

BEFORE THE PORIRUA CITY COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Porirua District Plan:  
**Hearing Stream 4: Infrastructure**

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Statement of planning evidence of **CHRIS HORNE** on behalf of Powerco Limited (Submitter  
83, Further Submitter FS37) in relation to infrastructure

21 January 2022

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## Executive Summary

1. Powerco Limited (Powerco) lodged submissions on the Proposed Porirua District Plan to ensure its distribution gas network and customer connections can operate efficiently and effectively within Porirua City without unnecessary regulation.
2. Whilst Powerco lodged a relatively large number of submissions and further submissions, in many instances these were in support of provisions as notified, or relate to changes requested where the s42A report recommendations are a satisfactory outcome for Powerco. Accordingly, there are only limited matters in contention on which this planning evidence is focussed.
3. Matters where Powerco is seeking an alternative outcome to the s42A recommendations are:
  - a) Amendments to Policies INF-P4 (appropriate infrastructure) and INF-P8 (providing for infrastructure outside of overlays) to provide a workable policy framework for infrastructure by properly taking into account their specific functional and operational requirements;
  - b) Amendments to Policy INF-P21 (infrastructure in Special Amenity Landscapes) to ensure the wording does not result in the policy being applied as an avoidance of effects policy in this overlay;
  - c) Amendments to Rule INF-R6 and Standard INF-S2 to make reasonable provision for upgrading gas customer connections on heritage buildings (noting that there is already provision to upgrade antennas on heritage buildings);
  - d) A new provision to enable new gas customer connections which are not provided for in the same way as telecommunications and electricity, which could be achieved by amending Rule INF-P19;
  - e) Amendments to Rule INF-R36 such that there is some allowance for permitted upgrading of existing infrastructure in Significant Natural Areas.
  - f) Amendments to Standard INF-P13 in regard to the 2m cabinet setback by providing an alternative where underlying zone setback and height in relation to boundary controls are met; and

- g) Further amendments to the earthworks standards in Standard INF-S14 and INF-S16 in addition to those in the s42A recommendations to avoid unnecessarily controlling minor works.
4. My evidence sets out a proposed relief in regard to the relevant provisions which would achieve the outcomes Powerco is seeking and which I support on planning grounds.
  5. Appendix A to my evidence records the specific s42A report recommendations relevant to Powerco's submissions that Powerco accepts and has not filed evidence to seek an alternative outcome.

## Statement of Professional Qualifications and Experience

6. My name is Chris Horne. I am a resource management consultant and director of the resource and environmental management consulting company, Incite. I hold the qualifications of Bachelor of Arts (Geography) and Master of Regional and Resource Planning, both gained at the University of Otago. I am a member of the New Zealand Planning Institute.
7. I have been engaged by Powerco Limited (Powerco) as an independent planning expert in regard to their submissions and further submissions on the Proposed Porirua District Plan (Proposed Plan) relevant to Hearing Stream 4. The submissions and further submissions address matters relevant to infrastructure, and in particular Powerco's gas network infrastructure in Porirua City.
8. I have over 25 years' professional experience in the field of resource management. During this time I have assisted a number of network utility network providers as a consultant planner. In addition to Powerco this has included Transpower, Vector, KiwiRail, Telecom and its two successor companies Chorus and Spark, Vodafone, Two Degrees Mobile, Vital (formally Teamtalk) and the New Zealand Police (Police Radio Network). Work I have assisted these organisations with has included site selection studies, project consenting, designations, and assistance in responding to resource management plans and reviews. I also assisted the Auckland Utility Operators Group as a collective submitter group on their submissions and hearings in regard to the Auckland Unitary Plan.
9. I was not involved in the preparation of the submissions or further submissions on behalf of Powerco, but have reviewed them and provided planning advice on the s42A reports and recommendations.
10. Although this matter is not before the Environment Court, I can confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, the evidence is within my field of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

## **Evidence Outline**

11. The scope of this evidence relates to the provisions of the Proposed Plan relevant to network utility infrastructure in Part 2 District Wide Matters: Energy, Infrastructure and Transport. The evidence focusses on matters where Powerco is seeking a different outcome to the recommendations in the s42A reports for energy, infrastructure and transport. There are other matters dealt within this Hearing Stream in relation to the Strategic Objectives for a Functioning City and definitions in which Powerco has an interest but accepts the s42A recommendations so is not filing any evidence in regard to those submissions.
  
12. Many of the matters raised in the submissions by Powerco are supported by the reporting planner, or Powerco accepts the recommendations of the reporting planner even if different to the relief sought in their submissions. Accordingly, my evidence focusses on matters that are not agreed by the reporting planner and Powerco are still wanting to contest those matters. The general structure of my evidence is as follows:
  - a) Overview of submissions; and
  - b) Discussion of the relief sought by topic including comment on relevant s42A report recommendations and recommendations for amendments to address the Powerco submissions.
  
