

BEFORE THE ENVIRONMENT COURT

IN THE MATTER OF

an appeal under the First Schedule to the
Resource Management Act 1991

AND

IN THE MATTER OF

the Proposed Second Generation Dunedin
City District Plan (2GP)

BETWEEN

**Chorus New Zealand Limited,
Spark New Zealand Trading Limited and
Vodafone New Zealand Limited**

Appellant

AND

Dunedin City Council

Respondent

**Notice of Appeal against Decisions on
Proposed Second Generation Dunedin City District Plan (2GP)**

December 2018

Form 7

Notice of appeal to Environment Court against decision on proposed policy statement or plan or change or variation

Clause 14(1) of Schedule 1, Resource Management Act 1991

To The Registrar
Environment Court
Auckland

Chorus New Zealand Limited (Chorus), Spark New Zealand Trading Limited (Spark) and Vodafone New Zealand Limited (Vodafone) appeal against parts of the decision of the Dunedin City Council in relation to the Proposed Second Generation Dunedin City District Plan (2GP).

Chorus, Spark and Vodafone made a number of submissions and further submissions on the Proposed 2GP.

Chorus, Spark and Vodafone are not trade competitors for the purposes of section 308D of the Resource Management Act 1991.

Chorus, Spark and Vodafone received notice of the decision on Wednesday 7 December 2018.

The decision was made by the Dunedin City Council.

The parts of the decision appealed by Chorus, Spark and Vodafone, reasons for the appeal and relief sought are set out below. In addition to the relief set out below, Chorus, Spark and Vodafone seeks such further or consequential relief as may be necessary to give effect to the relief sought.

Chapter 5: Network Utilities and Energy Generation: New network utilities policy that requires the benefits of network utilities to be considered when assessing the adverse effects of proposals

Provisions of proposed plan change appealed:

1. Chorus, Spark and Vodafone lodged submissions on Chapter 5 of the 2GP generally seeking that the chapter provide a framework that better provides for network utilities, and specifically that a new policy be added that requires the benefits of network utilities to be considered when assessing the adverse effects of proposals.
2. Whilst the decisions on the 2GP provide improved recognition in Chapter 2 Strategic Directions of the importance of network utilities to Dunedin, no policy is included in the Network Utilities

and Energy Generation Chapter (Chapter 5) that requires specific consideration of the benefits of network utilities where assessing the adverse effects of proposals.

Reasons for appeal:

3. The s42A report placed heavy reliance on requiring a consideration of benefits in the assessment criteria (referred to in the 2GP as “*Assessment Rules*”). The Appellants have some issues with how the *Assessment Rules* are framed that are also subject to further appeal points. However, regardless of the outcome of that matter, it is necessary for the benefits of network utilities to be recognised in the policy framework to flow through into the lower order plan provisions including the assessment criteria.
4. A new policy is required to provide a basis for recognising and considering the benefits of network utilities in the assessment criteria. Objective 2.3.1 and Policy 2.3.1.7 recognise at a high level the contribution network utilities make to economic productivity and social wellbeing, and to require that the 2GP includes rules to enable network utilities to be established, operated and upgraded efficiently and effectively, while managing any adverse effects on the environment. However, Chapter 5 should include a specific policy to require a consideration of benefits for any network utilities being assessed under the 2GP policy framework as part of a resource consent application.

Relief sought

5. Add a new Policy to Chapter 5 as follows (or wording of like effect):

Recognise the positive social, economic, cultural and environmental benefits that network utilities provide, including:

- a. enabling enhancement of the quality of life and standard of living for people and communities;*
- b. providing for public health and safety;*
- c. enabling the functioning of businesses;*
- d. enabling economic growth;*
- e. enabling growth and development;*
- f. enabling the transportation of freight, goods, people; and*
- g. enabling interaction and communication.*

Chapter 5: Network Utilities and Energy Generation: Assessment Rules 5.7.2, 5.8, 5.9, 5.10

Provisions of proposed plan change appealed:

6. Chorus, Spark and Vodafone lodged submissions on Chapter 5 in regard to the assessment criteria (referred to as “*Assessment Rules*” in the 2GP). This included a submission seeking that specific clauses in 5.7.2 were retained in regard to the recognition of operational requirements and benefits. Submissions were also lodged on sections 5.8, 5.9 and 5.10 seeking that they contained less directive language in regard to the allowable effects of network utilities, and to include criteria that require consideration of the functional, technical and operational requirements of network utilities, and community benefits, so a more balanced assessment of the benefits and costs of any particular proposal can be undertaken.

Reasons for appeal:

7. The decisions address the concerns raised in the submissions to some extent by now including the benefits of network utilities as a specific matter of discretion within the relevant criteria. However, under the “*General Assessment Guidance*”, the benefits appear to have a particular focus on renewable energy generation and energy resilience, and not on network utilities more generally, including telecommunications.
8. Further, the sub-section titled “*Potential Circumstances which may support a consent application*” have the potential to be used as a check list by processing planners in the future as to the circumstances where consent may be appropriate. These “circumstances” may in many instances not be practical to meet the operational requirements of a network utility or may promote specific forms of mitigation such as screening which may be unnecessary or ineffective. Accordingly, the preference is for this particular sub section to be deleted from each set of assessment criteria such that the objectives and policies and general assessment guidance will be the primary measures for assessing resource consent applications.

Relief sought

9. Amend the Assessment Rules in sections 5.7.2, 5.8, 5.9, 5.10 such that:
 - The “*general assessment guidance*” is amended to apply more broadly to the potential benefits of network utilities and not just renewable energy generation and energy resilience; and

- The “*potential circumstances which may support a consent application*” are deleted.

Chapter 10: Natural Environment: Assessment Rules 10.4, 10.5, 10.6 and 10.7

Provisions of proposed plan change appealed:

10. Chorus, Spark and Vodafone lodged submissions on Chapter 10 in regard to the assessment criteria (referred to as “*Assessment Rules*” in the 2GP). Submissions were lodged on sections 10.4, 10.5, 10.6 and 10.7. These submissions set out concerns with the directive nature of the some of the criteria which appeared to be framed like rules. The submissions sought that the assessment criteria be comprehensively revised to allow a more balanced consideration of network utility activities in natural environments.

Reasons for appeal:

11. The sub-section titled “*Potential Circumstances which may support a consent application*” have the potential to be used as a check list by processing planners in the future as to the circumstances where consent may be appropriate. These “circumstances” may in many instances not be practical to meet the operational requirements of a network utility or may promote specific forms of mitigation such as screening which may be unnecessary or ineffective. Accordingly, the preference is for this particular sub section to be deleted from each set of assessment criteria such that the objectives and policies and general assessment guidance will be the primary measures for assessing resource consent applications.

Relief sought

12. Amend the Assessment Rules in sections 10.4, 10.5, 10.6, and 10.7 such that:
 - The “*potential circumstances which may support a consent application*” are deleted.

Contrary to Part 2 of the RMA

13. The parts of the decision made on the Proposed 2GP as set out in this appeal notice are contrary to Part 2 of the RMA. Without limiting the above, the decision does not:
 - a) Promote the sustainable management of natural and physical resources;
 - b) Manage the use, development and protection of physical resources in a way, or at a rate, which enables people and the community of Dunedin City to provide for their economic well-being; or

- c) Sustain the potential of physical resource to meet the reasonable foreseeable needs of future generations.

14. Overall, the parts of the decision as set out in this appeal notice are not the most appropriate way to achieve the purpose of the RMA.

Additional relief

15. In addition to the specific relief set out above, Chorus, Spark and Vodafone seeks the following relief:

- a) Such further or other relief as may be just or necessary to address matters raised in this appeal.

The following documents are appended to this notice:

- A. A copy of Chorus, Spark and Vodafone's submissions on the matters raised in this notice of appeal (Appendices 1, 2 and 3)
- B. A copy of the relevant parts of the decision (Appendix 4).
- C. A list of names and addresses of persons to be served with a copy of this notice (Appendix 5).

Date: 17.12.18


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Andrew Kantor

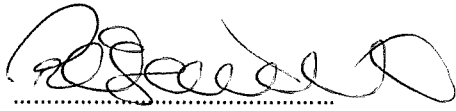
Environmental Planner and RMA Advisor

This document is filed by Chris Horne, Director, Incite (Auckland) Limited, under instruction from Chorus New Zealand Limited.

The address for service for the appellant is at:
Chorus New Zealand Limited
PO Box 632
Wellington

Please direct enquiries to:
Andrew Kantor
Environmental Planner and RMA Advisor
Tel 09 975 3399 or 022 354 5327
Email andrew.kantor@chorus.co.nz

Date: 14/12/2018

A handwritten signature in black ink, appearing to read 'Robert Berrill', written over a dotted line.

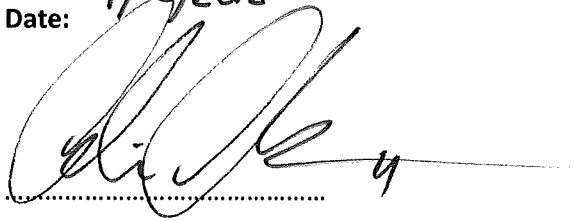
Robert Berrill
GM Physical Infrastructure

This document is filed by Chris Horne, Director, Incite (Auckland) Limited, under instruction from Spark New Zealand Trading Limited.

The address for service for the appellant is at:
Spark New Zealand Trading Limited
Private Bag 92028
Auckland 1010

Please direct enquiries to:
Graeme McCarrison
Engagement and Planning Manager
Tel +64 9 357 2807 or 027 481 1816
Email graeme.mccarrison@spark.co.nz

Date: 14/12/2018

A handwritten signature in black ink, appearing to read 'Colin Clune', written over a dotted line.

Colin Clune
RMA Planner

This document is filed by Chris Horne, Director, Incite (Auckland) Limited, under instruction from Vodafone New Zealand Limited.

The address for service for the appellant is at:
Vodafone New Zealand Limited
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Auckland 1142

Please direct enquiries to:
Colin Clune
RMA Planner
Tel 021 0292 9905
Email colin.clune@vodafone.com

Copy to:
Incite
PO Box 3082
Auckland 1140

Attention:
Chris Horne
Tel +64 9 369 1565 or 0274 794 980
Email chris@incite.co.nz

Advice to recipients of copy of notice of appeal*How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

Attached to appeal notice served on all parties.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Appendix 1 – Copy of Chorus’ Submissions, in relation to the matters raised in this notice of appeal



Form 5

Submission on publicly notified proposal for policy statement or plan, change or variation
Clause 6 of Schedule 1, Resource Management Act 1991

To: Dunedin City Council
PO Box 5045
Dunedin

Name of submitter: Chorus New Zealand Limited
P O Box 632
Wellington

This is a submission on the following proposed plan: Proposed Second Generation Dunedin City District Plan

Chorus New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand Limited have lodged individual but identical submissions to this Plan. While individual submissions have been lodged, the submitters intend preparing and presenting a joint case.

Chorus New Zealand Limited could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that the submission relates to, the submission points, reasons and decisions sought are detailed in the attached tables.

Chorus New Zealand Limited wishes to be heard in support of its submission. If others make a similar submission, Chorus New Zealand Limited will consider presenting a joint case with them at a hearing.

A handwritten signature in black ink, appearing to be "Gretchen Joe", written over a dotted line.

Signed:

Gretchen Joe

On behalf of Chorus New Zealand Limited

Dated at Wellington this 24th day of November 2015.

Address for Service:

Chorus New Zealand Limited
C/- Incite
P O Box 3082
Auckland 1140



Contact Details:

Attention: Chris Horne
Telephone: 027 4794 980
E-mail: chris@incite.co.nz

Chorus Contact Details:

Attention: Mary Barton
Telephone: 027 702 8650
E-mail: mary.barton@chorus.co.nz

Please note that proposed amendments to the to the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 (the NESTF) were announced by the Minister for the Environment on 24 September 2015. Whilst the proposed amendments currently do not have any legal effect, they are likely to become part of the Country's regulatory framework before the Proposed Second Generation Dunedin City District Plan enters the hearing phase. The District Plan must not be inconsistent with the NESTF when it comes into force. As such, a number of the amendments sought in the submission below reflect the proposed amendments to the NESTF.

The submission seeks the following relief as set out in the table below, or relief of similar effect. In some instances specific amendments have been sought, while in other instances the submission has sought a more general relief (e.g. to some of the objectives, policies and assessment criteria) without identifying the specific drafting changes to resolve the issues identified. The submissions made are to ensure that there is a practical and workable planning regime for deploying critical network utility infrastructure. It is envisaged that workshop sessions with Council staff and telecommunications submitters and possibly other network utility submitters will be required to develop suitable drafting responses to several of the matters raised in the submission.

Glossary of abbreviations used in submission:

CAR: Corridor Access Request

NESTF: Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008

P: Permitted Activity

C: Controlled Activity

RD: Restricted Discretionary Activity

D: Discretionary Activity

NC: Non Complying Activity

Section A: Plan Overview and Strategic Direction

Chapter 2 Strategic Directions

Proposed District Plan Provision	The Chorus Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Issue 2.7 Dunedin has Affordable and Efficient Public Infrastructure	Oppose	At the strategic direction level the ZGP only deals with Public Infrastructure (i.e. Council owned 3-waters). However, urban growth and intensification equally relies on other services such as telecommunications, broadband and electricity. Accordingly, amendments are sought to this section to make it more generic to infrastructure in general, and not just public infrastructure.	Amend Issue 2.7, Objective 2.7.1, Policy 2.7.1.2 and any other consequential amendments as may be required to this section such that the provisions relate more broadly to all essential infrastructure, and not just public infrastructure.
Objective 2.7.1: Efficient public infrastructure Policies 2.7.1.2			

Section B: City Wide Activities

Chapter 5 Network Utilities and Energy Generation

Proposed District Plan Provision	The Chorus Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Whole Chapter	Oppose	It is critical that the proposed plan recognises and provides for the essential nature of network utilities, and specifically telecommunications. Telecommunications networks and equipment in particular are constantly evolving and provisions for technological upgrades, capacity upgrades and	Amend the Network Utilities and Energy Generation Chapter to provide for a framework that better provides for network utilities.

		service extensions are important to maintain security of supply and access to new and improved services for the community. The proposed Network Utilities chapter is not sufficiently enabling or supportive of Network Utilities.	
Objectives and Policies			
Objective 5.2.1 <i>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.</i>	Oppose	Reference to operating efficiently and effectively is supported in terms of providing for the enablement of network utilities, while the imperative to minimise adverse effects as far as practicable is also supported. However, the requirement to meet the objectives and policies in the overlay areas etc. is not supported. A number of the policy provisions in those sections are considered to be too avoidance based given the functional and operational reasons that may require network utilities to be located within or traverse these areas. As drafted the objective essentially sets a hierarchy where the overlay policy provisions are elevated above the network utilities provisions. This part of the objective should be removed to enable a suitable weighing of any competing policy provisions in any particular circumstance. Siting of equipment within a sensitive area may be justified in certain circumstances where there are no reasonable alternatives and the community benefits outweigh any costs.	Amend Objective 5.2.1 as follows: <i>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 or the values of any overlay zone, scheduled site, or mapped area, meeting the relevant objectives and policies for those areas.</i>
Policy 5.2.1.5 Policy 5.2.1.7	Support	These policies are supported as notified.	Retain the following policies:

Policy 5.2.1.9			• Policy 5.2.1.5 • Policy 5.2.1.7 • Policy 5.2.1.9 • Policy 5.2.1.12
Policy 5.2.1.12			
Policy 5.2.1.11	Oppose	This policy is problematic as it seeks to limit “large scale” network utility infrastructure in many of the zones where it may need to be located. As currently drafted, the threshold to be considered “large scale” is quite low in many instances. The policy is considered to be too directive and will have unintended consequences.	Delete 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 standalone, and biomass energy generation onsite 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.	Support	A policy is requested that requires the benefits of network utilities to be considered where assessing the adverse effects of proposals.	Add a new policy that requires the benefits of network utilities to be considered where assessing the adverse effects of proposals.
Rules			
5.3.1 Activity Status Introduction	Support	This section clearly sets out how the rules work in regard to applying across all zones, and the activity status (RD) where a performance standard is not met (unless a rule specifically states any particular rule infringement is discretionary or non-complying). It outlines	Retain the activity status introduction in Rule 5.3.1.

Rule 5.6.1.2 Setback from national grid (earthworks)	Support	The exemption for earthworks ancillary to networks utilities in clause b(iii) of the rule is supported.	Retain Rule 5.6.1.2(b)(iii)
Rule 5.6.2 Setback from Network Utilities	Support	The proposed setbacks form network utilities (other than National Grid infrastructure), including the stated exemptions, is supported.	Retain Rule 5.6.2
Assessment Criteria			
5.7.2 Assessment of all performance standards contraventions	Support	Clauses (e) and (f) require consideration of the need to breach the standard to establish or maintain the network utility, and the potential benefits of the network utility. These are practical considerations that are appropriately considered as part of any resource consent application.	Retain clauses (e) and (f) of Rule 5.7.2
5.8 Assessment of restricted discretionary activities	Oppose	There are numerous problematic criteria in these sections where the criteria are considered to be too avoidance based. For example – for large scale network utilities structures, clause 5.8.2(1)(ii) is: <i>Network utilities are designed and located to avoid any significant adverse effects, and minimise adverse effects, as far as practicable, including: ...</i>	Amend the assessment criteria in 5.8, 5.9 and 5.10 such that there are less directive statements in regard to the allowable effects of network utility activities. More use of language such as “the extent to which” is preferred. Include criteria that require consideration of functional, technical and operational requirements of network utilities, and community benefits, so a more balance assessment of benefits and costs or any particular proposal can be undertaken.
5.9 Assessment of discretionary activities			
5.10 Assessment of non-complying activities		By virtue of being a large scale network utility, there may potentially be significant adverse effects in a localised area, which may be outweighed by community benefits. Accordingly, the general language of a number of these criteria needs to be changed to be less	

		directive towards a particular outcome – e.g. use of language such as “the extent to which ...” Another provision requires the height of the network utility to be consistent with surrounding buildings. This is inappropriate and doesn’t reflect different requirements of network utilities to buildings in general. The matters of discretion are also all focussed on adverse effects, and there is no recognition of functional/technical requirements or benefits. This should be added. Overall, it is considered that these provisions need to be comprehensively revised to allow a more balanced consideration of network utility activities.	
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Section B: City Wide Activities

Chapter 6 Transportation

Proposed District Plan Provision	The Chorus Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Rule 6.7.2 Buildings and Structures Located on or above a footpath	Oppose	These detailed requirements may not always be practicable and are more appropriately managed	Delete Rule 6.7.2

10.4 Assessment of Restricted Discretionary Activities (performance Standard Contraventions)	Oppose	These assessment criteria are extensive and cover numerous pages. Many of these are likely to be problematic for network utilities due to the directive nature of the statements which in many cases are framed more like rules (e.g. "landscaping or other forms of screening will be used" and "the network utility is co-located with existing buildings or network utilities structures").	Amend the assessment criteria in 10.4, 10.5, 10.6 and 10.7 such that there are less directive statements in regard to the allowable effects of network utility activities. More use of language such as "the extent to which" is preferred. Include criteria that require consideration of functional, technical and operational requirements of network utilities, and community benefits, so a more balanced assessment of benefits and costs or any particular proposals can be undertaken.
10.5 Assessment of Restricted Discretionary Activities			
10.6 Assessment of Discretionary Activities			
10.7 Assessment of Non Complying Activities		Overall, it is considered that there provisions need to be comprehensively revised to allow a more balanced consideration of network utility activities in natural environments.	

Section C: City Wide Provisions

Chapter 11 Natural Hazards

Proposed District Plan Provision	The Chorus Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
11.3.1.1 Swale mapped area <i>a. New buildings and structures, additions and alterations, public amenities, and buildings and structures associated with temporary activities must not be located inside the boundaries of a swale mapped area, except:</i> <i>i. buildings or structures less than 36m² in a residential or the Rural Centre Zone; and</i> <i>ii. post and wire fences or other fences where 80% of the surface area will permit the unobstructed passage of water.</i>	Oppose	Network utilities such as lines or small scale structures with no impacts on flooding (e.g. service poles for lines) may need to be located within swale mapped areas. Clause (b) of the rule should be modified to clearly provide for network utilities not obstructing or impeding water that may otherwise be caught by clause (a).	Amend Clause (b) of Rule 11.3.1.1 as follows: <i>b. Other development activities, including outdoor storage and network utility activities, must not obstruct or impede water in a manner that may cause water to be diverted out of a swale mapped area.</i>

Appendix 2 – Copy of Spark’s Submissions, in relation to the matters raised in this notice of appeal

Form 5

**Submission on publicly notified proposal for policy statement or plan, change or variation
Clause 6 of Schedule 1, Resource Management Act 1991**

To: Dunedin City Council
PO Box 5045
Dunedin

Name of submitter: Spark New Zealand Trading Limited
Private Bag 92028
Auckland 1010

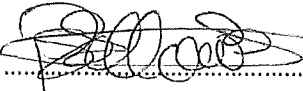
This is a submission on the following proposed plan: Proposed Second Generation Dunedin City District Plan

Spark New Zealand Trading Limited, Chorus New Zealand Limited and Vodafone New Zealand Limited have lodged individual but identical submissions to this Plan. While individual submissions have been lodged, the submitters intend preparing and presenting a joint case.

Spark New Zealand Trading Limited could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that the submission relates to, the submission points, reasons and decisions sought are detailed in the attached tables.

Spark New Zealand Trading Limited wishes to be heard in support of its submission. If others make a similar submission, Spark New Zealand Trading Limited will consider presenting a joint case with them at a hearing.

Signed: 

On behalf of Spark New Zealand Trading Limited

Dated at Auckland this 24 day of November 2015.

