity row for 'network utility structures – large scale', which was treated as a sub-activity of large scale network utilities in notified provisions			
2. Plan Overview and Introduction	Definition	1.4	1.2.2.4	Service stations	Amend definition	NU 764.1	4.3.5	6.2.4 5.6
2. Plan Overview and Introduction	Nested Tables	1.4	1.2.2.4		Amend to include substations - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
2. Plan Overview and Introduction	Definition	1.5		Wind generators - small scale (new)	Add new activity definition, to replace 'wind generators - on-site energy generation'. This represents a change to the management approach for the activity; this activity is now managed solely on the basis of the scale of the structures involved, and no longer on the basis of whether the energy is to be exported from the site.	NU 308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		Wind generators - on-site energy generation	Delete definition, to be replaced with 'wind generators - small scale' - linked to change in management approach, so that the activity is managed solely on the basis of scale of structures, and no longer on the basis of energy end use.	NU 308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		Hydro generators - small scale (new)	Add new activity definition, to replace 'hydro generators - on-site energy generation'. This represents a change to the management approach for the activity; this activity is now managed solely on the basis of the scale of the structures involved, and no longer on the basis of whether the energy is to be exported from the site.	NU 308.122	4.3.5	6.2.4
2. Plan Overview and	Definition	1.5		Hydro generators - on-site	Delete definition, to be replaced with 'hydro generators - small scale' - linked to change in management approach, so	NU 308.122	4.3.5	6.2.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Introduction				energy generation	that the activity is managed solely on the basis of scale of structures, and no longer on the basis of energy end use.			
2. Plan Overview and Introduction	Definition	1.5		Solar panels - small scale (new)	Add new activity definition, to replace 'solar panels - on-site energy generation'. This represents a change to the management approach for the activity; this activity is now managed solely on the basis of the scale of the structures involved, and no longer on the basis of whether the energy is to be exported from the site.	NU 308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		Solar panels - on-site energy generation	Delete definition, to be replaced with 'solar panels - small scale' - linked to change in management approach, so that the activity is managed solely on the basis of scale of structures, and no longer on the basis of energy end use.	NU 308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		On-site energy generation	Delete definition, reflecting change in management approach under which energy generation activities are managed solely on the basis of scale of structures, and no longer on the basis of energy end use.	NU 308.122	4.3.5	6.2.4 6.4.2 6.4.3
2. Plan Overview and Introduction	Definition	1.5		Network utility structures	Amend definition to add 'energy resource investigation devices' as an example of network utility structures - linked to the removal of the separate activity for energy resource investigation devices.	NU 308.122 and 743.17	4.3.5	6.2.4 6.2.5
2. Plan Overview and Introduction	Definition	1.5		Network utility poles and masts	Amend definition to add 'wind monitoring masts' as an example of network utility poles and masts - linked to the removal of the separate activity for energy resource investigation devices	NU 308.122 and 743.17	4.3.5	6.2.4 6.2.5
2. Plan Overview and Introduction	Definition	1.5		Biomass generators - on-site energy generation	Delete definition - linked to the removal of the separate activity for biomass generators - on-site energy generation	NU 308.137	4.3.8	6.5.16.5.26.5.36.5.2 (5 July 2016 Addendum)
2. Plan	Definition	1.5		Biomass	Delete definition - linked to the removal	NU 308.137	4.3.8	6.5.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Overview and Introduction				generators	of the separate activities for biomass generators - on-site energy generation and biomass generators - stand alone	and NU 308.468		6.5.2 6.5.3 6.5.4 6.5.2 (5 July 2016 Addendum)
2. Plan Overview and Introduction	Definition	1.5		Building utilities	Amend definition so that it includes structures that form part of electricity generation for the building - linked to the removal of the separate activity for biomass generators - on-site energy generation	NU 308.137	4.3.8	6.5.1 6.5.2 6.5.3 6.5.2 (5 July 2016 Addendum)
2. Plan Overview and Introduction	Definition	1.5		Underground or internal network utilities	Amend definition so that it includes minor external protrusions, such as vents and chimneys, associated with an internal utility (e.g. biomass generator) - linked to the removal of the separate activity for biomass generators - on-site energy generation	NU 308.137	4.3.8	6.5.1 6.5.2 6.5.3 6.5.2 (5 July 2016 Addendum)
2. Plan Overview and Introduction	Definition	1.5		Biomass generators - stand alone	Delete definition - linked to the removal of the separate activity for biomass generators - stand alone	NU 308.468	4.3.8	6.5.16.5.26.5.46.5.2 (5 July 2016 Addendum)
2. Plan Overview and Introduction	Definition	1.5		Rural industry	Amend to include generation of energy from the combustion of biomass waste that is a by-product of rural industry - linked to the removal of the separate activity for biomass generators - stand alone	NU 308.468	4.3.8	6.5.1 6.5.2 6.5.4 6.5.2 (5 July 2016 Addendum)
2. Plan Overview and Introduction	Definition	1.5		Industry	Amend to include generation of energy from the combustion of biomass waste that is a by-product of industry - linked to the removal of the separate activity for biomass generators - stand alone	NU 308.468	4.3.8	6.5.1 6.5.2 6.5.4 6.5.2 (5 July 2016 Addendum)
2. Plan Overview and Introduction	Definition	1.5		Landfill	Amend to include the generation of energy from wastes deposited at a landfill, for example from landfill gas - linked to the removal of the separate activity for biomass generators - stand alone	NU 308.468	4.3.8	6.5.1 6.5.2 6.5.4 6.5.2 (5 July 2016 Addendum)
2. Plan	Definition	1.5		Network	Amend to exclude structures otherwise	NU 308.468	4.3.8	6.5.16.5.26.5.

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Overview and Introduction				utility structures	defined as rural industry, industry or landfills (in the case of energy generation structures that use the by-products of these activities as fuel) - linked to the removal of the separate activity for biomass generators - stand alone			46.5.2 (5 July 2016 Addendum)
2. Plan Overview and Introduction	Definition	1.5		Wind generators - large scale	Add new activity definition, to replace 'wind generators - community scale' and 'wind generators - regional scale'. The management approach for larger scale energy generation has been changed; in order to simplify provisions, all 'community scale' and 'regional scale' renewable energy generation activities have been replaced with 'large scale'.	NU 308.462, NU308.122	4.3.5	6.2.4 6.4.2 6.4.3
2. Plan Overview and Introduction	Definition	1.5		Wind generators - community scale	Delete definition, to be replaced with 'wind generators - large scale' - linked to change in management approach, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4 6.4.2 6.4.3
2. Plan Overview and Introduction	Definition	1.5		Wind generators - regional scale	Delete definition, to be replaced with 'wind generators - large scale' - linked to change in management approach, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4 6.4.2 6.4.3
2. Plan Overview and Introduction	Definition	1.5		Hydro generators - large scale	Add new activity definition, to replace 'hydro generators - community scale' and 'hydro generators - regional scale'. The management approach for larger scale energy generation has been changed; in order to simplify provisions, all 'community scale' and 'regional scale' renewable energy generation activities have been replaced with 'large scale'.	NU 308.462, NU308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		Hydro generators - community scale	Delete definition, to be replaced with 'hydro generators - large scale' - linked to change in management approach, to simplify provisions.	NU 308.462, NU 308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		Hydro generators - regional scale	Delete definition, to be replaced with 'hydro generators - large scale' - linked to change in management approach, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
2. Plan	Definition	1.5		Solar panels	Add new activity definition, to replace	NU 308.462,	4.3.5	6.2.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Overview and Introduction				- large scale	'solar panels - community scale' and 'solar panels - regional scale'. The management approach for larger scale energy generation has been changed; in order to simplify provisions, all 'community scale' and 'regional scale' renewable energy generation activities have been replaced with 'large scale'.	NU308.122		
2. Plan Overview and Introduction	Definition	1.5		Solar panels - community scale	Delete definition, to be replaced with 'solar panels - large scale' - linked to change in management approach, to simplify provisions.	NU 308.462, NU 308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		Solar panels - regional scale	Delete definition, to be replaced with 'solar panels - large scale' - linked to change in management approach, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		Community scale energy generation	Delete definition - linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU 308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		Regional scale energy generation	Delete definition - linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU 308.122	4.3.5	6.2.4
2. Plan Overview and Introduction	Definition	1.5		Network utilities	Amend definition to refer to: the investigation and generation of electricity, and of other forms of energy such as heat; and water, wastewater and stormwater supply, treatment and drainage.	NU 360.233	4.2.7	5.5.1
5. Network Utilities	Definition	1.5		Water, Stormwater or Wastewater Utilities	Delete definition	NU 360.235	5.0	5.5.4.7
1. Plan Overview and Introduction	Definition	1.5		Network utility structures	Amend definition of network utility structures to clarify that it refers to any structure that forms part of a network utility	NU 360.236	3.0	5.5.4.5
2. Plan Overview and	Definition	1.5		Network utility structures -	Amend definition	NU 360.237	4.2.7	5.5.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Introduction				small scale				
2. Plan Overview and Introduction	Definition	1.5		Operation, repair, minor upgrading and maintenance of existing network utilities	Amend definition so that support structure replacement within 5m of the existing alignment is provided for as 'minor upgrading' and, therefore, permitted	NU 457.10	4.2.8	5.10.1.2 5.9.3
2. Plan Overview and Introduction	Definition	1.5		Operation, repair, minor upgrading and maintenance of existing network utilities	Amend the name of this definition to include minor upgrading, and the contents of the definition to specify the activities that are to be treated as 'minor upgrading'	NU 457.4	4.2.8	5.5.2 5.10.1.1
2. Plan Overview and Introduction	Definition	1.5		Line maintenance	Delete definition - linked to decision to amend the definition of 'Operation, repair, minor upgrading and maintenance of existing network utilities'; this amended definition now includes the contents of the notified definition of Line maintenance	NU 457.4	4.2.8	5.5.25.10.1.1
2. Plan Overview and Introduction	Definition	1.5		Building utilities	Amend to clarify that 'network utility connections' are treated as network utility activities, not building utilities. The effect of this change is that these connections are not subject to provisions managing 'additions and alterations' to heritage buildings. Also amend definition to include building-mounted solar panels, including those that export excess power, and to exclude roof-mounted wind turbines	NU 576.2, NU 764.1, NU 743.17	4.2.11	5.1.1 (Her) 6.2.4 6.2.5 6.3.4 6.3.5
2. Plan Overview and Introduction	Definition	1.5		Large scale network utilities	Delete definition	NU 576.4	4.2.6	5.5.3
2. Plan	Definition	1.5		Small scale	Delete definition	NU 576.4	4.2.6	5.5.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Overview and Introduction				network utilities				
2. Plan Overview and Introduction	Definition	1.5		Aerials	Delete definition	NU 576.5	5.0	5.5.4.1
2. Plan Overview and Introduction	Definition	1.5		Antenna	Add new definition	NU 576.5	5.0	5.5.4.1
2. Plan Overview and Introduction	Definition	1.5		Dish Antenna	Delete definition	NU 576.6	5.0	5.5.4.2
2. Plan Overview and Introduction	Definition	1.5		Amateur Radio Configuratio ns	Amend definition to delete reference to 'dish antenna' - linked to decision to delete the definition of 'dish antenna'	NU 576.6	5.0	5.5.4.2
2. Plan Overview and Introduction	Definition	1.5		Network utility structures - small scale	Amend definition	NU 576.9	4.2.6	5.1.4
2. Plan Overview and Introduction	Definition	1.5		Earthworks ancillary to network utilities activities	Delete definition	NU 576.9	5.0	5.1.4
2. Plan Overview and Introduction	Definition	1.5		Network utility structures	Amend definition	NU 634.10, NU 918.16, NU 915.2, NU 457.11	4.2.7	5.5.4.5 6.3.10 (PO)
2. Plan Overview and Introduction	Definition	1.5		National Grid	Add new definition	NU 806.10	4.4.2	5.2.1
2. Plan Overview and Introduction	Definition	1.5		National Grid Support Structure	Amend definition	NU 806.10	4.4.2	5.2.1
2. Plan Overview	Definition	1.5		Residential building	Amend definition to refer to National Grid related rules - relates to decision to	NU 806.11	4.4.2	5.2.1 5.2.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
and Introduction					use the term 'residential building' in Rule 5.6.1.1			
2. Plan Overview and Introduction	Definition	1.5		Network utilities	Amend definition	NU 806.14, NU 308.126, NU 634.10	4.2.7	5.5.1
2. Plan Overview and Introduction	Definition	1.5		Additions and alterations	Amend to clarify that this definition does not include network utility activities (purpose of change is to ensure that network utility connections are not subject to provisions for additions and alterations)	NU576.2	4.2.11	5.1.1 (Her)
2. Plan Overview and Introduction	Definition	1.5		Network utility activities	Amend to include substations - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
2. Plan Overview and Introduction	Definition	1.5		Substations	Add definition of substations, which includes facilities "for the control and/or transformation of electricity at a high or significant capacity" and excludes electrical distribution structures - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
2. Plan Overview and Introduction	Definition	1.5		Electrical distribution structures	Add definition of electrical distribution structures, which includes "cabinets or other structures containing equipment for the control and/or transformation of electricity" up to a specified maximum nominal operating voltage and energy transfer - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
2. Plan Overview and Introduction	Definition	1.5		Network utility structures	Amend to include electrical distribution structures, and to exclude substations - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
2. Plan Overview and Introduction	Definition	1.5		Underground or internal network utilities	Amend to remove reference to notified version of provisions for substations - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
2. Plan Overview and	Definition	1.5		Line maintenance	Do not amend definition so that an increase in the voltage of lines is permitted only where the line was	Reject OS1090.7	4.2.8	5.10.1.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Introduction					originally constructed to operate at the higher voltage			
2. Plan Overview and Introduction	Definition	1.5		National Grid Subdivision Corridor (requested new definition)	Do not add definition as requested		4.4.2	5.2.1
2. Plan Overview and Introduction	Definition	1.5		National Grid Yard (requested new definition)	Do not add definition as requested		4.4.2	5.2.1
2. Plan Overview and Introduction	Definition	1.5		Sensitive activities	Do not amend definition as requested to add working from home, sleepouts and family flats		4.4.2	5.2.1
2. Plan Overview and Introduction	Definition	1.5		Regionally significant infrastructure, critical electricity line, electricity distribution, electricity distribution line corridor (new definitions requested)	Do not add definitions as requested		4.4.3	5.3.1
2. Strategic Directions	Policy	2.2.2.3			Amend policy wording	NU 764.1, NU 308.122	4.3.5	6.2.3 6.3.2 6.2.4
2. Strategic Directions	Objective	2.2.2			Amend objective wording	NU 308.36, NU 764.1	4.3.1	6.2.2 6.7.1
2. Strategic Directions	Policy	2.2.5.1			Amend policy to replace 'domestic scale' renewable energy generation with 'small scale' renewable energy generation. Linked to change in management approach for energy generation at the	NU 308.122	4.3.5	6.2.4 6.4.2 6.4.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					smaller scale.			
2. Strategic Directions	Policy	2.2.5.1			Amend policy wording	NU 394.68 and others	4.3.6	6.3.3
5. Strategic Directions	Policy	2.3.1.6			Amend policy wording	NU 918.22	4.2.1.2	5.1.3
5. Strategic Directions	Policy	2.3.1.7 (new)			Add new strategic direction policy	NU 918.22	4.2.1.2	5.1.3
5. Strategic Directions	Objective	2.3.1			Amend objective wording	NU 918.22	4.2.1.2	5.1.3
5. Strategic Directions	Policy	2.7.1.2			Do not amend as requested		4.2.1.2	5.1.3
5. Strategic Directions	Objective	2.7.1			Retain as notified		4.2.1.2	5.1.3
5. Strategic Directions	Strategic Direction	2.7			Retain as notified		4.2.1.2	5.1.3
3. Public Amenities	Activity Status	3.3.2.7		All other activities in the public amenities category	Do not amend rule to remove 'Setback from National Grid' performance standard as requested		4.4.2	5.2.1
3. Public Amenities	City Wide Performance Standard	3.5.5		Setback from National Grid	Do not delete rule as requested		4.4.2	5.2.1
3. Public Amenities	Assessment of Non-complying Performance Standard Contraventions	3.9.2.2			Amend guidance to refer to Objective 5.2.2	NU 918.29	4.4.1	5.1.7.7
5. Network Utilities	Introduction	5.1		Introduction	Amend introduction wording in a number of ways, in response to different submissions	NU 918.23 NU 806.20 NU 308.122 NU 1071.34	4.2.1.4	5.1.5 5.2.1 6.2.4
5. Network Utilities	Policy	5.2.1.2	N/A (Deleted)		Delete policy (contents now covered by amended Policy 5.2.2.2)	NU 806.26	4.4.2	5.2.1 5.2.3 5.2.3 (4 July 2016 Addendum) 5.3.1
5. Network	Policy	5.2.1.2	N/A		Transfer Policy 5.2.1.2 from Objective	NU 918.29	4.4.1	5.1.7.7