13. In forming my opinion from a planning perspective, I have taken into account the corporate evidence filed by Mr Gary Scholfield on behalf of Powerco.

## **Overview of Submissions**

14. As outlined in the evidence of Mr Scholfield, Powerco operates electricity and gas networks throughout many parts of the North Island. Within Porirua City, this only includes a gas distribution network and customer connections. The network is primarily delivered by underground pipes although there are above ground components associated with regulator stations for the distribution network and customer connections (pipes, regulators and ancillary equipment attached externally to buildings).

15. The purpose of the submissions is to ensure Powerco can efficiently operate and upgrade its network and provide connections to customers to support growth and the regional economy without unnecessary regulation, and protect its existing infrastructure from the activities of others (e.g. planting street trees too close to distribution pipes in roads). It also seeks to ensure there is a consent pathway in appropriate circumstances in more sensitive areas where service to customers may still need to be provided. Key outcomes sought in the Proposed Plan provisions as set out in the submission include:
- The sustainable management of Powerco’s assets as a physical resource;
  - Effect is given to the policies of the Regional Policy Statement for the Wellington Region 2013 (WRPS);
  - Appropriate provision is made for the on-going operation, repair and maintenance of Powerco’s network, including ensuring that pipelines can be accessed;
  - Appropriate provision is made for the existing network to be upgraded in order to meet energy growth demands;
  - Appropriate provisions for new pipelines as and when required;
  - Protection of the existing network from issues of reverse sensitivity; and
  - Maintenance of amenity and public safety around gas pipelines.
16. A number of the notified provisions which Powerco have submitted on were also submitted on by other parties. In most instances, the s42A recommendations are to either retain the provisions as notified or make changes in response to other parties submissions, with those recommended changes being a satisfactory outcome for Powerco. Powerco’s support for these recommended changes is detailed in Appendix A.

## **Discussion of Relief Sought by Topic**

### ***Enabling and Providing for Infrastructure Policies - INF-P4, P8 and P9***

17. Powerco’s submission on INF-P4 Appropriate Infrastructure (83.31) sought the addition of the words “*where practicable*” to acknowledge the ability to minimise effects on the environment and avoid adverse effects on the identified values and characteristics of overlays. The purpose of this submission was to recognise that development and maintenance within overlays will not always be avoidable due to functional and operational requirements.

18. The s42A report recommends that this submission be rejected on the basis that the requested words introduce too much uncertainty<sup>1</sup>. The commentary in the s42A report also notes that the intent of the policy is to provide a framework for the permitted activity rules<sup>2</sup> (rather than for assessing resource consents). Whilst this may be the intent of INF-P4, in my view there is a risk that a processing planner, submitter or decision maker on an application could apply this policy for a resource consent application for an upgrade or for new infrastructure.
19. By their nature, infrastructure equipment is different to activities and associated structures in general and thus they have a separate policy and rules framework in the Proposed Plan. This equipment may not be consistent with the form, location and scale of other activities in general in a zone or overlay, and may also be considered by some as having adverse effects, even if minor, on the values and attributes of an overlay. Accordingly, in my view if the intent for this policy is to set a framework for permitted activities, the policy should be reworded to make that clear. As it is currently titled “*Appropriate Infrastructure*” the implication is that anything not meeting this policy may be inappropriate infrastructure, which is not a helpful framework for assessing necessary infrastructure that may not be a permitted activity.
20. Policies INF-P4, INF-P8 and INF-P9 are interrelated and cover the framework for permitted activities (INF-P4), activities outside of overlays that will require resource consent where not otherwise permitted (INF-P8), and the relevant considerations for assessing adverse effects where resource consent is required (INF-P9).
21. Powerco has a submission on INF-P8 (83.35) seeking changes from the terminology “*minimises*” to “*avoided, remedied or mitigated*” and changes in regard to the clause on public access along the coastal marine area and water bodies. Powerco has also submitted in support of INF-P9 as notified (83.36). In my opinion the terminology *minimises* in INF-P8 is appropriate and the change sought in regard to public access is unnecessary, and accordingly I do not consider that those particular amendments are required. However, to properly clarify the relationship between INF-P4, INF-P8 and INF-P9, I consider that amendments are required to INF-P8 to give effect to the Powerco submission point on INF-P4, being that the functional and operational requirements for infrastructure are appropriately considered where a resource consent is required.