Address for Service:

Spark New Zealand Trading Limited
C/- Incite
P O Box 3082
Auckland 1140

Contact Details:

Attention: Chris Horne
Telephone: 027 4794 980
E-mail: chris@incite.co.nz

Spark contact details

Graeme McCarrison
027 4811 816
graeme.mccarrison@spark.co.nz

Section A: Plan Overview and Strategic Direction

Chapter 2 Strategic Directions

Proposed District Plan Provision	The Spark Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Issue 2.7 Dunedin has Affordable and Efficient Public Infrastructure	Oppose	At the strategic direction level the 2GP only deals with Public Infrastructure (i.e. Council owned 3-waters). However, urban growth and intensification equally relies on other services such as telecommunications, broadband and electricity. Accordingly, amendments are sought to this section to make it more generic to infrastructure in general, and not just public infrastructure.	Amend Issue 2.7, Objective 2.7.1, Policy 2.7.1.2 and any other consequential amendments as may be required to this section such that the provisions relate more broadly to all essential infrastructure, and not just public infrastructure.
Objective 2.7.1: Efficient public infrastructure Policies 2.7.1.2			

Section B: City Wide Activities

Chapter 5 Network Utilities and Energy Generation

Proposed District Plan Provision	The Spark Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Whole Chapter	Oppose	It is critical that the proposed plan recognises and provides for the essential nature of network utilities, and specifically telecommunications. Telecommunications networks and equipment in particular are constantly evolving and provisions for technological upgrades, capacity upgrades and service extensions are important to maintain security of supply and access to new and	Amend the Network Utilities and Energy Generation Chapter to provide for a framework that better provides for network utilities.

		improved services for the community. The proposed Network Utilities chapter is not sufficiently enabling or supportive of Network Utilities.	
Objectives and Policies			
Objective 5.2.1 <i>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.</i>	Oppose	Reference to operating efficiently and effectively is supported in terms of providing for the enablement of network utilities, while the imperative to minimise adverse effects as far as practicable is also supported. However, the requirement to meet the objectives and policies in the overlay areas etc. is not supported. A number of the policy provisions in those sections are considered to be too avoidance based given the functional and operational reasons that may require network utilities to be located within or traverse these areas. As drafted the objective essentially sets a hierarchy where the overlay policy provisions are elevated above the network utilities provisions. This part of the objective should be removed to enable a suitable weighing of any competing policy provisions in any particular circumstance. Siting of equipment within a sensitive area may be justified in certain circumstances where there are no reasonable alternatives and the community benefits outweigh any costs.	Amend Objective 5.2.1 as follows: <i>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.</i>
Policy 5.2.1.5 Policy 5.2.1.7 Policy 5.2.1.9 Policy 5.2.1.12	Support	These policies are supported as notified.	Retain the following policies: • Policy 5.2.1.5 • Policy 5.2.1.7 • Policy 5.2.1.9 • Policy 5.2.1.12

Policy 5.2.1.11 <i>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 standalone, and biomass energy generation onsite 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:</i> <i>a. effects on visual amenity and the character of the zone in which the activity is located; and</i> <i>b. effects on the amenity of any surrounding residential activities.</i>	Oppose	This policy is problematic as it seeks to limit "large scale" network utility infrastructure in many of the zones where it may need to be located. As currently drafted, the threshold to be considered "large scale" is quite low in many instances. The policy is considered to be too directive and will have unintended consequences.	Delete Policy 5.2.1.11
New Policy	Support	A policy is requested that requires the benefits of network utilities to be considered where assessing the adverse effects of proposals.	Add a new policy that requires the benefits of network utilities to be considered where assessing the adverse effects of proposals.
Rules			
5.3.1 Activity Status Introduction	Support	This section clearly sets out how the rules work in regard to applying across all zones, and the activity status (RD) where a performance standard is not met (unless a rule specifically states any particular rule infringement is discretionary or non-complying). It outlines the relevance of the NESTF and confirms that <i>Rooftop Structures</i> and <i>Building Utilities</i> are managed by the zone rules (<i>Network Utilities</i> are excluded from these definitions).	Retain the activity status introduction in Rule 5.3.1.
5.3.2 Activity Status Table	Oppose	The table columns only include four zoning/overlay groupings as follows:	Amend table 5.3.2 such that there is more differentiation between different types of network

Assessment Criteria			
5.7.2 Assessment of all performance standards contraventions	Support	Clauses (e) and (f) require consideration of the need to breach the standard to establish or maintain the network utility, and the potential benefits of the network utility. These are practical considerations that are appropriately considered as part of any resource consent application.	Retain clauses (e) and (f) of Rule 5.7.2
5.8 Assessment of restricted discretionary activities	Oppose	There are numerous problematic criteria in these sections where the criteria are considered to be too avoidance based. For example – for large scale network utilities structures, clause 5.8.2(1)(ii) is: <i>Network utilities are designed and located to avoid any significant adverse effects, and minimise adverse effects, as far as practicable, including:</i>	Amend the assessment criteria in 5.8, 5.9 and 5.10 such that there are less directive statements in regard to the allowable effects of network utility activities. More use of language such as “the extent to which” is preferred. Include criteria that require consideration of functional, technical and operational requirements of network utilities, and community benefits, so a more balance assessment of benefits and costs or any particular proposal can be undertaken.
5.9 Assessment of discretionary activities			
5.10 Assessment of non-complying activities		By virtue of being a large scale network utility, there may potentially be significant adverse effects in a localised area, which may be outweighed by community benefits. Accordingly, the general language of a number of these criteria needs to be changed to be less directive towards a particular outcome – e.g. use of language such as “the extent to which ...”.	
		Another provision requires the height of the network utility to be consistent with surrounding buildings. This is inappropriate and doesn't reflect different requirements of network utilities to buildings in general.	

Section B: City Wide Activities

Chapter 6 Transportation

		The matters of discretion are also all focussed on adverse effects, and there is no recognition of functional/technical requirements or benefits. This should be added. Overall, it is considered that these provisions need to be comprehensively revised to allow a more balanced consideration of network utility activities.		
Section B: City Wide Activities Chapter 6 Transportation				
Proposed District Plan Provision	The Spark Submission is that:			Decisions sought:
	Oppose / Support	Reasons		
Rule 6.7.2 Buildings and Structures Located on or above a footpath	Oppose	These detailed requirements may not always be practicable and are more appropriately managed through the CAR process outside of the District Plan. The proposed rules are a duplication of other legislative processes.		Delete Rule 6.7.2
6.9.6 Assessment of general performance standards contraventions	Oppose	This criterion becomes redundant if the requested relief to delete Rule 6.7.2 is adopted.		Delete assessment criterion 6.9.6(1).
1. Buildings and structures located on or above the footpath				

		network utilities and track maintenance/construction, to avoid unnecessary resource consents being needed for routine and low impact works.	Construction or maintenance of tracks up to 3.5m in width.
10.3.3 Setback from Coast and Water Bodies	Oppose	The rule includes some practical exemptions for network utilities including poles for the purposes of supporting lines across a water body (d) and ancillary earthworks (l) which are supported. However, network utilities within roads such as lines and cabinets may need to be located with the setbacks either to cross a waterway on an existing road alignment, or the road may run adjacent and parallel with one of the features to which the setbacks apply.	Amend Rule 10.3.3 by adding a further exemption from the setback provisions for network utilities within roads. Retain clauses (d) and (l) of Rule 10.3.3.
10.3.6 Reflectivity	Oppose	As drafted, the only network utility specifically identified is <i>wind generators – onsite energy generation</i> . However, buildings and structures are also included in the rule. The specification of one particular network utility activity appears to indicate the intention is to not apply the rule to the other network utility activities. An amendment to the rule is required for the avoidance of doubt. Many pieces of network utility equipment are supplied in an unpainted galvanised finish which weathers over time to a dull finish, but may not be within reflectivity limits at initial installation (as is also the case for typical street light poles).	Amend Rule 10.3.6 such that it is clear that network utilities (other than wind generators – onsite energy generation) are exempt from the rule.
10.4 Assessment of Restricted Discretionary Activities (performance Standard Contraventions)	Oppose	These assessment criteria are extensive and cover numerous pages. Many of these are likely to be problematic for network utilities due to the	Amend the assessment criteria in 10.4, 10.5, 10.6 and 10.7 such that there are less directive statements in regard to the allowable effects of

10.5 Assessment of Restricted Discretionary Activities		directive nature of the statements which in many cases are framed more like rules (e.g. "landscaping or other forms of screening will be used" and "the network utility is co-located with existing buildings or network utilities structures").	network utility activities. More use of language such as "the extent to which" is preferred. Include criteria that require consideration of functional, technical and operational requirements of network utilities, and community benefits, so a more balanced assessment of benefits and costs or any particular proposals can be undertaken.
10.6 Assessment of Discretionary Activities			
10.7 Assessment of Non Complying Activities		Overall, it is considered that there provisions need to be comprehensively revised to allow a more balanced consideration of network utility activities in natural environments.	

Section C: City Wide Provisions

Chapter 11 Natural Hazards

Proposed District Plan Provision	The Spark Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
11.3.1.1 Swale mapped area a. New buildings and structures, additions and alterations, public amenities, and buildings and structures associated with temporary activities must not be located inside the boundaries of a swale mapped area, except: i. buildings or structures less than 36m² in a residential or the Rural Centre Zone; and ii. post and wire fences or other fences where 80% of the surface area will permit the unobstructed passage of water. b. Other development activities, including outdoor storage, must not obstruct or impede water in a manner that may cause water to be diverted out of a swale mapped area.	Oppose	Network utilities such as lines or small scale structures with no impacts on flooding (e.g. service poles for lines) may need to be located within swale mapped areas. Clause (b) of the rule should be modified to clearly provide for network utilities not obstructing or impeding water that may otherwise be caught by clause (a).	Amend Clause (b) of Rule 11.3.1.1 as follows: b. Other development activities, including outdoor storage and network utility activities, must not obstruct or impede water in a manner that may cause water to be diverted out of a swale mapped area.

Appendix 3 – Copy of Vodafone’s Submissions, in relation to the matters raised in this notice of appeal

Form 5

**Submission on publicly notified proposal for policy statement or plan, change or variation
Clause 6 of Schedule 1, Resource Management Act 1991**

To: Dunedin City Council
PO Box 5045
Dunedin

Name of submitter: Vodafone New Zealand Limited
Private Bag 92161
Auckland 1142

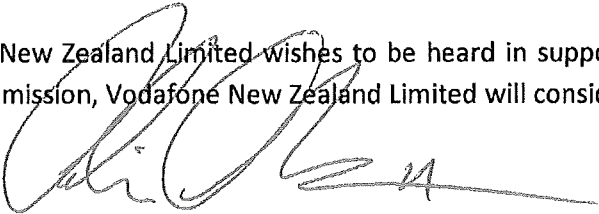
This is a submission on the following proposed plan: Proposed Second Generation Dunedin City District Plan

Vodafone New Zealand Limited, Spark New Zealand Trading Limited and Chorus New Zealand Limited have lodged individual but identical submissions to this Plan. While individual submissions have been lodged, the submitters intend preparing and presenting a joint case.

Vodafone New Zealand Limited could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that the submission relates to, the submission points, reasons and decisions sought are detailed in the attached tables.

Vodafone New Zealand Limited wishes to be heard in support of its submission. If others make a similar submission, Vodafone New Zealand Limited will consider presenting a joint case with them at a hearing.


Signed:

On behalf of Vodafone New Zealand Limited

Dated at Wellington this 24th day of November 2015.

Address for Service:

Vodafone New Zealand Limited
C/- Incite
P O Box 3082
Auckland 1140

Contact Details:

Attention: Chris Horne
Telephone: 027 4794 980
E-mail: chris@incite.co.nz

Please note that proposed amendments to the to the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 (the NESTF) were announced by the Minister for the Environment on 24 September 2015. Whilst the proposed amendments currently do not have any legal effect, they are likely to become part of the Country's regulatory framework before the Proposed Second Generation Dunedin City District Plan enters the hearing phase. The District Plan must not be inconsistent with the NESTF when it comes into force. As such, a number of the amendments sought in the submission below reflect the proposed amendments to the NESTF.

The submission seeks the following relief as set out in the table below, or relief of similar effect. In some instances specific amendments have been sought, while in other instances the submission has sought a more general relief (e.g. to some of the objectives, policies and assessment criteria) without identifying the specific drafting changes to resolve the issues identified. The submissions made are to ensure that there is a practical and workable planning regime for deploying critical network utility infrastructure. It is envisaged that workshop sessions with Council staff and telecommunications submitters and possibly other network utility submitters will be required to develop suitable drafting responses to several of the matters raised in the submission.

Glossary of abbreviations used in submission:

CAR: Corridor Access Request

NESTF: Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008

P: Permitted Activity

C: Controlled Activity

RD: Restricted Discretionary Activity

D: Discretionary Activity

NC: Non Complying Activity

Section A: Plan Overview and Strategic Direction

Chapter 2 Strategic Directions

Proposed District Plan Provision	The Vodafone Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Issue 2.7 Dunedin has Affordable and Efficient Public Infrastructure	Oppose	At the strategic direction level the 2GP only deals with Public Infrastructure (i.e. Council owned 3-waters). However, urban growth and intensification equally relies on other services such as telecommunications, broadband and electricity. Accordingly, amendments are sought to this section to make it more generic to infrastructure in general, and not just public infrastructure.	Amend Issue 2.7, Objective 2.7.1, Policy 2.7.1.2 and any other consequential amendments as may be required to this section such that the provisions relate more broadly to all essential infrastructure, and not just public infrastructure.
Objective 2.7.1: Efficient public infrastructure Policies 2.7.1.2			

Section B: City Wide Activities

Chapter 5 Network Utilities and Energy Generation

Proposed District Plan Provision	The Vodafone Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Whole Chapter	Oppose	It is critical that the proposed plan recognises and provides for the essential nature of network utilities, and specifically telecommunications. Telecommunications networks and equipment in particular are constantly evolving and provisions for technological upgrades, capacity upgrades and service extensions are important to maintain security of supply and access to new and	Amend the Network Utilities and Energy Generation Chapter to provide for a framework that better provides for network utilities.

		improved services for the community. The proposed Network Utilities chapter is not sufficiently enabling or supportive of Network Utilities.	
Objectives and Policies			
Objective 5.2.1 <i>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.</i>	Oppose	Reference to operating efficiently and effectively is supported in terms of providing for the enablement of network utilities, while the imperative to minimise adverse effects as far as practicable is also supported. However, the requirement to meet the objectives and policies in the overlay areas etc. is not supported. A number of the policy provisions in those sections are considered to be too avoidance based given the functional and operational reasons that may require network utilities to be located within or traverse these areas. As drafted the objective essentially sets a hierarchy where the overlay policy provisions are elevated above the network utilities provisions. This part of the objective should be removed to enable a suitable weighing of any competing policy provisions in any particular circumstance. Siting of equipment within a sensitive area may be justified in certain circumstances where there are no reasonable alternatives and the community benefits outweigh any costs.	Amend Objective 5.2.1 as follows: <i>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 or the values of any overlay zone, scheduled site, or mapped area, meeting the relevant objectives and policies for those areas.</i>
Policy 5.2.1.5 Policy 5.2.1.7 Policy 5.2.1.9 Policy 5.2.1.12	Support	These policies are supported as notified.	Retain the following policies: • Policy 5.2.1.5 • Policy 5.2.1.7 • Policy 5.2.1.9 • Policy 5.2.1.12

Policy 5.2.1.11 <i>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 standalone, and biomass energy generation onsite 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.</i>	Oppose	This policy is problematic as it seeks to limit “large scale” network utility infrastructure in many of the zones where it may need to be located. As currently drafted, the threshold to be considered “large scale” is quite low in many instances. The policy is considered to be too directive and will have unintended consequences.	Delete Policy 5.2.1.11
New Policy	Support	A policy is requested that requires the benefits of network utilities to be considered where assessing the adverse effects of proposals.	Add a new policy that requires the benefits of network utilities to be considered where assessing the adverse effects of proposals.
Rules			
5.3.1 Activity Status Introduction	Support	This section clearly sets out how the rules work in regard to applying across all zones, and the activity status (RD) where a performance standard is not met (unless a rule specifically states any particular rule infringement is discretionary or non-complying). It outlines the relevance of the NESTF and confirms that <i>Roof-top Structures</i> and <i>Building Utilities</i> are managed by the zone rules (<i>Network Utilities</i> are excluded from these definitions).	Retain the activity status introduction in Rule 5.3.1.
5.3.2 Activity Status Table	Oppose	The table columns only include four zoning/overlay groupings as follows:	Amend table 5.3.2 such that there is more differentiation between different types of network

Assessment Criteria			
5.7.2 Assessment of all performance standards contraventions	Support	Clauses (e) and (f) require consideration of the need to breach the standard to establish or maintain the network utility, and the potential benefits of the network utility. These are practical considerations that are appropriately considered as part of any resource consent application.	Retain clauses (e) and (f) of Rule 5.7.2
5.8 Assessment of restricted discretionary activities	Oppose	There are numerous problematic criteria in these sections where the criteria are considered to be too avoidance based. For example – for large scale network utilities structures, clause 5.8.2(1)(ii) is: <i>Network utilities are designed and located to avoid any significant adverse effects, and minimise adverse effects, as far as practicable, including: ...</i> By virtue of being a large scale network utility, there may potentially be significant adverse effects in a localised area, which may be outweighed by community benefits. Accordingly, the general language of a number of these criteria needs to be changed to be less directive towards a particular outcome – e.g. use of language such as “the extent to which ...” Another provision requires the height of the network utility to be consistent with surrounding buildings. This is inappropriate and doesn't reflect different requirements of	Amend the assessment criteria in 5.8, 5.9 and 5.10 such that there are less directive statements in regard to the allowable effects of network utility activities. More use of language such as “the extent to which” is preferred. Include criteria that require consideration of functional, technical and operational requirements of network utilities, and community benefits, so a more balance assessment of benefits and costs or any particular proposal can be undertaken.
5.9 Assessment of discretionary activities			
5.10 Assessment of non-complying activities			

		network utilities to buildings in general. The matters of discretion are also all focussed on adverse effects, and there is no recognition of functional/technical requirements or benefits. This should be added. Overall, it is considered that these provisions need to be comprehensively revised to allow a more balanced consideration of network utility activities.	
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Section B: City Wide Activities

Chapter 6 Transportation

Proposed District Plan Provision	The Vodafone Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Rule 6.7.2 Buildings and Structures Located on or above a footpath	Oppose	These detailed requirements may not always be practicable and are more appropriately managed through the CAR process outside of the District Plan. The proposed rules are a duplication of other legislative processes.	Delete Rule 6.7.2
6.9.6 Assessment of general performance standards contraventions	Oppose	This criterion becomes redundant if the requested relief to delete Rule 6.7.2 is adopted.	Delete assessment criterion 6.9.6(1).
1. Buildings and structures located on or above the footpath			

		network utilities and track maintenance/construction, to avoid unnecessary resource consents being needed for routine and low impact works.	Construction or maintenance of tracks up to 3.5m in width.
10.3.3 Setback from Coast and Water Bodies	Oppose	The rule includes some practical exemptions for network utilities including poles for the purposes of supporting lines across a water body (d) and ancillary earthworks (l) which are supported. However, network utilities within roads such as lines and cabinets may need to be located with the setbacks either to cross a waterway on an existing road alignment, or the road may run adjacent and parallel with one of the features to which the setbacks apply.	Amend Rule 10.3.3 by adding a further exemption from the setback provisions for network utilities within roads. Retain clauses (d) and (l) of Rule 10.3.3.
10.3.6 Reflectivity	Oppose	As drafted, the only network utility specifically identified is <i>wind generators – onsite energy generation</i> . However, buildings and structures are also included in the rule. The specification of one particular network utility activity appears to indicate the intention is to not apply the rule to the other network utility activities. An amendment to the rule is required for the avoidance of doubt. Many pieces of network utility equipment are supplied in an unpainted galvanised finish which weathers over time to a dull finish, but may not be within reflectivity limits at initial installation (as is also the case for typical street light poles).	Amend Rule 10.3.6 such that it is clear that network utilities (other than wind generators – onsite energy generation) are exempt from the rule.
10.4 Assessment of Restricted Discretionary Activities (performance Standard Contraventions)	Oppose	These assessment criteria are extensive and cover numerous pages. Many of these are likely to be problematic for network utilities due to the	Amend the assessment criteria in 10.4, 10.5, 10.6 and 10.7 such that there are less directive statements in regard to the allowable effects of

10.5 Assessment of Restricted Discretionary Activities		directive nature of the statements which in many cases are framed more like rules (e.g. "landscaping or other forms of screening will be used" and "the network utility is co-located with existing buildings or network utilities structures").	network utility activities. More use of language such as "the extent to which" is preferred. Include criteria that require consideration of functional, technical and operational requirements of network utilities, and community benefits, so a more balanced assessment of benefits and costs or any particular proposals can be undertaken.
10.6 Assessment of Discretionary Activities			
10.7 Assessment of Non Complying Activities		Overall, it is considered that there provisions need to be comprehensively revised to allow a more balanced consideration of network utility activities in natural environments.	

