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Our ref: 1413453

31 March 2015

Chloe Smith
Environmental Policy Analyst
Hutt City Council
By email

Dear Chloe

SCOPE OF SUBMISSIONS - PLAN CHANGE 38 AND PLAN CHANGE 34

- 1 You have sought advice on the scope of submissions on proposed Plan Change 38 (**PC38**) and proposed Plan Change 34 (**PC34**) and whether the submission points specified, and the related relief sought, are 'on the plan change'.
- 2 The relevant submitters and submission points are:
 - 2.1 **Transpower New Zealand Limited (Transpower)**
 - 2.1.1 Submission points 4.7, 4.30 (on PC38) and 6.29, 6.44 and 6.45 (on PC34);
 - 2.1.2 Although not specifically listed within the instruction, as submission points 4.4, 4.13 and 4.11 (on PC38) are highlighted within the summary table provided, we have also considered those submission points.
 - 2.2 **Wellington Electricity Lines Limited (WELL)**
 - 2.2.1 Submission points 6.1, 6.4, 6.12, 6.13, 6.16 and 6.21 (on PC38) and 9.1 and 9.4 (on PC34)
 - 2.3 **Powerco Limited (Powerco)**
 - 2.3.1 Submission point 7.25 (on PC38).

SUMMARY

- 3 To be considered to be on a plan change, a submission must:

- 3.1 be within the ambit of the plan change, by addressing a change to the status quo governed by the plan change; and
 - 3.2 not create a real risk that persons directly or potentially directly affected by the additional changes proposed in the submissions have been denied an opportunity to respond to the changes.
- 4 Applying those tests, in our view the following submission points are not on the plan changes:
- 4.1 Transpower - 4.7, 4.13 (PC38) and 6.45 (PC34).
 - 4.2 WELL - 6.1, 6.4, 6.12, 6.13, 6.16, (PC38) 9.1 and 9.4 (PC34).
 - 4.3 Powerco - 7.25 (PC38).
- 5 Although the balance of the submissions reviewed are on the plan change, we make no comment on whether the substance of the changes sought should be accepted or rejected by the Councils.
- 6 We now set out the analysis for these conclusions.

'ON' A PLAN CHANGE

- 7 Schedule 1, clause 6 of the Resource Management Act 1991 (**RMA**) confirms that any person can make a submission *on* a plan change. What this means is guided by case law.
- 8 We have reviewed the Simpson Grierson letter dated 30 June 2014 and agree that it accurately summarises the law. The leading case in the area is *Palmerston North City Council v Motor Machinists Ltd* [2013] NZRMA 519, which endorses the earlier case of *Clearwater Resort Limited v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003 (HC).
- 9 Those cases establish a two limb test to determine whether a submission is on the plan change or not:
- 9.1 whether the submission addresses a change to the status quo advanced by the plan change, causing it to be within the ambit of the plan change; and
 - 9.2 whether there is a real risk that persons affected or potentially affected directly by the additional changes proposed in the submission have been denied an opportunity to respond to the changes.
- 10 Both limbs need to be met for a submission to be 'on' a plan change. It is not enough for a submission to be broadly in connection with the plan change, it must be 'on' that plan change.
- 11 We do not repeat the detail of the Simpson Grierson opinion.

PLAN CHANGE 38

- 12 PC38 is a plan change proposed by Upper Hutt City Council (**UHCC**). PC38:¹
- reviews the current provisions relating to network utilities and introduces new provisions relating to renewable energy generation.
- The purpose of the review is to consider the provisions in the District Plan and look into necessary amendments in order to:
- give effect to and reflect:
 - o the National Policy Statement on Renewable Energy Generation;
 - o the National Environmental Standard on Electricity Transmission Activities; and
 - o the National Environmental Standard on Telecommunication Facilities.
 - achieve better consistency in how utilities are managed between the Councils in the wider region;
 - give effect to the Regional Policy Statement; and
 - provide for co-location of utilities.
- 13 The objective and aims of PC38 are to:²
- 13.1 review and update existing network utility provisions and introduce new renewable energy generation provisions that:
- 13.1.1 reflect best practice;
 - 13.1.2 provide greater consistency between district plans across the region; and
 - 13.1.3 best serve and reflect public and stakeholder expectations and requirements;
- 13.2 avoid unnecessary duplication between District Plan provisions and other legislation or regulations;
- 13.3 give effect to the National Policy Statement on Renewable Energy Generation (**NPSREG**);
- 13.4 give effect to the Wellington Regional Policy Statement (**RPS**) ; and
- 13.5 amend the District Plan as required so as not to duplicate or conflict with the National Environmental Standard on Electricity Transmission Activities

¹ Taken from the PC38 public notification document.