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<sup>1</sup> Para 836, 848 s42A report

<sup>2</sup> Para 842 s42A report

22. In particular, it is important that it is clear Policy INF-P8 is considered through the lens of INF-P9 so that where there are adverse effects, functional and operational needs of infrastructure are properly considered in assessing the reasonableness of the effects and its need. Cross referencing to other policies is already an established approach in other policies within the Infrastructure Chapter of the Proposed Plan (e.g. INF-P20 and INF-P22 in the notified provisions). Further, reference to compatibility with existing built form and the anticipated character and amenity values of the zone is not appropriate in my view given that network utilities often look different to structures in zones in general. For example, Figure 1 below shows a District Regulator Station located in the Wellington Town Belt (which I understand is also a Special Amenity Landscape in the Draft Wellington District Plan). Therefore, in the clauses in the policy referring to compatibility with existing built form and the zone's anticipated character and amenity values should instead make reference to minimising adverse effects on these matters, as is the terminology used in other clauses of the policy.



Figure 1: District Regulator Station, Wellington Town Belt

Source: Powerco

23. The s42A report recommends that the Powerco submission in regard to INF-P8 be rejected<sup>3</sup>, but has recommended changes in relation to other submissions. The Policy is also re-numbered from INF-P8 to INF-P10. Whilst I generally agree with amendments recommended in response to other submissions, I prefer the existing heading of the policy, rather than amending it to “*Potentially Acceptable Infrastructure*” which seems to negatively frame the policy and give an initial impression that it may

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<sup>3</sup> Para 886 s42A report



generally not be acceptable when not a permitted activity rather than positively framing it as being provided for where certain criteria are met.

24. In my opinion the Powerco submission on INF-P4 provides standing for the changes I recommend to Policy INF-P8. Accordingly, I recommend that the following additional amendments are made to Policies INF-P4 and INF-P8 (track change on s42A version of Policy – note Policy INF-P8 and INF-P9 cross references are renumbered as per s42A report to INF-P10 and INF-P11):

Proposed Relief

*INF-P4 ~~Appropriate~~ **Enabling** Infrastructure*

*Enable new infrastructure and the maintenance and repair, upgrading and removal of existing infrastructure **as a permitted activity**, including associated earthworks, that:*

- 1. Is of a form, location and scale that minimises adverse effects on the environment;*
- 2. For any new or upgrading of existing infrastructure, is compatible with the anticipated planned urban built environment, character and amenity values of the zone in which the infrastructure is located; and*
- 3. For any maintenance and repair, or removal of existing infrastructure in any specified Overlay, it is of a nature and scale that does not adversely impact on the values and characteristics of an area identified in SCHED7 – Significant Natural Areas, or the identified values and characteristics of any other specified Overlay that it is located within.*

*INF-P10 **Provide for Regionally Significant Infrastructure and other Infrastructure outside of Overlays** ~~Potentially acceptable infrastructure~~*

***Where not enabled as a permitted activity**, ~~Provide~~ for Regionally Significant Infrastructure and other infrastructure, other than the National Grid, where, **having regard to INF-P11**, it can be demonstrated that the following matters can be achieved:*

- 1. **Any adverse effects on** ~~Compatibility with~~ the site, existing built form and landform **are minimised**;*
- 2. **Any adverse effects on** ~~Compatibility with~~ the anticipated character and amenity values of the zone it is located in **are minimised**;*
- 3. Any adverse effects on amenity values are minimised, taking into account:*

- a. *The bulk, height, size, colour, reflectivity of the infrastructure;*
  - b. *Any proposed associated earthworks;*
  - c. *The time, duration or frequency of any adverse effects; and*
  - d. *Any proposed mitigation measures;*
4. *Any adverse effects on the health, wellbeing and safety of people, communities and the environment, including nuisance from noise, dust, odour emissions, light spill and sedimentation are avoided, remedied or mitigated;*
  5. *Any adverse effects on the natural character and amenity of water bodies, the coast and riparian margins and coastal margins are minimised;*
  6. *Public access to and along the coastal marine area and water bodies is maintained or enhanced;*
  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.*

25. I have discussed suitable ways to address these policies with planning colleague Mr Tom Anderson who is providing planning evidence on behalf Chorus, Spark and Vodafone as it is more helpful to the commissioners if there is a joint approach to the same provisions from infrastructure providers, and I understand he is recommending similar amendments for the same reasons to give effect to submissions made by those submitters on the same provisions.

26. Whilst Powerco sought retention of Policy INF-P9 as notified, in my opinion the changes recommended in the s42A report (renumbered as INF-P11) which are primarily related to readability are appropriate.

### ***Upgrades and New Infrastructure in Significant Amenity Landscapes Policy INF-P21***

27. Powerco's submission on INF-P21 (83.43) sought changes to the policy to recognise that where new infrastructure is installed it may only be possible to minimise adverse effects due to technical and /or operational constraints. The amendments sought introduced terms "*as far as reasonably practicable*" in regard to avoiding, remedied and

mitigating adverse effects, and in regard to the identified characteristics and values of special amenity landscapes, that these are maintained “*to the extent practicable*”.