Section C: City Wide Provisions

Chapter 11 Natural Hazards

Proposed District Plan Provision	The Vodafone Submission is that:		Decisions sought:
Oppose / Support	Reasons		
11.3.1.1 Swale mapped area <i>a. New buildings and structures, additions and alterations, public amenities, and buildings and structures associated with temporary activities must not be located inside the boundaries of a swale mapped area, except:</i> <i>i. buildings or structures less than 36m² in a residential or the Rural Centre Zone; and</i> <i>ii. post and wire fences or other fences where 80% of the surface area will permit the unobstructed passage of water.</i> <i>b. Other development activities, including outdoor storage, must not obstruct or impede water in a manner that may cause water to be diverted out of a swale mapped area.</i> <i>c. Activities that contravene the performance standard for</i>	Oppose	Network utilities such as lines or small scale structures with no impacts on flooding (e.g. service poles for lines) may need to be located within swale mapped areas. Clause (b) of the rule should be modified to clearly provide for network utilities not obstructing or impeding water that may otherwise be caught by clause (a).	Amend Clause (b) of Rule 11.3.1.1 as follows: <i>b. Other development activities, including outdoor storage and network utility activities, must not obstruct or impede water in a manner that may cause water to be diverted out of a swale mapped area.</i>

Appendix 5 – Names and addresses of persons to be served with a copy of this notice

Ref	Submitter Number	Submitter	Organisation	Agent	Agent Organisation	Postal Address	Email Address
a	958 & 2482	Sue Maturin	Forest and Bird NZ			PO Box 6230 Dunedin North Dunedin 9059 New Zealand	s.maturin@forestandbird.org.nz
a	1088 & 2439	Jackie St John	Oceana Gold (New Zealand) Limited			22 MacLaggan Street Dunedin 9016 New Zealand 30 Howard Street Macandrew Bay Dunedin 9014 New Zealand	jackie.stjohn@oceanagold.com
a/c	447 & 2267	Craig Werner	Harboursides and Peninsula Preservation Coalition				craigwerner.ww@gmail.com
a/c	900	Lala Frazer	Save the Otago Peninsula (STOP) Inc Soc			PO Box 23 Portobello Dunedin 9048 New Zealand 292 York Place City Rise Dunedin 9016	stopincsoc@gmail.com
a	33, 2123 & 2373	Howard Saunders				New Zealand PO Box 5242 Moray Place Dunedin 9058	howard.saunders@vodafone.co.nz
a/b/c	919 & 2449	Caroline Ryder and Kim Reilly	Federated Farmers of New Zealand			New Zealand Private Bag 1954 Dunedin 9054	cryder@fedfarm.org.nz; kreilly@fedfarm.org.nz
a	725 & 2381	Otago Regional Council		Warren Hanley		New Zealand PO Box 5045 Moray Place Dunedin 9058	warren.hanley@orc.govt.nz
a	360	Anna Johnson	Dunedin City Council			New Zealand PO Box 123 Wellington 6140	districtplan@dcc.govt.nz
a/b/c	918 & 2332	Gary Fowles	Radio NZ Limited			New Zealand	gary.fowles@radionz.co.nz
a	951	Timothy George Morris				776 Weedons Ross Road West Melton 7618 New Zealand	
a/b	322 & 2162	Rebecca Beals	KiwiRail Holdings Limited			PO Box 593 Wellington 6140 New Zealand	Rebecca.Beals@kiwirail.co.nz
a/b	915 & 2264	Powernet Limited		C/- Megan Justice	Mitchell Partnerships Limited	PO Box 489 Dunedin 9054 New Zealand	megan.justice@mitcheallpartnerships.co.nz
a	874	Blackhead Quarries Ltd		C/- Allan Cubitt	Cubitt Consulting Limited	11 Bedford Street St Clair Dunedin 9012 New Zealand	allan@cubittconsulting.co.nz
a	901	Tussock Top Farm Ltd		C/- Allan Cubitt	Cubitt Consulting Limited	11 Bedford Street St Clair Dunedin 9012 New Zealand	allan@cubittconsulting.co.nz
a/c	794 & 2391	Geoff Scurr Contracting Limited		C/- Campbell Hodgson	Galloway Cook Allan	PO Box 153 Dunedin 9064 New Zealand	campbell.hodgson@gallowaycookallan.co.nz
a/b/c	576	Colin Clune	Vodafone NZ Ltd			Private Bag 92143 Victoria Street West Auckland 1142 New Zealand	colin.clune@vodafone.com
a/b/c	2076	Vodafone NZ Ltd		C/- Chris Horne	Incite	PO Box 3082 Auckland 1140 New Zealand	chris@incite.co.nz
a/b/c	923 & 216	Spark NZ Trading Limited		C/- Chris Horne	Incite	PO Box 3082 Shortland Street Auckland 1140 New Zealand Private Bag 12023 Tauranga 3143	chris@incite.co.nz
b/c	2127	Trudy Richards	Trustpower Limited			New Zealand PO Box 1404 Dunedin 9054	trudy.richards@trustpower.co.nz
b/c	457 & 2375	Joanne Dowd	Aurora Energy Limited			New Zealand	joanne.dowd@thinkdelta.co.nz
b	1071 & 2456	Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou		C/- Tim Vial	Kai Tahu ki Otago Ltd (KTKO)	PO Box 446 Dunedin 9054 New Zealand	tim@ktkoltd.co.nz
b	906 & 2327	Liquigas Limited		C/- Claire Hunter	Mitchell Partnerships Limited	PO Box 489 Dunedin 9054 New Zealand PO Box 33817 Takapuna	claire.hunter@mitcheallpartnerships.co.nz
b	634, 2487 & 2488	BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd		C/- Georgina McPherson	Burton Planning Consultants	Auckland 740 New Zealand PO Box 5005 Moray Place Dunedin 9058	gmcpherson@burtonconsultants.co.nz
b	806 & 2453	Transpower New Zealand Limited		C/- Aileen Craw	Beca Limited	New Zealand	aileen.craw@beca.com
NA	NA	Respondent	Dunedin City Council			PO Box 5045 Dunedin 9054	2gpappeals@dcc.govt.nz

a = Natural Environment (assessment rules)
 b = Network Utilities (policy)
 c = Network Utilities (assessment rules)

Appendix 4 – Copy of the relevant parts of the Council’s decisions

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 generate 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 establish, operate and upgrade 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 308.168 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



5.2 Objectives and Policies

Objective 5.2.1

Network utilities ~~utility~~ **{NU cl.16}** activities, including renewable energy generation activities, are able to ~~establish~~, operate and ~~and upgrade~~ **{NU 806.21}** 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.

Policy 5.2.1.1 Encourage the use and development of renewable energy generation.

Policy 5.2.1.A **{NU 457.192}** ~~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.~~

Policy 5.2.1.2 **{NU 918.29'}** ~~Require development to be designed and located to avoid adverse effects on the safe and efficient operation of the national grid infrastructure or, where avoidance is not possible, ensure any adverse effects would be insignificant.~~

Policy 5.2.1.3 **{NU 918.29'}** ~~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.~~

Policy 5.2.1.5 ~~Require underground or internal network utilities and {NU 308.137} network utilities utility {NU cl.16} structures – small scale {NU 576.9} to be of a scale, size, design and location that enables designed and located to enable {NU cl.16}² the provision of network utilities while~~
a. ~~minimising, as far as practicable, avoiding or, where avoidance is not practicable, adequately mitigating {NU 906.7} adverse effects on the amenity and character of the zone;~~
b. ~~maintaining a high level of pedestrian amenity in pedestrian street frontages. {NU cl.16³}~~

Policy 5.2.1.6 **{NU 308.122 and 743.17}** ~~Require energy resource investigation devices to be designed, operated and located to minimise, as far as practicable, any adverse effects on amenity.~~

Policy 5.2.1.7 ~~Require network utilities structures are substations, {NU 915.17} underground or internal network utilities and network utility structures – small scale to be {NU 576.9} located, designed, and operated to ensure any risk to health and safety is no more than minor avoided or minimised as far as practicable. {NU 918.27}~~

Policy 5.2.1.9 **{NU 918.29'}** ~~Require earthworks to be set back from network utilities an adequate distance to avoid:~~
a. ~~damage to existing network utilities;~~
b. ~~obstruction of access to existing underground network utilities; and~~
c. ~~adverse effects on the health and safety of people.~~

Policy 5.2.1.10 **{NU 308.122 and 308.468}** ~~Avoid regional scale energy generation {NU 308.122} and biomass generators – stand-alone {NU 308.468} outside the rural or industrial zones unless there will be no material adverse effects on the amenity of surrounding area. {NU 308.122 and 308.468}~~



Objective 5.2.1

Network utilities ~~utility~~ **{NU cl.16}** activities, including renewable energy generation activities, are able to establish, operate and upgrade **{NU 806.21}** 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.

- Policy 5.2.1.11 Only allow network utility structures - large scale ~~(in all zones)~~ **{NU cl.16}**, regional-scale energy generation in the rural zones, **{NU 308.122}** network utility poles and masts - small scale ~~(other than in the rural, rural residential or industrial zones in residential and recreation zones {NU 576.40})~~, community-scale energy generation, ~~{NU 308.122}~~ biomass generators ~~stand-alone, {NU 308.468}~~ and biomass energy generation on-site energy generation **{NU 308.137}** and energy resource investigation devices ~~(other than in the rural and industrial zones)~~ **{NU 308.122 and 743.17}** and substations ~~(other than in industrial zones)~~ **{NU 915.17}** where the activity is designed and located to avoid any significant adverse effects and minimise adverse effects, as far as practicable, including ~~or, if avoidance is not practicable, adequately mitigate {NU 457.14}~~:
- a. ~~adverse {NU 457.14}~~ effects on visual amenity and the character of the zone in which the activity is located; and
 - b. ~~adverse {NU 457.14}~~ 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.

¹ **NU 918.29**: Policies 5.2.1.2, 5.2.1.3, and 5.2.1.9 have been moved to new Objective 5.2.2.

² **NU cl.16**: As a clause 16 amendment, the maximum volume of network utility structures – small scale in pedestrian street frontages is now managed via new Policy 18.2.3.13. This does not result in a substantive change to provisions.

Objective 5.2.2 {NU 918.29}

The operational efficiency and effectiveness of network utilities is not compromised by development locating near these activities. {NU 918.29}

- Policy 5.2.1.2 **{NU 806.26}** Require development to be designed and located to avoid adverse effects on the safe and efficient operation of the national grid infrastructure or, where avoidance is not possible, ensure any adverse effects would be insignificant.
- Policy 5.2.1.9 **{NU 918.29}**³ Require earthworks to be set back from network utilities an adequate distance to avoid:
- a. damage to existing network utilities;
 - b. obstruction of access to existing underground network utilities; and
 - c. adverse effects on the health and safety of people.



Objective 5.2.2 {NU 918.29}

The operational efficiency and effectiveness of network utilities is not compromised by development locating near these activities. {NU 918.29}

Policy 5.2.1.3
5.2.2.2 {NU
918.29}

Require National Grid {PO cl.16²} sensitive activities, hazardous substances, buildings, structures, public amenities, network utility activities {NU 806.26} and earthworks to be set back an adequate distance from the National Grid {NU cl.16} 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 practicable, insignificant; and {NU 806.11}
- c. the potential for reverse sensitivity is avoided or minimised as far as practicable. {NU 806.11}

Policy 5.2.2.3 {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.

Policy
5.2.2.4 {NU806.11}

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.

Policy 5.2.2.5 {NU
918.25}

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.

¹ **NU 806.26:** Policy 5.2.1.2 has been moved from Objective 5.2.1 to new Objective 5.2.2 as part of the decision to add the new objective. It has then been deleted, and its content incorporated into revised Policy 5.2.1.3.

² **PO cl.16:** As a clause 16 amendment, a reference has been added to the new definition of "National Grid sensitive activities" which is discussed in the Plan Overview decision. This does not result in a substantive change to the effect of provisions.

³ **NU 918.29:** Policy 5.2.2.1 and Policy 5.2.2.2 were notified as Policy 5.2.1.9 and Policy 5.2.1.3 respectively. They have been moved from Objective 5.2.1 to new Objective 5.2.2 as part of the decision to add the new objective.



Rule 5.7 Assessment of Restricted Discretionary Activities (Performance Standard Contraventions)

Rule 5.7.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rules 5.7.2 - ~~5.7.3~~ 5.7.5 **{NU cl.16}**:
 - a. list the matters Council will restrict its discretion to; and
 - b. provide guidance on how consent applications will be assessed, including:
 - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
 - ii. potential circumstances that may support a consent application;
 - iii. general assessment guidance; and
 - iv. conditions that may be imposed.
3. Rules 5.7.2 and 5.7.3 apply to network ~~utilities~~ utility activities performance standards ~~generally~~ **{NU cl.16}**; Rule 5.7.4 applies to performance standards for setbacks **{NU cl.16}** from ~~the National Grid~~ national grid **{NU cl.16}** and network utilities. Rule 5.7.5 contains additional provisions that apply to network utility activities performance standards in overlay zones and mapped areas and on scheduled items. **{NU cl.16}**

¹ **NU cl.16:** New Rule 5.7.5 provides cross references to relevant assessment rules in other Plan sections. This does not change the effect of provisions.

5.7.2 Assessment of all performance standard contraventions

Performance standard	Guidance on the assessment of resource consents
1. All performance standards contraventions	<i>Potential circumstances that may support a consent application include:</i> a. The degree of non-compliance with the performance standard is minor. b. The need to meet other performance standards, or site specific factors including topography, make meeting the standard impracticable. c. Topography or other site specific factors make the standard irrelevant as the adverse effects that the standard is trying to manage will not occur. d. Non-compliance with a performance standard would improve the design of the network utilities structure in a way that would result in positive effects and better achieve the identified objectives and policies of the Plan. <i>General assessment guidance: {NU 576.58}</i> e. Whether breaching the performance standard is essential to establish or maintain an essential network utility service. {NU 576.58} f. The potential benefits of the proposed utility particularly; {NU 576.58} i. contributions to national energy objectives or renewable energy generation targets {NU 576.58}



5.7.3 Assessment of performance standard contraventions (network utilities utility {NU cl.16} activities)

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
A. <u>All performance standard contraventions {NU 576.58}</u>	a. <u>Benefits of network utility activities {NU 576.58}</u>	<u>Relevant objectives and policies: {NU 576.58}</u> i. <u>Objectives 2.2.2. {NU 764.1} 2.3.1. {NU 918.22} 5.2.1 {NU 576.58}</u> ii. <u>Policies 2.3.1.7 {NU 918.22}, 2.2.2.3 {NU 764.1}</u> iii. <u>Network utility activities are enabled throughout the city where effects can be managed in line with policies 5.2.1.5, 5.2.1.7, 5.1.2.11, 5.2.1.12, 5.2.2.2 and the objectives and policies of any relevant overlay zones, scheduled sites or mapped areas (Policy 5.2.1.A) {NU 457.192}</u> iv. <u>The use and development of renewable energy generation is encouraged (Policy 5.2.1.1) {NU 308.122}</u> <u>General assessment guidance: {NU 576.58}</u> <u>In assessing the effects of the proposed activity, Council will consider: {NU 576.58}</u> v. <u>The potential benefits of the proposed activity, particularly: {NU 576.58}</u> 1. <u>contributions to national energy objectives or renewable energy generation targets: {NU 576.58}</u> 2. <u>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 {NU 764.1}</u> 3. <u>the benefits of having a distributed network for greater energy resilience. {NU 764.1}</u> <u>Potential circumstances which may support a consent application include: {NU 576.58}</u> vi. <u>The proposed activity is essential to establish or maintain a network utility service. {NU 576.58}</u>



5.7.3 Assessment of performance standard contraventions (network utilities utility {NU cl.16} activities)

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
	<u>b. Technical and operational constraints of network utility activities {NU 576.58}</u>	<u>Relevant objectives and policies: {NU 576.58}</u> i. <u>Objectives 2.2.2, {NU 764.1} 2.3.1, {NU 918.22} 5.2.1 {NU 576.58}</u> ii. <u>Policies 2.3.1.7 {NU 918.22}, 2.2.2.3 {NU 764.1}</u> iii. <u>Network utility activities are enabled throughout the city where effects can be managed in line with policies 5.2.1.5, 5.2.1.7, 5.1.2.11, 5.2.1.12, 5.2.2.2 and the objectives and policies of any relevant overlay zones, scheduled sites or mapped areas (Policy 5.2.1.A) {NU 457.192}</u> iv. <u>The use and development of renewable energy generation is encouraged (Policy 5.2.1.1) {NU 308.122}</u> <u>General assessment guidance: {NU 576.58}</u> <u>In assessing the effects of the proposed activity, Council will consider: {NU 576.58}</u> v. <u>The constraints imposed on size, design and location by the technical and operational requirements of the network utility. {NU 576.58}</u>
4. {NU cl.16'}	Amateur radio standards	<u>a. Effects on character and amenity of zone</u> <u>Relevant objectives and policies:</u> i. <u>Objective 5.2.4</u> ii. <u>Network utility structures are of a scale, size, design and location that enables the provision of amateur radio configurations while:</u> 1. <u>minimising, as far as practicable, adverse effects on the amenity and character of the zone</u> <u>Potential circumstances which may support a consent application include:</u> iii. <u>Breach of the performance standard is essential to establish or maintain effective functioning of amateur radio configurations.</u>



5.7.3 Assessment of performance standard contraventions (network utilities utility {NU cl.16} activities)

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
2- {NU 308.122} Boundary setbacks (wind generators)	a. Effects on character and amenity of zone b. Effects on health and safety	<i>Relevant objectives and policies:</i> i. Objective 5.2.1 ii. Network utility structures are of a location that enables the provision of network utilities while minimising, as far as practicable, adverse effects on the amenity and character of the zone (Policy 5.2.1.5.a) <i>Relevant objectives and policies:</i> i. Objective 5.2.1 ii. Network utility structures are located, designed and operated in a way that ensures any risk to health and safety is no more than minor (Policy 5.2.1.7). <i>Potential circumstances which may support a consent application include:</i> iii. There is no risk that wind turbines may collapse and damage buildings and pose a risk to the health and safety of people.
3- {NU 457.169 and others} Buildings and structures located on or above footpath	a. Effects on safety and efficiency of the transport network b. Effects on health and safety	See Rule 6.9 See Rule 9.4
4- {NU 308.122 and 743.17} Energy resource investigation standards	a. Effects on amenity	<i>Relevant objectives and policies:</i> i. Objective 5.2.1 ii. Energy resource investigation devices are designed, operated and located in a way that minimises, as far as practicable, any adverse effects on amenity (Policy 5.2.1.6). <i>Potential circumstances which may support a consent application include:</i> iii. The natural landforms of topography (e.g. cliffs, tall trees on-site or on adjacent sites or reserves) provide a backdrop to the device.



5.7.3 Assessment of performance standard contraventions (network utilities utility {NU cl.16} activities)

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
5. Location	a. Effects on character and amenity of surrounding the {NU cl.16} zones {NU cl.16}	<i>Relevant objectives and policies:</i> - Objective 5.2.1 - Network utility structures are of a location that <u>designed and located to enables {NU cl.16} the provision of network utilities while: <u>avoiding or, where avoidance is not practicable, adequately mitigating adverse effects on the amenity and character of the zone (Policy 5.2.1.5) {NU 906.7}</u></u> - minimising, as far as practicable, adverse effects on the amenity and character of the zone; and {NU 906.7} - maintaining a high level of pedestrian amenity in pedestrian street frontages (Policy 5.2.1.5). {NU cl.16} ³ <i>Potential circumstances which may support a consent application include:</i> - Alternative siting has been considered which would provide the same service without detracting from the streetscape profile or pedestrian accessibility. <u>Alternative sites, which would have lesser effects on character and amenity, have been considered but are impracticable for operational reasons {NU 576.58}</u> - Ground conditions, topography, or other site constraints make placing pipes underground impracticable.
6. {NU cl.16 ² } Location in a heritage precinct {NU cl.16}	a. Effects on heritage streetscape character {NU cl.16}	
7. {NU cl.16 ² } Location in a pedestrian street frontage {NU cl.16}	a. Effects on pedestrian amenity {NU cl.16}	



5.7.3 Assessment of performance standard contraventions (network utilities utility {NU cl.16} activities)

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
8. {NU 308.122} On-site energy generation design standards	a. Effects on character and amenity of zone	<i>Relevant objectives and policies:</i> - Objective 5.2.1 - Network utilities structures are of a scale, size, design and location that enables the provision of network utilities while minimising, as far as practicable, adverse effects on the amenity and character of the zone (Policy 5.2.1.5). <i>Potential circumstances which may support a consent application include:</i> - Due to the location of on-site energy generation structures within the site, effects on rural character and visual amenity outside of the site will not be significant. - Natural landforms of topography (e.g. cliffs, tall trees on-site or on adjacent sites or reserves) provide a backdrop to the device so increase in contravention has no or only minor effects. - Sunlight admission to the footpath and street is maintained. - The device is consistent with the height of the surrounding properties.
9. {NU 743.17} In the ONL or SNL overlay zones: • Reflectivity	a. Effects on landscape	See Rule 10.4
10. {NU 743.17} In the NCG Overlay Zone: • Reflectivity	a. Effects on natural character of the coast	See Rule 10.4
11. Setback from coast and water bodies	- Effects on biodiversity <u>values</u> {NatEnv 958.60} and natural character of riparian margins and the coast - Effects on public access - Risk from natural hazards	See Rule 10.4 See Rule 11.4



5.7.3 Assessment of performance standard contraventions (network utilities utility (NU cl.16) activities)

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
12. {NU cl.16 ⁶ }	Setback from national grid (earthworks)	<i>Relevant objectives and policies:</i> i. Objective 5.2.1 ii. Earthworks are set back an adequate distance from the national grid to ensure adverse effects on the health and safety of people is avoided (Policy 5.2.1.3) iii. Earthworks do not create a risk of electrical hazard which affects public or individual safety or property.
	b. Effects on efficient and effective operation of network utilities	<i>Relevant objectives and policies:</i> i. Objective 5.2.4 ii. Development is designed and located to avoid adverse effects on the safe and efficient operation of national grid infrastructure or, where avoidance is not possible, ensures any adverse effects are insignificant (Policy 5.2.1.2). iii. Earthworks do not compromise the structural integrity of the national grid, or the ability to gain access to national grid infrastructure for maintenance.
13. {NU cl.16 ⁷ }	Setback from network utilities (earthworks)	<i>Relevant objectives and policies:</i> i. Objective 5.2.4 ii. Earthworks, excluding earthworks ancillary utilities, are set back from network utilities an adequate distance to avoid adverse effects on the health and safety of people (Policy 5.2.1.9.e).
	b. Effects on efficient and effective operation of network utilities	<i>Relevant objectives and policies:</i> i. Objective 5.2.4 ii. Earthworks are set back from network utilities an adequate distance to avoid adverse effects on: 1. damage to existing network utilities (Policy 5.2.1.9.a); and 2. obstruction of access to existing underground network utilities (Policy 5.2.1.9.b); <i>Potential circumstances which may support a consent application include:</i> iii. The network utility owner or operator has provided written approval for the proposed earthworks. iv. Earthworks comply with the NZ Electrical Code of Practice for Electrical Safe Distances 34:2001.