² Taken from the PC38 public notification document.

(**NESETA**) and the National Environmental Standard on Telecommunication Facilities (**NESTF**).

- 14 Within the PC38 material, it is made clear that PC38 is not addressing the National Policy Statement on Electricity Transmission (**NPSET**). That is because the NPSET was considered through Plan Change 32, where the District Plan was amended to give effect to the NPSET. The NPSET has already been considered and addressed by the UHCC and therefore the UHCC has stated that it does not need to be considered again through PC38.
- 15 The general amendments to the District Plan proposed by PC38 can be summarised as follows:
 - 15.1 Amendments to existing Chapters 16 (Utilities), 18 (Residential Zone Rules), 19 (Rural Zone Rules), 20 (Business Zone Rules), 21 (Open Space Zone Rules), 22 (Special Activity Zone Rules), 28 (Southern Hills Overlay Area and Protected Ridgeline Rules), 30 (Utilities Rules) and 35 (Definitions).
 - 15.2 Insertion of two new Chapters, being Chapter 16A (Renewable Energy Generation) and Chapter 30A (Rules for Renewable Energy Generation).
- 16 PC38 forms part of the UHCC's rolling review of its District Plan. It was notified in conjunction with PC34, which is a Hutt City Council (**HCC**) plan change.

TRANSPOWER'S SUBMISSION ON PC38

Relief sought

- 17 Transpower's submission on PC38 seeks to ensure that the NPSET is given effect to. The relief sought is that PC38 is approved subject to appropriate amendments that ensure:
 - 17.1 full effect is given to the NPSET;
 - 17.2 effect is given to the policies of the RPS;
 - 17.3 recognition is given to the policies of the RPS;
 - 17.4 recognition of the NESETA;
 - 17.5 provide an appropriate policy framework for the protection of the National Grid; and;
 - 17.6 provide for the on-going operation, upgrading and development of existing National Grid infrastructure.
- 18 The specific submission points you have asked us to consider are addressed below.

Analysis

Submission point 4.4

19 Submission point 4.4 seeks to amend the explanation to issue 16.2.2 by inserting 'including earthworks' as follows:

Inappropriate subdivision, use and development including earthworks in the vicinity of regionally significant network utilities ...

20 Transpower has sought this amendment so that the potential adverse effects of earthworks associated with subdivision, use and development are recognised.

21 PC38 proposes to amend Issue 16.2.2 by replacing the existing issue with a new issue. Transpower is seeking more specificity to the explanation. It could be argued that as worded the explanation already covers the effects of earthworks and therefore the amendment proposed by Transpower is not changing the scope of the proposed amendment.

22 The submission point addresses the change to the status quo proposed by PC38. As it is not a change to the scope of the amendment proposed by PC38 we do not consider it to create concerns with participation by the public.

23 Submission point 4.4 is on PC38.

Submission point 4.7

24 Transpower's submission point 4.7 seeks to amend objective 16.3.2 in order to better give effect to the NPSET. However, objective 16.3.2 is not proposed to be amended by PC38. The objective clearly intends to give effect to the NPSET. It was likely included within the District Plan as a result of Plan Change 32, or was at least considered by Plan Change 32, which sought to amend the district plan to give effect to the NPSET.

25 PC38 expressly states that it is not addressing the requirements of the NPSET, as Plan Change 32 has already done that. Further, objective 16.3.2 was not proposed to be amended by PC38, was not addressed in the section 32 assessment and clearly relates to the requirements of the NPSET. Therefore we consider that this submission is outside the ambit of the plan change.

