Proposed Plan Change 55:
District Wide Rules

Hearing Report

Appendix 5
BEFORE THE HEARINGS PANEL


And Proposed Plan Change 55:
Chapter 3 District Wide Rules

Application By: Manawatu District Council

STATEMENT OF EVIDENCE BY

John Robert Hudson

30 October 2016
Introduction

1. My name is John Hudson. I am a landscape architect and principal of my own practice, Hudson Associates, and have been practicing in this field for over 30 years. I have a Bachelor of Arts Degree in Geography from Victoria University and hold post graduate diplomas in landscape architecture and business administration from Lincoln and Victoria Universities respectively. I am a registered member, fellow and past president of the New Zealand Institute of Landscape Architects, and have also held the roles of member and chairman of the Institute’s professional examination committee for ten years, as well as judge for the Institute’s biennial award.

2. I hold a recently renewed Making Good Decisions certificate from the Ministry for the Environment as a Hearing Commissioner, and have previously attained the Chairing Endorsement. I have been engaged as an independent commissioner for several large consent applications, the largest being an appointment by the Minister for the Environment to the Board of Inquiry hearing Mighty River Power’s Turitea Wind Farm consent application, which was Called In as a project of national significance.

3. My practice consults on projects throughout New Zealand, with particular focus on landscape assessment, subdivision, large scale design, and infrastructure. I am currently engaged by a number of local authorities throughout the country to provide specialist advice on consent applications and district plan assessments and provisions. I regularly appear as an expert witness at both Council hearings and Environment Court appeals.

4. I confirm that I have read and am familiar with the Environment Court’s Code of Conduct Practice Note 2014. I agree to be bound by that Code of Conduct and confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express in the following evidence.

5. I have been engaged by Manawatu District Council to provide expert witness evidence with regard to specific provisions and submissions of Plan Change 55 that relate to network utilities within Outstanding Natural Landscapes/Outstanding Natural Features. I have previously been engaged by Manawatu District Council to prepare a District wide Landscape Assessment, which has helped inform my understanding of the Manawatu landscape context.
Scope of evidence

6. The evidence has been structured so that the background context is addressed prior to any specific submissions, which should allow greater clarity and understanding of the context behind individual submission points, and the reasoning behind our recommendations. The evidence covers 6 main topics:

- Planning Framework
- Palmerston North City Council Approach
- Horizons One Plan Policy Framework
- Current and Proposed ONFL’s (Operative DP, One Plan and Plan Change 53)
- Distinction between linear and non-linear infrastructure
- Submission Points

Planning Framework

7. Network utilities in relation to outstanding natural landscapes and features are addressed in part by the proposed Chapter 3 of the Manawatu District Plan. The relevant provisions are;

Objective 3 - To restrict, except within an existing road carriageway, the development of network utilities within areas of significant heritage and landscape value recognising the values of these important areas.

Policy 3.1 - To protect the values that cause an Outstanding Natural Feature and Landscape to be identified in Appendix 1C from inappropriate subdivision, use and development.

Policy 3.2 - To restrict the development of network utilities, except within an existing road carriageway, within areas of significant heritage and landscape value in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B, Significant Areas of Indigenous Forest/Vegetation (excluding reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value) and 1F (Sites with Heritage Value) unless there is no alternative location.

3A.4.1 Permitted Activities

The operation, maintenance, minor upgrading or repair of network utilities existing or which have been lawfully established.

3A.4.5 Non-complying Activity

Any network utility located within an Outstanding Natural Feature or Landscape in Appendix 1c is a Non-Complying Activity.
8. Essentially, we are discussing network utilities that are new and expanded (as existing operation and maintenance is a permitted activity) network utilities being considered as a non-complying activity within the areas identified as Outstanding Natural Features and Landscapes.

**Palmerston North City Council Approach**

9. It is relevant to note the approach taken in the adjacent territorial authority of Palmerston North City. They have recently completed a Sectional District Plan Review (aspects of which are still under appeal). The main area of concern in relation to effects on Outstanding Natural Landscapes within Palmerston North was identified as Windfarms within the Tararua Ranges Landscape Protection Area (TRLPA), which has been spatially defined to give effect to the Tararua Ranges ONFL listed in Schedule G of the Horizons One Plan.

10. The TRLPA is located within the Rural Zone and is addressed by Section 9 of the Proposed District Plan which states that;

    *Objective 7 - To recognise parts of the Tararua Ranges and the Manawatu Gorge as regionally Outstanding Natural Features and Landscapes and protect them from inappropriate use and development.*

11. And,

    *Policy 7.3 - To avoid further development of renewable energy generation activities and other major structures that have the potential to cause significant adverse cumulative effects on the Tararua Ranges Landscape Protection Area (Map 9.1)*

12. This has led to a non-complying activity for windfarms located within the TRLPA, whereas a discretionary status is applied when located outside of the TRLPA. This distinction between non-complying and discretionary activity status based on the location within the recognised ONFL (TRLPA) is similar to the approach currently being promoted by the Manawatu District Council for network utilities.