5.7.3 Assessment of performance standard contraventions (network utilities utility {**NU cl.16**} activities)

Performance standard		Matters of discretion	Guidance on the assessment of resource consents
14. { RU 874.41 and others }	Setback from ridgeline	a. Effects on rural character and visual amenity	See Rule 16.9
15.	Setback from scheduled tree	a. Effects on long term health of tree	See Rule 7.6
16.	Technical standards	a. Effects on health and safety	<i>Relevant objectives and policies (priority considerations):</i> i. Objective 5.2.1 ii. Network utilities structures <u>utility activities</u> {NU cl.16} are located, designed and operated to ensure any risk to health and safety is no more than minor <u>avoided or minimised as far as practicable</u> {NU 918.27} (Policy 5.2.1.7) <i>Potential circumstances which may support a consent application include:</i> iii. Breach <u>Contravention</u> {NU cl.16} of the performance standard does not result in a safety risk.
18. { NU cl.16_s }	- Design standards for wind generators - Setbacks for wind generators	a. Effects on character and amenity of zone	<i>Relevant objectives and policies:</i> i. Objective 5.2.1 ii. Network utility structures are designed and located to enable the provision of network utilities while minimising, as far as practicable <u>avoiding or, where avoidance is not practicable, adequately mitigating</u> {NU 906.7} adverse effects on the amenity and character of the zone (Policy 5.2.1.5). <i>Potential circumstances which may support a consent application include:</i> iii. The visibility of wind generators outside the site is limited by their location within the site, or by vegetation, existing buildings and structures, natural landforms or topography. iv. The scale or design is consistent or compatible with surrounding buildings or structures.
19. { NU cl.16_s }	Site coverage	a. Effects on character and amenity of zone	<i>Relevant objectives and policies:</i> i. Objective 5.2.1 ii. Network utility structures are designed and located to enable the provision of network utilities while minimising, as far as practicable <u>avoiding or, where avoidance is not practicable, adequately mitigating</u> {NU 906.7} adverse effects on the amenity and character of the zone (Policy 5.2.1.5).



5.7.3 Assessment of performance standard contraventions (network utilities utility {NU cl.16} activities)

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
20. <u>Maximum height (underground or internal network utilities) {NU 308.137}</u>	a. <u>Effects on character and amenity of zone {NU 308.137}</u>	<u>Relevant objectives and policies: {NU 308.137}</u> i. <u>Objective 5.2.1 {NU 308.137}</u> ii. <u>Network utility structures are designed and located to enable the provision of network utilities while avoiding or, where avoidance is not practicable, adequately mitigating adverse effects on the amenity and character of the zone (Policy 5.2.1.5). {NU 308.137}</u>

¹ **NU cl.16:** Deletion of this rule is required due to the reformatting of provisions to treat amateur radio configurations as a type of network utility structure. This does not change the effect of provisions.

² **NU cl.16:** Deletion of this rule is required due to creation of separate table (Rule 5.7.5) for effects assessed via assessment rules in other sections of the Plan. This does not change the effect of provisions.

³ **NU cl.16:** Policy 5.2.1.5 has been amended to remove reference to effects on pedestrian amenity. Management of this type of effect has moved to Policy 18.2.3.13. This does not change the effect of provisions.

⁴ **NU cl.16:** New assessment rule needed due to reformatting of associated performance standards. The content of this rule reflects that of notified Rule 5.7.3.8, but with amendments for brevity and clarity. This does not change the effect of provisions.

⁵ **NU cl.16:** New assessment rule needed due to reformatting of associated performance standards. This does not change the effect of provisions.

⁶ **NU cl.16:** Rule 5.7.3.12 has been deleted because it duplicates Rule 5.7.4.1. This does not change the effect of provisions.

⁷ **NU cl.16:** Rule 5.7.3.13 has been deleted because it duplicates Rule 5.7.4.2. This does not change the effect of provisions.



5.7.4 Assessment of performance standard contraventions (setbacks from nNational gGrid and network utilities)

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
1. Setback from nNational gGrid (earthworks)	a. Effects on health and safety b. Effects on efficient and effective operation of network utilities	<i>Relevant objectives and policies:</i> i. Objectives 5.2.4 5.2.2 {NU 918.29} ii. Earthworks are set back an adequate distance from the national grid to ensure that adverse Adverse {NU cl.16} effects on the health and safety of people are avoided (Policy 5.2.1.3 5.2.2.2.a {NU 918.29}) <u>General assessment guidance: {NU806.11}</u> iii. <u>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). {NU806.11}</u> <i>Potential circumstances that may support a consent application include:</i> iv. Earthworks do not create a risk of electrical hazard which affects public or individual safety or property. <i>Relevant objectives and policies:</i> i. Objectives 5.2.4 5.2.2 {NU 918.29} ii. Development is designed and located to avoid adverse effects on the safe and efficient operation of national grid infrastructure or, where avoidance is not possible, ensures any adverse effects are insignificant (Policy 5.2.1.2). Adverse effects on the operation, maintenance, upgrading and development of the National Grid are avoided or, if avoidance is not practicable, insignificant (Policy 5.2.2.2.b) {NU806.11} <u>Potential circumstances that may support a consent application include: {NU cl.16}</u> iii. Earthworks do not compromise the structural integrity of the nNational gGrid, or the ability to gain access to nNational gGrid infrastructure for maintenance.



5.7.4 Assessment of performance standard contraventions (setbacks from ~~n~~National ~~g~~Grid and network utilities)

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
2. Setback from network utilities (earthworks)	a. Effects on health and safety b. Effects on efficient and effective operation of network utilities	<i>Relevant objectives and policies:</i> i. Objectives 5.2.4 <u>5.2.2</u> {NU 918.29} ii. Earthworks, excluding earthworks ancillary utilities, {NU cl.16'} are set back from network utilities {NU cl.16} an adequate distance <u>from network utilities {NU cl.16}</u> to avoid adverse effects on the health and safety of people (Policy 5.2.4.9.e <u>5.2.2.1.c</u> {NU 918.29}). <i>Relevant objectives and policies:</i> i. Objectives 5.2.4 <u>5.2.2</u> {NU 918.29} ii. Earthworks are setback from network utilities {NU cl.16} an adequate distance <u>from network utilities {NU cl.16}</u> to avoid: adverse effects on {NU cl.16'} 1. damage to existing network utilities (Policy 5.2.4.9.a <u>5.2.2.1.a</u> {NU 918.29}); and 2. obstruction of access to existing underground network utilities (Policy 5.2.4.9.b <u>5.2.2.1.b</u> {NU 918.29}). Potential circumstances that may support a consent application include: iii. The network utility owner or operator has provided written approval for the proposed earthworks. iv. Earthworks comply with the NZ Electrical Code of Practice for Electrical Safe Distances 34:2001.

¹ **NU cl.16:** This amendment is required so that the assessment rule correctly paraphrases the policy. This does not change the effect of provisions.



5.7.5 Assessment of restricted discretionary performance standard contraventions located in an overlay zone or mapped area, or affecting a scheduled item {NU cl.16} ¹

Activity {NU cl.16}

Matters of discretion {NU cl.16}

Guidance on the assessment of resource consents {NU cl.16}

1. {NU cl.16} In a primary or secondary pedestrian street frontage mapped area: {NU cl.16}
- Location (Rule 5.5.6.1.a)
 - Maximum volume in pedestrian street frontage mapped areas, heritage precincts and scheduled heritage sites {NU 457.20}

- a. Effects on pedestrian amenity

See Rule 18.9

2. {NU cl.16} In a heritage precinct:
- Location (Rule 5.5.6.1.b, Rule 5.5.6.4)
 - Maximum volume in pedestrian street frontage mapped areas, heritage precincts and scheduled heritage sites {NU 457.20}

- a. Effects on heritage streetscape character

See Rule 13.5



5.7.5 Assessment of restricted discretionary performance standard contraventions located in an overlay zone or mapped area, or affecting a scheduled item {NU cl.16} ¹

Activity {NU cl.16}	Matters of discretion {NU cl.16}	Guidance on the assessment of resource consents {NU cl.16}
3. {NU cl.16} On a scheduled heritage site: • <u>Maximum volume in pedestrian street frontage mapped areas, heritage precincts and scheduled heritage sites {NU 457.20}</u>	a. Effects on heritage values	See Rule 13.5
4. {NU 576.9} In the NCC Overlay Zone: • <u>Location (Rule 5.5.6.1.c)</u>	a. <u>Effects on natural character of the coast</u>	<u>See Rule 10.4</u>

¹ NU cl.16: New table, to reflect formatting of other Plan sections. This table provides cross references to assessment rules in other Plan sections. This does not change the effect of provisions.



Rule 5.8 Assessment of Restricted Discretionary Activities

Rule 5.8.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rules 5.8.2 - 5.8.45 **{NU 806.11}**:
 - a. list the matters Council will restrict its discretion to; and
 - b. provide guidance on how a consent application will be assessed, including:
 - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
 - ii. potential circumstances that may support a consent application;
 - iii. general assessment guidance; and
 - iv. conditions that may be imposed.
3. Rule 5.8.2 applies to network utility activities generally; Rule 5.8.3 contains additional provisions that apply to network utility activities in overlay zones, mapped areas, heritage precincts, and on scheduled items; Rule 5.8.4 contains additional provisions that apply to subdivision activities in the **radio transmitters mapped area {NU 918.25}**; Rule 5.8.5 contains additional provisions that apply to subdivision activities in the **National Grid Corridor mapped area {NU806.11}**.
4. Where a restricted discretionary activity does not meet a performance standard the following occurs:
 - a. if the contravention of the performance standard defaults to **restricted discretionary** ~~(which is the case, unless otherwise indicated in the performance standard)~~ **{PO cl.16}** then:
 - i. the activity, as a whole, will be treated as **restricted discretionary**; and
 - ii. the matters of discretion are expanded to include the areas of non-compliance with the performance standard; and
 - iii. the performance standard contravention will be assessed as indicated in Section 5.7; and
 - iv. the matters of discretion in this section will be assessed as indicated.
 - b. if the contravention of the performance standard defaults to **discretionary** then:
 - i. the activity, as a whole, will be treated as **discretionary**; and
 - ii. the performance standard contravention will be assessed as indicated in Section 5.9; and
 - iii. the assessment guidance in this section will also be considered.
 - c. if the contravention of the performance standard defaults to **non-complying** then:
 - i. the activity, as a whole, will be **non-complying**; and
 - ii. the performance standard contravention will be assessed as indicated in Section 5.10; and
 - iii. the assessment guidance in this section will also be considered.



5.8.2 Assessment of restricted discretionary network utilities utility {NU cl.16} activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
A. All restricted discretionary network utility activities {NU 576.58}	a. Benefits of network utility activities {NU 576.58}	<u>Relevant objectives and policies: {NU 576.58}</u> i. <u>Objectives 2.2.2, {NU 764.1} 2.3.1, {NU 918.22} 5.2.1 {NU 576.58}</u> ii. <u>Policies 2.3.1.7, {NU 918.22} 2.2.2.3, {NU 764.1} 2.2.1.11 {NH 908.35}</u> iii. <u>Network utility activities are enabled throughout the city where effects can be managed in line with policies 5.2.1.5, 5.2.1.7, 5.1.2.11, 5.2.1.12, 5.2.2.2 and the objectives and policies of any relevant overlay zones, scheduled sites or mapped areas (Policy 5.2.1.A) {NU 457.192}</u> iv. <u>The use and development of renewable energy generation is encouraged (Policy 5.2.1.1) {NU 308.122}</u> <u>General assessment guidance {NU 576.58}</u> <u>In assessing the effects of the proposed activity, Council will consider: {NU 576.58}</u> v. <u>The potential benefits of the proposed activity, particularly: {NU 576.58}</u> 1. <u>contributions to national energy objectives or renewable energy generation targets. {NU 576.58}</u> 2. <u>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}</u> 3. <u>the benefits of having a distributed network for greater energy resilience {NU 764.1}.</u> <u>Potential circumstances that may support a consent application include: {NU 576.58}</u> vi. <u>The proposed activity is necessary to establish or maintain a network utility service. {NU 576.58}</u>



5.8.2 Assessment of restricted discretionary network utilities utility {NU cl.16} activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
	<u>b. Technical and operational constraints of network utility activities</u> {NU 576.58}	<u>Relevant objectives and policies:</u> {NU 576.58} <u>Objectives 2.2.2, {NU 764.1} 2.3.1, {NU 918.22} 5.2.1 {NU 576.58}</u> <u>Policies 2.3.1.7 {NU 918.22}, 2.2.2.3 {NU 764.1}</u> <u>Network utility activities are enabled throughout the city where effects can be managed in line with policies 5.2.1.5, 5.2.1.7, 5.1.2.11, 5.2.1.12, 5.2.2.2 and the objectives and policies of any relevant overlay zones, scheduled sites or mapped areas (Policy 5.2.1.A) {NU 457.192}</u> <u>The use and development of renewable energy generation is encouraged (Policy 5.2.1.1) {NU 308.122}</u> <u>General assessment guidance:</u> {NU 576.58} <u>In assessing the effects of the proposed activity, Council will consider:</u> {NU 576.58} <u>The constraints imposed on size, design and location by the technical and operational requirements of the network utility.</u> {NU 576.58}
4. {NU cl.16⁵} Network utilities structures—large scale {NU 764.1}	<u>a. c. Effects on character and amenity of zone</u> {NU cl. 16}	<u>Relevant objectives and policies:</u> - Objective 5.2.1 - Network utilities are designed and located to avoid any significant adverse effects, and minimise adverse effects, as far as practicable, including or, if avoidance is not practicable, adequately mitigate {NU 457.14 and others} - adverse effects on visual amenity and the character of the zone in which the activity is located (Policy 5.2.1.11.a); and {NU cl.16} - effects on the amenity of any surrounding residential activities. (Policy 5.2.1.14); {NU cl.16} <u>Potential circumstances that may support a consent application include:</u> - Access to sunlight to the outdoor living space(s) and windows of bedrooms and living areas of nearby dwellings is maintained or any reduction is minor; {NU 576.58} - Where practicable, the network utility is designed, located or screened to be unobtrusive. {NU 576.58} - The same network utility poles or masts are to be used to support multiple network utilities. {NU 576.58} - For utilities attaching to existing masts or buildings, there



5.8.2 Assessment of restricted discretionary network utilities utility {NU cl.16} activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
		are other utilities which are of a similar scale. {NU 576.58} vii. The height of the network utility is consistent with surrounding buildings. The scale or design is consistent or compatible with surrounding buildings or structures. {NU 576.58} viii. The visibility of the network utility is limited by vegetation, existing buildings or structures and/or natural landforms of or topography (e.g. cliffs, tall trees on adjacent reserves) provide a backdrop to the building so increase in height as a result of utility has no or only minor effects. {NU 576.58} ix. No alternative sites exist which could provide the same coverage with reduced effects on visual amenity. Alternative sites, which would have lesser effects on character and amenity, have been considered but are impracticable for operational reasons {NU 576.58} x. Sunlight admission to the footpath and street is maintained, and there are no significant shadowing effects on residential buildings. {NU 576.58} xi. The structure is not situated on visually prominent rural zoned land. {NU cl.16²} xii. Landscaping is used to screen the structure from public viewpoints. {NU cl.16²}
	b. d. Effects on surrounding sites' residential amenity	<i>Relevant objectives and policies {NU cl.16} ¹</i> i. <u>Objective 5.2.1 {NU cl.16}</u> ii. <u>Network utilities are designed and located to avoid or, if avoidance is not practicable, adequately mitigate adverse effects on the amenity of any surrounding residential activities (Policy 5.2.1.11.b). {NU cl.16}</u> <i>Potential circumstances that may support a consent application include: {NU cl.16}</i> iii. <u>Alternative sites, which would have lesser effects on the amenity of surrounding residential activities, have been considered but are impracticable for operational reasons. {NU 576.58}</u>
	e. Effects on streetscape amenity {NU cl.16} ³	



5.8.2 Assessment of restricted discretionary network utilities utility {NU cl.16} activities

Activity		Matters of discretion	Guidance on the assessment of resource consents
2- {NU cl.16} ,	Outside the rural and industrial zones: • Energy resource investigation devices {NU 308.122} • Biomass generators – on-site energy generation {NU 308.137} Outside the rural, rural residential and industrial zones: • Network utilities poles and masts – small scale	a. Effects on the amenity of surrounding properties b. Effects on streetscape amenity	<i>Relevant objectives and policies:</i> - Objective 5.2.4 - Network utilities are designed and located to avoid any significant adverse effects, and minimise adverse effects, as far as practicable, including: - effects on visual amenity and the character of the zone in which the activity is located; and - effects on the amenity of any surrounding residential activities (Policy 5.2.1.11): <i>Potential circumstances that may support a consent application include:</i> - The utility structure is designed, located or screen to be as unobtrusive as possible. - The visual cohesion of the street is not reduced by the utility structure. - Sunlight admission to the footpath and street is maintained. - The scale, size or design is consistent or compatible with surrounding properties. - No alternative siting exists which could provide the same coverage with reduced effects on visual amenity. - The activity which could provide the same coverage with reduced effects on visual amenity, is set back from boundaries an adequate distance to avoid shading or visual effects on adjacent residential properties or public places.



5.8.2 Assessment of restricted discretionary network utilities utility {NU cl.16} activities

Activity		Matters of discretion	Guidance on the assessment of resource consents
3- {NU 308.462}	In the rural and industrial zones: • Solar panels – community scale • Wind generators – community scale	a. Effects on the amenity of surrounding properties b. Effects on rural character and amenity	<i>Relevant objectives and policies:</i> - Objective 5.2.1 - Network utilities are designed and located to avoid any significant adverse effects, and minimise adverse effects, as far as practicable, including: - effects on visual amenity and the character of the zone in which the activity is located; and - effects on the amenity of any surrounding residential activities (Policy 5.2.1.11). - The structure is not situated on visually prominent rural zoned land. - Landscaping is used to screen the structure from public viewpoints. - The nature of the activity is such that reverse sensitive effects to industrial or port activities will not occur.

¹ **NU cl.16:** This assessment rule has been reformatted to separate assessment of "effects on character and amenity of zone" from assessment of "effects on surrounding sites' residential amenity". As a result, the reference to the part of Policy 5.2.1.11 that concerns effects on surrounding sites' residential amenity has been deleted from Rule 5.8.2.A.c.ii, and a reference to this part of Policy 5.2.1.11 has been included in a separate row (as Rule 5.8.2.A.d.ii). This does not change the effect of provisions.

² **NU cl.16:** This assessment rule has been transferred from Rule 5.8.2.3, which applied to solar panels under notified provisions. This does not change the effect of provisions.

³ **NU cl.16:** Deletion of this rule is required due to creation of separate table (Rule 5.7.5) for effects assessed via assessment rules in other sections of the Plan. This does not change the effect of provisions.

⁴ **NU cl.16:** Assessment rule no longer needed due to: deletion of separate provisions for Energy Resource Investigation Devices and Biomass Generators - On-site Energy Generation, in response to submissions, as indicated; and amalgamation of assessment rule for Network Utility Poles and Masts - Small Scale in residential and recreation zones with Rule 5.8.2.1. This does not change the effect of provisions.

⁵ **NU cl.16:** Notified Rule 5.8.2.1 has been amalgamated with new Rule 5.8.2.A, which applies to all restricted discretionary activities. This does not change the effect of provisions.



