

**Before the Hearings Panel  
At Porirua City Council**

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** the Proposed Porirua District Plan

**Between** **Various**

**Submitters**

**And** **Porirua City Council**

**Respondent**

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**Statement of supplementary planning evidence of Rory Smeaton on behalf of  
Porirua City Council**

**Date: 4 February 2022**

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## INTRODUCTION:

- 1 My full name is Rory McLaren Smeaton. I am employed as a Senior Policy Planner for Porirua City Council.
- 2 I have read the respective evidence and statements provided by submitters and listed in Appendix A relevant to the Section 42A Report Part B:
  - a. Earthworks;
  - b. Infrastructure;
  - c. Light;
  - d. Noise;
  - e. Three Waters;
  - f. Transport; and
  - g. Renewable Electricity Generation.
- 3 I note that no evidence or submitter statements were provided on the Section 42A Report Part B: Amateur Radio. A list of the relevant submitter evidence, rebuttal evidence, and submitter statements is attached at Appendix A.
- 4 I have also reviewed the Expert Conferencing Statements:
  - 'Hearing Stream 4 – Road and Rail Noise and Vibration' provided by Dr Stephen Chiles, Mr Jon Styles and Mr Nigel Lloyd, dated 1 February 2022; and

- 'Joint Witness Statement of Experts - Transport Provisions' provided by Ms Angie Crafer, Ms Harriet Fraser and Mr Robert Swears, dated 3 February 2022.

5 I have prepared this statement of evidence on behalf of the Porirua City Council (**Council**) in respect of matters arising from the submissions and further submissions on the Proposed Porirua District Plan (**PDP**).

6 Specifically, this statement of evidence relates to the matters in the Section 42A Report Part B identified above for the Earthworks, Infrastructure, Light, Noise, Three Waters, Transport, and Renewable Electricity Generation chapters.

7 I am authorised to provide this evidence on behalf of the Council.

#### **QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT**

8 Appendix C of my section 42A report 'Officer's Report: Part B – Earthworks' sets out my qualifications and experience.

9 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2014.

#### **SCOPE OF EVIDENCE**

10 My statement of evidence addresses specific matters raised by submitters through expert evidence or submitter statements.

11 I acknowledge that there are a range of matters in contention as outlined in expert evidence and statements from submitters.

12 Apart from what is outlined in this statement, there is nothing further I wish to add in addition to my analysis in the s42A report for these matters.

## **STRUCTURE OF EVIDENCE**

- 13 As identified above, there are a number of matters in contention raised through the expert evidence and statements from submitters. To assist the panel, I have structured this supplementary planning evidence on the chapter topics, with subsections addressing individual submitters or particular topics, as relevant.
- 14 I note that the submitter statements from Fire and Emergency New Zealand (FENZ), Z Energy, and Ministry of Education Te Āhuhu Te Mātauranga either supported or found to be acceptable all the relevant recommendations relating to the Section 42A Reports identified in paragraph 2 above. As such I make no further analysis of those submitter statements.
- 15 I also note that while the evidence provided on behalf of the New Zealand Defence Force made reference to the Section 42A Report Part B – Noise, no matters relating to the Noise chapter itself were raised. As such I make no further analysis of that evidence.

## **EARTHWORKS**

### **Oil Companies**

- 16 The Oil Companies (submitter 123 and further submitter 49) submitter statement notes that they generally support or accept the Section 42A Report recommendations, other than in relation to their submission on EW-S2.
- 17 The Oil Companies do not consider controls on temporary cuts and fill is necessary in terms of the removal, replacement, and upgrade of underground assets subject to appropriate setbacks, or within one metre of a site boundary. Amendments are sought to the exemption for test pits I recommended in my Section 42A Report, to also allow for removal and replacement of underground assets where excavations do not

extend through a 45-degree plane from the site boundary. The Oil Companies also seek a specific exemption for sheet piled excavations. I note that no geotechnical or other engineering evidence was provided by the Oil Companies with the submitter statement.

- 18 I note that the exemption relating to test pits that I recommended in my Section 42A Report included that a test pit be backfilled and compacted, and the surface reinstated, following completion of the works. This exemption recognises the negligible effects likely to be generated from test pit excavations due to their limited extent. I recommended the distance from boundary requirement as it provides additional assurance in terms of excavation stability in relation to adjacent sites, as well as providing simple compliance requirements for any persons undertaking the work on site, and Council monitoring staff.
- 19 In contrast, excavations for removal and replacement of underground assets are highly likely to be to be much more extensive. As set out in my Section 42A Report, I agreed with the Oil Companies that replacement of a UPSS could require 250 to 400 square metres of earthworks. I note that the report from Miyamoto International NZ Ltd (MINZ) to PCC dated February 2019<sup>1</sup> recommended permanent cuts be required to be set back 1.5 times the depth of the cut from existing structures and site boundaries and have slope gradients of a maximum of 1.5:1 horizontal to vertical. As such, I do not consider the amendments sought through the submitter statement are appropriate.
- 20 In relation to an exemption sought for sheet piled excavations, I also do not consider that this is appropriate. Sheet piles for excavations must be designed and installed correctly in order to provide sufficient stability for

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<sup>1</sup> Miyamoto International NZ Ltd, 2019, Porirua City Council Proposed Permitted Activity Standards Geotechnical Engineering advice for managing the effects of earthworks on the stability of surrounding land, buildings and infrastructure

the excavations. Simply allowing for excavations to occur where sheet piles are used would therefore not appropriately address concerns regarding the stability of the excavations. I note that this matter is considered further below in relation to earthworks retained by a structure authorised by a building consent.

- 21 I note that the definition of earthworks in the National Planning Standards excludes gardening. As such, I do not consider that there is merit in the concern expressed in relation to the potential impact of the one metre setback from site boundaries on the installation and maintenance of landscaping.

### **Kāinga Ora**

- 22 Kāinga Ora [81] in the evidence of Karen Williams seeks changes to two aspects with respect to earthworks . The first is the submission by Kāinga Ora [81.488] seeking a non-notification clause for EW-R1 to preclude public and limited notification. The second relates to the submission point [81.493] seeking a maximum permitted cut height or fill depth to be increased from 1.5 metres to 2.5 metres.
- 23 In relation to the issue of the notification preclusion statement in EW-R1, Ms Williams has refined the exclusion sought so that it would relate only to non-compliance with EW-S1, EW-S3, EW-S4 or EW-S5.<sup>2</sup> Ms Williams’ argument rests on the technical nature of any assessment of non-compliance with the standards, and that conditions are able to be

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<sup>2</sup> I note that the evidence of Ms Williams words the notification preclusion statement sought as ‘An application under this rule that results from non-compliance with EW-S1, EWS3, EW-S4, *and* EW-S5 is precluded from being publicly or limited notified in accordance with sections 95A and 95B of the RMA.’ (emphasis added) I consider that, while technically this notification preclusion would only apply where an activity is non-compliant with all four standards, I presume that the intention is that it would apply where an activity requires consent due to non-compliance with any of the stated standards.

imposed through consents such that any potential adverse effects are appropriately avoided, remedied, or mitigated.

24 While I agree that this is likely to be the case for most earthwork activities, I consider that reliance on the imposition of 'standard conditions' is not appropriate and that there remains a risk that information from surrounding land owners or occupiers that cannot be provided by technical advisors may be important for determining the scale and extent of the effects of the proposed activities on those sites, and therefore whether a consent should be granted, or the appropriate conditions to be placed on a consent. For example, an adjacent sensitive activity may require more intensive management of dust or truck movements or timing of the earthwork activities to ensure the adverse effects are appropriately avoided, remedied, or mitigated.

25 However, I agree that public notification of consent applications for earthwork activities that do not comply with EW-S1, EW-S3, EW-S4 or EW-S5 is unlikely to result in any additional information being provided that would assist in making a decision on the consent.

26 As such, I consider that a notification preclusion statement that precludes public notification where a consent is required due to non-compliance with EW-S1, EW-S3, EW-S4 or EW-S5 is appropriate, as below:

	<p><b>All zones</b></p> <p>2. Activity status: <b>Restricted discretionary</b></p> <p>Where:</p> <p>a. Compliance is not achieved with EW-S1, EW-S2, EW-S3 or EW-S4.</p> <p>Matters of discretion are restricted to:</p> <p>1. The matters of discretion of any infringed standard.</p> <p><b><u>Notification:</u></b> <u>An application under this rule that results from non-compliance with only EW-S1, EW-S3, EW-S4 or EW-S5 is precluded from being publicly notified in accordance with section 95A of the RMA.</u></p>
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- 27 In relation to the issue of maximum permitted cut height or fill depth, Ms Williams proposes a refinement of the request such that cut or fill depths from 1.5 metres to 2.5 metres would be permitted where the fill or cut is to be retained by structures authorised by a building consent.
- 28 I have sought further advice from Mr Giannakogiorgos (Geotechnical Engineer, MINZ), who has confirmed that from a stability perspective such an exemption is acceptable where a suitably qualified engineer has undertaken an appropriate review of the proposed retention structure. A Building Consent process would ensure such a review is undertaken.
- 29 From a visual amenity perspective, I note that retention structures would be captured by the rules and associated standards for structures under the zone chapters within Part 3: Area Specific Matters. Where a retaining structure complies with the relevant standards, I do not consider that there will be any relevant visual amenity effects associated with retention structures different from any other structures managed by those provisions.
- 30 For these reasons, I agree with the revised outcome recommended by Ms Williams; however, I consider some wording changes are required to fit in better with the PDP format. I therefore recommend that EW-S2 is amended as below:

EW-S2	Earthworks – Height, location and slope	
<b>All zones</b>	<p>1. Earthworks must not:</p> <ol style="list-style-type: none"> <li>a. Exceed a cut height or fill depth of 1.5m measured vertically; or</li> <li>b. Be located within 1.0m of the site boundary, measured on a horizontal plane; or</li> <li>c. Be undertaken on an existing slope with an angle of 34° or greater.</li> </ol> <p><u>The following are exempt from the cut height and fill depth standard:</u></p> <ul style="list-style-type: none"> <li>• <u>Earthworks with a cut height or fill depth no greater than 2.5m measured vertically, where it is retained by a building or structure authorised by a</u></li> </ul>	Matters of discretion are restricted to: [...]



building consent obtained prior to any earthworks commencing.

The following are exempt from the height, location and slope standard:

- [...]

- 31 I consider that the amendment will appropriately give effect to EW-01, particularly clauses 1, 2 and 4, as well as EW-P1 clauses 2, 3 and 4.a, through allowing for cut or fill faces of an appropriate height that have acceptable effects on visual amenity values, while ensuring stability. I also agree with Ms Williams that the amendment will improve the efficiency of the PDP by reducing the need for unnecessary resource consent processes.
- 32 I consider that the amended provisions will have benefits with little associated costs, be more efficient and effective, and therefore more appropriate than the notified provisions.

#### **Milmac Homes Ltd [258]**

- 33 Milmac Homes Ltd [258] provided a submitter statement prepared by Mr Grant Binns, which raised issues relating to the EW – Earthworks chapter and the associated Section 42A Report.
- 34 While I have read the statement in full, I note that Milmac Homes did not submit on the EW – Earthworks chapter. However, Milmac Homes was a further submitter [FS59.27] on a single submission point from the Royal Forest and Bird Protection Society [225.234].
- 35 Milmac Homes opposed the submission [225.234] relating to the 100 metre setback from wetlands in the NES-FW. Milmac Homes supports my recommendation to reject submission point [225.234].
- 36 Given Milmac Homes was not an original submitter on the EW – Earthworks chapter, I provide no further commentary on the submitter statement.

