BEFORE THE HEARINGS PANEL


And Proposed Plan Change 55:
District Wide Rules

Manawatu District Council

STATEMENT OF EVIDENCE BY
Andrea Harris

Dated: 18 November 2016
1. Introduction

1.1 My name is Andrea Michelle Harris. I have over 20 years’ experience as a planner and have worked for a regional authority and various local authorities as a consultant. I am employed by Opus International Consultants Limited as a Principal Planner/Planning Work Group Leader, based in the Palmerston North Office. I have a Bachelor of Resource and Environmental Planning from Massey University. I am a full member of the New Zealand Planning Institute. I have been engaged by Manawatu District Council to assist them with this Plan Change Hearing.

1.2 I have worked on a number of plan changes for Manawatu District Council (Council) and other local authority clients. I have also prepared and processed a number of resource consent applications, Notice of Requirement to Designate applications, and Outline Plans. I am therefore familiar with the issues associated with preparing and applying District Plan provisions.

1.3 The purpose of this report is to assess the proposed plan change in terms of the relevant statutory considerations and obligations, taking into account those issues raised by submissions.

1.4 I have read the Code of Conduct for Expert Witnesses (Section 5 of the Environment Court Consolidated Practice Note 2014) and I agree to comply with this Code of Conduct. This evidence is within my area of expertise, except where I state I am relying on evidence from another expert. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

1.5 The Council has commissioned Mr Nigel Lloyd of Acousafe Consulting & Engineering Ltd to provide his expert opinion on noise matters relating to the development of the District Wide Chapter and to present technical evidence at the plan change hearing on acoustic matters.

1.6 The Council has also commissioned Mr John Hudson of Hudson Associates to provide his expert opinion on Outstanding Natural Features and Landscapes (ONFLs). Mr Hudson has reviewed the current ONFLs in the District Plan as part of the Rural Plan Change and provides his opinion on those submissions relating to ONFL provisions.

1.7 The following is a list of abbreviations referred to throughout my report:

- PPC55 – Proposed Plan Change 55: District Wide Rules
- RMA or the Act – Resource Management Act 1991
- Plan – District Plan
- Outstanding Natural Features and Landscapes – ONFL

1.8 This report outlines:

- The submissions and further submissions received
- Identifies areas which remain in dispute
- An assessment of the submissions, based on sections of the District Plan
- A recommendation for the submissions received
• Whether any changes to the District Plan are proposed as a result of the submissions and an additional assessment under S32AA of the Act.

1.9 The following appendices are also included:

• Appendix 1 – Officer Recommendation on all submissions
• Appendix 2 – District Wide Rules chapter – PCN1 Plan Change Recommended version
• Appendix 3 – Definitions chapter - PCN1 Plan Change Recommended version
• Appendix 4 – Noise Evidence
• Appendix 5 – Landscape Evidence
• Appendix 6 – Draft Outstanding Natural Features and Landscapes maps showing network utility provider assets in relation to the draft ONFL areas

1.10 The panel have been provided with a submissions bundle. I have therefore not provided copies of all submissions and further submissions as part of my evidence.

2. Background

2.1 Proposed Plan Change 55 District Wide Rules (PPC55) was prepared and notified in accordance with Section 74 of the RMA, and the first part of Schedule 1 which outlines the requirements for changing a District Plan. PPC55 is a plan change under the Manawatu District Councils Sectional District Plan Review.

2.2 As part of the Sectional District Plan Review, Council has decided to reformat and reconstruct the way the District Plan is written. The new structure was introduced through Plan Change 45 Town Centre in 2014.

2.3 PPC55 seeks to review the existing objectives, policies and methods of Section A2 (Rules applying throughout the District) and rules in the various zones. A specific focus has been to remove duplication within the Plan. The proposed changes have been made to improve the functioning of the District Plan and introduce a District Wide Rules Chapter, to bring the provisions and rules up to date with best practice, and account for changes in the national, regional and local policy statutory frameworks. Section A2 and many of the zone provisions have not been subject to any reviews since they were made operative in 2002.

2.4 I do not intend to provide a detailed description of PPC55, as this has already been provided for by the Section 32 Report.

3. Submissions

Submissions – May – June 2016

3.1 Council notified three proposed plan changes at the same time on 2 May 2016, being Proposed Plan Change 52 (Industrial Zone), Plan Change 60 (Designations) and Plan Change 55 (District Wide Rules).

3.2 Council received a total of 13 submissions to the three plan changes notified. Of these submissions eight (8) made specific comment on the PPC55. Further submissions were
notified on 13 June 2016 and a total of eight (8) further submissions were received by the closing date of 24 June 2016.

**Submissions – August – September 2016**

3.3 Manawatu District Council on 7 July 2016 resolved to withdraw Proposed Plan Changes 52, 55, and 60 due to a procedural error which resulted in the public notice of the Proposed Plan Changes not being published in the newspaper as scheduled on 2 May 2016. To rectify the error, Council resolved that Proposed Plan Changes 52, 55, and 60 be re-notified.

3.4 No changes were made to the three Plan Changes when notified on 14 July 2016. Submitters were contacted by phone to explain the issue, and letters sent to submitters outlining the re-notification, and assuring them that the discussions had on the submissions received would not be lost.


3.6 A total of 29 submissions were received by the closing date. No late submissions were received on PPC55.

3.7 Further submissions were notified on 15 September 2016. A total of sixteen (16) further submissions were received by the closing date of 28 September 2016.

3.8 The re-notified plan changes attracted original submissions from the following parties. I have highlighted where the submission is of relevance to PPC55 for ease of reference.