5.8.3 Assessment of restricted discretionary network utilities utility {NU cl.16} activities in an overlay zone, mapped area, heritage precinct, or scheduled item

Activity

Matters of discretion

Guidance on the assessment of resource consents

1. In the ONF Overlay Zone:

- Network utility structures - large scale (~~Amateur~~ radio configurations only) {NU cl.16}
- ~~Network utilities~~ Network utility {NU cl.16} poles and masts - small scale
- Wind generators – small scale {NU 308.122}
- Hydro generators – small scale {NU 308.122}
- Solar panels – small scale {NU 308.122}
- All other Network utilities network utility {NU cl.16} structures - small scale

- a. Effects on landscape values

See Rule 10.5

2. In the HNCC or ONCC overlay zones:

- Network utility structures - large scale (~~Amateur~~ radio configurations only) {NU cl.16}
- ~~Network utilities~~ Network utility poles and masts - small scale {NU cl.16}
- Wind generators – small scale {NU 308.122}
- Hydro generators – small scale {NU 308.122}
- Solar panels – small scale {NU 308.122}
- All other Network utilities network utility structures - small scale {NU cl.16}

- a. Effects on natural character of the coast

See Rule 10.5

3. In an ~~Scheduled ASGV~~ ASBV {NatEnv 958.60}:

- ~~Network utilities~~ Network utility poles and masts - small scale {NU cl.16}
- Wind generators - small scale on-site energy generation {NU 308.122}
- Hydro generators - small scale on-site energy generation {NU 308.122}
- Solar panels - small scale on-site energy generation {NU 308.122}
- Energy resource investigation devices {NU 308.122}
- ~~Biomass generators - on-site energy generation~~ {NU 308.137}

- a. Effects on biodiversity values {NatEnv 958.60}

See Rule 10.5

4. In a wāhi tūpuna mapped area where network utility activities are identified as a threat in Appendix A4

- a. Effects on cultural values of Manawhenua

See Rule 14.4



5.8.3 Assessment of restricted discretionary network ~~utilities~~ utility {NU cl.16} activities in an overlay zone, mapped area, heritage precinct, or scheduled item

Activity	Matters of discretion	Guidance on the assessment of resource consents
5. In the SNL or ONL overlay zones: • Network utilities <u>Network utility</u> poles and masts - small scale {NU cl.16} • Wind generators - <u>small scale</u> on-site energy generation {NU 308.122} • Hydro generators - <u>small scale</u> on-site energy generation {NU 308.122} • Solar panels - <u>small scale</u> on-site energy generation {NU 308.122} • Energy resource investigation devices {NU 308.122} • Biomass generators - on-site energy generation {NU 308.137}	a. Effects on landscape values	See Rule 10.5
6. In the NCC Overlay Zone: • Network utilities <u>Network utility</u> poles and masts - small scale {NU cl.16} • Wind generators - <u>small scale</u> on-site energy generation {NU 308.122} • Hydro generators - <u>small scale</u> on-site energy generation {NU 308.122} • Solar panels - <u>small scale</u> on-site energy generation {NU 308.122} • Energy resource investigation devices {NU 308.122} • Biomass generators - on-site energy generation {NU 308.137}	a. Effects on natural character of the coast	See Rule 10.5
7. All RD activities due to affecting scheduled heritage sites • Network utilities <u>Network utility</u> poles and masts - small scale {NU cl.16} • Wind generators - <u>small scale</u> on-site energy generation {NU 308.122} • Hydro generators - <u>small scale</u> on-site energy generation {NU 308.122} • Solar panels - <u>small scale</u> on-site energy generation {NU 308.122} • Energy resource investigation devices {NU 308.122} • Biomass generators - on-site energy generation {NU 308.137}	a. Effects <u>{NU cl.16}</u> on heritage values	See Rule 13.6



5.8.3 Assessment of restricted discretionary network utilities utility {NU cl.16} activities in an overlay zone, mapped area, heritage precinct, or scheduled item

Activity	Matters of discretion	Guidance on the assessment of resource consents
8. All RD activities due to being in a heritage precinct • Network utilities <u>Network utility</u> poles and masts - small scale {NU cl.16} • Wind generators - <u>small scale on-site energy generation</u> {NU 308.122} • Hydro generators - <u>small scale on-site energy generation</u> {NU 308.122} • Solar panels - <u>small scale on-site energy generation</u> {NU 308.122} • Energy resource investigation devices {NU 308.122} • Biomass generators - <u>on-site energy generation</u> {NU 308.137}	a. Effects on heritage streetscape character	See Rule 13.6

5.8.4 Assessment of subdivision activities within the radio transmitters mapped area {NU 918.25}

Activity {NU 918.25}	Matters of discretion {NU 918.25}	Guidance on the assessment of resource consents {NU 918.25}
1. {NU 918.25} <u>General Subdivision</u>	a. <u>Reverse sensitivity effects</u> {NU 918.25}	<u>Relevant objectives and policies (priority considerations):</u> <u>Objective 5.2.2</u> <u>The potential for reverse sensitivity is avoided or minimised as far as practicable (Policy 5.2.2.5)</u>



5.8.5 Assessment of subdivision activities in the National Grid Corridor mapped area {NU 806.11}

Activity {NU 806.11}

1. {NU 806.11} All Subdivision activities in the National Grid Corridor mapped area

Matters of discretion {NU 806.11}

a. Effects on health and safety

b. Reverse sensitivity effects

Guidance on the assessment of resource consents {NU 806.11}

Relevant objectives and policies:

- i. Objective 5.2.2
- ii. Subdivision in the National Grid Corridor mapped area is designed to ensure that any associated future land use and development will avoid effects on the health and safety of people (Policy 5.2.2.4.a).

Design considerations that may support a consent application include:

- iii. The design and layout of the subdivision allows for earthworks, buildings and structures to comply with the safe separation distance requirements in the New Zealand Code of Practice for Safe Electrical Distances (NZECP 34:2001)

Potential circumstances that may support a consent application include:

- iv. Written approval is obtained from the owner and/or operator of the National Grid.

Relevant objectives and policies:

- i. Objective 5.2.2
- ii. Subdivision in the National Grid Corridor mapped area is designed to ensure that any associated future land use and development will avoid or minimise the potential for reverse sensitivity. (Policy 5.2.2.4.c)

Potential circumstances that may support a consent application include:

- iii. Written approval is obtained from the owner and/or operator of the National Grid



5.8.5 Assessment of subdivision activities in the National Grid Corridor mapped area {NU 806.11}

Activity {NU 806.11}

Matters of discretion {NU 806.11}

c. Effects on efficient
and effective
operation of network
utilities

Guidance on the assessment of resource consents {NU 806.11}

Relevant objectives and policies:

- i. Objective 5.2.2
- ii. Subdivision in the National Grid Corridor mapped area is designed to ensure that any associated future land use and development will avoid or, where avoidance is not practicable, have not more than insignificant effects on the operation, maintenance, upgrading and development of the National Grid (Policy 5.2.2.4.b).

Design considerations that may support a consent application include:

- iii. The design and layout of the subdivision clearly identifies the National Grid and:
 1. ensures continued access to existing transmission lines for maintenance, inspections and upgrading
 2. provides for the on-going efficient operation, maintenance, development and upgrade of the National Grid
 3. enables roads and reserves to be located near to or under transmission lines and building platforms away from transmission lines
 4. allows buildings and structures to be located and orientated and vegetation positioned in a way that meets the policy test in 5.2.2.4.b.

Potential circumstances that may support a consent application include:

- iv. Written approval is obtained from the owner and/or operator of the National Grid.



Rule 5.9 Assessment of Discretionary Activities

Rule 5.9.1 Introduction

1. Discretionary activities will be assessed in accordance with section 104 and 104B of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rules 5.9.2 - 5.9.34 **{NU 918.25}** provide guidance on how a consent application for the listed discretionary activities will be assessed, including:
 - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi); and
 - b. potential circumstances that may support a consent application;
 - c. general assessment guidance, including any effects that will be considered as a priority; and
 - d. conditions that may be imposed.

5.9.2 Assessment of discretionary network utilities utility {NU cl.16} activities

Activity

1. **{NU cl.16}** All discretionary activities, including but not limited to the activities listed below {PO cl. 16}

Guidance on the assessment of resource consents

Relevant objectives and policies (priority considerations):

- a. Objectives 5.2.1, 2.2.2 {NU 764.1}, 2.3.1 {NU 918.22}, 10.2.1 {Nat Env 900.35}, Policies 2.3.1.7 {NU 918.22}, 2.2.2.3 {NU 764.1}
- b. Network utility activities are enabled throughout the city where effects can be 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 (Policy 5.2.1.A) {NU 457.192}
- c. The use and development of renewable energy generation is encouraged (Policy 5.2.1.1) {NU 308.122}
- d. ~~Large-scale n~~Network utilities **{NU cl.16}** are designed and located to avoid any significant adverse effects, and minimise adverse effects, as far as practicable, including or, if avoidance is not practicable, adequately mitigate: {NU 457.14 and others}
 - i. adverse effects on visual amenity and the character of the zone in which the activity is located; and {NU 457.14 and others}
 - ii. adverse effects on the amenity of any surrounding residential activities (Policy 5.2.1.11). {NU 457.14 and others}

General assessment guidance:

- e. In assessing the effects of the activity, Council will consider: {NU cl.16}
 - i. the potential benefits of proposed network utilities, particularly:
 1. contributions to national energy objectives and renewable energy generation targets will be considered; {NU cl.16}



5.9.2 Assessment of discretionary network ~~utilities~~ utility {*NU cl.16*} activities

Activity

Guidance on the assessment of resource consents

2. 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*}
3. the benefits of having a distributed network for greater energy resilience; and {*NU 764.1*}
- ii. ~~Whether network utilities are being conducted in accordance with relevant industry standards will be considered. {*NU cl.16*}~~
- iii. the constraints imposed on size, design and location by the technical and operational requirements of the network utility or energy generation activity. {*NU 576.58*}
- f. ~~In assessing the significance of effects, consideration will be given to: {*MW cl.16*³}~~
 - i. ~~Manawhenua values and the relationship between Manawhenua and the natural environment is maintained; including the cultural values and traditions associated with {*MW cl.16*}~~
 1. ~~wāhi-tūpuna; and: {*MW cl.16*}~~
 2. ~~mahika-kai (Objective 14.2.1); {*MW cl.16*}~~
 - ii. ~~If located outside a wāhi-tūpuna mapped area, Kai tahu may advise the Council if it considers that the granting of the consent would affect the integrity of the broader environment within which the wāhi-tūpuna is located, or the linkages between wāhi-tūpuna: {*MW 1071.109*}~~
- g. ~~In assessing activities that are discretionary due to being in an overlay zone, mapped area, in a scheduled site, or affecting a scheduled item, that otherwise require resource consent, the assessment guidance provided in relation to the underlying activity status will also be considered.~~

Potential circumstances that may support a consent application include:

- h. ~~The location of proposed network utilities~~ The proposed activity {*NU cl.16*} is essential for the effective operation of a network service utility. {*NU cl.16*}.
- i. The proposed activity is to be undertaken in accordance with relevant industry standards. {*NU cl.16*}
- j. The utility is not located on visually prominent land. {*NU 576.58*}
- k. The visibility of the utility is limited by vegetation, existing building/structures, and/or natural forms or topography. {*NU 576.58*}



5.9.2 Assessment of discretionary network utilities utility {NU cl.16} activities

Activity

Guidance on the assessment of resource consents

- l. Landscaping is used to screen the utility from public viewpoints. {NU 576.58}
- m. 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 vegetation reduces visual and noise effects from turbines on nearby dwellings. {NU 600.5}
- n. Alternative sites, which would have lesser effects on character or amenity, have been considered but are impracticable for operational reasons. {NU 576.58}

Relevant guidance from other sections (priority considerations):

- o. For activities that may have effects on biodiversity values see Section 10.6 for guidance on the assessment of resource consents in relation to Objective 10.2.1. {Nat Env 900.35}
- p. For activities adjacent to water bodies and the coast, see Section 10.6 for guidance on the assessment of resource consents in relation to Objective 10.2.2. {NatEnv 900.38}
- q. See Section 14.5 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on cultural values of Manawhenua. {MW cl.16³}

2- {NU
cl.16²}

In the rural or industrial zones:

- Solar panels – regional scale {NU308.122}
- Wind generators – regional scale {NU308.122}
- Hydro generators – regional scale {NU308.122}
- Biomass generators – stand-alone {NU 308.468}

Relevant objectives and policies (priority considerations): {NU cl.16}

- a. Objective 5.2.1 {NU cl.16}
- b. Large scale network utilities are designed and located to avoid any significant adverse effects, and minimise adverse effects, as far as practicable, including: {NU cl.16}
 - i. effects on visual amenity and the character of the zone in which the activity is located; and {NU cl.16}
 - ii. effects on the amenity of any surrounding residential activities (Policy 5.2.1.11). {NU cl.16}



5.9.2 Assessment of discretionary network utilities utility {NU cl.16} activities

Activity

3. {NU 308.122}

In all zones except the rural or industrial zones: {NU 308.122}

- Solar panels - community scale
- Wind generators - community scale
- Hydro generators - community scale

4.

In the SNL or ONL overlay zones:

- Network utilities utility {NU cl.16} structures - large scale other than amateur radio configurations {NU cl.16}
- Solar panels - community large {NU 308.122} scale
- Hydro generators - community large {NU 308.122} scale
- Wind generators - large scale {NU 308.122 and others}
- Substations {NU 915.17}

5.

In an scheduled ASCV ASBV {NatEnv 958.60}:

- Network utilities utility {NU cl.16} structures - large scale other than amateur radio configurations {NU cl.16}
- Solar panels - community large {NU 308.122} scale
- Hydro generators - community large {NU 308.122} scale
- Wind generators - large scale {NU 308.122 and others}
- Substations {NU 915.17}

Guidance on the assessment of resource consents

Relevant objectives and policies (priority considerations):

- a. Objective 5.2.4
- b. Large scale network utilities are designed and located to avoid any significant adverse effects, and minimise adverse effects, as far as practicable, including
 - i. effects on visual amenity and the character of the zone in which the activity is located; and
 - ii. effects on the amenity of any surrounding residential activities (Policy 5.2.1.14).
- c. Landscaping or screening are used to screen the device from surrounding properties.
- d. The height of network utilities are compatible with the height of surrounding properties.

Relevant guidance from other sections (priority considerations):

- a. See Section 10.6 for guidance on the assessment of resource consents in relation to Objective 10.2.5 and effects on related to {NatEnv cl.16} landscape values.

Relevant guidance from other sections (priority considerations):

- a. See Section 10.6 for guidance on the assessment of resource consents in relation to Objective 10.2.1 and effects related to biodiversity values. {Nat Env 958.60}



5.9.2 Assessment of discretionary network utilities utility {NU cl.16} activities

Activity

Guidance on the assessment of resource consents

- | | |
|--|--|
| <p>6. In the NCC Overlay Zone:</p> <ul style="list-style-type: none"> • Network utilities <u>utility</u> {NU cl.16} structures - large scale <u>other than amateur radio configurations</u> {NU cl.16} • Solar panels - community <u>large</u> {NU 308.122} scale • Hydro generators - community <u>large</u> {NU 308.122} scale • Wind generators - large scale {NU 308.122 and others} • Substations {NU 915.17} | <p><i>Relevant guidance from other sections (priority considerations):</i></p> <p>a. See Section 10.6 for guidance on the assessment of resource consents in relation to Objective 10.2.3 and effects related to the natural character of the coast.</p> |
| <p>7. On a scheduled heritage site:</p> <ul style="list-style-type: none"> • Network utilities <u>utility</u> {NU cl.16} structures - large scale <u>other than amateur radio configurations</u> {NU cl.16} • Solar panels - community <u>large</u> {NU 308.122} scale • Hydro generators - community <u>large</u> {NU 308.122} scale • Wind generators - large scale {NU 308.122 and others} • Substations {NU 915.17} | <p><i>Relevant guidance from other sections (priority considerations):</i></p> <p>a. See Rule 13.7 for guidance on the assessment of resource consents in relation to Objective 13.2.2 and effects on heritage values.</p> |
| <p>8. In a heritage precinct:</p> <ul style="list-style-type: none"> • Network utilities <u>utility</u> {NU cl.16} structures - large scale <u>other than amateur radio configurations</u> {NU cl.16} • Solar panels - community <u>large</u> {NU 308.122} scale • Hydro generators - community <u>large</u> {NU 308.122} scale • Wind generators - large scale {NU 308.122 and others} • Substations {NU 915.17} | <p><i>Relevant guidance from other sections (priority considerations):</i></p> <p>a. See Rule 13.7 for guidance on the assessment of resource consents in relation to Objective 13.2.3 and effects on heritage values.</p> |



5.9.2 Assessment of discretionary network utilities utility {NU cl.16} activities

Activity	Guidance on the assessment of resource consents
9. All discretionary activities identified as a threat in a wāhi tūpuna mapped area in Appendix A4	<i>Relevant guidance from other sections (priority considerations):</i> a. See Section 14.5 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on the cultural values of Manawhenua.
10. {NU 360.200} In a hazard overlay zone: • Network utilities structures - large scale • Solar panels - community scale • Hydro generators - community scale	See Section 11.6 for guidance on the assessment of resource consents in relation to Objective 11.2.1 and effects related to the risk from natural hazards.

¹ **NU cl. 16:** Rule 5.9.2.1 has been reformatted to include the contents of notified Rule 5.9.2.2 (these moved clauses are 5.9.2.1.f, 5.9.2.1.g, and 5.9.2.1.m through to 5.9.2.1.q), and to rearrange the text so that "General assessment guidance" appears above "Potential circumstances that may support a consent application". This does not change the effect of provisions.

² **NU cl. 16:** The contents of notified Rule 5.9.2.2 has been included in Rule 5.9.2.1. This does not change the effect of provisions.

³ **MW cl.16:** As a clause 16 amendment, 5.9.2.1.h has been rewritten to redirect to Section 14.5. This is not a substantive change.

5.9.3 Assessment of discretionary performance standard contraventions

Performance standard	Guidance on the assessment of resource consents
1. Noise - where the limit is exceeded by up to <u>less than</u> {PHS cl.16} 5dB LAeq (15min)	<i>Relevant guidance from other sections (priority considerations):</i> a. See Section 9.6 for guidance on the assessment of resource consents in relation to Objective 9.2.2 and effects related to public health and safety.
2. Light spill - where the limit is exceeded by 25% or less	

5.9.4 Assessment of discretionary activities within the radio transmitters mapped area {NU 918.25}

Activity {NU 918.25}	Guidance on the assessment of resource consents {NU 918.25}
1. {NU 918.25} All discretionary activities	<i>Relevant objectives and policies (priority considerations):</i> i. <u>Objective 5.2.2</u> ii. <u>The potential for reverse sensitivity is avoided or minimised as far as practicable (Policy 5.2.2.5)</u>



Rule 5.10 Assessment of Non-complying Activities

Rule 5.10.1 Introduction

1. Non-complying activities will be assessed in accordance with section 104, 104B and 104D of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rules 5.10.2 - 5.10.45 **{NU 918.25}** provide guidance on how a consent application for the listed non-complying activities will be assessed, including:
 - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi); and
 - b. general assessment guidance, including any effects that will be considered as a priority.

5.10.2 Assessment of all non-complying network ~~utilities~~ utility **{NU cl.16} activities**

Activity

1. All non-complying activities listed below **{PO cl.16}**

Guidance on the assessment of resource consents

Relevant objectives and policies (priority considerations):

- a. Objectives 2.2.2, 2.7.1, 2.3.1 **{NU 918.22}**, 5.2.1
- b. Policies 2.2.2.3 **{NU 764.1}**, 2.3.1.7 **{NU 918.22}**, 5.2.1.1 **{NU 308.122}**, 5.2.1.A **{NU 457.192}**
- c. In assessing the significance of effects, consideration will be given to:
 - i. short and long term effects, including effects in combination with other activities;
 - ii. the potential for cumulative adverse effects arising from similar activities occurring as a result of a precedent being set by the granting of a resource consent;
 - iii. any effects otherwise managed through performance standards and consistent with all relevant objectives and policies for the zone;
 - iv. ~~Manawhenua values and the relationship between Manawhenua and the natural environment is maintained, including the cultural values and traditions associated with;~~ **{MW cl.16}**
 1. wāhi-tūpuna; and **{MW cl.16}**
 2. mahika kai (Objective 14.2.1). **{MW cl.16}**
 - v. ~~If located outside a wāhi-tūpuna mapped area,~~ Kai tahu may advise the Council if it considers that the granting of the consent would affect the integrity of the broader environment within which the wāhi-tūpuna is located, or the linkages between wāhi-tūpuna **{MW 1071.109}**

General assessment guidance:

- d. In assessing the effects of the activity, the **{NU cl.16}** Council will consider:
 - i. the potential benefits of the **{NU cl.16}** proposed network ~~utilities~~ activity **{NU cl.16}**, particularly:
 1. contributions to national energy objectives or renewable energy generation targets;
 2. 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}**



5.10.2 Assessment of all non-complying network ~~utilities~~ utility {NU cl.16} activities

Activity

Guidance on the assessment of resource consents

3. the benefits of having a distributed network for greater energy resilience; and {NU 764.1}
 - ii. the constraints imposed on size, design and location by the technical and operational requirements of the network utility; and {NU 576.58 and others}
 - iii. whether relevant industry standards are being complied with.
- e. In assessing activities that are non-complying due to being in an overlay zone, mapped area, in a scheduled site, or affecting a scheduled item, that otherwise require resource consent, the assessment guidance provided in relation to the underlying activity status will also be considered.

Potential circumstances that may support a consent application include:

- f. The proposed activity is essential to establish or maintain a network utility service. {NU 576.58}

Relevant guidance from other sections (priority considerations):

- g. See section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on cultural values of Manawhenua. {MW cl.16}
- h. For activities that may have effects on biodiversity values, see Section 10.7 for guidance on the assessment of resource consents in relation to Objective 10.2.1. {NatEnv 900.35}
- i. For activities adjacent to water bodies and the coast see Section 10.7 for guidance on the assessment of resource consents in relation to Objective 10.2.2. {NatEnv 900.38}

¹ MW cl.16: As a clause 16 amendment, 5.10.2.1.c.iv has been rewritten to redirect to Section 14.6. This is not a substantive change.



5.10.3 Assessment of non-complying network ~~utilities~~ utility {NU cl.16} activities

Activity

1. {NU 308.462} In all zones except the rural or industrial zones: {NU 308.462}
 - Biomass generators – stand-alone {NU 308.468}
 - Hydro generators – regional scale {NU 308.462}
 - Solar panels – regional scale {NU 308.462}
 - Wind generators – regional scale {NU 308.462}
2. In the HNCC or ONCC overlay zones:
 - Biomass generators – all scales {NU 308.137 and NU 308.468}
 - Energy resource investigation devices {NU 308.122}
 - Hydro generators - all scales large scale {NU 308.462}
 - Solar panels - all scales large scale {NU 308.462}
 - Wind generators - all scales large scale {NU 308.462}
 - Network ~~utilities~~ utility {NU cl.16} structures - large scale other than amateur radio configurations {NU cl.16}
 - Substations {NU 915.17}

Guidance on the assessment of resource consents

Relevant objectives and policies (priority considerations): {NU 308.462}

- a. Objectives 5.2.1 {NU 308.462}
- b. There will be no material adverse effects on the amenity of surrounding area (Policy 5.2.1.10): {NU 308.462}

Relevant guidance from other sections (priority considerations):

- a. See Section 10.7 for guidance on the assessment of resource consents in relation to Objective 10.2.3 and effects related to the natural character of the coast.