## Heritage NZ Pouhere Taonga

- 37 Dean Raymond tabled a statement of evidence on behalf of Heritage NZ Pouhere Taonga. The evidence addresses the EW- Earthworks chapter introduction and advice note relating to unidentified archaeological or a waahi tapu sites.
- 38 Mr Raymond agrees with the recommendations in my Section 42A Report Part B – Earthworks for the replacement of the advice note and additional wording in the chapter introduction, with these now referring to a new Appendix 16 which is to contain information on accidental discovery protocol and the Archaeological Authority process as recommended by Ms Rachlin in relation to the Historic Heritage chapter.
- 39 On the request of the Panel, Mr Raymond provides suggestions on the wording of the appendix. As identified in Ms Rachlin’s right of reply on Hearing Stream 3, she has provided a response to this matter as below:

*In my reply to the Panel on the Sites and Areas of Significance to Māori Chapter and on the Historic Heritage Chapter I advised that I would provide my further advice on the Archaeological Authority Process topic through Mr Smeaton’s statement of supplementary planning evidence or right of reply, (i.e. through the Earthworks topic).*

*I have considered Mr Dean Raymond’s Planning Statement – Earthworks, on behalf of Heritage New Zealand Pouhere Taonga (Heritage NZ), as well as the responses of Heritage NZ and Te Rūnanga o Toa Rangatira (TROTR) in Hearing Stream 3. In his statement, Mr Raymond recommends further wording be added to Appendix 16. This combines content from the Historic Heritage, Sites and Areas of Significance to Māori chapter and Earthworks chapter to form what Mr Raymond advises as a “... sort of abbreviated accidental discovery protocol (ADP)”. The further wording includes advice on ‘stop-work’ matters (including within a specified distance), who to contact (including iwi), and on re-starting work.*

*While I do not disagree with the intent of detailed advice being made available on ADP matters, I consider that an alert in the PDP is sufficient but that more detailed advice is better located outside of the Proposed District Plan (PDP). I consider that Heritage NZ should be contacted in the first instance for specific advice on how to proceed, and this is outlined in my recommended wording in Appendix 16. I consider this approach is more appropriate as Heritage NZ is the regulatory authority responsible for managing archaeological sites under the Heritage New Zealand Pouhere Taonga Act 2014. I also consider that there is a risk in including detailed advice in the PDP, which may become quickly outdated and therefore a plan change would be needed to update the PDP. As such, I do not agree with the changes recommended by Mr Raymond and I do not recommend further changes to Appendix 16.*

- 40 I consider that the content of Appendix 16 is best addressed by Ms Rachlin as the reporting officer for historic heritage related provisions, and I therefore defer to the response provided by Ms Rachlin on this matter.

#### **First Gas Limited**

- 41 I note for completeness that the evidence of Ms Meghan Barrett on behalf of First Gas Limited agrees with the relevant recommendations of my Section 42A Report Part B – Earthworks.

#### **Transpower**

- 42 As set out in section 3.4 of my Section 42A Report, I do not consider a separate National Grid policy is required in the Earthworks chapter. I continue to support EW-P5 as recommended in my Section 42A Report.
- 43 In relation to EW-R4, I agree with the amendment to replace ‘must’ with ‘do’ in EW-R4-1-a to correct the grammatical error, and the inclusion of ‘National Grid’ in EW-R4-1-a.i and ii. However, other than these

amendments, I continue to support the rule as recommended in my Section 42A Report.

### Greater Wellington Regional Council

- 44 The submitter statement from Greater Wellington Regional Council (GWRC) suggests alternative relief regarding submission point 137.65. The alternative relief sought is for a statement be included as an advice note at the end of the EW – Earthworks chapter as follows:

*For works that may impact existing flood protection structures, consultation with Greater Wellington Regional Council on the appropriate placement, location and design of earthworks is encouraged.*

- 45 I consider that there is benefit to such an advice note. As such I recommend that the chapter be amended as follows:

Advice notes:

1. The Porirua City Council Bylaw 1991, Part 24 Silt and Sediment Control, and Part 26 Stormwater may apply to silt, sediment, and stormwater run-off from earthworks.
2. The Erosion and Sediment Control Guidelines for the Wellington Region (prepared by Wellington Regional Council) provides guidance for the management of silt and sediment from earthwork activities.
3. Information on accidental discovery protocol and Archeological Authority Process under the Heritage New Zealand Pouhere Taonga Act 2014 is outlined in Appendix 16 ~~In the event that an unidentified archaeological site or a waahi tapu site is located during works, the following applies:~~
  - ~~a. Work must cease immediately at that place and within 20m around the site;~~
  - ~~b. Heritage New Zealand Regional Archaeologist must be notified and apply for the appropriate authority if required;~~
  - ~~c. Appropriate iwi groups or kaitiaki representative must be notified of the discovery. Site access must be granted to enable appropriate cultural procedures and tikanga to be undertaken, as long as all statutory requirements under legislation are met (Heritage New Zealand Pouhere Taonga Act 2014);~~
  - ~~d. If human remains (koiwi) are uncovered then the Heritage New Zealand Regional Archaeologist, NZ Police and the appropriate iwi groups or kaitiaki representative must be notified. Remains are not to be moved until such time as iwi and Heritage New Zealand have responded; and~~
  - ~~e. Works affecting the archaeological site and any human remains (koiwi) must not resume until appropriate authority and protocols are completed.~~
4. For works that may impact existing flood protection structures, consultation with Greater Wellington Regional Council on the appropriate placement, location and design of earthworks is encouraged.

46 I consider that the addition of the advice note is not significant enough to warrant a Section 32AA analysis.

### **Robyn Smith**

47 Ms Robyn Smith provided a submitter statement responding to the recommendations in my Section 42A Report relating to submission points 168.78 to 168.81. The submitter's statement does not raise any matters that change my opinion as expressed in my Section 42A Report.

## **INFRASTRUCTURE**

### **Kāinga Ora**

48 Section 5 of Ms Karen Williams planning evidence on behalf of Kāinga Ora addresses the INF – Infrastructure chapter.

#### *Reverse sensitivity as addressed in provisions INF-O2 and INF-P5*

49 In relation to Ms Williams evidence on the inclusion of the phrase 'including reverse sensitivity effects' in INF-O2, I disagree. I see no reason why this should not be included as it is an inclusive statement that does not elevate reverse sensitivity effects over other effects, and note in addition to the analysis in my Section 42A Report that it provides a direct link to policy clauses in the INF – Infrastructure chapter. I subsequently agree with the rebuttal evidence of Ms Pauline Whitney for Transpower on this matter.

50 I also disagree with the amendments sought to INF-P5. I consider INF-P5-4 is relevant as a consideration when processing subdivision consents, and links with SUB-P1-4. In relation to INF-P5-1-c (as recommended in my Section 42A Report) I do not consider that the differentiation of the policy response in relation to 'significant' effects creates an overly complex framework. The determination of the scale of potential effects is a fundamental aspect of the RMA regime. Ms Williams notes later in

her evidence that ‘there is typically a continuum experienced in relation to any particular effect’, and that ‘[e]ffects in their entirety cannot always be avoided’<sup>3</sup>. My recommended policy wording reflects that continuum.

*National Grid*

- 51 I disagree with the amendments recommended by Ms Williams to the new INF-P6 recommended in my Section 42A Report. The NPS-ET at Policy 10 requires to the extent reasonably possible the management of activities to avoid reverse sensitivity effects. It is reasonably possible to avoid any reverse sensitivity effects as a result of subdivision by declining the subdivision consent. Additionally, I consider that the wording of ‘providing for’ is not appropriate for this policy, as the policy’s intent is not to encourage subdivision within the National Grid Subdivision Corridor but to set out particular criteria for where it may be acceptable. In relation to the first clause, I do not consider that the additional wording adds any value to the policy, as existing activities will not be affected by the policy. I subsequently agree with the rebuttal evidence of Ms Pauline Whitney for Transpower on this matter.

*Minor amendments to INF-P8 [INF-P10] and INF-P9 [INF-P11]*

- 52 In relation to the recommended amendment to INF-P8 (INF-P10 in my Section 42A Report) to include reference to the ‘planned urban built environment’, I agree with the addition as this is consistent with the wording of Policy 6 of the NPS-UD. However, I do not consider that INF-P9 (INF-P11 in my Section 42A Report) requires wording to clarify that this policy guidance is not relevant to the National Grid. I consider that the matters listed in this policy may assist plan users when considering

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<sup>3</sup> Evidence of Ms Karen Williams, page 13

the relevant National Grid policy clauses relating to operational and functional needs. I subsequently agree with the rebuttal evidence of Ms Pauline Whitney for Transpower on this matter.

#### *Transport provisions*

53 I note that Ms Williams states in her evidence that she supports the relocation of transport related provisions relevant to site access, high trip generating activities, and onsite transport facilities to the Transport Chapter. For clarity, these provisions are already located in the TR-Transport chapter of the PDP; the provisions that I recommend to be relocated to the TR – Transport chapter were limited to those relating to connections to roads (INF-P14, INF-R23 and the associated standards INF-S25, INF-Figure 4, INF-Table 5, INF-S26, INF-Figure 5, INF-Table 6, and INF-Figure 6).

54 The provisions for transport infrastructure have been subject to expert conferencing. These are generally addressed in relation to Waka Kotahi's evidence below.

55 I note that Ms Williams' evidence addresses vehicle crossings under the TR – Transport chapter. As such, I also address this matter below.

#### *Rail corridor setbacks*

56 I note that Ms Williams provides planning evidence on the setbacks from rail corridors sought by KiwiRail from paragraph 5.52 of her evidence. Ms Williams notes that she supports the position of Kāinga Ora, which would support a setback of buildings and structures from the boundary of the railway corridor of no more than two metres in residential zones, and 2.5 metres in mixed-use/commercial zones, as this is a more efficient and effective option than the five metre setback sought by KiwiRail. This is stated as being due to it providing adequate space for maintenance activities within sites adjacent to the rail network, and continuing to protect the safe, efficient, and effective operation of the rail

infrastructure while balancing the cost on landowners. Ms Williams also recommends the addition of a matter of discretion being ‘The location, size and design of the building as it relates to the ability to safely use, access, and maintain buildings without requiring access on, above, or over the rail corridor.’

57 For efficiency, I discuss this matter further in relation to the evidence and rebuttal evidence provided on behalf of KiwiRail below.

### **Telcos**

58 Mr Tom Anderson provided evidence on behalf of Chorus New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand Limited (‘the Telcos’).

#### *Reverse sensitivity*

59 The Telcos submitted requesting that where a building does not comply with the permitted height limit and requires consent as a restricted discretionary activity, a matter of discretion should be included being ‘any reverse sensitivity effects on regionally significant infrastructure’.

60 I note that my Section 42A Report omitted reference to submission point 51.79. This submission point sought the same matter of discretion for MPZ-P1, and therefore the same analysis and recommendations apply.

61 Through his evidence, Mr Anderson has refined the matter of discretion sought to, ‘Any reverse sensitivity effects on the operation of telecommunication antennas operated by network utility operators that are within 30m of the proposed building or structure’, and has undertaken a section 32AA evaluation of the amendment sought. I also note that the joint evidence of Mr Graeme Mccarrison (for Spark Trading New Zealand Ltd), Andrew Kantor (for Chorus New Zealand Ltd) and Colin Clune (for Vodafone New Zealand Ltd) sets out the costs associated with potential adverse effects on telecommunication infrastructure.



62 I agree that the refined matter of discretion wording addresses some of the concerns I expressed in my Section 42A Report, and I also acknowledge that the RPS at Policy 8 requires district plans to include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure. The RPS includes strategic telecommunications facilities in the definition of regionally significant infrastructure, and the PDP includes ‘facilities and structures necessary for the operation of telecommunications and radiocommunications networks operated by network utility operators’ in its definition.

63 While I note that there does not appear to be any detailed analysis or explanation of why 30 metres was selected as a distance in Mr Anderson’s evidence, this appears to me to be reasonable in that it would provide a relatively limited extent for potential applicants to need to identify if there are any telecommunication structures in the vicinity, and doing so would not be onerous. I also note that based on available information, the 30 metre distance from the infrastructure would affect a relatively limited number of properties within Porirua.

64 I therefore agree with Mr Anderson on the revised matter of discretion, and as such recommend that it be included in the relevant zone chapter standards.<sup>4</sup>

65 In relation to section 32AA, I agree with the analysis provided in Mr Anderson’s evidence. Additionally, I note that the amendment will assist in giving effect to Policy 8 of the RPS.

*INF-P4 and INF-P8*

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<sup>4</sup> Identified by Mr Anderson as SPZ-S1, SETZ-S1, GRZ-S1, MRZ-S1, GIZ-S1, SARZ-S1, GRUZ-S1, RLZ-S1, OSZ-S1, NCZ-S1, LCZ-S1, FUZ-S1, HOSZ-S1.