26 There is a real risk that persons affected or potentially affected directly by the additional changes proposed in this submission have been denied an opportunity to respond to the changes as they were specifically stated to be outside the scope of PC38 in its notification material.

27 Finally, the High Court in *Motor Machinists* confirmed the position that just because a provision is included in the notification material does not mean that its wording is up for

reconsideration.³ The status quo needs to have been amended for it to be within the realm of what can be submitted on.

28 Submission point 4.7 is not on PC38.

Submission point 4.30

29 PC38 proposes to significantly amend, and in substance replace, the existing activity table. Submission point 4.30 proposes amendments to the new activity table.

30 From a review of the amendments proposed by PC38 and the relief sought by Transpower in respect of the various activities, it seems that Transpower is not seeking a change to the activity statuses of the activities but a change in how the activities are identified within the table. This is considered to be 'on' the plan change.

31 The submission point seeks to address a change to the status quo but does not broaden its scope. It is within the ambit of PC38, and due to the fact that the effect of the activity table is not changed, it does not create concerns with public participation.

32 Submission point 4.30 is on PC38.

Submission point 4.11

33 Submission point 4.11 seeks to amend policy 16.4.2 to:

Recognise the national, regional and local benefits of, and protect regionally significant network utilities.

34 It also seeks to amend the explanation to the policy by inserting additional text to the final bullet point:

Regionally significant network utilities provide benefits within the City, regionally and nationally. There are benefits that are to be considered in respect of any matter relating to regionally significant network utilities. Some of the benefits are:

- That people and goods can travel to, and from around the City and Region efficiently and safety;
- That community well-being and public health and safety is maintained through the provision of essential services including supply of potable water and the collection, transfer and appropriate treatment of sewage and stormwater; and
- People have access to electricity and gas to meet their needs, and the security of supply of these services can be maintained or improved.

35 PC38 replaces the existing policy with an entirely new policy and explanation.

36 Whether this policy is 'on' the plan change is a question of degree. Both of the amendments seek to increase the scope of the policy from recognition of regionally significant network

³ *Motor Machinists* at paragraph [51].

utilities to recognition *and protection* of those utilities. The question is whether the change to the policy takes it beyond the ambit of what was notified to such an extent that people who had not submitted would have submitted.

37 As PC38 not only amends policies in relation to recognising the importance of significant infrastructure, but provisions in respect of avoiding adverse effects on that infrastructure (ie protecting it) we consider that the submission could be said to be within the ambit of PC38.

38 Submission point 4.11 is on PC38.

Submission point 4.13

39 Submission point 4.13 seeks to amend policy 16.4.7 by rephrasing it and requiring that subdivision and development are avoided in close proximity to electricity transmission lines, as opposed to requiring subdivision and development to be managed.

40 This is quite a significant shift in the meaning of the policy, as avoiding something is a far stronger requirement than managing that same thing.

41 Policy 16.4.7 is not to be amended by PC38. For the same reasons as set out above at paragraphs 24 to 27 in respect of submission point 4.7, we consider that this submission is not on PC38.

WELLINGTON ELECTRICITY LINES LIMITED'S SUBMISSION ON PC 38

Relief sought

42 WELL is seeking to include a new section within the Network Utilities chapter to address critical electricity lines and substations. The purpose of the new section is to provide for activities undertaken by WELL in respect of its sub-transmission distribution infrastructure, as it considers that these are currently not recognised within PC38 or the definition of regionally significant network utilities.

43 The specific submission points you have asked us to consider are addressed below.

Analysis

Submission points 6.1, 6.4, 6.12, 6.16 introduce a new concept of 'critical infrastructure'

44 WELL has sought the insertion of an entirely new concept (critical infrastructure) within the plan through a new definition, amendments to existing provisions to reflect that concept, new provisions and a new section within the network utilities chapter. Its submission is that its infrastructure is currently not provided for through the District Plan, PC38 or the NESETA (as that only relates to infrastructure owned by Transpower).

45 As WELL is seeking to introduce a new concept into the plan, and through new provisions, this is unlikely to be found to be on PC38. If such a concept and provisions were to be included, they would have been the subject of analysis in the section 32 report. One of the

examples given by the High Court in the *Motor Machinists* case as to whether a submission was within the ambit of the plan change (the first limb of the test) was that if the provision requires new section 32 analysis then it would not be within the ambit of the plan change.