28. The s42A report recommends that the submission be rejected on the basis it will reduce the directiveness of the policy and subsequently the effectiveness and efficiency of the interpretation and implementation of the policy<sup>4</sup>. No changes to the notified policy are proposed in regard to submissions by other parties, although it is renumbered as INF-P22 in the s42A report.
29. The intent of the submission to ensure practical considerations relating to functional and operational constraints are considered in determining if particular works are justified in a Significant Amenity Landscape (SAL), noting that these warrant a lesser level of protection than an Outstanding Natural Landscape or Feature, or areas of Outstanding Natural Character. The level of effects on the values and attributes of a SAL will need to be weighed against the need for infrastructure in any particular location within a SAL.
30. As drafted, I have a concern that there is an internal inconsistency as to how the policy is drafted. Within Clause 1, on the one hand the policy requirement is to avoid significant adverse effects and avoid, remedy or mitigate other adverse effects, while on the other had there is a requirement to maintain the identified characteristics and values of the SAL described in SCHED 10. If a minor adverse effect (which is not significant) is necessary due to operational and functional need, I am unsure if this meets the test to *only allow* upgrades and new infrastructure that maintain the characteristics and values of the SAL – i.e. if it has any adverse landscape effect in a SAL, does this become a proxy avoid policy?
31. I acknowledge that Objective 18 of WRPS seeks to identify the region’s special amenity landscapes and that the values that contribute to the amenity of the quality of the environment are maintained or enhanced. The more specific direction given in Policy 28 of the WRPS requires district and regional plans to manage special amenity landscape values. The explanatory text makes it clear that Policy 28 is not intended to prevent land use change but rather ensure change is carefully considered and is appropriate in landscapes identified in accordance with Policy 27<sup>5</sup>:

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<sup>4</sup> Para 934, 936 s42A report,

<sup>5</sup> p109 RPS

Policy 28 is not intended to prevent land use change, but rather to ensure that change is carefully considered and is appropriate in relation to the landscapes that may be identified in policy 27.

Proposed Relief

32. I have recommended some minor changes to Policy INF-P21 to ensure there is still some scope for infrastructure to be located in SALs where appropriate:

*INF-P24 **22** Upgrades to and new infrastructure in special amenity landscapes*

*Except as provided for by INF-P6 and INF-P7, only allow for upgrades to existing infrastructure and for new infrastructure within Special Amenity Landscapes where:*

1. *Any significant adverse effects are avoided, and any other adverse effects are avoided, remedied or mitigated ~~and~~ **on** the identified characteristics and values of the Special Amenity Landscapes described in SCHED10 – Special Amenity Landscapes ~~are maintained~~; and*
2. *There is an operational need or functional need that means the infrastructure's location cannot be avoided;*
  - a. *Grouping or dispersing structures;*
  - b. *Undergrounding; and*
  - c. *Locations that reduce visibility.*
3. *The design methods used minimise the adverse visual effects of the infrastructure, including:*
  - a. *Landscaping and screening;*
  - b. *Design, location, height, bulk and colour;*
  - c. *Any light spill effects;*
  - d. *Reflectivity effects; and*
4. *The scale of earthworks and indigenous vegetation removal is minimised and any exposed areas are treated to minimise adverse off-site effects.*

**Upgrades to Gas infrastructure on heritage sites - rules**

33. Powerco's submissions on Rule INF-R6 (83.52) and related standard INF-S2 (83.62) sought amendments to allow for upgrades of existing gas lines, valves and meters on

the outsides of buildings as a permitted activity in regard to scheduled heritage buildings and sites, and sites or areas of significance to Māori.

34. INF-R6.1 currently provides for upgrades to antennas (including on heritage buildings) as a permitted activity (subject to meeting the standards in INF-S2). The submissions sought the addition of gas lines, regulators, meters, valves or meter covers to the list of permitted upgrades subject to meeting the standards in INF-S2. A change is sought to INF-S2 by including an allowance to increase gas meter covers by 30% to enable the upgrade of customer connections. Mr Scholfield's evidence sets out the general nature of gas customer connections and the circumstances and extent to which they may require upgrading.
35. The s42A recommendation is to reject these submissions. The principal reasons given are complexity of plan provisions, potential to adversely affect heritage values, and in regard to gas lines in the ground, the potential for earthworks to adversely affect archaeological sites of significance to Māori<sup>6</sup>.
36. Figure 2 below shows photos of a typical Powercat gas regulator and related equipment on a building (with and without cover).



