



# **Proposed Plan Change 43 – Transportation and Plan Change 44 – Works and Network Utilities**

## **Hearing Report**

# **Volume 1**

(Section 42A Report)

19 May 2014





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# **1. Overview**

## **1.1 Introduction**

The Matamata-Piako District Council (Council) is currently undertaking a rolling review of sections of the District Plan, through consecutive plan changes, rather than a full, one-off, review.

Presently, the Council is reviewing the “Transportation” (Plan Change 43) and “Works and Network Utilities” (Plan Change 44) Sections of the Plan, the subject of this report.

The Transportation Section of the District Plan is about ensuring the safety and efficiency of the movement of people, freight and stock, to, from, through, and within the District, and integrating transport with land-use. This Section of the District Plan covers road transport, railways, and the Matamata airport. It addresses road hierarchy, access, new roads and accessways, parking, loading, stock crossings, and railway crossings.

The Works and Network Utilities Section of the District Plan is about ensuring the efficient and on-going functioning of the essential public works and network utilities that the District relies on to ensure the wellbeing, health, and safety of the community.

## **1.2 Plan change process**

The review of the Transportation and Works/Network Utilities Plan Changes commenced in 2012 and included consultation with the community and stakeholders, review of the statutory matters and planning documents to be considered, and preparation of the plan change and the Section 32 RMA (options/cost/benefit) evaluation.

By September 2013, the preparation and evaluation of the proposed plan changes were completed and as a result various amendments to the District Plan were proposed.

On 9 October 2013, Council formally resolved to proceed with public notification of the plan changes under Schedule 1 of the RMA. Subsequently, public notice was served on 30 October 2013, with 27 November 2013 as the closing date for submissions.

In response to the notification, 24 submissions were received from:

1. John Richard Mellow;
2. Progressive Enterprises;
3. Waikato Regional Council;
4. Ministry of Education;
5. KiwiRail;
6. Macken Farm Ltd;
7. Mike Gribble;
8. New Zealand Transport Agency;
9. Vector Gas;
10. David Nickalls;
11. Tidmarsh Holdings Ltd;
12. M & C O'Callaghan;
13. Piako Gliding Club;
14. Federated Farmers;
15. Kaimai Properties & Matamata Metal Supplies;
16. D & L Swap;
17. New Zealand Historic Places Trust;

18. Fonterra;
19. Transpower;
20. Horticulture NZ;
21. Environmental Futures Inc;
22. Telecom NZ;
23. Powerco Ltd; and:
24. Chorus NZ

In addition, four late submissions were received from:

1. Helen & Kerry Cranston
2. Ventus Energy (NZ) Ltd
3. Barr & Harris Surveyors; and:
4. GeoMetrix Surveyors.

On 12 February 2014, Council notified a summary of submissions, calling for further submissions by 26 February 2014. In response to notification of the summary of submissions, 11 further submissions were received from:

1. Kaimai Properties & Matamata Metal Supplies;
2. D & L Swap;
3. Environmental Futures Inc;
4. Mike Gribble;
5. Powerco Ltd;
6. Federated Farmers;
7. Transpower;
8. Horticulture NZ;
9. Te Aroha Business Association;
10. Tidmarsh Holdings Ltd; and:
11. New Zealand Transport Agency.

During April 2014 Council staff held informal meetings with key stakeholders and a formal pre-hearing meeting was also held on 1 May 2014. These meetings were productive and enabled dialogue between submitters and Council staff to clarify submissions points. Council staff have taken some of the proposals put forward by submitters on-board. These have been incorporated into the further changes to the District Plan in response to the submissions received.

The next steps in the process are for Council to hear, deliberate, and make its decisions on the submissions. The Council will then notify its decisions, whereupon submitters will have the right to appeal the decisions made by the Council, to the Environment Court.

### **1.3 Purpose and format of this report**

This document is the Council's Staff Report prepared under Section 42A RMA, on the Proposed Transportation and Works and Network Utilities Plan Changes.

Its purpose is to assist the Council's hearings process by providing an overview of:

- The plan change process;
- The statutory provisions and matters that Council must consider in making its decisions;
- The submissions and further submissions received;
- Further clarification of submission points obtained during the pre-hearing meetings; and:
- Staff's recommendations to the Council, to make further changes to the proposed plan changes in response to the submissions received.

The recommendations contained in the report represent staff's assessment only, not the Council's position. Before making its decisions, the Council will consider these recommendations, jointly with the submissions and evidence heard during the upcoming hearings. Ultimately the authority to decide on the submissions lies solely with the Council, and its decisions may or may not coincide with staff's recommendations.

This report contains six sections:

### **1. Overview**

This introductory section has provided an overview of the subject matter of the plan changes, the purpose and format of the report, the process to date, and the next steps.

### **2. Scope of these plan changes**

The next section describes the scope of the plan changes.

### **3. Network description**

A brief description of the transport and utility networks that are the focus of the plan changes is included in Section 3 of this report.

### **4. Legislative requirements**

Section 4 provides information on the legislative requirements relating to plan changes.

### **5. Relevant planning documents**

The planning instruments that these plan changes must give effect to, or must be consistent with, or must have regard to, are summarised in Section 5 of this report.

### **6. Analysis and assessment of submissions and further submissions**

This Section of the report discusses the key changes to the District Plan requested by submitters, and makes general recommendations in this regard. Also included, is a discussion of the matters raised at the pre-hearing meeting that are now incorporated in the recommendations. Recommendations on each specific submission point are attached as an appendix to the report (see below).

The following appendices are attached to this report:

#### **Appendix 1 – Submissions**

This appendix contains copies of all submissions received by the Council in response to notification of the plan changes.

#### **Appendix 2 – Further submissions**

Copies of further submissions received by the Council in response to the notification of the summary of submissions are included as Appendix 2.

#### **Appendix 3 – Pre-hearing minutes**

Appendix 3 contains a copy of the pre-hearing minutes.

#### **Appendix 4 – Recommendations on specific submission points**

Staff's recommendations in regard to each submission point are attached as Appendix 4.

**Appendix 5 – Revised set of plan changes (as recommended in this report).**

Appendix 5 contains the revised set of District Plan changes recommended by staff, in response to the submissions received, and to give effect to the recommendations as set out in this report. The proposed changes to the District Plan as notified in October 2013 are shown in green text and ~~green strikethrough~~. Changes now proposed in response to the submissions received by Council and the recommendations made in this report, are shown in highlighted green text and ~~highlighted green strikethrough~~. Where the Operative District Plan wording has been reinstated, this is shown in highlighted black text.



## 2. Scope of the plan changes

### 2.1 District Plan rolling review

The District Plan determines the direction that the community wants to take to sustainably manage the District's natural and physical resources, within the framework provided by the RMA. The Plan describes the resource management issues for the District and determines how to best deal with those issues through policies and methods, to meet the stated objectives. The methods include rules that determine when activities are permitted and when resource consents are required. Where activities require resource consents, the Plan provides guidance to ensure that adverse effects on the environment are avoided, remedied, or mitigated.

The RMA requires every District to have a District Plan which, once operative, has to be reviewed every ten years. Since the District Plan was first notified, the population of the District has grown and we have experienced new development and land use change. There have been legislative changes and new policy guidance through national planning instruments (such as National Policy Statements and National Environmental Standards) that mandate changes to the District Plan. The Waikato Regional Policy Statement is also currently being reviewed and the District Plan needs to reflect these new policy directions.

The District Plan became operative in 2005 meaning that a review needs to be commenced by July 2015. To this end, the Council is currently undertaking a rolling review of sections of the District Plan, through consecutive plan changes, rather than a full, one-off, review.

The option of a "rolling review" was enabled through legislative changes when the Resource Management (Simplifying and Streamlining) Amendment Act 2009 came into force on 1 October 2009. Section 79 of the RMA as amended through the above change, states:

**79 Review of policy statements and plans**

(1) *A local authority must commence a review of a **provision** of any of the... documents it has, if the provision has not been a subject of a proposed ... plan, a review, or a change by the local authority during the previous 10 years:*

Prior to the 2009 change to the RMA, the requirement was for a full review of the district plan:

(2) *Every territorial authority shall commence a **full review** of its district plan not later than 10 years after the plan became operative.*

The District Plan's rolling review has so far covered "Integration of the Development Manual" (Plan Change 41) and "Rural Subdivision" (Plan Change 42), both of which are now fully operative.

Presently, the Council is reviewing the "Transportation" and "Works and Network Utilities" Sections of the District Plan, the subject of this report.

The scope of these plan changes are described below:

### 2.2 Transportation

In terms of transportation, this review has focused on:

- The transportation issues, objectives and policies in Part A of the District Plan;

- The associated implementation methods (rules) in Part B, predominantly Chapter 9 “Transportation”; and
- Other relevant provisions in Part B of the District Plan, notably Chapter 1 “General Provisions”, Chapter 3 “Development Controls”, Chapter 5 “Performance Standards”, Chapter 6 “Subdivision”, and Chapter 15 “Definitions”, required to integrate the transportation provisions with other District Plan requirements, as appropriate.
- The provisions of the Matamata-Piako District Council Development Manual (Development Manual) to improve clarity, consistency with District Plan provisions, update standards, and additional standards to deal comprehensively with all road classes.

Recent amendments to the District Plan through previous sections of the rolling review have also resulted in changes to the transportation provisions in the District Plan.

For instance:

- Plan Change 41 has reinforced the implementation of Urban Design and Crime Prevention through Environmental Design (CPTED) principles. These principles have implications for transportation such as ensuring that new development is well connected with and between neighbourhoods for cycle, pedestrian, and vehicle transport modes.
- Plan Change 41 brought the Matamata-Piako District Development Manual 2010 (the Development Manual) into the District Plan. The Development Manual sets out specific engineering standards. Sections 3 and 7 of the Development Manual deal with road works and street landscaping and include standards for the:
  - Design and formation for different classes of road;
  - Intersection design;
  - Vehicle crossings;
  - Parking design and formation;
  - Footpaths;
  - Cycle traffic;
  - Stock crossings; and:
  - Street landscaping.
- Plan Change 42 dealt predominantly with rural subdivision. However, it also included consequential changes to the District Plan’s transportation provisions to ensure that the capacity of, and effects on, the road network are considered when assessing consent applications.

### 2.3 Works and network utilities

Works and network utilities are provided by a “network utility operator” defined in the RMA, as:

**“Network utility operator** means a person who—

- undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, bio-fuel, or geothermal energy; or*
- operates or proposes to operate a network for the purpose of—*
  - telecommunication as defined in section 5 of the Telecommunications Act 2001; or*
  - radio communication as defined in section 2(1) of the Radio communications Act 1989; or*
- is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or*

- d. undertakes or proposes to undertake the distribution of water for supply (including irrigation); or
- e. undertakes or proposes to undertake a drainage or sewerage system; or
- f. constructs, operates, or proposes to construct or operate, a road or railway line; or
- g. is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or
- h. is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or
- i. undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act,—  
and the words **network utility operation** have a corresponding meaning.”

Network utility operators therefore include:

- Government agencies, e.g. the New Zealand Transport Agency or KiwiRail,
- State-owned enterprises such as Transpower;
- Private utility companies e.g. Chorus, Powerco, Vector, and WEL networks;
- The Waikato Regional Council who operates the regional flood control assets in the District;
- The Council as owner and operator of the public water, stormwater, and wastewater systems; and:
- The Council as road controlling authority, responsible for the construction and operation of the District’s road network.

Works and network utilities are addressed in Chapter 8 of the District Plan and cover the following network utility operations:

- Telecommunication;
- Electricity transmission and distribution;
- Electricity generation;
- Gas transmission and distribution;
- Water, wastewater and stormwater;
- The transportation network (roads and railways);
- Stock movements and stock crossings;
- Regional flood control works; and
- Other miscellaneous works and network utilities.

In addition, the Development Manual introduced through Plan Change 41, includes specific engineering standards for the design and construction of stormwater and wastewater drainage, water supply, and landscaping engineered stormwater devices.

The following national environmental standards that relate to works and network utilities came into force after the District Plan first became operative:

- Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 (NES-TF); and
- Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NES-ET).

This plan review has considered the implications of the above mentioned planning instruments and recommends changes to Section 8 of the District Plan that eliminates potential conflict with the standards, as required under the RMA.

In addition, the works and network utilities the plan change has focused on:

- The works/networks issues, objectives and policies in Part A of the District Plan;

- The associated implementation methods (rules) in Part B, predominantly Chapter 8 “Works and Network Utilities”; and:
- Other relevant provisions in Part B of the District Plan, notably Chapter 1 “General Provisions”, Chapter 3 “Development Controls”, Chapter 5 “Performance Standards”, Chapter 6 “Subdivision”, and Chapter 15 “Definitions”, which were required to integrate the works/networks provisions with other District Plan requirements, as appropriate.

As a consequence of the review, changes are also proposed to:

- The Planning Maps, to show the location of electricity sub-transmission lines, gas transmission lines, and regional flood protection assets; and:
- The provisions of the Matamata-Piako District Council Development Manual (Development Manual) to improve clarity, consistency with District Plan provisions, update standards, and additional standards to deal comprehensively with all utilities.

### **2.3 Linkages between transport, and works/network utilities**

From a resource management perspective, transport, and works/utility networks, are closely linked. This is the case as “transportation” (the movement of people, freight and stock) is both an activity in its own right, while the construction and operation of roads, railway lines, cycleways, walkways, and airports (that enable the movement of people, freight, and stock) are also “network utility operations” (see sub-clause “f” of the definition of “network utility operator”, above). Transport networks (e.g. “cycleways, rail, roads, walkways”) are therefore also included under clause “g” of the broad definition of “infrastructure” in the RMA, quoted below:

*“Infrastructure”, in section 30, means—*

- a. *pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy:*
- b. *a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001:*
- c. *a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989:*
- d. *facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person—*
  - i. *uses them in connection with the generation of electricity for the person’s use; and*
  - ii. *does not use them to generate any electricity for supply to any other person:*
- e. *a water supply distribution system, including a system for irrigation:*
- f. *a drainage or sewerage system:*
- g. *structures for transport on land by cycleways, rail, roads, walkways, or any other means:*
- h. *facilities for the loading or unloading of cargo or passengers transported on land by any means:*
  - i. *an airport as defined in section 2 of the Airport Authorities Act 1966:*
  - j. *a navigation installation as defined in section 2 of the Civil Aviation Act 1990:*
  - k. *facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988:*
  - l. *anything described as a network utility operation in regulations made for the purposes of the definition of network utility operator in section 166.”*

Therefore, where this plan change refers to “infrastructure”, it also includes all of the transport structures such as roads, railway lines, cycleways, walkways, and the airport.

## 2.4 Regionally significant infrastructure

The management of the transport networks and the other utility networks, as physical resources of the District, requires a unified approach. The transport networks, like the other utility networks, can serve both a local, and a more strategic regional or national function.

For instance, the state highways that traverse the District provide road connections for local communities, but also serve a strategic regional and national function as part of the country-wide highway network. Similarly, the national electricity grid conveys electricity across the District to feed into the national transmission network, but also provides connections that enable the distribution of power to local communities.

Strategic infrastructure of this nature that is important for the economic and social wellbeing of both the local community and a wider catchment is referred to in the Proposed Waikato Regional Policy Statement<sup>1</sup> (PRPS) as “regionally significant infrastructure”. It is recommended that the PRPS’s definition of “regionally significant infrastructure”, be adopted in the District Plan through this review. Therefore, where this plan change refers to “regionally significant infrastructure”, it includes all infrastructure that serve a wider than local catchment, defined as follows:

**“Regionally significant infrastructure” means:**

- a) *pipelines for the distribution or transmission of natural or manufactured gas or petroleum;*
- b) *infrastructure required to permit telecommunication as defined in the Telecommunications Act 2001;*
- c) *radio apparatus as defined in section 2(1) of the Radio Communications Act 1989;*
- d) *the national grid, and a network as defined by the Electricity Industry Act 2010;*
- e) *facilities for the generation of electricity that is fed into the national grid or a network (as defined in the Electricity Industry Act 2010);*
- f) *significant transport corridors as defined in Map 6.1 of the Waikato Regional Policy Statement, Decisions Version, November 2012;*
- g) *lifeline utilities, as defined in the Civil Defence and Emergency Management Act 2002, and their associated essential infrastructure and services;*
- h) *flood and drainage infrastructure managed by Waikato Regional Council.*

To meet the sustainable management purpose of the RMA, the strategic importance of the significant infrastructure networks have to be recognised and protected, and their maintenance, upgrading, and development enabled. To respond to this resource management issue in a unified way, this plan change groups all the District’s regionally significant infrastructure under one category, applying the same/similar management principles equally to the significant transport networks, as well as the other significant utility networks.

Since the District Plan became operative, the National Policy Statement on Electricity Transmission (“NPS-ET”) was gazetted in 2008, followed by the National Policy Statement for Renewable Electricity Generation (“NPS-REG”) in 2011. The NPS-ET and the NPS-REG deal with the national significance of respectively, the electricity transmission network and renewable electricity generation activities. This plan review has considered the implications of these two planning instruments and recommends changes to give effect to the policy statements, as required by the RMA.

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<sup>1</sup> Where this report refers to the “Proposed Waikato Regional Policy Statement”, it refers to the version updated through consent orders as at 7 April 2014.

## 2.5 Integrating land-use with infrastructure

Under the RMA, the functions of territorial authorities include the integrated management of land-use and infrastructure. This means that the District Plan must ensure that:

- The transport networks and the other network utilities required to support land-use is appropriately planned for; and
- Land-use is planned in a manner appropriate to, and consistent with, the capacity of the transport network and the other utility networks required to service new development or change of use.

To respond to the above issue efficiently by avoiding unnecessarily duplicating integration provisions under two separate sections of the Plan (dealing respectively with transport and works/networks utilities), the plan review proposes one set of requirements, under the heading “infrastructure”.

## 2.6 Energy efficiency

The 2004 Resource Management (Energy and Climate Change) Amendment Bill introduced the requirement for the District Plan to have particular regard to the efficiency of the end-use of energy. In order to address this requirement, transportation and other infrastructure networks also need to be considered in a comprehensive way. This is the case as ensuring the efficiency of the end use of energy involves all forms of energy, including energy used in the transportation of people and freight.

## 2.7 Comprehensive approach

Combining transport and other works and utilities into the same part of the District Plan rolling review recognises that, from a resource management perspective, transport and other works and network utilities are inter-connected and require a joint approach that recognises all regionally significant infrastructure, the need for land-use to be integrated with all components of the infrastructure networks, and for the end use of energy to take into account the efficiency of the energy used in all forms, including transportation.

This comprehensive approach that jointly considers transport and other works and network utilities, also aligns well with the policy-direction signalled by the PRPS requiring:

- Recognition of all regionally significant infrastructure;
- Integration of infrastructure, including transport, with land-use; and
- Maximising energy efficiency, including the efficiency of energy used for transportation.

Proposed changes relating to the matters referred to above are contained in the following parts of the District Plan:

- The introduction of three new “issues” under “Significant Resource Management Issues” in Section 2.3; and associated objectives and policies in Section 2.4 , Part A of the District Plan namely:
  - Section 2.3.6 and 2.4.6: Integrating land-use and infrastructure (including transport);
  - Section 2.3.7 and 2.4.7: Regionally significant infrastructure networks; and
  - Section 2.3.8 and 2.4.8: Energy efficiency and renewable energy generation.
- New implementation methods (rules) relating to the above mentioned objectives and policies, in Section 3 “Development Controls”, Section 5 “Performance Standards”, Section 6 “Subdivision”, and Section 9 “Transport” in Part B of the District Plan; and:

- Consequential changes to other sections of the District Plan including Section 15 “Definitions”, aimed at integrating the new provisions with other Plan requirements, as appropriate.

## 2.8 Key resource management issues

These plan changes seek to address the following six key resource management issues:

- **Issue 1 – Integrating land-use and infrastructure**  
*Land-use that is not integrated with infrastructure impacts on our ability to sustainably manage the natural and physical resources that are important for our social, economic, and cultural wellbeing.*
- **Issue 2 – Regionally significant infrastructure**  
*Not enabling or protecting the operation, maintenance, upgrading, or development of regionally significant infrastructure networks, can adversely affect the economic and social wellbeing of national, regional, and local communities.*
- **Issue 3 – Energy efficiency and renewable energy generation**  
*Failure to use energy efficiently, and to enable the development, operation, maintenance and upgrading of new and existing renewable energy generation activities; impact on our ability to meet the growing energy demand in a sustainable manner.*
- **Issue 4 – Safety and efficiency of our transportation network**  
*Our social, economic and cultural wellbeing is dependent on an integrated, safe and efficient transportation network that is environmentally sustainable and that considers the movement of both people and freight.*
- **Issue 5 – Parking and loading**  
*Inadequate off-street parking and loading can result in adverse effects on the safety and efficiency of the road network, yet parking and loading standards that are too onerous can stifle development and lead to inefficient use of land.*
- **Issue 6 – Enabling works and network utilities while managing adverse effects**  
*The efficient provision of works and network utilities that are essential for the wellbeing of our community and their health and safety must be enabled and protected, while ensuring that the adverse effects associated with the provision of these facilities are avoided, remedied, or mitigated to the greatest extent possible.*

The scope of these plan changes are therefore defined as the inclusion of appropriate objectives, policies and methods to comprehensively address the six key resource management issues identified above, and explained in more detail in the proposed plan change provisions appended to this report.