46 We also consider it likely that there is a risk that people affected by the changes proposed have not had a proper opportunity to consider and be involved in the process in respect of those changes.

47 Submission points 6.1, 6.4, 6.12 and 6.16 are not on PC38.

Submission point 6.13

48 WELL's submission point 6.13 seeks to amended objective 16.3.2 to remove the reference to the National Grid in the explanation. As set out above in respect of Transpower's submission on this provision, at paragraphs 24 to 27, this provision and any amendments to it are outside the scope of PC38.

49 Submission point 6.13 is not on PC38.

Submission point 6.21

50 WELL's submission point 6.21 seeks to amend the existing rules in respect of consultation requirements for permitted and controlled activities. The relevant provisions are proposed to be inserted by PC38 and already relate to consultation with the owner and operator of regionally significant network utilities.

51 Further, given the similarities between WELL's infrastructure, and infrastructure included within the regionally significant network utilities definition, it is unlikely that submitters would have discerned a real difference. In any event, it may be that WELL's infrastructure falls within the definition of regionally significant and the existing provisions. There would be not be a real risk that allowing consideration of this submission point would remove the opportunity for participation in respect of this point.

52 Submission point 6.21 is on PC38.

POWERCO'S SUBMISSION ON PC 38

53 Powerco's submission seeks a number of amendments to PC38. You have specifically asked us to consider submission point 7.20. However, given the references you have provided, we anticipate that submission point 7.25 is the relevant matter. Please confirm if we have misunderstood this point.

54 Submission point 7.25 seeks to amend chapter 30 by consolidating all relevant rules from the city wide provisions contained elsewhere in the plan into the one chapter and to introduce new permitted activities across all zones for:

54.1 earthworks and vegetation trimming and clearance required to maintain the safe and efficient operation of network utilities;

- 54.2 earthworks and trenching undertaken by a network utility operator in the road reserve; and
 - 54.3 underground gas distribution and transmission pipelines and ancillary above ground equipment not affected by inundation within the 1% flood extent of the Hutt River, provided such works are not located on or within 5m of the Council's flood control structures.
- 55 Consolidation of existing provisions where no changes are made should fall within the ambit of PC38.
- 56 The insertion of new rules, relating to new matters not already addressed by the plan change or the existing provisions would be outside the ambit of PC38. A section 32 assessment would be required for the changes and affected parties may not have the opportunity to be involved.
- 57 Submission point 7.25, in respect of the new permitted activities proposed, is not on PC38.

PLAN CHANGE 34

- 58 HCC's PC34 proposes to bring the provisions for network utilities into line with the NPSET (which relates to the National Grid) and the RPS. This is proposed to occur through deleting and replacing the existing Utilities Chapter.
- 59 The Plan Change also proposes to give effect to the NPSREG by introducing a new chapter to the General Rules to provide for renewable energy generation.
- 60 It is part of a rolling review being undertaken by HCC.
- 61 The following matters are within the scope of PC34 :⁴
- 61.1 Chapters 16 and 30 of the District Plan, Utilities; and
 - 61.2 giving effect to:
 - 61.2.1 Objectives 9 and 10 and Policies 7, 8, 11, 39 and 58 of the RPS;
 - 61.2.2 the NPSET; and
 - 61.2.3 the NPSREG.
- 62 The following matters are out of the scope of PC34:⁵

⁴ Taken from the PC34 notification document.

⁵ Taken from the PC34 notification material.

- 62.1 giving effect to Objective 19, Natural Hazards, of the RPS;
 - 62.2 giving effect to the New Zealand Coastal Policy Statement; and
 - 62.3 amendments to any parking, noise, traffic or subdivision standards in the District Plan.
- 63 Its scope is different to that of PC38, and in particular PC34 addresses the NPSET, which PC38 has specifically excluded.

TRANSPOWER'S SUBMISSION ON PC34

Relief sought

- 64 Transpower's submission is similar to its submission on PC38. It is generally seeking amendments to PC34 to better recognise and provide for its infrastructure and to better give effect to the NPSET and NESETA.