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Utilities			(Deleted)		5.2.1 to Objective 5.2.2			
5. Network Utilities	Policy	5.2.2.2 (was 5.2.1.3)	N/A (Deleted)		Transfer Policy 5.2.1.3 from Objective 5.2.1 to Objective 5.2.2, and renumber as Policy 5.2.2.2	NU 918.29	4.4.1	5.1.7.7
5. Network Utilities	Policy	5.2.1.5	5.2.1.3		Amend policy to add 'underground or internal network utilities' - linked to the removal of the separate activity for biomass generators - on-site energy generation	NU 308.137	4.3.8	6.5.16.5.26.5.36.5.2 (5 July 2016 Addendum)
5. Network Utilities	Policy	5.2.1.5	5.2.1.3		Amend policy wording	NU 906.7, NU 576.9	4.2.1.6	5.1.7.2
5. Network Utilities	Policy	5.2.1.6	N/A (Deleted)		Delete policy - linked to the removal of the separate activity for energy resource investigation devices	NU 308.122 and 743.17	4.3.5	6.2.4 6.2.5
5. Network Utilities	Policy	5.2.1.7	5.2.1.4		Amend policy wording	NU 906.7, NU 576.9, NU 915.17	4.2.1.6	5.1.7.3
5. Network Utilities	Policy	5.2.2.1 (was 5.2.1.9)	N/A (Deleted)		Transfer Policy 5.2.1.9 from Objective 5.2.1 to Objective 5.2.2, and renumber as Policy 5.2.2.1	NU 918.29	4.4.1	5.1.7.7
5. Network Utilities	Policy	5.2.1.10	N/A (Deleted)		Amend policy to delete reference to 'biomass generators - stand alone' - linked to the removal of the separate activity for biomass generators - stand alone	NU 308.468	4.3.8	6.5.1 6.5.2 6.5.4 6.5.2 (5 July 2016 Addendum)
5. Network Utilities	Policy	5.2.1.10	N/A (Deleted)		Amend policy to delete reference to regional scale energy generation - reflects change in activity status from NC to D for large scale energy generation (was regional scale) in zones other than rural and industrial	NU 308.462, NU 308.122	4.3.5	6.2.4
5. Network Utilities	Policy	5.2.1.11	5.2.1.5		Amend policy to delete reference to energy resource investigation devices - linked to the removal of the separate activity for energy resource investigation devices	NU 308.122 and 743.17	4.3.5	6.2.46.2.5
5. Network Utilities	Policy	5.2.1.11	5.2.1.5		Amend policy to delete reference to 'biomass generators - on-site energy generation' - linked to the removal of the separate activity for biomass	NU 308.137	4.3.8	6.5.1 6.5.2 6.5.3 6.5.2 (5 July