66 I have considered the requested amendments of Mr Anderson to INF-P4 and INF-P8 in relation to the evidence provided by Mr Horne on behalf of Powerco below. I note that Mr Anderson and Mr Horne collaborated and requested the same amendments.

*Natural Hazards*

67 The Telcos [51.26] sought that INF-P23 be amended to remove consideration of the resilience or vulnerability of infrastructure to natural hazards through deletion of clauses three and five.

68 While not identified in the original submission, Mr Anderson states that these policies do not align with Regulation 57 of the NES-TF. Regulation 57 exempts regulated activities under the NES-TF from having to comply with District Plan rules about natural hazards.

69 Because Regulation 57 relates to natural hazard rules, I do not consider that INF-P23 is relevant. However, I have subsequently identified that INF-R33 as notified in the PDP directly contradicts this regulation. As such, I consider that this rule should be deleted from the INF – Infrastructure chapter. Additionally, INF-R32 should be amended to clarify that it applies within Natural Hazard and Coastal Hazard Overlays. I note that INF-R32 does not cross-reference to INF-P23 as a matter of discretion. I consider that this would address the issues raised by the Telcos.

70 The Telcos did not submit on INF-R33. Only one submission was received on the rule, being from Kāinga Ora [81.305], which supported the rule. Similarly, only Kāinga Ora [81.304] submitted on INF-R32, which also supported that rule. As such, there is a question of scope as to whether INF-R33 can be recommended to be deleted, and INF-R32 amended.

71 I consider that as the Telcos submitted on a policy (INF-P23) to which the INF-R33 was (supposed) to give effect to, there is sufficient scope in the submission on the PDP to make the above recommendations.

Consequently, I recommend that INF-R32 and INF-R33 be amended as follows.

<b>INF-R32</b>	<b>Telecommunication poles, antennas and cabinets regulated by the NESTF that do not meet the permitted activity standards in Regulations 20, 21, 22, 27, 29, 31, 33, 35 or 37 of the NESTF, outside of any <u>specified</u> Overlay <u>other than any Natural Hazard Overlay or Coastal Hazard Overlay</u></b>
<b>All zones</b>	<p>1. Activity status: <b>Restricted discretionary</b></p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> <li>1. The matters in INF-P1;</li> <li>2. The matters in INF-P108; and</li> <li>3. The matters in INF-P119.</li> </ol>
<del><b>INF-R33</b></del>	<del><b>Telecommunication poles, antennas and cabinets regulated by the NESTF that do not meet the permitted activity standards in Regulations 20, 21, 22, 27, 29, 31, 33, 35 or 37 of the NESTF within any Natural Hazard Overlay or Coastal Hazard Overlay</b></del>
<del><b>All zones</b></del>	<p><del>1. Activity status: <b>Restricted discretionary</b></del></p> <p><del>Matters of discretion are restricted to:</del></p> <ol style="list-style-type: none"> <li><del>1. The matters in INF-P1;</del></li> <li><del>2. The matters in INF-P8;</del></li> <li><del>3. The matters in INF-P9; and</del></li> <li><del>4. The matters in INF-P23.</del></li> </ol>

72 In relation to section 32AA, I consider that the recommended amendments will be more efficient and effective as they will better align with national direction as set out in the NES-TF, and therefore the amended provisions will be more appropriate than the notified PDP.

*INF-S7*

73 In relation to the amendments sought to INF-S7, my opinion has not changed from that expressed in section 3.18.2 of my Section 42A Report. Additionally, I note that while Mr Anderson identifies that the absolute difference between the maximum size in the PDP and what he proposes is not large, I consider that the relative difference is significant, being 33 to 50 percent larger in area.

*Cabinet setbacks*

74 The Telcos [51.43] sought that INF-S13 be amended to exclude road boundaries from the two-metre setback requirement. I recommended

rejecting this amendment in my Section 42A Report due to the potential for amenity effects associated with the relatively large structures provided for outside of the road and rail corridors.

75 I note that Mr Anderson states that:

*The density standards in Part 2 of Schedule 3A of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, also require no setback from road boundaries for residential zones.*

76 My understanding of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 is that clause 11(1) in Part 2 of Schedule 3A requires within residential zones a setback ('yard') from road ('front') boundaries of 1.5 metres. This is a reduction from the initial drafting of the bill, which required a front yard of 2.5 metres. I note that recession planes under clause 10 do not apply to boundaries with a road.

77 However, Mr Anderson also points out that not all zone chapters within the PDP require setbacks from roads, and therefore in his view it is incongruous for INF-S13 to require such a setback. I agree to an extent with Mr Anderson on this point. Therefore, I recommend that INF-S13 be amended as set out below to be consistent with setbacks within the PDP Zones.

<b>INF-S13</b>	<b>Setbacks – Cabinets, electric vehicle charging stations and temporary infrastructure and temporary electricity generators and self-contained power units to supply existing infrastructure, meteorological enclosures and buildings and any other infrastructure structure or building <u>located above ground not otherwise listed, which is not located within the road reserve or rail corridor</u></b>	
<b>All zones</b>	1. It must not be located within a 2m setback from any <del>site</del> <u>side or rear</u> boundary.	Matters of discretion are restricted to: [...]
<b><u>Residential zones</u></b>	<b><u>2. It must not be located within a 1.5m setback from any road boundary.</u></b>	<b><u>Matters of discretion are restricted to:</u></b>

		[same as INF-S13-1]
<u>Rural Zones</u> <u>Open Space and Recreation Zones</u> <u>SPZ - Special Purpose Zone (BRANZ)</u> <u>FUZ - Future Urban Zone</u> <u>HOSZ - Hospital Zone</u>	<u>3. It must not be located within a 2m setback from any road boundary.</u>	<u>Matters of discretion are restricted to:</u> [same as INF-S13-1]

78 The amendments above take into consideration the front yard setbacks included in the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 within residential zones of 1.5 metres, remove the need for setbacks within Commercial and Mixed Use Zones and the Māori Purpose Zone (Hongoeke) consistent with the lack of road boundary setback requirements in those chapters of the PDP, as well as maintaining a relatively simple standard. As such, I consider that the amended standard will be more efficient and effective, and therefore more appropriate, than the notified standard.

**Transpower**

79 Transpower [60] provided a comprehensive original submission seeking a number of changes in order to give effect to the NPS-ET and the RPS. Evidence was provided on behalf of Transpower by Ms Rebecca Eng, Ms Pauline Whitney, and Mr Ben Cartwright. As Ms Whitney’s statement sets out the planning evidence the amendments to the PDP, I will focus on that.

*Plan Structure*

80 I disagree with the evidence of Ms Whitney in relation to the structure of the PDP, and I have not changed my opinion as expressed in section 3.6.1 of my Section 42A Report: Part B – Infrastructure.

*Enabling the National Grid*

81 I also disagree with the evidence of Ms Whitney in relation to the need to provide a separate policy to ‘provide for’ the benefits of the National Grid. As noted in my Section 42A Report, providing for the National Grid is addressed by policies specific to that infrastructure. I see no benefit in adding another policy, when the matters are already sufficiently addressed.

*Effects of the National Grid*

82 In relation to the new INF-P7 recommended in my Section 42A Report, I prefer the use of the term ‘maintenance and repair’, as this aligns with the definition included in the PDP. I also prefer the use of the words, ‘not permitted by’ the NES-ETA, as I consider that this makes it clear the resource consents required by regulations under the NES-ETA would be guided by this policy.

83 While I recognise the directive in Policy 5 of the NES-ETA, I also do not agree with the inclusion of ‘minor upgrade’ in my recommended new INF-P7. Ms Whitney states that, ‘I consider that the application of the terms [regarding upgrades] and nature of the upgrade will be contextual and are best determined at the consenting stage’. I disagree. I consider that it is more useful for upgrades, as defined in the NES-ETA (which aligns with that in the PDP) to be considered under one policy, being INF-P8 (now INF-P10) under the PDP.

84 I also do not agree with the deletion of clauses one and two of my recommended new INF-P7. I note that Policy 5 of the NPS-ET starts with, ‘[w]hen considering the environmental effects of transmission activities associated with transmission assets’ and as such the environmental effects of these activities are not unfettered, and the clauses provide guidance as to what will be ‘reasonable’.

85 In relation to INF-P6 (renumbered as INF-P8 in my Section 42A Report), I disagree with Ms Whitney in relation to the application of Policy 7 and Policy 8 of the NPS-ET. As Ms Whitney notes, these policies refer to the

'[p]lanning and development of the transmission system'. I see no reason why these policies should not apply to upgrading. While I acknowledge that Policy 2 of the NES-ET refers to the 'operation, maintenance, upgrading *and development* of the electricity transmission network', I note that Policy 4 refers more specifically to 'new transmission infrastructure'. In my opinion, 'planning and development' is a more encompassing term, and should apply to upgrades. I therefore do not consider that clauses three, five or six of INF-P6 should be deleted.

86 Similar to INF-P7 above, I prefer the use of the words, 'not permitted by' the NES-ETA in the policy. This is different to the phrase 'not regulated by the NESETA' in INF-R34, which relates to the NES-ETA only applying to transmission lines existing at the commencement of the regulations. INF-R34 would therefore apply to transmission lines developed after the commencement of the NES-ETA.

87 I do not consider that the other amendments sought to the policy are necessary to give effect to the NPS-ET, and I continue to support the policy as recommended in my Section 42A Report.

88 Similarly, in relation to Ms Whitney's proposed amendments to INF-P7 (now recommended INF-P9), I prefer the existing wording of the policy as set out in my Section 42A Report. I note that the PDP must give effect to the NPS-ET as well as the NZCPS; as noted by Ms Whitney, neither document prevails over the other.

#### *Effects on the National Grid*

89 In relation to my recommended new INF-P6, I agree with the minor correction to 'Electrical' in INF-P6-2. Additionally, I also agree with Ms Whitney that there is a policy gap in my recommended new INF-P6 relating to activities other than sensitive activities which may directly affect or compromise the operation, maintenance, upgrade and development of the National Grid. Noting that the zone chapters include

rules for buildings and structures within the National Grid, INF-P6 should include guidance for consideration of activities captured by the associated non-complying activity status rules. This matter was addressed in part by clause five of INF-P5 in the PDP; however, in error this clause was not carried through to my recommended INF-P6. As such, I recommend the following amendments to INF-P6 as included in my Section 42A Report, which incorporates additional wording for buildings or structures to be of a nature and scale ‘to minimise adverse effects on the National Grid’:

<b>INF-P6</b>	<b>Adverse effects on the National Grid</b>
<p><u>Protect the safe and efficient operation, maintenance and repair, upgrading, removal and development of the National Grid from being compromised by:</u></p> <ol style="list-style-type: none"> <li><u>1. Avoiding sensitive activities and building platforms located within the National Grid Yard;</u></li> <li><u>2. Requiring any buildings or structures to be of a nature and scale to minimise adverse effects on the National Grid and to be located and designed to maintain safe distances within the National Grid;</u></li> <li><u>23. Only allowing subdivision within the National Grid Subdivision Corridor or the National Grid Pāuatahanui Substation Yard where it can be demonstrated that any reverse sensitivity effects will be avoided, and any other adverse effects on and from the National Grid, including public health and safety, will be avoided, remedied or mitigated, taking into account:</u> <ol style="list-style-type: none"> <li><u>a. The impact of subdivision layout and design on the operation and maintenance, and potential upgrade and development of the National Grid, including reasonable access requirements;</u></li> <li><u>b. The ability of any potential future development to comply with NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances;</u></li> <li><u>c. The extent to which the design and layout of the subdivision demonstrates that a suitable building platform(s) for a principal building or dwelling can be provided outside of the National Grid Yard for each new lot;</u></li> <li><u>d. The risk to the structural integrity of the National Grid;</u></li> <li><u>e. The extent to which the subdivision design and consequential development will minimise the risk of injury and/or property damage from the National Grid and the potential reverse sensitivity on and amenity and nuisance effects of the National Grid assets;</u></li> <li><u>f. The nature and location of any proposed vegetation to be planted within the National Grid Yard; and</u></li> <li><u>g. The outcome of any consultation with, and technical advice from, Transpower.</u></li> </ol> </li> </ol>	

90 I consider that these changes will better give effect to the NPS-ET, and provide greater guidance for the implementation of rules relating to the National Grid. The additional policy clause will provide significant benefits for the protection of the National Grid, in accordance with the NPS-ET and Policy 8 of the RPS, while not having any identified costs, and



therefore will be more efficient and effective. As such, the recommended amendments are more appropriate than the policy recommended through my Section 42A Report.