Analysis

Submission point 6.29

- 65 Submission point 6.29 proposes amendments to the new activity table that PC34 proposes to insert into the new chapter.
- 66 From a review of the amendments proposed by PC34 and the relief sought by Transpower in respect of the relevant activities, it seems that Transpower is not seeking a change in activity statuses of the activities but a change in how the activities are identified within the table. The submission point is within the ambit of PC34.
- 67 Due to the absence of a substantive change, it is unlikely that affected persons would have missed an opportunity to become involved in the process.
- 68 This submission point is considered to be on PC34.
- 69 This is the same conclusion as reached above in respect of Transpower's submission on the activity table in PC38.

Submission point 6.44

- 70 Transpower's submission point 6.44 seeks to amend the matters of discretion proposed by PC34. The relief sought is mostly a re-phrasing of the matters for discretion proposed by PC34 but includes some changes which Transpower states are in accordance with NPSET.
- 71 Given that PC34 is seeking to replace the existing requirements and matters of discretion with a new list, and as the amendments proposed by Transpower are generally the same or similar in substance to those proposed and are proposed for the purpose of implementing NPSET (which is a key objective of PC34), we consider this submission to be on PC34.

72 As PC34 already proposed to amend the matters for discretion, there is no real risk of a failed opportunity to become involved is present.

73 Submission point 6.44 is on PC34.

Submission point 6.45

74 Transpower's submission point 6.45 seeks to amend the rules relating to activities in the National Grid Yard by inserting a new permitted activity, replacing the current restricted discretionary rule and inserting new matters for discretion.

75 The amendments proposed change quite significantly what activities can be undertaken and the applicable conditions for those activities within the National Grid Yard.

76 We would have expected a section 32 analysis to address such a change. Therefore, and on the same basis as set out above, the proposed amendments are not considered to be on PC34.

77 Submission point 6.45 is not on PC34.

WELL SUBMISSION ON PC34

78 WELL seeks to include a new section within the network utilities chapter for critical electricity lines and substations, as well as a new definition for those activities.

79 For the same reasons as set out above at paragraphs 44 to 46 in respect of WELL's submission on PC38 we do not consider that this submission is on the plan change.

80 WELL's submission points 9.1 and 9.4 are not on PC34.

CONCLUSION

81 For the reasons set out above, some of the submission points we have reviewed are on the plan changes but some are not. Please let us know if you require assistance in raising these matters with the submitters.

82 The above conclusions are based on the review of the proposed provisions and not a full district plan or plan change review.



83 We are happy to clarify any issues.

Yours sincerely

A handwritten signature in black ink, appearing to read 'E. Manohar', with a horizontal line underneath.

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Our ref: 1413453

2 July 2015

Gina Sweetman
Sweetman Planning Services
NGAIO
By email

Dear Gina

SCOPE OF TRANSPOWER'S SUBMISSION ON PLAN CHANGE 34

- 1 You have asked us to confirm our opinion on whether submission point 6.45 of Transpower New Zealand Limited's (**Transpower**) submission on Hutt City Council's Proposed Plan Change 34 (**PC34**) is on PC34.
- 2 Our advice dated 31 March 2015 to Hutt City Council set out our opinion that we considered submission point 6.45 to be outside the scope of PC34. We confirm this conclusion and expand on our reasons for this below.

Summary of the case law on scope of submissions

- 3 To be considered to be on a plan change, a submission must (*Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290):
 - 3.1 be within the ambit of the plan change, by addressing a change to the status quo governed by the plan change; and
 - 3.2 not create a real risk that persons directly or potentially directly affected by the additional changes proposed in the submission have been denied an opportunity to respond to the changes.
- 4 One way of demonstrating the first point above is by considering whether the relief sought in a submission is a matter that should have been the subject of a section 32 analysis by the Council (*Palmerston North City Council v Motor Machinists Ltd*, 31 May 2013, High Court, Kos J at para 81).