**Horizons One Plan**

13. The Horizons One Plan states under Issue 6-2(a) that;

    *The Region’s outstanding natural features and landscapes can be adversely affected by land use activities and development. Adverse effects of development on outstanding natural features and landscapes include the potential for significant adverse cumulative effects. Developments with the potential for greatest impact include wind farms, residential subdivision and other major structures.*
14. This identifies that ONFL’s can be adversely affected by development and that the largest impact can come from major structural elements. It is considered that new or expanded network utilities fall within this consideration and have the potential for significant adverse effects.

15. The Horizons One Plan also states that;

Territorial Authorities have the responsibility of managing the effects of land use, through district plan provisions and land use resource consents. Consequently, the management of competing pressures for the subdivision, use and development of land that may affect outstanding natural features and landscapes is most appropriately dealt with at a territorial level. (Chapter 6, 6.1.3 – Para 3)

16. Despite this direction that the management of ONFL’s is best addressed at the territorial level, there are other relevant aspects of the One Plan which provide guidance, such as Policy 6-7. This gives direction on how an ONFL assessment should be carried out, stating:

The Regional Council and Territorial Authorities must take into account but not be limited to the criteria in Table 6.1 when:

(a) identifying outstanding natural features and landscapes, and consider whether the natural feature or landscape is conspicuous, eminent, remarkable or otherwise outstanding, and
(b) considering adding to, deleting from, or otherwise altering, redefining or modifying the list of outstanding natural features or landscapes listed in Table G.1 of Schedule G, or
(c) considering the inclusion of outstanding natural features or landscapes into any district plan^, or
(d) establishing the relevant values to be considered when assessing effects^ of an activity on:
   (i) outstanding natural features and landscapes listed in Table G.1 of Schedule G, or
   (ii) any other outstanding natural feature or landscape.

17. Table G.1 identifies a range of landscapes and features within the Manawatu District that are outstanding at a regional level. These can be broadly describes as;

- A portion of the Rangitikei River
- The Ruahine Forest Park and the series of highest ridges and hilltops
- The Manawatu Gorge
- Parts of the Manawatu Coastline
18. The significance of Policy 6-7(b) needs to be considered in relation to these areas. The One Plan does not require their full extent to be included in an ONFL when the Territorial Authority undertakes their spatial definition of these. Similarly, the extent of the Territorial Authority’s spatial definition may exceed that indicated in the One Plan. That is the direction and flexibility by 6-7(b). The One Plan Schedule G list is not rigid and the spatial definition of ONFL’s carried out identified by the Territorial Authority may alter, redefine or modify these.

19. The situation we have now is that; there are the OF’s listed in the Operative District Plan, there are ONFL’s listed in the One Plan Schedule G, and there are ONFL’s proposed as part of the Manawatu District Council PC53. The full extent of proposed ONFL areas and the reasons for their inclusion are detailed in the Manawatu Landscape Assessment Draft.

Current and Proposed ONFL’s

20. The changes made within PC55 only relate to Appendix 1C of the Manawatu District Plan at this stage. Appendix 1c only lists two Outstanding Features, being the Concrete Terraces adjacent to the Rangitikei River and the Glow Worm Caves along Limestone Road. Neither of these Outstanding Features are currently affected by the presence of network utilities such as gas, electricity or communication corridors.

21. However, it is important to acknowledge that the provisions relating to Outstanding Natural Landscapes and Features proposed by PC55, are intended to apply to all of the ONLF areas through the subsequent District Plan review process, as the operative OF1 and OF2 areas (Appendix 1C) are not being retained in the District Plan, and will be replaced by the ONFL’s listed within the new Chapter 5 (via PC53).

22. Both of the Outstanding Features identified in the Operative District Plan, are contained within the recently proposed update to Outstanding Natural Landscape and Feature areas within the Manawatu District. The Manawatu Landscape Assessment has identified a number of new ONFL areas within the district, and this will be used to update Chapter 5 of the District Plan, through the Plan Change 53 process.

23. There is also the list of ONFL’s identified in Schedule G of the Horizons One Plan, however, at a territorial level, this information has been refined within the Manawatu Landscape Assessment Draft which is currently undergoing community consultation and will be resolved through PC53.
Linear and Non-linear infrastructure

24. It is simple to distinguish between linear and non-linear network utilities (e.g. transmission lines being linear and a telecommunications towers being non-linear). However, the presence of infrastructural elements has the ability to compromise the values of an ONFL, regardless of whether or not it has a linear orientation. For this reason, it is considered that all network utilities should be treated with the same activity status within ONFL’s.

25. Both linear and non-linear infrastructure have the ability to compromise the identified characteristics and values of a landscape if they are out of scale with the receiving environment. The dominance of infrastructural elements can occur as either a result of their size/length, or through the clearance of natural areas that is required to accommodate their installation and ongoing maintenance.