91 In relation to the rules located in the zone chapters for structures and buildings, and activities, within the National Grid Yard, I continue to support my position expressed in section 3.6.9 of my Section 42A Report: Part B – Infrastructure. Specifically, I note that Ms Whitney states that Transpower will comment on the respective roles and relationship of the various legislation and regulatory gap, which will inform any further consideration of the matter of hazardous substances.

92 I note that the provisions relating to the National Grid in the EW – Earthworks chapter are addressed above.

#### **First Gas Limited**

93 First Gas Limited (FGL) generally agreed with the recommendations contained in my Section 42A Report for the INF – Infrastructure chapter. However, Ms Meghan Barrett’s evidence raises two outstanding matters, being hazardous substances rules and setback requirements in INF-S13.

#### *Hazardous substances*

94 FGL seeks the introduction of a rule framework to manage the use of hazardous substances within 100 metres of the Gas Transmission Network. In relation to this, Ms Barrett states that:

*The framework provided by the HSNO Act and WorkSafe Act and the Proposed Natural Resources Plan does not provide for the management of all effects associated with the use of explosives near the Gas Transmission Network. FGL require the ability to be notified about such activities so that they can assess each activity on its merits. This is not provided for under any other regulation. ... Under the existing regulations, there are no particular rules to manage the potential for explosives occurring within the transmission network. The rule framework would allow for risk of hazardous facilities within close*

*proximity to the Gas Transmission Network to be suitably managed.*

95 While I acknowledge the potential risk of the use of explosives near gas transmission pipelines expressed by Ms Nicola Hine in her evidence may be real, I do not find the statement above particularly enlightening in relation to the identification of a regulatory gap that needs to be filled through land use planning under the RMA.

96 As I stated in my Section 42A Report, as I understand them, the rules and duties to mitigate risks posed by hazardous substances sit under the Hazardous Substances and New Organisms Act 1996 (HSNO Act) or Health and Safety at Work Act 2015 (HSWA).

97 Without more a detailed evidential basis as to the regulatory gap sought to be addressed by the additional land use rules, I continue to be of the mind that the use of explosives near gas transmission lines does not need to be addressed through the district plan.

98 Additionally, on a practical level I note that, as I understand it, there are a range of household materials that are classified as class 1 (explosive) substances under the HSNO Act. This includes, for example, retail fireworks. The submitter seeks the addition of a rule setting the 'use of explosives within 100 metres of the Gas Transmission Network' as a restricted discretionary activity. The implication of this, assuming that the interpretation of 'explosive' would be the same as that under the HASNO Act, would therefore require consent to be applied for and granted prior to the use of retail fireworks (or any other household materials classified as explosives) within 100 metres of the gas transmission network. I do not consider that this would be efficient nor effective.

#### *Setbacks for cabinets*

99 FGL [84.33 and 84.40] also submitted on INF-S13 which sets out setback requirements for cabinets. I note that I have addressed INF-S13 above in

relation to the evidence provided by Mr Anderson on behalf of the Telcos.

100 Ms Barrett disagrees with the recommendation in my Section 42A Report, on the basis that cabinets for the gas transmission network are small in size and scale, would have negligible effects on amenity, and are restricted by operational constraints. She considers that it would be appropriate to exclude cabinet structures of a small scale (less than two metres in height and no more than five square metres in area) from requiring setbacks.

101 While I acknowledge the likely effects of any smaller cabinets proposed will be proportionate to their size and scale, I note that upgrading and development of the Gas Transmission Network is a restricted discretionary activity under INF-R36 outside of overlays, and at least a restricted discretionary activity within overlays.<sup>5</sup> The PDP defines the Gas Transmission Network as:

*means pipelines for the transmission of natural or manufactured gas or petroleum at a gauge pressure exceeding 2,000 kilopascals, including any associated above or below ground fitting, appurtenance, fixture or equipment required for the conveyance of the product or material in the pipeline and / or for its safe, efficient or effective operation. (emphasis added)*

102 Given the definition of Gas Transmission Network includes any associated above or below ground fitting, appurtenance, fixture or equipment, cabinets associated with the network would be captured by the relevant rules. These rules do not require compliance with INF-S13. As such, I do not agree with the primary relief sought to exclude cabinets

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<sup>5</sup> Ms Barrett refers to INF-R25 in paragraph 33 of her evidence, however this rule does not provide for gas transmission network, but rather protects it from other infrastructure.

associated with the Gas Transmission Network from INF-S13, as it is unnecessary.

103 I also do not agree with the alternative relief sought of excluding cabinets less than two metres in height and no more than five square metres in area, as I consider cabinets of this scale within some zones may still have adverse amenity effects, noting that I have recommended amendments to the road boundary setback requirement for residential and commercial zones above.

### **KiwiRail**

104 In its original submission KiwiRail [86.70] sought setbacks from rail corridors of five metres, with a minimum of four metres being acceptable to the submitter.

105 In my Section 42A Report I recommended a setback from rail corridors of 1.5m. As identified in the evidence of Ms Williams for Kāinga Ora, my analysis and recommendations in my Section 42A Report appeared to focus solely on the General Residential Zone; this was not my intention, as indicated by the recommendation in paragraph 697(a) to 'Amend the zone chapter setback standards', and the red text included on page 99 of Appendix B of my Section 42A Report, 'Repeat in all other chapters in Part 3 – Area Specific Matter'. However, I acknowledge that the analysis in section 3.11.4 of the Section 42A Report may not have made this entirely clear. I also acknowledge that not all zones contain standards for setbacks from roads, for example the Neighbourhood Centre Zone, whereas there are sites within that zone that are located adjacent to the NIMT rail line. Additionally, my recommended amendments did not include a matter of discretion relating to the rail corridor.

106 Ms Michelle Grinlinton-Hancock's evidence on behalf of KiwiRail reiterated the request for a four-metre setback. On behalf of Kāinga Ora, Ms Williams provided evidence identifying support for a 2 – 2.5 metre setback depending on zoning, based on a Plan Change process

undertaken in Whangārei. Ms Grinlinton-Hancock stated in rebuttal evidence that this was not supported by KiwiRail in Porirua due to its different context.

107 My opinion on the setback from rail corridors generally remains as set out in my Section 42A Report. While I acknowledge the additional reasoning provided by Ms Grinlinton-Hancock in her evidence and rebuttal evidence, the main reason for the setback stated in the original submission was to ensure that buildings can be accessed and maintained for the life of that structure, without the requirement to gain access to rail land. I am unsure as to building access or maintenance needs that would require four metres of setback to enable this to occur without generating unacceptable risk on the rail network. I note that I considered the exemptions for eaves and gutters in my Section 42A Report analysis.

108 However, I note that I agree with the matter of discretion sought by KiwiRail being, ‘The safe and efficient operation of the rail network’, and the rebuttal evidence of Ms Grinlinton-Hancock that the matter of discretion sought by KiwiRail in its submission is sufficiently broad to cover the matter proposed by Ms Williams.

109 As such I recommend the inclusion of the following amendments in the Residential Zones chapters, noting that these contain existing standards relating to setbacks from roads:

XYZ-Sx	Setback from boundary with a road <u>or</u> rail corridor
<p>1. Buildings and structures must not be located within a 4m setback from a boundary with a road except:</p> <ol style="list-style-type: none"> <li>1. On a site with two or more boundaries to a road, the building or structure must not be located within a 2m setback from the boundary with one road; and</li> <li>2. Where any garage and/or carport with a vehicle door or vehicle opening facing the road, it must not be located within a 5m setback from the boundary with the road.</li> </ol>	<p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> <li>1. The streetscape and amenity of the area;</li> <li>2. The design and siting of the building or structure;</li> <li>3. Screening, planting and landscaping of the building or structure;</li> <li>4. Pedestrian and cyclist safety (see TR-P3); <b>and</b></li> <li>5. Whether topographical or</li> </ol>

<p><u>2. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.</u></p> <p>[...]</p>	<p>other site constraints that make compliance with the standard impractical; <u>and</u></p> <p>6. <u>The safe and efficient operation of the rail network.</u></p>
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110 I recommend the following amendments in the Open Space and Recreation Zones, LCZ - Local Centre Zone and MUZ – Mixed Use Zone which do not contain existing standards relating to setbacks from roads:

<u>XYZ-Sx</u>	<u>Setback from boundary with a rail corridor</u>
<p><u>1. Buildings and structures must not be located within a 1.5m setback from a boundary with a rail corridor.</u></p>	<p><u>Matters of discretion are restricted to:</u></p> <p><u>1. Whether topographical or other site constraints that make compliance with the standard impractical; and</u></p> <p><u>2. The safe and efficient operation of the rail network.</u></p>

111 I have not undertaken a s32AA further evaluation since the changes achieve the same outcome as the version of Appendix B in my Section 42A Report but provides greater clarification.

112 I note that there is an inconsistency of the road setback requirements in the PDP with the Medium Density Residential Standards contained in Schedule 3A of the RMA in this regard. This will be addressed through the forthcoming variation to give effect to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and NPS-UD.

**Wellington Electricity**

113 Wellington Electricity Lines Limited (WELL) [85.6] sought to include the word ‘local’ in the definition for Regionally Significant Infrastructure (RSI) relating to facilities for the generation and transmission of electricity.

114 Evidence provided on behalf of Wellington Electricity by Mr Timothy Lester included a court order from the Environment Court relating to the

definition of RSI in the Proposed Natural Resources Plan (PNRP). The order required the definition to be amended as below (red text are changes made at mediation, green text are changes in the Decision Version of the PNRP):

*facilities for the generation and/or transmission of electricity where it is supplied to the National Grid electricity and/or the local distribution network., ~~including the national grid~~ ~~This excludes supply within the local distribution network.~~*

*facilities for the electricity distribution network, where it is 11kV and above. This excludes private connections to the local network.*

115 WELL identified their assets within Porirua in its submission as including high voltage (11kV – 33kV) sub-transmission lines across the Porirua District. The additional clause included in the court order above would therefore include these assets. Mr Lester considers that this clause is appropriate to be inserted into the PDP so as to ensure consistency with the higher-level regional plan.

116 The inclusion of the additional clause would mean that WELL's assets would be subject to the objectives and policies relating to Regionally Significant Infrastructure, including those that provide guidance for the consideration of the effects of other activities, including reverse sensitivity effects, on that infrastructure. I consider that this would be appropriate, given the importance of the assets to the health and wellbeing of Porirua residents. I do not consider that any other consequential amendments are required, noting that INF-P1-1 already includes '[t]he safe, secure and efficient transmission *and distribution* of gas and *electricity* that gives people access to energy to meet their needs'.

117 I note that under section 75(4)(b) a district plan must not be inconsistent with a regional plan for any matter specified in section 30(1). I agree with Mr Lester that the inclusion of the clause would ensure consistency with that plan. I also consider that the inclusion of the sub-transmission lines owned and operated by WELL would be consistent with the PDP strategic

objective FC-O1 and INF-P1-1. However, considering my previous analysis in section 3.12.4 of my Section 42A Report, the request to include the clause may create some tension between the requirement to give effect to the RPS, and not being inconsistent with the PNRP.

118 In this instance, I consider that as the PNRP must also give effect to the RPS under section 67(3)(c) of the RMA, and the additional clause has been subject to analysis through the Environment Court mediation process, it is appropriate to include the clause as requested. I note in relation to the concerns in Transpower's further submission [FS04.19] that Transpower was a part of the mediation process, and therefore implicitly agrees to its inclusion in the PNRP.