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<thead>
<tr>
<th>Original Submitter</th>
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<tr>
<td>S01 Federated Farmers</td>
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<td>S02 KiwiRail Holdings Limited (KiwiRail)</td>
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<td>S03 Heritage New Zealand Pouhere Taonga</td>
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<td>S04 Feilding and District Promotion Inc</td>
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<td>S05 Manawatu-Wanganui Regional Council (Horizons)</td>
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<td>S06 H W Richardson Group (HWRG)</td>
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<td>S09 House Movers Section of NZ Heavy Haulage Association (Inc), Britton Housemovers Ltd, Central Housemovers Ltd (collective House Movers)</td>
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<td>S11 Transpower New Zealand Limited</td>
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<td>S13 Progressive Enterprises Limited</td>
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<td>S14 Overseers Feilding Baptist Church</td>
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<td>S15 Central House Movers Limited</td>
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<td>S17 Spark</td>
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<td>S18 Chorus New Zealand Limited</td>
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<td>S19 Maree Docherty</td>
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<td>S20 First Gas (formerly Vector Gas) Limited</td>
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<td>S23 Horticulture New Zealand</td>
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<td>S25 Annette Waugh</td>
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<td>S26 Dennis and Carrolyn Waugh</td>
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<td>FS6 NZ Transport Agency</td>
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3.10 The focus of this report is to assess the issues raised in submissions received in August and September 2016 to determine whether the decisions requested are appropriate, taking into account:

- Good planning practice
- The requirements of the RMA
- The relationship with the broader planning framework under the District Plan and its implementation and consistent administration, and
- The direction set by other plan changes in the Sectional District Plan Review.

4. Analysis of submissions

4.1 Before a Plan Change can be incorporated into a District Plan it must fulfil a number of statutory requirements set down in the RMA, including:

- Part 2, comprising Section 5, *Purpose and Principles of the Act*; Section 6, *Matters of National Importance*; Section 7, *Other Matters*; and Section 8, *Treaty of Waitangi*;
- Section 31 *Functions of Territorial Authorities*;
- Section 32 *Duty to consider alternatives, assess benefits and costs*;
- Section 32AA *Requirements for undertaking and publishing further evaluations*;
- Section 74 *Matters to be considered by territorial authorities*; and
- Section 75 *Contents of district plans*.
4.2 The assessment of the Plan Change must also include an evaluation of the provisions of PPC55 to determine their adequacy in terms of:

a. Their relationship and workability with other District Plan provisions, and

b. The appropriateness of such provisions (for example, their reasonableness and consistency).

4.3 The decisions requested by the submissions are considered in the same order as the PPC55. A copy of all submission points and my comments and recommendations in response to each submission point are found in Appendix 1.

4.4 The section 32 report has not be reproduced in my evidence; but can be found in the bundle of material notified as PPC55.

4.5 Where I have recommended substantive changes to provisions I have assessed those changes in terms of s32AA of the RMA in my evidence below.

4.6 To assist the hearing panel I have produced a revised District Wide Rules Chapter and extract of the Definitions Chapter showing recommended changes to provisions, and where submitters have supported the provisions. The recommended changes to Chapter 3 District Wide Rules are found in Appendix 2; while the recommended changes to the Definitions Chapter are found in Appendix 3. Reference to the submission number for each recommended change is included as a footnote to assist the Hearing Panel identify under which submission changes are being made.

4.7 To avoid duplication, I do not repeat all submissions in the body of my evidence below. The matters or topics identified in the table below are those that I consider to be in ‘dispute’. By this I mean where there remains a difference of opinion between the parties. Other provisions are recommended to change and these have not been covered in the paragraphs below. The table is based on the same order as the table in Appendix 1.

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4.8 I cover these matters of dispute by plan chapter below.

5. Whole of Plan

**Temporary Military Training Activities**

5.1 New Zealand Defence Force (NZDF) in their submission seek the inclusion of a new definition for Temporary Military Training Activities and district wide provisions for these activities in the District Wide Rules Chapter. The submitter also sought the inclusion of new noise provisions for their activities.

5.2 As outlined Appendix 1, PPC55 does not review the existing temporary military activity provisions in the District. Temporary military activities are currently specifically provided for under Rule 2.2, and in the Manfeild Park Zone. These provisions have not been reviewed through PPC55 and the section 32 report does not address the provisions at all. To the
contrary, the section 32 stated that the provisions relating to the temporary military training activities would be reviewed as part of the Rural Zone Plan Change (and other zone reviews as they occur). As no change is proposed to these provisions by PPC55, there is a real risk that persons directly or indirectly affected by the relief sought by NZDF would be denied an effective opportunity to respond to the changes. These provisions should be addressed as part of later plan changes as the zone provisions are reviewed, starting with the Rural Zone review.

6. Definitions

**Earthworks**

6.1 Ten submissions made specific submissions on the definition of earthworks, being Federated Farmers, KiwiRail, Heritage New Zealand, Transpower, Powerco, First Gas, Z Energy, Mobil Oil NZ and BP NZ (collectively known as the oil companies), Horticulture NZ, Spark and Chorus.

6.2 Changes are proposed to the earthworks definition which resolves the majority of submissions. These changes are set out in Appendix 1. Not all requested changes have been recommended for the reasons stated in that Appendix.

6.3 I am aware of discussions between Transpower and Federated Farmers regarding the definition of earthworks. Transpower has also confirmed that they seek that the definition exclusion relates to the National Grid Yard, not the National Grid Corridor as originally submitted. The changes I recommend in Appendix 1 largely reflect the agreements made between the two parties. I anticipate the parties will expand on this in their evidence.