5.10.3 Assessment of non-complying network utilities utility {NU cl.16} activities

Activity

4. In the ONF, ~~SNL or ONL~~ {NU 308.122} overlay zones:

- Biomass generators – all scales {NU 308.137 and NU 308.468}
- Energy resource investigation devices {NU 308.122}
- Hydro generators - all scales large scale {NU 308.462}
- Solar panels - all scales large scale {NU 308.462}
- Wind generators - all scales large scale {NU 308.462}
- Network utilities utility {NU cl.16} structures - large scale other than amateur radio configurations {NU cl.16}
- Substations {NU 915.17}

In a scheduled ASCV {NU 308.462}

- Biomass generators – stand-alone {NU 308.468}
- Hydro generators – regional scale {NU 308.462}
- Solar panels – regional scale {NU 308.462}
- Wind generators – community scale {NU 308.462}
- Wind generators – regional scale {NU 308.462}

5. All non-complying activities identified as a threat in a wāhi tūpuna mapped area in Appendix A4

Guidance on the assessment of resource consents

Relevant guidance from other sections (priority considerations):

- a. See Section 10.7 for guidance on the assessment of resource consents in relation to Objective 10.2.5 and effects on related to {NatEnv cl.16} landscape values.

See Section 10.6 for guidance on the assessment of resource consents in relation to Objective 10.2.1 and effects related to biodiversity: {NU 308.462}

Relevant guidance from other sections (priority considerations):

- a. See Section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on the cultural values of Manawhenua.



5.10.3 Assessment of non-complying network utilities utility {NU cl.16} activities

Activity

- 6- {NU 308.462} ~~On a scheduled heritage site or in a heritage precinct: {NU 308.462}~~
- Biomass generators – stand-alone {NU 308.468}
 - Hydro generators – regional scale {NU 308.462}
 - Solar panels – regional scale {NU 308.462}
 - Wind generators – community scale {NU 308.462}
 - Wind generators – regional scale {NU 308.462}

Guidance on the assessment of resource consents

See Rule 13.8 for guidance on the assessment of resource consents in relation to Objective 13.2.3 and effects on heritage values: {NU 308.462}

5.10.4 Assessment of non-complying performance standard contraventions

Performance standard

1. • Maximum height – {NU cl.16} Clearance from navigable water body (Rule 5.5.8.6 5.5.C {NU cl.16})
- Technical standards - Maximum gauge pressure (Rule 5.5.10.2 5.5.13.2 {NU cl.16})
2. Light spill - where the limit is exceeded by greater than 25%
3. ~~Location – co-location on an ONF (Rule 5.5.6.5) Network utility structures - small scale - location within an ONF (Rule 5.5.6.5) {NU 360.201}~~
4. Noise - where the limit is exceeded by 5bD LAeq (15 min) or more
~~Noise from wind turbines used for on-site energy generation {NU cl.16}~~

Guidance on the assessment of resource consents

Relevant objectives and policies (priority considerations):

- a. Objective 5.2.1
- b. Policy 5.2.1.7

Potential circumstances which may support a consent application include:

- c. ~~Non-compliance with~~ Contravention of {NU cl.16} the performance standard does not result in a safety risk.

Relevant guidance from other sections (priority considerations):

- a. See Section 9.7 for guidance on the assessment of resource consents in relation to Objective 9.2.2 and effects on health and safety {PHS cl.16}.

Relevant guidance from other sections (priority considerations):

- a. See Section 10.7 for guidance on the assessment of resource consents in relation to Objective 10.2.5 and effects ~~on~~ related to {NatEnv cl.16} landscape values.

Relevant guidance from other sections (priority considerations):

- a. See Section 9.7 for guidance on the assessment of resource consents in relation to Objective 9.2.2 and effects related to public health and safety.



5.10.4 Assessment of non-complying performance standard contraventions

Performance standard

5. • Setback from National Grid national-grid {**NU cl.16**} (sensitive activities, buildings, and structures, city-wide activities and National Grid sensitive activities (Rule 5.6.1.1) {**NU cl.16**})
- Hazardous substances quantity limits and storage requirements (Rule 9.3.4.2) - Setback from National Grid {**NU cl.16**}
- Subdivision performance standards - Shape (rules 15.7.6.2.c, 16.7.5.2.d, 17.7.6.2.d, 18.7.5.2.c, 19.7.5.2.c and 20.7.5.2) {**NU 806.11**}

Guidance on the assessment of resource consents

Relevant objectives and policies (priority considerations):

- a. Objective 5.2.4 5.2.2 {**NU 918.29**}
- b. Sensitive activities Activities {**NU cl.16**} and hazardous substances {**NU cl.16**} are set back an adequate distance from the nNational gGrid to ensure:
 - i. adverse effects on the health and safety of people are avoided or are insignificant {**NU cl.16**} (Policy 5.2.1.3 5.2.2.2.a {**NU 918.29**});
 - ii. adverse effects on the operation, maintenance, upgrading and development of the National Grid are avoided, or, where avoidance is not practicable, insignificant, (Policy 5.2.2.2.b); and {NU 806.11 and others}
 - iii. the potential for reverse sensitivity is avoided or minimised as far as practicable (Policy 5.2.2.2.c). {NU 806.11}
- c. Any necessary building platforms are located a sufficient distance from the National Grid to ensure that: {NU 806.11}
 - i. adverse effects on the health and safety of people are avoided: {NU 806.11}
 - ii. adverse effects on the operation, maintenance, upgrading and development of the National Grid are avoided or, if avoidance is not practicable, insignificant; and {NU 806.11}
 - iii. the potential for reverse sensitivity is avoided or minimised as far as practicable (Policy 5.2.2.3). {NU 806.11}

Potential circumstances that may support a consent application include:

- d. Written approval is obtained from the owner and/or operator of the nNational gGrid line.
- e. The ability to operate, maintain, upgrade and develop the national transmission network, including access to the national grid infrastructure, is not impeded: {**NU 918.29**}
- f. The proposal complies with New Zealand Electrical Code of Practices for Electrical Safe Distances (NZECP34:2001).
- g. The design and layout of the subdivision enables appropriate separation distances between national grid infrastructure and land use and development: {**NU 806.11**}



5.10.4 Assessment of non-complying performance standard contraventions

Performance standard

Guidance on the assessment of resource consents

500.117

¹ **NU cl.16:** The title of this performance standard has been amended to more accurately reflect its contents. This does not change the effect of provisions.

² **NU cl.16:** This amendment is required so that the assessment rule accurately paraphrases the policy. This does not change the effect of provisions.

³ **NU cl.16:** This text has been deleted from this rule because it was included in error, and does not align with the noise rules in Section 9 of the Plan. This does not change the effect of provisions.

5.10.5 Assessment of non-complying activities within the radio transmitters mapped area {NU 918.25}

Activity {NU 918.25}

Guidance on the assessment of resource consents {NU 918.25}

1. {NU 918.25} All non-complying activities

Relevant objectives and policies (priority considerations):

- i. Objective 5.2.2
- ii. The potential for reverse sensitivity is avoided or minimised as far as practicable (Policy 5.2.2.5)



Rule 10.5 Assessment of Restricted Discretionary Activities

Rule 10.5.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rule 10.5.A and {NatEnv 900.9 and others} Rule 10.5.2:
 - a. lists the matters Council will restrict its discretion to; and
 - b. provides guidance on how a consent application will be assessed, including:
 - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
 - ii. potential circumstances that may support a consent application;
 - iii. general assessment guidance; and
 - iv. conditions that may be imposed.



10.5.A Assessment of all restricted discretionary activities {NatEnv 900.9 and others}

Activity {NatEnv 900.9 and others}

1. All restricted discretionary activities that are linked to Section 10.5 {NatEnv 900.9 and others}

Guidance on the assessment of resource consents {NatEnv 900.9 and others}

General assessment guidance: {NatEnv 900.9 and others}

- i. For those activities that require assessment against Policy 10.2.1.X, in assessing whether the activity meets that policy, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.1. {NatEnv 900.9 and 958.8}
- ii. In assessing effects on landscape values or on the natural character of the coast, Council will consider the extent to which the activity follows any relevant design guidelines in Appendix A11. {NatEnv cl.16}
- iii. For those activities for which effects on the natural character of the coast is a matter of discretion, Council will consider the natural character values that have been identified in Appendix A5, which include biodiversity values among others. These values may not be comprehensive, as they are not based on site-specific assessments. Therefore, a more detailed assessment may be required, under Policy 10.2.1.X, to determine the effects of activities on areas of significant indigenous vegetation and significant habitats of indigenous fauna. {NatEnv 900.142}
- iv. In assessing the appropriateness of any proposed biodiversity offset or environmental compensation, in addition to Policy 2.2.3.5 or Policy 2.2.3.6, Council will consider the Guidance on Good Practice Biodiversity Offsetting in New Zealand (NZ Government, 2014) {NatEnv 949.29 and 1088.33}
- v. With respect to Policy 10.2.1.X, Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on biodiversity values, while meeting the operational needs of the activity. {NatEnv 900.142 and others}



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
A. <u>All restricted discretionary activities that are linked to Section 10.5 {Nat Env 690.10 and 690.12}</u>	a. <u>Positive effects on biodiversity values or the natural character of the coast</u>	<u>Relevant objectives and policies:</u> i. <u>Objectives 10.2.1, 10.2.2, 10.2.3</u> ii. <u>Conservation activity is encouraged in all zones (Policy 10.2.1.1).</u> <u>Potential circumstances that may support a consent application include:</u> iii. <u>The development incorporates conservation activity that will have significant positive effects on biodiversity or natural character values.</u>



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
1. - Earthworks - large scale that exceed scale thresholds within 20m of a water body or MHWS (rural zones and or {NatEnv cl.16} Invermay and Hercus Zone) - Earthworks - large scale that exceed scale thresholds within 5m of a water body or MHWS (all other zones)	a. Effects on biodiversity <u>values</u> {NatEnv 958.60} and natural character of riparian margins and the coast	<i>Relevant objectives and policies:</i> - Objective 10.2.2 - Earthworks - large scale are set back an adequate distance from the coast and water bodies to maintain or enhance <u>enable</u> {NatEnv cl.16} the biodiversity and natural character values of riparian and coastal margins <u>to be maintained or enhanced</u> {NatEnv cl.16} (Policy 10.2.2.2). <u>Earthworks - large scale are located and undertaken in a way that minimises, as far as practicable, the risk of sediment entering the sea or water bodies (Policy 10.2.2.4).</u> {NatEnv908.27} <u>Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: {NatEnv 900.142 and 1088.15}</u> <u>there is no net loss and preferably a net gain in the biodiversity values of the area, or {NatEnv 900.142 and 1088.15}</u> <u>where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5; or {NatEnv 900.142 and 1088.15}</u> <u>where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.6 (Policy 10.2.1.X). {NatEnv 900.142 and 1088.15}</u> <i>Potential circumstances that may support a consent application:</i> - The earthworks are associated with conservation activity.



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
	b. Effects on public access	<i>Relevant objectives and policies:</i> i. Objective 10.2.4 ii. Earthworks - large scale are set back an adequate distance from the coast and water bodies to maintain or enhance the biodiversity and natural character values of riparian and coastal margins <u>public access along riparian or coastal margins {NatEnv cl.16} {NatEnv 1088.41}</u> (Policy 10.2.4.1). <i>Potential circumstances that may support a consent application include:</i> iii. The earthworks are associated with conservation activity.
B. <u>Earthworks – large scale in rural zones {NatEnv 958.100}</u>	a. Effects on biodiversity values {NatEnv 958.100}	<i>Relevant objectives and policies: {NatEnv 958.100}</i> i. <u>Objective 10.2.1. {NatEnv 958.100}</u> ii. <u>Biodiversity values are maintained or enhanced (Policy 10.2.1.W). {NatEnv 958.100}</u> iii. <u>Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: {NatEnv 900.142 and 1088.15}</u> 1. <u>there is no net loss and preferably a net gain in the biodiversity values of the area, or {NatEnv 900.142}</u> 2. <u>where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5: or {NatEnv 949.29}</u> 3. <u>where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.6 (Policy 10.2.1.X). {NatEnv 1088.15}</u>



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
C. {NatEnv cl.16} Indigenous vegetation clearance – large scale in {NatEnv cl.16} (rural and rural residential zones)	a. Effects on biodiversity values {NatEnv 958.60}	Relevant objectives and policies: - Objective 10.2.1. - Indigenous vegetation clearance avoids adverse effects on the biodiversity values of areas of indigenous vegetation, or ensures adverse effects are <u>Adverse effects on biodiversity values are avoided or, if avoidance is not practicable, {NatEnv 900.28}</u> no more than minor (Policy 10.2.1.3). <u>Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: {NatEnv 900.142 and 1088.15}</u> <u>there is no net loss and preferably a net gain in the biodiversity values of the area, or {NatEnv 900.142}</u> <u>where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5: or {NatEnv 949.29}</u> <u>where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.6 (Policy 10.2.1.X). {NatEnv 1088.15}</u> Potential circumstances that may support a consent application include: - The clearance is of a non-local indigenous species that has extended beyond its range. - The clearance is part of conservation activity involving the clearance of indigenous species and replacement by other indigenous species. - The clearance is of indigenous vegetation that is diseased and unlikely to regain health and viability. <u>An ecological assessment supporting the clearance is supplied with the application (see Rule 10.8.2 Special Information Requirements). {NatEnv 958.95}</u>
2. All subdivision activities	a. Effects on areas of indigenous vegetation	Relevant objectives and policies: Objectives 10.2.1, <u>10.2.2 {NatEnv cl.16}</u>



10.5.2 Assessment of restricted discretionary activities

Activity

Matters of discretion
and the habitat of
indigenous fauna
biodiversity values
{NatEnv 958.60} and
the natural character of
riparian margins and
the coast {NatEnv
cl.16²}

Guidance on the assessment of resource consents

- ii. The design of the subdivision and any future land use or development activities {NatEnv cl.16²} will avoid or, if avoidance is not possible, adequately mitigate adverse effects on other important areas of indigenous vegetation or the habitat of indigenous fauna (Policy 10.2.1.9.b). {NatEnv 958.60}
 1. maintain or enhance, on an on-going basis, biodiversity values (Policy 10.2.1.9.a); {NatEnv 958.60}
 2. protect areas of significant indigenous vegetation and the significant habitats of indigenous fauna (Policy 10.2.1.9.b) {NatEnv 958.60}
 3. be in accordance with policies 10.2.1.X, 10.2.1.2, 10.2.1.Y and 10.2.1.5 (Policy 10.2.1.9.c). {NatEnv 958.60}
- iii. General subdivision adjacent to water bodies and the coast maintains or enhances the following values, including through provision of an esplanade reserve or esplanade strip in identified locations: {NatEnv cl.16²}
 1. biodiversity values of riparian margins and the coast; {NatEnv cl.16²}
 2. the water quality and aquatic habitats of the water body or coast; and {NatEnv cl.16²}
 3. the natural functioning of the adjacent sea or water body (Policy 10.2.2.5). {NatEnv cl.16²}

Potential circumstances that may support a consent application include:

- iv. The subdivision is designed to maximise the opportunities for protection or enhancement of important natural environment values on the site, including but not limited to, indigenous vegetation or other habitat, for example through:
 1. retaining indigenous vegetation on a single site, under single ownership; and
 2. fencing of indigenous vegetation.
- v. A legal mechanism (such as a covenant) is offered by the applicant to protect indigenous



10.5.2 Assessment of restricted discretionary activities

Activity

Matters of discretion

Guidance on the assessment of resource consents
vegetation.

vi. The subdivision is designed to minimise any adverse effects from drainage on water bodies, including by minimising impermeable surfaces near open water bodies. {NatEnv cl.16²}

vii. In the rural zones, subdivisions are designed to maintain natural overland flow paths and natural hydrology. {NatEnv cl.16²}

General assessment guidance:

viii. Threatened indigenous vegetation includes those species listed in Appendix 10A.

Conditions that may be imposed include:

ix. A building platform may be required to be registered against the title by way of consent notice.



10.5.2 Assessment of restricted discretionary activities

Activity

Matters of discretion

b. Effects on biodiversity and natural character of riparian margins and the coast
{NatEnv cl.16²}

Guidance on the assessment of resource consents

Relevant objectives and policies: {NatEnv cl.16²}

- i. Objective 10.2.2: {NatEnv cl.16²}
- ii. General subdivision adjacent to water bodies and the coast maintains or enhances the following conservation values, including through provision of esplanade reserves or esplanade strips in identified locations: {NatEnv cl.16²}
 1. biodiversity values of riparian margins and the coast; {NatEnv cl.16²}
 2. the water quality and aquatic habitats of the water body or coast; and {NatEnv cl.16²}
 3. the natural functioning of the adjacent sea or water body (Policy 10.2.2.5): {NatEnv cl.16²}

Potential circumstance that may support a consent application include: {NatEnv cl.16²}

- iii. The subdivision is designed to minimise any adverse effects from drainage on water bodies, including by minimising impermeable surfaces near open water bodies: {NatEnv cl.16²}
- iv. In the rural zones, subdivisions are designed to maintain natural overland flow paths and natural hydrology: {NatEnv cl.16²}



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
	c. Effects on public access	<i>Relevant objectives and policies:</i> - Objective 10.2.4. <u>Subdivision of land enhances public access to the natural environment is enhanced through:</u> <u>requiring an esplanade reserve or esplanade strip of an appropriate width and location adjacent to identified water bodies and the coast; and</u> <u>where practicable, providing opportunities for access in other areas where this will enhance recreational opportunities, particularly through connecting to and expanding the existing tracks network or utilising adjacent unformed legal roads</u> (Policy 10.2.4.3). {NatEnv cl.16} <i>Potential circumstances or mitigation measures {NatEnv cl.16} that may support a consent application include:</i> - Unformed legal roads will be fenced to maintain or enhance public access, or other mechanisms are proposed to enhance public access. - A management plan is provided for on-going pest and weed control on areas set aside for public access. <i>General assessment guidance:</i> - Council will consider the positive effects for public access provided by the subdivision, including those that are additional to any esplanade <u>reserve or esplanade strip</u> {NatEnv 360.155} requirements that apply. <i>Relevant objectives and policies:</i> - Objective 10.2.3 - Adverse effects on the natural character values identified in Appendix A5 are insignificant (Policy 10.2.3.3). - Subdivisions are designed to ensure any future land use or development activities {NatEnv cl.16} will <u>maintain preserve</u> {NatEnv 958.43} or enhance, on an on-going basis, the natural character values identified in Appendix A5 <u>and will be in accordance with policies 10.2.3.W, 10.2.3.2, 10.2.3.3 and</u>
3.	In the ONCC or HNCC overlay zones: RD buildings and structures activities {NatEnv 360.137} Tree planting Shelterbelts and small woodlots {RU cl.16} - Earthworks - large scale (that exceed scale thresholds for an ONCC, HNCC)	a. Effects on natural character of the coast <i>Relevant objectives and policies:</i> - Objective 10.2.3 - Adverse effects on the natural character values identified in Appendix A5 are insignificant (Policy 10.2.3.3). - Subdivisions are designed to ensure any future land use or development activities {NatEnv cl.16} will <u>maintain preserve</u> {NatEnv 958.43} or enhance, on an on-going basis, the natural character values identified in Appendix A5 <u>and will be in accordance with policies 10.2.3.W, 10.2.3.2, 10.2.3.3 and</u>



10.5.2 Assessment of restricted discretionary activities

Activity

- Indigenous vegetation clearance {*NatEnv 958.106*}
- Amateur radio configurations Network utility structures – large scale (amateur radio configurations only) {*NU cl.16*}
- Network utilities utility {*NU cl.16*} structures - small scale
- Network utilities poles and masts - small scale {*NU cl.16*}
- Public artworks - large scale
- General subdivision

Matters of discretion

Guidance on the assessment of resource consents

10.2.3.X {*NatEnv 900.46 and others*} (Policy 10.2.3.7).

- iv. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: {*NatEnv 900.142 and 1088.15*}
 1. there is no net loss and preferably a net gain in the biodiversity values of the area, or {*NatEnv 900.142*}
 2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5: or {*NatEnv 949.29*}
 3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.6 (Policy 10.2.1.X). {*NatEnv 1088.15*}

General assessment guidance:

- v. The assessment will consider the natural character values outlined in Appendix A5.
- vi. All development in an ONCC or HNCC overlay zone will consider the effects on biodiversity.
- vii. The assessment of resource consent applications for subdivisions will consider any landscape assessment provided with the application (see Special Information Requirements - Rule 10.8.1).
- viii. The assessment will consider the appropriateness of the building platforms identified, as required by Rule 10.8.1. {*NatEnv 447.135*}

Potential circumstances that may support a consent application include:

- ix. Development activities are is {*NU cl.16*} associated with conservation.
- x. For utilities activities:
 1. The network utility is co-located with existing buildings or network utility structures.
 2. It is essential for the activity to locate on



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
4. In the NCC Overlay Zone: • <u>Crematoriums</u> {<i>NatEnv 447.77</i>} • Forestry • Indigenous vegetation clearance - <u>large scale</u> {<i>NatEnv cl.16</i>} • New buildings or structures greater than 60m², or additions and alterations that result in a building or structure that is greater than 60m² GFA and/or has any wall longer than 20m <u>All restricted discretionary buildings and structures activities that are linked to Section 10.5</u> {<i>NatEnv 360.164</i>} • All other building and structures activities {<i>NatEnv 360.164</i>} • Earthworks - large scale (that exceed the scale thresholds for an NCC) • Public artworks - large scale {<i>NatEnv 908.17</i>}	a. Effects on natural character of the coast	the feature to ensure the ongoing operation of a network utility service. 3. Landscaping or other forms of screening will be used to reduce the visibility of the network utility from surrounding properties and public viewpoints. 4. <u>Solar panels and other structures use a design and/or materials that minimise reflectivity and glare as far as practicable.</u> {<i>NatEnv 447.49</i>} <i>Conditions that may be imposed include:</i> xi. For earthworks - large scale, requirements for batter gradients to be re-vegetated or screened by vegetation if visible from a public place. <i>Relevant objectives and policies:</i> i. Objective 10.2.3 ii. Adverse effects on the natural character values identified in Appendix A5 are avoided or, if avoidance is not possible <u>practicable</u> {<i>PO 908.3</i>}, are no more than minor (Policy 10.2.3.4). iii. <u>Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable:</u> {<i>NatEnv 900.142 and 1088.15</i>} 1. <u>there is no net loss and preferably a net gain in the biodiversity values of the area, or</u> {<i>NatEnv 900.142</i>} 2. <u>where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5: or</u> {<i>NatEnv 949.29</i>} 3. <u>where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.6 (Policy 10.2.1.X).</u> {<i>NatEnv 1088.15</i>} <i>General assessment guidance:</i> iv. The assessment will consider the natural character values outlined in Appendix A5.