## 2.9 Other matters within the scope of the plan changes

While the focus of this plan change is transportation and works/utilities, two other matters were also proposed to be included within the scope of the review, namely:

- **Strategic objectives and policies**

The operative District Plan currently contains a number of so-called “strategic objectives and policies” (identified in the Plan with the prefix “SO” and “SP” respectively). These are

described in the Plan as “statements of Council’s Management.....linked in the District Plan for consideration as part of some resource consent applications”<sup>2</sup>.

Section 13 (Other Methods) of the District Plan states that:

**“13.3.1 Strategic plan**

*The Council is to establish a strategic plan to provide strategies to meet the strategic needs of the District in the foreseeable future. Strategic policies are listed throughout the issues, objectives, and policies section as a means of meeting the demands of future development.*

*The strategic policies will be taken into account when assessing any resource consent application in the District.”*

It is understood that the above mentioned “strategic plan” provision was inserted into the District Plan when it was notified in 2000, essentially as a pre-cursor to the then pending Local Government Act 2002 (“LGA”) as a means to link the long-term plan (an LGA document) with the District Plan (an RMA document).

The recent (2012) amendment to the LGA has deleted “the promotion of the social, economic, environmental, and cultural wellbeing of communities”, from the purpose of local government<sup>3</sup>. The amended LGA now has a narrower focus, and it considered that the original District Plan’s linkage back to the Council’s strategic long-term plan produced under the LGA, is no longer of assistance as a non-regulatory method within the broader policy framework.

Therefore, the plan change initially sought to delete the Operative Plan’s reference to the Council’s strategic plan and strategic objectives and policies.

However, having considered the submissions received by Council, staff now consider that deletion of the strategic objectives and policies that relate to matters other than transportation and works/network utilities should more appropriately be considered through relevant subsequent rolling reviews of the District Plan.

It is therefore recommended that submissions opposing the deletion of strategic objectives and policies that relate to matters other than transportation and works/network utilities be accepted.

- **Updating changes to legislation/ documents referenced**

There have been changes to the RMA, documents included into the District Plan by reference, and to some of the background information (such as current population statistics) provided in Part A: Issues, Objectives and Policies, of the Plan.

These plan changes propose to update the outdated references to legislative requirements, supporting documents, and explanatory statements.

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<sup>2</sup> See Part A, Page 1:3

<sup>3</sup> The promotion of the four wellbeings from the purpose of local government under the original LGA 2002, has now been replaced by the requirement for local government to “meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses”.



## 2.10 Clarification of matters, outside the scope of these plan changes

To provide further clarity on the scope of these plan changes, it is recorded that the following two matters are excluded from this part of the District Plan rolling review:

- **The effects of climate change**

Since the District Plan was first notified, the 2004 Resource Management (Energy and Climate Change) Amendment Act added three new matters to Section 7 (directly concerned with climate change and the management of energy resources to reduce the effects of climate change), to which particular regard must be given; namely:

(ba) *the efficiency of the end use of energy:*

(i) *the effects of climate change:*

(j) *the benefits to be derived from the use and development of renewable energy.*

The purpose of the 2004 amendment was to clarify that, in exercising its functions under the RMA, Council must have particular regard to:

- The effects of climate change; and:
- Ways of reducing the risks of climate change, through:
  - o The efficient use of energy; and:
  - o The use and development of renewable energy.

This plan change has reviewed the District Plan's response to the amendments in sub-sections 7(ba) and (j) of the RMA by having regard to the management of energy use and the generation of renewable energy, as means of reducing the risk of climate change.

The effects of climate change itself and the consequent resource management response by means of natural hazard, land-use and infrastructure planning, fall outside the scope of this plan change and will be addressed through a separate, subsequent part of the District Plan rolling review.

- **Amateur radio configurations**

Amateur radio configurations are antennas, aerials, and supporting structures which are owned and used by licenced amateur radio operators to send and receive radio signals. During the preparation of this plan change, consideration was given whether the review of the works and network utilities section, should cover provisions relating to amateur radio configurations.

Investigation into provision for amateur radio configurations in district plans revealed that the New Zealand Association of Radio Transmitters Inc (the Association) is strongly of the view that amateur radio configurations are not a utility network and should not be included into the works and network utility section of district plans.

It appears that the Association's position has met with the broad acceptance of other district councils and the Environment Court, as will be evident from evidence recently presented by the Association, to the Waipa District Council Hearings Committee<sup>4</sup>:

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<sup>4</sup> See the evidence of M.D. Newman for the New Zealand Association of Radio Transmitters (Inc) at the Hearing into the Proposed Waipa District Plan, 11 February 2013.

*“Amateur radio is **NOT** a utility service or a network utility. It is an avocation pursued by individuals, mainly from their residences. It is inappropriate for regulation to be under the utilities provisions. Tauranga CC specifically noted that inappropriateness in a s32 report on their proposed City Plan and chose to regulate amateur radio under the zone provisions. This was accepted by the Environment Court recently, in an appeal (ENV-2011-AKL-000074).....”*

Council staff agree with the position of the Association as set out above. Consequently, amateur radio configurations have not been reviewed as part of the utilities plan change, but will be addressed through a separate, subsequent part of the District Plan rolling review.

### 3. Network description

This part of the report provides additional context to these plan changes by giving a brief overview of the transportation and utility networks that are the focus of this review.

#### 3.1 Transportation networks

The District’s transportation networks include:

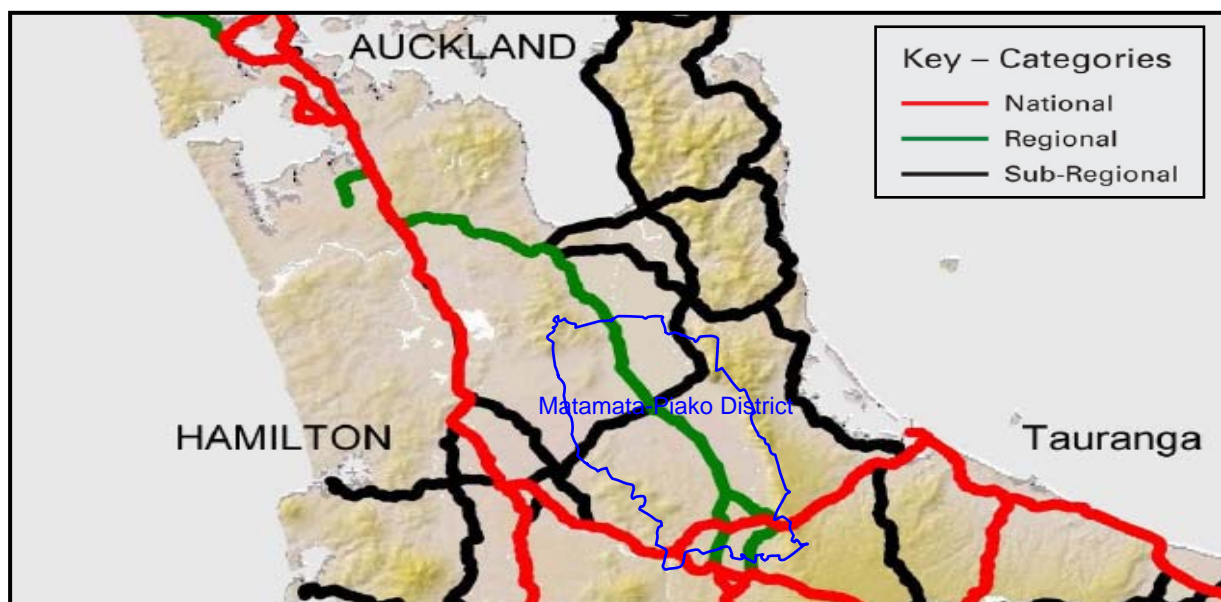
##### 3.1.1 State highway network

Six state highways traverse the District providing good road connections to the neighbouring cities of Hamilton and Tauranga, and other destinations further afield. These are State Highways 1, 24, 26, 27, 28 and 29.

The state highway network carries large volumes of passengers and freight through the District with average daily traffic counts in the thousands, including high volumes of heavy commercial vehicles.

State Highway 1, the busiest road in the national network, skirts the western and southern boundaries of the District. At Paerere, in the south-western corner of the District, State Highway 1 connects with State Highway 29 to Tauranga. State Highway 27 in turn, connects Auckland in the north with Tirau in the south, traversing the centre of the District running through Matamata, providing an alternative north/south route to State Highway 1.

#### State Highway Categories



State Highway 24 originates in Matamata to link with Tauranga-bound State Highway 29, west of Te Poi. The State Highway 27/ 24/ 29 link is an alternative to the State Highway 2 route between Auckland and Tauranga, via Karangahake Gorge.

State Highway 26 connects Hamilton in the south-west with Thames to the north-west, and runs through the towns of Morrinsville, Waitoa, Waihou, and Te Aroha.

The National State Highway Strategy provides for the classification of state highways based on its predominant function. In terms of classification, State Highways 1, 28 and 29 are classified as routes of national significance. State Highways 24 and 27 are routes of regional significance, and State Highway 26 has sub-regional significance.

### 3.1.2 District road network

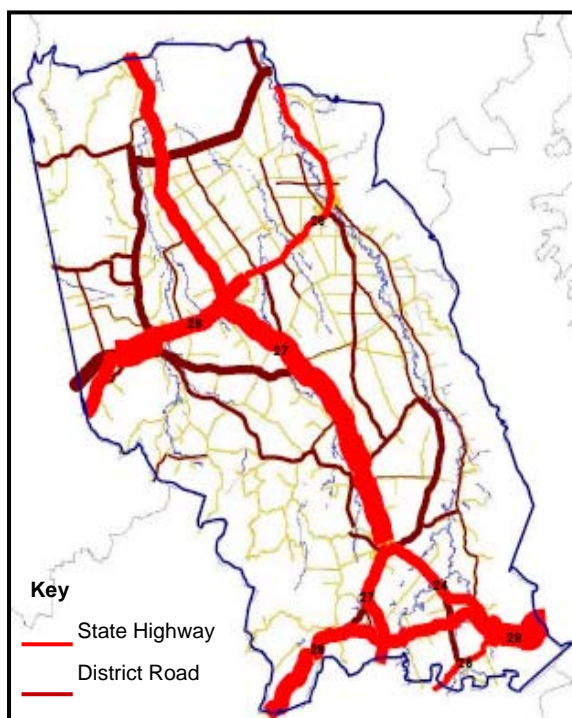
Underneath the state highway network sits a network of urban and rural roads that are controlled by the Council. Three-quarters of the district roads have traffic volumes of less than 500 vehicles per day, and less than 1% carries volumes above 4,000 vehicles per day.

The busier district roads are classed as Arterial Routes, with the remainder of the network described as Collector and Local Roads.

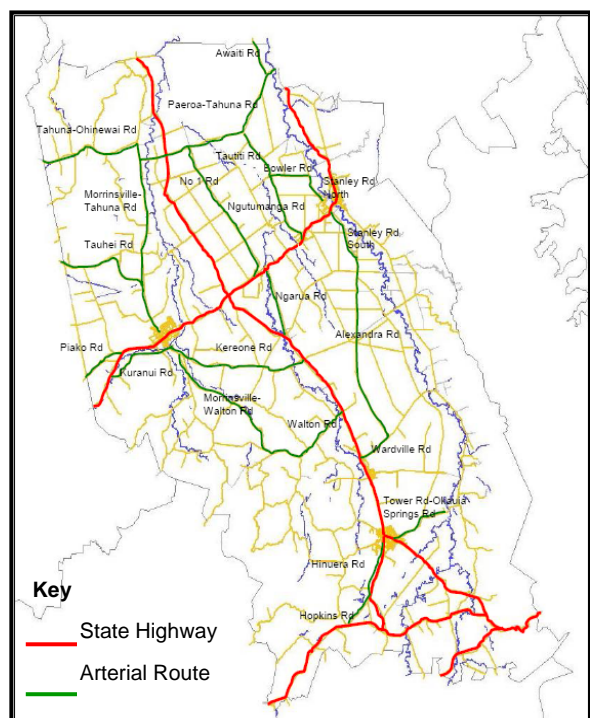
There are three significant arterial roads in the District that serve a sub-regional function. These roads are:

- Tahuna-Ohinewai Road connecting State Highway 1 at Ohinewai, with State Highway 27;
- Paeroa-Tahuna Road connecting State Highway 27 at Tahuna, with State Highway 26 north of Te Aroha; and:
- Morrinsville-Tahuna Road, parallel with State Highway 27, connecting Morrinsville with Tahuna.

**Average Daily Traffic Volumes**



**State Highways and Arterial Routes**



### 3.1.3 Rail network

There is presently no rail service for passenger transport in the District and the rail network therefore carries exclusively freight. The East Coast Main Trunk Railway crosses the upper part of the District past the towns of Morrinsville and Waharoa to connect with Tauranga through the Kaimai Tunnel.

The Kinleith Branch Railway connects Kinleith with Waharoa, via Matamata.

The Thames Branch Railway Line (Waitoa Branch) operates between Morrinsville and Waitoa and currently serves only the Fonterra dairy factory.

### 3.1.4 Air transport

The Matamata Aerodrome, the largest in the District, provides for a wide range of commercial and recreational aviation activities. In particular it is recognised as one of the best gliding airfields in New Zealand.

Its central location makes it easily accessible from Tauranga, Hamilton, Rotorua and Auckland. It hosts regional and national recreational aviation events, and is the venue each January for the iconic Walsh Memorial Scout Flying School.

In recent years traditional light powered-aircraft use has declined, but has been replaced by growth in micro-light and sport aircraft. Likewise there has been significant growth in model and miniature aircraft. Parachuting remains another popular recreational use.

Pilots from other areas also use the aerodrome for refuelling. There is also an airfield near Te Aroha, off Paeroa-Tahuna Road. There are also numerous agricultural airstrips on farms around the District.

### Matamata Aerodrome



### **3.1.5 Freight transport**

Large volumes of freight move through the District en-route to shipping ports and markets. Freight handling and distribution also takes place in the District such as at Waharoa, Matamata, and at the dairy factories and rural processing plants. Presently, the freight industry relies heavily on road transport, but the share of rail transport may well increase in the future due to rising fuel prices. There are also a number of quarries in the District from where large volumes of aggregate are transported.

The freight sector is a significant consumer of energy resources, accounting for just less than half the energy consumed and greenhouse gas emissions attributed to the transport sector.

### **3.1.6 Public/community transport**

Public transport in the District comprises a limited bus service between Hamilton, Morrinsville and Te Aroha, while the national inter-city bus service provides limited public transport between Matamata and Tauranga, and Matamata and Hamilton. Community-based services provide transport for the disabled and for those requiring health care.

Trends indicate that the District's population is ageing. An aging population will demand better access to public transport. Also, rising fuel and natural gas prices will impact on private vehicle trips, and could lead to a modal shift towards public transport.

### **3.1.7 Walking and cycling**

There are currently only two dedicated cycleways in the District:

- Along Stanley Avenue in Te Aroha; and:
- The Hauraki Rail Trail which connects Te Aroha with Paeroa, providing opportunities for predominantly recreational cycling and walking.

There are pedestrian walkways in all three towns.

As a rural District, walking and cycling are currently predominantly recreational activities, as opposed to modes of transport that convey people to and from work and leisure activities. However, rising fuel prices and natural gas prices could lead to a modal shift towards an increase in walking and cycling in the future.

## **3.2. Works and network utilities**

The works and utility networks in the District include:

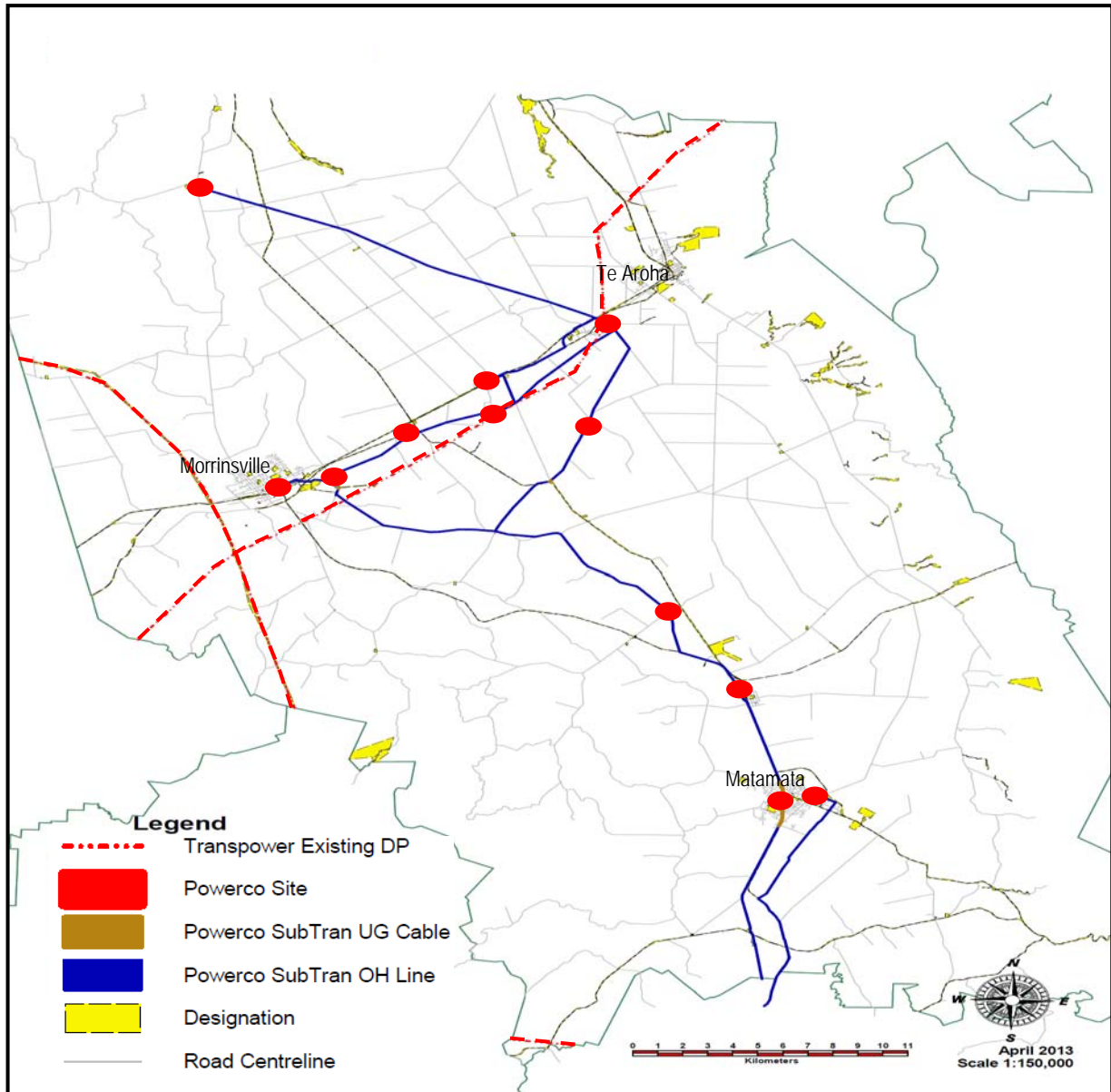
### **3.2.1 Electricity network**

The electricity network comprises generation plants, high voltage transmission lines between generation sites and grid exit points where the electricity is transferred to lower voltage sub-transmission lines; and distribution lines that carry lower voltage power to homes and businesses.

There are currently no electricity generation sites in the District. The closest generation site is the Karapiro Hydroelectric Power Station on the Waikato River, south-west of the District. There is potential for renewable energy generation sites using solar or wind energy, and community-based or domestic renewable energy supplies to be established in the future.



## Electricity Network



The 400kV capable electricity transmission line from Whakamaru to Auckland passes over the western part of the District. The Hamilton – Waihou - Waikino transmission line crosses the District running west to north-east, and the Karapiro-Hinuera transmission line passes over the south-western part of the District. These assets are part of the national power grid, owned and operated by Transpower.

Powerco and WEL Networks are the lines companies responsible for the distribution of power between the national grid and the electricity consumers in the District. The sub-transmission network runs through the centre of the District, from Hinuera in the south, to terminate at Tahuna in the north. Sub-stations are located at Hinuera, Matamata, Waharoa, Walton, Morrinsville, Waitoa, Mikkelsen Road (near Te Aroha), and at Tahuna.

### **3.2.2 Telecommunication network**

The District has good telecommunication coverage, including fixed-line, wireless, and broadband capability. Telecom/Chorus owns and operates the fixed-line telephone and broadband network as well as many mobile phone sites in the District. Vodafone also has a number of mobile sites in the District.

Kordia owns and operates the microwave communications tower on Mount Te Aroha delivering telecommunication services to the industry.

The Government's Rural Broadband Initiative (RBI) will enable fibre-based connections to most of the rural schools and will make high-speed broadband connections available to most of the homes and businesses in the District. The RBI roll-out requires the installation of fibre-optic cable, upgrading of local telephone exchanges, installing and upgrading roadside cabinets, installing new, and upgrading existing mobile towers.

### **3.2.3 Natural gas**

Vector is the owner and operator of approximately 2,500 km of high pressure natural gas transmission pipelines throughout the North Island. These pipelines are located underground, and deliver gas from production stations within the Taranaki Region to various towns and locations throughout the North Island.

Within the Matamata-Piako District, Vector owns and operates approximately 37 km of gas transmission pipeline, various associated above ground station sites, and gas distribution networks in Morrinsville and Waitoa.

The gas transmission pipelines located within the District are essential in transporting natural gas to not only delivery points in the District, but also to other networks within Waikato, Waipa, WBOP and Tauranga districts.