6.4 Heritage New Zealand seek amendment to the definition of earthworks by removing reference to alteration in existing and finished ground level. This change is considered to capture unintended earthworks. While earthworks can potentially uncover human remains or areas of previous human occupation, there is a need to be pragmatic in how earthworks are managed in the District. The definition is also consistent with neighbouring council district plans, which ensures greater plan user certainty.

7. Chapter 3 District Wide Rules

**Reverse Sensitivity**

7.1 NZDF seek specific provisions to address reverse sensitivity by way of appropriate objectives, policies, rules and land zoning. They also suggested a definition of reverse sensitivity. A definition for reverse sensitivity has been introduced in the District Plan under Plan Change 52. It is understood that no submissions were received on that definition.

7.2 Care has been taken in drafting the District Plan to avoid generalised statements for reverse sensitivity. I consider the concept of reverse sensitivity to be broadly understood and accepted. Instead the approach taken in drafting this plan change has been to include specific provisions to manage the adverse effects of concern/potential issues. For example to require setback distances, or restrict the height of utility structures. I do not consider that generic statements assist in decision making when assessing resource consents, and can in fact, cause problems due to ambiguous wording and subjective views at the time of implementation. On that basis, including generic objectives, policies, rules and zoning of land to address these matters is not considered appropriate as it does not provide plan users with sufficient certainty when considering the District Plan.
7.3 There are eight submissions which seek that the network utilities sub-chapter be a standalone chapter and seek that the various references in section 3.1 and in 3A.4 clearly state that the zone rules do not apply.

7.4 In drafting the provisions, it was my intention that the zone rules also apply, particularly relating to noise, restrictions of activities in the National Grid Yard, and restrictions in the Flood Channel Zone and Historic Heritage Chapter.

7.5 As outlined in my response to these submissions in Appendix 1, to enable the chapter to be standalone, additional provisions would need to be included in the network utilities sub-chapter to cover the matters above. For example, conditions relating to noise, heritage, and earthworks in the National Grid Yard. I therefore do not consider there to be sufficient scope to make such additions to the rules as part of PPC55.

7.6 Once the zone rules are reviewed in their entirety, the Council could, as part of the final sectional district plan review, make these changes to create a standalone sub-chapter in the District Wide Rules chapter.

8. Chapter 3A Network Utilities

Outstanding Natural Features and Landscapes

8.1 A number of submissions have raised concerns regarding the proposed objective, policies and rules relating to ONFLs and network utilities.

8.2 The operative District Plan has only two identified ONFLs. Council has initiated a review of ONFLs in the District as part of the Sectional District Plan Review (PPC53). Mr Hudson has completed the review to date, and he describes the work undertaken in his evidence attached in Appendix 5. The ONFLs identified in the review are found in the Report prepared entitled “Manawatu District Landscape Assessment” (dated 25 February 2013). It is intended that the Rural Plan Change will be the vehicle for introducing the new ONFL areas into the District Plan. The provisions in Chapter 3, are designed to protect the identified two areas in Appendix 1 C now; and will ultimately provide the basis for the new ONFLs when introduced into the District Plan at a later date.

8.3 In reviewing the submissions Council has mapped the location of key network utility providers against the draft ONFL areas. These maps are contained in Appendix 6. These maps show that few of the proposed areas are impacted by existing network utilities. On that basis, and to give effect to the One Plan (particularly Policy 6-6), the provisions proposed by PPC55 are considered to be appropriate.

8.4 Mr Hudson, in his evidence, states that “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.”

8.5 Mr Hudson concludes that the approach proposed is consistent with that taken by Palmerston North City Council and appropriately responds to the One Plan direction. “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.”
8.6 As a result of submissions the Objectives and Policies have been amended to provide additional guidance for plan users regarding the protection of ONFLs.

**New Rule**

8.7 Federated Farmers have requested a new rule for land use activities within the National Grid Yard. As stated in Appendix 1, the intent of the Rules in section 3A.4 are to manage network utilities, not to enable all land use activities. Rules managing land use activities form part of the zone chapters, and particularly the rural zone provisions in the context of the Federated Farmers submission. On that basis the submission is not supported.

**National Environmental Standard for Telecommunication Facilities**

8.8 Spark and Chorus have requested that provisions in the District Plan are changed to reflect the intended outcomes from the upcoming change to the National Environmental Standard for Telecommunication Facilities (NESTF). At the time of preparing my evidence, the proposed amendments have no statutory weight. The new NESTF is expected to be ratified in early 2017. Council will at that time be able to assess the changes and identify where any changes to the District Plan are necessary. This submission is not supported at this time.

**Lineal vs Non-lineal Network Utilities**

8.9 A number of submissions have sought a distinction between lineal and non-lineal network utilities, particularly in relation to ONFLs.

8.10 Mr Hudson in his evidence addressed this issue and states that "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."

8.11 Overall Mr Hudson considers that the potential adverse effects of linear infrastructure are just as likely as non-linear. I agree with the comments by Mr Hudson and do not support creating a distinction in the District Plan as requested by the submitters.

9. **Chapter 3B Transport**

9.1 There are considered to be no matters of dispute for this chapter.

10. **Chapter 3C Noise**

**Setbacks from the State Highway network**

10.1 The New Zealand Transport Agency have requested that a setback be included in the District Wide Rules to restrict development near the State Highway network. Mr Lloyd had reviewed the request from the NZ Transport Agency prior to the notification of PPC55 and agreed that controls were appropriate in the Rural Zone of the District. On that basis the provisions were not included in the District Wide Rules and they will instead be considered as part of the Rural Zone review.