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
5.	In the NCC Overlay Zone: - Public Artworks - large scale <i>{NatEnv 908.17}</i> - Network utilities utility <i>{NU cl.16}</i> poles and masts - small scale - Wind generators on-site energy generation small scale <i>{NU 308.122}</i>	a. Effects on natural character of the coast <i>Relevant objectives and policies:</i> - Objective 10.2.3 - Adverse effects on the natural character values identified in Appendix A5 <u>are avoided or, if avoidance is not practicable</u> <i>{NatEnv cl.16}</i>: are avoided or, if avoidance is not possible, are <i>{NatEnv cl.16}</i> no more than minor, or



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
- Hydro generators on-site energy generation <u>small scale</u> {NU 308.122} - Solar panels on-site energy generation <u>small scale</u> {NU 308.122} - Energy resource investigation devices {NU 308.122} - Biomass generators on-site energy generation {NU 308.137}		2. <u>where there are no practicable alternative locations, adequately mitigated (Policy 10.2.3.Y) {NatEnv 908.17 and 576.62}</u> (Policy 10.2.3.10) iii. <u>Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: {NatEnv 900.142 and 1088.15}</u> 1. <u>there is no net loss and preferably a net gain in the biodiversity values of the area, or {NatEnv 900.142}</u> 2. <u>where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5: or {NatEnv 949.29}</u> 3. <u>where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.6 (Policy 10.2.1.X). {NatEnv 1088.15}</u> <i>General assessment guidance:</i> iv. The assessment will consider the natural character values outlined in Appendix A5. v. <u>Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on the values of the overlay, while meeting the operational needs of the activity. {NatEnv 908.17 and 576.62}</u> <i>Potential circumstances that may support a consent application include:</i> vi. For utilities activities: 1. The network utility is co-located with existing buildings or network utility structures. 2. It is essential for the activity to locate on the feature to ensure the ongoing operation of a network utility service.



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
6. In the NCC Overlay Zone: • General subdivision	a. Effects on natural character of the coast	<i>{NatEnv 576.62}</i> 3. Landscaping or other forms of screening will be used to reduce the visibility of the network utility from surrounding properties and public viewpoints. 4. <u>Solar panels and other structures use a design and/or materials that minimise reflectivity and glare as far as practicable.</u> <i>{NatEnv 447.49}</i> <i>Relevant objectives and policies:</i> i. Objective 10.2.3 ii. Subdivisions are designed to ensure any future land use or development activities <i>{NatEnv cl.16}</i> will <u>maintain preserve</u> <i>{NatEnv 958.43}</i> or enhance, on an on-going basis, the natural character values identified in Appendix A5 <u>and will be in accordance with policies 10.2.3.4 and 10.2.3.Y</u> <i>{NatEnv 900.46 and others}</i> (Policy 10.2.3.7). <i>General assessment guidance:</i> iii. The assessment will consider the natural character values outlined in Appendix A5. iv. <u>The assessment will consider the appropriateness of the building platforms identified, as required by Rule 10.8.1.</u> <i>{NatEnv 447.135}</i> <i>Potential circumstances that may support a consent application include:</i> v. For subdivision activities, a landscape building platform or platforms are identified (see Rule 10.8.1 Special Information Requirements). vi. Development activities are <u>is</u> <i>{NU cl.16}</i> associated with conservation. vii. For utilities activities: <i>{NatEnv cl.16³}</i> 1. The network utility is co-located with existing buildings or network utilities structures. <i>{NatEnv cl.16}</i> 2. It is essential for the activity to locate on the feature to ensure the ongoing operation of a network utility service. <i>{NatEnv cl.16}</i> 3. Landscaping or other forms of screening



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
		will be used to reduce the visibility of the network utility from surrounding properties and public viewpoints. {NatEnv cl.16} <i>Conditions that may be imposed include:</i> viii. For forestry, conditions on the siting, scale, species and/or layout of forestry blocks: {NatEnv cl.16} ix. For subdivision activities, a landscape building platform may be required to be registered against the title by way of consent notice (see Rule 10.8.1 Special Information Requirements). x. For earthworks – large scale, requirements for batter gradients to be re-vegetated or screened by vegetation if visible from a public place. {NatEnv cl.16} <i>Relevant objectives and policies:</i> i. Objective 10.2.1 ii. Land use and development activities have net positive effects on the protection and enhancement of <u>There is no net loss and preferably a net gain in {NatEnv 1088.32}</u> the biodiversity values of the area of significant conservation value <u>ASBV {NatEnv 958.60}</u> including, but not limited to, those biodiversity values listed in Appendix A1.2 {NatEnv 690.8} (Policy 10.2.1.2). iii. Indigenous vegetation clearance maintains or enhances the biodiversity values of areas of significant conservation value (Policy 10.2.1.4). {NatEnv 949.5} <i>Potential circumstances that may support a consent application include:</i> iv. Development activities are <u>is {NU cl.16}</u> associated with conservation. v. Measures are proposed to protect or enhance the biodiversity values of the area of significant conservation <u>ASBV. {Nat Env 958.60}</u>
7. In an Scheduled ASCV ASBV: {NatEnv 958.60} - Indigenous vegetation clearance {NatEnv 949.13} - New buildings or structures, or additions and alterations, that result in a building or structure that is greater than 60m² GFA and/or has any wall longer than 20m <u>All restricted discretionary buildings and structures activities that are linked to Section 10.5 {NatEnv 360.164}</u> - All other structures {NatEnv 360.164} - Earthworks - large scale (that exceed the scale thresholds for a Scheduled ASCV ASBV) {NatEnv 958.60} <u>Shelterbelts and small woodlots</u> {NatEnv	a. Effects on biodiversity <u>values {NatEnv 958.60}</u>	



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
958.107} • <u>Site development activities (except for outdoor storage, parking, loading and access, vegetation clearance, storage and use of hazardous substances)</u> {NatEnv 958.107} • <u>Network utility poles and masts – small scale</u> {NatEnv 900.33} • <u>Wind generators – small scale</u> {NatEnv 900.33 and NU 308.122} • <u>Hydro generators – small scale</u> {NatEnv 900.33 and NU 308.122} • <u>Solar panels – small scale</u> {NatEnv 900.33 and NU 308.122} • <u>Network utility structures – large scale (amateur radio configurations only)</u> {NU cl.16}		



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
8. In a Scheduled ASGV: {NatEnv 900.33} • Network utilities poles and masts – small scale • Wind generators – on-site energy generation • Hydro generators – on-site energy generation • Solar panels – on-site energy generation • Energy resource investigation devices {NatEnv 900.33} • Biomass generators – onsite energy generation {NU 308.137 and others}	a. Effects on biodiversity {NatEnv 900.33}	Relevant objectives and policies: Objective 10.2.1 Adverse effects on identified biodiversity values can be avoided or, where avoidance is not possible, would be insignificant (Policy 10.2.1.10). Potential circumstances that may support a consent application include: Measures are proposed to protect or enhance the biodiversity values of the Area of Significant Conservation Value. {NatEnv 900.33}



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
9. In an Scheduled ASGV ASBV {NatEnv 958.60}: All subdivision activities	a. Effects on biodiversity values {NatEnv 958.60}	<i>Relevant objectives and policies:</i> - Objective 10.2.1 - The design of the subdivision and any future land use or development activities {NatEnv cl.16} will maintain or enhance the biodiversity and conservation values associated with the Area of Significant Conservation Value and urban conservation mapped areas (Policy 10.2.1.9.a): {NatEnv 958.60} - maintain or enhance, on an on-going basis, biodiversity values (Policy 10.2.1.9.a): {NatEnv 958.60} - protect areas of significant indigenous vegetation and the significant habitats of indigenous fauna (Policy 10.2.1.9.b); and {NatEnv 958.60} - be in accordance with policies 10.2.1.X, 10.2.1.2 and 10.2.1.Y (Policy 10.2.1.9.c). {NatEnv 958.60} <i>Potential circumstances that may support a consent application include:</i> - Development activities are is {NU cl.16} associated with conservation. - Measures are proposed to protect or enhance the biodiversity values of the area of significant conservation ASBV {NatEnv 958.60}.
10. In a UCMA UBMA {NatEnv 958.60}: - Earthworks - large scale (that exceed scale thresholds for an UCMA UBMA) {NatEnv 958.60} - All subdivision activities	a. Effects on biodiversity values {NatEnv 958.60}	<i>Relevant objectives and policies:</i> - Objective 10.2.1 - Earthworks - large scale and subdivision {NatEnv cl.16} in an urban conservation mapped area (UCMA) {NatEnv cl.16} maintain or enhance the conservation biodiversity {NatEnv 958.60} values of the UCMA UBMA {NatEnv 958.60} including, but not limited to, those values listed in Appendix A10 {NatEnv 900.31} (Policy 10.2.1.5). - Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: {NatEnv 900.142 and 1088.15}



10.5.2 Assessment of restricted discretionary activities

Activity

Matters of discretion

Guidance on the assessment of resource consents

1. there is no net loss and preferably a net gain in the biodiversity values of the area, or {NatEnv 900.142}
2. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5; or {NatEnv 949.29}
3. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.6 (Policy 10.2.1.X), {NatEnv 1088.15}

iv. The design of the subdivision and any future land use or development activities **{NatEnv cl.16}** will maintain or enhance the biodiversity and conservation values associated with areas of significant conservation value and **urban conservation mapped areas** (Policy 10.2.1.9.a); **{NatEnv958.60}**

1. maintain or enhance, on an on-going basis, biodiversity values (Policy 10.2.1.9.a); {NatEnv958.60}
2. protect areas of significant indigenous vegetation and the significant habitats of indigenous fauna (Policy 10.2.1.9.b); and {NatEnv958.60}
3. be in accordance with policies 10.2.1.X and 10.2.1.5 (Policy 10.2.1.9.c). {NatEnv958.60}

Potential circumstances that may support a consent application include:

- v. ~~The earthworks~~ Earthworks **{NatEnv cl.16}** are associated with conservation.



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
11. In the ONF Overlay Zone: • All RD buildings and structures activities {NatEnv 360.137} • Earthworks - large scale (that exceed scale thresholds for an ONF) • Tree planting Shelterbelts and small woodlots {RU cl.16} • <u>Indigenous vegetation clearance – large scale</u> {NatEnv 958.106} • <u>Network utility structures - small scale</u> {NatEnv cl.16} • <u>Network utility structures – large scale (amateur radio configurations only)</u> {NatEnv cl.16}	a. Effects on landscape values	Guidance on the assessment of resource consents <i>Relevant objectives and policies:</i> - Objective 10.2.5. - The effects on landscape values are insignificant (Policy 10.2.5.3). <i>General assessment guidance:</i> - The assessment will consider the landscape values outlined in Appendix A3. The assessment of resource consent applications for subdivision activities will consider any landscape assessment provided with the application (see Special Information Requirements – Rule 16.13): {NatEnv cl.16} <i>Potential circumstances that may support a consent application include:</i> - For utilities activities: - The network utility is co-located with existing buildings or network utility structures. - It is essential for the activity to locate on the feature to ensure the on-going operation of a network utility service. - Landscaping or other forms of screening will be used to reduce the visibility of the network utility from surrounding properties and public viewpoints. <i>Conditions that may be imposed include:</i> - For earthworks - large scale, requirements for batter gradients to be re-vegetated or screened by vegetation if visible from a public place. <u>Solar panels and other structures use a design and/or materials that minimise reflectivity and glare as far as practicable.</u> {NatEnv 447.49}



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
12- {NatEnv cl.16} In the ONF Overlay Zone: • Amateur radio configurations • Network utilities structures – small scale • Network utilities poles and masts – small scale	a. Effects on landscape values	<i>Relevant objectives and policies:</i> - Objective 10.2.5. - Any adverse effects on the landscape values, as identified in Appendix A3, would be insignificant (Policy 10.2.5.16). <i>General assessment guidance:</i> - The assessment will consider the landscape values outlined in Appendix A3. <i>Potential circumstances that may support a consent application include:</i> - 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 on-going operation of a network utility service. - Landscaping or other forms of screening will be used to reduce the visibility of the network utility from surrounding properties and public viewpoints.
D. In the ONF overlay zone: {Nat Env 908.17 and 908.3} • <u>Public artworks - large scale</u>	a. <u>Effects on landscape values</u>	<i>Relevant objectives and policies:</i> <u>Objective 10.2.5.</u> <u>Any adverse effects on landscape values are:</u> <u>insignificant (Policy 10.2.5.Y.a); or</u> <u>where there are no practicable alternative locations, adequately mitigated (Policy 10.2.5.Y.b).</u> <i>General assessment guidance:</i> <u>The assessment will consider the landscape values outlined in Appendix A3.</u> <u>Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on the values of the overlay, while meeting the operational needs of the activity.</u>



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
13. In the ONF, ONL or SNL overlay zones: General subdivision	a. Effects on landscape values	<i>Relevant objectives and policies:</i> i. Objective 10.2.5. ii. Subdivision is designed to ensure that any future land use or development will maintain or enhance <u>{NatEnv 908.17 and 908.3}</u> the landscape values identified in Appendix A3 and will be in accordance with policies <u>40.2.5.1-40.2.5.9 10.2.5.X, 10.2.5.4, 10.2.5.3, 10.2.5.Y, 10.2.5.15, 10.2.5.6, 10.2.5.Z and 10.2.5.7 {NatEnv 900.46 and others}</u> (Policy 10.2.5.11). <i>General assessment guidance:</i> iii. The assessment of resource consent applications for subdivision activities will consider any landscape assessment provided with the application (see Rule 10.8.1 Special Information Requirements). iv. <u>The assessment will consider the appropriateness of the building platforms identified, as required by Rule 10.8.1, {NatEnv 447.135}</u> <i>Conditions that may be imposed include:</i> v. For subdivision activities, a landscape building platform may be required to be registered against the title by way of consent notice (see Rule 10.8.1 Special Information Requirements).
14. In the ONF, ONL or SNL overlay zones: <u>{NatEnv 908.17 and 908.3}</u> Public artworks - large scale	a. Effects on landscape values	<i>Relevant objectives and policies:</i> i. Objective 10.2.5. ii. Adverse effects on the landscape values identified in Appendix A3 are minimised as far as practicable; and if effects are more than insignificant if in an ONL or ONF, or more than minor if in a SNL, there are no practicable alternative locations (Policy 10.2.5.5). <i>General assessment guidance:</i> iii. The assessment will consider the landscape values outlined in Appendix A3.



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
15. In the ONL Overlay Zone: • Forestry • New building or structure greater than 60m² or; {NatEnv 464.10} • additions and alterations that result in a building or structure that is greater than 60m² {NatEnv 464.10} • All other buildings and structures activities {NatEnv 360.137} • Earthworks – large scale (that exceed the scale thresholds for an ONL) {NatEnv 464.10} • Network utilities poles and masts – small scale {NatEnv 576.62} • Wind generators – on-site energy generation {NatEnv 576.62} • Hydro generators – on-site energy generation {NatEnv 576.62} • Solar panels – on-site energy generation {NatEnv 576.62} • Energy resource investigation devices {NatEnv 576.62} • Biomass generators – on-site energy generation {NU 308.137}	a. Effects on landscape values	Relevant objectives and policies: - Objective 10.2.5. - Adverse <u>Any adverse</u> {NatEnv cl.16} effects on identified landscape values, as identified in Appendix A3, are insignificant (Policy 10.2.5.6). General assessment guidance: - The assessment will consider the landscape values outlined in Appendix A3. <u>For forestry, in assessing effects on landscape values, the Council will consider the extent to which the activity follows the design guidelines in Appendix A11.3. {NatEnv 447.74}</u> Potential circumstances that may support a consent application include: - The activity incorporates key design elements as set out in Appendix A3. - Landscaping or other forms of screening will be used to reduce the visibility of development from surrounding properties and public viewpoints. {NatEnv 464.10} - For utilities activities: {NatEnv 576.62} - It is essential for the activity to locate in the landscape overlay to ensure the effective functioning of a network utility. {NatEnv 576.62} - The network utility is co-located with existing buildings or network utilities structures. {NatEnv 576.62} - The activity is associated with the operation of the network {NatEnv 576.62} - Landscaping or other forms of screening will be used to reduce the visibility of the network utility from surrounding properties and public viewpoints. {NatEnv 576.62} Conditions that may be imposed include, but are not limited to: {NatEnv 464.10} - For earthworks – large scale, requirements for batter gradients to be re-vegetated or screened by vegetation if visible from a public



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents place: {NatEnv 464.10}
E. In the ONL Overlay Zone: {NatEnv 464.10 and others} • <u>Crematoriums</u> {NatEnv 447.77} • <u>New building or structure greater than 60m² footprint or, additions and alterations that result in a building or structure that is greater than 60m² footprint</u> {NatEnv 464.10} • <u>Earthworks - large scale (that exceed the scale thresholds for an ONL)</u> {NatEnv 464.10} • <u>Public artworks - large scale</u> {NatEnv 907.17 and 908.3} • <u>Network utility poles and masts – small scale</u> {NatEnv 576.62} • <u>Wind generators – small scale</u> {NatEnv 576.62} • <u>Hydro generators – small scale</u> {NatEnv 576.62} • <u>Solar panels – small scale</u> {NatEnv 576.62}	a. Effects on <u>landscape values</u> {NatEnv 464.10 and others}	<u>Relevant objectives and policies:</u> {NatEnv 464.10 and others} <u>Objective 10.2.5.</u> {NatEnv 464.10 and others} <u>Any adverse effects on landscape values are:</u> {NatEnv 464.10} <u>insignificant (Policy 10.2.5.Z.a); or</u> {NatEnv 464.10 and others} <u>where there are no practicable alternative locations, adequately mitigated (Policy 10.2.5.Z.b)</u> {NatEnv 464.10 and others} <u>General assessment guidance:</u> {NatEnv 464.10 and others} <u>The assessment will consider the landscape values outlined in Appendix A3.</u> {NatEnv 464.10 and others} <u>Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on the values of the overlay, while meeting the operational needs of the activity.</u> {NatEnv 464.10 and others} <u>Potential circumstances that may support a consent application include:</u> {NatEnv 464.4} <u>The development involves an addition to a building or structure that would have the same effect as, or a lesser effect than, a new building or structure provided for under Rule 16.3.4.4 (rural zones).</u> {NatEnv 464.4}
16. In the SNL Overlay Zone: • <u>Crematoriums</u> {NatEnv 447.77} • <u>Forestry</u> • <u>New building or structure greater than 60m² footprint</u> {PO cl.16} or,	a. Effects on <u>landscape values</u>	<u>Relevant objectives and policies:</u> <u>Objective 10.2.5.</u> <u>Any adverse effects on the {NatEnv cl.16} landscape values, as identified in Appendix A3, are avoided or, if avoidance is not possible practicable {PO 908.3}, are</u> <u>no more than minor (Policy 10.2.5.7.a), or</u>



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
additions and alterations that result in a building or structure that is greater than 60m² footprint {PO cl.16} • All other buildings and structures activities {NatEnv 360.137} • Earthworks - large scale (that exceed the scale thresholds for an SNL) • Public artworks - large scale {NatEnv 908.17 and 908.3} • Network utilities utility {NU cl.16} poles and masts - small scale • Wind generators - on-site energy generation small scale {NU 308.122} • Hydro generators - on-site energy generation small scale {NU 308.122} • Solar panels - on-site energy generation small scale {NU 308.122} • Energy resource investigation devices {NU 308.122} • Biomass generators - on-site energy generation {NU 308.137}		2. <u>where there are no practicable alternative locations, adequately mitigated (Policy 10.2.5.7.b). {NatEnv 458.12}</u> <i>General assessment guidance:</i> iii. The assessment will consider the landscape values outlined in Appendix A3. iv. <u>Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on the values of the overlay, while meeting the operational needs of the activity. {NatEnv 458.12}</u> v. <u>For forestry, in assessing effects on landscape values, the Council will consider the extent to which the activity follows the design guidelines in Appendix A11.3. {NatEnv 447.74}</u> <i>Potential circumstances that may support a consent application include:</i> vi. The activity incorporates key design elements as set out in Appendix A3. vii. Landscaping or other forms of screening will be used to reduce the visibility of development from surrounding properties and public viewpoints. viii. <u>The development involves an addition to a building or structure that would have the same effect as, or a lesser effect than, a new building or structure provided for under Rule 16.3.4.4 (rural zones) or Rule 17.3.4.4 (rural residential zones). {NatEnv 464.4}</u> ix. For utilities activities: 1. <u>It is essential for the activity to locate in the landscape overlay to ensure the effective functioning of a network utility. {NatEnv 458.12}</u> 2. The network utility is co-located with existing buildings or network utility structures.



10.5.2 Assessment of restricted discretionary activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
		3. The activity is associated with the operation of the national <u>National Grid</u> {NatEnv cl.16} 4. Landscaping or other forms of screening will be used to reduce the visibility of the network utility from surrounding properties and public viewpoints. x. For earthworks - large scale, requirements for batter gradients to be re-vegetated or screened by vegetation if visible from a public place.

¹ **NatEnv cl.16:** Provisions for indigenous vegetation clearance have been reformatted. Rule 10.5.2.B was notified as Rule 10.4.3.3. This does not result in a substantive change to provisions.