*Figure 2: Photos of typical Powerco gas customer connection equipment*

*Source: Powerco*

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<sup>6</sup> Paras 1001, 1006-1007 and 1010

37. If equipment of this nature is already located on a building in a heritage or cultural overlay, then in my opinion a minor change to the size of the equipment in an equivalent location will have negligible adverse effects and would be unnecessary regulation to require a resource consent for work that will have a similar overall effect on the values and attributes being protected by the overlay, particularly given that upgrades to antennas are already enabled. On this basis, I support the relief sought by Powerco to Rule INF-R6.1 and INF-S2, with some minor edits from the submission suggested for clarity in regard to INF-S2.4 given that not all gas meter/regulator equipment is covered and the initial relief sought only referred to the extent of increase of the size of a cover.
38. In regard to potential effects on archaeology, if the site includes a pre-1900 building or is a site of cultural significance where there could be in-ground archaeology, it will already be subject to an archaeological authority under the Heritage New Zealand Pouhere Taonga (HNZPT) Act 2014, and would generally require an archaeological authority, and accordingly this would appear to be a duplication of regulation.
39. If the commissioners were to have any residual concerns regarding archaeology, this could be resolved by linking the rule to standard INF-S16 which currently limits earthworks in these overlays to previously disturbed land.

Proposed Relief

40. Adopt the relief sought by Powerco as follows:

INF-R6

*Upgrading of existing infrastructure which is located on or within a heritage item, heritage setting, or historic heritage site identified in SCHED2 - Historic Heritage Items (Group A), SCHED3 - Historic Heritage Items (Group B), SCHED4 - Historic Heritage Sites or sites and areas identified in SCHED6 - Sites and Areas of Significance to Māori*

*All Zones*

*1. Activity status: Permitted*

*Where:*

*a. The infrastructure is an antenna; and*

*b. **the infrastructure is a gas line, regulator, meter, valve or meter cover; and***

*c. Compliance is achieved with INF – S2*

## INF-S2

*Upgrading – In relation to historic heritage and sites and areas of significance to Māori*

1. *The colour of a replacement antenna must be the same colour as the building or structure*
2. *A replacement panel antenna must not increase the face area as of 28 August 2020 by more than 20%*
3. *A replacement dish antenna must not increase in diameter as of 28 August 2020 by more than 20%*
4. **Any replacement gas meter or regulator equipment, the largest cover face or equivalent front elevation area where not covered, must not increase in size by more than 30%.**

### **Gas network customer connections – rules**

41. Powerco has made submissions in relation to customer connections including equipment attached to buildings. Rule INF-R19 provides for customer connection lines outside of overlays (which by definition includes telecommunications and electricity), but does not provide for gas customer connections. Whilst the Powerco submissions are seeking relief on other provisions to achieve a permitted allowance for customer connections, in my opinion a cleaner solution would be to provide for gas connections under INF-R19. In my opinion the various submissions provide scope to address this in Rule INF-R19.
42. Powerco submission 83.56 requests that Rule INF-R13 providing for infrastructure within buildings be amended to also provide for infrastructure on buildings (to provide for gas infrastructure associated with customer connections). The recommendation in the s42A report is to reject this submission primarily on the basis that the rule is targeted at infrastructure within buildings and the relevant standards do not control external equipment<sup>7</sup>. In my opinion this is best addressed through a bespoke rule for customer connections such as an amendment to Rule INF-R19.
43. Powerco submission 83.70 requests that standard INF-S11 relating to infrastructure in riparian and coastal margins is amended to exclude underground infrastructure. The s42A report recommends that this submission be rejected on the basis that the rule excludes Infrastructure in road and rail corridors and along bridges, and as such is

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<sup>7</sup> Paras 1017-1021 s42A report.

unnecessary<sup>8</sup>. I note that customer connections are outside of roads and rail corridors. If these are addressed in Rule INF-R19 they will not be subject to INF-S11 which is consistent with how underground telecommunications and electricity customer connections are addressed. Earthworks standards INF-s14 and s15 will still apply to gas customer connections enabled under Rule INF-R19.