10.2 As discussed in Appendix 1, a review of the extent of the State Highway where speeds are 70km/h or greater identified that there is only a small area of Feilding on Kimbolton Road
and an area at Cheltenham where the zoning is not rural and would be captured by the setback provisions that the NZ Transport Agency has requested. Discussions with NZ Transport Agency have resulted in agreement that these provisions would appropriately sit in the Rural Zone (see my comments below regarding a Memorandum of Understanding (MoU)). Mr Lloyd has considered a simplified version of the NZ Transport Agency rule for inclusion in the Rural Zone review to be considered at that time.

10.3 At the time of preparing my evidence, Council and the NZ Transport Agency had agreed on wording for a MoU to reflect the approach above, but it was not signed by both parties. I will update the Hearing Panel with any developments at the hearing.

**Noise time periods in the Rural Zone**

10.4 Federated Farmers have requested changes to the noise time periods to allow for longer daytime limits. Mr Lloyd has considered the request for Council and does not support the change. As outlined in Appendix 1, the noise limits are designed to protect against sleep disturbance. Mr Lloyd considers that the time of 7am is a reasonable hour to protect the rural community against the start-up of a noisy neighbouring activity. Changing the time periods would form the permitted baseline for all activities in the Rural Zone, not just farming. The submission is therefore not supported.

**Noise limits in Residential/Village Zone**

10.5 Spark and Chorus seek changes to the noise limits for the Residential and Village zones to reflect the NESTF. Mr Lloyd has considered this submission and acknowledges that telecommunication cabinets do not need to meet the District Plan noise limits because of the NESTF, reflecting their importance. He notes that the Residential and Village noise limits are deliberately strict to provide for a quiet and peaceful community with noisy activities encouraged elsewhere. On that basis the request is not supported.

**Helicopter use**

10.6 Horticulture NZ seek exemptions in the Noise chapter for helicopter use. As discussed in Appendix 1, Mr Lloyd does not support the changes sought by the submitter. There are existing New Zealand Standards that address helicopter use. An exemption would apply to intermittent use and regular use. He considers the difference is between the occasional use of the paddock purely for agricultural use and the establishment of a rural airstrip for regular use by aircraft and helicopters. The latter activity could have a significant impact on residential neighbours and the noise needs to be controlled through the NZ standards.

11. **Chapter 3D Earthworks**

**Oil and Gas exploration**

11.1 Ms Docherty has submitted concern over oil and gas exploration and the need to dispose of great quantities of contaminated waste. As discussed in Appendix 1, management and control of oil and gas exploration is currently addressed by the catch-all rule in Section A2 2.1 as a Non-Complying Activity. This is because there is no other provision in the District Plan for this activity. I understand that this activity will be considered as part of the Rural Plan Change.
Exclusion of the Rural Zone from earthworks provisions

11.2 Federated Farmers seek that the Rural Zone be made exempt from the earthworks provisions on the basis that earthwork activities are covered by the One Plan. However, the One Plan does not address all effects arising from earthworks that are of concern in the Manawatu District. The effects that Horizons is responsible for managing are different from those effects the Council manages.

11.3 Earthwork volumes will be assessed for the Rural Zone as part of the Rural Zone plan change. It is anticipated that any restrictions for earthworks in the Rural Zone will be introduced into the District Plan through that Plan Change. It is not the intention that the Rural Zone is exempt from the provisions of the earthworks sub-chapter of the District Wide Rules chapter.

Earthworks near the National Grid Yard

11.4 Transpower have opposed the Restricted Discretionary Activity rule for earthworks in the National Grid Yard and request that this is made a Non-Complying Activity. As outlined in Appendix 1, earthworks near the National Grid Yard are currently provided for in the District Plan as a Restricted Discretionary Activity under Rule B1 1.4. The proposed rules retain this classification, with more specific guidance for plan users. Requiring a Non-Complying Activity consent is considered to be unnecessarily onerous for landowners. The restricted discretionary activity status still allows Council to decline consent if the works would compromise the safe, efficient and effective operation of the National Grid.

12. Chapter 3E Signs

Signs on Heritage Buildings

12.1 Heritage NZ Pouhere Taonga seek a new rule for any signage attached to a heritage item to be a Restricted Discretionary Activity. The proposed sign rules only permit relatively small signs that relate to the activity on the site. The restrictions on signs is designed to avoid the proliferation of signage in the District.

12.2 The submitter seeks reference to the relevant heritage items, including ‘within the site of the item’, in Appendix 1E and 1F of the existing District Plan. Reference to ‘within the site of the item’ is vague and does not provide certainty for plan users. The contents of Appendix 1E relate to a few commercial buildings in the smaller townships in the District, houses, rural buildings, churches, objects and memorials, and marae buildings. Appendix 1F relates to waahi tapu sites. Requiring a Restricted Discretionary Activity consent for signs in these areas is considered to be onerous for the landowner. Commercial buildings within the town centre of Feilding, where most signage is anticipated is already covered by the Business Zone. No change is therefore recommended in response to this submission.

13. Chapter 3F Temporary Activities

Temporary Activities in the National Grid Yard

13.1 Transpower seek that temporary activities in the National Grid Yard be a Non-Complying Activity. The proposed provisions already provide for these activities as a Discretionary Activity which allows for all potential effects to be considered. The increase in activity status to Non-Complying is considered unnecessary.
Excluding temporary network utilities

13.2 Spark and Chorus seek changes to the rules that exclude temporary network utility structures from the provisions requiring those structure to be readily movable, meet yard setback requirements, removed from site within 6 months of the commencement of the activity and not occupy to the site for more than 6 months in any 12 months.