119 As such, I recommend that the definition of RSI in the PDP be amended as below:

<b>Regionally Significant Infrastructure</b>	means regionally significant infrastructure including: a. pipelines for the distribution or transmission of petroleum; b. the Gas Transmission Network <u>and pipelines for the distribution of natural or manufactured gas;</u> c. the National Grid; d. facilities for the generation and <del>or</del> transmission of electricity where it is supplied to the network; <u>e. facilities for the electricity distribution network, where it is 11kV and above. This excludes private connections to the local network.</u> [...]
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120 I consider that the addition of the clause to the definition will provide significant benefits to the recognition and protection of significant electricity infrastructure, with low associated costs. The amendment will therefore be efficient and effective, and more appropriate than the notified definition.

### Powerco

121 Evidence was provided by Mr Chris Horne and Mr Gary Scholfield on behalf of Powerco. Mr Horne's planning evidence identified seven areas where alternative outcomes from that recommended in my Section 42A Report is sought, relating to; INF-P4, INF-P8 and INF-P9; INF-P21; INF-R6



and associated INF-S2; enabling new gas customer connections; INF-R39; INF-S13; and INF-S14 and INF-S16.

*INF-P4, INF-P8 and INF-P9*

122 Mr Horne considers that the relationship of INF-P4, INF-P8 and INF-P9 should be clarified, including through amendments to ensure INF-P8 is considered through the lens of INF-P9.

123 I agree with the evidence of Mr Horne in relation to INF-P4, in that it would be beneficial for plan users if the heading of this policy were to be more positively framed. However, I prefer 'Enable appropriate infrastructure', and do not consider that reference to a permitted activity status is appropriate in the policy.

124 In relation to INF-P8 (renumbered to INF-P10), I prefer the heading 'Potentially acceptable infrastructure', as I do not consider that this policy heading needs to be positively framed given its function to serve as matters of control and discretion. Additionally, I do not agree with the amendments sought to clauses one and two of the policy, for the same reasons as expressed in my Section 42A Report in response to the submission from Kāinga Ora [81.254]. Additionally, the inclusion of a cross-reference to INF-P9 (renumbered to INF-P11) in the policy to ensure that operational needs and functional needs of infrastructure are considered alongside the matters listed in the policy, is superfluous as the two policies will need to be read alongside each other.

125 As such, I recommend that INF-P4 and INF-P8 are amended as below:

<b>INF-P4</b>	<b><u>Enable</u> <del>Appropriate</del> infrastructure</b>
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[...]

<b>INF-P810</b>	<b><del>Provide for Regionally Significant Infrastructure and other infrastructure outside of Overlays</del> <u>Potentially acceptable infrastructure</u></b>
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Provide for Regionally Significant Infrastructure and other infrastructure, other than the National Grid, where it can be demonstrated that the following matters can be achieved:
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[...]

7. Any adverse effects on any values and qualities of any adjacent specified Overlays are minimised;  
8. The safe and efficient operation of any other infrastructure, including the transport network, is not compromised; ~~and~~  
9. Any adverse cumulative effects are minimised; ~~and~~  
10. Consistency with any relevant provisions of INF-P18 to INF-P24 where the infrastructure is located within a specified overlay.

126 I consider that the recommended amendments are of a minor nature and do not require a section 32AA evaluation.

*INF-P21*

127 Mr Horne seeks that INF-P21-1 is amended to link the adverse effects 'on' the Special Amenity Landscapes (SAL) and to remove reference to the identified characteristics and values being maintained. Mr Horne states that this is to ensure there is scope for infrastructure to be located in SALs where appropriate.

128 While Mr Horne states acknowledgement of Objective 18 of the RPS, and identifies Policy 28 is to manage SAL, I consider the critical wording in Policy 28 in relation to Mr Horne's proposed amendment is 'in order to maintain or enhance their landscape values in the context of the continuation of: (a) existing land uses that contribute to these landscape values, (b) predominant existing land uses that are provided for within the underlying zoning, and (c) other lawfully established activities'.

129 Due to the requirement to give effect to Policy 28 of the RPS, I do not agree with the amendments sought by Mr Horne or consider them to be appropriate.

*INF-R6 and INF-S2*

130 In relation to the amendments sought to INF-R6 and INF-S2, I have not changed my position as expressed in section 3.17.7 of my Section 42A Report.

*New gas customer connections*

131 From the evidence of Mr Horne, it appears that the discussion in my Section 42A report at section 3.18.5 has been misinterpreted. INF-R15 provides for underground infrastructure as a permitted activity where compliance is achieved with INF-S14, INF-S15 and the noise rule(s) applying to the zone. It is for this reason that I do not consider that amendments are required to further enable new gas customer connections. INF-R19 separately provides for customer connection lines as these are often located overhead.

132 However, I acknowledge that the structure of the INF – Infrastructure chapter could be improved, given the confusion. As such, to achieve greater clarity, and therefore efficiency and effectiveness of the provisions, I recommend that INF-R19 be amended as below:

INF-R19	<b>Customer connections <del>lines</del> outside of any specified Overlay</b>	
	<b>All zones</b>	<p>1. Activity status: <b>Permitted</b></p> <p>Where:</p> <p>a. <del>Customer</del> <del>The</del> connection <del>lines</del>:            i. <del>Does</del> not include a new tower;            ii. <del>The connection</del> <del>Does</del> not exceed three additional poles;            iii. <del>The diameter of</del> <b>Do not include</b> conductors, lines or cables <del>does not that</del> exceed 30mm <b>in diameter</b>; <del>and</del>            d. Compliance is achieved with:            i. INF-S14; and            ii. INF-S15.</p>
	<b>All zones</b>	<p>2. Activity status: <b>Restricted discretionary</b></p> <p>Where:</p> <p>a. Compliance is not achieved with INF-S14 or INF-S15.</p> <p>Matters of discretion are restricted to:</p> <p>1. The matters of discretion of any infringed standard.</p> <p><b>Notification:</b>            An application under this rule is precluded from being publicly notified in accordance with sections 95A of the RMA.</p>
	<b>All zones</b>	<p>3. Activity status: <b>Discretionary</b></p> <p>Where:</p> <p>a. Compliance is not achieved with INF-R19-1.a, <del>INF-R19-1.b or INF-R19-1.c.</del></p>

133 I consider that amending the rule heading to refer to ‘customer connections’ sufficiently broadens the activity to which the rule applies

to also encompass gas connections, as well as other connections such as those to the three waters networks. The other amendments ensure that the requirements regarding towers, poles and diameter of conductors, lines or cables continue to relate only to customer connection lines, as defined in the PDP. I do not consider that any additional standards are required, as the equipment required for customer connections will be subject to the necessary engineering requirements of the relevant network provider. I consider that the amendments effectively clarify the status of utility connections in the plan.

134 I agree that the submission from Powerco [83.56] provides sufficient scope, as that submission point directly related to providing for customer connections as a permitted activity.

135 I have not undertaken a s32AA further evaluation since the changes achieve the same outcome as the version of Appendix B in my Section 42A Report but provides greater clarification.

*INF-R39*

136 In relation to the amendments sought to INF-R39, I have not changed my position as expressed in section 3.8.5.5 of my Section 42A Report.

*INF-S13*

137 Mr Horne considers that INF-S13 should not require setbacks from road boundaries more stringent than the underlying zoning. While I note that the example provided at 160 Tory Street, Wellington appears to include cabinets that are set back more than two metres from the road boundary based on GIS mapping, I have already considered this point above in relation to the evidence provided by Mr Anderson on behalf of the Telcos. I consider that the amendments I have recommended above address the matters raised by Mr Horne.

*Earthworks standards*

- 138 In relation INF-S14, I agree with Mr Horne that ‘underground’ in INF-S14-3.a should have been shown as struck-out in my Section 42A Report. As Mr Horne surmises, this was a drafting error. However, in relation to the requirements for earthworks within one metre of the site boundary I prefer the standard as recommended to be amended in my Section 42A Report as this provides additional protection for buildings and structures on adjacent sites and I do not consider that the establishment of the location of foundations of these structure to be overly onerous where earthworks are proposed to be undertaken in close proximity.
- 139 In relation to INF-S16, I disagree with the amendment sought by Mr Horne as the listed areas where he considers that previous disturbance would mean that no additional effects would be generated (paths, driveways or parking areas) may have only been subject to relatively shallow disturbance. Powerco’s original submission notes that trenching may need to exceed one metre in depth to avoid other infrastructure or obstacles and considered a maximum depth of 1.5 metres to be appropriate. In relation to scheduled historic heritage items, site and settings there are relatively few within Porirua, and some of these overlap with sites and areas of significance to Māori or are associated with natural or man made features other than buildings which may be affected by earthworks. As such, I do not consider that INF-S16 should be amended as sought.

## **Waka Kotahi**

### *Planning evidence*

- 140 Evidence was provided by Ms Claudia Jones on behalf of Waka Kotahi on the INF – Infrastructure chapter. Ms Jones accepted most recommendations in my Section 42A Report, other than in relation to INF-R6, INF-R27, INF-R29 AND INF-R30, and sought a further minor amendment to INF-S22.

141 In relation to INF-R6 I disagree with the evidence of Ms Jones and my position has not changed from that expressed in section 3.17.7 of my Section 42A Report.

142 In relation to INF- R27, INF-R29 AND INF-R30, my position on the activity status for National, Regional, and Arterial roads has not changed from that expressed in section 3.5.6 of my Section 42A Report. I note that upgrading as defined in the PDP includes increasing the carrying capacity of the infrastructure. Additionally, State Highways are designated within Porirua.

143 In relation to INF-S22, I do not consider that the addition of 'New' at the start of INF-S22-2 is necessary.

*Technical evidence*

144 Technical evidence was also provided by Mr Robert Swears on the road transport provisions in the INF – Infrastructure chapter, including INF-S23-5, INF-Figure 4 and INF-Table 5, and INF-Table 1. These matters were considered through expert conferencing.

145 I note that in relation to INF-S23-5, Ms Harriet Fraser and Ms Angela Crafer agreed through conferencing with the recommendations in my Section 42A Report, while Mr Swears considers there should be clarity in relation to the guidance to be applied, with preference given to guidance from Waka Kotahi first, Austroads second, and Porirua City Council third. I consider Mr Swears approach of prioritised guidance would create a complex and potential confusing standard within the PDP, and therefore continue to recommend that standard included in my Section 42A Report.

146 In relation to INF-Figure 4 and INF-Table 5, the experts agreed to:

- Use of a modified version of Figure 3.2 from Austroads Guide to Road Design Part 4A (2021), in an expanded version of INF- Figure 4 to

demonstrate heights for measurements of sight lines, and an inclusion of a note relating to measurement of point 'x';

- Amendments to new INF-Table 3 (replacing INF-Table 5); and
- Two new notes to accompany INF-Table 3 relating to operating speed and adjustments for road gradients.

147 I agree with the amendments to INF-Figure 4 and INF-Table 5 as agreed by the technical experts. I have taken the suggested amendments in the Joint Witness Statement, and amended this slightly to fit better with the PDP while retaining the meaning. The recommended amendments to INF-Table 5 (Inf-Table 3 in my Section 42A Report) are below, and INF-Figure 4 is set out in Appendix C:

<b>INF-Table 53</b>			
<b>Minimum sight distances at intersections</b>			
<b>Operating speed (km/h) of major road</b>	<b>Distance X (m) (see INF-Figure 4)</b>	<b>Distance Y (m) (see INF-Figure 4)</b>	
		<b>Access road</b>	<b>Collector road</b>
<u>≤30</u>	<u>5</u>	<u>55</u>	
<u>≤40-31 - 40</u>	5	35	75 <del>0</del>
41-50	5	45	90 <u>100</u>
51-60	<u>65</u>	65	115 <u>125</u>
61-70	<u>65</u>	85	140 <u>155</u>
71-80	<u>75</u>	105	175 <u>185</u>
81-90	<u>75</u>	130	210 <u>215</u> <u>230</u>
91-100	<u>75</u>	160	<u>250</u> <u>265</u>
101-110	<u>5</u>		<u>285-300</u>
<p><u>Note 1: Where a measured operating speed value cannot be measured, the operating speed is assumed to be 10 km/h greater than the target operating speed.</u></p> <p><u>Note 2: Adjustments to these values will be required for locations where the grade of the major road is not 0%.</u></p>			

148 In relation to INF-Table 1, amendments have been agreed by the technical experts. These are set out in Appendix D. As these have been subject to expert conferencing, I agree with the amendments proposed. Where the experts have not agreed, or there is a split in the professional opinion of the experts, I do not make any recommendations on further amendments to the provisions.