### **3.2.4 Regional flood control infrastructure**

Land in the District is generally low lying, and dependant on the major drainage schemes and flood protection measures associated with the river courses that traverse the area.

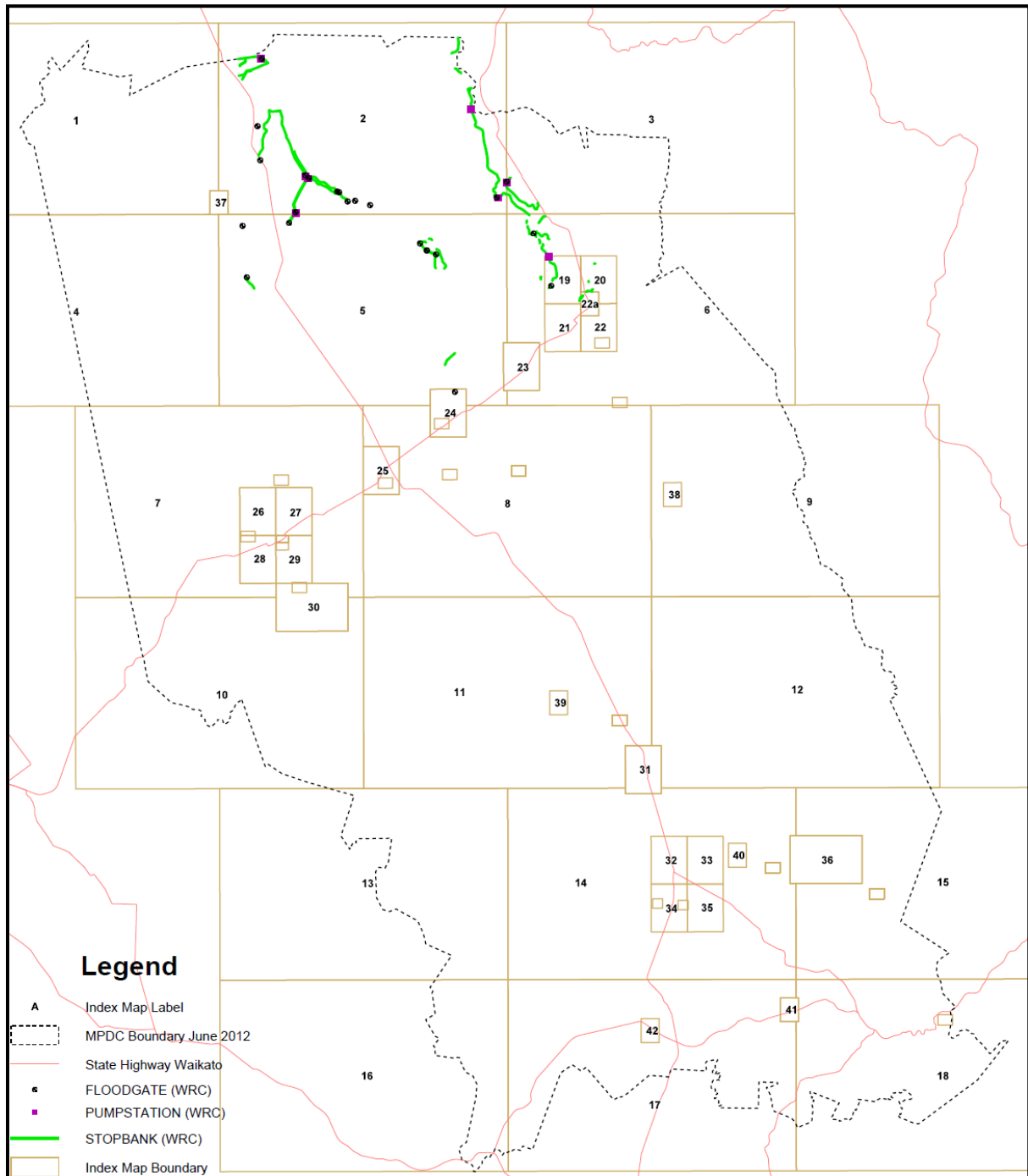
The Waihou and Piako River flood protection and drainage schemes protect land and property from inundation by flooding, and manage water tables to ensure the productivity of the District's rural land.

- **Waihou flood protection scheme**

The Waihou River has a total catchment area of 200,000 hectares. The catchment is a long narrow system located on the eastern side of the Thames Valley and it drains the western slopes of the Coromandel, Kaimai and Mamaku Ranges. Its headwaters are in the Mamaku Ranges between Tokoroa and Rotorua in the south, and it generally flows north via Te Aroha and Paeroa to discharge into the Firth of Thames near Thames.

Works constructed between 1910 and the 1930's essentially resulted in the Waihou River constituting a cut-off channel which collects hill country run-off from the east for the benefit of all the Hauraki Plains, including the Piako River Scheme, the success of which is dependent on controlling Waihou River floods.

## Waihou/Piako Flood Protection Works



The scheme includes:

- Land retirement and conservation measures in the Mamaku Plateau, the Kaimai and Coromandel Ranges,
- Riparian conservation measures,
- Improvements and stabilisation works to the tributaries and main river system,
- Floodway improvements,
- Stopbanking, floodgates and pumps.



The Matamata-Piako District is predominantly located in what is known as the “Middle Zone” of the Waihou Valley Scheme, between Te Aroha and Okauia Springs. In this zone on-going works are required to maintain the integrity of the scheme include clearing of the streams of willows and other vegetation/ replanting with more suitable species to improve the flow of water; and works to prevent erosion and improve the stability of the tributary streams at the base of the Kaimai Range.

- **Piako flood protection scheme**

The Piako River and its major tributary the Waitoa River have a combined catchment area of approximately 144,000 hectares. The catchment occupies much of the central and western Thames Valley extending from Hinuera in the south to the Firth of Thames in the north. The upper Piako catchment drains the Maungakawa and Tahuroa hills in the southwest and the Hapuakohe range in the northwest. The Waitoa catchment drains from Hinuera through the central Thames Valley, picking up most of the drainage outlets through the central area.

The Scheme includes river management works, river diversions and channel enlargement, ponding systems, floodway improvements, stopbanking, floodgates and pumps. Flood protection works are mainly north of Paeroa-Tahuna Road and extend downstream to include the stopbanks along the foreshore of the Firth of Thames that provide protection from tidal flooding.

- **Flood protection management**

The Waihou and Piako Schemes are managed and maintained by the Waikato Regional Council (WRC). The objectives of the management activities are:

- To reduce the magnitude of peak runoff from minor to moderate storm events;
- To control active erosion of soil, channel beds and river banks;
- To protect land with potential for erosion;
- To minimise inputs of nutrients and sediments into waterways;
- To promote sound riparian management;
- To achieve the water quality and aquatic habitat standards set out in the Waikato Regional Plan classification for the relevant rivers and streams; and:
- To manage the adverse effects associated with rivers and streams.

The Waihou/Piako flood protection scheme is a “mature scheme”, meaning that most of the development work has been completed. However, to ensure the integrity of the scheme, on-going management is required. Management includes monitoring and maintenance works, repair of flood damage, remedial works, and capital works.

Maintenance works are defined as the restoration and maintenance of existing structures and stream cross-sections to approved channel capacity.

### **3.2.5 Community infrastructure networks**

Community infrastructure services are essential for the public health, safety and general welfare of our community and include wastewater systems, stormwater systems, water supplies, and solid waste disposal.

The majority of these infrastructure networks are owned and operated by Council. However, there are private and communal water supply systems in operation in the District.

The District's infrastructure networks can be summarised as follows:

- **Wastewater systems**

There are six publicly operated wastewater collection, treatment and disposal schemes serving the towns/villages of Te Aroha, Morrinsville, Matamata, Tahuna, Waihou, and Waharoa. It is noted that the Waharoa network is connected to the Matamata treatment and disposal system.

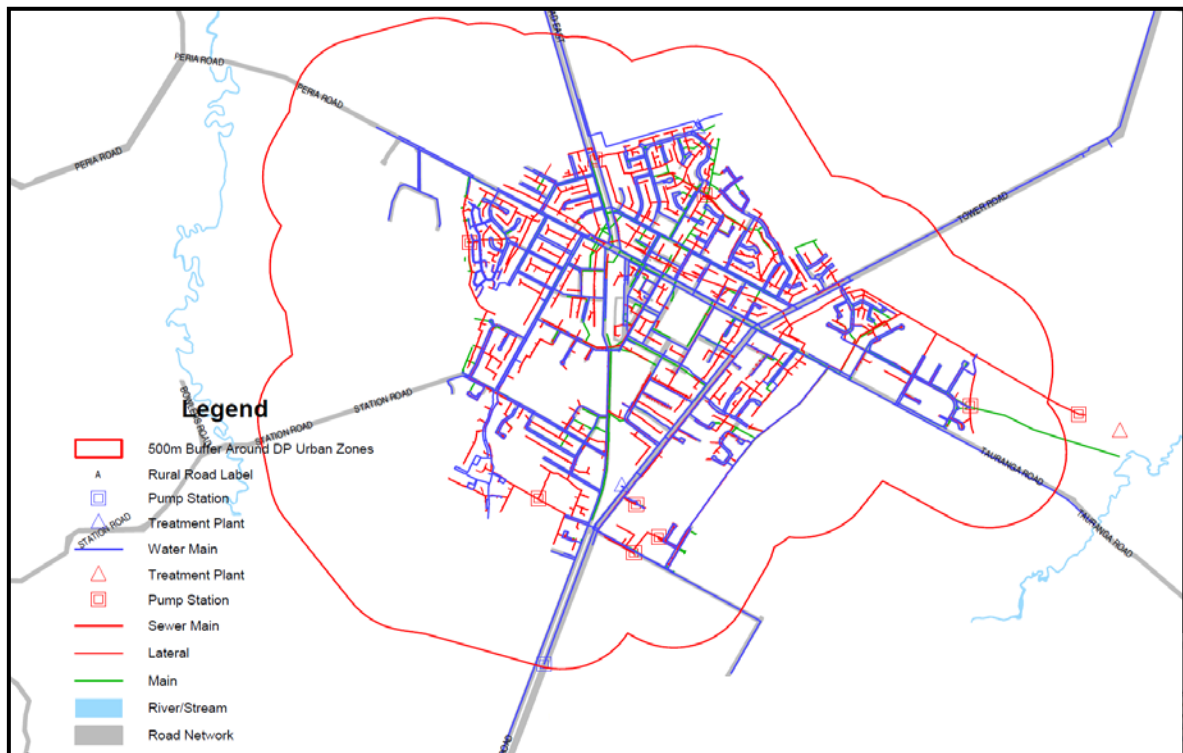
The treatment plants all dispose of treated wastewater into waterways, namely the Piako River (Morrinsville), Waihou River (Te Aroha), Mangawhero Stream (Matamata) and the Tahuna Stream (Tahuna).

An upgraded treatment plant with additional storage capacity is currently being constructed in Morrinsville. The Te Aroha system has limited capacity. In addition both the Te Aroha and Matamata Trunk Mains need upgrading and development outside the existing urban limits in these towns will require significant expenditure on sewer reticulation.

In addition to the Council operated systems, privately operated wastewater systems exist at the Tahuna School, and at some of the rural processing plants.

With the exception of some rural-residential developments on the outskirts of the towns which are connected to the public sewer reticulation systems, rural-residential and rural dwellings are predominantly served by individual onsite wastewater treatment and disposal systems which operate under the Waikato Regional Plan's permitted activity rules.

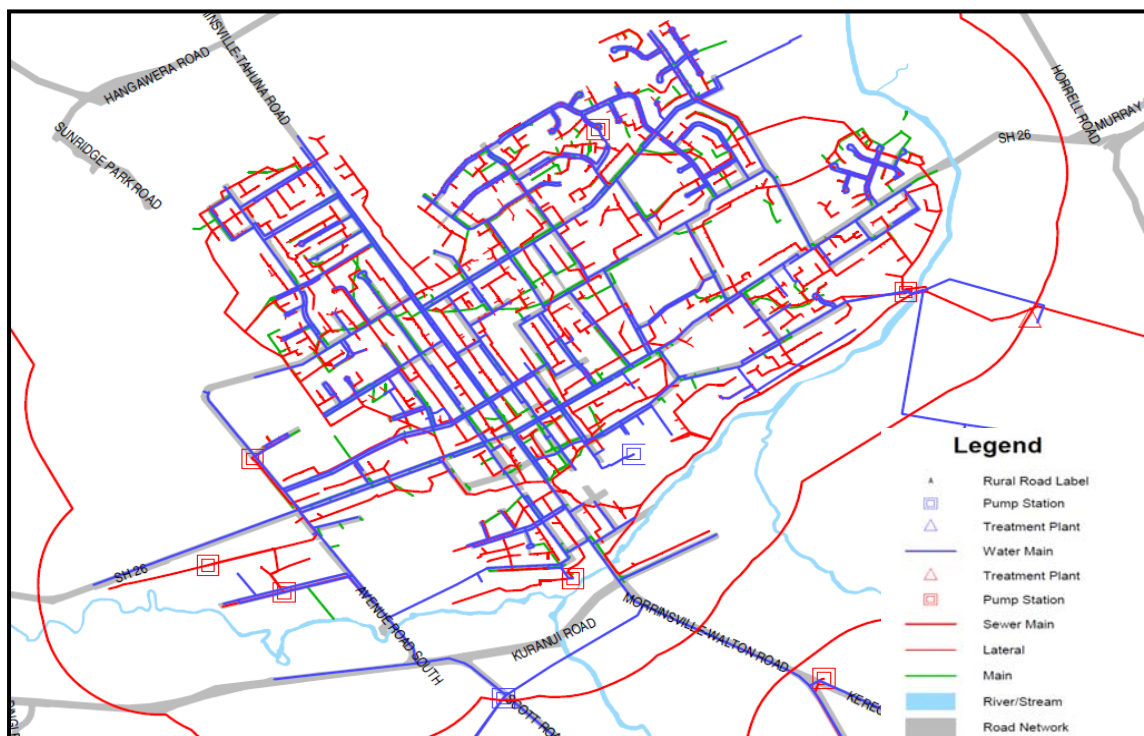
### Community Infrastructure Networks: Matamata



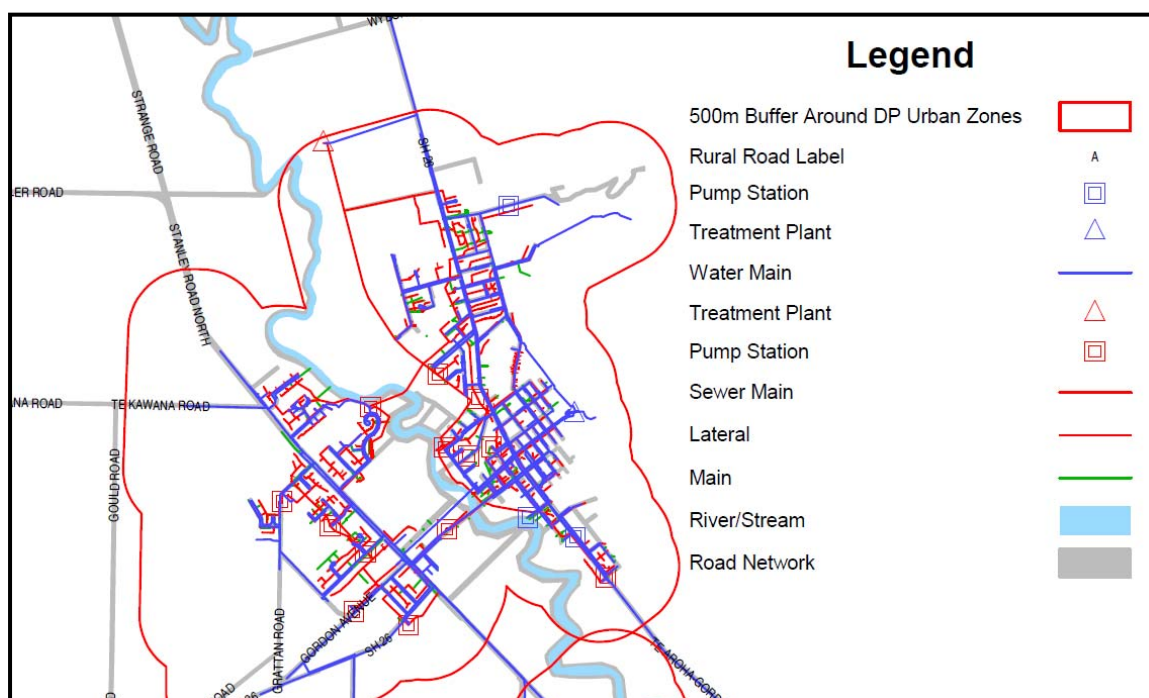
- **Stormwater systems**

Public stormwater systems operate in Te Aroha, Matamata, Morrinsville and parts of Waharoa. The systems comprise of reticulated pipes, detention facilities, culverts and catchpits, soak holes, open channels, rural streams, and overland flowpaths.

### Community Infrastructure Networks: Morrinsville



### Community Infrastructure Networks: Te Aroha



There are capacity constraints associated with the stormwater management systems in all three towns especially in Matamata which is characterised by flat topography, where flooding is known to occur during extreme weather events. However, favourable soil conditions with good soakage in many parts of the town offer some solutions.

Flood protection works undertaken in Te Aroha during the late 1980's, has alleviated the flood risk for this town, but the stormwater disposal system remains vulnerable during extreme weather events.

- **Water supplies**

The District's water supply originates partly from surface water and partly from groundwater sources.

All of the District's towns and rural villages are served by either publicly or privately operated water supplies. Te Aroha West has a public reticulation system of untreated water directly from the Puhimini raw water trunk main.

Some dwellings on the outskirts of the towns have low-pressure "trickle feed" connections to the town supply. Rural and rural-residential dwellings outside the town boundaries rely predominantly on rainwater catchment or farm bores.

The rural processing plants are mostly served by private water supplies, except for the:

- Inghams poultry processing plant and the Silver Fern meat processing plant which are reticulated from Te Aroha's Council supply;
- The Fonterra dairy processing plant and Greenlea meat works which are served from the Morrinsville supply; and
- Open Country dairy factory in Waharoa, served from the Matamata supply.

In addition to the public water supplies, private supplies serve the Waihou and Waitoa Townships, eleven of the District's schools and Marae, properties in Wood Road (operated by Wallace Corporation), Crystal Springs/Opal Springs, and the Waharoa Aerodrome.

- **Solid waste**

The Council, through its contractor, operates weekly kerb-side rubbish collection and recycling in all three towns and in the larger rural villages. Currently, approximately 9,300 tonnes of rubbish are disposed per annum, while 2,900 tonnes are recycled.

The District does not have an operating landfill site, but makes use of the Tirohia facility, in neighbouring Hauraki District.

Transfer stations with recycling facilities and provision for the collection and disposal of green waste operate in Morrinsville, Matamata and Waihou.

The rural area is served solely by private commercial operators.

## 4. Legislative requirements

In undertaking this District Plan review there are number of legislative requirements to be considered. Those which are most relevant are outlined in the following paragraphs.

### 4.1 Purpose and principles of the RMA

The overriding framework that guides all decision-making under the RMA is embodied in the purpose and principles of the Act, as stated in Part 2 (sections 5 – 8).

The purpose of the RMA is to promote the sustainable management of natural and physical resources. Section 5 RMA states:

#### **“5 Purpose**

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

Section 6 of the RMA identifies matters of national importance, and states that in achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for these matters. The matters of national importance are:

#### **“6 Matters of national importance**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) *the protection of protected customary rights.”*

Section 7 of the RMA identifies “other matters” that in achieving the purpose of the RMA, all persons exercising functions and powers under the Act shall have particular regard to in relation to managing the use, development, and protection of natural and physical resources. These “other matters” are:

**“7 Other matters**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

- (a) *kaitiakitanga:*
- (aa) *the ethic of stewardship:*
- (b) *the efficient use and development of natural and physical resources:*
- (ba) *the efficiency of the end use of energy:*
- (c) *the maintenance and enhancement of amenity values:*
- (d) *intrinsic values of ecosystems:*
- (e) *[Repealed]*
- (f) *maintenance and enhancement of the quality of the environment:*
- (g) *any finite characteristics of natural and physical resources:*
- (h) *the protection of the habitat of trout and salmon:*
- (i) *the effects of climate change:*
- (j) *the benefits to be derived from the use and development of renewable energy.”*

In achieving the purpose of the Act, decision makers should also take into account the principles of the Treaty of Waitangi (Section 8 of the Act):

**“8 Treaty of Waitangi**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).”*

## **4.2 Functions of territorial authorities**

A district plan is essentially a mechanism to assist territorial authorities to carry out their functions. It follows then that a district plan must be confined to matters that fall within the scope of a territorial authority’s functions. The functions of territorial authorities are set out in Section 31 RMA:

**“31 Functions of territorial authorities under this Act**

- (1) *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
  - (a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*
  - (b) *the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—*
    - (i) *the avoidance or mitigation of natural hazards; and*
    - (ii) *the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and*
    - (iia) *the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:*
    - (iii) *the maintenance of indigenous biological diversity:*

- (d) *the control of the emission of noise and the mitigation of the effects of noise:*
  - (e) *the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:*
  - (f) *any other functions specified in this Act.*
- (2) *The methods used to carry out any functions under subsection (1) may include the control of subdivision.”*

### **4.3 Purpose of district plans**

The purpose of district plans as set out in section 72 RMA is to assist territorial authorities to carry out their functions, in order to achieve the purpose of the Act. Section 72 states:

***“72 Purpose of district plans***

*The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.”*

### **4.4 Preparation/change of district plans**

Section 73 RMA requires a territorial authority to have a district plan in place at all times, gives authority to the Council to change its district plan in accordance with the provisions in Schedule 1<sup>5</sup> RMA, and mandates the Council to change its district plan to give effect to an operative regional policy statement.