13.3 As stated in Appendix 1, the rules are to reflect activities that are temporary in scale and duration. The requested additions to the rule do not reflect what are considered to temporary activities. Sporting and recreational events that need a temporary structure to boost cell phone coverage are already provided for by the rule. In the event a new permanent site is required, the proposed rules allow for a temporary activity or structure for 6 months. This is considered sufficient time to enable development of a permanent site. If the equipment is on a site for a longer duration, then the effects of the temporary equipment should be assessed through a resource consent process.

14. Chapter 3G Relocated Buildings

Providing for relocated buildings as a permitted activity

14.1 House Movers Section of NZ Heavy Haulage Association, Britton Housemovers Ltd, and Central House Movers (collectively House Movers) seek that relocated buildings are provided for as a permitted activity.

14.2 The House Movers submission seek that all provisions for relocated buildings are deleted from the chapter, or identified as permitted, subject to time limits for reinstatement works that are identified within a building pre-inspection report submitted to Council. This request has been considered against the intent of Council to maintain or improve amenity outcomes in the District.

14.3 Comparisons are often made between new builds and relocated buildings. The key issue with relocated buildings is where they are not placed on permanent foundations, or reinstatement works taking long periods of time. Some buildings are run down and in poor condition which can affect visual amenity of the surrounding area. On that basis Council seeks to manage relocated buildings differently from new builds with respect to the District Plan.

14.4 Since 2002, the Council has granted 81 consents for relocated buildings, with over half in the rural zones. There is a strong trend towards more relocated buildings within the District in the last 4 years (a total of 63 consents from 2013). Having reviewed the complaints information, of the 16 complaints Council has received, 14 have been in the residential or village areas.

14.5 However, as discussed in Appendix 1, there is considered to be greater tolerance of relocated buildings in the Rural Zone, given that neighbours are generally more dispersed. The Rural Zone also makes up 96% of the District. There also should be recognition of the growing industry involving buildings and dwellings being purpose built for relocation.

14.6 There is a philosophical issue in my mind as to the workability of a permitted activity condition that relies on actions being undertaken up to 12 months into the future. It has always been my understanding that a plan user must be able to confirm on any specific day that they can meet all permitted activities without any doubt. This is not quite the same for relocated buildings as reinstatement works can take up to 12 months. However, as I discuss
below, the proposed certification process that certain works will be (and are capable of being) undertaken within a specified time provides greater certainty.

14.7 I have turned my mind to whether requiring the building pre-inspection report is similar to an engineer who completes earthwork calculations to determine whether that activity meets the limits in the District Plan. While slightly different, in that the District Plan rules for relocated buildings do not have specified limits, there is in my view a similarity. In this instance, the building pre-inspection report provides the evidence that Council can have certainty that the reinstatement works identified within the pre-inspection report (which is only able to be prepared by specified persons) will be completed within a 12 month timeframe. In the event that the reinstatement works do not occur then the Council can undertake enforcement action and a resource consent would be required as the permitted activity standard is no longer met.

14.8 Having reviewed the various submissions on relocated buildings, and considering all of the matters above, a different approach has been considered to that originally notified in PPC55. The new approach would involve:

a. Permitting purpose built dwellings for relocation and smaller relocated buildings (under 40m$^2$) in the Outer Business, Industrial, Residential and Village Zones.

b. Permitting all relocated buildings within the rural zone.

c. Requiring a controlled activity consent for dwellings not meeting permitted rules or relocated buildings over 40m$^2$ in the Outer Business, Industrial, Residential and Village Zones.

d. Requiring a restricted discretionary activity consent for all other buildings, and buildings not previously used as a dwelling.

e. Requiring a discretionary activity consent for any relocated building not otherwise provided for and for those within the Flood Channel Zone.

14.9 This approach does mean that there is greater reliance placed on Council on enforcement action due to assessing whether the relocated building owner has done what they said they would do during the period in which the activity is deemed to be permitted; rather than assessing a consent at the beginning of the activity (which is currently the case). I recognise that for the Manawatu District Council, the compliance team is small and the changes to the permitted activity could have resourcing implications.

14.10 The recommended approach recognises the information Council has regarding where relocated buildings are occurring, the complaints that Council have received, and the growing trend for purpose built homes being relocated in the District.

14.11 The submitters suggest a building pre-inspection report is submitted to Council for all relocated buildings. There are considered to be a lot of sections within their proposed report that relate specifically to Building Act requirements, such as to be ‘safe and sanitary’. In the context of Chapter 3G the report required is for the purpose of the RMA, so on that basis changes are recommended to ensure the report required covers only those matters that relate to the RMA. For instance, removing aspects relating to the building being safe and sanitary, and including requirements to define the surrounding environment, which helps to address the key amenity value issue that can arise from this activity. This change removes any blurring of the lines between the two relevant pieces of legislation (i.e. the RMA and the Building Act), and any potential confusion for Council planners and the public.
14.12 Overall, having considered various issues raised by submitters, the evidence Council has before it as to the growing demand for relocates, amenity related concerns (particularly in residential and village areas), and the implications for assessing, monitoring and enforcing compliance of relocated buildings within the Manawatu District, I recommend in Appendix 1, a new approach to relocated building provisions.

15. Whole Plan submissions

15.1 There are considered to be no matters of dispute relating to the Whole Plan submissions that have not already been discussed above.

16. Statutory Considerations

16.1 Under Section 32AA of the Act any proposed changes are required to be subject to further evaluation. As a result of considering the various submission points, I have identified a number of recommended changes throughout my assessment of submissions in Appendix 1. Rather than repeat the reasons and evaluation for each of the changes in this section, I have included my additional assessment under each of the provisions in the table. This approach is considered appropriate to reflect the scale and significance of the changes relating to the decisions requested by the submissions.