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					generators - on-site energy generation			2016 Addendum)
5. Network Utilities	Policy	5.2.1.11	5.2.1.5		Amend policy to delete reference to 'biomass generators - stand alone' - linked to the removal of the separate activity for biomass generators - stand alone	NU 308.468	4.3.8	6.5.1 6.5.2 6.5.4 6.5.2 (5 July 2016 Addendum)
5. Network Utilities	Policy	5.2.1.11	5.2.1.5		Amend policy so that it applies to large scale renewable energy generation (of all types) in all zones - reflects change in activity status from NC to D for large scale energy generation (was regional scale) in zones other than rural and industrial	NU 308.462, NU 308.122	4.3.5	6.2.4
5. Network Utilities	Policy	5.2.1.11	5.2.1.5		Amend policy wording	NU 457.14	4.2.1.6	5.1.7.5
5. Network Utilities	Policy	5.2.1.11	5.2.1.5		Amend policy to refer to substations and to reflect activity status of substations in management zones - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
5. Network Utilities	Policy	5.2.1.12	5.2.1.6		Retain as notified		4.2.1.6	5.1.7.6
5. Network Utilities	Policy	5.2.1.A (new)	5.2.1.2		Add new policy relating to enabling network utilities (does not affect activity status)	NU 457.192	4.2.1.7	5.1.7.7
5. Network Utilities	Objective	5.2.1			Amend objective wording	NU 806.21	4.2.1.5	5.1.7.1
5. Network Utilities	Policy	5.2.2.2 (new)			Amend policy so that it manages a wider range of activities, and a wider range of potential adverse effects	NU 806.26, NU 806.11	4.4.2	5.2.1 5.2.3 5.2.3 (4 July 2016 Addendum) 5.3.1
5. Network Utilities	Policy	5.2.2.3 (new)	5.2.2.3		Add policy, to provide policy framework for amended Rules 15.7.6, 16.7.5, 17.7.6, 18.7.5, 19.7.5 and 20.7.5	NU 806.11	4.4.2	5.2.1
5. Network Utilities	Policy	5.2.2.4 (new)	5.2.2.4		Add policy, to provide policy framework for new Rule 5.8.5	NU 806.11	4.4.2	5.2.1
5. Network Utilities	Policy	5.2.2.5 (new)	5.2.2.5		Add new policy relating to the management of reverse sensitivity	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					effects of subdivision and sensitive activities in the radio transmitters mapped area - linking to new Rules 5.8.4, 5.9.4 and 5.10.5			2016 addendum)
5. Network Utilities	Objective	5.2.2 (new)			Add new objective relating to the management of effects on network utilities from third party activities	NU 918.29	4.4.1	5.1.7.7
5. Network Utilities	Policy	5.2		Requested new policy	Do not add new policy relating to the management of effects on network utilities from third party activities		4.4.1	5.1.7.7
5. Network Utilities	Objective	5.2		New objectives requested	Do not add new objectives as requested in relation to the National Grid		4.4.2	5.2.1
5. Network Utilities	Policy	5.2		New policies requested	Do not add new policies as requested in relation to the National Grid (although note that Policy 5.2.2.2, which was numbered 5.2.1.3 in notified provisions, has been amended in response to submissions)		4.4.2	5.2.1
5. Network Utilities	Activity Status	5.3.1.1		Activity status introduction	Amend rule to replace reference to 'network utilities and energy generation' with 'network utilities' - linked to decision to amend definition of 'network utilities' to include 'energy generation'.	NU 360.233	4.2.7	5.5.1
5. Network Utilities	Activity Status	5.3.1		Activity status introduction	Do not amend rule as requested, either to state that non-complying status applies to all contraventions of National Grid setbacks (including earthworks), or to state that Section 5 includes rules to manage earthworks near the National Grid		4.4.2	5.2.1
5. Network Utilities	Activity Status	5.3.2.1			Delete "Reflectivity (network utilities activities in landscape or natural coastal character overlays only)" (5.3.2.1.b) - linked to decision to add new Rule 5.5.D, which limits reflectivity in all zones, not just in overlays.	NU 743.17	4.3.6	6.2.5 6.3.3 6.3.4 6.3.5
5. Network Utilities	Activity Status	5.3.2.2		Operation, repair, minor upgrading and	Amend the name of the activity referred to in this activity status rule - linked to decision to include 'minor upgrading' in the name and definition of this activity	NU 457.4	4.2.8	5.5.2 5.10.1.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
				maintenance of existing network utilities				
5. Network Utilities	Activity Status	5.3.2.3	N/A (Deleted)	Realignment, reconfiguration or relocation of existing network utilities	Delete activity status rule - linked to decision to amend the definition of 'Operation, repair, minor upgrading and maintenance of existing network utilities' to include realignment etc.; following this change, Rule 5.3.2.2 now provides for the activities that were provided for via notified Rule 5.3.2.2	NU 457.4	4.2.8	5.5.25.10.1.1
5. Network Utilities	Activity Status	5.3.2.4	5.3.2.3	Underground or internal network utilities	Amend activity status table to apply new maximum height performance standard to underground or internal network utilities - linked to the removal of the separate activity for biomass generators - on-site energy generation	NU 308.137	4.3.8	6.5.1 6.5.2 6.5.3 6.5.2 (5 July 2016 Addendum)
5. Network Utilities	Activity Status	5.3.2.8	5.3.2.10	All other network utility structures - small scale	Amend performance standard column in this activity status rule to delete reference to the 'Buildings and structures located on or above the footpath' - linked to decision to amend Rule 6.7.2 so that it does not apply to network utility activities	NU 457.169	4.2.16	5.9.2
5. Network Utilities	Activity Status	5.3.2.8	5.3.2.10	All other network utility structures - small scale	Amend activity status rule to apply 'Maximum Volume in Pedestrian Frontages, Heritage Precincts and Scheduled Heritage Sites' performance standard to this activity - linked to decision to add this new standard (Rule 5.5.B).	NU 457.20	4.2.18	5.9.4 5.9.8
5. Network Utilities	Activity Status	5.3.2.8	5.3.2.10	Network utility structures - small scale	Do not amend rule as requested, to permit the activity in roads in ONFs, ONCCs and HNCCs	Reject OS576.39, OS923.39, OS 925.39	4.2.10	5.1.12.2
5. Network Utilities	Activity Status	5.3.2.9	5.3.2.6	Network utility poles and masts - small scale	Amend performance standard column in this activity status rule to delete reference to the 'Buildings and structures located on or above the footpath' - linked to decision to amend Rule 6.7.2 so that it does not apply to	NU 457.169	4.2.16	5.9.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					network utility activities			
5. Network Utilities	Activity Status	5.3.2.9	5.3.2.6	Network utility poles and masts - small scale	Amend rule so that this activity is permitted, rather than restricted discretionary, in all commercial and mixed use zones, and major facility zones	NU 576.40	4.2.9	5.1.12.3
5. Network Utilities	Activity Status	5.3.2.9	5.3.2.6	Network utility poles and masts - small scale	Do not amend activity status of network utility poles and masts - small scale to be more restrictive in SNLs	Reject 900.58	4.2.3	5.12.10 (NatEnv)
5. Network Utilities	Activity Status	5.3.2.10	5.3.2.16	All other network utility structures - large scale	Amend the activity status from restricted discretionary to discretionary in all management zones	NU 764.1	4.3.5	6.2.4
5. Network Utilities	Activity Status	5.3.2.10	5.3.2.16	Network utility structures - large scale	Do not amend rule as requested, to change the activity status from non-complying to discretionary in ONFs, ONCCs and HNCCs	Reject OS457.15, OS576.41, OS923.41, OS925.41, OS806.29	4.2.12	5.1.12.4
5. Network Utilities	Activity Status	5.3.2.12	5.3.2.7	Wind generators - small scale (was Wind generators - on-site energy generation)	Do not amend rule to apply a more restrictive activity status in residential zones		4.3.6	6.3.4
5. Network Utilities	Activity Status	5.3.2.15	5.3.2.11	Solar panels - large scale with an area between 200m² and 500m² in a rural or industrial zone (was Solar panels - community scale)	Amend rule to delete reference to 'community scale' - linked to change in management approach for larger scale energy generation, to simplify provisions. It is necessary to retain a separate rule for this scale of solar panels, in order to retain the more enabling activity status (restricted discretionary) for this activity in rural and industrial zones.	NU 308.462, NU 308.122	4.3.5	6.2.4
5. Network	Activity	5.3.2.16	N/A	Wind	Delete rule - linked to change in	NU 308.462,	4.3.5	6.2.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Utilities	Status		(Deleted)	generators - community scale	management approach for larger scale energy generation, to simplify provisions.	NU308.122		6.4.2 6.4.3
5. Network Utilities	Activity Status	5.3.2.17	N/A (Deleted)	Hydro generators - community scale	Delete rule - linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU 308.122	4.3.5	6.2.4
5. Network Utilities	Activity Status	5.3.2.18	5.3.2.12	All other solar panels - large scale (was Solar panels - regional scale)	Amend rule to replace 'regional scale' with 'large scale' - linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Activity Status	5.3.2.18	5.3.2.12	All other solar panels - large scale (was Solar panels - regional scale)	Amend rule to change the activity status from non-complying to discretionary in zones other than rural and industrial zones, and in ONLs, SNLs, NCCs, ASBVs, scheduled heritage sites and heritage precincts	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Activity Status	5.3.2.19	5.3.2.13	Wind generators - large scale (was Wind generators - regional scale)	Amend rule to replace 'regional scale' with 'large scale' - linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4 6.4.2 6.4.3
5. Network Utilities	Activity Status	5.3.2.19	5.3.2.13	Wind generators - large scale (was Wind generators - regional scale)	Amend rule to change the activity status from non-complying to discretionary in zones other than rural and industrial zones, and in ONLs, SNLs, NCCs, ASBVs, scheduled heritage sites and heritage precincts	NU 308.462, NU308.122	4.3.5	6.2.46.4.26.4.3
5. Network Utilities	Activity Status	5.3.2.20	5.3.2.14	Hydro generators - large scale (was Hydro generators - regional scale)	Amend rule to replace 'regional scale' with 'large scale' - linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
5. Network Utilities	Activity Status	5.3.2.20	5.3.2.14	Hydro generators - large scale (was Hydro generators - regional scale)	Amend rule to change the activity status from non-complying to discretionary in zones other than rural and industrial zones, and in ONLs, SNLs, NCCs, ASBVs, scheduled heritage sites and heritage precincts	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Activity Status	5.3.2.21	N/A (Deleted)	Energy resource investigation devices	Remove line in activity status table for 'energy resource investigation devices' - linked to the removal of the separate activity for energy resource investigation devices, and treatment of these instead as a type of network utility structure (as a result, provisions for these devices are generally more enabling)	NU 308.122 and 743.17	4.3.5	6.2.4 6.2.5
5. Network Utilities	Activity Status	5.3.2.22	N/A (Deleted)	Biomass generators - on-site energy generation	Remove line in activity status table for 'biomass generators - on-site energy generation' - linked to the removal of the separate activity for biomass generators - on-site energy generation and treatment of these instead as a type of building utility or network utility structure (as a result, provisions for these generators are generally more enabling).	NU 308.137	4.3.8	6.5.16.5.26.5.36.5.2 (5 July 2016 Addendum)
5. Network Utilities	Activity Status	5.3.2.23	N/A (Deleted)	Biomass generators - stand alone	Remove line in activity status table for 'biomass generators - stand alone' - linked to the removal of the separate activity for biomass generators - stand alone, and treatment of these instead either as a type of 'network utility structure', or via provisions for rural industry, landfills and industry (as a result, provisions for these generators are more enabling)	NU 308.468	4.3.8	6.5.1 6.5.2 6.5.4 6.5.2 (5 July 2016 Addendum)
5. Network Utilities	Activity Status	5.3.2.A (new)		Substations	Add new activity status rule for substations, with permitted activity status in industrial zones, restricted discretionary in all other management zones, and more restrictive activity statuses in overlays etc., and apply the Technical Standards performance	NU915.17	4.2.13	5.9.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					standard to this activity			
5. Network Utilities	Activity Status	5.3.2		Activity status table - network utility activities	Do not amend activity status of all network utility activities to non-complying in ASCVs, as requested	Reject 900.138, 958.91, 958.93	4.2.2	5.12.1 (NatEnv)
5. Network Utilities	Activity Status	5.3.2		Activity status table - network utility activities	Do not amend activity status of network utility structures - small scale or network utility poles and masts - small scale to be more restrictive in ONCCs and HNCCs	Reject 900.85	4.2.3	5.1.13.3
5. Network Utilities	Activity Status	5.3.2		Activity status table - network utility activities	Do not amend activity status table to use a wider range of activities or a wider range of zone and overlay columns, or to abandon the approach of providing for a range of different kinds of network utilities as 'small scale' or 'large scale' activities	Reject OS576.25, OS923.25, OS925.25; OS576.4, OS923.4, OS925.4	4.2.6	5.1.12, 5.5.3
5. Network Utilities	Note to Plan User	5.3.2A (new)			Amend note	NU 881.53	5.0	7.2.1
5. Network Utilities	Note to Plan User	5.3.2B		General advice	Amend note to refer to 'minor upgrading' - linked to decision to amend the name and definition of 'Operation, repair, minor upgrading and maintenance of existing network utilities'	NU 457.4	4.2.8	5.5.2 5.10.1.1
5. Network Utilities	Notification Rule	5.4.5	5.4.4	All other network utility structures - small scale	Add rule to indicate that resource consent applications for activities that breach Rule 5.5.B will normally be non-notified - linked to decision to add new Rule 5.5.B.	NU 457.20	4.2.18	5.9.4 5.9.8
5. Network Utilities	Notification Rule	5.4		New notification rule requested	Do not add new notification rule as requested, relating to activities close to Critical Electricity Lines		4.4.3	5.3.1
5. Network Utilities	City Wide Performance Standard	5.5.2	N/A (Deleted)	Buildings and structures located on or above the footpath	Delete performance standard - linked to decision to amend Rule 6.7.2 so that it does not apply to network utility activities	NU 457.169	4.2.16	5.9.2
5. Network	City Wide	5.5.3	N/A	Blank Page	Delete rule	NU 881.54	5.0	7.8.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Utilities	Performance Standard		(Deleted)					
5. Network Utilities	City Wide Performance Standard	5.5.4	N/A (Deleted)	Energy resource investigation standards	Delete performance standard - linked to the removal of the separate activity for energy resource investigation devices	NU 308.122 and 743.17	4.3.5	6.2.46.2.5
5. Network Utilities	City Wide Performance Standard	5.5.5	5.5.1	Light spill	Amend performance standard to refer to 'minor upgrading' - linked to decision to amend the name and definition of 'Operation, repair, minor upgrading and maintenance of existing network utilities'	NU 457.4	4.2.8	5.5.2 5.10.1.1
5. Network Utilities	City Wide Performance Standard	5.5.6.3	N/A (Deleted)	Location	Delete the part of the location standard that applies to 'Realignment, reconfiguration or relocation of existing network utilities' and amend reference to 'operation, repair, minor upgrading and maintenance of existing network utilities'. Linked to decision to amend the name and content of 'Operation, repair, minor upgrading and maintenance of existing network utilities'; this activity now includes realignment etc.	NU 457.4	4.2.8	5.5.2 5.10.1.1
5. Network Utilities	City Wide Performance Standard	5.5.6	5.5.2	Location	Amend rule: to amend the areas within which the rule applies; to make the rule more enabling in terms of the types of structure that new structures may co-locate against, and how close they must be to those structures; and to provide additional exemptions from the requirement to locate pipes and lines underground.	NU 576.44, NU 457.18	4.2.17	5.9.3
5. Network Utilities	City Wide Performance Standard	5.5.7.1		Maximum dimensions	Delete maximum gross floor area of substations, in consequence of the change to the way substations are provided for - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
5. Network Utilities	City Wide Performance Standard	5.5.7	N/A (Deleted)	Maximum dimensions	Delete maximum area for network utility structures in pedestrian street frontages, scheduled heritage sites and heritage precincts (Rule 5.5.7.1.a.iii.2) -	NU 457.20	4.2.18	5.9.4 5.9.8