149 In relation to section 32AA, I consider that, as the matters relating to INF-Figure 4 and INF-Table 3, and amendments to INF-Table 1, as included in my Section 42A Report have been agreed by technical experts, the amendments will better ensure the safety and efficiency of the road transport network, and therefore will be more effective in giving effect to INF-O4 and associated policies. The benefits will outweigh the costs, and therefore they will be more efficient. As such, I consider that the amended provisions will be more appropriate than the PDP.

## **LIGHT**

### **Waka Kotahi**

150 I note for completeness that the statement of evidence of Mr Luke Braithwaite addressed the submissions of Waka Kotahi on the LIGHT – Light chapter of the PDP. Mr Braithwaite agrees with or accepts the recommendations of the Section 42A Report: Part B – Light. As such I make no further analysis of this evidence.

## **NOISE**

### **Reverse sensitivity**

#### *Overview*

151 As identified in Appendix A, Kāinga Ora, Waka Kotahi and KiwiRail all provided technical evidence from noise experts (with Dr Stephen Chiles providing evidence on behalf of both Waka Kotahi and KiwiRail) as well



as planning evidence on the matter of reverse sensitivity from land transport infrastructure (State Highways and the North Island Main Trunk NIMT) rail line). Rebuttal evidence was also received on behalf of Kāinga Ora and Waka Kotahi.

152 In summary:

- Kāinga Ora [81.937 and 81.938] in its original submission sought the full package of land use controls for activities adjacent to the NIMT railway line and State Highways be reviewed and amended. Ms Williams on behalf of Kāinga Ora, and supported by technical evidence provided by Mr Jon Styles, states that; the Noise chapter provisions relating to reverse sensitivity are an inappropriate and unjustified planning response; the focus should be on health and amenity effects rather than reverse sensitivity; technical and planning analysis has not been undertaken in sufficient detail; and mitigation measures should be based on evidential modelling of the Porirua networks to determine likely noise levels following the adoption of the Best Practicable Option (BPO) at source;
- In its original submission, Waka Kotahi sought a replacement suite of rules and standards to manage public health effects of noise and vibration. The evidence of Ms Catherine Heppelthwaite provided on behalf of Waka Kotahi and supported by technical evidence of Dr Stephen Chiles, sought amendments to NOISE-P4, NOISE-R5, NOISE-S1, NOISE-S3 and the inclusion of two new standards, to incorporate the provisions sought in the original submission into the framework of the PDP. This included; a two tier activity status approach with permitted activity subject to standards elevating to restricted discretionary; removing the 50 square metre threshold for additions; noise levels for specific occupancies/activities and deletion of the general habitable room provision; more detailed requirements for ventilation; amendments to matters of discretion; a new standard for vibration mitigation; and a new acoustic standard for outdoor living spaces;

- In its original submission KiwiRail generally sought retention of the Noise Chapter provisions relating to reverse sensitivity from the NIMT line. Ms Michelle Grinlinton-Hancock in her evidence provided on behalf of KiwiRail, does not support the addition of the clause relating to vibration in NOISE-P4 as the drafting is unclear and will be difficult to apply and enforce which could be exploited by developers. Ms Grinlinton-Hancock suggests new drafting of NOISE-R5 similar to Waka Kotahi, to simplify its application. The deletion of NOISE-S4 relating to vibration standards is opposed.

153 I also note that Mr Paul Botha provided a submitter statement on the issue of the rail noise corridor. Nothing in Mr Botha’s statement changes my position as set out in my Section 42A Report.

*Joint Witness Statement*

154 The technical noise experts for Kāinga Ora, KiwiRail and Council have produced a Joint Witness Statement (JWS) dated 1 February 2022.<sup>6</sup> The statement addresses the issues and matters agreed as summarised in Appendix B.

155 In relation to the issue of methods for defining the effects area for State Highway noise, while I acknowledge the technical experts’ preference for modelling to determine the requirement for the extent of controls, in the absence of the availability of any modelled data I consider that the use of the fixed distances as agreed by the experts provides an efficient and effective method. I therefore recommend amending NOISE-R5-1.a.i to 100 metres.

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<sup>6</sup> Dr Stephen Chiles, Mr Jon Styles and Mr Nigel Lloyd

156 In relation to the indoor acoustic performance standards for mitigating State Highway noise, and the drafting issue identified in paragraph 18 of the JWS, I note that the PDP defines noise-sensitive activity<sup>7</sup> as:

*means:*

- a. residential activity;*
- b. marae;*
- c. hospital;*
- d. healthcare activity;*
- e. educational facility; or*
- f. visitor accommodation activity.*

157 'Habitable room' is a National Planning Standard definition and means:

*any room used for the purpose of teaching or used as a living room, dining room, sitting room, bedroom, office or other room specified in the Plan to be a similarly occupied room.*

158 I have considered the spaces identified in Appendix A of the evidence of Ms Heppelthwaite, and I have concluded that the outstanding spaces potentially not covered by 'habitable rooms' within a building used by a noise-sensitivity activity may include libraries, wards, clinics, operating theatres, and nurses' stations. This is, however, somewhat questionable as to whether spaces such as wards would be included or not. Given that the definition of 'habitable room' includes the phrase, 'or other room specified in the Plan to be a similarly occupied room', I consider that this can be addressed through an advice note stating that for the purposes of the standards in the NOISE – Noise chapter, all areas accessible by the public or clinical staff in hospitals and healthcare activities are considered to be habitable rooms. I do not consider that libraries need to be included in this, as they are not included within the definition of noise-sensitive activities, and as these facilities are generally provided by Council.

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<sup>7</sup> I note that I recommended the inclusion of retirement villages in this definition through my Section 42A Report.

159 The JWS recommends including a statement specifying the assumptions to be used for determining the rail source noise level used for certification. I consider that there is scope to include this, given the broad nature of the submission from Kāinga Ora, and agree that it would be beneficial for plan users. I consider that this can be included as an advice note.

160 I note that the JWS records individual or split views of the expert witnesses on the following matters:

- Controlling outdoor noise;
- Vibration controls for State Highways;
- The extent of vibration controls for the rail corridor; and
- Ventilation and cooling systems.

*Additions to buildings*

161 I note the evidence of Ms Heppelthwaite included reference to Waka Kotahi submission seeking the provisions apply to all building alterations, regardless of size. Ms Heppelthwaite recommends removal of the threshold, due to the increase in exposure to health risks.

162 As set out in the Section 32 Evaluation Report Part 2 – Light and Noise, the threshold of 50 square metres allows for some additions which are not likely to increase the reverse sensitivity effects. I agree with the rebuttal evidence of Ms Williams that requiring all additions to comply would likely result in perverse outcomes, and the benefits of the required mitigation would likely outweigh any benefits.

*Conclusion*

Having considered the evidence, rebuttal evidence, and JWS, I recommend that the relevant provisions are amended as below. Other than the recommended amendments, my opinion has not changed from the at expressed in my Section 42A Report: Part B – Noise.

<b>NOISE-R5</b>	<b>New buildings, change of use of existing buildings, and additions to existing buildings over 50m<sup>2</sup>, for use by a noise-sensitive activity or place of worship in proximity to State Highways and the North Island Main Trunk railway line</b>
<b>All zones</b>	<p>1. Activity status: <b>Permitted</b></p> <p>Where:</p> <p>a. The building or part of the building for use by a noise-sensitive activity or place of worship is within:</p> <ul style="list-style-type: none"> <li>i. <del>8</del>100m of the outer painted lane marking of a State Highway with a speed limit of greater than 670km/h;</li> <li>ii. 50m of the outer painted lane marking of a State Highway with a speed limit of 670km/h or less; or</li> <li>iii. 100m of the centre of a track that is part of the North Island Main Trunk railway line; and</li> </ul> <p>b. The building or part of the building for use by a noise-sensitive activity or place of worship is not within:</p> <ul style="list-style-type: none"> <li>i. 40m of the outer painted lane marking of a State Highway with a speed limit greater than 670km/h;</li> <li>ii. 20m of the outer painted lane marking of a State Highway with a speed limit of 670km/h or less; or</li> <li>iii. 30m of the centre of a track that is part of the North Island Main Trunk railway line; and</li> </ul> <p>c. Compliance is achieved with:</p> <ul style="list-style-type: none"> <li>i. NOISE-S1;</li> <li>ii. NOISE-S2; and</li> <li>iii. NOISE-S3.</li> </ul>

[...]

<p><u>Advice notes:</u></p> <p><u>1. For the purposes of the standards in the NOISE – Noise chapter, all areas accessible by the public or clinical staff within hospitals and healthcare activities are considered to be habitable rooms.</u></p> <p><u>2. For the purpose of NOISE-R2, railway noise should be assumed to be 70 dB LAeq(1h) at a distance of 12 metres from the track and must be deemed to reduce at a rate of 3 dB per doubling of distance, and 6 dB per doubling of distance beyond 40 metres.</u></p>
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I consider that as the recommended amendments reflect the agreed position of the technical noise experts, they provide benefits for

achieving the objectives of the NOISE – Noise chapter and greater certainty and clarity for plan users, and therefore are more efficient and effective. As such, the amended provisions will be more appropriate than the notified provisions.

### **Robyn Smith**

165 Ms Robyn Smith provided a submitter statement raising an issue relating to the allocation of submission point 168.35. Ms Smith states that:

*While this point has been included in the summary of submissions it has not been referred to in the s.42A report for the 'Noise' chapter. The Council may need to rely on this submission to make the required correction to the planning maps, because the PDP does not apply to the land known as Plimmerton Farm.*

166 Ms Smith goes on to say, in Appendix A to her submission:

*This is yet another example of a GIS mapping errors in the PDP.*

*The PDP planning maps suggest land that is not subject to the PDP (ie: Plimmerton Farm) should be subject to the Noise Corridor provisions.*

*This is a fundamental error and the decisions on submissions on the PDP must reflect the fact that the PDP provisions do not apply to the land that was subject to PC18; ie, Plimmerton Farm (Lot 2 DP 489799).*

167 While I consider that the matter raised by Ms Smith reflects a wider issue in relation to the PDP mapping of features and overlays across the Plimmerton Farm site (Lot 2 DP 489799) and therefore was intended to be addressed in a later hearing stream, I acknowledge that the submission point could have been addressed through the Section 42A Report Part B – Noise.

168 I consider that, as the 'How the District Plan Works' section of the PDP clearly explains that the PDP does not apply to the land known as Plimmerton Farm, the fact that the Noise Corridor feature is mapped as extending onto this site is of relatively little consequence. However, I do

agree with Ms Smith that to avoid any confusion, the PDP maps need to be amended to remove the mapped Noise Corridor from Lot 2 DP 489799.

- 169 This is similar to the issue identified in the Section 42A Report Part B – Ecosystems and Indigenous Biodiversity in relation to SNAs being mapped on the site in the PDP. In that report the reporting planner, Mr Torrey McDonnell, included in section 3.32 of the report the removal of the SNAs from Lot 2 DP 489799 as a Minor Error. I consider that the Noise Corridor could be addressed in a similar manner.

### **THREE WATERS**

#### **Greater Wellington Regional Council**

- 170 The submitter statement from GWRC includes information on the role of PCC and Greater Wellington in three waters, with specific reference to the amendment to THWT-P3 sought by GWRC [137.28].
- 171 While I acknowledge the requirements of the NPS-FM noted in the submitter statement, my position on this matter has not changed from that expressed in section 3.11.2 of my Section 42A Report: Part B – Three Waters.

#### **Robyn Smith**

- 172 Ms Robyn Smith provided a submitter statement responding to the recommendations in my Section 42A Report relating to submission points 168.87 to 168.92. The submitter's statement does not raise any matters that change my opinion as expressed in my Section 42A Report.