² **NatEnv cl.16:** The content of Rule 10.5.2.2.b has been merged with Rule 10.5.2.2.a. This does not result in a substantive change to provisions.

³ **NatEnv cl.16:** Rules 10.5.2.6.a.vii, viii and x have been removed under Clause 16 as they are not relevant to subdivision activities.

⁴ **NatEnv cl.16:** Rule 10.5.2.11.a.iv has been removed under Clause 16 as subdivision activities are not subject to Rule 10.5.2.11.

⁵ **NatEnv cl.16:** The network utility activities managed in notified Policy 10.2.5.16 are now managed in Policy 10.2.5.3 and, therefore, are assessed under Rule 10.5.2.11. This does not change the effect of provisions.

⁶ **NatEnv cl.16:** Subdivision in UBMA's (notified as UCMA's) was provided for in notified Policy 10.2.1.9. It is now provided for in Policy 10.2.1.5. This does not change the effect of provisions.

⁶ **NatEnv cl.16:** Reworded to better summarise the relevant policy and match the Plan style guide. This does not change the effect of provisions



Rule 10.6 Assessment of Discretionary Activities

Rule 10.6.1 Introduction

1. Discretionary activities will be assessed in accordance with section 104 and 104B of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rule 10.6.2 provides guidance on how a consent application for the listed discretionary activities will be assessed, including:
 - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi);
 - b. potential circumstances that may support a consent application;
 - c. general assessment guidance, including any effects that will be considered as a priority; and
 - d. conditions that may be imposed.

10.6.2 Assessment of discretionary activities

Activity	Guidance on the assessment of resource consents
1. All discretionary activities <u>that are linked to Section 10.6, including but not limited to the activities listed below {NatEnv 900.35 and 900.38}</u>	<i>Relevant objectives and policies (priority considerations):</i> a. Objectives 10.2.1 - 10.2.5 b. Objective 2.2.3 c. <u>Activities maintain or enhance biodiversity values (Policy 10.2.1.W). {NatEnv 900.35}</u> d. <u>Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: {NatEnv 900.142 and 1088.15}</u> i. <u>there is no net loss and preferably a net gain in the biodiversity values of the area, or {NatEnv 900.142}</u> ii. <u>where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5; or {NatEnv 949.29}</u> iii. <u>where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.6 (Policy 10.2.1.X). {NatEnv 1088.15}</u> e. <u>Activities adjacent to water bodies and the coast maintain or enhance the biodiversity values and natural character of the coast and riparian margins (Policy 10.2.2.Y). {NatEnv 900.38}</u> <i>Potential circumstances that may support a consent application include:</i> f. For discretionary land use activities, whether any associated buildings or structures meet relevant development performance standards, or otherwise achieve the relevant policies for development (See Rule 10.4 for performance standard contraventions). All relevant land use performance standards are met, including noise and light spill standards. g. The development incorporates conservation activity that will have significant positive effects on biodiversity or natural character values. h. A management plan is provided for weed and pest control in areas of indigenous vegetation or the habitat of indigenous fauna.



10.6.2 Assessment of discretionary activities

Activity

Guidance on the assessment of resource consents

General assessment guidance

- i. With respect to Policy 10.2.1.X, Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on biodiversity values, while meeting the operational needs of the activity. {NatEnv 900.142 and others}
- j. In assessing the significance of effects, consideration will be given to:
 - i. both short and long term effects, including effects in combination with other activities; and
 - ii. the potential for cumulative adverse effects arising from similar activities occurring as a result of a precedent being set by the granting of a resource consent.
- k. In assessing whether an activity meets Policy 10.2.1.X, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.1. {NatEnv 900.9 and 958.8}
- l. In assessing the appropriateness of any proposed biodiversity offset or environmental compensation, in addition to Policy 2.2.3.5 or Policy 2.2.3.6, Council will consider the Guidance on Good Practice Biodiversity Offsetting in New Zealand (NZ Government, 2014). {NatEnv 949.29 and 1088.33}
- m. In the case of solar panels – large scale, Council will consider whether structures are designed to decrease the attractiveness of panels to polarotactic insects (i.e. insects that use polarised light as a cue to navigation). {NatEnv 900.35 and 908.38}
- n. In assessing effects on landscape values or on the natural character of the coast, Council will consider the extent to which the activity follows any relevant design guidelines in Appendix A11. {NatEnv cl.16'}



10.6.2 Assessment of discretionary activities

Activity

Guidance on the assessment of resource consents

2. • Natural ~~H~~azard mitigation earthworks **{HazMit cl.16}**
- Natural ~~H~~azard mitigation structures **{HazMit cl.16}**

Relevant objectives and policies (priority considerations):

- a. Objectives 10.2.2, 10.2.4
- b. Natural ~~H~~azard mitigation earthworks or natural hazard mitigation structures **{HazMit cl.16}** maintain or enhance public access to the coast and riparian margins (Policy 10.2.4.34) **{HazMit cl.16}**.
- c. ~~Hazard mitigation earthworks and hazard mitigation structures do not have significant~~ Significant **{NatEnv 951.8}** adverse effects on the biodiversity and natural character values of coastal and riparian margins are avoided or minimised as far as practicable **{NatEnv 951.8}** (Policy 10.2.2.6).

General assessment guidance: {NatEnv 322.35}

- d. In assessing effects on public access to the coast and riparian margins, Council will consider any relevant circumstances listed in the New Zealand Coastal Policy Statement 2010 or the Regional Policy Statement for Otago that may support restriction of public access. **{NatEnv 322.35}**

3. • Mining **{NatEnv 949.9}**
- Landfills **{NatEnv 949.9}**

Relevant objectives and policies (priority considerations): {NatEnv 949.9}

- a. Objective 10.2.1
- b. There is certainty that indigenous vegetation will be restored on land where it existed before the mining or landfill activity commenced and was cleared as part of the activity (Policy 10.2.1.8).

- A. In the ONF overlay zone: {NatEnv 908.17}
- Natural hazard mitigation activities
 - Transportation activities

Relevant objectives and policies (priority considerations):

- a. Objective 10.2.5
- b. Any adverse effects on the values identified in Appendix A3 are:
 - i. insignificant, or
 - ii. where there are no practicable alternative locations, adequately mitigated (Policy 10.2.5.Y)

General assessment guidance:

- c. Council will generally only consider natural hazard mitigation activities to have no practicable alternative locations where the activity that is the most effective and appropriate way of avoiding or mitigating the risk of a natural hazard needs to locate at a certain site to be able to mitigate the hazard.
- d. Council will generally only consider other activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on the values of the overlay, while meeting the operational needs of the activity.



10.6.2 Assessment of discretionary activities

Activity

Guidance on the assessment of resource consents

4. ~~In the ONF, ONL, or SNL overlay zones: {NatEnv 908.17 and 908.3}~~

- ~~Hazard mitigation structures {NatEnv 908.17 and 908.3}~~
- ~~Hazard mitigation earthworks {NatEnv 908.17 and 908.3}~~
- ~~Discretionary transportation activities {NatEnv 908.17 and 908.3}~~
- ~~Discretionary public amenities {NatEnv cl.16}~~

Relevant objectives and policies (priority considerations): {NatEnv 908.17 and 908.3}

- a. Objective 10.2.5
- b. Any adverse effects on the landscape values identified in Appendix A3 are minimised as far as practicable; and if effects are more than insignificant if in an ONL or ONF, or more than minor if in a SNL, there are no practicable alternative locations (Policy 10.2.5.5).

5. ~~In the SNL or ONL overlay zones:~~

- ~~Network ~~utilities~~ utility {NU cl.16} structures - large scale~~
- ~~Substations {NU 915.17}~~
- ~~Solar panels - community scale {NU 308.122}~~
- ~~Hydro generators - community scale {NU 308.122}~~
- ~~Natural hazard mitigation activities {NatEnv 908.17 and 908.3}~~
- ~~Transportation activities {NatEnv 908.17 and 908.3}~~
- ~~Mining (SNLs only) {NatEnv 447.76}~~
- ~~Landfills (SNLs only) {NatEnv 447.75}~~

Relevant objectives and policies (priority considerations):

- a. Objective 10.2.5
- b. Adverse effects on the landscape values of the SNL, as identified in Appendix A3, are avoided or, where avoidance is not possible practicable {PO 908.3}, are:
 - i. no more than minor, or
 - ii. where there are no practicable alternative locations, adequately mitigated. {NatEnv 458.12} (Policy 10.2.5.7).
- c. ~~Adverse~~ Any adverse {NatEnv cl.16} effects on the landscape values of the ONL, as identified in Appendix A3, are:
 - i. insignificant, or
 - ii. where there are no practicable alternative locations, adequately mitigated {NatEnv 464.10 and others} (Policy 10.2.5.6 10.2.5.7 {NatEnv 464.10 and others}).

General assessment guidance: {NatEnv 458.12, and others}

- d. Council will generally only consider natural hazard mitigation activities to have no practicable alternative locations where the activity that is the most effective and appropriate way of avoiding or mitigating the risk of a natural hazard needs to locate at a certain site to be able to mitigate the hazard. {NatEnv 458.12, and others}
- e. Council will generally only consider other activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on the values of the overlay, while meeting the operational needs of the activity. {NatEnv 458.12, and others}



10.6.2 Assessment of discretionary activities

Activity

Guidance on the assessment of resource consents

6. **In a Scheduled ASCV: {NatEnv 900.33}**

- Network utilities structures – large scale
- Solar panels – community scale
- Hydro generators – community scale

Relevant objectives and policies (priority considerations):

- Objective 10.2.1
- Any adverse effects on identified biodiversity values are avoided or, where avoidance is not possible, are insignificant (Policy 10.2.1.10).

7. **In an Scheduled ASCV ASBV: {NatEnv 958.60}**

- Rural tourism - large scale (rural zones)
- Rural research - large scale outside the **Invermay Farm mapped area** (rural zones)
- Community and leisure - large scale (rural zones)
- Sport and recreation (including commercial activities ancillary to sport and recreation) (rural and recreation zones)
- Network utility structures – large scale (excluding amateur radio configurations) {NU 308.122 and NatEnv 900.142}
- Substations {NU 915.17}
- Transportation activities {NatEnv 900.142}
- Natural hazard mitigation activities {NatEnv 900.142}

Relevant objectives and policies (priority considerations):

- Objective 10.2.1
- The proposed activity will have net positive effects on the protection and enhancement of There is no net loss and preferably a net gain in {NatEnv 1088.32} the biodiversity values of the ASCV ASBV {NatEnv 958.60} including, but not limited to, those biodiversity values listed in Appendix A1.2 {NatEnv 690.8} (Policy 10.2.1.2).

Potential circumstances that may support a consent application include:

- Where in a **scheduled ASCV** the sport Sport {NatEnv cl.16} and recreation that involves motor vehicles takes place on existing formed roads.

B. **In the ONCC and HNCC overlay zones: {NatEnv 949.19}**

- Transportation activities

Relevant objectives and policies (priority considerations):

- Objective 10.2.3
- Any adverse effects on the values identified in Appendix A5 are insignificant (Policy 10.2.3.3).



10.6.2 Assessment of discretionary activities

Activity

Guidance on the assessment of resource consents

C. In the ONCC and HNCC overlay zones: {NatEnv 908.17}

- Natural hazard mitigation activities

Relevant objectives and policies (priority considerations):

- Objective 10.2.3
- b. Any adverse effects on the values identified in Appendix A5 are:
 - insignificant, or
 - where there are no practicable alternative locations, adequately mitigated (Policy 10.2.3.X)

General assessment guidance:

- Council will generally only consider natural hazard mitigation activities to have no practicable alternative locations where the activity that is the most effective and appropriate way of avoiding or mitigating the risk of a natural hazard needs to locate at a certain site to be able to mitigate the hazard.

8. In the NCC Overlay Zone:

- ~~Network utilities structures – large scale~~ {NatEnv 576.62}
- ~~Solar panels – community scale~~ {NatEnv 576.62}
- ~~Hydro generators – community scale~~ {NatEnv 576.62}
- Mining
- Landfills

Relevant objectives and policies (priority considerations):

- Objective 10.2.3
- Any adverse effects on the natural character values, as identified in Appendix A5, are avoided or, where avoidance is not possible practicable {PO 908.3}, are {NatEnv cl.16} no more than minor (Policy 10.2.3.4).



10.6.2 Assessment of discretionary activities

Activity

Guidance on the assessment of resource consents

D. In the NCC overlay zone:

{NatEnv 908.17 and 576.62}

- Network utility structures – large scale
- Substations
- Natural hazard mitigation activities
- Transportation activities

Relevant objectives and policies (priority considerations): {NatEnv 908.17 and 576.62}

- a. Objective 10.2.3
- b. Any adverse effects on the values identified in Appendix A5 are avoided or, if avoidance is not practicable:
 - i. no more than minor, or
 - ii. where there are no practicable alternative locations, adequately mitigated (Policy 10.2.3.Y).

General assessment guidance:

- c. Council will generally only consider natural hazard mitigation activities to have no practicable alternative locations where the activity that is the most effective and appropriate way of avoiding or mitigating the risk of a natural hazard needs to locate at a certain site to be able to mitigate the hazard.
- d. Council will generally only consider other activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on the values of the overlay, while meeting the operational needs of the activity.

9. In the ONCC, HNCC, NCC overlay zones: {NatEnv 908.17}

- hazard mitigation structures {NatEnv 908.17}
- hazard mitigation earthworks {NatEnv 908.17}
- Discretionary transportation activities {NatEnv 908.17}
- Discretionary public amenities {NatEnv cl.16}

Relevant objectives and policies (priority considerations): {NatEnv 908.17}

- a. Objective 10.2.3
- b. Any adverse effects on the values identified in Appendix A5 are minimised as far as practicable; and if effects are more than insignificant if in an ONCC or HNCC, or more than minor if in a NCC, there are no practicable alternative locations (Policy 10.2.3.5).

¹ NatEnv cl.16: New Rule 10.6.2.1.n clarifies that the Plan's design guidelines (notified as Appendix A3.4) are relevant to the assessment of effects on landscape values and on the natural character of the coast. This does not result in a substantive change to provisions.



Rule 10.7 Assessment of Non-complying Activities

Rule 10.7.1 Introduction

1. Non-complying activities will be assessed in accordance with section 104, 104B and 104D of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rule 10.7.2 provides guidance on how a consent application for the listed non-complying activities will be assessed, including:
 - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi); and
 - b. general assessment guidance, including any effects that will be considered as a priority.

10.7.2 Assessment of all non-complying activities

Activity

1. All non-complying activities that are linked to Section 10.7, including but not limited to the activities listed below {NatEnv 900.35 and 900.38}

Guidance on the assessment of resource consents

Relevant objectives and policies (priority considerations):

- a. The activity does not detract from, or preferably contributes to, the strategic directions objectives, including, but not limited to:
 - i. Dunedin's significant {NatEnv 958.7} indigenous biodiversity is retained, protected or {NatEnv 958.7} enhanced, and restored; and other indigenous biodiversity is maintained or enhanced, and restored; {NatEnv 1088.13} with all indigenous biodiversity having {NatEnv cl.16} improved connections and improved {NatEnv cl.16} resilience (Objective 2.2.3); and
 - ii. The natural character of the coastal environment is maintained preserved {NatEnv 900.21} or enhanced (Objective 2.4.5).
- b. The relationship between Manawhenua and the natural environment is maintained, including the cultural values and traditions associated with:
 - i. wāhi tūpuna; and
 - ii. the customary use of mahika kai (Objective 14.2.1).
- c. Activities maintain or enhance biodiversity values (Policy 10.2.1.W). {NatEnv 900.35}
- d. Adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna are avoided or, if avoidance is not practicable: {NatEnv 900.142 and 1088.15}
 - i. there is no net loss and preferably a net gain in the biodiversity values of the area, or {NatEnv 900.142}
 - ii. where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5; or {NatEnv 949.29}
 - iii. where a biodiversity offset is not practicable, environmental compensation is proposed in accordance



10.7.2 Assessment of all non-complying activities

Activity

Guidance on the assessment of resource consents

with Policy 2.2.3.6 (Policy 10.2.1.X). {NatEnv 1088.15}

- e. Activities adjacent to water bodies and the coast maintain or enhance the biodiversity values and natural character of the coast and riparian margins (Policy 10.2.2.Y). {NatEnv 900.38}

General assessment guidance:

- f. In assessing the significance of the effects, consideration will be given to:
- i. both short and long term effects, including effects in combination with other activities; and
 - ii. the potential for cumulative adverse effects arising from similar activities occurring as a result of a precedent being set by the granting of a resource consent.
- g. In assessing whether an activity meets Policy 10.2.1.X, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.1. {NatEnv 900.9 and 958.8}
- h. In assessing the appropriateness of any proposed biodiversity offset or environmental compensation, in addition to Policy 2.2.3.5 or Policy 2.2.3.6, Council will consider the Guidance on Good Practice Biodiversity Offsetting in New Zealand (NZ Government, 2014). {NatEnv 949.29 and 1088.33}
- i. In assessing effects on natural character or landscape values, Council will consider the extent to which the activity follows relevant design guidelines in Appendix A11. {NatEnv cl.16'}
- j. With respect to Policy 10.2.1.X and Policy 10.2.1.Y, Council will generally only consider activities to have no practicable alternative locations where an assessment that meets the requirements set out in Rule 10.8.4 demonstrates that the proposed site, including any proposed mitigation measures, is the option that has the least impact on biodiversity values, while meeting the operational needs of the activity. {NatEnv 900.142 and others}



10.7.2 Assessment of all non-complying activities

Activity

2. In an ~~Scheduled ASCV~~ ASBV: {NatEnv 958.60}

- NC activities as indicated in the relevant management or major facility zone.

3. In a ~~Scheduled ASCV~~: {NU 308.468 and 308.122}

- Regional scale – Wind generators, Hydro generators, Solar panels {308.122}
- Wind generators – community scale {308.122}
- Biomass generators – stand-alone {308.468}

A. In an ASBV: {NatEnv 900.77}

- Contravention of tree species performance standard (Rule 10.3.4)

4. In the ONCC, HNCC or NCC overlay zones:

- NC activities as indicated in the relevant management or major facility zone or city-wide activities section

B. In the ONCC, HNCC or NCC overlay zones: {NatEnv 900.77}

- Contravention of tree species performance standard (Rule 10.3.4)

Guidance on the assessment of resource consents

Relevant objectives and policies (priority considerations):

- Objective 10.2.1
- The proposed activity will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV (Policy 10.2.1.2) {NatEnv 900.142 and others} There is no net loss and preferably a net gain {NatEnv 1088.32} in the biodiversity values of the ASBV including, but not limited to, those biodiversity values listed in Appendix A1.2: {NatEnv 690.8} or where there are no practicable alternative locations, any proposal for a biodiversity offset is in accordance with Policy 2.2.3.5 {NatEnv 949.29} ; or where a biodiversity offset is not practicable, environmental compensation is proposed in accordance with Policy 2.2.3.6 (Policy 10.2.1.Y). {NatEnv 1088.15}

Relevant objectives and policies (priority considerations): *{NU 308.468 and 308.122}*

- Objective 10.2.1 {NU 308.468 and 308.122}
- In a Scheduled ASCV, there are not adverse effects on the identified biodiversity values of the Scheduled ASCV (Policy 10.2.1.11): {NU 308.468 and 308.122}

Relevant objectives and policies (priority considerations):

- Objective 10.2.1
- The risk of wilding tree establishment in areas of indigenous vegetation is insignificant (Policy 10.2.1.6).

Relevant objectives and policies (priority considerations):

- Objective 10.2.3
- There are no material Any adverse effects on the natural character values, as identified in Appendix A5, are insignificant {NatEnv 908.17} (Policy 10.2.3.2).

Relevant objectives and policies (priority considerations):

- Objective 10.2.3
- The risk of wilding tree establishment in Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC), and Natural Coastal Character (NCC) overlay zones is insignificant (Policy 10.2.3.V).
- The risk of wilding tree establishment in areas of indigenous vegetation is insignificant (Policy 10.2.1.6).



10.7.2 Assessment of all non-complying activities

Activity

5. ~~In the ONF, or ONL or SNL {NU 308.122}~~
overlay zones:
- NC activities as indicated in the relevant management or major facility zone or city-wide activities section
 - ~~Performance standard contravention Rule 5.5.6.5 (co-location on an ONF) {NU 576.9}~~

- C. **In the ONF Overlay Zone: {NU 576.9}**
- Performance standard contravention Rule 5.5.6.5 (co-location on an ONF)

- D. **In the ONF and ONL overlay zones: {NatEnv 900.77}**
- Contravention of tree species performance standard (Rule 10.3.4)

Guidance on the assessment of resource consents

Relevant objectives and policies (priority considerations):

- Objective 10.2.5
- ~~There are no material~~ Any adverse {NatEnv 908.17 and 908.3} effects on the landscape values of the ONF {NatEnv cl.16} as identified in Appendix A3, are insignificant {NatEnv 908.17 and 908.3} (Policy 10.2.5.4).
- Any adverse effects on the landscape values of the ONL, as identified in Appendix A3, are insignificant (Policy 10.2.5.15). {NatEnv 908.17 and 908.3}

Relevant objectives and policies (priority considerations):

- Objective 10.2.5
- Any adverse effects on the landscape values identified in Appendix A3 are insignificant (Policy 10.2.5.14).

Relevant objectives and policies (priority considerations):

- Objective 10.2.5
- The risk of wilding tree establishment in Outstanding Natural Feature (ONF) and Outstanding Natural Landscape (ONL) overlay zones is insignificant (Policy 10.2.5.W).
- The risk of wilding tree establishment in areas of indigenous vegetation is insignificant (Policy 10.2.1.6).

¹ **NatEnv cl.16:** New Rule 10.7.2.1.j clarifies that the Plan's design guidelines (notified as Appendix A3.4) are relevant to the assessment of effects on landscape values and on the natural character of the coast. This does not result in a substantive change to provisions.