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					to be replaced by new Rule 5.5.B.			
5. Network Utilities	City Wide Performance Standard	5.5.7	N/A (Deleted)	Maximum dimensions	Delete limits on the volume of pole mounted and ground mounted network utility structures - small scale (Rules 5.5.7.1.a.i&ii), and delete the maximum diameter of tubular masts (Rule 5.5.7.2.a).	NU 576.46, NU 576.47	4.2.18	5.9.4 5.9.5
5. Network Utilities	City Wide Performance Standard	5.5.8	N/A (Deleted)	Maximum height	Delete maximum height for network utility structures in pedestrian street frontages, scheduled heritage sites and heritage precincts (Rule 5.5.8.5.b.i) - to be replaced by new Rule 5.5.B.	NU 457.20	4.2.18	5.9.4 5.9.8
5. Network Utilities	City Wide Performance Standard	5.5.10.4		Biomass energy generation - design standards	Delete performance standard - linked to the removal of the separate activity for biomass generators - on-site energy generation	NU 308.137	4.3.8	6.5.1 6.5.2 6.5.3 6.5.2 (5 July 2016 Addendum)
5. Network Utilities	City Wide Performance Standard	5.5.11	N/A (Deleted)	Reflectivity	Delete rule, which cross-references to Rule 10.3.6 (Rule 5.5.11 is to be replaced by 5.5.D, which applies the limit on reflectivity in all zones rather than only landscape and coastal character overlay zones)	NU 743.17	4.3.6	6.2.56.3.36.3.46.3.5
5. Network Utilities	City Wide Performance Standard	5.5.12.1	5.5.9.1	Boundary setbacks	Delete standard (which applies only to wind generators - community scale), including Figure 5.5F - linked to deletion of 'wind generators - community scale' activity, as part of change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4 6.4.2 6.4.3 6.4.4
5. Network Utilities	City Wide Performance Standard	5.5.12.A (new)	5.5.9.A	Setbacks for wind generators	Amend standard to increase setbacks from road, property and zone boundaries, and from residential buildings on separate sites, but to remove boundary setbacks for rooftop turbines in CMU and MF zones (these are instead subject to height in relation to boundary rules under Rule 5.5.D)	NU 743.53, NU 743.17, NU 308.122	4.3.6	6.2.4 6.2.5 6.3.3 6.3.4 6.3.5
5. Network Utilities	City Wide Performance	5.5.A.1 (new)	5.5.3.1	Scale thresholds	Add performance standard to indicate that lines are always treated as network	NU 576.9	4.2.6	5.1.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
	Standard				utility structures - small scale			
5. Network Utilities	City Wide Performance Standard	5.5.A.3 (new)	5.5.3.3	Hydro generators - small scale thresholds	Amend performance standard to indicate that hydro generators that exceed the scale thresholds are treated as hydro generators - large scale. Linked to change in management approach for energy generation at the smaller scale.	NU 308.122	4.3.5	6.2.4
5. Network Utilities	City Wide Performance Standard	5.5.A.4 (new)	5.5.3.4	Solar panels - small scale thresholds	Amend performance standard to indicate that solar panels that exceed the scale thresholds are treated as solar panels - large scale. Linked to change in management approach for energy generation at the smaller scale.	NU 308.122	4.3.5	6.2.4
5. Network Utilities	City Wide Performance Standard	5.5.A.5 (new)	5.5.3.5	Wind generators - small scale thresholds	Amend performance standard to indicate that wind generators that exceed the scale thresholds are treated as wind generators - large scale. Linked to change in management approach for energy generation at the smaller scale.	NU 308.122	4.3.5	6.2.4
5. Network Utilities	City Wide Performance Standard	5.5.A.5 (new)	5.5.3.5	Wind generators - small scale thresholds (replacing On-site energy generation standards)	Amend performance standard to increase the permitted height of rooftop wind generators in certain zones, and to limit the maximum rotor diameter of wind generators in certain zones	NU 308.122, NU 743.17	4.3.6	6.2.4 6.2.5 6.3.4 6.3.5
5. Network Utilities	City Wide Performance Standard	5.5.A.6 (new)	5.5.3.6	Network utility poles and masts - small scale thresholds	Amend performance standard to exempt wind monitoring masts that are installed for up to 24 months from scale thresholds (5.5.A.6.h.iv). This change is generally makes provisions more enabling (in response to NU 308.122) in that it removes scale thresholds in all zones for a certain time period; however, it is less enabling in certain situations in rural and industrial zones (in response to NU 743.17); under notified provisions, energy resource investigation devices, up to 80m in height and three per site, were	NU 308.122 and 743.17	4.3.5	6.2.46.2.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					permitted in these zones for up to 5 years installation period. Linked to the removal of the separate activity for energy resource investigation devices.			
5. Network Utilities	City Wide Performance Standard	5.5.A.6 (new)	5.5.3.6	Network utility poles and masts - small scale thresholds	Apply height in relation to boundary performance standard to Network utility poles and masts - small scale in commercial and mixed use zones, and major facility zones; and amend maximum diameter of head arrays in CBD and centres zones. Linked to decision to provide for network utility poles and masts - small scale as permitted in commercial and mixed use and major facility zones.	NU 576.40	4.2.9	5.1.12.3
5. Network Utilities	City Wide Performance Standard	5.5.A.6 (new)	5.5.3.6	Network utility poles and masts - small scale thresholds	Amend rule to increase: maximum diameters of head arrays and dish antenna; maximum area of largest antenna face (excluding dish antennas); maximum height; and maximum cross sectional area of poles and masts other than lattice masts.	NU 576.46, NU 576.50, NU 457.20, NU 576.47	4.2.18	5.9.45.9.55.9.8
5. Network Utilities	City Wide Performance Standard	5.5.A.7 (new)	5.5.3.7	Amateur radio configurations - small scale thresholds	Amend maximum diameter of wire antennas (5.5.A.7.b.ii)	NU 402.1	4.2.15	5.8.1
5. Network Utilities	City Wide Performance Standard	5.5.A.7 (new)	5.5.3.7	Amateur radio configurations - small scale thresholds	Amend to clarify maximum diameter of panel antennas (5.5.A.7.b.iv)	NU 402.1	4.2.15	5.8.1
5. Network Utilities	City Wide Performance Standard	5.5.A.7 (new)	5.5.3.7	Amateur radio configurations - small scale thresholds	Amend maximum height of antennas (5.5.A.7.d)	NU 402.2	4.2.15	5.8.1
5. Network Utilities	City Wide Performance	5.5.A.7 (new)	5.5.3.7	Amateur radio	Amend maximum height of poles and support structures (5.5.A.7.h)	NU 402.3	4.2.15	5.8.2

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
	Standard			configurations - small scale thresholds				
5. Network Utilities	City Wide Performance Standard	5.5.A.8 (new)	5.5.3.8	All other network utility structures - small scale thresholds	Amend performance standard to exempt wind monitoring masts that are installed for up to 24 months from scale thresholds (5.5.A.8.c.iv). This change is generally makes provisions more enabling (in response to NU 308.122) in that it removes scale thresholds in all zones for a certain time period; however, it is less enabling in certain situations in rural and industrial zones (in response to NU 743.17); under notified provisions, energy resource investigation devices, up to 80m in height and three per site, were permitted in these zones for up to 5 years installation period. Linked to the removal of the separate activity for energy resource investigation devices.	NU 308.122 and 743.17	4.3.5	6.2.46.2.5
5. Network Utilities	City Wide Performance Standard	5.5.A.8 (new)	5.5.3.8	All other network utility structures - small scale thresholds	Amend rule to refer to 'maximum area of largest antenna face (excluding dish antennas)' rather than 'cross sectional area of antennas'	NU 576.46	4.2.18	5.9.4
5. Network Utilities	City Wide Performance Standard	5.5.B (new)	5.5.4	Maximum Volume in Pedestrian Frontages, Heritage Precincts and Scheduled Heritage Sites	Add rule to limit the maximum volume of freestanding network utility structures - small scale in these areas to 0.5m3, and to indicate that contraventions of this standard are restricted discretionary activities.	NU 457.20	4.2.18	5.9.4 5.9.8
5. Network Utilities	City Wide Performance Standard	5.5.C (new)	5.5.5	Clearance from navigable water body	Amend rule to state that the standard does not apply in the case of lines attached to any existing bridge or structure crossing a navigable water body, where the existing freeboard	NU 322.24	4.2.18	5.9.9 5.19.1 (Trans)