The relevant section of the Act states:

***“73 Preparation and change of district plans***

- (1) *There shall at all times be 1 district plan for each district prepared by the territorial authority in the manner set out in Schedule 1.*
- (1A) *A district plan may be changed by a territorial authority in the manner set out in Schedule 1.*
- (4) *A local authority must amend a proposed district plan or district plan to give effect to a regional policy statement, if—*
  - (a) *the statement contains a provision to which the plan does not give effect; and*
  - (ii) *the statement is reviewed under section 79 and is changed or replaced and the change or replacement becomes operative;*
- (5) *A local authority must comply with subsection (4)—*
  - (a) *within the time specified in the statement, if a time is specified;”*

### **4.5 Matters to be considered**

Section 74 RMA sets out the matters to be considered when changing district plans. Relevant to this plan change is that s74 requires that the Council:

- Considers its functions (section 31), Part 2 RMA matters (i.e. the purpose and principles of the Act), and its duty to consider alternatives, benefits, and costs (section 32);
- Have regard to the proposed regional policy statement, management plans and strategies prepared under other Acts and consistency with the plans of adjacent territorial authorities; and:
- Disregards trade competition.

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<sup>5</sup> Schedule 1 RMA sets out the procedural requirements for the plan change process including time limits, consultation, submissions, hearings, notification of decisions, and appeals.

The relevant section states:

***“74 Matters to be considered by territorial authority***

- (1) *A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part 2,.....duty under section 32,*
- (2) *In addition to the requirements of section 75(3) and (4), when...changing a district plan, a territorial authority shall have regard to—*
  - (a) *any—*
    - (i) *proposed regional policy statement;*
    - (b) *any—*
      - (i) *management plans and strategies prepared under other Acts; and*
      - (c) *the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*
- (3) *In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.”*

#### **4.6 District plan content**

Section 75 RMA determines the contents of district plans, planning instruments that a district plan must give effect to, and that it must not be inconsistent with.

Under s75(1) it is mandatory for district plans to state:

- Objectives;
- Policies to implement the objectives; and
- Rules to implement the policies.

Under s75(2) it is optional for district plans to state:

- Significant resource management issues for the district;
- Non-regulatory methods to implement policies;
- Reasons why the policies and methods were adopted;
- Environmental results expected;
- Procedures for monitoring the effectiveness and efficiency of the plan provisions;
- How to deal with cross-boundary issues;
- The information requirements for resource consent applications; and
- Any other information required to enable a territorial authority to exercise its functions, powers, and duties under the RMA.

Section 75(3) mandates a district plan to give effect to certain planning instruments. The planning instrument relevant to this plan change to which effect must be given under s75(3) are the Operative Waikato Regional Policy Statement, NPS-ET, and the NPS-REG.

The Waikato Regional Policy Statement is currently being reviewed. The review has reached the stage where WRC has made its decisions (November 2012), and all the appeals relating to matters covered by these plan changes are in the process of being settled by consent orders. The WRC has not made the parts of the PRPS that are beyond challenge operative.

However, given the advanced stage that the PRPS has reached in the plan-making process, these plan changes have given significant weighting to the PRPS.

Section 75(4) requires that a district plan must not be inconsistent with certain planning instruments. The only s75(4) planning instrument relevant to this plan change is the Operative Waikato Regional Plan.



Section 75(5) provides the ability for the district plan to incorporate material by reference.

The relevant section states:

**“75 Contents of district plans**

- (1) *A district plan must state—*
  - (a) *the objectives for the district; and*
  - (b) *the policies to implement the objectives; and*
  - (c) *the rules (if any) to implement the policies.*
- (2) *A district plan may state—*
  - (a) *the significant resource management issues for the district; and*
  - (b) *the methods, other than rules, for implementing the policies for the district; and*
  - (c) *the principal reasons for adopting the policies and methods; and*
  - (d) *the environmental results expected from the policies and methods; and*
  - (e) *the procedures for monitoring the efficiency and effectiveness of the policies and methods; and*
  - (f) *the processes for dealing with issues that cross territorial authority boundaries; and*
  - (g) *the information to be included with an application for a resource consent; and*
  - (h) *any other information required for the purpose of the territorial authority’s functions, powers, and duties under this Act.*
- (3) *A district plan must give effect to—*
  - (a) *any national policy statement*
  - (c) *any regional policy statement.*
- (4) *A district plan must not be inconsistent with—*
  - (b) *a regional plan for any matter specified in section 30(1).*
- (5) *A district plan may incorporate material by reference under Part 3 of Schedule 1.”*

**4.7 District rules**

Section 76 enables rules to be included in a district plan, to enable the Council to carry out its functions, and to achieve the objectives and policies of the plan. In making rules, the territorial authority must have regard to the effects on the environment. Rules may apply universally to the whole of the district, or to selected parts of the district only. Rules may be general or specific, can make provision for different classes of effects, and can require resource consent to be obtained for an activity likely to cause adverse effects not covered by the plan.

Section 77A RMA gives Council the power to make rules for the different activity classes (permitted, controlled, restricted-discretionary, discretionary, non-complying, and prohibited) and specify conditions in a plan.

Under s77B, it is mandatory that a district plan must state the matters over which the Council has retained control for controlled activities, and to which the Council has restricted its discretion for restricted-discretionary activities.

The relevant sections of the Act are quoted below:

**“76 District rules**

- (1) *A territorial authority may, for the purpose of—*
  - (a) *carrying out its functions under this Act; and*
  - (b) *achieving the objectives and policies of the plan,—*  
*include rules in a district plan.*

- (3) *In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect.*
- (4) *A rule may—*
  - (a) *apply throughout a district or a part of a district;*
  - (b) *make different provision for—*
    - (i) *different parts of the district; or*
    - (ii) *different classes of effects arising from an activity;*
  - (c) *apply all the time or for stated periods or seasons;*
  - (d) *be specific or general in its application;*
  - (e) *require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.”*

**77A Power to make rules to apply to classes of activities and specify conditions**

- (1) *A local authority may—*
  - (a) *categorise activities as belonging to one of the classes of activity described in subsection (2); and*
  - (b) *make rules in its plan or proposed plan for each class of activity that apply—*
    - (i) *to each activity within the class; and*
    - (ii) *for the purposes of that plan or proposed plan; and*
  - (c) *specify conditions in a plan or proposed plan, but only if the conditions relate to the matters described in section 108 or 220.*
- (2) *An activity may be—*
  - (a) *a permitted activity; or*
  - (b) *a controlled activity; or*
  - (c) *a restricted discretionary activity; or*
  - (d) *a discretionary activity; or*
  - (e) *a non-complying activity; or*
  - (f) *a prohibited activity.*
- (3) *Subsection (1)(b) is subject to section 77B.*

**77B Duty to include certain rules in relation to controlled or restricted discretionary activities**

- (1) *Subsection (2) applies if a local authority makes a rule in its plan or proposed plan classifying an activity as a controlled activity.*
- (2) *The local authority must specify in the rule the matters over which it has reserved control in relation to the activity.*
- (3) *Subsection (4) applies if a local authority makes a rule in its plan or proposed plan classifying an activity as a restricted discretionary activity.*
- (4) *The local authority must specify in the rule the matters over which it has restricted its discretion in relation to the activity.*

**4.8 National environmental standards**

Sections 43A, 43B and 44A deal with the contents of national environmental standards and their relationship to plan rules.

The relevant provisions determine that:

- A plan rule may be more stringent than a NES, if the standard expressly says so.
- A plan rule may not be more lenient than a NES;
- If a plan contains a rule that duplicates or is in conflict with a provision in a NES, then:
  - If the NES specifies the extent to which/ time period during which the rule continues to have effect, a local authority must amend its plan to remove the

- duplication without using the process in Schedule 1, in accordance with the timescale as specified in the NES;
  - If an activity is permitted under the NES, then the NES prevails;
  - In all other cases the local authority must amend its plan, without using the process in Schedule 1, as soon as practicable.
- A plan may be amended to include a reference to a NES, without using the process in Schedule 1.

The pertinent sections of the RMA are quoted below:

**“43A Contents of national environmental standards**

- (1) *National environmental standards may—*
  - (a) *prohibit an activity;*
  - (b) *allow an activity;*
  - (c) *restrict the making of a rule or the granting of a resource consent to matters specified in a national environmental standard;*
  - (d) *require a person to obtain a certificate from a specified person stating that an activity complies with a term or condition imposed by a national environmental standard;*
  - (e) *specify, in relation to a rule made before the commencement of a national environmental standard,—*
    - (i) *the extent to which any matter to which the standard applies continues to have effect; or*
    - (ii) *the time period during which any matter to which the standard applies continues to have effect;*
  - (f) *require local authorities to review, under section 128(1), all or any of the permits to which paragraph (ba) of that subsection applies as soon as practicable or within the time specified in a national environmental standard.*
- (2) *A national environmental standard that prohibits an activity—*
  - (a) *may do one or both of the following:*
    - (i) *state that a resource consent may be granted for the activity, but only on the terms or conditions specified in the standard; and*
    - (ii) *require compliance with the rules in a plan or proposed plan as a term or condition; or*
  - (b) *may state that the activity is a prohibited activity.*
- (3) *If an activity has significant adverse effects on the environment, a national environmental standard must not, under subsections (1)(b) and (4),—*
  - (a) *allow the activity, unless it states that a resource consent is required for the activity; or*
  - (b) *state that the activity is a permitted activity.*
- (4) *A national environmental standard that allows an activity—*
  - (a) *may state that a resource consent is not required for the activity; or*
  - (b) *may do one or both of the following:*
    - (i) *state that the activity is a permitted activity, but only on the terms or conditions specified in the standard; and*
    - (ii) *require compliance with the rules in a plan or proposed plan as a term or condition.*
- (5) *If a national environmental standard allows an activity and states that a resource consent is not required for the activity, or states that an activity is a permitted activity, the following provisions apply to plans and proposed plans:*
  - (a) *a plan or proposed plan may state that the activity is a permitted activity on the terms or conditions specified in the plan; and*

- (b) *the terms or conditions specified in the plan may deal only with effects of the activity that are different from those dealt with in the terms or conditions specified in the standard; and*
- (c) *if a plan's terms or conditions deal with effects of the activity that are the same as those dealt with in the terms or conditions specified in the standard, the terms or conditions in the standard prevail.*
- (6) *A national environmental standard that allows a resource consent to be granted for an activity—*
  - (a) *may state that the activity is—*
    - (i) *a controlled activity; or*
    - (ii) *a restricted discretionary activity; or*
    - (iii) *a discretionary activity; or*
    - (iv) *a non-complying activity; and*
  - (b) *may state the matters over which—*
    - (i) *control is reserved; or*
    - (ii) *discretion is restricted.*
- (7) *A national environmental standard may specify the activities for which the consent authority—*
  - (a) *must give public notification of an application for a resource consent:*
  - (b) *is precluded from giving public notification of an application for a resource consent:*
  - (c) *is precluded from giving limited notification of an application for resource consent.*

**43B Relationship between national environmental standards and rules or consents**

- (1) *A rule or resource consent that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a rule or consent may be more stringent than it.*
- (2) *For the purposes of subsection (1),—*
  - (a) *a rule is more stringent than a standard if it prohibits or restricts an activity that the standard permits or authorises:*
  - (b) *a resource consent is more stringent than a standard if it imposes conditions on an activity that the standard does not impose or authorise.*
- (3) *A rule or resource consent may not be more lenient than a national environmental standard.*
- (4) *For the purposes of subsection (3), a rule or resource consent is more lenient than a standard if it permits or authorises an activity that the standard prohibits or restricts.*

**44A Local authority recognition of national environmental standards**

- (1) *Subsections (3) to (5) apply if a local authority's plan or proposed plan contains a rule that duplicates a provision in a national environmental standard.*
- (2) *Subsections (3) to (5) apply if a local authority's plan or proposed plan contains a rule that conflicts with a provision in a national environmental standard. A rule conflicts with a provision if—*
  - (a) *both of the following apply:*
    - (i) *the rule is more stringent than the provision in that it prohibits or restricts an activity that the provision permits or authorises; and*
    - (ii) *the standard does not expressly say that a rule may be more stringent than it; or*
  - (b) *the rule is more lenient than the provision.*
- (3) *If the duplication or conflict is dealt with in the national environmental standard in one of the ways described in section 43A(1)(e), the local authority must amend the plan or proposed plan to remove the duplication or conflict—*
  - (a) *without using the process in Schedule 1; and*
  - (b) *in accordance with the specification in the national environmental standard.*

- (4) *If the duplication or conflict arises as described in section 43A(5)(c), the local authority must amend the plan or proposed plan to remove the duplication or conflict—*
  - (a) *without using the process in Schedule 1; and*
  - (b) *as soon as practicable after the date on which the standard comes into force.*
- (5) *In every other case of duplication or conflict, the local authority must amend the plan or proposed plan to remove the duplication or conflict—*
  - (a) *without using the process in Schedule 1; and*
  - (b) *as soon as practicable after the date on which the standard comes into force.*
- (6) *A local authority may amend a plan or proposed plan to include a reference to a national environmental standard—*
  - (a) *without using the process in Schedule 1; and*
  - (b) *after the date on which the standard comes into force.*
- (7) *Every local authority and consent authority must observe national environmental standards.*
- (8) *Every local authority and consent authority must enforce the observance of national environmental standards to the extent to which their powers enable them to do so.*

#### **4.9 National policy statements**

Sections 45(1) and 55 deal with the purpose of national policy statements, and their relevance to the plan-making process.

Under the relevant provisions, the purpose of NPSs is to state objectives and policies for matters of national significance, relevant to achieving the purpose of the RMA.

The RMA determines that NPSs must be dealt with as follows during the plan-making process:

- If the NPS directs so, then a plan must be amended, without using the Schedule 1 process, to include the specific objectives and policies specified in a NPS or so that the objectives and policies in the plan give effect to the NPS;
- Otherwise and in all other respects, a plan must be amended, using the Schedule 1 process, to give effect to a NPS.
- All amendments required, must be made within the timescale specified in a NPS, or if none is specified then the changes must be made as soon as practicable.

The pertinent sections of the RMA are quoted below:

***“45 Purpose of national policy statements (other than New Zealand coastal policy statements)***

- (1) *The purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.*

***55 Local authority recognition of national policy statements***

- (1) *In subsections (2) and (2A), document means—*
  - (a) *a regional policy statement; or*
  - (b) *a proposed regional policy statement; or*
  - (c) *a proposed plan; or*
  - (d) *a plan; or*
  - (e) *a variation.*
- (2) *A local authority must amend a document, if a national policy statement directs so,—*
  - (a) *to include specific objectives and policies set out in the statement; or*

- (b) so that objectives and policies specified in the document give effect to objectives and policies specified in the statement.
- (2A) The local authority must—
- a) make the amendments referred to in subsection (2) without using the process in Schedule 1; and
  - (b) give public notice of the amendments within 5 working days after making them.
- (2C) The local authority must make the amendments referred to in subsection (2B) using the process in Schedule 1.
- (2D) In all cases, the local authority must make the amendments—
- (a) as soon as practicable; or
  - (b) within the time specified in the national policy statement (if any); or
  - (c) before the occurrence of an event specified in the national policy statement (if any).
- (3) A local authority must also take any other action that is specified in the national policy statement.
- (4) A national policy statement may include transitional provisions for any matter, including its effect on existing matters or proceedings.”

#### **4.10 Section 32 evaluation**

Section 32 RMA requires the Council, before a plan change is notified, to evaluate alternative options for dealing with the District’s resource management issues.

These plan changes were notified prior to the amendments to the RMA brought in by the Resource Management Amendment Act 2013 (2013 No 63). Consequently, the relevant s32 provisions without amendments, as it existed at the time of notification, apply to these plan changes.

These provisions are:

Section 32(1):

*“In achieving the purpose of this Act, before a proposed plan .... is publicly notified, an evaluation must be carried out by -*  
*(c) the local authority”.*

The scope of the evaluation required, is described as follows in Section 32(3):

*“An evaluation must examine –*

- (a) *the extent to which each objective is the most appropriate way to achieve the purpose of this Act”;*
- (b) *whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives”.*

Section 32(4) sets out the matters that Council must take into account during its evaluation:

*“For the purposes of the examinations referred to in subsections (3)...., an evaluation must take into account –*

- (a) *the benefits and costs of policies, rules, or other methods; and*
- (b) *the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods”.*

In compliance with the above requirements, the Section 32 Report pertaining to these plan changes were made available at notification.

Section 32(2) as it stood at the time of notification of these plan changes required that:

*“(2) A further evaluation must also be made by—*

*(a) a local authority before making a decision under clause 10 or clause 29(4) of Schedule 1”*  
In compliance with this requirement the Council will ultimately, when it makes its decisions, prepare a supplement to the s32 Report to summarise the process undertaken by Council during its deliberations, and its rationale for any changes made to the proposed plan provisions as a result of the submissions that it has heard.

## **5. Relevant planning instruments**

The relevant planning instruments that these plan changes must give effect to, or must be consistent with, or must have regard to; under the legislation outlined in the previous section of this report, are summarised below.

### **5.1 Planning instruments that must be given effect to**

These plan changes must give effect to the following national and regional planning instruments:

#### **5.1.1 National Policy Statement on Electricity Transmission**

The NPS-ET was gazetted on 13 March 2008 and came into force on 10 April 2008.

The matter of national significance to which this national policy statement applies, is the need to operate, maintain, develop and upgrade the electricity transmission network.

The NPS seeks to adequately provide for the vital role that the efficient transmission of electricity along the national grid plays, in determining the wellbeing of the people and the environment.

The more resilient, secure, and flexible the national grid is, the more efficiently and effectively it can perform its task. Perpetually re-litigating the importance of electricity transmission and focussing on local adverse impacts instead of balancing them with national benefits can cause unnecessary delays and potentially result in decisions that are not in the national interest. Hence, the need for a NPS to provide guidance on the weighting to be placed on competing issues.

The NPS was born out of awareness that high voltage electricity has special characteristics that present unique challenges for its management under the RMA, such as:

- Transporting electricity requires structures (towers/poles, conductors, wires/cables, substations and switching stations) that can create effects, even significant effects, at local, regional, and national scale.
- The transmission network is an extensive linear system that crosses numerous jurisdictions, thus requiring consistent policy and regulatory approaches by local authorities.
- Technical, operational and security requirements associated with the transmission network can limit the extent to which it is feasible to avoid or mitigate all adverse environmental effects.
- The operation, maintenance, and future development of the transmission network can be significantly constrained by the adverse environmental impact of third party activities and development.
- The adverse environmental effects of the transmission network are often local, while the benefits extend beyond the local, to the regional and national scale. Therefore, those exercising powers and functions under the RMA, must balance local, regional, and national effects (positive and negative), when making decisions.

- Ongoing investment will be required to meet the demand for electricity and the objective for a renewable energy future, therefore strategic planning to provide for transmission infrastructure is needed.

The NPS acknowledges the national significance of the national grid and seeks to ensure that there is balanced consideration of the national benefits, versus the local effects, of electricity transmission.

The NPS applies only to the national grid, being the high voltage transmission network owned and operated by Transpower that carries electricity around the country. It is made up of over 12,000 kilometres of high-voltage transmission lines and more than 170 substations. It connects power stations owned by power-generating companies, to substations that feed local electricity distribution networks. The NPS does not apply to the distribution networks between the substations and consumers.

The majority of the national grid was constructed prior to the RMA and therefore has existing use rights. However, new development or upgrades are carried out under terms, rules or designations contained in district plans subsequently developed under the RMA. Prior to the NPS taking effect, there was no national policy position on the management of the national grid under the RMA.

Despite common environmental impacts, the treatment of similar electricity transmission activities within district plans varies significantly throughout the country. Because the national grid is an integrated network, delays at one locality can have implications on the wider network.

Against the above background, the NPS provides the high level policy framework that sets out the objective and policies for management of the national electricity transmission grid (while the NES, by comparison, sets out specific, detailed requirements for work on electricity transmission lines).

The objective of the NPS-ET is:

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

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

The Objective is to be achieved by fourteen policies that seek to:

- Recognise the national benefits of transmission;
- Manage the environmental effects of transmission;
- Manage the adverse effects of third parties on the transmission network;
- Ensure that the electricity transmission network is identified on planning maps;
- Ensure long-term strategic planning of transmission assets.

The objective and policies are intended to guide decision-makers in drafting plan rules for transmission activities. The NPS requires that local authorities notify and process under the First Schedule to the Act, a plan change or review to give effect as appropriate to the provisions of this NPS and to provide for meaningful implementation through the district plan.



This plan review process is the earliest opportunity the Council had to consider the implications of this national policy statement and the District Plan changes now proposed are intended to comply with the statutory requirement to give effect to the NPS-ET.

Case law has clarified that 'giving effect' must be interpreted as a proactive term, indicating that some form of response is required to ensure that priority is given to the transmission network as a nationally significant resource. The word 'facilitating' in the objective also implies a proactive response, by requiring local authorities to determine ways to aid or assist in the "*operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources*", while managing adverse effects of and on the network.

Therefore, district plans must provide some form of specific recognition and provision for the transmission network in their district plan objectives, policies, methods and rules. If this response is part of a suite of provisions on infrastructure or network utilities, the transmission network should be specifically provided for.