16.2 The majority of changes are recommended to improve the certainty and clarity of the provisions for plan users. Unless otherwise stated, the original assessment in the section 32 report still applies and no changes are considered necessary, including the Statutory Evaluation section.

3A Network Utilities

3A.3 Objectives and Policies – Objective 1 and associated policies

16.3 Changes are recommended to Policies 1.1, 1.2, 1.3 and 1.4. All are considered to be minor clarifications to better reflect the intent of the policies. The changes still enable network utilities in the District, and in a manner similar to what is currently provided for under the operative District Plan. The recommended changes do not change the intent of the provisions, nor the contents of the original section 32 report for these provisions. The changes to the policies are considered to achieve alignment with Objective 1 and the planning outcomes sought for the District.

3A.3 Objectives and Policies – Objective 2 and associated policies

16.4 Changes are recommended to Objective 2. The intention of Objective 2 was to recognise the importance of the operation of utilities to the economic and social wellbeing of the District. Through submissions the need to recognise the other aspects of network utilities, e.g. their maintenance, replacement and upgrading was noted and supported. The recommended addition to planned development of new network utilities recognises the environment can include those network utility operations that have been approved through designation or resource consent but not yet built. The addition of these matters provide plan users with greater clarity and certainty when considering activities under the District Plan. The recommended changes are considered to be an efficient and effective addition to the Objective as notified, and will achieve the purpose of the Act.

16.5 Policies 2.2 and 2.3 included recommended changes to recognise the same additions made to the objective. It is considered that these additions do not materially change the original intent of the provisions as notified. They provide further clarity for plan users that these
ongoing aspects of the operation of network utilities are important to ensure their continued functioning. The changes continue to be consistent with achieving the outcomes sought by Objective 2.

16.6 Policy 2.4 is a new recommended policy to specifically recognise the importance of the National Grid. While the provisions are in part covered by proposed policies 2.1, 2.2 and 2.3, the addition of the recommended policy would provide clarity for plan users, recognising the reliance New Zealanders place on the ongoing operation of the National Grid. The purpose of the recommended policy is to ensure that existing infrastructure can operate in an efficient and effective manner, recognising the need to manage some land use activities nearby. The recommend policy is considered to be consistent with achieving the outcomes sought by Objective 2 and giving effect to the provisions of the One Plan.

3A.3 Objectives and Policies – Objective 3 and associated policies

16.7 A number of submissions raised concerns over the drafting of Objective 3. The Objective as notified did not provide sufficient guidance when assessing consent applications as it largely repeated the permitted activity performance standard. In reviewing the submissions, consideration was given to the overall intent of the Objective which is to protect the values of those significant heritage and landscape areas in the District. These areas are identified in Appendix 1 of the operative District Plan (as stated in the associated policies). The recommended changes to Objective 3 provide greater clarity for plan users and decision makers. The original intent of Objective 3 outlined in the section 32 report has been retained. The recommended changes are considered to be an appropriate response to submissions, while still giving effect to the requirements of Part 2 of the Act.

16.8 Policies 3.1 and 3.2 have also been amended as a result of submissions. These changes assist plan users to understand those areas which are of most concern from the effects of the development of network utilities. While the contents of Appendix 1 of the operative District Plan have largely yet to be reviewed, the recommended changes ensure the areas are provided with an appropriate level of protection. Reference to scheduled sites in the District Plan also provides greater clarity for plan users.

16.9 In Policy 3.2 reference to ‘practicable alternative location’ has been recommended. This recognises that in some circumstances it is not possible to completely avoid a heritage site. For instance, electricity lines that traverse the Rangitikei River ONFL. This addition does not reduce the level of protection afforded to heritage and landscape sites, but does seek to recognise some functional needs of network utility operators. The reasons outlined in the section 32 report continue to apply. The changes are considered to retain the efficient and effective approach notified to achieve the outcomes sought by the Objective.

3A.4.1 Permitted Activity

16.10 Minor changes are recommended to the list of permitted activities in clauses a, c, g and p. These changes are consistent with the recommended changes made in the objectives and policies. The changes do not materially change the rule as notified. There was an inconsistency with how radiocommunication and telecommunication facilities were permitted. The same approach, as afforded to other network utilities, has been recommended. This provides clarity to those specific utility providers, and ultimately all plan users. The addition of a new activity relating to the trimming and removal of vegetation is critical to the ongoing operation of most network utilities and this provides additional clarity for plan users. This also recognises the Electricity (Hazards from Trees) Regulations 2003. These changes are all considered to be consistent with, and gives effect to, the Objectives.
Additional matters have been recommended to the guidance notes for the permitted activity rule. These changes are to guide and add clarity for plan users.

3A.4.2 Standards for Permitted Activities

16.11 Height changes have been recommended in clauses a and f, to recognise that there is often a need for higher towers in the Rural Zone which is an area where there is often a greater tolerance, than when compared to residential areas. An increase in height in the Rural Zone enables greater coverage for some network utilities which could mean a reduction in the need for multiple masts, for example. The increase in height also recognises that the District comprises 96% rurally zoned land. These changes are considered to be consistent with and give effect to Objectives 1, 2 and 3.

16.12 Changes are also recommended to the dish antenna provisions. The introduction of a face area restriction enables different types of antenna to be used and reflects advances in technology. These changes are not considered to alter the original section 32 assessment and gives effect to the Objectives and Policies in this chapter.