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					height above the waterway is not reduced			
5. Network Utilities	City Wide Performance Standard	5.5.D (new)	5.5.7	Design standards for wind generators (replacing On-site energy generation standards and Reflectivity)	Amend rule to require wind generators to be rooftop rather than freestanding in certain zones, to set a maximum mast diameter, to apply a limit on reflectivity in all zones, and to apply height in relation to boundary rules to rooftop wind generators in certain zones.	NU 743.17, NU 743.53	4.3.6	6.2.56.3.36.3.46.3.5
5. Network Utilities	City Wide Performance Standard	5.5.F (new)	5.5.11	Maximum height	Add standard to manage the height of external protrusions from internal network utilities - linked to the removal of the separate activity for biomass generators - on-site energy generation	NU 308.137	4.3.8	6.5.1 6.5.2 6.5.3 6.5.2 (5 July 2016 Addendum)
5. Network Utilities	City Wide Performance Standard	5.5		Requested new performance standard	Do not add performance standard to require a minimum 2km setback of large wind turbines from dwellings		4.3.7	6.4.4
5. Network Utilities	City Wide Performance Standard	5.5		New city wide performance standard requested	Do not add new rule as requested, requiring setback of activities from Critical Electricity Lines		4.4.3	5.3.1
5. Network Utilities	City Wide Performance Standard	5.6.1.1		Setback from National Grid (buildings and structures, city-wide activities and National Grid sensitive activities) (Was "Setback	Amend rule to apply a 12m setback from National Grid support structures, substations and transmission lines, and to amend the exemptions from the setback. Amendment includes deletion of Figure 5.6A	NU 806.11, NU 576.54, NU 1090.21	4.4.2	5.2.1 5.2.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
				from national grid (sensitive activities, buildings and structures)")				
5. Network Utilities	City Wide Performance Standard	5.6.1.2		Setback from National Grid (earthworks)	Amend the nature of the setback required by the rule, and the exemptions from the setback	NU 806.11	4.4.2	5.2.15.2.6
5. Network Utilities	Note to Plan User	5.6.1.1A			Add new note to plan users	NU 806.11	4.4.2	5.2.1
5. Network Utilities	City Wide Performance Standard	5.6.2		Setback from Network Utilities	Amend performance standard so that earthworks associated with roading/accessways leading to and from network utility activities are exempt from the setback	NU 576.9	5.0	5.1.4
5. Network Utilities	City Wide Performance Standard	5.6.2		Setback from Network Utilities	Amend description of Rule 5.6.1.2 within this rule, in consequence of changes to Rule 5.6.1.2	NU 806.11	4.4.2	5.2.1 5.2.6
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.2.1			Remove guidance relating to consideration of the benefits of utilities - to be transferred to new Rule 5.7.3.A	NU 576.58	4.2.1.8	5.1.13.1
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.2	delete		Delete assessment rule for contravention of Boundary setbacks performance standard (which applies only to wind generators - community scale) - linked to deletion of 'wind generators - community scale' activity, as part of change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4 6.4.2 6.4.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.3	delete		Delete guidance on assessment of contraventions of the 'Buildings and structures located on or above the footpath' performance standard by network utility activities - linked to decision to amend Rule 6.7.2 so that it does not apply to network utility activities	NU 457.169	4.2.16	5.9.2
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.4	delete		Delete guidance for contraventions of energy resource investigation standards - linked to the removal of the separate activity for energy resource investigation devices	NU 308.122 and 743.17	4.3.5	6.2.4 6.2.5
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.5	5.7.3.2		Amend guidance relating to assessment of alternative sites	NU 576.58	4.2.1.8	5.1.13.1
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.5	5.7.3.2		Amend guidance to reflect change to Policy 5.2.1.5	NU 906.7	4.2.1.6	5.1.7.2
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.8	delete		Delete guidance on assessment of contraventions of the 'On-site energy generation - design standards' performance standard. Linked to change in management approach for energy generation at the smaller scale.	NU 308.122	4.3.5	6.2.4 6.4.2 6.4.3
5. Network Utilities	Assessment of Restricted Discretionar	5.7.3.9	delete		Delete guidance on contraventions of Rule 5.5.11 (ONLs and SNLs) - linked to decision to delete Rule 5.5.11, which	NU 743.17	4.3.6	6.2.56.3.36.3.46.3.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
	y Performance Standard Contraventions				has been replaced by new Rule 5.5.D.			
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.10	delete		Delete guidance on contraventions of Rule 5.5.11 (NCCs) - linked to decision to delete Rule 5.5.11, which has been replaced by new Rule 5.5.D.	NU 743.17	4.3.6	6.2.5 6.3.3 6.3.4 6.3.5
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.16	5.7.3.5		Amend guidance to reflect change to Policy 5.2.1.7	NU 906.7	4.2.1.6	5.1.7.3
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.18 (new)	5.7.3.6		Amend guidance to reflect change to Policy 5.2.1.5	NU 906.7	4.2.1.6	5.1.7.2
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.19 (new)	5.7.3.7		Amend guidance to reflect change to Policy 5.2.1.5	NU 906.7	4.2.1.6	5.1.7.2
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard	5.7.3.20	5.7.3.8		Add guidance for contraventions of Rule 5.5.F Maximum height - linked to the removal of the separate activity for biomass generators - on-site energy generation	NU 308.137	4.3.8	6.5.16.5.26.5.36.5.2 (5 July 2016 Addendum)

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
	Contraventions							
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.20 (new)	5.7.3.8		Amend guidance to reflect change to Policy 5.2.1.5	NU 906.7	4.2.1.6	5.1.7.2
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.A (new)	5.7.3.1		Amend guidance for assessment of all performance standard contraventions (network utility activities) by adding reference to Policy 5.2.1.1 ("The use and development of renewable energy generation is encouraged"), to ensure that this policy is taken into account when processing consents.	NU 308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.A (new)	5.7.3.1		Amend guidance to refer to new Policy 5.2.1.A - linked to decision to add this new policy	NU 457.192	4.2.1.7	5.1.7.7
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.A (new)	5.7.3.1		Add new assessment rule for all network utility activities that contravene performance standards, with 'benefits' and 'technical and operational constraints' as matters of discretion	NU 576.58	4.2.1.8	5.1.13.1
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.A (new)	5.7.3.1		Amend guidance to refer to Objective 2.2.2 and Policy 2.2.2.3 - linked to decision to amend wording of Policy 2.2.2.3	NU 764.1	4.3.5	6.2.36.3.26.2.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.3.A (new)	5.7.3.1		Amend guidance to reflect change to Objective 2.3.1 and addition of Policy 2.3.1.7	NU 918.22	4.2.1.2	5.1.3
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.4.1			Amend guidance to reflect amended wording of Policy 5.2.2.2	NU 806.11	4.4.2	5.2.1 5.2.3 5.2.3 (4 July 2016 Addendum) 5.3.1
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.4.1			Amend guidance to indicate that earthworks that do not comply with NZECP will generally be refused consent	NU 806.11	4.4.2	5.2.1 5.2.6
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.4.1			Amend guidance to refer to Objective 5.2.2 and Policy 5.2.2.2	NU 918.29	4.4.1	5.1.7.7
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.4.1			Do not delete rule as requested, as part of a change to provisions to treat contraventions of the Setback from National Grid (earthworks) standard as non-complying activities		4.4.2	5.2.1
5. Network Utilities	Assessment of Restricted Discretionar	5.7.4.2			Amend guidance to refer to Objective 5.2.2 and Policy 5.2.2.1	NU 918.29	4.4.1	5.1.7.7

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
	y Performance Standard Contraventions							
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.5.1			Amend to provide guidance on assessment of contraventions of Rule 5.5.B in pedestrian frontages - linked to decision to add new Rule 5.5.B.	NU 457.20	4.2.18	5.9.4 5.9.8
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.5.2			Amend to provide guidance on assessment of contraventions of Rule 5.5.B in heritage precincts - linked to decision to add new Rule 5.5.B.	NU 457.20	4.2.18	5.9.4 5.9.8
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7.5.3			Amend to provide guidance on assessment of contraventions of Rule 5.5.B in scheduled heritage sites - linked to decision to add new Rule 5.5.B.	NU 457.20	4.2.18	5.9.4 5.9.8
10. Natural Environment	Assessment of RD Performance Standard Contraventions	5.7.5.4			Add new guidance to provide for the assessment of activities against new Policy 10.2.3.Z	NU 576.9	4.2.17	5.1.4
5. Network Utilities	Assessment of Restricted Discretionary Performance Standard Contraventions	5.7		New assessment guidance requested	Do not add new guidance as requested, relating to contraventions of the requested new setback from Critical Electricity Lines		4.4.3	5.3.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.1.3			Amend description of contents of assessment rules, to refer to new Rule 5.8.5	NU 806.11	4.4.2	5.2.1
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.1.3			Amend to refer to new Rule 5.8.4	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.2.A (new)	5.8.2.1		Amend guidance for assessment of all restricted discretionary activities (network utility activities) by adding reference to Policy 5.2.1.1 ("The use and development of renewable energy generation is encouraged"), to ensure that this policy is taken into account when processing consents.	NU 308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.2.A (new)	5.8.2.1		Amend guidance to reflect change to Policy 5.2.1.11	NU 457.14	4.2.1.6	5.1.7.5
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.2.A (new)	5.8.2.1		Amend guidance to refer to new Policy 5.2.1.A - linked to decision to add this new policy	NU 457.192	4.2.1.7	5.1.7.7
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.2.A (new)	5.8.2.1		Add new assessment rule for all restricted discretionary network utility activities, with 'benefits' and 'technical and operational constraints' as matters of discretion	NU 576.58	4.2.1.8	5.1.13.1
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.2.A (new)	5.8.2.1		Amend guidance relating to assessment of "effects on character and amenity of zone" and "effects on surrounding sites' residential amenity"	NU 576.58	4.2.1.8	5.1.13.1
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.2.A (new)	5.8.2.1		Amend to reflect the change in activity status for 'all other network utilities structures - large scale' from restricted discretionary to discretionary, in all management zones (remove guidance)	NU 764.1	4.3.5	6.2.4
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.2.A (new)	5.8.2.1		Amend guidance to refer to Objective 2.2.2 and Policy 2.2.2.3 - linked to decision to amend wording of Policy 2.2.2.3	NU 764.1	4.3.5	6.2.3 6.3.2 6.2.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.2.A (new)	5.8.2.1		Amend guidance to reflect change to Objective 2.3.1 and addition of Policy 2.3.1.7	NU 918.22	4.2.1.2	5.1.3
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.3.1			Amend guidance to reflect change in activity status for wind generators - small scale, hydro generators - small scale and solar panels - small scale in ONFs (add guidance)	NU 308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.3.2			Amend guidance to reflect change in activity status for wind generators - small scale, hydro generators - small scale and solar panels - small scale in HNCCs and ONCCs (add guidance)	NU 308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.4		Reverse sensitivity effects	Add new matter of discretion for general subdivision within the radio transmitters mapped area	NU 918.25	4.4.4	5.4.15.4.1 (4 July 2016 addendum)
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8.5		Assessment of subdivision activities in the National Grid Corridor Mapped Area	Add new assessment rule with three new matters of discretion (effects on health and safety, reverse sensitivity effects and effects on efficient and effective operation of network utilities), to apply to all subdivision activities in this area	NU 806.11	4.4.2	5.2.1
5. Network Utilities	Assessment of Restricted Discretionary Activities	5.8			Do not add new rule as requested, so that subdivision near Critical Electricity Lines is a restricted discretionary activity, with discretion extending to effects on the CELs		4.4.3	5.3.1
5. Network Utilities	Assessment of Discretionary Activities	5.9.1.3			Amend to refer to new Rule 5.9.4	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.1			Amend guidance for assessment of all discretionary activities (network utility activities) by adding reference to Policy 5.2.1.1 ("The use and development of renewable energy generation is encouraged"), to ensure that this policy	NU 308.122	4.3.5	6.2.4