### **5.1.2 National Policy Statement for Renewable Electricity Generation**

The NPS-REG came into force on 13 May 2011.

The issue/matter of national significance that the NPS-REG addresses can be described as follows:

New Zealand's energy demand has been growing steadily and is forecast to continue to grow. The country must confront two major energy challenges as it meets growing energy demand:

- The first is to respond to the risks of climate change by reducing greenhouse gas emissions caused by the production and use of energy.
- The second is to deliver clean, secure, affordable energy while treating the environment responsibly.

The Country has abundant renewable energy resources, and development of more renewable energy generation is the key to meeting both the above challenges. However, the benefits of renewable energy generation are not adequately recognised in RMA decision-making. Also, in some instances the benefits can compete with matters of national importance (s6 RMA) and with matters to which decision-makers are required to have particular regard under section 7 of the Act.

In particular, the natural resources from which electricity is generated can coincide with areas of significant natural character, significant amenity values, historic heritage, outstanding natural features and landscapes, significant indigenous vegetation and significant habitats of indigenous fauna. There are also potential conflicts with the relationship of Maori with their taonga and the role of kaitiaki.

Often, the benefits of renewable energy manifest at the national level, while the adverse environmental effects tend to be felt at the local level.

The NPS seeks to:

- Provide national consistency in addressing the competing values associated with the development of renewable energy resources so as to provide greater certainty to decision-makers, applicants, and the wider community.

- Address the problem that renewable electricity generation is being unduly impeded by variable provisions in local plans and policies and changing attitudes to the environmental effects of development.
- Avoid increased consenting costs and resource consent conditions that reduce the efficiency of renewable generation thereby requiring further generation capacity to be built.

To summarise, the matters of national significance to which the NPS applies are:

- The need to develop, operate, maintain and upgrade renewable electricity generation activities throughout New Zealand; and
- To recognise the benefits of renewable electricity generation.

By addressing the above matters of national significance, the NPS is expected to lead to:

- Increased investment and planning certainty,
- The removal of undue regulatory barriers,
- Increased certainty for investors,
- Increased efficiency of decision-making processes,
- An increase in the development of renewable energy generation projects,
- Support for the outcomes sought through the Emissions Trading Scheme (ETS), and:
- Support for the Government’s target for 90% of electricity to be obtained from renewable sources by 2025.

“Renewable electricity generation” is defined in the NPS to mean “*generation of electricity from solar, wind, hydro-electricity, geothermal, biomass, tidal, wave, or ocean current energy sources*”.

The NPS does not apply to:

- The allocation and prioritisation of freshwater which are matters dealt with under a separate national policy statement; and:
- Demand-side management (e.g. actions that reduce the demand for new electricity generation activities).

The NPS sets out an objective and policies to enable the sustainable management of renewable electricity generation under the Resource Management Act 1991.

The objective of the NPS is:

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

The objective is underpinned by a number of policies which deal with eight distinct topics, referenced A – H. The topics addressed by the policies are:

- A. Recognising the benefits of renewable electricity generation activities.
- B. Acknowledging the practical implications of achieving New Zealand’s target for electricity generation from renewable resources.
- C. Acknowledging the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities.
- D. Managing reverse sensitivity effects on renewable electricity generation activities.
- E. Incorporating provisions for renewable electricity generation activities into regional policy statements and regional and district plans (including solar, biomass, tidal, wave, ocean current, hydro-electricity, wind, and geothermal resources).
- F. Incorporating provisions for small and community-scale renewable electricity

- generation activities into regional policy statements and regional and district plans.
- G. Enabling identification of renewable electricity generation possibilities.
  - H. Determining the timeline within which implementation is required.

The NPS is intended to provide national direction on the significance of renewable generation and how this should be reflected in resource management policy and plans. It does this by raising the status of renewable electricity generation to one of national significance when considering resource management proposals and by requiring changes to policy statements and plans.

The NPS-REG requires regional councils, unless they have already provided for renewable electricity generation activities, to give effect to its provisions by notifying changes to existing or proposed regional policy statements within 24 months of the date on which it took effect.

In the case of regional and district plans, proposed plans or variations, local authorities are required to give effect to its provisions by notifying changes within the following timeframes:

- 24 months of the date on which the NPS took effect where the regional policy statement or proposed regional policy statement already provides for the policies; or
- where a change or variation to the regional policy statement or proposed regional policy statement is required, within 12 months of the date on which the change or variation becomes operative.

The implications of the NPS-REG have been considered during the preparation of this plan change. The proposed changes to the District Plan as detailed later in this report are intended to comply with Council's statutory obligation to give effect to the NPS-REG.

### **5.1.3 Hauraki Gulf Marine Park Act 2000 (HGMPA)**

Matters of national significance and management objectives for the Hauraki Gulf are expressed in Sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 (HGMPA). Section 10(1) requires that Sections 7 and 8 be treated as a New Zealand Coastal Policy statement under the RMA while Section 9(5) determines that policy statements and plans be changed to give effect to Sections 7 and 8 as though they were a national policy statement.

Therefore, Section 7 and 8 of the HGMPA has the status of a national policy statement. The Act recognises the Gulf's national significance and establishes management objectives and mechanisms for protection and enhancement.

Under the HGMPA the Auckland Council, Waikato Regional Council, and a number of territorial authorities (including MPDC) are tasked with land-use management within the catchments of the Gulf.

In addition to the local authorities, a number of other Crown agencies such as the Departments of Conservation and Fisheries, and tangata whenua also have management responsibilities for the Gulf.

The HGMPA seeks to better integrate the management efforts of the different agencies which have jurisdiction over the Gulf.

By establishing overall objectives for the Gulf, its islands and catchments, the HGMPA seeks to achieve integrated management across land and sea, thereby ensuring that the effects of urban and rural land use on the life supporting capacity of the Gulf is given proper attention during the decision-making process.

The provisions of the HGMPA apply to three distinct physical elements:

- The Gulf's coastal marine area,
- Its islands, and:
- The catchments which drain into the coastal marine area.

The catchments include a narrow strip along the eastern edge of the Auckland Region, the entire Coromandel Peninsula, and the expansive Hauraki Plains extending far inland to the south, incorporating the majority of the land under the jurisdiction of MPDC.

With the exception of a small area of land at its westernmost extent, the rest of the land under MPDC's jurisdiction is therefore subject to the provisions of the HGMPA.

The overall purpose of the HGMPA is to improve the environmental management of the Gulf, islands, and its catchments. It seeks to do this through better integration of the environmental management efforts of the numerous statutory authorities whose activities impact on the area. In addition, the HGMPA seeks to provide better recognition of the relationships which exist between tangata whenua and the Gulf.

The three main implementation mechanisms under the Act are:

- A set of common matters of national significance and management objectives to guide the decision-making of the various statutory agencies.
- The establishment of the Hauraki Gulf Forum.
- The creation of the Hauraki Gulf Marine Park.

The matters of national significance (Section 7) and the management objectives (Section 8) are of specific interest under the RMA, as these provisions have the status of a national policy statement.

Section 7 specifically recognises the Hauraki Gulf as having national significance. The section contains two elements:

- The first focuses on the concept of interrelationships. It specifically refers to the interrelationship between the Gulf's coastal marine area, the catchments which drain into that area, and the islands contained within it. It is not these natural elements in themselves which are identified as being of national significance, but the interrelationship between them. The legislation emphasises not the parts, but the linkages, thereby reflecting the overall integration thrust of the legislation. It signifies that management of the Gulf requires a focus on systems rather than on discrete elements.
- The second important concept in section 7 is that of *capacity*. The significance of the interrelationship between the elements of the Gulf is its ability to sustain "*the life-supporting capacity of the environment*". The *capacity* of the environment of the Gulf is based on its ecological health, because it is this health and productivity which provide many of the characteristics desired by people, such as:
  - Clean water to swim in,
  - Abundant seafood to harvest,
  - Natural landscapes to experience, and:
  - The spiritual well-being of tangata whenua.

Section 7 refers only to the life-supporting capacity of the coastal marine area and its islands, not the capacity of their catchments which are given significance primarily in terms of their interrelationship with the other areas. This indicates that management within mainland catchments is important under the HGMPA primarily in terms of its impact on the health and carrying capacity of the coastal marine area and islands rather than in terms of its impacts within the catchments themselves.

The text of Section 7 taken from the Act is quoted below:

### **7 Recognition of national significance of Hauraki Gulf**

*(1) The interrelationship between the Hauraki Gulf, its islands, and catchments and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands are matters of national significance.*

*(2) The life-supporting capacity of the environment of the Gulf and its islands includes the capacity—*

*(a) to provide for—*

*(i) the historic, traditional, cultural, and spiritual relationship of the tangata whenua of the Gulf with the Gulf and its islands; and*

*(ii) the social, economic, recreational, and cultural well-being of people and communities:*

*(b) to use the resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation:*

*(c) to maintain the soil, air, water, and ecosystems of the Gulf.*

Section 8 sets out six management objectives which are designed to ensure that the national significance of the Gulf is recognised. They refer in the main to the protection (or maintenance) and “where appropriate” enhancement of the natural, historic and physical resources of the Gulf’s coastal marine area, islands and catchments as well as of the associations which tangata whenua, people and communities have with them:

### **8 Management of Hauraki Gulf**

*To recognise the national significance of the Hauraki Gulf, its islands, and catchments, the objectives of the management of the Hauraki Gulf, its islands, and catchments are—*

*(a) the protection and, where appropriate, the enhancement of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments:*

*(b) the protection and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:*

*(c) the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:*

*(d) the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:*

*(e) the maintenance and, where appropriate, the enhancement of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand:*

*(f) the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.*

The range of matters addressed in Section 8, which include ecological, social, cultural and economic issues, highlights the tensions embedded in the HGMPA. There are potential conflicts between conservation and development, tangata whenua interests and those of others, and economic and recreational uses.

Although these tensions are real, Section 8 of the HGMPA is interpreted and applied within the context of Section 7. As previously indicated, section 7 emphasises the importance of sustaining the life-supporting ‘capacity’ of the Gulf’s environment. It is sustaining this ‘capacity’ of the Gulf to provide for a range of interests which should be the focus of

environmental managers' efforts to implement the HGMPA, rather than how to allocate the Gulf's resources between competing users.

In the context of this plan change, the HGMPA is relevant in that consideration needs to be given to methods to reduce contaminants entering the Gulf's coastal marine area, for instance by:

- encouraging the use of 'green' stormwater infrastructure, and:
- ensuring new development will not overload existing infrastructure and lead to increased discharges of contaminants into the coastal marine area.

#### **5.1.4 Operative Waikato Regional Policy Statement**

The Waikato Regional Policy Statement (RPS) became operative in October 2000 and contains a number of provisions that this plan change must give effect to. The relevant issues, objectives, policies and implementation methods are quoted below:

##### ***Achieving integrated management (Clause 2.2.2)***

- **Issue**  
*Ad hoc decision-making has the potential to prevent integrated management of natural and physical resources.*
- **Objective**  
*The integrated management of natural and physical resources in the Waikato Region achieved.*
- **Policy One- Natural and physical resources**  
*When managing the use, development, and protection of natural and physical resources recognise and provide for:*
  - *The interconnected nature of all elements of the environment;*
  - *The inter-relationships between natural and physical resources;*
  - *The potential for adverse environmental effects to occur;*
  - *The range of social, cultural and economic values within the Region.*
- **Implementation Method 2**  
*Encourage territorial authorities, when they are preparing district plans and processing resource consents, to give consideration to the matters listed in Policy One above.*

##### ***River and lakes bed management (Clause 3.3.11)***

- **Issue**  
*Some activities and natural processes can destabilise the beds and banks of rivers and lakes*
- **Objective**  
*A net reduction in the adverse effects of the destabilisation of river and lake beds.*
- **Policy Three- Works and services**  
*Where there are significant benefits, the integrity of existing works, services and projects will be maintained and new projects will be promoted.*
- **Implementation Method 1**  
*Through regional plans, district plans, asset management plans, flood control plans, and guidelines protect existing works and maintain services that protect the beds and banks of rivers and lakes.*

### **Efficient use of water (Clause 3.4.7)**

- **Issue**  
*The water which can be taken from water bodies without producing significant adverse effects is finite. Inefficient use of that water may limit the ability of people and communities to provide for their needs.*
- **Objective**  
*The efficient use of water that is available to be taken from water bodies.*
- **Implementation Method 3**  
*Advocate the adoption of water conservation practices including the use of water saving devices, water metering, water recycling and the use of more efficient plant or manufacturing processes.*

### **Greenhouse gases and climate change (Clause 3.6.4)**

- **Issue**  
*The discharge of greenhouse gases has the potential to modify atmospheric processes and adversely affect the environment. Although this is a matter which requires management at a global level and Central Government has responsibilities in this area, the Waikato Region needs to determine an appropriate role.*
- **Objective**  
*Greenhouse gases managed in a way that is not inconsistent with Central Government policy.*
- **Implementation Method 1**  
*When undertaking regulatory functions (such as plan development and consent consideration) ensure that the following are considered:*
  - *Government policy and;*
  - *In the absence of any policy in this area, the potential effects of greenhouse gases on natural and physical resources, and the impacts of climate change.*
- **Implementation Method 3**  
*Advocate for energy efficiency and energy conservation techniques that reduce the emission of greenhouse gases.*

### **Efficient energy use (Clause 3.12.2)**

- **Issue**  
*Inefficient energy production and use uses natural resources at a greater rate than is needed and results in unnecessary adverse effects on natural and physical resources.*
- **Objective**  
*Efficient use of energy within the Waikato Region.*
- **Policy One - Energy efficiency and conservation**  
*To promote efficiency and conservation in the production, transmission and consumption of energy.*

- **Implementation Method 1**  
*Advocate, through community information and education, for the promotion of energy efficiency, conservation and the adoption of appropriate energy forms and technologies.*
- **Implementation Method 2**  
*Encourage the use of alternative and renewable energy sources through community education.*

### **Infrastructure (Clause 3.13.2)**

- **Issue**  
*Infrastructure (including network utilities) enables people and communities to meet their social, economic and cultural needs and is therefore important to the Region. Inappropriate subdivision, use and development of land can result in conflicts and incompatibilities between activities which may significantly compromise the operation of regionally significant infrastructure.*
- **Objective**  
*The continued operation of regionally significant infrastructure (including network utilities) maintained or enhanced.*
- **Policy One: Maintenance of infrastructure**  
*Avoidance of significant adverse effects (including cumulative effects) on the safe and efficient operation of regionally significant infrastructure. Where significant adverse effects on regionally significant infrastructure cannot be avoided they shall be remedied or mitigated.*
- **Implementation Method 1**  
*Through district or regional plans, resource consents and the Regional Land Transport Strategy, in consultation with territorial authorities, network operators, resource users and other interested parties, identify and enable the maintenance of regionally significant infrastructure.*

The proposed plan changes as outlined later in this report have ensured that the provisions of the RPS are being given effect to.

## **5.2 Planning instruments that the plan change must not be inconsistent with**

The RMA determines that these plan changes must not be inconsistent with the provisions of the following national and regional planning instruments:

### **5.2.1 National Environmental Standards for Electricity Transmission Activities**

The Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NES-ET) came into effect on 14 January 2010.

The NES sets out a national framework of permissions and consent requirements for activities on existing electricity transmission lines. Activities include the operation, maintenance and upgrading of existing lines.



The NES:

- Specifies the electricity transmission activities that are permitted subject to terms and conditions to ensure that these activities do not have significant adverse effects on the environment; and:
- Specifies the resource consent requirements for electricity transmission activities that do not meet the terms and conditions for permitted activities.

The NES applies only to existing high voltage electricity transmission lines. It does not apply to the construction of new transmission lines, or to substations or to electricity distribution lines (e.g. the lines carrying electricity from regional substations to electricity users).

The regulations apply to activities that relate to the operation, maintenance, upgrading, relocation, or removal of an existing transmission line, excluding:

- Construction or use of a bridge or culvert to access an existing transmission line;
- The storage, use, disposal or transportation of hazardous substances;
- Refueling of a vehicle or equipment;
- The use of land as a landing area for helicopters;
- Activities relating to electricity substations; or:
- Earthworks that are subject to a regional rule.

Noting that the NPS relates only to existing high voltage transmission lines, it determines that the following activities fall under the classifications indicated below:

#### **Permitted activities**

Under the NES, the following are permitted activities:

- Operation of transmission lines or use of access tracks.
- Conductors, earth-wires, overhead telecommunication cables/ devices, signs, and additions of overhead circuits (subject to conditions).
- Increasing voltage or current rating (subject to conditions).
- Support structures and blasting/ application of protective coatings (subject to conditions).
- Temporary structures and temporary line deviation (subject to conditions).
- Removing transmission lines (subject to conditions).
- Discharge of contaminants into water (subject to conditions).
- Trimming, felling and removing trees and vegetation (subject to conditions).
- Earthworks (subject to conditions).
- Construction noise and vibration (subject to conditions).

#### **Controlled activities**

The following are controlled activities under the NES:

- Under-grounding of transmission lines (subject to conditions).
- Support structures and blasting/application of protective coatings that do not meet the general permitted activity standards or that are termination structures for under-grounding.
- Temporary structures and temporary line deviation that do not meet permitted activity standards.
- Removing transmission lines/line deviations that do not meet permitted activity standards.
- Discharge of contaminants into water where permitted activity standards cannot be met.
- Trimming, felling and removing trees and vegetation where the permitted activity standards are not met.
- Earthworks where the permitted activity standards are not met or when in a historic heritage area or archaeological site or on a contaminated or potentially contaminated site.
- Construction noise and vibration where the permitted activity standards are not met.

### **Restricted-discretionary activities**

The following are restricted-discretionary activities:

- Overhead conductors, earth-wires and circuits, signs, and telecommunication devices that do not meet the general permitted activity standards.
- Support structures and blasting/application of protective coatings that do not meet the controlled activity standards.
- Trimming, felling and removing trees and vegetation where the controlled activity standards are not met.

### **Discretionary activities**

- An activity covered by the NES, not described as permitted, controlled, restricted discretionary, or non-complying, is a discretionary activity.

### **Non-complying activities**

The following are non-complying activities:

- Conductors, earth-wires, circuits, increasing voltage or current rating, or under-grounding that do not meet the permitted activity standards for electric and magnetic fields.
- Support structures that fail to meet controlled activity standards or permitted activity standards for electric and magnetic fields.

Where resource consents are required, the NES specifies the matters to which control is reserved or discretion is restricted.

This plan change has included a review the district plan provisions that apply to electricity transmission (predominantly Section 8 – Works and Network Utilities). The reviewed plan provisions that will be discussed in the next section of this report have eliminated the potential for conflict or duplication between the NES and the District Plan.

## **5.2.2 National Environmental Standards for Telecommunication Facilities**

The Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2008 (NES-TF) came into force on 9 October 2008.

The NES provide a nationally consistent planning framework for:

- Radiofrequency fields associated with all telecommunication facilities; and
- Low impact telecommunication infrastructure on road reserves.

The standards are intended to:

- Assist in network and equipment design and equipment sourcing;
- Reduce compliance costs and timeframes for service providers;
- Reduce the timeframes, and lower costs for the availability of new services to consumers;
- Reduce the workload of territorial authorities in processing and determining consent applications;
- Set an appropriate balance between local participation in community planning and cost effective national infrastructure investment.

The standards address:

- Radiofrequency fields emitted from antennas.
- The erection of roadside equipment cabinets.
- The addition of antennas to existing structures (such as light poles on roadsides or verges).
- Noise levels from roadside cabinets.

In essence, the standards determine:

- An activity (such as a mobile phone transmitter) that emits radio-frequency fields is a permitted activity provided it complies with the existing New Zealand Standard (NZS2772.1:1999 Radio-frequency Fields Part 1: Maximum Exposure Levels 3kHz-300GHz).
- The installation of telecommunications equipment cabinets along roads or in the road reserve is a permitted activity, subject to specified limitations on their size and location.
- Noise from telecommunications equipment cabinets located alongside roads or in the road reserve is a permitted activity, subject to specified noise limits.
- The installation of masts and antennas on existing structures alongside roads or in the road reserve is a permitted activity, subject to specified limitations to height and size.

The NES provide for the following classification of activities:

#### **Permitted activities**

- Radio-frequency fields associated with telecommunication facilities (subject to conditions);
- Telecommunication facilities in road reserves (subject to conditions).

#### **Controlled activities**

- Telecommunication facilities in road reserves where the general permitted activity standards are not able to be met and the facility would have been permitted or controlled under the District Plan if the NES did not exist.

#### **Restricted-discretionary activities**

- Telecommunication facilities in road reserves where the general permitted activity standards are not able to be met and the facility would have been a restricted-discretionary activity under the District Plan if the NES did not exist.

#### **Discretionary activities**

- Telecommunication facilities in road reserves where the general permitted activity standards are not able to be met and the facility would have been a discretionary activity under the District Plan if the NES did not exist.

#### **Non-complying activities**

- In terms of radiofrequency fields, where a telecommunication facility does not qualify as a permitted activity, its status becomes non-complying.
- Telecommunication facilities in road reserves where the general permitted activity standards are not able to be met and the facility would have been a non-complying activity under the District Plan if the NES did not exist.

#### **Prohibited activities**

- Telecommunication facilities in road reserves where the general permitted activity standards are not able to be met and the facility would have been a prohibited activity under the District Plan if the NES did not exist.

For all other provisions in the regulations, where an activity does not qualify as a permitted activity, its activity status reverts to that outlined in the District Plan.

This plan change has included a review the district plan provisions that apply to telecommunications facilities (predominantly Section 8 – Works and Network Utilities). The reviewed plan provisions that will be discussed later in this report have eliminated the potential for conflict or duplication between the NES and the District Plan.