Proposed Relief

44. Amend Rule INF-R19 (renumbered in s42A report tracked provisions as INF-R20) as follows:

*INF-R20 Customer connection lines **and gas customer connections** outside of any specified Overlay*

*All zones 1. Activity status: Permitted*

*Where:*

- a. The connection does not include a new tower;*
- b. The connection does not exceed three additional poles;*
- c. The diameter of conductors, lines or cables does not exceed 30mm;*  
*and*
- d. Gas connections are underground aside from equipment attached to a customer building; and***
- d. Compliance is achieved with:*
  - i. INF-S14; and*
  - ii. INF-S15*

**Upgrading existing infrastructure in SNAs**

45. Mr Scholfield's evidence sets out existing examples in Porirua City where existing gas lines traverse SNAs. These gas lines may from time to time require upgrading.
46. Rule INF-R39 provides for the upgrading of infrastructure other than roads, walkways, cycleways and shared paths as a restricted discretionary activity in scheduled Significant Natural Areas (SNAs) subject to compliance with standards. Powerco submission 83.62 sought that upgrades to infrastructure be provided for as a permitted activity where they have little impact on SNAs. Rule INF-R39 already requires compliance with several standards including INF-S1 (setting the parameters for upgrading), INF-S18 (extent of vegetation alteration provided for in SNAs) and INF-S20

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<sup>8</sup> Paras 1080-1082 s42A report.



(extent of earthworks in SNAs). Where these standards, and in particular INF-S18 and INF-S20 specifically targeted at work in SNAs are met, it is unclear why restricted discretionary activity consent would still be required to undertake upgrades to existing infrastructure.

47. The s42A recommendation is to reject the submission<sup>9</sup>. The reporting officer considers that restricted discretionary status is appropriate for upgrades of Infrastructure in SNAs as this gives effect to Policy 24 of the WRPS by ensuring that potential effects of the upgraded infrastructure on indigenous biodiversity are carefully considered. In my opinion, protection of indigenous biodiversity values from inappropriate development can still be achieved by having a suitable standards framework for minor effects, with larger scale works (e.g., those not meeting the standards) being subject to a consent process. Policy 24 of the RPS is set out below for reference:

**Policy 24: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans**

District and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development.

48. In my opinion, there should be an enabling provision for upgrading of at least *regionally significant infrastructure* in SNAs subject to suitable standards to provide an appropriate balance between the enabling policy framework for infrastructure subject to having a scale of effects compatible with identified values and characteristics of SNA overlays. By way of comparison with other jurisdictions, I note there are permitted allowances for such in the Auckland Unitary Plan.
49. To ensure consistency with national instruments and the current ECO policy framework (e.g. ECO-P11 and ECO-P12), the rule can also be amended to not provide for upgrading as a permitted activity in any wetlands, or in SNAs in the Coastal Environment where New Zealand Coastal Policy Statement 2010 Policy 11(a) may apply.

*Proposed Relief*

50. Amend Rule INF-R39 to provide for upgrading of regionally significant infrastructure in the SNA overlay, outside of wetlands and the Coastal Environment, as a permitted

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<sup>9</sup> Paras 559-563 s42A report.

activity subject to meeting standards currently referenced in the rule as notified (INF-S1, INF-S15, INF-S18 and INF-S20).

***Setbacks for cabinets and other similar infrastructure***

51. Standard INF-S13 requires a 2m setback from any site boundary, where not located within a road or rail corridor, for small scale infrastructure equipment such as cabinets, electric vehicle charging stations, temporary generators and self-contained power units etc. Powerco uses a range of cabinets associated with its gas network. Where located on land outside of a road or rail corridor, it may be most efficient for utilisation of that site to locate any above ground infrastructure towards a boundary. An example of small Powerco gas network cabinets is shown in Figure 3 below.



*Figure 3: Powerco cabinets and SCADA equipment, 160 Tory St Wellington*

*Source: Powerco*

52. Powerco submission 83.71 sought amendments to the 2m set back such that it only applies were adjoining a sensitive activity unless screened from view, and clarification in the rule that it does not apply to underground infrastructure or with a boundary with a road. I understand the intent of reference to a sensitive activity is for sensitive zones such as residential zones.

53. The recommendation in the s42A report is to accept this submission in part<sup>10</sup> by adding clarity in the standard that it only applies to above ground infrastructure. I support this amendment. However, no amendment to the 2m setback from any site boundary is recommended primarily on potential amenity grounds including ensuring there is adequate area along road boundaries for landscaping, and the potential scale of structures (4m high and 15m<sup>2</sup> enabled in standard INF-S9) which may adversely affect the amenity of adjacent sites if sited too close.
54. In my opinion, it is not justified to require a 2m set back from all site boundaries across all zones where this would be otherwise more stringent than the zone in general – e.g. a local scale commercial zone with no front yard setback, or a side or rear boundary in a commercial or industrial environment where there may be no general set back required. Whilst some of this equipment may generate noise, this is already controlled by a requirement to meet relevant zone noise standards.
55. In my opinion, Powerco’s submission can be given effect to by amending the rule such that the required setback in s13 is 2m or the relevant zone setback including any height in relation to boundary control from that boundary (to manage the interface with residential zones in particular).