16.13 Changes are recommended to clause l, to provide greater clarity for plan users. As outlined in Appendix 1 of this report, the condition has been worded more clearly to avoid any doubt for plan users that activities within a scheduled area are not permitted. These changes are considered to be appropriate to ensure the protection of the scheduled areas, and ultimately give effect to the One Plan, and ensure consistency with the Act.

16.14 As a result of submissions regarding vibration, changes are recommended to provide clarity to plan users. As outlined in Appendix 1, New Zealand does not have a Standard for Vibration. Industry best practice is to recognise the guide developed by the NZ Transport Agency. The inclusion of this reference into the District Plan provides certainty to the plan users, and does not impact on the original section 32 assessment.

3A.4.3 Restricted Discretionary

16.15 Minor changes are also recommended to Rule 3A.4.3 to provide greater certainty and clarity for plan users. The changes do not change the intent of the rule as notified, nor change the assessment in the section 32 report. Reference in the rule stem to the Council restricting its discretion to matters only where they are relevant to the standard that is not met is appropriate. The rule stem as notified enabled a broad consideration of matters beyond just those standards that are not being met. This was not the intention. The recommended changes provide greater certainty and ensure the District Plan provisions are efficient and effective at addressing those issues the plan seeks to manage. Consequential changes to the rule stem in the other parts of Chapter 3 are also recommended.

3B Transport

16.16 There was widespread support for the provisions in the Transport chapter. The original assessment in the section 32 report still applies and no changes are considered necessary.

3C Noise

3C.3 Objectives and Policies

16.17 A new policy is recommended for this chapter. As outlined in Appendix 1, there are provisions in Rule 3C.4.2.d where the noise from rural production activities, except for intensive farming are not controlled by the provisions of the Plan. The new recommended
policy provides a framework for this. The rationale for the policies in this section of the Chapter are considered to be relevant and appropriate as outlined in the section 32 report. The new policy is considered to be consistent with the outcomes sought by the Objective which is to ensure noise is appropriate to the character and amenity anticipated in each zone.

3D Earthworks

3D.3 Objectives and Policies – Objective 1 and associated policies

16.18 Changes are recommended to Objective 1 and its associated policies to ensure consistency with other changes made in Chapter 3A. The changes provide greater clarity for plan users. Policy 1.4 as notified in PPC55 is recommended to be deleted as the changes to Policy 1.2 provide for the same outcome. This removes any confusion or potential duplication from the District Plan.

16.19 There was confusion in the notified provisions for the Objectives and policies in this chapter as both Objectives 1 and 2 covered matters associated with visual amenity. Policy 2.1 has been moved to under Objective 1 (new Policy 1.4). This ensures visual amenity is provided solely by Objective 1 and its associated policies. This is considered to be a minor change and does not alter the intent of the original section 32 report for these matters.

3D.3 Objectives and Policies – Objective 2 and associated policies

16.20 As outlined in Appendix 1, changes are recommended to remove duplication and confusion for plan users. The changes do not alter the overall intent of the provisions. On that basis the assessment contained in the section 32 report remains relevant and appropriate.

3D.3 Objectives and Policies – Objective 3 and associated policies

16.21 Minor changes are recommended to Policy 3.1 to provide greater certainty for plan users, and to recognise the importance of the National Grid. These changes are not considered to alter the original assessment in the section 32 report. On that basis the assessment contained in the section 32 report remains relevant and appropriate.

3D.4.1 Permitted Activities and 3D.4.2 Standards for Permitted Activities

16.22 Minor changes are recommended to the permitted activity rule and associated guidance notes. These changes are all designed to provide plan users with greater clarity and guidance. For the avoidance of doubt a guidance note is recommended that recognises resource consent could be required from the Regional Council relating to the discharge of contaminants, which is a matter beyond the scope of the District Plan.

16.23 A small change has been added to clause b in Rule 3D.4.2 to recognise that sedimentation measures must be maintained during construction works and only removed once soil has been stabilised. This small change provides clarity for plan users and does not change the intent of the provision, nor the assessment in the original section 32 report. The changes are consistent with achieving the outcomes sought by the Objective.

16.24 Minor changes are recommended to the guidance notes for Rule 3D.4.2 to provide additional certainty for plan users as well as ensuring consistency with other changes recommended in this report.
3E Signs

16.25 No changes are recommended to the Objectives, Policies or Rules to the Signs chapter. On that basis the assessment contained in the section 32 report remains relevant and appropriate.

3F Temporary Activities

3F.4.2 Standards for Permitted Activities

16.26 A new guidance note has been recommended to highlight industry best practice for managing vibration in New Zealand. As outlined in Appendix 1, New Zealand does not have a Standard for Vibration. Industry best practice is to recognise the guide developed by the NZ Transport Agency. The inclusion of this reference into the District Plan provides certainty to the plan users. The addition of this guidance note does not alter the overall assessment contained in the section 32, which remains relevant and appropriate.

3G Relocated Buildings

3G.4.1, 3G.4.2, and 3G.4.3 Relocated Buildings

16.27 The relocated building provisions have seen the greatest recommended changes. A minor change is proposed to the objectives and policies to replace ‘remedial’ with ‘reinstated’ or ‘reinstatement’. This ensures consistency with the wording of the recommended building pre-inspection report. It is not considered that this minor change alters the original section 32 assessment. On that basis the contents of the section 32 report remains relevant and appropriate.

16.28 With regards to the rules, and based on the information discussed earlier, a revised rule structure is recommended. Refer to the discussion in section 14 of my evidence above and Appendix 1.