### 5.2.3 Operative Waikato Regional Plan

The Waikato Regional Plan (WRP) became operative on 28 September 2007. Subsequently, there have been a number of variations to the WRP.

The WRP provides further policy direction, including rules, to give effect to the RPS relating to matters within the scope of the WRC's functions under the RMA. As such, the WRP provides more detail regarding the management of the matters set out in Paragraph 5.1.4 above, and are not repeated here.

Of specific note is that the WRP contains rules regarding the management of rivers and lake beds, including:

- Disturbance of river and lake beds associated with the maintenance of lawfully established structures;
- Sand and gravel extraction;
- Planting of vegetation and tree layering on the beds and banks of rivers and lakes;
- Clearance of vegetation in, on or under the beds of rivers and lakes; and;
- Removal of obstructions from the beds of rivers and lakes.

The WRP provisions relating to the above activities are confined to management of matters within the scope of the functions of regional councils under the RMA. This plan review has proposed changes to the District Plan relating to the management of the WRC's regional flood control works. The provisions proposed to be included in the District Plan as will be discussed later in this report, relate to the functions of territorial authorities under the RMA, and are not inconsistent with the WRP provisions for river and lake bed management.

### 5.3 Planning instruments that the plan change must have regard to

During the preparation of this plan change, regard was given to the following planning instruments:

#### 5.3.1 Proposed Waikato Regional Policy Statement (PRPS)

The Waikato Regional Policy Statement is currently being reviewed. The review has reached the stage where WRC has made its decisions (November 2012), and all the appeals relating to matters covered by these plan changes have been settled by consent orders. The WRC has not made the parts of the PRPS that are beyond challenge operative.

The PRPS has a strong focus on coordinated and integrated development and protection of the efficiency and effectiveness of regionally significant infrastructure. The relevant "issues", "objectives", "policies" and "methods" can be summarised as follows:

#### **Issues**

- **Managing the Built Environment**  
*Development of the built environment, transport and other infrastructure is impacting on our ability to sustainably manage natural and physical resources and provide for our wellbeing.*

#### **Objectives**

- **Built Environment**  
*Development of the built environment (including transport and other infrastructure) and associated land-use occurs in an integrated, sustainable, and planned manner which provides for positive environmental, social, cultural, and economic outcomes.*

### **Policies**

- Policy 6.1 Planned and coordinated development
- Policy 6.3 Coordinating growth and infrastructure
- Policy 6.6 Significant infrastructure and energy resources.

### **Methods**

- Regional and district plans to include provisions to give effect to Policies 6.1, 6.3, and 6.6

Also of note is the RPS's identification of the Region's significant transport infrastructure (see Map 6.1 on page 6-28 of the RPS).

Given the advanced stage that the PRPS has reached in the plan-making process, significant weighting has been given to the PRPS provisions in drafting these plan changes.

### **5.3.2 New Zealand Land Transport Strategy 2008**

The vision of the New Zealand Land Transport Strategy (LTS) 2008 is:

*“people and freight in New Zealand will have access to an affordable, integrated, safe, responsive, and sustainable transport system.”*

The vision is supported by five objectives:

- Ensuring environmental sustainability;
- Assisting economic development;
- Assisting safety and personal security;
- Improving access and mobility;
- Protecting and promoting public health.

### **5.3.3 NZTA's Planning Policy Manual 2007 (PPM)**

The Planning Policy Manual for Integrated Planning and Development of State Highways 2007 (PPM) sets out the New Zealand Transport Agency's approach to achieving greater integration and is based on five themes:

- Achieving integration through partnership;
- Long-term planning and funding;
- Balancing national and local needs and aspirations;
- Supporting sustainable development;
- Providing value for money.

The PPM explains the New Zealand Transport Agency's Integrated Management Policy and its implementation, including:

- Road hierarchy ;
- Scope of strategic studies, growth strategies and structure plans;
- Land-use planning approaches;
- Suggested policies for regional and local development plans;
- Criteria for assessment of development proposals;
- Accessway standards and guidelines;
- Integrated transport assessment;
- Reverse sensitivity.

### **5.3.4 Waikato Regional Land Transport Strategy 2011 – 2041 (RLTS)**

The Regional Land Transport Strategy (RLTS) similarly emphasises the need for integrated development. The “vision” and desired “outcomes” can be summarised as follows:

## **Vision**

- An affordable, integrated, safe, responsive, and sustainable land transport system that enhances the environmental, economic, social, and cultural wellbeing of the population.

## **Outcomes**

- An integrated transport system that supports economic activity and provides for efficient movement of people and goods;
- Safety and security across all modes of travel;
- An inclusive, accessible, and affordable transport system;
- A well-connected transport system that enables positive public health outcomes;
- An environmentally sustainable, resilient, and efficient transport system;
- An integrated multi-modal transport system supported by land-use planning, and enabled by collaborative planning and partnerships.

It is noted that the RLTS (see RLTS, Map 13, Page 81) is consistent with the PRPS and expands further on the identification of the Region's significant transport corridors, that are also of interest in these plan changes.

## **6. Analysis and assessment of submissions and further submissions**

This section of the report discusses the proposed plan change provisions, submissions and further submissions, by topic and makes recommendations in respect of the each of the topics. For each topic, a summary of the relevant submissions and further submissions is provided, followed by a staff assessment, recommendations/conclusions, and reasons for the recommendations.

Appendix 4 provides recommendations on each of the submission and further submissions points. Appendix 5 contains the complete set of proposed amendments to the plan provisions.

This section of the report should be read in conjunction with Appendix 4 and Appendix 5.

### **6.1 Submissions on the “rolling review” process**

#### **6.1.1 Submissions**

Federated Farmers opposes the rolling District Plan review process adopted by the Council on the grounds that it prevents a holistic review of the policy direction. They want the Council to reconsider its approach and to opt for a full review of the Plan. The submission is supported by Kaimai Properties/Matamata Metal Supplies, D & L Swap, and Mike Gribble, for similar reasons namely that the rolling review:

- Prevents an integrated and sustainable approach to the management of natural and physical resources; and:
- Makes it difficult for parties to know at which stage of the process they should participate to ensure their issues are addressed.

### **6.1.2 Assessment**

Staff acknowledge that the rolling review process can present some challenges, such as ensuring clarity on the scope of subsequent reviews, dealing with potential overlap between subsequent plan changes and maintaining a clear District Plan format that is easy for users to follow. However, given funding and resource constraints, the Council has accepted a rolling review as the appropriate process.

During the pre-hearing it was suggested that the scope of the matters included in subsequent parts of the rolling review process should be more clearly identified. Staff have taken these suggestions on-board and will implement them in future parts of the rolling review process.

As noted earlier in this report, the option of a rolling review is provided for in the RMA and therefore sanctioned by statute. In addition, the scope of these plan changes is limited in a general sense by Section 75 of the RMA ("Contents of District Plans"), and more specifically by the delineation of the specific matters under review in this section of the rolling review process as set out previously in this report.

The submitters' request that the Council opts for a full review of the Plan is outside the scope of these plan changes and beyond Council's authority under Section 75 RMA. Accordingly, the Council does not have jurisdiction under this Schedule 1 RMA process, to grant the relief sought.

### **6.1.3 General recommendations/conclusions**

- a) That the submission and further submissions opposing the rolling review District Plan process and requesting a comprehensive review of the entire District Plan, be rejected.

#### Reasons

- i. The RMA provides for the rolling review of District Plans.
- ii. The submissions are beyond the scope of the plan changes.
- iii. The relief sought is outside Council's authority under Section 75 RMA.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.1.

## **6.2 'Whole of plan' submissions**

### **6.2.1 Submissions**

A number of submitters have commented on the plan changes overall, prior to providing more detailed submissions on the individual amendments proposed.

The Waikato Regional Council, New Zealand Transport Agency, Transpower, Powerco, Tidmarsh Holdings Ltd, and M & C O'Callaghan generally support the proposed plan changes, except where specific amendments have been requested, as will be discussed later in this report.

In addition, the New Zealand Transport Agency has requested that references throughout the District Plan, be changed from "NZTA" to "NZ Transport Agency" or the "Transport Agency".

## 6.2.2 Assessment

Through analysis of the submissions and further submissions and discussions at the pre-hearing meeting, it is evident that, while a number of amendments are requested, there is broad support for:

- The need for the District Plan to be amended following the recent preparation of important planning instruments such as the PRPS, RLTS, NPS-ET, NPS-REG, NES-ET and NES-TF;
- The intent of the proposed plan changes; and
- Changes to the parking and loading provisions which some submitters feel will support the on-going viability of the town centres.

Staff consider that the change in reference to the “NZ Transport Agency” or the “Transport Agency” has no resource management implications. It is noted that no parties have made further submissions on this request.

None of the submitters oppose the whole of the plan changes or have requested that the whole of the plan changes be rejected or withdrawn.

## 6.2.3 General recommendations/ conclusions

- a) That the submission and further submissions generally supporting the whole of the plan changes be accepted in part, subject to amendments as will be detailed in the rest of this report.
- b) That all references in the District Plan to “NZTA” be changed to “NZ Transport Agency”.

### Reasons

- i. The plan changes are required to meet the statutory requirements under the RMA to give effect to/ not be inconsistent with/ have regard to relevant national and regional planning documents.
- ii. The change in reference to the “NZ Transport Agency” or the “Transport Agency” has no resource management implications.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.2.

## 6.3 Part A, “Section 1 Introduction” of the District Plan and deletion of strategic objectives and policies

### 6.3.1 Proposed changes and submissions

The plan changes as notified sought a number of amendments to Part A, “Section 1 Introduction” of the District Plan, notably:

- Updating “Paragraph 1.1 Purpose of the plan” to include subsequent changes to s6 and s7 of the RMA;
- Deletion of the reference to the strategic objectives and policies in “Paragraph 1.3 Guide to issues, objectives and policies”; and
- Deletion of the strategic objectives and policies in the following sections of the District Plan:
  - 3.1.2.1 Natural environment and heritage – Landscape character;
  - 3.1.2.2 Natural environment and heritage – Natural environment;



- 3.1.2.3 Natural environment and heritage – Heritage;
- 3.2.2.1 Natural hazards – Flooding;
- 3.2.2.2 Natural hazards – Fire hazard;
- 3.2.2.4 Natural hazards – Land Movement;
- 3.2.2.5 Natural Hazards – Earthquake hazard;
- 3.3.2.1 Land and development – Sustainable activities;
- 3.5.2.3 Amenity – Nuisance effects;
- 3.7.2.2 Works and network utilities – Solid and hazardous waste.

### **6.3.2 Assessment**

Updating “Paragraph 1.1 Purpose of the plan” to include subsequent changes to s6 and s7 of the RMA is a statutory requirement and is also supported by Heritage NZ in so far as s6(f) and 6(g) are concerned.

The rationale for seeking deletion of the strategic objectives and policies was explained earlier in this report (see Paragraph 2.9). In summary, these objectives and policies are non-regulatory statements of intent, concerned with voluntary consultation, advocacy and education.

The plan changes as notified sought to delete these provisions as they are essentially matters for consideration under the LGA, and inclusion in the Council’s long-term strategic plan.

Environmental Futures Inc and Geometrix oppose the deletion of the strategic objectives and policies in Section 3.1.2 of the District Plan, on the grounds that:

- These matters are beyond the scope of the current plan changes; and:
- Their deletion will dilute the importance of natural environment and heritage management in the District.

The Environmental Futures Inc submission is supported by Federated Farmers.

Heritage NZ also opposes the deletion of the strategic objectives and policies concerning heritage in Section 3.1.2.3 of the District Plan on the grounds that:

- Their deletion leaves a policy “gap”; and:
- That these provisions should be considered in the context of a comprehensive review of the historic heritage provisions of the Plan, at the appropriate stage of the rolling review process.

In addition, Environmental Futures Inc opposes the deletion of the strategic objectives and policies in Sections 3.2.2.1 and 3.2.2.4 of the District Plan on the grounds that these provisions are not relevant to the current plan changes.

Staff agree with the above submissions for the reasons given by the submitters (see above) and recommend that the relevant strategic objectives and policies be reinstated and reconsidered under the appropriate parts of the upcoming District Plan rolling reviews.

It is noted that no submissions were received in opposition to the deletion of the strategic objectives and policies in the following sections of the District Plan:

- 3.2.2.2 Natural hazards – Fire hazard;
- 3.2.2.5 Natural Hazards – Earthquake hazard;
- 3.3.2.1 Land and development – Sustainable activities;
- 3.5.2.3 Amenity – Nuisance effects; and
- 3.7.2.2 Works and network utilities – Solid and hazardous waste.

These strategic objectives and policies will therefore be withdrawn as a consequence of these plan changes. The relevant provisions are concerned with advocacy only. Therefore it is staff's view that the deletion of the provisions are of little consequence.

With the exception of the matters addressed above, there were no other submissions to the proposed changes to Part A, "Section 1 Introduction" of the District Plan, as notified.

### **6.3.3 General recommendations/ conclusions**

- a) That "Paragraph 1.1 Purpose of the plan" be updated to include subsequent changes to s6 and s7 of the RMA;
- b) That the reference to the strategic objectives and policies in "Paragraph 1.3 Guide to issues, objectives and policies" of the District Plan be reinstated;
- c) That the remaining changes to Part A, "Section 1 Introduction" of the District Plan as notified, be accepted;
- d) That the submissions opposing the deletion of a number of strategic objectives and policies as noted in Paragraph 6.3.2 above, be accepted;
- e) That the strategic objectives and policies that are the subject of the submissions, be reinstated and their relevance reconsidered under the appropriate parts of the ongoing District Plan rolling review process; and:
- f) That the strategic objectives and policies that are not the subject of submissions, be deleted from the District Plan.

#### Reasons

- i. Updating "Paragraph 1.1 Purpose of the plan" to include subsequent changes to s6 and s7 of the RMA is a statutory requirement;
- ii. The strategic objectives and policies that are not concerned with transportation and works/network utilities are not directly relevant to these plan changes;
- iii. The deletion of the relevant objectives and policies could result in a policy "gap" and should be comprehensively reviewed under the appropriate part of the upcoming District Plan rolling review process;
- iv. The strategic objectives and policies that are not the subject of submissions are concerned with advocacy only. Their deletion is of little consequence in terms of the overall policy-framework and is therefore accepted.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.3.

## **6.4 Part A, "Section 2 Sustainable management strategy" of the District Plan**

### **6.4.1 Proposed changes and submissions**

The plan changes as notified seek the following key amendments to Part A, "Section 2 Sustainable management strategy" of the District Plan:

- Adding reference to transport, works and infrastructure networks in "Paragraph 2.2 Significant resources of the district";
- Updating the population statistics in "Paragraph 2.3.1 Residential growth – urban settlements";
- The introduction of three new paragraphs under "2.3 Significant resource management issues"; namely:
  - 2.3.6 Integrating land-use and infrastructure (including transport);
  - 2.3.7 Regionally significant infrastructure networks; and:

- 2.3.8 Renewable electricity generation.
- The introduction of new policies and objectives in “2.4 Sustainable management strategy”; namely:
  - 2.4.6 Integrating land-use and infrastructure;
  - 2.4.7 Regionally significant infrastructure; and
  - 2.4.7 Energy efficiency and renewable energy generation.

Kiwirail supports the recognition of the railway network as a significant resource of the District, in Paragraph 2.2 of the District Plan.

Barr & Harris requests that the population estimates in Paragraph 2.3.1 be amended to reflect the 2013 census results.

With regard to the issue descriptions, the following submissions were made:

- Paragraph 2.3.6:
  - Transpower, the New Zealand Transport Agency, and Ventus Energy (NZ) Ltd support the issue description.
  - Piako Gliding Club requests changes to recognise that the Matamata Airfield is significant infrastructure.
  - KiwiRail requests an amendment to avoid a perception that network providers, rather than developers, will mitigate reverse-sensitivity effects.
- Paragraph 2.3.7:
  - Transpower and Ventus Energy (NZ) Ltd support the issue description;
  - KiwiRail wants the issue description to be amended to specifically include reference to the East Coast Main Trunk, Waitoa Branch, and Kinleith Branch Lines as part of the rail corridor;
  - Environmental Futures Inc seeks better balance between the recognition of public benefits, versus the management of adverse effects. In addition, reverse-sensitivity effects should only be managed when existing infrastructure is constrained to the extent that the adverse effects of the infrastructure on the receiving environment cannot reasonably be avoided or mitigated. Federated Farmers opposes the Environmental Futures’ submission and wants the reverse-sensitivity definition and application to be consistent with the PRPS.
- Paragraph 2.3.8:
  - Environmental Futures Inc wants a grammatical change.

With regard to the objectives and policies in Section 2.4, the following submissions were made:

- Section 2.4.6: Integrating land-use and infrastructure:
  - Ventus Energy (NZ) Ltd supports the objective and policies.
  - Powerco supports Objective O1 and Policies P1, P2, P4, P5 and P6.
  - Environmental Futures Inc considers that the provisions are sweeping, unbalanced, and circular and wants the third bullet (“*ensures the sustainable management of natural and physical resources while enabling people and communities to provide for their economic, social, and cultural wellbeing*”) to be deleted from objective O1.
  - Geometrix wants the provisions to be amended to promote, rather than place further restrictions on, development.

- Barr & Harris supports the concept of integrating land-use with infrastructure, but wants the potential benefits of cooperation between development and upgrading of existing infrastructure, to be recognised.
  - Piako Gliding Club wants specific reference to the Matamata Airfield to be included in Objective O1 and Policies P1 and P2.
  - WRC generally supports Objective O1 and Policies P1 - P6 but wants reference to the management of adverse effects on the natural and physical environment to be added to Policy P1.
  - Transpower wants reference to “subdivision” to be included in Objective O1, supports Policies P2 and P4, and supports in part, WRC’s submission regarding Policy P1 (see above).
  - Heritage NZ (supported by Environmental Futures Inc and Mike Gribble, opposed by Federated Farmers) wants Policy P1 to be expanded to include reference to adverse effects on historic heritage.
  - The NZ Transport Agency (supported by Powerco, Transpower, and Federated Farmers, but opposed by Environmental Futures Inc and Mike Gribble) wants the provisions to apply to both existing and planned infrastructure. During the pre-hearing, Environmental Futures Inc indicated that it is more accepting of the addition of the term “planned” provided that its meaning is clarified in the District Plan.
- Section 2.4.7: Regionally Significant Infrastructure:
    - Ventus Energy (NZ) Ltd, KiwiRail and the NZ Transport Agency support the objective and policies.
    - Environmental Futures Inc (opposed by Powerco) considers that the requirement that reverse-sensitivity effects on regionally significant infrastructure must be avoided, remedied, or mitigated, is too broad.
    - Geometrix wants recognition for the ability to increase the use of existing infrastructure and to promote the development of industry that, in turn, enhances the viability of the infrastructure.
    - Powerco seeks the deletion of reference to promoting the wellbeing of communities in Objective O2 (opposed by Horticulture NZ), and deletion of “co-siting of infrastructure” in Policy P3.
    - Transpower seeks the deletion of the word “greatest” in Policy P2, addition of the word “major” before “upgrading” in Policy P2, a new policy (P7) to refer specifically to the National Grid (opposed in part by Mike Gribble).
    - Heritage NZ wants changes to Objective O2 and Policy P2, to delete reference to the “greatest extent practicable/extent practicable”, and to include specific reference to “historical heritage”. The Heritage NZ submission is supported by Environmental Futures Inc and opposed by Powerco. Federated Farmers support the amendment to Objective 2, but oppose the amendment to Policy 2. Transpower opposes deletion of “greatest extend practicable/extent practicable”, but supports the inclusion of reference to ‘historical heritage’.
  - Section 2.4.8: Energy efficiency and renewable energy generation:
    - Ventus Energy (NZ) Ltd and Geometrix support the objective and policies.
    - WRC and Heritage NZ want changes to Policy P2 to strengthen the policy-framework regarding the management of adverse effects from renewable energy generation activities.

## 6.4.2 Assessment

Staff consider that, with the exception of the matters listed in Paragraph 6.4.3 below, the provisions as notified represent the appropriate resource management response to the PRPS policy-framework, the NPS-ET and the NPS-REG.

## 6.4.3 General recommendations/ conclusions

- a) That the provisions as notified be accepted, with the following amendments:
  - The amendments to the issue descriptions in Paragraphs 2.3.6 and 2.3.7 sought by KiwiRail;
  - The grammatical change to the issue description in Paragraph 2.3.8 requested by Environmental Futures Inc.
  - Reference to “subdivision” in 2.4.6 Objective O1 requested by Transpower.
  - Reference to both “existing and planned” infrastructure as requested by the NZ Transport Agency.
  - The addition of a statement in Paragraph 2.2 of the District Plan to clarify that the term “planned infrastructure” has the same meaning as in the PRPS, in response to the NZ Transport Agency’s submission and Federated Farmer’s further submission.
  - Addition of reference to “the management of adverse effects on the natural and physical environment” in Policy P1 requested by WRC.
  - The addition of the work “major” to Policy P2, and new Policy P7 to provide specific reference to the National Grid, as requested by Transpower.
  - Amendment to 2.4.8, Policy P2.
- b) That the amendments referred to above be made to the District Plan; and:
- c) That the remaining changes to the District Plan as notified be adopted.

### Reason

- i. The provisions as notified, subject to the amendments above, represent the appropriate resource management response to the policy-framework as set out in the PRPS, NPS-ET and NPS-REG.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.4.