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					is taken into account when processing consents.			
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.1			Amend guidance to reflect change to Policy 5.2.1.11	NU 457.14	4.2.1.6	5.1.7.5
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.1			Amend guidance to refer to new Policy 5.2.1.A - linked to decision to add this new policy	NU 457.192	4.2.1.7	5.1.7.7
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.1			Amend guidance to refer to consideration of technical and operational constraints, and to add a number of 'potential circumstances that may support a consent application'	NU 576.58	4.2.1.8	5.1.13.1
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.1			Amend guidance to refer to consideration of the distance between wind generators - large scale and dwellings	NU 600.5	4.3.7	6.4.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.1			Amend guidance to refer to Objective 2.2.2 and Policy 2.2.2.3 - linked to decision to amend wording of Policy 2.2.2.3	NU 764.1	4.3.5	6.2.3 6.3.2 6.2.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.1			Amend guidance to reflect change to Objective 2.3.1 and addition of Policy 2.3.1.7	NU 918.22	4.2.1.2	5.1.3
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.4	5.9.2.2		Amend guidance to reflect change in activity status for solar panels - large scale, hydro generators - large scale and wind generators - large scale in SNLs and ONLs (add guidance)	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.4	5.9.2.2		Amend guidance for SNL and ONL overlay zones to refer to substations - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.5	5.9.2.3		Amend guidance to reflect change in activity status for solar panels - large scale, hydro generators - large scale and wind generators - large scale in ASBVs (add guidance)	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network	Assessment	5.9.2.5	5.9.2.3		Amend guidance for ASBVs to refer to	NU915.17	4.2.13	5.9.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Utilities	of Discretionary Activities				substations - linked to decision to add new activity status rule for substations			
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.6	5.9.2.4		Amend guidance to reflect change in activity status for solar panels - large scale, hydro generators - large scale and wind generators - large scale in NCCs (add guidance)	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.6	5.9.2.4		Amend guidance for the NCC Overlay Zone to refer to substations - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.7	5.9.2.5		Amend guidance to reflect change in activity status for solar panels - large scale, hydro generators - large scale and wind generators - large scale in scheduled heritage sites (add guidance)	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.7	5.9.2.5		Amend guidance for scheduled heritage sites to refer to substations - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.8	5.9.2.6		Amend guidance to reflect change in activity status for solar panels - large scale, hydro generators - large scale and wind generators - large scale in heritage precincts (add guidance)	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.8	5.9.2.6		Amend guidance for heritage precincts to refer to substations - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
5. Network Utilities	Assessment of Discretionary Activities	5.9.2.10	delete		Delete assessment rule	NU 360.200	5.0	7.5.3
5. Network Utilities	Assessment of Discretionary Activities	5.9.4			Add new guidance for discretionary activities within the radio transmitters mapped area	NU 918.25	4.4.4	5.4.15.4.1 (4 July 2016 addendum)
5. Network Utilities	Assessment of Non-complying Activities	5.10.1.2			Amend to refer to new Rule 5.10.5	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
5. Network Utilities	Assessment of Non-complying Activities	5.10.2.1			Amend guidance for assessment of all non-complying activities (network utility activities) by adding reference to Policy 5.2.1.1 ("The use and development of renewable energy generation is encouraged"), to ensure that this policy is taken into account when processing consents.	NU 308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Non-complying Activities	5.10.2.1			Amend guidance to refer to new Policy 5.2.1.A - linked to decision to add this new policy	NU 457.192	4.2.1.7	5.1.7.7
5. Network Utilities	Assessment of Non-complying Activities	5.10.2.1			Amend guidance to refer to the consideration of the technical and operational constraints of utilities	NU 576.58	4.2.1.8	5.1.13.1
5. Network Utilities	Assessment of Non-complying Activities	5.10.2.1			Amend guidance to refer to Policy 2.2.2.3 - linked to decision to amend wording of Policy 2.2.2.3	NU 764.1	4.3.5	6.2.3 6.3.2 6.2.4
5. Network Utilities	Assessment of Non-complying Activities	5.10.2.1			Amend guidance to reflect change to Objective 2.3.1 and addition of Policy 2.3.1.7	NU 918.22	4.2.1.2	5.1.3
5. Network Utilities	Assessment of Non-complying Activities	5.10.3.1	delete		Amend guidance to reflect change in activity status for solar panels - large scale, hydro generators - large scale and wind generators - large scale in all zones other than rural and industrial zones (remove guidance)	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Non-complying Activities	5.10.3.2	5.10.3.1		Amend guidance to replace reference to "solar panels - all scales", "hydro generators - all scales" and "wind generators - all scales" with, respectively, "solar panels - large scale", "hydro generators - large scale" and "wind generators - large scale" (HNCCs and ONCCs). Linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network	Assessment	5.10.3.2	5.10.3.1		Amend guidance for HNCC and ONCC	NU915.17	4.2.13	5.9.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Utilities	of Non-complying Activities				overlay zones to refer to substations - linked to decision to add new activity status rule for substations			
5. Network Utilities	Assessment of Non-complying Activities	5.10.3.4	5.10.3.2		Amend guidance to replace reference to "solar panels - all scales", "hydro generators - all scales" and "wind generators - all scales" with, respectively, "solar panels - large scale", "hydro generators - large scale" and "wind generators - large scale" (ONFs). Linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Non-complying Activities	5.10.3.4	5.10.3.2		Amend guidance for the ONF Overlay Zone to refer to substations - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
5. Network Utilities	Assessment of Non-complying Activities	5.10.3.6	delete		Amend guidance to reflect change in activity status for solar panels - large scale, hydro generators - large scale and wind generators - large scale in scheduled heritage sites and heritage precincts (delete guidance)	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Non-complying Activities	5.10.3.X			Amend guidance to reflect change in activity status for solar panels - large scale, hydro generators - large scale and wind generators - large scale in ASBVs (delete guidance)	NU 308.462, NU308.122	4.3.5	6.2.4
5. Network Utilities	Assessment of Non-complying Performance Standard Contraventions	5.10.4.3			Amend guidance	NU 360.201	5.0	7.5.5
5. Network Utilities	Assessment of Non-complying Performance Standard Contraventions	5.10.4.5			Amend to provide guidance on the assessment of contraventions of amended Rules 15.7.6, 16.7.5, 17.7.6, 18.7.5, 19.7.5 and 20.7.5	NU 806.11	4.4.2	5.2.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
5. Network Utilities	Assessment of Non-complying Performance Standard Contraventions	5.10.4.5			Amend guidance to reflect amended wording of Policy 5.2.2.2	NU 806.26	4.4.2	5.2.1 5.2.3 5.2.3 (4 July 2016 Addendum) 5.3.1
5. Network Utilities	Assessment of Non-complying Performance Standard Contraventions	5.10.4.5			Amend guidance to refer to Objective 5.2.2 and Policy 5.2.2.2, and to delete 5.10.4.5.e	NU 918.29	4.4.1	5.1.7.7
5. Network Utilities	Assessment of Non-complying Performance Standard Contraventions	5.10.4			Do not amend rule to treat contraventions of the Setback from National Grid (earthworks) standard as non-complying activities		4.4.2	5.2.1
5. Network Utilities	Assessment of Non-complying Activities	5.10.5			Add new guidance for non-complying activities within the radio transmitters mapped area	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
5. Network Utilities	Note to Plan User	5.5C			Delete note	NU 360.199	5.0	5.9.10
5. Network Utilities	Section name	5		Network utilities and energy generation	Amend section name from 'Network utilities and energy generation' to 'Network utilities' - linked to decision to amend definition of 'network utilities' to include 'energy generation'.	NU 360.233	4.2.7	5.5.1
6. Transportation	City Wide Performance Standard	6.7.2		Buildings and structures located on or above the footpath	Amend performance standard so that it does not apply to network utility activities	NU 457.169	4.2.16	5.9.2
9. Public Health and Safety	Introduction	9.1		Introduction	Amend introduction to replace reference to 'network utilities and energy generation' with 'network utilities' - linked to decision to amend definition of	NU 360.233	4.2.7	5.5.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					'network utilities' to include 'energy generation'.			
9. Public Health and Safety	Policy	9.2.2.13			Amend policy relating to location of activities on or above the footpath, so that it does not apply to network utility activities - linked to decision to amend Rule 6.7.2 so that it does not apply to network utility activities	NU 457.169	4.2.16	5.9.2
9. Public Health and Safety	Assessment of RD Performance Standard Contraventions	9.4.3.1	9.5.3.1		Amend guidance to reflect change to wording of Policy 9.2.2.13 - linked to decision to amend Rule 6.7.2 so that it does not apply to network utility activities	NU 457.169	4.2.16	5.9.2
10. Natural Environment	Policy	10.2.1.11	N/A (Deleted)		Amend policy to remove reference to regional scale energy generation - reflects change in activity status from NC to D for large scale energy generation (was regional scale) in ASBVs	NU 308.462, NU 308.122	4.3.5	6.2.4
10. Natural Environment	Policy	10.2.3.2			Amend policy to reflect change in activity status for wind generators - small scale, hydro generators - small scale and solar panels - small scale in ONCCs and HNCCs (remove reference to 'on-site energy generation')	NU 308.122	4.3.5	6.2.4 6.4.2 6.4.3
10. Natural Environment	Policy	10.2.3.2			Amend policy to delete references to "regional scale energy generation" and "community scale energy generation". Linked to change in management approach for larger scale energy generation, to simplify provisions (these activities are now covered in this policy by the term 'network utility structures - large scale', which includes all types of large scale energy generation).	NU 308.462, NU 308.122	4.3.5	6.2.4
10. Natural Environment	Policy	10.2.3.2			Amend policy to refer to substations and to reflect activity status of substations in HNCCs and ONCCs - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
10. Natural	Policy	10.2.3.6	10.2.3.9		Amend policy to delete reference to	NU 743.17	4.3.6	6.2.5