Plan Change 34

- 5 PC34 proposes to bring the provisions for network utilities into line with the National Policy Statement on Electricity Transmission 2008 (NPSET) and the Regional Policy Statement. PC34 seeks to delete and replace the existing utilities chapter.
- 6 PC34, as relevant to Transpower's submission point 6.45, proposed a new permitted activity, a new restricted discretionary activity, discretionary activity criteria and a non-complying activity rule in respect of activities within the National Grid Yard. Those rules and provisions related to buildings and structures within the National Grid Yard only.
- 7 There are some very minor amendments to the earthworks chapter proposed in PC34. These changes are technical in nature and not relevant to the provisions proposed by Transpower.

Transpower's submission

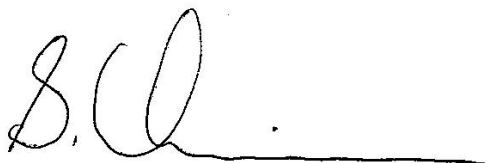
- 8 Transpower is seeking to include a new permitted activity rule, replace the proposed restricted discretionary rule, include new matters for discretion and replace the proposed non-complying activity rule in order to address earthworks activities within the National Grid Yard.
- 9 A table setting out the provisions proposed by PC 34 and the relief sought by Transpower (taken from the summary of submissions document) is *attached* as Appendix 1.
- 10 Although the provisions Transpower has submitted on are being amended through PC34 (the whole Chapter is being replaced), we do not consider that the relief sought by Transpower is within scope of PC34 (with two minor exceptions).

Analysis

- 11 PC34, through an advice note on the permitted activity rule and the restricted discretionary rule, refers to the existence of the NPSET and the need to comply with it, regardless of activity status under the District Plan. As an advice note, this does not, in our opinion, open PC34 up to a thorough consideration of earthworks activities within the National Grid Yard. PC34 does not seek to change, or address, the planning framework around earthworks within the National Grid Yard.
- 12 In terms of determining whether the submission is within the ambit of the plan change, whether the relief sought will amend a change to the status quo proposed by PC34 is a key consideration. One way to determine this is by considering whether the relief sought is something that would require a section 32 analysis. Although, as you have pointed out, the section 32 report for PC34 did mention that Transpower had, in the consultation stage, requested amendments for excavation activities to reflect the NPSET, it did not consider any proposed provisions or whether they were the most appropriate way to achieve the objectives of PC34. To include the provisions as proposed by Transpower, the Council would, in our opinion, need to undertake a further section 32 analysis of those provisions in accordance with section 32AA of the RMA.

- 13 Further, as set out above, the regulation of earthworks activities is not addressed through PC34. To do so in response to Transpower's submission would be extending the scope of PC34 to regulate a new activity.
- 14 We also consider that other parties may have submitted on the provisions proposed by Transpower if they were included as part of PC34. There is a real risk that people who may be directly affected by the proposed rules may have been denied an opportunity to respond to the changes.
- 15 As a result, we do not consider that either limb of the 'on the plan change' test is met for the majority of the relief sought in submission point 6.45, meaning that we consider that this submission point is not on the plan change and is therefore out of scope.
- 16 There are two exceptions to this finding:
- 16.1 The point of the submission that seeks the deletion of the proposed restricted discretionary rule (6.45(b)).
- 16.2 The point of the submission that replaces the non-complying activity rule, to the extent that it only rewords the rule as proposed by PC34 (but not the part that introduces a new activity) (6.45(e) sub-points (a) and (b) but not (c)).
- 17 These two sub-submission points are clearly on changes proposed by PC34 and therefore within scope. Given the overall intent of Transpower's submission on this point, we had previously grouped the whole submission point together as being out of scope, but on second review, these two elements could be pursued by Transpower in isolation from the other parts which we consider to be outside scope.

Yours sincerely

A handwritten signature in black ink, appearing to be 'EMM', with a horizontal line extending to the right.