## 6.5 Part A, “Section 3.1 Natural environment and heritage”, “Section 3.2 Natural Hazards”, “Section 3.4 Subdivision” and “Section 3.5 Amenity” of the District Plan

### 6.5.1 Proposed changes, submissions, and assessment

With the exception of the strategic objectives and policies discussed previously, few changes are proposed to Sections 3.1, 3.2, 3.4 and 3.5 of the District Plan.

A summary of the changes proposed and submissions received, follows below:

- Ventus Energy (NZ) Ltd wants changes to the policies under “Natural Environment and Heritage - Landscape Character” in Section 3.1.2.1 of the Plan. Staff consider that the changes requested are outside the scope of these plan changes.
- Policy P4 and its associated explanation and anticipated environmental result (AER) that deals with protection from the effects of flooding, is proposed to be moved (unchanged)

from “Section 3.7 Works and network utilities”, to become Policy P5 within “Section 3.2 Natural hazards”. Given that the natural hazards review falls outside the scope of these plan changes, it was considered appropriate to move Policy P4 to the relevant part of the District Plan. Environmental Futures Inc has requested the deletion of Policy P5. Staff consider that it is appropriate that Policy P5 be retained within “Section 3.2 Natural hazards”, until such time as these provisions are reviewed.

- A reference to “Section 2.4.6 Sustainable Management Strategy – Integrating land-use and infrastructure” is included in the policy column opposite Objective O4 in “Section 3.4.2 Subdivision”. This clarifies that the integration policy-framework in the District Plan, also applies to subdivision. The NZ Transport Agency supports Objective O4. KiwiRail (supported by Transpower) has requested that Objective O4 be amended to include reference to reverse-sensitivity effects. In addition, the submission requests that both “Section 2.4.6 – Integrating land-use and infrastructure” and “Section 2.4.7 - Regionally significant infrastructure” be referenced against Objective O4. Federated Farmers has made a further submission on these submission points, on the grounds that the matters are outside the scope of the plan changes. Staff consider that the effects of subdivision on infrastructure are within the scope of these plan changes. Staff support the changes proposed by KiwiRail as it is appropriate that reverse-sensitivity be considered at the time of subdivision.
- Objective O6 in “Section 3.5.2.3 Amenity – Nuisance Effects” has been altered to replace reference to “existing and planned transport networks”, with “infrastructure networks”. Environmental Futures Inc opposes the amendment and wants the provision to apply only to existing networks. The NZ Transport Agency (supported by Powerco, but opposed by Environmental Futures Inc) wants the objective to apply to both existing and planned infrastructure networks. KiwiRail (supported by Powerco and Transpower, but opposed by Mike Gribble) wants Objective O6 to be expanded to include reference to the management of reverse-sensitivity effects on infrastructure networks. Staff consider that it is appropriate that the objective applies to both existing and planned networks provided the meaning of the term “planned” is clarified, and that reference to reverse-sensitivity effects should be included.

### **6.5.3 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with amendments to Objective O4 in “Section 3.4.2 Subdivision” and Objective O6 in “Section 3.5.2.3 Amenity – Nuisance Effects”, as detailed above.
- b) That the amendments referred to above be made to the District Plan; and:
- c) That the remaining changes to the District Plan as notified be adopted.

#### Reason

- i. The provisions as notified, subject to the amendments above, represent the appropriate resource management response to the policy-framework as set out in the PRPS, NPS-ET and NPS-REG.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.5.

## **6.6 Part A, “Section 3.7 Works and network utilities” of the District Plan**

### **6.6.1 Proposed changes, submissions and assessment**

The works/network utilities plan change proposes a review of the issue description, and consequential changes to the relevant District Plan objectives and policies.

The proposed provisions and the submissions received are summarised below:

- **Issue description**

The issue description in Paragraph 3.7.1, clarifies that this section of the District Plan deals predominantly with “community infrastructure” (as opposed to the regionally significant infrastructure discussed in Section 2.3.7 of the Plan).

The description focusses on the essential nature of local infrastructure to provide for the community’s wellbeing, and the contradiction that exists between the adverse effects of not providing local infrastructure, and the adverse effects associated with the provision of the utility networks.

The key issue that the District Plan sets out to address is then explained as balancing the need to enable the provision of local infrastructure, against the need to ensure that the adverse effects of the provision of these facilities are avoided remedied or mitigated.

The issue description also highlights the need to ensure that local infrastructure is protected from incompatible land-use and reverse-sensitivity effects, and is provided in a sustainable, efficient, and integrated manner.

Submissions on the issue description were received from KiwiRail and Environmental Futures Inc. KiwiRail supports the issue description. Environmental Futures Inc wants the description to be reworded to provide for "consideration" of reverse-sensitivity protection for existing infrastructure only, and only in cases where the primary effect cannot be avoided.

Staff consider that the wording as notified (*“the District Plan needs to ensure that our works and network utilities are protected from incompatible land use and reverse sensitivity effects”*) is appropriate. Case law has determined, the resource management principles relating to reverse-sensitivity. The principles require internalisation of adverse effects as the first consideration, while restrictions on adjacent activities are appropriate only when internalisation is not a practicable option.

- **Objectives**

The plan change as notified proposes two new objectives. Objective O1 is concerned with the balance between enabling the provision of local infrastructure, while also managing adverse effects. Objective O2 requires the integration of infrastructure, with development. The changes are supported by Powerco’s submission. Staff consider that the objectives are the appropriate means of addressing the resource management issues.

The objectives are proposed to be achieved by nine policies. Policies P2, P3, P5, P6, and P9 are the subject of submissions as summarised below:

- **Policy P2**

Policy P2 seeks to protect network utilities from incompatible development, use, or subdivision “of adjacent lands”. Powerco seeks the deletion of the phrase “of adjacent lands”. Staff agree that the phrase is potentially confusing, does not assist in clarifying the policy intent, and should be deleted.

- **Policy P3**

Policy P3 provides guidance on the matters to be considered in relation to the management of works and network utilities.

The first bullet-point requires regard to be given to the degree to which the environment has already been modified.

The Waikato Regional Council opposes the provision and wants it amended to give regard to the degree to which “*further modification would have adverse effects on the natural and physical environment*”. The submission is supported by Environmental Futures Inc. WRC’s reason for seeking the change is that further effects on the already modified environment need to be considered as part of any assessment.

Powerco opposes the submission on the grounds that the amendment could be construed to imply that mitigation or remediation must achieve a higher environmental standard than currently exists.

During the pre-hearing meeting, Environmental Futures Inc clarified that its concern is that the wording removes the onus on the network provider to take responsibility for any harm that it may cause. Consideration was given as to whether bullet-point five (“avoidance, remediation, or mitigation of anticipated adverse environmental effects to the extent practicable”), provides the necessary balance. However, parties could not reach agreement.

Staff consider that it is appropriate within the RMA policy-context to have regard to the environment as it exists, and recommend that the bullet-point be replaced with having regard to “the environment as it exists”.

The fourth bullet-point seeks to ensure that the need for the work be considered in the context of the wider network, or in the context of the provision of alternative infrastructure. The provision is supported by the submission of WRC and further submissions of Environmental Futures Inc. Staff agree that the provision is the appropriate response to the PRPS policy-framework.

- **Policy P5**

Policy P5 is concerned with management of reverse-sensitivity effects and avoiding incompatible development. The provision is opposed by Environmental Futures Inc on the grounds that the wording reverses the intent of the current policy in the Operative Plan. Powerco, on the other hand, supports the policy as reverse-sensitivity effects can undermine efficiency, effectiveness, and sustainable management of network utilities.

Staff agree that the wording is a reverse of the current operative policy. However, staff consider that the proposed policy-framework as notified provides the appropriate balance between managing the adverse effects of infrastructure networks on the environment



and the effects of sensitivity activities on the networks. The policy is also considered to be the appropriate response to the PRPS policy-framework.

- **Policy P6**

Policy P6 is concerned with planning for infrastructure demand, and integrating land-use and infrastructure planning. Powerco wants the policy to be amended to prioritise the development of identified growth areas, and to delete the clauses relating to protection of networks from inappropriate development which it considers to already be dealt with in other policies. The Powerco submission is supported by the NZ Transport Agency as the amendment will promote the integration of land-use and infrastructure.

Staff disagree that the clauses relating to maintaining the efficiency and ability to upgrade the network should be deleted. However, staff agree that prioritising development of identified growth areas is an appropriate addition to the policy.

- **Policy P9**

Policy P9 requires stormwater to be managed, having regard to a total catchment management approach, and low-impact design methods. Barr & Harris wants the policy to be amended to include recognition of the potential benefits of cooperation between development and upgrading of existing infrastructure.

Staff consider that the potential for development to benefit the upgrading of existing infrastructure is already recognised in Policy P6 that requires the sequencing of development to take into account the efficiency of network utilities and investment in existing networks.

## **6.6.2 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with amendments to Policies P2, P3, and P6, as detailed above.
- b) That the amendments referred to above be made to the District Plan; and:
- c) That the remaining changes to the District Plan as notified be adopted.

### Reason

- i. The provisions as notified, subject to the amendments above, represent the appropriate resource management response to address the key resource management issues within the policy-framework as set out in the PRPS and the NPS-REG.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.6.

## **6.7 Part A, “Section 3.8 Transportation” of the District Plan**

### **6.7.1 Proposed changes, submissions and assessment**

The transportation plan change proposes a review of the issue description, and consequential changes to the relevant District Plan objectives and policies.

The proposed provisions and the submissions received are summarised below:

- **Issue description**

Submitters generally support the issue description. Two amendments to Paragraph 3.8.1 are proposed in response to submissions:

- Include reference to the commercial use of the Matamata Airfield in response to a submission by the Piako Gliding Club.
- Include an amendment in the reference to the railway network for consistency, and to ensure all railway lines are recognised as "significant transport infrastructure".

- **Objectives**

The objectives are generally supported and no amendments to the notified provisions are proposed.

- **Policies**

An amendment to Policy P9 is proposed, to recognise that noise, is not the only reverse-sensitivity effect that needs to be managed. A further amendment to Policy P9 is also suggested, to clarify that the provision applies specifically to the significant transport infrastructure. In addition, it is proposed to correct a typographical error in Policy P12. An amendment to AER 7 is also proposed.

## **6.7.2 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with amendments as referenced above.
- b) That the amendments referenced above be made to the District Plan; and:
- c) That the remaining changes to the District Plan as notified be adopted.

### Reason

- i. The provisions as notified, subject to the amendments above, represent the appropriate resource management response to address the key resource management issues within the policy-framework as set out in the PRPS and the RLTS.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.7.

## **6.8 Part B, “Section 1 General provisions” and “Section 2 Activity Table”**

### **6.8.1 Proposed changes, submissions and assessment**

The general provisions in Part B, Section 1 of the District Plan contain the information requirements for resource consents, and general assessment criteria. Section 2 contains a table that determines the activity status of common activities anticipated in the District.

The plan changes as notified seek a number of amendments to these sections, predominantly to update documents included by reference, and to assist with integrating the new provisions into the District Plan format. Minor changes to the notified version are recommended in response to submissions by the NZ Transport Agency, Transpower and KiwiRail. These amendments provide additional clarification on the implementation of the Plan.

In addition, the notified version seeks a new clause 1.1.1(x) that requires applications that have the potential to result in adverse traffic effects to be accompanied by an integrated

traffic assessment (ITA) prepared in accordance with the “Integrated Transport Assessment Guidelines”, November 2010, NZTA Research Report 422”.

A number of submissions have been received in response to the above requirement. Progressive Enterprises supports the requirement. The NZ Transport Agency wants the reference to the “Integrated Transport Assessment Guidelines, November 2010, NZTA Research Report 422” to be replaced with abbreviated guidelines to be attached as an appendix to the District Plan. WRC wants more detailed guidance on the use of ITAs. Geometrix wants clarity on the specific circumstances when an ITA will be required.

Staff agree that the circumstances when an ITA is required and the scope of matters to be included in the assessment under different circumstances, need to be clarified. Therefore, it is recommended that additional clauses as required to provide clarity be included in “Section 9 – Transportation” of the District Plan. These clauses are discussed later in this report.

As a consequence, it is recommended that clause 1.1.1(x) be amended as follows to refer to the ITA requirements to be inserted in Section 9:

*“(x) Applications may require to be accompanied by an ITA. For clarification of circumstances when an ITA is required, and the scope of matters to be included in the assessment under different circumstances, refer to Section 9 – Transportation.”*

## **6.8.2 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with amendments as referred to above.
- b) That the amendments referred to above be made to the District Plan; and:
- c) That the remaining changes to the District Plan as notified be adopted.

### Reason

- i. The amendments above, provide additional clarification on the implementation of the Plan.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.8.

## **6.9 Provisions relating to the National Grid and Sub-Transmission Lines (Part B, Section 3.5, 6.1.1, and 6.1.3(x))**

### **6.9.1 Proposed changes and submissions**

The plan change as notified introduces new definitions and provisions relating to activities (including subdivision) adjacent to:

- The National Grid (referred to in the notified version as “transmission lines”); and:
- Sub-transmission lines (the network that connects the grid exit points).

The purpose of the provisions is to protect adjacent activities from the effects of the lines, and to protect the lines from the effects of new sensitive activities.

### National Grid

Since notification of the plan change, Transpower consulted with industry groups on more lenient provisions. Transpower therefore lodged a submission seeking inclusion of

amendments to reflect the consultation outcomes. After the pre-hearing meeting, Transpower reached in-principle agreement with industry groups on further amendments. Transpower now seeks the inclusion of the provisions as agreed with industry groups subsequent to the pre-hearing meeting.

In summary, the provisions seek to ensure that:

- New buildings for sensitive activities or additions to existing buildings for sensitive activities are not located under the conductors (wires);
- Other buildings must have a minimum clearance of 10m below the lowest point of the conductors (which guarantees compliance with NZECP34) or otherwise must demonstrate compliance with NZECP34;
- All buildings maintain at least 12m setback from support structures;
- Earthworks do not result in non-compliance with NZECP34; and:
- Subdivisions nominate a building envelope that is at least 16m from the centreline of 110kV lines on pi poles/ 32m from the centreline of 110kV lines on towers, and complies with NZECP34.

In addition, more lenient (discretionary activity status) is provided for buildings on the site located between Bolton Road and Morrinsville–Walton Road legally described as Lot 1 DPS18429. The National Grid traverses this property. The exemptions recognise that the generic provisions will otherwise significantly affect the development potential of the site.

Horticulture NZ originally lodged a submission seeking permitted activity status for crop protection structures within the Grid Yard. Staff understand that Horticulture NZ is satisfied with the amended provisions now proposed by Transpower.

Federated Farmers are in support of the provisions.

Macken Farm Ltd submitted in opposition to the provisions on the grounds that requiring development to comply with NZCEP34 is unnecessarily and unduly restrictive. During the pre-hearing meeting, Transpower addressed some of Macken Farm Ltd's concerns.

### Sub-Transmission Lines

For sub-transmission lines, the provisions as notified require:

- New buildings or additions to existing buildings to demonstrate compliance with NZECP34 (i.e. no resource consent required if compliance is demonstrated).
- Subdivision within 20m of the centreline of a sub-transmission line to nominate a building envelope that complies with NZECP34 (i.e. no mandatory setback required).

Powerco supports the provisions as notified. Horticulture NZ seeks changes to provide for crop protection structures. Clarification provided at the pre-hearing meeting appears to have resolved Horticulture NZ's concerns. Macken Farm Ltd opposes the provisions relating to sub-transmission lines.

### **6.9.2 Assessment**

The location of the National Grid and Sub-Transmission Lines in the District is shown on the diagram in Paragraph 3.2.1 of this report. Staff note that the provisions will not apply to the recently upgraded Whakamaru to Auckland line, which is protected by easements and is designated.

The National Grid and Sub-Transmission Lines are part of the Region's significant infrastructure. Staff consider that the amended provisions proposed by Transpower in

respect of the National Grid, and the notified provisions relating to Sub-Transmission Lines, represent the appropriate resource management response to the NPS-ET, s7 RMA, and the PRPS.

As a result of clarification provided during the pre-hearing meeting, and subject to the amendments proposed by Transpower in response to discussions after the pre-hearing meeting; there appears to be general support for the provisions, from most stakeholders.

### **6.9.3 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with the amendments proposed by Transpower as detailed in Appendix 5, Sections 3.5, 6.1.1, and 6.1.3(x);
- b) That the amendments referred to above be made to the District Plan; and:
- c) That the remaining changes to the District Plan as notified be adopted.

**Note:** *The definitions relating to the National Grid and Sub-Transmission Lines are discussed later in this report.*

#### Reason

- i. The provisions, subject to the amendments detailed above, represent the appropriate resource management response to the NPS-ET, s7 RMA, and the PRPS.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.9.

### **6.10 Activities adjacent to WRC flood control assets (Section 3.8)**

#### **6.10.1 Proposed changes and submissions**

The plan change proposes to:

- Move the operative “Section 8.5.2 Protection of Publicly Owned Flood Control and Drainage Assets” of the District Plan to Section 3 (Development Controls); and:
- Expand the provisions to provide better clarity.

A number of submissions were received in response to the provisions as notified. WRC wants the Plan to recognise that, over time, there may be changes to the asset information as shown. Federated Farmers generally support the provisions but require more clarity on the assets to be protected, and the areas to which the provisions will apply. Macken Farm Ltd also wants more clarity and is concerned that the provisions overlap with Waikato Regional Plan requirements. Telecom and Chorus want permitted activity status for network utilities authorised by WRC.

#### **6.10.2 Assessment**

Staff consider that the WRC flood control assets are regionally significant infrastructure. Control over activities adjacent to the assets, to protect their integrity is therefore the appropriate resource management response.

However, based on further consultation with WRC and discussions at the pre-hearing meeting, staff recommend that the notified provisions be simplified, better explained, and the assets be shown on the Planning Maps to ensure transparency.

During consultation, WRC was generally in support of permitted activity status for authorised network utilities, as requested by Telecom and Chorus.

It is staff's view that control over activities adjacent to the flood control assets is a function of the District, not the Regional Council and that the proposed provisions will not overlap with the Regional Plan. Staff communicated this to Macken Farm Ltd at the pre-hearing meeting.

The provisions as notified cover activities adjacent to rivers, tributaries, drains, the berm between a stopbank and a watercourse, pump stations, and flood gates. Following further consultation, staff consider that the notified provisions relating to rivers, tributaries, drains, and the berm between a stopbank and a waterway can be deleted. These assets are already covered by the river protection yard and the natural hazards provisions in the Operative Plan.

The simplified version of the provisions recommended by staff is shown in Section 3.8 of the updated plan change document attached as Appendix 5 to this report.

### **6.10.3 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with the amendments as shown in Appendix 5, including the inclusion of the assets on the Planning Maps;
- b) That the amendments referred to above be made to the District Plan and the Planning Maps.

#### Reason

- i. The provisions subject to the amendments detailed above, represent the appropriate resource management response to the PRPS.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.10.

## **6.11 Activities adjacent to state highways and railway lines (Sections 3.7 and 5.2.9)**

### **6.11.1 Proposed changes and submissions**

The plan change proposes requirements to install noise insulation in new buildings and additions to existing buildings used for sensitive activities, when located adjacent to state highways and operational railway lines. The purpose of the provisions is to protect sensitive activities from the external noise created by the transport network, and to protect the transport network from reverse sensitivity effects.

Both the NZ Transport Agency and KiwiRail have requested amendments to further strengthen the provisions so as to manage not only noise effects, but also other effects such as vibration and air pollution:

#### State highways

In addition to the notified provisions, the NZ Transport Agency seeks:

- Minimum setbacks for new and altered buildings of 10m from a state highway where the speed limit is less than 70km/h, and 20m where the speed limit is 70km/h or more;
- Additional ventilation standards to ensure thermal comfort when compliance with the internal noise limits requires the windows to be closed; and

- Non-complying (as opposed to restricted-discretionary) activity status where the performance standards are not being met.

### Railway lines

KiwiRail seeks the following amendments to the notified provisions:

- Minimum setbacks of 10m from the rail corridor for all buildings, balconies, decks, trees, and shrubs;
- Require fences along the rail corridor to be maintained, and storage and service areas to be screened so they are not visible from the rail corridor;
- Extend the zone within which new or altered buildings have to comply with internal noise limits from 40m, to 100m from the edge of a railway track;
- Additional noise limits for primary outdoor areas and teaching spaces;
- Additional ventilation standards to ensure thermal comfort when compliance with the internal noise limits requires the windows to be closed;
- Amendments to the matters to which the Council restricts its discretion when the performance standards are not met;
- New vibration standards for all buildings within 20m of the railway corridor to protect against building damage;
- Vibration standards for new and altered sensitive buildings within 60m of the railway corridor, to protect against vibration annoyance; and:
- Restricted discretionary activity status where the vibration standards are not being met.

### Submissions in opposition

A number of submissions in opposition to the notified provisions were received. These submissions are shown in Table 6.11 (Appendix 4).

In summary, the submitters generally want the provisions to apply to new railway lines and state highways only, and then only to new buildings. In respect of existing railway lines and state highways, the submitters want the network operators to implement mitigation while the neighbours should be allowed to decide the level of mitigation they want to design to, without being dictated to by the District Plan.