26. One concern specific to lineal infrastructure, is that it typically appears as an unnatural ribbon, which is in direct contrast to the otherwise organic formation of outstanding natural areas and their contents. This ribbon effect that is typical of above ground powerlines can also have increased dominance due to your eye being drawn through the landscape along the infrastructure corridor, which can disrupt the scenic qualities of the location.

27. There are different potential effects on landscape and amenity that arise through the various network utility activities. However, they will all result in some degree of disturbance, whether that be physical or visual, and it is considered that the placement of these utilities within outstanding natural features and landscapes should not be anticipated.

28. Where alternative options are not possible, it is considered that a resource consent pathway can be considered through the non-complying activity status. Provided that the identified characteristics and values are not adversely effected, then it would be possible to allow infrastructure activities across some of the outstanding natural features and landscapes. However, I must note that these comments are made without the knowledge of specific provisions that may be introduced under Plan Change 53.
Submission Points

29. There are 5 specific submission points that we have been asked to respond to in relation to the network utilities provision for Outstanding Natural Features and Landscapes.

Transpower New Zealand Limited – S11/042

30. This submission point requests that new or expanded ‘Nationally Significant Infrastructure’ be downgraded to a discretionary activity status under Rule 3A.4.4.

Powerco – S16/045

31. This submission point requests a Restricted Discretionary Rule under 3A.4.4 for network utilities located within an Outstanding Natural Landscape.

Transpower New Zealand Limited – S11/043

32. This submission point seeks to exclude ‘Nationally Significant Infrastructure’ from the Non-Complying Rule 3A.4.5.

Powerco - S16/046

33. This submission seeks to exclude lineal network utilities from the Non-Complying Rule 3A.4.5.

First Gas Limited – S20/024

34. This submission seeks to exclude network utilities that are not ‘regionally or nationally significant’ from the Non-Complying Rule 3A.4.5.

Response to Submissions

35. Essentially, these submission points can be addressed by two key themes. Firstly, that either regionally or nationally significant infrastructure should be reduced from Non-Complying to a Discretionary activity status for new or expanded network utilities. Secondly, that linear infrastructure should also be reduced from Non-Complying to a Discretionary activity status for new or expanded network utilities.

36. Based on both the existing and soon to be proposed extent of ONFLs in the Manawatu District, it is considered that there is ample scope for new or expanded network utilities to be located in a manner which does not require access through the identified ONFLs. Where this is not possible, a non-complying activity status is appropriate so that the values and characteristics can be protected.
37. However, drawing a distinction between Regionally/Nationally Significant infrastructure and all other infrastructure considered under network utilities is not considered to be justified from a landscape and visual amenity perspective. The potential impacts that may arise from these proposals, through the introduction of built elements into outstanding natural areas, exist regardless of whether or not they are of regional or national significance.

38. The NPSET Policy 8 is referred to within Transpowers Submission (S11/042), which ‘seek to avoid adverse effects on outstanding natural landscapes’. It is considered that a non-complying activity status concisely seeks to avoid adverse effects in this situation, as a discretionary status would anticipate this type of development and therefore not seek to avoid.

39. Furthermore, in relation to the proposed non-complying activity status of network utilities within ONFLs, another aspect to consider is the New Zealand Coastal Policy Statement (NZCPS), which seeks, under Policy 15;

   *To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:*

   *(a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment;*

40. I am aware that this National Policy Statement (NZCPS) direction only applies to the coastal environment, however the policy direction is one of avoidance. A non-complying activity status fulfils such a policy direction. As there is a potential coastal ONFL within the Manawatu District, it is considered appropriate to apply a similarly restrictive status to all of the ONFL’s within the district to afford the same level of protection and consistency, rather than having a different approach for ONFL’s dependent on whether or not they are within the Coastal Environment.

41. In relation to the distinction between linear and non-linear infrastructure, it is considered that the potential adverse effects of linear infrastructure are just as likely as non-linear. While, in terms of its visual presence, there is often a difference between lineal and non-lineal network utilities, the scale, repetition, and dominant pattern that a linear infrastructural element can have on the appearance of an ONFL, warrants a Non-Complying activity status.
Conclusions

42. Based on the discussion above, it is considered that a Non-Complying activity status is appropriate for all network utilities within Outstanding Natural Features and Landscapes. This includes network utilities that are of National (or Regional) importance and linear infrastructure.

43. This is consistent with a similar situation in the adjacent Territorial Authority of Palmerston North City, appropriately responds to the Horizons One Plan and is reinforced by the work undertaken in the Manawatu District Landscape Assessment which has identified ONFLs along with their characteristics and values. A benefit of the Non-Complying activity status is that it provides a clear intention as to the protection of these important areas (ONFLs) and indicates to developers of network utilities where new or expanded infrastructure is not anticipated. Where other factors necessitate the location of a network utility within an ONFL, it is considered that a Non-Complying activity consent could be sought where specific proposals do not adversely affect the identified characteristics and values of an Outstanding Natural Feature and Landscape.

44. The provisions discussed above, including their wording and activity status, are considered appropriate from a landscape and visual amenity point of view and I support their intention.

John Hudson
FNZILA
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