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
Environment					wind generators - on-site energy generation (NCCs). Linked to decision to amend Rule 10.3.6 so that it does not apply to this activity; reflectivity of this activity (now renamed wind generators - small scale) is now managed via Rule 5.5.D.			6.3.3 6.3.4 6.3.5
10. Natural Environment	Policy	10.2.3.11	N/A (Deleted)		Amend policy to remove reference to regional scale energy generation - reflects change in activity status from NC to D for large scale energy generation (was regional scale) in NCCs	NU 308.462, NU 308.122	4.3.5	6.2.4
10. Natural Environment	Policy	10.2.3.Y	10.2.3.6		Amend policy to refer to substations and to reflect activity status of substations NCCs - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
10. Natural Environment	Policy	10.2.3.Z	10.2.3.13		Add policy	NU 576.9	4.2.17	5.1.4
10. Natural Environment	Policy	10.2.5.4	10.2.5.2		Amend policy to reflect change in activity status for wind generators - small scale, hydro generators - small scale and solar panels - small scale in ONFs (remove reference to 'on-site energy generation')	NU 308.122	4.3.5	6.2.4 6.4.2 6.4.3
10. Natural Environment	Policy	10.2.5.4	10.2.5.2		Amend policy to delete references to "community and regional scale energy generation". Linked to change in management approach for larger scale energy generation, to simplify provisions (these activities are now covered in this policy by the term 'network utility structures - large scale', which includes all types of large scale energy generation).	NU 308.462, NU 308.122	4.3.5	6.2.4
10. Natural Environment	Policy	10.2.5.4	10.2.5.2		Amend policy to refer to substations and to reflect activity status of substations in ONFs - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
10. Natural Environment	Policy	10.2.5.7	10.2.5.9		Amend policy to delete reference to 'on-site energy generation devices' and replace with 'hydro generators - small	NU 308.122	4.3.5	6.2.4 6.4.2 6.4.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					scale, solar panels - small scale, wind generators - small scale'. Linked to change in management approach for energy generation at the smaller scale.			
10. Natural Environment	Policy	10.2.5.7	10.2.5.9		Amend policy to refer to substations and to reflect activity status of substations in SNLs - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
10. Natural Environment	Policy	10.2.5.8	10.2.5.12		Amend policy to delete reference to wind generators - on-site energy generation (ONLs and SNLs). Linked to decision to amend Rule 10.3.6 so that it does not apply to this activity; reflectivity of this activity (now renamed wind generators - small scale) is now managed via Rule 5.5.D.	NU 743.17	4.3.6	6.2.5 6.3.3 6.3.4 6.3.5
10. Natural Environment	Policy	10.2.5.14	10.2.5.5		Amend policy wording (relates to the assessment of contraventions of Rule 5.5.6.5, the requirement to co-locate network utility structures - small scale on ONFs with other structures)	NU 576.9	4.2.17	5.1.4
10. Natural Environment	Policy	10.2.5.15	10.2.5.6		Amend policy to remove references both to regional scale energy generation and to SNLs (because following this change there are no non-complying activities in SNLs) - reflects change in activity status from NC to D for large scale energy generation (was regional scale) in ONLs and SNLs	NU 308.462, NU 308.122	4.3.5	6.2.4
10. Natural Environment	Policy	10.2.5.Z	10.2.5.8		Amend policy to refer to substations and to reflect activity status of substations in ONLs - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
10. Natural Environment	City Wide Performance Standard	10.3.3			Amend rule to delete reference to 'hydro generators - community scale'. Linked to change in management approach for larger scale energy generation, to simplify provisions. Note that in this case 'hydro generators - community scale' is replaced with 'hydro generators - small scale' rather than 'hydro generators - large scale'; this is because	NU 308.462, NU 308.122	4.3.5	6.2.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					under notified provisions 'hydro generators - community scale' was permitted in rural zones - this scale of generator has therefore been amalgamated with the 'small scale' rather than the 'large scale' activity, in order to retain the effect of notified provisions.			
10. Natural Environment	City Wide Performance Standard	10.3.3		Setback from coast and water bodies	Amend to exempt 'network utility structures - small scale in existing roads that comply with Rule 5.5.6' and 'the operation, repair, minor upgrading and maintenance of existing network utilities'.	NU 576.64, NU 457.21	4.2.19	7.6
10. Natural Environment	City Wide Performance Standard	10.3.6	10.3.6 still (see note)	Reflectivity	Amend rule to delete reference to 'wind generators - on-site energy generation', because reflectivity of this activity (now renamed wind generators - small scale) is now managed via Rule 5.5.D	NU 743.17	4.3.6	6.2.5 6.3.3 6.3.4 6.3.5
10. Natural Environment	Assessment of RD Performance Standard Contraventions	10.4.4.7	10.5.4.8		Add new guidance to provide for the assessment of activities against new Policy 10.2.3.Z	NU 576.9	4.2.17	5.1.4
10. Natural Environment	Assessment of Restricted Discretionary Activities	10.5.2	10.6.2		Do not amend guidance for network utility activities in coastal character overlay zones, ASCVs or ONFs as requested, to require utility providers to reduce the size of infrastructure when the technology to do so becomes available	Reject 447.54, 900.90	4.2.4	5.1.13.3
10. Natural Environment	Assessment of Restricted Discretionary Activities	10.5.3	10.6.3		Do not amend guidance for network utility activities in coastal character overlay zones, ASCVs or ONFs as requested, to require utility providers to reduce the size of infrastructure when the technology to do so becomes available	Reject 447.54, 900.91	4.2.5	5.1.13.4
10. Natural Environment	Assessment of Discretionar	10.6.2.5	10.7.2.4		Amend guidance to refer to substations (SNLs and ONLs) - linked to decision to add new activity status rule for	NU915.17	4.2.13	5.9.4

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
	y Activities				substations			
10. Natural Environment	Assessment of Discretionary Activities	10.6.2.7	10.7.2.5		Amend guidance to refer to "network utility structures - large scale (excluding amateur radio configurations)"; this activity category includes large scale energy generation - reflects change in activity status from NC to D for large scale energy generation (was regional scale) in ASBVs (add guidance)	NU 308.462, NU 308.122	4.3.5	6.2.4
10. Natural Environment	Assessment of Discretionary Activities	10.6.2.7	10.7.2.5		Amend guidance to refer to substations (ASBVs) - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
10. Natural Environment	Assessment of Non-complying Activities	10.7.2.3	N/A (Deleted)		Amend guidance to reflect change in activity status for solar panels - large scale, hydro generators - large scale and wind generators - large scale in ASBVs (delete guidance)	NU 308.462, NU308.122	4.3.5	6.2.46.4.26.4.3
10. Natural Environment	Assessment of NC Performance Standard Contraventions	10.7.2.5	10.8.2.6		Amend assessment rule to remove guidance for the assessment of contraventions of Rule 5.5.6.5 (requirement to co-locate network utility structures - small scale on ONFs with other structures) - linked to decision to add new Rule 10.7.2.C to allow for contraventions to be assessed against the appropriate policy (Policy 10.2.5.14)	NU 576.9	4.2.17	5.1.4
10. Natural Environment	Assessment of NC Performance Standard Contraventions	10.7.2.C (new)	10.8.2.7		Add new guidance to allow for contraventions of Rule 5.5.6.5 (the requirement to co-locate network utility structures - small scale on ONFs with other structures) to be assessed against the appropriate policy (Policy 10.2.5.14) and to reflect the amended wording of this policy - linked to decisions to amend wording of Policy 10.2.5.14 and to amend Rule 10.7.2.5 to remove guidance for the assessment of contraventions of Rule 5.5.6.5	NU 576.9	4.2.17	5.1.4
12. Transitional Provisions	Section	12		Urban Land Transition Provisions	Do not amend section as requested, in relation to subdivision in the National Grid corridor		4.4.2	5.2.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
				(was Transitional Provisions)				
13. Heritage	Assessment of Restricted Discretionary Performance Standard Contraventions	13.5.3.2			Amend to provide guidance on assessment of contraventions of Rule 5.5.B in scheduled heritage sites - linked to decision to add new Rule 5.5.B.	NU 457.20	4.2.18	5.9.45.9.8
13. Heritage	Assessment of Restricted Discretionary Performance Standard Contraventions	13.5.4.8			Amend to provide guidance on assessment of contraventions of Rule 5.5.B in heritage precincts - linked to decision to add new Rule 5.5.B.	NU 457.20	4.2.18	5.9.4 5.9.8
13. Heritage	Assessment of Discretionary Activities	13.7.2.2			Amend guidance to refer to substations (scheduled heritage sites) - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
13. Heritage	Assessment of Discretionary Activities	13.7.2.3			Amend guidance to refer to substations (heritage precincts) - linked to decision to add new activity status rule for substations	NU915.17	4.2.13	5.9.4
15. Residential Zones	Activity Status	15.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
15. Residential Zones	Subdivision Performance Standard	15.7.6		Shape	Amend rule to require that building platforms be located at least 12m from National Grid infrastructure, and to apply non-complying activity status to subdivision activities that contravene this standard	NU 806.11	4.4.2	5.2.1
15. Residential Zones	Assessment of Restricted Discretionary Activities	15.10.5.12 (new)	15.11.5.9		Add guidance for subdivision in the National Grid Corridor Mapped Area - linking to new Rule 5.8.5	NU 806.11	4.4.2	5.2.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
15. Residential Zones	Assessment of Non-complying Performance Standard Contraventions	15.12.5.3	15.13.5.4		Amend guidance to refer to Objective 5.2.2	NU 918.29	4.4.1	5.1.7.7
15. Residential Zones	Assessment of Non-complying Performance Standard Contraventions	15.12.5.9 (new)	15.13.5.8		Add to provide guidance on the assessment of contraventions of amended Rule 15.7.6	NU 806.11	4.4.2	5.2.1
16. Rural Zones	Introduction	16.1			Do not amend as requested	Reject NU 918.39	4.2.1.9	5.1.6
16. Rural Zones	Policy	16.2		New policy requested	Do not add new policy as requested		4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
16. Rural Zones	Activity Status	16.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
16. Rural Zones	Notification Rule	16.4.6 (new)	16.4.5		Add new rule requiring notification of RNZ for subdivision and sensitive activities in the radio transmitters mapped area - linking to new Rules 5.8.4, 5.9.4 and 5.10.5	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
16. Rural Zones	Land Use Performance Standard	16.5.9	16.5.10	Separation distances	Do not amend rule as requested, to apply to 1km separation distance between new residential buildings and RNZ's facilities		4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
16. Rural Zones	Subdivision Performance Standard	16.7.5		Shape	Amend rule to require that building platforms be located at least 12m from National Grid infrastructure, and to apply non-complying activity status to subdivision activities that contravene this standard	NU 806.11	4.4.2	5.2.1
16. Rural Zones	Assessment of Restricted	16.10.5.14 (new)	16.10.5.13		Add guidance for subdivision in the National Grid Corridor Mapped Area -	NU 806.11	4.4.2	5.2.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
	Discretionary Activities				linking to new Rule 5.8.5			
16. Rural Zones	Assessment of Restricted Discretionary Activities	16.10.5.15	16.10.5.14		Add new matter of discretion for general subdivision within the radio transmitters mapped area - linking to new Rule 5.8.4	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.1			Amend to add guidance for discretionary activities within the radio transmitters mapped area - linking to new Rule 5.9.4	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.3			Amend this assessment rule for rural industry to add guidance in relation to renewable energy generation (relevant if the activity involves the generation of energy from the combustion of biomass waste that is a by-product of rural industry). Linked to the removal of the separate activity for biomass generators - alone.	NU 308.468	4.3.8	6.5.1 6.5.2 6.5.4 6.5.2 (5 July 2016 Addendum)
16. Rural Zones	Assessment of Discretionary Activities	16.11.2.4			Amend this assessment rule for landfills to add guidance in relation to renewable energy generation (relevant if the activity involves the generation of energy from the combustion of biomass waste that is a by-product of landfill). Linked to the removal of the separate activity for biomass generators - alone.	NU 308.468	4.3.8	6.5.16.5.26.5.46.5.2 (5 July 2016 Addendum)
16. Rural Zones	Assessment of Non-complying Activities	16.12.2.1			Add new guidance for non-complying activities within the radio transmitters mapped area - linking to new Rule 5.10.5	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
16. Rural Zones	Assessment of Non-complying Performance Standard Contraventions	16.12.6.5	16.12.5.5		Amend guidance to refer to Objective 5.2.2	NU 918.29	4.4.1	5.1.7.7
16. Rural Zones	Assessment of Non-complying Performance	16.12.6.9 (new)	16.12.5.8		Add to provide guidance on the assessment of contraventions of amended Rule 16.7.5	NU 806.11	4.4.2	5.2.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
	Standard Contraventions							
17. Rural Residential Zones	Activity Status	17.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
17. Rural Residential Zones	Notification Rule	17.4.6 (new)	17.4.5		Add new rule requiring notification of RNZ for subdivision and sensitive activities in the radio transmitters mapped area - linking to new Rules 5.8.4, 5.9.4 and 5.10.5	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
17. Rural Residential Zones	Subdivision Performance Standard	17.7.6		Shape	Amend rule to require that building platforms be located at least 12m from National Grid infrastructure, and to apply non-complying activity status to subdivision activities that contravene this standard	NU 806.11	4.4.2	5.2.1
17. Rural Residential Zones	Assessment of Restricted Discretionary Activities	17.10.5.14 (new)	17.10.10		Add guidance for subdivision in the National Grid Corridor Mapped Area - linking to new Rule 5.8.5	NU 806.11	4.4.2	5.2.1
17. Rural Residential Zones	Assessment of Restricted Discretionary Activities	17.10.5.16	17.10.12		Add new matter of discretion for general subdivision within the radio transmitters mapped area - linking to new Rule 5.8.4	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
17. Rural Residential Zones	Assessment of Discretionary Activities	17.11.2.2	17.11.2.1		Amend to add guidance for discretionary activities within the radio transmitters mapped area - linking to new Rule 5.9.4	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
17. Rural Residential Zones	Assessment of Non-complying Activities	17.12.2.1			Add new guidance for non-complying activities within the radio transmitters mapped area - linking to new Rule 5.10.5	NU 918.25	4.4.4	5.4.1 5.4.1 (4 July 2016 addendum)
17. Rural Residential Zones	Assessment of Non-complying Performance Standard Contraventions	17.12.6.2			Amend guidance to refer to Objective 5.2.2	NU 918.29	4.4.1	5.1.7.7