### Pre-hearing meeting

At the pre-hearing meeting, the NZ Transport Agency explained its position as follows:

- The need to mitigate reverse-sensitivity stems from the fact that the state highways were built at a time when adjoining development was sparse and traffic volumes low. In the meantime, development and traffic have increased making the state highways vulnerable to reverse-sensitivity and requiring adjoining properties to mitigate reverse-sensitivity.
- This does not apply when new state highways are built or substantially altered. In this instance, NZ Transport Agency itself, is required to mitigate the potential for reverse-sensitivity by implementing measures (such as acoustic designed fences or seal design) to meet the requirements in “NZS6808:2010 – Acoustics – Road traffic noise – New and altered roads”. The Agency has no objection if the district plan requires it to comply with this standard when new roads are built or existing roads substantially altered. The Agency is in any event required, by internal processes, to comply with the standard.
- The Agency has limited funding and cannot remedy all the reverse-sensitivity issues that have resulted from changes to the environment since the roads were built. Therefore, the

Agency seeks to ensure that when new houses are built they have adequate setbacks from the roads and can meet internal noise standards.

- Where the internal noise standards are not able to be met unless the windows are closed, then adequate ventilation must be provided, else residents will be forced to open their windows leaving no mitigation. For extensions to existing dwellings, the Agency seeks to ensure that the new additions (not the whole dwelling) are designed to meet the internal noise limits.
- For ventilation, relying on G4 of the Building Code is not acceptable because that gives a minimum standard, basically protecting against suffocation, not sufficient to ensure residents' comfort. The Agency acknowledges that the ventilation standards that it seeks, are complicated. The Agency is currently looking at simplifying the provisions, but this will take some time. Generally, installation of a heat pump is sufficient to ensure adequate ventilation with the windows closed.
- Maintaining a minimum setback is necessary, in addition to ensuring that internal noise limits can be met. This is so because it is not practical to mitigate certain effects (such as vibration and air pollution) except by means of a minimum setback. Secondly, the cost of treating a dwelling to the level required to meet internal noise levels increases exponentially the closer the dwelling is to the road.
- The typical cost of obtaining a design statement that the Council can rely on in terms of being satisfied that the internal noise levels can be met, is in the order of \$1,000. For a new building, the additional cost (3-bedroom house) to implement the noise attenuation necessary to meet the internal noise limits is in the order of \$ 3,000.
- The Agency's preference is a nationally consistent approach. The Agency will always seek that the same best practice approach be implemented consistently in all district plans under review at any point in time. However, in the absence of a national standard the Agency is often forced to negotiate the best possible outcome given particular circumstances. As a result, the Agency's preferred methods do not always end up being included in all Plans. Therefore, inconsistencies occur across district plans, depending on local circumstances. For instance, the Tauranga Plan, being a high growth area, has more limitations; while the Agency accepted a more lenient approach in the Hauraki District Plan.
- The Agency acknowledges that houses shielded by existing dwellings along the road frontage, will experience less noise and may not require mitigation to meet the internal noise standard. The Agency will accept provisions that, under certain minimum conditions, exclude the rear dwellings from the requirement to obtain acoustic certification. Such an approach ("line-of-sight" provisions) is provided for in the Tauranga Plan. The only issue is that wording of the provisions is extensive and complex.
- Registering a no-complaints covenant is not acceptable to the Agency as the covenants are not enforceable, and do not mitigate the effects.

KiwiRail was not represented at the pre-hearing meeting.



### 6.11.2 Assessment

Staff's assessment is summarised below:

- **Mandatory setbacks**

The benefits of mandatory setbacks within the “environmental buffer area”, immediately adjacent to the transport network where the effects are most pronounced and difficult to mitigate, are accepted. However, the reality is that retrospectively applying a mandatory setback on already subdivided land will significantly affect the development potential of a large number of properties within the District. Some properties will even be stripped of the ability to erect a dwelling anywhere on the site, as of right.

Staff consider that the requirement for mandatory setbacks should be introduced only for new titles being created and should not be applied retrospectively to existing titles. To this end, staff recommend a new provision (see Appendix 5) requiring a building platform that have the following setbacks to be nominated at the time of subdivision:

- 10m from a state highway where the speed limit is less than 70km/h, and 20m where the speed limit is 70km/h or more; and
- 20m from a railway line identified as regionally significant infrastructure. The requirement for a 20m setback is to protect structures from building damage due to vibration.

- **Noise insulation**

Staff recognise the benefits of noise insulation. However, staff question the advantages of requiring additions to existing buildings to be insulated, while the existing parts of the structures remain un-insulated.

Staff's recommendation is that the requirement for noise insulation should apply to new sensitive buildings only.

For the rail corridor, staff recommend that the 40m noise effects area as notified, is consistent with other second-generation district plans, and should be adopted without change. In this regard, see for instance the Proposed Waipa District Plan (Notification Version – Decisions Version not yet available at the time of writing) and the Proposed Auckland Unitary Plan.

- **Ventilation**

Staff understand that the standard in G4 of the Building Code does not guarantee thermal comfort. However, staff consider that thermal comfort should be left to the discretion of owners and should not be mandated. Therefore staff recommend an advice note to encourage owners to consider thermal comfort when deciding on ventilation options, in instances where the internal noise limits cannot be met other than by closing windows.

- **Vibration**

It is staff's understanding that compliance with the vibration standards recommended by KiwiRail can have major cost implications, especially when buildings have minimal setbacks from the railway corridor. Staff consider that the decision whether to incur the cost of vibration mitigation, or suffer a degree of discomfort due to vibration, should be

left to the owner. Therefore, staff recommend an advice note encouraging owners to consider vibration effects and the need for mitigated.

- **Fences, vegetation and screening of the railway corridor**

Given that the railway corridor does not traverse large parts of the District's commercial areas, staff do not see the need for the provisions sought by KiwiRail; relating to fences, vegetation, and screening of the railway corridor.

- **Activity status and matters of discretion**

Staff do not support non-complying activity status for development that fails to meet the above performance standards, as sought by the NZ Transport Agency. However, staff support non-complying activity status where new subdivisions are unable to provide a complying building platform. This is reflected in the changes to "Section 6 Subdivision" (see Appendix 5), recommended by staff.

Staff recommend changes to the matters of discretion, in response to the submission by KiwiRail. These changes are reflected in the amendments to Section 5.2.9 shown in Appendix 5.

- **Section 3.7: Development Controls - Approach and restart sight triangles at railway level crossings (all District Plan Zones)**

KiwiRail has requested changes to the provisions relating to sight triangles at railway level crossings. Minor wording changes in response to the submissions are recommended.

- **Summary assessment**

It is recommended that the changes, as shown in Table 6.11 (Appendix 4), and Appendix 5 be accepted.

### **6.11.3 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with the amendments as shown in Appendix 5;
- b) That the amendments as outlined in Appendix 5 be made to the District Plan.

#### Reason

- i. The provisions subject to the amendments detailed above, represent the appropriate resource management response to the RMA and PRPS.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.11.

## **6.12 Infrastructure and servicing (Section 5.9)**

### **6.12.1 Proposed changes and submissions**

The plan change has reviewed the operative infrastructure and servicing provisions. These provisions comprise performance standards (Section 5.9.1) and performance outcomes (Section 5.9.2). In order to be a permitted activity, infrastructure and servicing must comply

with both the performance standards and outcomes. The Operative Plan is silent on the activity status, where the performance standards/outcomes are not achieved. Also, the performance standards that are required to be met by permitted activities include a range of discretionary matters. Given the discretionary nature of some of the outcomes, compliance is open to interpretation, resulting in uncertainty and potentially inconsistent plan implementation.

The plan change as notified seeks to improve the plan structure by adding a new clause (Rule 5.9.3) that provides restricted-discretionary activity status for non-compliance with the performance standards/outcomes. However, the plan change does not address the uncertainty inherent in the requirement for permitted activities to comply with the discretionary performance outcomes.

In addition, the plan change seeks to introduce a new clause (Rule 5.9.4) that “triggers” restricted-discretionary activity status for larger-scale developments and subdivision that generate more than 100 car equivalent movements per day. The intent of the provision is to enable the Council to ensure that development/subdivision provides for the integration of land-use with infrastructure so as to achieve the new integration objectives.

Submissions in general support of the plan change as notified were received from WRC, the New Zealand Transport Agency, and Powerco.

Fonterra, Kaimai Properties/Matamata Metal Supplies, D & L Swap, and Geometrix (supported by the Te Aroha Business Association) oppose the lack of certainty (due to the discretionary nature of the performance outcomes), and the low “trigger” for the restricted-discretionary integration rule.

In addition, Barr & Harris, Geometrix, Kaimai Properties/ Matamata Metal Supplies, D & L Swap, and the New Zealand Transport Agency (opposed by Environmental Futures Inc) have requested changes to the wording of some of the provisions.

### **6.12.2 Assessment**

Staff consider that the submissions opposing the use of discretionary performance outcomes to determine permitted activity status, are valid. Staff recommend that the structure of the Plan be amended so that the performance outcomes become the matters to which the Council restricts its discretion, where the performance standards are not able to be met.

Staff also agree that the scale of activities that “triggers” the requirement for a restricted-discretionary resource consent under the new integration rule, was set too low in the provisions as notified. Staff recommend that the “trigger” be increased to 250 car equivalent movements per day. This is the same “trigger” for access to collector/local roads (to be discussed later in this report), where resource consent is already required.

In addition, staff recommend minor changes to the wording of some of the provisions in Section 5.9, in response to the submissions received. These changes are described in Table 6.12 (Appendix 4).

### **6.12.3 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with the amendments as shown in Appendix 5;
- b) That the amendments referred to above be made to the District Plan.

## Reason

- i. The provisions subject to the amendments detailed above, represent the appropriate resource management response to the PRPS and the District Plan's policy framework..

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.12.

### **6.13 Works and network utilities (Section 8)**

#### **6.13.1 Proposed changes**

The plan change has reviewed Section 8 of the District Plan in its entirety, and proposes an amended structure that deals more comprehensively with the performance standards, activity status, and matters of discretion, individually under the headings:

- Telecommunication;
- Electricity transmission and distribution activities;
- Renewable energy generation activities;
- Liquid fuels and gas transmission and distribution;
- Water, wastewater and stormwater;
- Transportation network;
- Stock movements and stock crossings;
- Flood control works;
- Miscellaneous works and network utilities;
- Generic matters of discretion for the assessment of works and network utilities.

#### **6.13.2 Submissions**

The following submissions were received:

- **Telecommunication**

With the exception of a proposed "blanket" exclusion of telecommunications activities from the general earthworks and vegetation rules, changes are proposed in response to the submissions from Telecom and Chorus.

- **Electricity transmission and distribution activities**

Minor changes are proposed in response to the submissions by Powerco and Transpower.

- **Renewable energy generation activities**

The submissions received by Ventus Energy are not supported. Staff recommend that the provisions as notified be adopted.

#### **Water, wastewater and stormwater**

Submissions were received from Geometrix and Fonterra. Changes are proposed in response to the Fonterra submission.

## **Transportation network**

The NZ Transport Agency supports the provisions as notified. Geometrix and KiwiRail have made submissions requiring minor changes. These changes are recommended to be accepted.

- **Stock movements and stock crossings**

The stock crossing provisions are supported by KiwiRail. Federated Farmers are opposed to the provisions which they consider are confusing and an unnecessary duplication of the requirements under the "Stock Movements on Roads Bylaw 2008".

Staff accept that the notified version is potentially confusing and recommend changes to the table and the addition of an advice note to clarify and assist plan implementation.

However, staff disagree that the provisions duplicate the by-law.

It is staff's view that the purpose of the bylaw, district plan, and development manual is different. The District Plan's role is to determine the performance standards and activity status. The Development Manual contains the specific design criteria. The Bylaw's role is to assist with enforcement such as requiring a permit for moving stock, and preventing stock movements during the hours of darkness.

The only overlap between the documents is the graph that determines when an underpass is required. This is necessary, as the same graph is used both to determine activity status, and compliance.

- **Flood control works**

WRC supports the provisions as notified. Heritage NZ seeks the addition of a timeframe to provide comment on the works programme. An amendment to provide for one month's notice to comment on the annual works programme is recommended.

- **Miscellaneous works and network utilities**

The amendment sought by Powerco advising of the need for works in road reserves to comply with all District Plan requirements and Council's Code of Practice, is recommended.

- **Generic matters of discretion for the assessment of works and network utilities**

An amendment is proposed in response to the NZ Transport Agency's request for specific reference to adverse effects on the road network

### **6.13.3 Assessment**

With the exception of the provisions for stock crossings, there is general support for the proposed changes, subject to relatively minor changes. Staff's assessment in respect of the stock crossing provisions is summarised in Paragraph 6.13.2 above.

Staff's assessment of the other submissions is shown in Table 6.13 (Appendix 4).

#### **6.13.4 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with the amendments as shown in Appendix 5;
- b) That the amendments shown in Appendix 5 be made to the District Plan.

#### Reason

- i. The provisions, subject to the amendments shown in Appendix 5, are generally supported by network providers and are considered to be the appropriate methods to achieve the District Plan objectives and policies relating to works and network utilities.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.13.

### **6.14 Transportation**

#### **6.14.1 Proposed changes**

The plan change has reviewed the transportation section (Section 9) of the District Plan in its entirety, and recommends significant amendments to the operative provisions.

These amendments include the following transportation related matters:

- Rooding hierarchy;
- Access;
- On-site loading;
- On-site parking;
- General parking, loading and formation standards;
- Provisions relating to the railway network.

#### **6.14.2 Submissions and assessment**

A large number of submissions have been received, covering all the transport related matters. In addition, Barr & Harris opposes the amended Section 9 in its entirety.

An overview of the submissions is included below:

- **Rooding hierarchy**

The WRC and Progressive Enterprises support the rooding hierarchy provisions. Fonterra supports the "Collector Road" status for No 1 Road.

The NZ Transport Agency wants an explanation of the function of each tier in the rooding hierarchy, to be included. An amendment (see Appendix 5) is recommended in response to this submission.

#### **Access**

The WRC supports the access provisions. Staff support the NZ Transport Agency's request for minor changes to clarify access standards. Staff do not support the Ministry of Education's request to exclude schools up to 10 pupils from the permitted activity thresholds for access.

Geometrix, M & C O’Callaghan and Tidmarsh Holdings Ltd consider that the access standards are vague and overly complicated, and the thresholds for access too low. Staff recommend an increase in the permitted activity threshold for access onto a significant or arterial road, to 100 car equivalent vehicle movements per day. An advice note is also proposed to clarify the term “character, scale or intensity of use”.

Staff recommend that the access standards, even though extensive, be retained as it provides clarity and assists in consistent plan implementation.

However, staff consider that further clarification is required on the circumstances when ITAs are required, and the scope of the assessments needed under different circumstances. To this end, staff propose the addition of new clauses as shown in Appendix 5. These provisions are similar to those currently being mooted for inclusion in the Proposed Waipa District Plan.

Fonterra wants the Morrinsville and Waitoa dairy processing plants and the Morrinsville transport garage to be excluded from the permitted activity thresholds and accessways standards. They provided a traffic impact assessment that supports higher thresholds and access standards for these sites. Staff do not support the exclusion of sites from the generic provisions, and consider that Fonterra should rather seek specific changes to the sites’ DCPs, through a separate plan change process.

Federated Farmers are opposed to the reference to avoiding “nuisance” from access ways used for seasonal activities. Staff recommend the deletion of the reference, as accepted by parties the pre-hearing meeting.

M & C O’Callaghan and Tidmarsh Holdings Ltd want the matters of discretion relating to access for properties with frontage to the “specified shopping area”, to relate to pedestrian safety, not provision of additional parking. Staff consider that the provisions as notified already provide for consideration of pedestrian safety.

- **On-site parking and loading**

Submitters generally support the provisions as notified. The NZ Transport Agency initially opposed the provisions for the shopping frontage areas. However, the Agency has subsequently indicated its support. The Ministry of Education and Fonterra seek exclusions from the parking provisions for specific sites or activities. Staff are not in support of these site specific exclusions which should preferably be addressed through DCPs.

With the exception of minor wording changes for clarification, no other amendments to the parking and loading provisions are recommended.

- **Provisions relating to the railway network**

KiwiRail seeks a number of minor word changes for clarity and the removal of the provisions relating to private railway crossings (which are managed through deed of grant processes). Staff recommend that these amendments be made, in the interests of clarity and to improve plan implementation.

### **6.14.3 General recommendations/ conclusions**

- a) That the provisions as notified, with the amendments referred to above (see Appendix 5 for further details), be accepted; and:
- b) That the amendments shown in Appendix 5 be made to the District Plan.

## Reason

- i. The provisions subject to the amendments detailed above, represent the appropriate resource management response to the PRPS and the District Plan objectives and policies.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.14.

### **6.15 Submissions on other District Plan rules**

#### **6.15.1 Submissions and assessment**

In addition to the submissions described in Paragraphs 6.1 – 6.14 above, the Council received a number of submissions that fall outside the specific topics already addressed.

These submissions are generally either in support of the plan changes, or fall outside the scope of matters that can be considered under these plan changes.

Also included are the submissions by D & L Swap and Kaimai Properties/Matamata Metal Supplies. These submissions relate to sites with DCPs, and seek:

- Consistency in cross-referencing the provisions amended through these plan changes on the DCPs; and:
- Other site specific amendments to the DCPs, not related to these plan changes.

Consistency in cross-referencing is a minor issue requiring a change in the reference on the DCPs from “8.1” to “8.1 – 8.9” to accommodate the new rule numbering. Staff’s recommendation is that this change can be undertaken as an administrative matter without having to invoke the First Schedule RMA process.

With regard to the site specific amendments to the individual DCPs requested by the submitters, staff’s view is that these matters are outside the scope of the plan changes and cannot be considered.

Overall, staff recommend that no changes be made to the District Plan in response to these submissions, other than for rectification of a typographical error in Rule 11.2.1, as requested by Powerco.

#### **6.15.2 General recommendations/ conclusions**

- a) That the provisions as notified be accepted, with the amendment to Rule 11.2.1, as shown in Appendix 5;
- b) That the amendment to Rule 11.2.1 be made to the District Plan.



## Reason

- i. The provisions subject to the amendments detailed above, represent the appropriate resource management response to the PRPS.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.15.

## **6.16 District Plan definitions**

### **6.16.1 Submissions and assessment**

The plan change proposes new definitions and changes to operative definitions to clarify rules and to assist with plan implementation.

A number of submissions to the definitions have been received, notably changes requested by Transpower in following further refinement of the National Grid rules.

Table 6.16 (Appendix 4) provides a detailed description of the changes requested, staff recommendations on acceptance of the submissions, and reasons for the recommendations.

Where amendments have been accepted, the plan change document in Appendix 5 has been updated to show the recommendations.

### **6.16.2 General recommendations/ conclusions**

- a) That the definitions as notified be accepted, with the amendments as shown in Appendix 5.
- b) That the amendments as shown in Appendix 5 be made to the District Plan.

## Reason

- i. The definitions subject to the amendments in Appendix 5, will clarify the rules and assist with plan implementation.

## **6.17 Planning maps**

### **6.17.1 Submissions and assessment**

In addition to the inclusion of the WRC flood control assets on the planning maps as discussed in Paragraph 6.10 of this report, the Council received a number of submissions relating to the planning maps.

These submissions are generally in support of the inclusion of network assets on the maps.

In response to submissions, the Vector gas transmission line is recommended to also be shown. It is also recommended that an advice note be included to provide information on where site-specific information on the detailed location of assets, can be obtained.

### **6.17.2 General recommendations/ conclusions**

- a) That planning maps and disclaimers as notified be accepted, subject to the inclusion of the gas transmission line and the WRC flood control assets.
- b) That a note be added to the cover page of "Part C Planning Maps" to advise users on where site specific information on the detailed location of assets, can be obtained.

- c) That the amendments referred to above be made to the District Plan and the Planning Maps.

Reason

- i. The provisions subject to the amendments detailed above, represent the appropriate resource management response.

Staff recommendations on the individual submission and further submission points under this topic are included in Appendix 4, Table 6.17.

## **6.18 Development Manual**

### **6.18.1 Submissions and assessment**

Council received a number of submissions from Barr & Harris, in opposition to certain provisions of the Development Manual.

The submissions concerned, and staff's response and reasons are shown in Table 6.18 (Appendix 4). It is noted, with reference to Table 6.18, that staff recommend a number of minor changes to the Development Manual, mainly to allow flexibility of the standards under different circumstances.

As a consequence of changing "Rule 5.9.2 Infrastructure and servicing – Performance outcomes" in the District Plan, to "Matters of discretion": staff recommend the deletion of reference to "performance outcomes" in the Development Manual.

### **6.18.2 General recommendations/ conclusions**

- a) That the provisions in the Development Manual as notified be accepted, subject to the amendments set out in Table 6.18 and Appendix 5.
- b) That the amendments referred to above be made to the Development Manual.

Reason

- i. The provisions subject to the amendments detailed above, are the appropriate standards, allowing for flexibility to cater for specific circumstances.

## **7. Conclusion**

This report sets out staff recommendations for further amendments to the notification version of the transportation and works/network utilities plan changes.

The recommendations were prepared, following a review of the proposed plan changes, taking into account the submissions received, further consultation with stakeholders, and further discussions at the pre-hearing meeting.

Staff consider that the submissions, consultation, and the pre-hearing meeting have been valuable in identifying potential policy deficiencies in the notified version, and have assisted in ensuring additional clarification of the appropriate implementation methods.

It is staff's view that the amended provisions recommended in this report, represent the appropriate resource management response to the management of the District's transportation network, works, and network utilities.

The recommendations contained in the report represent staff's assessment only, not the Council's position. Before making its decisions, the Council will consider these recommendations, jointly with the submissions and evidence heard during the upcoming hearings.

Ultimately the authority to decide on the submissions lies solely with the Council, and its decisions may or may not coincide with staff's recommendations.