Proposed Relief

56. Amend Standard INF-s13 (s42A report tracked version) as follows:

*INF-S13      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 **located above ground** not otherwise listed, which is not located within the road reserve or rail corridor.*

*All zones      1. It must not be located within **either** a 2m setback from any site boundary, **or may be sited closer than 2m where located in accordance with any setback specified in the relevant zone and where relevant any height in relation to boundary control from the boundary to which the setback applies.***

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<sup>10</sup> Paras 1085-1093 s42A report.

## **Earthworks standards**

57. Powerco has made a number of submissions in relation to earthworks standards. These include:
- a) 83.72 – amend standard s14.2 to exempt augered holds from the cut and fill depth standard and apply the exemptions to aboveground and underground infrastructure.
  - b) 83.73 – amend standard s14.3 to exempt directional drilling and augered holes from the 1 horizontal setback from boundaries standard and apply the exemptions to aboveground and underground infrastructure.
  - c) 83.74 - amend standard s14.4 to apply the trenching standard to both aboveground and underground infrastructure and increase the permitted trench depth within 1m of a site boundary to 1.5m.
  - d) 83.75 – amend standard 15.1 to exempt directional drilling and augered holes from the earthworks area limits and apply the exemptions to aboveground and underground infrastructure.
  - e) 83.78 – amend standard s16 such that earthworks associated with customer connections are enabled in the Historic Heritage and Sites and Areas of Significance to Māori overlays.
58. The s42A report recommends that the relief sought in submission 83.72, 83.73, 83.74 and 83.75 be accepted in part, and largely adopts the relief as sought in the Powerco submissions<sup>11</sup>.
59. Whilst the word “*underground*” is struck out from clause s14.2(a) and 15.1 in the s42A track change version of the rules as requested by submissions 83.72 and 83.75, it is not struck out from s14.3(a) as requested in submission 83.73<sup>12</sup>. There is nothing in the commentary of the s42A report indicating that this was intentional and as such it may simply be a drafting error. In my opinion, the word *underground* should be struck out of s14.3(a) in the same manner as 14.2(a) as earthworks may be required for both underground infrastructure and above ground infrastructure.
60. In regard to submission 83.74, whilst the requested relief by Powerco is adopted, an additional clause has been recommended that trenching undertaken within 1m of a site boundary not exceed 1.5m in depth (sought by Powerco) or be located within 1.5m of

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<sup>11</sup> Paras 1102 s42A report.

<sup>12</sup> Para 1101 s42A report.

a foundation of a building or structure on an adjacent site. The commentary of the s42A report confirms that both requirements need to be met<sup>13</sup>. This additional clause is intended to protect the buildings or structures on adjacent sites. As it could be unnecessarily onerous to establish where the underground extent of a foundation may be on an adjacent site particularly for shallow trenching not exceeding 1m depth, in my opinion the rule should provide two options where within 1m of a boundary. Either 1m in depth (as notified), or 1.5m in depth and not within 1.5 of the extent of any foundation on an adjacent site.

61. The s42A report recommends that the relief sought in submission 83.78 be rejected<sup>14</sup>. The submission sought more flexibility for new customer connections – i.e. not needing to be sited immediately over existing infrastructure where the ground has previously been disturbed. The s42A commentary notes that earthworks for new customer connections could have significant adverse effects and therefore enabling these (other than as already provided for in s16.1) is not appropriate.
62. For pre 1900 heritage buildings, the provision of the HNZPT Act apply in regard to archaeology, whilst for post 1900 buildings, I am unclear what significant adverse effects an underground customer connection would have on the heritage values of a site. This would not enable any physical changes to any heritage structures, just trenching and reinstatement from the road to any structure (attachments to a heritage structure are separately governed by the rules). Accordingly, in my view within historic heritage overlays it is unnecessary to require any service trenches to be directly over existing services. Provision of customer connections to heritage buildings to enable their productive use can in my view contribute to their upkeep and protection.
63. In regard to Sites and Areas of Significance to Māori and the cultural effects, there may be other areas on these sites that have been previously disturbed including driveways for example. On this basis I believe that a modified relief to that sought by Powerco would strike a suitable balance between protecting the values and attributes of these overlays while also enabling provision for customer connections to these sites.

### *Proposed Relief*

#### *INF-S14 Earthworks – Slope, height, depth and location*

#### *All Zones*

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<sup>13</sup> Para 1100 s42A report.

<sup>14</sup> Paras 1123, 1128 s42A report.