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PC 34	Transpower's Submission	Comments
<p>Include the following permitted activity</p> <p>In all activity areas, buildings and structures less than 2.5m in height and less than 10m² in area located within the National Grid Yard, that meet all the permitted activity conditions of that activity area, provided that they are not being used for a Sensitive Activity.</p> <p>Note: Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) is mandatory under the Electricity Act 1992. All activities regulated by NZECP34, including buildings, structures, earthworks and the operation of mobile plant, must comply with that regulation. Activities should be checked for compliance even if they are permitted by the District Plan.</p>	<p>Include a new permitted activity rule</p> <p>In all activity areas, earthworks within the National Grid Yard which:</p> <p>a) are for a Network Utility or undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track; or</p> <p>b) do not exceed 300mm in depth within 12m of any National Grid support structure foundation;</p> <p>c) do not compromise the stability of a National Grid support structure; and</p> <p>d) do not result in a reduction in the ground to conductor clearance distances below what is required by Table 4 of NZECP34.</p>	<p>This adds in an entirely new category of activity, being earthworks. Previously the permitted activities only related to buildings and structures. We consider that this is out of scope.</p>
<p>Include the following Restricted Discretionary Activity Rule at 13.4.2(a)</p> <p>In all activity areas, new buildings and structures and additions and alterations to existing buildings and structures that are over 2.5m in height and / or more than 10m² in area located within the National Grid Yard.</p> <p>(i) Non-notification</p>	<p>Delete the proposed restricted discretionary rule and replace it with the following</p> <p>Any earthworks within the National Grid Yard that exceed 300mm in depth and are within 12m of any National Grid support structure foundation.</p>	<p>Again, a rule relating to earthworks is an entirely new activity within this chapter and is out of scope of PC34.</p> <p>The submission point relating to the deletion of the proposed restricted discretionary activity will be within scope.</p>

<p>In respect of Rule 13.4.2 (a), public notification of applications for resource consent is precluded. Limited notification will be served on the National Grid Operator as the only affected party under section 95B of the Act.</p> <p>Note: Rule 13.4.2 (a) (i) prevails over Rule 17.2.2.</p>		
<p>Include the following matters in which Council has restricted its discretion</p> <p>(a) Any risk to the structural integrity of the transmission line;</p> <p>(b) Any effects on the ability of the transmission line owner to operate, maintain and/or upgrade the National Grid;</p> <p>(c) The proximity of buildings and structures to electrical hazards;</p> <p>(d) Operational risks relating to health or public safety, and the risk of property damage;</p> <p>(e) Amenity effects; and</p> <p>(f) Any actual or potential reverse sensitivity effects.</p> <p>Advice Note: Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) is mandatory under the Electricity Act 1992. All activities regulated by NZECP34, including buildings, structures, earthworks and the operation of mobile plant,</p>	<p>Insert new matters of discretion for the new restricted discretionary rule:</p> <p>a) Impacts on the operation, maintenance, upgrade and development of the National Grid.</p> <p>b) Compliance with NZECP34:2001.</p> <p>c) Technical advice provided by the National Grid owner (Transpower).</p> <p>d) The risk to the structural integrity of the National Grid.</p> <p>e) Any impact on the ability of the National Grid owner (Transpower) to access the National Grid.</p> <p>f) The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</p>	<p>These matters relate to the new proposed restricted discretionary rule relating to earthworks. If that proposed rule is out of scope, so too are the matters of discretion.</p>

<p>must comply with that regulation. Activities should be checked for compliance even if they are permitted by the District Plan.</p> <p>Vegetation to be planted within the National Grid Yard as shown on the planning maps should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003 or prevent access to support structures. To discuss works, including tree planting near any electricity line especially works within the transmission corridor; contact the relevant network utility operator.</p>		
<p>13.4.3 Non-Complying Activities</p> <p>In all activity areas, the construction and use, establishment, or change of use, of any building and structure located within the National Grid Yard for a Sensitive Activity.</p>	<p>Replace non-complying rule 13.4.3 with the following:</p> <p>In all activity areas, within the National Grid Yard:</p> <p>a) The establishment of sensitive land use activity, including the change of the use of an existing building or structure.</p> <p>b) The construction of a new, or addition to an existing, building or structure not meeting permitted activity rule 13.4.1.</p> <p>c) Earthworks not meeting permitted activity rule 13.4.XX.</p>	<p>Here, the rules in a) and b) are a rephrasing of what is proposed by PC34 and are therefore within scope. It is the new addition of earthworks, through c), that is outside scope.</p>