16.29 New rules for Permitted Activities (Rule 3G.4.1) and Standards for Permitted Activities (Rule 3G.4.2) would enable small relocates and buildings purpose built for relocation in most zones and all relocated buildings in the Rural Zone. Providing for these activities as a permitted activity is considered to be a pragmatic approach to address the issue of relocated buildings in the Manawatu District; recognising that the zone provisions will still apply and will address bulk, scale and location effects within the Rural Zone.

16.30 Over half of all consents Council has received in the last 14 years have been in the Rural Zone which comprises 96% of the District. The new permitted activity rule is considered to be an efficient and effective approach when considering the evidence Council has regarding issues with relocated buildings in the various areas of the District. The permitted activity rule requires compliance with a number of conditions which seek to manage any potential effects of the relocated building on amenity of the surrounding area. Relocated buildings must still comply with the specific zone provisions, such as bulk, location and setback rules; and must be buildings which have previously been used as a dwelling. The recommended performance standards also seek to ensure that the amenity outcomes sought by the District Plan are achieved through reinstatement to a standard recommended by a licenced building practitioner within 12 months.

16.31 The inclusion of the building pre-inspection report is new. The intent of this report is that the owner of the relocated building must provide a declaration to Council that the reinstatement measures identified within the report will be done within 12 months. This
provides Council with some assurance that the relocated building will not sit on the site in a state of disrepair, thereby negatively impacting on the amenity values of the area. Should the specified works not be completed as identified, then Council has the enforcement action available to it and resource consent is required. The contents of the building pre-inspection report (which was provided with the House Movers submission) has been amended to remove any confusion and duplication with the provisions of the Building Act requirements. The Building Act seeks to ensure that buildings are safe and sanitary, and do not put at risk people’s health and wellbeing. This can be compared with the amenity effects of relocation which are linked to the reinstatement period, and the quality of the exterior finish. Building consent will still be required in accordance with standard practice.

16.32 Overall the new permitted rule is considered to be consistent with and seeks to achieve the outcomes sought by Objective 1.

16.33 The revised Controlled Activity rule (Rule 3G.4.2) essentially covers relocated buildings in the other zones of the District. The activity status recognises that consent will be granted, but provides for the Council to retain limited control over the recognised amenity effects of relocated buildings. The difference in requiring consent in the residential and village zones reflects the complaints received by Council to date. Residential areas by their very nature have people living closer together, with amenity able to be impacted by effects associated with the time period for reinstatement works, and the quality of the exterior finish. The controlled activity status gives Council the ability to impose conditions in relation to timeframes, amongst others.

16.34 As with the permitted activity rule, reference is retained to requiring relocated buildings to comply with the specific zone provisions, such as bulk, location and setback rules; and requiring that buildings to be used as a dwelling where previously used as a dwelling. The performance standards seek to ensure the amenity outcomes sought by the District Plan are achieved. Reference to bounds has been removed due to administrative complexities.

16.35 Overall the recommended changes to the Controlled Activity rule are considered to be consistent with and seeks to achieve the outcomes sought by Objective 1.

16.36 No changes are proposed to the Non-Notification of Controlled Activities rule (Rule 3G.4.4), so the assessment contained in the section 32 remains relevant and appropriate.

16.37 Minor changes are recommended to the Restricted Discretionary and Discretionary Rules to reflect the new permitted activity rule. However, in my view, the assessment contained in the section 32 remains relevant and appropriate for these rules.

16.38 In considering these recommended provisions I have also considered the benefits and costs of these changes. The minor changes to the objective and policies does not alter the assessment in the section 32 report. The changes to the rules, and introducing a permitted activity rule for all relocated buildings in the Rural Zone will reduce compliance costs for plan users. There is likely to be an increase in the compliance costs for Council to confirmed that the reinstatement works are completed, and undertake enforcement if required.

17. **Conclusion and Recommendations**

17.1 Overall, the integrated package of objectives, policies and rules, including the proposed amendments, for the reasons discussed earlier in this report are the most appropriate option to achieve the objectives of PPC55. The plan change is considered to be consistent with the wider resource management approach of the Sectional District Plan Review process and the most appropriate way in which to achieve the purpose of the Act.
17.2 In my assessment of PPC55, having regard to the submissions received, and drawing on the technical analysis of experts in noise and visual landscape, I am satisfied that the Plan Change is the most appropriate means of sustainably managing the physical and natural resources of the Manawatu District.

17.3 The principal reasons for my conclusion are:

   a. The changes proposed, including those recommended in this report, continue to provide guidance for the activities that occur District wide;

   b. The PPC55 has been developed following a variety of consultation meetings, including discussions with some submitters to clarify the intent of submissions;

   c. The form of control for development and use of physical and natural resources provides an effective and efficient management framework for managing potential adverse effects;

   d. The evidence of Mr Lloyd on the importance of appropriate noise levels to avoid sleep interference and overall noise management; and

   e. The evidence of Mr Hudson on the importance of protecting Outstanding Natural Features and Landscapes in relation to network utilities.

17.4 It is recommended that:

   • Proposed Plan Change 55 be approved as notified and amended as outlined in Appendix 1; and

   • The relief sought by the submitters be accepted or rejected for the reasons outlined in this report.

Andrea Harris

**Consultant Planner**

For Manawatu District Council

18 November 2016

**Appendices**

Appendix 1 – Recommendations on submissions

Appendix 2 – District Wide Rules chapter – PCN1 Plan Change Recommended version

Appendix 3 – Definitions chapter - PCN1 Plan Change Recommended version

Appendix 4 – Noise Evidence

Appendix 5 – Landscape Evidence

Appendix 6 – Draft Outstanding Natural Features and Landscapes maps showing network utility provider assets in relation to the draft ONFL areas