- ....
2. Earthworks must not exceed 1.5m in cut height or fill depth, except:
    - (a) as per s42A recommended version
  3. Earthworks must not be located within 1.0m of the site boundary, measured on a horizontal plane except:
    - a. Where the earthworks are for trenching, **directional drilling or augured holes** for the construction, operation, maintenance and repair, removal or upgrade of ~~underground~~ infrastructure; or
  4. Trenching for the construction, operation, maintenance and repair, removal or upgrade of ~~underground~~ infrastructure undertaken within 1.0m of a ~~the~~-site boundary must not:
    - i. ~~Exceed 1.0m in depth; or~~
    - ii. **Exceed a 1.5m depth provided it is not undertaken within 1.5m of a foundation of a building or structure on any adjacent sites.**

.....

INF-S16 Earthworks – In relation to Historic Heritage and Sites and Areas of Significance to Māori

All Zones

1. The earthworks **must not exceed** ~~are limited to trenching less than 600mm in width.~~
2. **In Sites and Areas of Significance to Māori the earthworks must be located directly above existing underground infrastructure or within existing paths, driveways or parking areas subject to previous ground disturbance.**

## Appendix A: s42A Recommendations on Powerco Submissions Accepted by Powerco

Note, where a Powerco submission requested a provision be retained as notified, there is no recommendation/commentary paragraph in the s42A report to provide a specific reference to.

Provisions below refer to notified provision references

Definition – Regionally Significant Infrastructure (83.9 – s42A 732)  
Definition - Trenching (83.12 – s42A 749)  
Definition – Upgrading (83.13 – s42A 758)  
FC-01 (83.15 – no commentary in s42A but no change tracked in provision)  
FC-03 (83.16 Strategic Directions s42A 38)  
FC-04 (83.17 Strategic Directions s42A 44)  
INF Infrastructure Introduction (83.23 – s42A 5)  
INF-O1 (83.24 - s42A 773)  
INF-O2 (83.25 - s42A 778)  
INF-O3 (83.26 - s42A 790)  
INF-O5 (83.27 - s42A 804)  
INF-P1 (83.28 – s42A 813)  
INF-P2 (83.29 – s42A 820)  
INF-P3 (83.30 – s42A 827)  
INF-P5.4 (83.32 – s42A 862)  
INF-P5.6 (83.33 – s42A 862)  
INF P5.7 (83.34 – s42A 862)  
INF P9 (83.36 – s42A 896)  
INF-P11 (83.37 – s42A 906)  
INF-P16 (83.38 – s42A 911)  
INF-P17 (83.39 – s42A 915)  
INF-P18 (83.40 – s42A 919)  
INF-P19 (83.41 – s42A 925)  
INF-P20 (83.42 - missing in s42A but provision retained as notified as requested)  
INF-P22 (83.44 – s42A 945)  
INF-P23 ( 83.45 – s42A 957)  
INF-P26 (83.46 – s42A no commentary in s42A but retained as requested)  
INF-R1 (83.47 – s42A 971)  
INF-R2 (83.48 – s42A 977)  
INF-R3 (83.49 – s42A 985)  
INF-R4 (83.50 – s42A 990)  
INF-R5 (83.51 – s42A 1000)  
INF-R7 (83.53 - s42A no commentary in s42A but proposed edits acceptable to Powerco)  
INF-R8 (83.54 - s42A 1015)  
INF-R11 (83.55 – s42A no commentary in s42A but proposed edits acceptable to Powerco)  
INF-R13 (83.56 – s42A 1021)  
INF-R14 (83.57 – s42A no commentary in s42A but retained as requested)  
INF-R15 (83.58 – s42A 1026)  
INF-R20 (83.59 – s42A no commentary in s42A but proposed edits acceptable to Powerco)  
INF-R24 (83.60 – s42A 1032)  
INF-R26 (83.61 – s42A no commentary in s42A but retained as requested)  
INF-R40 (83.63 – s42A 1045)  
INF-S1.1 (83.64 – s42A no commentary in s42A but retained as requested)  
INF-S.11 (83.65 – s42A no commentary in s42A but retained as requested)  
INF-S.12 (83.66 – s42A 1060)  
INF-S8 (83.68 – s42A 1074)

INF-S9 (83.69 – s42A no commentary in s42A but retained as requested)  
INF-S11(83.70 – s42A 1082 – accepted on basis of requested changes to INF-R19)  
INF-S14.2 (83.72 – s42A 1102, 1107)  
INF-S14.6 (83.75 – s42A 1102)  
INF S14 – exemption for *minor earthworks* (83.76 – s42A 1103)  
INF-S15 (83.77 – s42A 1118)  
INF-S18 (83.79 – s42A no commentary in s42A but proposed edits acceptable to Powerco)  
INF-S19 (83.80 – s42A 1134)  
INF-S20 (83.81 – s42A no commentary in s42A but retained as requested)  
INF-S21 (83.82 – s42A no commentary in s42A but retained as requested)  
INF – Table 2 – Street Trees (83.83 – s42A 238, 240)