## TRANSPORT

### Kāinga Ora

173 Section 6 of Ms Karen Williams' planning evidence on behalf of Kāinga Ora addresses the TR – Transport chapter. Ms Williams states that while many of the amendments recommended in my Section 42A Report are supported, Kāinga Ora considers some aspects remain onerous and not enabling of residential development and Ms Williams generally supports this position. The areas of contention identified by Ms Williams are:

- Notification preclusion statements;
- Vehicle crossings per site; and
- Requirements for vehicles exit in a forward-facing direction

174 Kāinga Ora [81.379, 81.380, 81.381, 81.382] sought to introduce notification preclusion statements for both public and limited notification to TR-R1, TR-R2, TR-R3, and TR-R4. In my Section 42A Report Part B – Transport I recommended a notification preclusion statement be included in TR-R1, TR-R3 and TR-R4 precluding public notification. TR-R2 included a notification preclusion statement precluding public notification in the notified PDP.

175 Ms Williams also suggests the addition of a matter of discretion for TR-S1 and TR-S4 being, 'The outcome of any consultation with Fire and Emergency New Zealand (FENZ)', to reflect the consideration of effects on FENZ for breaches to these standards. I agree with Ms Williams in relation to the inclusion of such a matter of discretion and consider that this would assist in giving effect to TR-P3-5.

176 Ms Williams states that any information from submitters is unlikely to add further technical information to assist in the assessment of the effects of a non-compliance with the transport standards, and conditions



can be placed to manage any related adverse effects. I note that Ms Angela Crafer states in her expert evidence provided on behalf of Kāinga Ora that:

*I consider it unlikely that public or limited notification would result in the identification of any safety issues that would not be picked up in the engineering approval process and road safety audits.*

- 177 I disagree somewhat with that position. While I agree that this will generally be the case for most situations, I consider that regular users of a particular stretch of road may have experience of the operation of the road, and associated safety, efficiency or effectiveness deficiencies, that can prove valuable to the assessment of activities that seek to connect to that road. This may particularly be the case for complex road environments, in locations adjacent to activities which have important safety requirements such as schools, or for particular road users such as cyclists.
- 178 As noted above, the provisions for transport infrastructure have been subject to expert conferencing. I note that while Ms Harriet Fraser and Mr Robert Swears agree with my recommendation as set out in my Section 42A Report relating to notification preclusion, Ms Crafer did not come to the same agreement. As such, rather than precluding limited notification as recommended by Ms Williams, I prefer to rely on the standard notification assessment under section 95B of the RMA.
- 179 Kāinga Ora [81.352] opposed the restriction on the number of vehicle crossings to one per site (INF-S26-1 in the PDP, TR-S5-1 in my Section 42A Report). This has been considered by the relevant technical experts through conferencing with agreement reached on replacement of TR-S5-1 to provide for additional crossings based on road frontage length and road classification, and the addition of another clause relating to separation between crossings serving adjacent sites.
- 180 I agree with the amendments to the vehicle crossing standards agreed by the technical experts. I have taken the wording suggested in the Joint

Witness Statement and amended this slightly to fit better with the PDP while retaining the meaning. The recommended amendments are below:

<b>TR-S5 Vehicle Crossings</b>	
<b>All zones</b>	<p>1. <del>There must be no more than one vehicle crossing per site.</del>  <u>The spacing of vehicle crossings along a road frontage must not be less than the dimensions in TR - Table 4. The number of vehicle crossings along any one road frontage must not exceed the number in TR-Table 5.</u></p> <p>[...]</p> <p>10. <u>A vehicle crossing that crosses a footpath, cycleway or shared path must not exceed a crossfall gradient of 2.5%.</u></p> <p>11. <u>There must be a minimum separation of 2m along the footpath between crossings serving adjacent sites. Where two crossings on adjacent sites can be combined and where the combined crossings do not exceed a total width of 6m at the property boundary, no minimum separation distance will apply.</u></p> <p><u>Note: State Highways may have additional or different requirements under the Government Roding Powers Act 1989.</u></p>
	There are no matters of discretion for this standard.

[...]

<b>TR-Table 4 Minimum spacing of vehicle crossings</b>		
<u>Speed limit of road (km/h)</u>	<u>Collector and Access roads</u>	<u>Arterials</u>
<u>&lt;70</u>	<u>1 per 25 m</u>	<u>1 per 40 m</u>
<u>70</u>	<u>1 per 40 m</u>	<u>1 per 40 m</u>
<u>80</u>	<u>1 per 50 m</u>	<u>1 per 100 m</u>
<u>100</u>	<u>1 per 80 m</u>	<u>1 per 200 m</u>

[...]

<b>TR-Table 5 Maximum number of vehicle crossings</b>		
<u>Frontage length (m)</u>	<u>Collector and Access roads</u>	<u>Arterials</u>
<u>0 - 16</u>	<u>1</u>	<u>1</u>
<u>&gt;16 - 60</u>	<u>2</u>	<u>1</u>

<u>&gt;60 - 100</u>	<u>2</u>	<u>2</u>
<u>&gt;100</u>	<u>3</u>	<u>2</u>

Consequential renumbering of the tables and associated references will also be required in the TR – Transport Chapter. For brevity, I have not included those amendments here.

In relation to section 32AA, I consider that, as the matters relating to TR-S5-1 as included in my Section 42A Report have been agreed by technical experts, the amendments will better ensure the safety and efficiency of the road transport network, and therefore will be more effective in giving effect to TR-O2. The benefits will outweigh the costs, and therefore they will be more efficient. As such, I consider that the amended provisions will be more appropriate than the PDP.

181 Kāinga Ora [81.396] opposed the requirements of TR-S6 to accommodate vehicle manoeuvring within a site so that vehicles exit in a forward-facing direction. This has been considered by the relevant technical experts through conferencing, through which no progress was made. As such, my opinion has not changed from that expressed in my Section 42A Report.

**Waka Kotahi**

182 I note that evidence was also provided by Mr Robert Swears on the TR-Table 7 in the TR – Infrastructure chapter.

183 This has been considered by the relevant technical experts through conferencing. The technical experts agreed on use of equivalent car movements (ECM) in place of vehicle trips per day, as set out in paragraph 6.6 of the Waka Kotahi Transport Engineering statement of evidence, while noting that a correction is needed to the paragraph to replace ‘5 ECU’ with ‘5 ECM’.

184 I agree with the amendments to TR-Table 7 agreed by the technical experts. I have taken the wording suggested in the Joint Witness

Statement, and amended this slightly to fit better with the PDP while retaining the meaning. The recommended amendments are below:

TR-Table <del>7</del> 11 Trip generation thresholds	
Activity	Threshold
Any activity not listed below	500 <del>vehicle trips per day</del> <u>equivalent car movements</u>
<u>Any activity accessing a national high-volume road or a regional road</u>	100 <del>vehicle trips per day</del> <u>equivalent car movements</u>

185 [...]

<u>Equivalent car movements</u>	<p><u>means:</u></p> <p><u>One car / light vehicle movement is equal to one equivalent car movement.</u></p> <p><u>One heavy commercial vehicle movement is equal to three equivalent car movements.</u></p> <p><u>One combination heavy commercial vehicle movement (including truck and trailer, tractor unit and semitrailer, B-train) is equal to five equivalent car movements.</u></p>
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186 In relation to section 32AA, I consider that, as the matters relating to TR-S5-1 as included in my Section 42A Report have been agreed by technical experts, the amendments will better ensure the safety and efficiency of the road transport network, and therefore will be more effective in giving effect to TR-O2. The benefits will outweigh the costs, and therefore they will be more efficient. As such, I consider that the amended provisions will be more appropriate than the PDP.

187 The experts also agreed to replace the note accompanying TR-S3 with the note relating to State Highways that accompanies TR-R2, being:

*All new vehicle access points that intersect a state highway require the approval of Waka Kotahi NZ Transport Agency under the Government Roading Powers Act 1989. Waka Kotahi NZ Transport Agency may require a different vehicle access construction standard from TR-S3.*

188 I also agree with this replacement. In terms of s32AA, I consider that the amendment is minor in nature and does not require assessment.

### KiwiRail

189 In her evidence for KiwiRail, Ms Michelle Grinlinton-Hancock discusses the provisions sought by KiwiRail for level crossings. Ms Grinlinton-Hancock largely agrees with the recommendations in my Section 42A report Part B – Transport, with additional amendments sought to correct minor errors and inclusion of a note explaining the source and input parameters of the sight distance standards.

190 I generally agree with the amendments recommended by Ms Grinlinton-Hancock as these will correct a minor error and will provide additional information for PDP users, with some minor tweaks to the wording of the note to relate it to TR-Table 10. I therefore recommend the following amendments to the TR – Transport Chapter.

<b><u>TR-Table 10</u></b>	<b><u>Approach and Restart Sight Distances at Railway Level Crossings</u></b>
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[...]

<p>* Distances A and B are shown in TR-Figure <del>7</del>10 and TR-Figure <del>8</del>11</p> <p><u>Distance A is measured from the outside track</u></p> <p><u>Distance B is measured from the centre of the road</u></p>
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[...]

<p><u>Advice note:</u> <u>All figures in TR-Table 10 are based on the sighting distance formula used in NZTA Traffic Control Devices 8 Manual 2008, Part 9 Level Crossings. The formulae in that document are performance based, however, TR-Table 10 is based on fixed parameters to enable easy application. Approach and restart distances are derived from a:</u></p> <ul style="list-style-type: none"><li>• <u>Train speed of 110 km/h</u></li><li>• <u>Vehicle approach speed of 20 km/h</u></li><li>• <u>Fall of 8 % on the approach to the level crossing and a rise of 8 % at the level crossing</u></li><li>• <u>25 m design truck length</u></li><li>• <u>90° angle between road and rail</u></li></ul>
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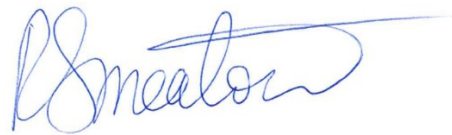
191 I consider that the recommended amendments are of a minor nature, and do not require a section 32AA evaluation.

## RENEWABLE ELECTRICITY GENERATION

### Paul Botha

192 Mr Paul Botha provided a submitter statement on Renewable Electricity Generation. Nothing in Mr Botha’s statement changes my position as set out in my Section 42A Report. While Mr Botha raises some valid questions regarding the headings in REG-S3 and REG-S5, I do not consider that there is scope in the submissions to address this issue. The Panel may wish to consider whether Clause 16 would be an appropriate mechanism to correct this matter.

**Date: 4 February 2022**



.....  
**Rory Smeaton**

## **APPENDIX A. SUBMITTER EVIDENCE AND STATEMENTS**

### **SUBMITTER EVIDENCE**

First Gas Limited [84]

- Nicola Hine
- Meghan Barrett (Planning)

Kāinga Ora [81]

- Angie Crafer (Transport)
- Brendon Liggett (Corporate - Noise and Vibration)
- Jon Styles (Noise and Vibration)
- Karen Williams (Planning)

Powerco [83]

- Chris Horne
- Gary Scholfield

Transpower [60]

- Rebecca Eng
- Pauline Whitney
- Ben Cartwright

Waka Kotahi [82]

- Claudia Jones (Planning)
- Cath Heppelthwaite (Noise)
- Dr Stephen Chiles (Noise)
- Luke Braithwaite (Lighting and Signage)
- Robert Swears

NZ Defence Force [124]

- Rebecca Davies
- Alex Gifford (PLANNING)
- Darran Humpheson (Acoustic)

Heritage NZ Pouhere Taonga [65]

- Dean Raymond

Kiwirail [86]

- Michelle Grinlinton-Hancock (Planning)
- Dr Stephen Chiles (Noise and Vibration)

Spark, Chorus, Vodafone [51]

- Graeme McCarrison, Andrew Kantor, Colin Clune
- Tom Anderson

Wellington Electricity Line Limited [85]

- Timothy Lester

**SUBMITTER REBUTTAL EVIDENCE**

Kāinga Ora [81]

- Karen Williams (Planning)
- Jon Styles (Noise and Vibration)

Waka Kotahi [82]

- Claudia Jones (Planning)

KiwiRail [86]



- Michelle Grinlinton-Hancock (Planning)

Transpower

- Pauline Whitney

## **SUBMITTER STATEMENTS**

FENZ [119]

Greater Wellington Regional Council [137]

Milmac Homes Ltd [258]

Ministry of Education [134]