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
17. Rural Residential Zones	Assessment of Non-complying Performance Standard Contraventions	17.12.6.8 (new)	17.12.6.7		Add to provide guidance on the assessment of contraventions of amended Rule 17.7.6	NU 806.11	4.4.2	5.2.1
18. Commercial Mixed Use Zones	Activity Status	18.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
18. Commercial and Mixed Use Zones	Subdivision Performance Standard	18.7.5		Shape	Amend rule to require that building platforms be located at least 12m from National Grid infrastructure, and to apply non-complying activity status to subdivision activities that contravene this standard	NU 806.11	4.4.2	5.2.1
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Performance Standard Contraventions	18.9.6.7			Amend to provide guidance on assessment of contraventions of Rule 5.5.B in pedestrian frontages - linked to decision to add new Rule 5.5.B.	NU 457.20	4.2.18	5.9.4 5.9.8
18. Commercial and Mixed Use Zones	Assessment of Restricted Discretionary Activities	18.10.5.9 (new)	18.10.5.6		Add guidance for subdivision in the National Grid Corridor Mapped Area - linking to new Rule 5.8.5	NU 806.11	4.4.2	5.2.1
18. Commercial and Mixed Use Zones	Assessment of Non-complying Performance Standard Contraventions	18.12.5.2			Amend guidance to refer to Objective 5.2.2	NU 918.29	4.4.1	5.1.7.7
18. Commercial and Mixed Use Zones	Assessment of Non-complying Performance Standard	18.12.5.9 (new)	18.12.5.8		Add to provide guidance on the assessment of contraventions of amended Rule 18.7.5	NU 806.11	4.4.2	5.2.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
	Contraventions							
19. Industrial Zones	Activity Status	19.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
19. Industrial Zones	Subdivision Performance Standard	19.7.5		Shape	Amend rule to require that building platforms be located at least 12m from National Grid infrastructure, and to apply non-complying activity status to subdivision activities that contravene this standard	NU 806.11	4.4.2	5.2.1
19. Industrial Zones	Assessment of Restricted Discretionary Activities	19.10.6.7 (new)	19.10.6.6		Add guidance for subdivision in the National Grid Corridor Mapped Area - linking to new Rule 5.8.5	NU 806.11	4.4.2	5.2.1
19. Industrial Zones	Assessment of Non-complying Performance Standard Contraventions	19.12.5.2			Amend guidance to refer to Objective 5.2.2	NU 918.29	4.4.1	5.1.7.7
19. Industrial Zones	Assessment of Non-complying Performance Standard Contraventions	19.12.5.6 (new)	19.12.4.5		Add to provide guidance on the assessment of contraventions of amended Rule 19.7.5	NU 806.11	4.4.2	5.2.1
20. Recreation Zone	Activity Status	20.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
20. Recreation Zone	Subdivision Performance Standard	20.7.5		Shape	Amend rule to require that building platforms be located at least 12m from National Grid infrastructure, and to apply non-complying activity status to subdivision activities that contravene this standard	NU 806.11	4.4.2	5.2.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
20. Recreation Zone	Assessment of Restricted Discretionary Activities	20.10.5.12 (new)	20.10.5.9		Add guidance for subdivision in the National Grid Corridor Mapped Area - linking to new Rule 5.8.5	NU 806.11	4.4.2	5.2.1
20. Recreation Zone	Assessment of Non-complying Performance Standard Contraventions	20.12.5.2			Amend guidance to refer to Objective 5.2.2	NU 918.29	4.4.1	5.1.7.7
20. Recreation Zone	Assessment of Non-complying Performance Standard Contraventions	20.12.5.5 (new)	20.12.6.4		Add to provide guidance on the assessment of contraventions of amended Rule 20.7.5	NU 806.11	4.4.2	5.2.1
21. Ashburn Clinic	Activity Status	21.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
22. Dunedin Botanic Gardens	Activity Status	22.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
23. Dunedin Hospital	Activity Status	23.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
24. Dunedin International Airport	Activity Status	24.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
25. Edgar Centre	Activity Status	25.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from		4.4.2	5.2.1

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					the National Grid in Section 5			
26. Invermay and Hercus	Activity Status	26.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
27. Mercy Hospital	Activity Status	27.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
28. Moana Pool	Activity Status	28.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
29. Otago Museum	Activity Status	29.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
30. Port	Activity Status	30.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
31. Schools	Activity Status	31.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
31. Schools	Assessment of Non-complying Performance Standard Contraventions	31.12.5.3	31.12.5.2		Amend guidance to refer to Objective 5.2.2	NU 918.29	4.4.1	5.1.7.7
32. Stadium	Activity Status	32.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from		4.4.2	5.2.1

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					the National Grid in Section 5			
33. Taieri Aerodrome	Activity Status	33.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
34. Campus	Activity Status	34.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
35. Wakari Hospital	Activity Status	35.3.1		Rule location	Do not amend rule as requested, to state that all activities within the National Grid corridor are subject to rules on the setback of activities from the National Grid in Section 5		4.4.2	5.2.1
35. Wakari Hospital	Assessment of Non-complying Performance Standard Contraventions	35.11.4.2	delete		Amend guidance to refer to Objective 5.2.2	NU 918.29	4.4.1	5.1.7.7
0. Plan	Terminology				Replace the term 'antennae' with the term 'antennas', throughout the Plan	NU 576.10 and others	5.0	6.3.11 (PO)
0. Plan	Terminology				Replace the terms 'aerial'/'aerials' with the terms 'antenna'/'antennas', throughout the Plan	NU 576.5	5.0	5.5.4.1
16. Rural Zones	Policy	Requested new policy			Do not add new policy as requested	Reject NU 918.41	4.2.1.9	5.1.9
2. Plan Overview and Introduction	Definition	1.5		Network utility structures - large scale	Amend definition to delete reference to large scale network utilities - linked to decision to delete 'large scale network utilities' definition.	NU 576.4	4.2.6	5.5.3
2. Plan Overview and Introduction	Definition	1.5		Network utility structures - small scale	Amend definition to delete reference to small scale network utilities - linked to decision to delete 'small scale network utilities' definition.	NU 576.4	4.2.6	5.5.3
2. Plan Overview and Introduction	Definition	1.5		Network utility poles and masts - small scale	Amend definition to delete reference to small scale network utilities - linked to decision to delete 'small scale network utilities' definition.	NU 576.4	4.2.6	5.5.3

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
2. Plan Overview and Introduction	Definition	1.5		Standby or temporary energy generators	Amend definition to delete reference to small scale network utilities - linked to decision to delete 'small scale network utilities' definition.	NU 576.4	4.2.6	5.5.3
2. Plan Overview and Introduction	Definition	1.5		Energy resource investigation devices	Amend definition to delete reference to small scale network utilities - linked to decision to delete 'small scale network utilities' definition.	NU 576.4	4.2.6	5.5.3
2. Plan Overview and Introduction	Definition	1.5		Amateur Radio Configurations	Amend definition to delete reference to small scale network utilities - linked to decision to delete 'small scale network utilities' definition.	NU 576.4	4.2.6	5.5.3
0. Plan	Terminology				Replace the term 'wind generators - on-site energy generation' with the term 'wind generators - small scale', throughout the Plan. Linked to change in management approach for the activity.	NU 308.122	4.3.5	6.2.4
0. Plan	Terminology				Replace the term 'hydro generators - on-site energy generation' with the term 'hydro generators - small scale', throughout the Plan. Linked to change in management approach for the activity.	NU 308.122	4.3.5	6.2.4
0. Plan	Terminology				Replace the term 'solar panels - on-site energy generation' with the term 'solar panels - small scale', throughout the Plan. Linked to change in management approach for the activity.	NU 308.122	4.3.5	6.2.4
0. Plan	Terminology				Amend provisions (nested table, Section 5 assessment rules, Section 10 policies and assessment rules, and Section 13 assessment rules) to remove references to 'energy resource investigation devices'. Linked to the removal of the separate activity for energy resource investigation devices.	NU 308.122	4.3.5	6.2.4 6.2.5
0. Plan	Terminology				Amend provisions (nested table, Section 5 and Section 10 assessment rules) to remove references to 'biomass generators - on-site energy generation'. Linked to the removal of the separate	NU 308.137	4.3.8	6.5.1 6.5.2 6.5.3 6.5.2 (5 July 2016

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					activity for biomass generators - on-site energy generation.			Addendum)
0. Plan	Terminology				Amend provisions (nested table, Section 10 policies, and Section 5 and 10 assessment rules) to remove references to 'biomass generators - stand alone'. Linked to the removal of the separate activity for biomass generators - alone.	NU 308.468	4.3.8	6.5.16.5.26.5.36.5.2 (5 July 2016 Addendum)
0. Plan	Terminology				Delete the term 'wind generators - community scale', throughout the Plan. Linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
0. Plan	Terminology				Replace the term 'wind generators - regional scale' with 'wind generators - large scale', throughout the Plan. Linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
0. Plan	Terminology				Delete the term 'hydro generators - community scale', throughout the Plan. Linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
0. Plan	Terminology				Replace the term 'hydro generators - regional scale' with the term 'hydro generators - large scale', throughout the Plan. Linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
0. Plan	Terminology				Delete the term 'solar panels - community scale', throughout the Plan. Linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
0. Plan	Terminology				Replace the term 'solar panels - regional scale' with the term 'solar panels - large scale', throughout the Plan. Linked to change in management approach for larger scale energy generation, to simplify provisions.	NU 308.462, NU308.122	4.3.5	6.2.4
0. Plan	Terminology				Amend 'Rule location' rules in all	NU 360.233	4.2.7	5.5.1

Plan Section	Provision Type	Provision number	New Number	Provision Name	Decision	Submission Point Reference	Decision Report Topic number	s42A Report Section Number
					management zone sections (e.g. Rule 15.3.1 in the Residential Zones section) to replace reference to 'network utilities and energy generation' with 'network utilities' - linked to decision to amend definition of 'network utilities' to include 'energy generation'.			
0. Plan	Terminology				Replace the term 'standby energy generators' with the term 'standby or temporary energy generators', throughout the Plan	NU 457.8	5.0	6.6.1