Oil Companies [123]

Paul Both [118]

Robyn Smith [168]

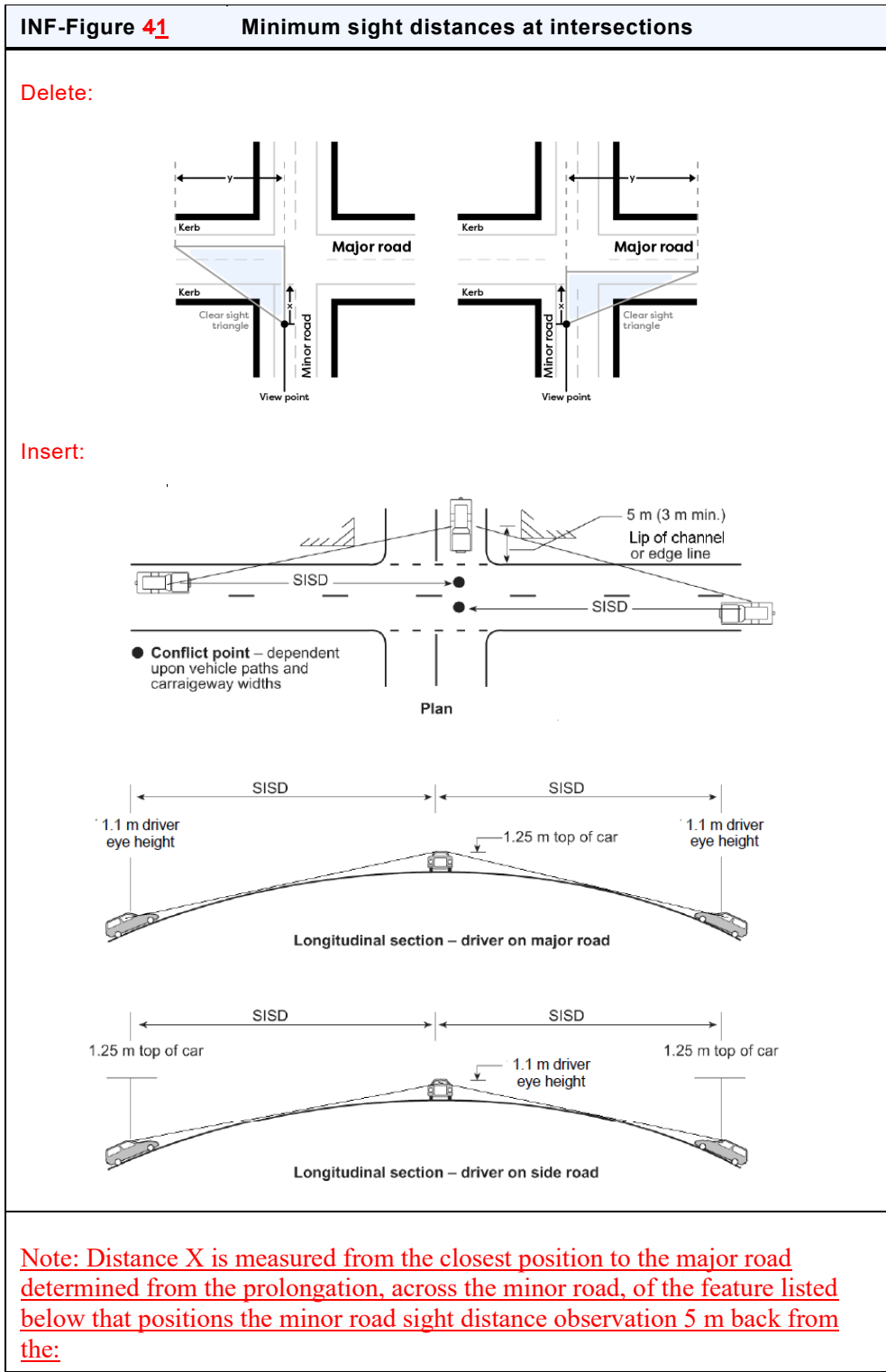
Z Energy Ltd [92]

## APPENDIX B. ROAD AND RAIL NOISE AND VIBRATION JWS SUMMARY

Issue	Matters agreed
Existing noise and vibration effects of road and rail	These issues would not be controlled by the rules set out in the Noise chapter of the notified version of the PDP.
State highway noise  (i) Methods of defining the effects areas  (ii) Performance standards (indoor and external)	<p>Controls on new and altered sensitive activities near existing State Highways are warranted.</p> <p>Noise from State Highways propagates different distances from the road depending on road, traffic, building/screening and terrain characteristics.</p> <p>Refinement of the extent of controls based on modelling would be preferable.</p> <p>If using a fixed distance then in lower speed areas (less than 70 km/h) 50 metres is appropriate. For 70 km/h or more then the fixed distance should be 100 metres. The distance can be measured from the outer painted lane marking of a State Highway.</p> <p>An internal road-traffic noise limit of 40 dB LAeq(24h) provides reasonable protection of health in habitable rooms.</p> <p>There needs to be criteria for all other noise sensitive spaces as set out in Table 1 of the Waka Kotahi submission, adjusted to fit the District Plan definitions. The s42A report does not include noise criteria for all spaces and there are duplications in Catherine Heppelthwaite's Attachment A. There is a drafting issue to resolve. From a health perspective these criteria should be 5 decibels lower. Dr Chiles and Mr Lloyd consider the noise limits in the Waka Kotahi submission represent pragmatic controls consistent with New Zealand guidance such as NZS 6806:2010.</p> <p>Controlling outdoor noise is important from a health and amenity perspective and that 57 dB LAeq(24h) is a pragmatic outdoor noise criterion.</p>
Rail noise	<p>Refining the extent of the area over which rail noise controls apply through noise mapping would be preferable.</p> <p>Indoor noise limits in the notified NOISE-S2 are reasonable.</p> <p>If there is scope, it would be beneficial for the rail source noise level used in certification to be specified in the PDP, given the variability that typically occurs with rail noise.</p>
State highway vibration	Dr Chiles considers that controls for new sensitive activities within 20 metres of State Highways are warranted to control effects of this vibration on people. Mr Styles and Mr Lloyd remain of the views expressed in their evidence. In general, they consider that there is insufficient evidence available to demonstrate that there is an effect that justifies vibration controls.
Rail vibration	<p>The level of vibration on land adjacent to the rail corridor will generally be higher than it would be at the same distance from a State Highway. It can be costly and complex to comply with a 0.3mm/s vw,95 vibration criterion near to railways. It would be beneficial for the PDP or associated information to alert prospective developers that complying with the vibration criterion on sites near the NIMT has these associated issues.</p> <p>The activity status may result in earlier consideration of the issue but consider more explicit guidance may better forewarn developers of the complexities involved.</p> <p>Disagree over the appropriate extent of vibration controls.</p>

Ventilation	<p>If windows need to be closed to achieve internal road and rail noise levels then occupants should have an alternative system to achieve thermal comfort.</p> <p>Further detail on this matter would require expertise beyond acoustics engineering.</p>
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APPENDIX C. INF-FIGURE 4



APPENDIX D. INF – TABLE 1 AGREED AMENDMENTS

INF-Table 1		Road design standards								
Classification		Access Road				Collector Road				
Classification criteria (must meet all criteria)	Typical daily traffic (annual average daily traffic movements)	1-200	1-42,000		1-1,000	2,000-8,000	42,000-58,000	1,000-2,500		
	Residential units	20	200	=	150	800	=	250		
	Heavy commercial vehicles (annual average daily traffic movements)		1-25	1-25			25-300			
	Buses (urban peak)		0	0			1-15 buses; or 1-750 people per hour			
	Maximum length	100m where the road is a no-exit road	=	=		=	=	=		
Zone		General Residential Zone, Medium Density Residential Zone	General Residential Zone, Medium Density Residential Zone	General Industrial Zone	All other Urban Zones	General Rural Zone, Rural Lifestyle Zone, Settlement Zone, Open Space Zone, Māori Purpose Zone (Hongoeka) and Special Purpose	General Residential Zone, Medium Density Residential Zone, General Industrial Zone	All other zones except General Rural Zone and Rural Lifestyle Zone	General Rural Zone and Rural Lifestyle Zone	General Rural Zone and Rural Lifestyle Zone

						Zone (BRANZ)					
<b>Design Target operating speed (km/h)</b>		<u>20</u> <sup>1</sup>	<del>30.4</del> <sup>1</sup>	<del>30.4</del> <sup>1</sup>	<del>30.4</del> <sup>1</sup>	4.0	5.0	5.0	8.0	6.0	
<b>Maximum gradient</b>					10% or 12.5% for maximum 85m in any one length	10% or 12.5% for maximum 85m in any one length		10% or 12.5% for maximum 85m in any one length	10% or 12.5% for maximum 85m in any one length		
<b>Minimum width (m)</b>	<b>Parking<sup>4</sup></b>	<u>1 x 2.1</u>	<u>1 x 2.1</u>	<u>2 x 2.1</u>	1 x 2.1 <sup>5</sup>	-		<u>2 x 2.5</u>	2 x 2.5	<u>2 x 2.5</u>	=
	<b>Traffic</b> (must provide unhindered vehicle access)	<u>2 x 3.0</u> <sup>2</sup>	<u>2 x 3.0</u> <sup>2</sup>	<u>2 x 3.5 4.2</u>	2 x 3.0 <sup>2</sup>	2 x 3.0 + 2 x 0.5 sealed shoulders		<u>2 x 3.5 4.2</u>	2 x 3.0- <u>3.5 4.2</u>	2 x 3.0	<u>2 x 3.5</u> + 2 x 0.75 sealed shoulders
	<b>Cycles</b>	<u>Shared in traffic lane</u>	<u>Shared in traffic lane</u>	<u>Shared in traffic lane</u> <u>2 x 1.8</u>	2 x 1.5 <u>Shared in traffic lane</u>	2 x 1.5 1 x 2.5 Shared path		<u>2 x 1.8</u>	2 x 1.5 <sup>8</sup>	4 x 3.0	<u>1 x 3.0</u> <u>Shared path</u>
	<b>Footpath</b>	<u>1 x 1.8</u>	<u>2 x 1.8</u>	<u>2 x 2.5 shared path</u>	2 x 1.2 <sup>5</sup>	2 x 1.5		<u>2 x 2.0</u>	2 x 2.5 <sup>3</sup>	-	
	<b>Infrastructure berm</b>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	1.0	1.0		<u>1.0</u>	1.0	4.0	<u>1.0</u>
	<b>Street tree berm</b>	<u>2.0</u>	<u>2.5</u>	<u>2.5</u>	3.0 <u>2.5</u>	-		<u>3.0</u>	3.0	-	
	<b>Total berm width</b>	<u>1 x 2.5</u> <u>1 x 2.8</u>	<u>1 x 2.8</u> <u>1 x 4.3</u>	<u>1 x 2.8 3.5</u> <u>1 x 4.3 5.0</u>	<u>1 x 3.5</u> <u>1 x 5.0</u>	<u>2 x 3.5</u>		<u>1 x 3.0</u> <u>1 x 5.0</u>	<u>1 x 3.5</u> <u>1 x 5.5</u>		<u>2 x 3.5</u>
	<b>Legal width</b>	<del>14.0</del> <u>13.4</u>	<del>16.0</del> <u>15.2</u>	<del>20.0</del> <u>19.7</u>	<del>21.9</del> <u>16.6</u>	<del>21.5</del> <u>14.0</u>		<u>25.0</u>	26.3.0	23.0	<del>20.0</del> <u>15.5</u>
<b>Number of street trees</b>		As per INF-Table 2	As per INF-Table 2	As per INF-Table 2	As per INF-Table 2	-		As per INF-Table 2	As per INF-Table 2	-	=

Notes:

<sup>1</sup> Speed management measures may be required to achieve the specified target operating speed

<sup>2</sup> The carriageway width must be widened to 6.7 metres for bends where the outer radius of the traffic lane is 50 metres or less

<sup>3</sup> The footpath width must be a minimum of 3.5 metres within Commercial and Mixed Use Zones identified with an Active Street Frontage control shown on the planning maps.

<sup>4</sup> Indented parking bays are encouraged to help achieve target operating speed